

CWBA Policy Regarding Due Diligence and Endorsement of Judicial Candidates

GENERAL DUE DILIGENCE AND ENDORSEMENT POLICIES (Amended and Restated September 16, 2015)

I. DUE DILIGENCE OF CANDIDATES

- A. The judicial candidates for which the Judicial Committee shall be responsible for investigating and evaluating shall be those candidates for positions for which a law degree is required and who have been recommended by a nominating commission for the following courts: Colorado district, appellate, and Supreme Courts. For purposes of this Policy, the foregoing individuals will be known as the “Judicial Candidates.”
- B. Neither the Judicial Committee nor any other committee of the CWBA may investigate or evaluate any individual applying for a judicial position other than for the judicial positions identified in Section I.A. above without further authorization from the CWBA Executive Committee or Board of Directors.
- C. When performing an investigation and evaluation of the Judicial Candidates, the Judicial Committee, if time and financial resources permit, may:
1. contact the individuals identified in response to Question 16 (list of five litigated cases) on the Judicial Candidate’s Application for Colorado State Court Judgeship;
 2. poll the CWBA membership via email or other appropriate means;
 3. contact other individuals who know the Judicial Candidate, including former employers, co-counsel, and opposing counsel; and
 4. review the Judicial Candidate’s writings.
- D. The information obtained through the process will be summarized in a Confidential Memorandum and sent to the Governor of Colorado. The only information that may be included in the Confidential Memorandum to identify those from whom comments or information is gathered will be the individual’s gender, practice area, and/or location, e.g., a female county court judge from Denver. In addition, if appropriate and not revealing of the individual’s identity, the commenting individual’s general relationship or length of history with the Judicial Candidate may be included, e.g., a female litigator who

previously practiced at the District Attorney's Office with the Judicial Candidate. However, if in the Chairperson's/Chairpersons' discretion any of this information must be omitted from the Confidential Memorandum in order to protect the commenting individual's identity, then that information will be omitted. The Confidential Memorandum will be reviewed by the President, President-Elect, or Vice President of the CWBA prior to being submitted.

- E. Subject to the restrictions in Section I.A. above, the CWBA may endorse Judicial Candidates after performing appropriate investigation ("due diligence") on all Judicial Candidates.
- F. When a Judicial Candidate requests endorsement, the Judicial Committee may request that the Candidate provide a written statement of the reasons why the CWBA should endorse the Judicial Candidate.
- G. Exceptions to this Policy with respect to endorsements for judicial positions not identified in Section I.A. above may be considered by the CWBA Executive Committee on a case-by-case basis when the Judicial Candidate is a CWBA member. All requests for exceptions to this Policy must be solicited in writing and voted upon by the CWBA Executive Committee.

II. ENDORSEMENT OF JUDICIAL CANDIDATES

- A. The CWBA may endorse a Judicial Candidate only when such candidate furthers one or more of the stated purposes of the CWBA. Section III ("Purpose") of the May 14, 2005 Restated Bylaws of the Colorado Women's Bar Association ("Bylaws") provides:

The primary purpose of the CWBA shall be to provide a forum for the exchange of ideas and legal skills, and for continuing legal education. It shall also be the purpose of the CWBA:

To encourage the advancement of women in the law;

To promote the highest standards of the legal profession;

To advance justice;

To promote, advance, and protect the interests and welfare of women; and

To pursue these goals through appropriate legal, social, and political action.

- B. The CWBA's endorsement of Judicial Candidates shall comply with its Bylaws.
- C. No endorsement of Judicial Candidates may be taken on behalf of the CWBA unless specifically authorized pursuant to the procedures set forth below.
- D. Endorsement of Judicial Candidates does not include letters of support to judicial nominating commissions for the nominations of more females. Such letters of support shall be general in nature, and shall not include names of particular candidates and may be sent on behalf of the CWBA without authorization as set forth below.
- E. More than one Judicial Candidate may be endorsed for appointment to the same position.
- F. It is not intended that endorsements be given routinely or that one or more Judicial Candidates be endorsed for each judicial vacancy, but rather that this Policy shall govern in instances where endorsements are requested or are being considered. Not endorsing a candidate shall not mean or imply that the candidate fails to meet the qualifications set forth in Section II.A. of this Policy.
- G. Endorsement of a Judicial Candidate shall not preclude the CWBA from submitting additional informational on all Judicial Candidates, through either the Confidential Memorandum described in Section I.D. above or the CWBA's letter of endorsement.

III. ASSESSMENT OF JUDICIAL CANDIDATES

- A. The following qualifications shall be assessed in determining endorsement of Judicial Candidates:
 - 1. Experience;
 - 2. Legal ability;
 - 3. Reputation for fairness and integrity;
 - 4. Judicial temperament;
 - 5. Treatment of women;
 - 6. Treatment of people of color and/or members of other minority groups;
 - 7. Dedication to goals consistent with the stated purposes of the CWBA; and

8. Any and all qualifications that are consistent with the stated purposes of the CWBA.
- B. The CWBA Judicial Committee shall poll the CWBA membership on the foregoing qualifications via email or other appropriate means.
- C. In addition to polling CWBA members, the CWBA Judicial Committee may conduct any and all further investigations it deems appropriate in the assessment of candidates, including, but not limited to, telephone calls to CWBA non-members.
- D. The qualifications listed in Section III.A. shall be weighed in accordance with the judicial position for which the Judicial Candidate is seeking appointment. It is acknowledged that factors shall be weighed differently depending upon the vacancy.

IV. AUTHORIZATION OF ENDORSEMENT

- A. Upon compilation of information regarding the qualifications listed in Section III.A., the Chairperson(s) of the CWBA Judicial Committee, along with any CWBA Judicial Committee members who assisted in the compilation of the assessment and whom the Chairperson(s) invite to participate, shall determine if any of the Judicial Candidates furthers the stated goals of the CWBA.
- B. The Chairperson(s) of the CWBA Judicial Committee shall make a recommendation for the CWBA's endorsement, if appropriate, with a description of the basis of the endorsement, guided by the criteria described in Section III.A. above. The CWBA Judicial Committee shall deliver its recommendation to the Board of Directors or Executive Committee by oral report or by letter, as appropriate.
- C. Any endorsement of judicial candidates in the name of the CWBA must be specifically authorized by the Board of Directors pursuant to Section VI.J.2. ("Quorum") of the CWBA's Bylaws or, if a motion for endorsement needs to be voted on prior to a regularly scheduled Board meeting, then the Executive Committee shall vote on the motion for endorsement pursuant to Section VI.E. of the Bylaws ("Executive Committee and Executive Director"). If, pursuant to Section VI.E. of the Bylaws, there is a tie vote of the Executive Committee, then a Board vote shall occur via email as follows:
 1. The CWBA Judicial Committee shall submit an electronic mail to all Board members containing the motion for Board vote, along with a brief summary of information on the qualifications of the

Judicial Candidate(s). The Board shall have a set amount of time for discussion via email (the "Discussion Period"). The length of the Discussion Period shall depend upon the deadline for the CWBA's endorsement submission to the Governor of Colorado, but shall be no less than 6 (six) and no more than 24 (twenty-four) hours, not including weekends or holidays. After the expiration of the Discussion Period, a vote shall occur via email and according to the procedures set forth in the CWBA Bylaws. Should approval of the endorsement of a Judicial Candidate not be received by the end of the Discussion Period, or if the deadline for endorsement submissions precludes the minimum six-hour Discussion Period, then the endorsement shall not be sent. This does not preclude, however, submission to the Governor of Colorado of a letter stating information on the Judicial Candidates or a Confidential Memorandum, as described in Section I.D. of this Policy.

- D. The CWBA President will prepare a letter stating the CWBA's endorsement, if any, and submit the endorsement letter to the Governor of Colorado. If for any reason the CWBA President is unable to prepare the letter, it shall be prepared and signed by another member of the CWBA Executive Committee.

V. RELEVANT CWBA BYLAWS

- A. Section VI.A. ("Board of Directors") of the CWBA's Bylaws provides:

The affairs of the CWBA shall be directed by the Board of Directors, which shall be the policy-making body of the CWBA. The Board shall have all powers normally vested in such a body, subject to any of the limitations in these Bylaws, and including but not limited to the power to delegate such of its duties as may be legally permitted and reasonable and responsible; and to appoint such *ad hoc* committees on such basis as it may deem appropriate.

- B. Section VI.E. ("Executive Committee and Executive Director") of the CWBA's Bylaws provides in part:

The Executive Committee shall consist of the officers of the CWBA and shall hold meetings as called by the President.... The Executive Committee and the Executive Director each shall have such authority as is delegated to them by the Board of Directors pursuant to Section VI.A. of these Bylaws including authority to make decisions concerning the day-to-day operation of the CWBA. Unless the Board of Directors otherwise determines, the Executive

Committee shall have all of the powers of the Board of Directors during intervals between meetings of the Board of Directors except for the power (i) to amend the Bylaws; or (ii) to take any action related to the removal of Officers and Directors from office. The Executive Committee shall provide to the full Board of Directors a report of any actions taken by the Executive Committee at the next regular or special meeting of the Board of Directors. In the event of a tie vote of the Executive Committee, the matter shall be brought before the full Board of Directors for vote.

- C. Section VI.D.2. (“The Judicial Committee”) of the CWBA’s Bylaws provides in part:

The Judicial Committee shall promote the entry of women into the judiciary and shall conduct such programs and provide such support as is consistent with that goal.

- D. Section V.D.5. (“Action by the Membership”) of the CWBA’s Bylaws provides in part:

The Board of Directors may refer any question to the Membership which the Board of Directors determines in its sole discretion has significant public impact. Upon the vote of the Membership, which vote shall be a majority of the active Membership present in person or by proxy at any Membership meeting, such action shall be deemed to have been taken by, and shall be binding upon, the Board of Directors.