IN THE COURT OF APPEALS OF MARYLAND

REVISED ADMINISTRATIVE ORDER ADOPTING RULES OF PROCEDURE FOR APPELLATE AND TRIAL COURTS JUDICIAL NOMINATING COMMISSIONS

WHEREAS, Executive Order 01.01.2015.09 continues a process, initiated in 1970, for nomination of judicial appointees through Appellate and Trial Courts Judicial Nominating Commissions; and

WHEREAS, The Governor desires that the Commissions operate in accordance with rules prescribed through Administrative Order; and

WHEREAS, It is appropriate to amend and repromulgate the extant rules governing operation of the Commissions, with changes appropriate to those changes effected by the Executive Order;

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby amend, on this 6th day of April, 2015, the Administrative Order, dated April 10, 2008, effective immediately and applicable to any current or future vacancy.

1. *Definitions.*

(a) In this Order, the following words have the meanings indicated:

(b) "Executive Order" means Executive Order 01.01.2015.09, as amended from time to time.

(c) "Secretariat" means the Administrative Office of the Courts.

(d) "Quorum" means no fewer than eleven members of the Appellate Courts Judicial Nominating Commission and no fewer than nine members of a Trial Courts Judicial Nominating Commission.

2. *Commission Members.*

(a) As soon as possible after appointment, a member of a commission shall complete training, in accordance with the Executive Order.

(b) The Secretariat promptly shall inform the Governor and the Court of Appeals whenever a vacancy occurs in the membership of a commission, including a vacancy resulting from failure to attend meetings, as provided in the Executive Order.

(c) A commission member may not attend or participate, in any way, in commission meetings as to a judicial appointment if any applicant for the appointment: (1) is related by blood or marriage within three degrees of relationship, according to the civil law system as follows: a parent, grandparent, sibling, child, grandchild, uncle, aunt, niece, and nephew, or (2) has a professional relationship such as: law partner, associate, of counsel, employer, employee or other co-worker of the commission member.

(d) If a commission member and applicant for judicial office have a personal, business, professional, or political relationship that is substantial, although not as close as a relationship described in subsection (c) of this rule, the commission member shall disclose the relationship to the other commission members present at a meeting to consider applicants. The other commission members shall determine the extent of the disclosing commissioner's further participation in the meeting by majority vote of a quorum present and voting.

3. *Publication of Judicial Vacancy.*

(a) Upon receiving notification from the Secretariat that a vacancy exists, or is about to occur in a judicial office for which a commission is to make nominations, the Chairperson, in consultation with the Secretariat, shall establish:

(1) a closing date by which applicants for the office must file the personal data questionnaire or letter required under paragraph 4 of this Order; and

(2) a date for an initial commission meeting to consider nominations for the vacancy, which may not be sooner than 15 calendar days after the closing date.

(b) The Secretariat shall advise commission members of the date, place, and time of the meeting and, to the extent determinable, the number of meetings of the commission during a 12-month period.

(c) For the commission, the Secretariat shall:

(1) notify the Maryland State Bar Association, Inc., and other appropriate bar associations;

(2) provide for appropriate newspaper notice within the appellate judicial circuit or commission district in which the vacancy exists, including information identifying the nominating commission, explaining its responsibilities and functions, and noting the closing date; and

(3) have the notice posted on the Judiciary's website.

4. *Applications for Judicial Vacancies.*

(a) Blank personal data questionnaires shall be made available through the Secretariat, in downloadable format, on the Judiciary's website.

(b) Every completed questionnaire shall be filed with the Secretariat on or before a date specified as the closing date in the public notice advising of the vacancy.

(c) The Secretariat promptly shall distribute to each commission member a copy of every questionnaire filed with the Secretariat by the closing date.

(d) An individual who reapplies to a commission with which the individual has filed a personal data questionnaire within 2 years immediately preceding the reapplication need not file a complete new questionnaire, but may submit, by the closing date, to the Secretariat a letter stating that the applicant is reapplying and setting forth all changes that

have occurred since the submission of the applicant's questionnaire. The Secretariat shall distribute these letters to the commission members in the same manner as questionnaires.

(e) After the closing date for the commission, the Secretariat shall place, in at least one newspaper read by members of the general public, and on the Judiciary's website, a notice naming the individuals who have filed a questionnaire or letter as required under this paragraph and inviting submission of written and signed comments about those individuals to the commission, in care of the Secretariat.

5. *Evaluation of Applicants and Selection of Nominees.*

(a) In accordance with the Executive Order, each commission shall evaluate every individual who files a questionnaire or letter with the Secretariat, as required in paragraph 4(b) or (d) of this Order.

(b) A commission shall conduct applicant interviews in person, except where, due to extraordinary circumstances, as provided in the Executive Order, a candidate is unable to appear in person. In such circumstances, and upon prior approval of the Governor, an interview may be held via video teleconference.

(c) A commission shall conduct any other investigation deemed necessary, as provided by the Executive Order.

(d) If a commission receives material adverse information about an applicant, the commission shall either inform the applicant of that information and give the applicant an opportunity to respond to it, or it shall ignore the adverse information in its evaluation of the applicant.

(e) At a meeting with a quorum, and by balloting as required under the Executive Order, the commission shall select and nominate to the Governor the names of the individuals it finds to be legally and most fully professionally qualified. In doing so, each commission member shall vote only for those individuals believed to be legally and most fully professionally qualified.

(f) A commission may conduct more than one round of balloting during its deliberations, in accordance with the requirements of the Executive Order. Voting by proxy or absentee ballot is not permitted.

(g) Immediately after the voting is completed, the Secretariat shall count the votes in the presence of the voting members and then seal the ballots for retention, as required by law.

(h) The results of the balloting shall be reported to the Governor, and disseminated to the public, as required in the Executive Order.

6. *Extant Rules and Regulations.*

Other rules or regulations heretofore adopted by a judicial nominating commission remain in full force and effect except to the extent inconsistent with this Order or the Executive Order.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge of the Court of Appeals

Filed: April 7, 2015

/s/ Bessie M. Decker
Bessie M. Decker
Clerk
Court of Appeals