

PROVINCIAL JUDICIAL APPOINTMENTS
GUIDELINES TO ENSURE APPOINTMENTS BASED ON MERIT

A. COMPOSITION OF ADVISORY COMMITTEE

1. There will be a standing Advisory Committee on Provincial Judicial Appointments composed of:
 - a) two lawyers appointed by the Minister of Justice from a list of six lawyers identified by the Council of the Nova Scotia Barristers' Society as representative of the Nova Scotia legal community.
 - b) one judge of the Provincial Court appointed by the Minister of Justice from a list of four full time sitting judges of the Provincial Court identified by the Chief Judge.
 - c) three members appointed by the Minister of Justice two of which must be public representatives; a "public representative" is an individual who is not a member of the Barristers' Society. The third member appointed under this subparagraph may be, in the Minister's discretion, a member of the Barristers' Society.
 - d) one retired member of the judiciary appointed by the Minister of Justice.
2. The chair of the Advisory Committee will be the retired member of the judiciary appointed by the Minister of Justice.
3. The three Members appointed by the Minister pursuant to 1(c) above will be selected by the Minister with the following considerations in mind:
 - Geographical representation
 - Gender balance
 - Minority representation
 - Representation of persons with a disability
 - Interest in the administration of justice and public service
4. Members appointed by the Minister will not be employees in the Department of Justice.
5. The quorum of the Advisory Committee is five, but the quorum must contain at least one public representative.
6. Members will be appointed for two-year terms and may be reappointed. It is desirable to have overlapping terms where possible for the purpose of continuity. Three of the initial members of the Committee will be appointed for one-year terms and may be reappointed.

7. Members will be reimbursed for actual expenses at government approved rates.
8. Public representatives and the Chair of the Advisory Committee will be eligible to receive a per diem of \$250 per meeting. The Minister may increase the per diem as advisable.

B. CRITERIA TO BE APPLIED BY COMMITTEE

The Committee will use the following criteria when evaluating Candidates:

1. Minimum Qualifications

- The Committee will not recommend a Candidate with less than ten years standing at a Bar in a Canadian jurisdiction for appointment except where the Committee feels that there are exceptional circumstances to warrant that recommendation.
- The Committee will not consider the application of any Candidate who was a member of the Committee until two years have elapsed from the date the candidate resigned from the Committee or the candidate's appointment on the Committee expired.

2. Personal Characteristics

- Respect for the essential dignity of all persons regardless of their circumstances.
- A reputation for integrity and fairness.
- Politeness and consideration for others.
- Moral courage.
- Punctuality – good regular work habits.
- Good health except to the extent that any physical or mental disability would not reasonably preclude performance as a Judge and whose health status would not compromise the health or safety of the public or those persons within the justice system.
- Not involved in serious, unresolved professional complaints, civil actions or outstanding financial claims such as unpaid taxes or insolvency proceedings.
- An absence of pomposity and authoritarian tendencies.

3. Intellectual and Judgmental Ability

- fair and open-minded
- flexible (not unreasonably rigid)
- able to make decisions promptly or within a reasonable period of time
- patient and able to listen

4. Professional Excellence

- A high level of professional achievement in area(s) of legal work in which the candidate has been engaged.
- Involvement in activities which keep one up to date with changes in the law and in the administration of justice.
- An interest in and some aptitude for the administrative aspects of a judge's role.
- Good writing and communication skills.
- Professional excellence is still the paramount criterion in assessing judicial candidates.

5. Community Awareness and Understanding

- A commitment to public service.
- Awareness of and interest in knowing more about the social problems which give rise to cases coming before the courts.
- Sensitivity to cultural diversity.
- Sensitivity to changes in social values relating to criminal and family matters.
- Capacity to exercise the larger policy role conferred upon the judiciary by the *Canadian Charter of Rights and Freedoms*.

6. Diversity

- The provincial judiciary should be reasonably representative of the population it serves. This requires overcoming the under-representation of women, racial and ethnocultural minorities and persons with disabilities.
- It is also important for the provincial judiciary to reflect the bilingual nature of the Province.
- Candidates will be invited to self-identify as a diversity candidate. When a candidate has self-identified as such, this information will be supplied to the Minister in the event that they are a recommended candidate.

C. ADVERTISING AND SELECTION PROCESS

1. Qualified lawyers who wish to be considered for an appointment as a Provincial Court Judge and Family Court Judge may submit an application in the prescribed form to the Advisory Committee on Provincial Judicial Appointments at any time. Vacancies on the Provincial Court and Family Court will not be regularly advertised.
2. Candidates agree to submit to a criminal records check and consent to the release of information by the Nova Scotia Barristers' Society with respect to their status as part of their application, including details with respect to their discipline record and any outstanding complaints against them.

3. Provincial Court and Family Court Judges will be required to maintain a residence within a reasonable commute, as determined by the Chief Judge, to the location of the court to which they are assigned. Candidates will be asked to specify on their application if there are any areas of the Province they would not accept an initial assignment to. Appointments will be made on the express undertaking that the Judge may be required to transfer within the Province if requested to do so by the Chief Judge.
4. The Committee will consider written material submitted in support of an application and will interview candidates as it considers appropriate. The Committee will assess candidates and make notes regarding strengths and weaknesses.
5. After consideration of an application, the Committee will make a determination as to the suitability of a Candidate (recommended, not recommended, or not recommended at this time). The Committee will not determine that a candidate is recommended unless the Committee has interviewed the applicant and has checked no fewer than two of the candidate's references using the prescribed reference form.
6. The Committee will maintain a list of all recommended candidates which will be provided to the Minister upon request with a precis of information about each candidate including the Committee's assessment of how each candidate meets the criteria set out in these Guidelines together with information as to whether the candidate has self-identified as a diversity candidate and what locations in the Province, if any, the candidate is not willing to be initially assigned to.
7. The Committee will also maintain a list of all candidates that are not recommended, or not recommended at this time. The Committee will provide to the Minister of Justice upon request the names of such candidates that are not recommended or not recommended at this time with an explanation as to why such candidates did not meet the criteria to be recommended as a candidate for judicial appointment.
8. Each applicant will be notified of the date of his/her screening assessment following its completion by the Committee. An application will remain on file with the Committee for a period of three years from the date of the Committee's screening assessment, but a candidate may reapply at any time prior to the expiry of their application. If a recommended candidate reapplies the Committee may maintain his or her recommendation for one additional three-year period without conducting a further interview.
9. To ensure that the Government is given full and frank advice, the information provided by the Committee including the list of recommended applicants, will not be disclosed except to members of the Executive Council or persons preparing material for consideration by Executive Council. All information received from the Committee will

be kept strictly confidential. The Committee will develop guidelines or processes to ensure that during that process, the names of the candidate and, in particular, the names of the recommended applicants, remain confidential except as may be necessary to complete the selection process. The Committee will hold its meetings at least twice but no more than four times a year in every calendar year, unless otherwise approved by the Minister in advance upon the request of the Committee.

10. Where information received by the Minister respecting a recommended candidate calls into the question the Committee's recommendation, the Minister may provide that information to the Committee and the Committee shall reassess the candidate.
11. In keeping with the constitutional and legal requirements, the Governor in Council has the ultimate discretion to make the appointment.