



## **ABA Standing Committee on the Federal Judiciary**

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### **Evaluations of Nominees to the United States Supreme Court**

For more than 50 years, the ABA Standing Committee on the Federal Judiciary has evaluated the professional qualifications of nominees to the Supreme Court and to the federal district and appellate courts by conducting extensive peer reviews of each nominee's integrity, professional competence and judicial temperament. In conducting its evaluation, the Standing Committee focuses solely on a nominee's professional qualifications. It does not take into consideration a nominee's philosophy, political affiliation or ideology.

While these criteria -- integrity, professional competence and judicial temperament -- are the basis for the Standing Committee's evaluation of all federal court nominees, the Committee's investigations of Supreme Court nominees are particularly rigorous. The significance, range, and complexity of the issues considered by the Supreme Court demand that nominees appointed to the Court be of exceptional ability. The Standing Committee conducts the most extensive nationwide peer review possible on the premise that the highest court in the land requires a lawyer or judge with exceptional professional qualifications.

There are several procedural differences between the Standing Committee's investigations of Supreme Court nominees and those of lower courts:

- Investigations of Supreme Court nominees are conducted after the President has made a nomination or has announced an intention to nominate a particular lawyer or judge.
- Unlike evaluations of potential nominees to the lower courts in which the primary investigation is conducted by a single circuit member, all members of the Standing Committee conduct confidential interviews within their circuit of persons most likely to have information regarding the professional qualifications of the nominee. Typically hundreds of such interviews are conducted around the country.
- A team (or teams) of distinguished law school professors examines the nominee's legal writings (opinions, blogs, briefs, articles, etc.) for quality, clarity, knowledge of the law and analytical ability. Customarily, this is accomplished by dividing the material into areas of law on which the nominee has written and having it reviewed by professors who are recognized experts in each area. Each team provides the Standing Committee with its comments.
- A national team of leading practicing lawyers with Supreme Court experience -- typically former Supreme Court clerks, past members of the Solicitor General's office and other lawyers with experience arguing before the Supreme Court -- also examines the legal writings of the nominee and provides the Standing Committee with its comments.

The results of these analyses are reported to the Standing Committee for its consideration in evaluating the nominee's professional qualifications.

The Standing Committee utilizes three rating categories in reporting the result of its evaluation of a nominee to the Supreme Court: “Well Qualified,” “Qualified,” and “Not Qualified.” To merit the Committee’s rating of “Well Qualified,” a Supreme Court nominee must be a preeminent member of the legal profession, have outstanding legal ability and exceptional breadth of experience, and meet the very highest standards of integrity, professional competence and judicial temperament. The rating of “Well Qualified” is reserved for those found to merit the Committee’s strongest affirmative endorsement.

The rating of “Qualified” means that the nominee satisfies the Committee’s high standards with respect to integrity, professional competence and judicial temperament, and that the Committee believes the nominee is qualified to perform satisfactorily all of the duties and responsibilities required of the distinguished office of a Supreme Court Justice.

At the conclusion of its evaluation process, the Committee submits its rating in writing to the White House, the U.S. Department of Justice, each member of the Senate Judiciary Committee, and the nominee. The rating also is posted on the Committee’s website for the public record.

The Chair and the evaluator(s) primarily responsible for conducting the evaluation traditionally testify at the nominee’s confirmation hearing at the request of the Senate Judiciary Committee. Their written statement, consisting of an introduction and the explanatory letter, is submitted for the record of the hearing and is posted on the Committee’s website for the public record.

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