



ABA Standing Committee on the Federal Judiciary

Evaluations of Nominees to the Supreme Court of the United States

For more than 60 years, the ABA Standing Committee on the Federal Judiciary has evaluated the professional qualifications of nominees to the Supreme Court by conducting extensive peer reviews of each nominee's integrity, professional competence, and judicial temperament. In conducting its evaluations, 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:

- Since 1981, investigations of Supreme Court nominees are conducted after the President has submitted a nomination or has announced an intention to nominate a particular lawyer or judge.
- Unlike evaluations of nominees or 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, the team is comprised of law professors who are recognized experts in the area of law covered by the nominee's writing.
- 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.

Each team submits its analysis and comments to the Standing Committee for consideration as it evaluates 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 Standing 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 fully qualified to perform all of the duties and responsibilities required of the distinguished office of a Supreme Court Justice.

The Chair of the Standing Committee submits the rating in writing to the Senate Judiciary Committee, the White House, the U.S. Department of Justice, and the nominee. Once submitted, the rating is posted on the Standing Committee's website for the public record. The Standing Committee also prepares a detailed written statement explaining the reasons for its rating for submission to the Senate Judiciary Committee.

The Senate Judiciary Committee traditionally invites the Standing Committee to testify as the first public witness at the nominee's confirmation hearing. The Chair of the Standing Committee and the evaluator primarily responsible for conducting the evaluation provide oral comments at the hearing and submit the written statement for inclusion in the confirmation hearing record. Copies of the written statement are available to those present at the hearing and an electronic copy is posted on the Standing Committee's website following presentation of testimony.

This Summary, as well as the Standing Committee's Backgrounder, is posted on its website at: http://www.americanbar.org/groups/committees/federal_judiciary.html

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Updated: January 2017