

STATE BAR OF NEW MEXICO

FAIR JUDICIAL ELECTIONS COMMITTEE

BYLAWS

The FAIR JUDICIAL ELECTIONS COMMITTEE (“the Committee”) was created and empowered by the Board of Bar Commissioners’ resolution dated September 5, 2006, amended November 30, 2007.

1. ADDRESS AND CONTACT INFORMATION.

Fair Judicial Elections Committee  
State Bar of New Mexico  
5121 Masthead NE  
Albuquerque, New Mexico 87109  
P. O. Box 92860  
Albuquerque, New Mexico 87199-2860  
Telephone: 505-797-6000  
1-800-896-6227  
Fax: 505-828-3765  
Email: [fairjudicialections@nmbar.org](mailto:fairjudicialections@nmbar.org)

The official files and records of the Committee, bylaws, complaints, investigations, decisions, publications, and all other official actions of the Committee shall be maintained at the State Bar Center.

2. MEMBERS.

A. Under the September 5, 2006 resolution of the Board of Bar Commissioners (“the BBC”) as amended by the BBC on November 30, 2007, the Committee consists of not more than fifteen (15) members appointed annually by the President of the BBC for staggered terms of 1, 2 and 3 years, with the approval of the BBC. Expiring positions on the Committee are appointed annually by the President of

the BBC. All members are eligible for reappointment. Non-lawyers are eligible for appointment. No incumbent judicial officer is eligible for appointment. The Committee is authorized to organize itself into panels of five (5) members each to investigate complaints and make recommendations for action by the full Committee.

B. VACANCIES. A vacancy shall exist on the Committee at any time fewer than fifteen (15) members have been appointed, or if any member resigns, dies, or becomes disqualified or disabled to serve. Vacancies shall be filled by appointment of the Chair of the BBC. A lawyer-member shall cease to be a member of the Committee, and shall be deemed to have resigned, if his or her license to practice is cancelled or suspended. Any member of the Committee who is convicted of or pleads guilty or *nolo contendere* to any crime, shall thereupon cease to be a member of the Committee and shall be deemed to have resigned.

C. CONFLICTS OF INTEREST. Members shall make reasonable efforts to avoid conflicts of interest with the Committee, and shall disclose conflicts of interest to the Committee. The Committee shall decide whether a conflict of interest is serious enough to require disqualification. No member shall participate in any Committee action in which that member has a disqualifying conflict of interest. Election or appointment to any judicial office, or the filing of a declaration of candidacy for any judicial office, shall constitute a disqualifying conflict of interest, and an automatic resignation from the Committee. A member of the Committee may publicly endorse or oppose a candidate in an election for judicial office, may serve on a judicial candidate's campaign committee, may make contributions to a candidate for election to judicial

office in the manner provided by Rule 21-800(C) of the Code of Judicial Conduct, and may attend campaign functions that include judicial candidates. A member shall be automatically disqualified from participating in any investigation or decision of a complaint involving a candidate that the member has publicly endorsed or opposed, or on whose campaign committee the member has served. Mere contributions or attendance at campaign functions shall not constitute a disqualifying conflict of interest.

3. OFFICERS AND PANELS.

Annually, the President of the BBC appoints the Chair to supervise all functions of the Committee. The Committee may, in its discretion, elect a Vice Chair to act in the absence of the Chair, and such other officers as it sees fit. Once appointed or elected, officers shall continue in office until their successors have been appointed or elected.

The Chair shall designate three (3) panels of five (5) members each to investigate complaints, and shall designate a chair of each panel. If a panel member has a conflict of interest or is unable to serve, the Committee Chair shall designate a replacement.

4. MEETINGS.

Meetings of the Committee may be called at any time by the Chair or by any five (5) members. The Committee can meet and act at any time of year.

A majority of the members of the Committee shall constitute a quorum, whether participating in person or by electronic means.

5. MINUTES.

Minutes of all meetings and proceedings of the Committee shall be prepared by the Chair, the Vice Chair, or a person authorized by the Chair, and shall be filed at the State Bar Center.

6. COMPLAINTS AND INVESTIGATIONS.

The Committee may initiate, receive, review, investigate and act on complaints received from any source. Complaints may be filed by and against, without limitation, citizens, political parties, judges, candidates for judicial office, campaign committees, political action committees, citizen groups, and any other person or entity having an interest in the matter complained of. Complaints should be filed in writing with the Committee by mail, or by electronic means. Upon receipt, Committee staff shall immediately distribute each complaint electronically to all members of the Committee. Each complaint shall be immediately assigned by the Chair to a panel of five (5) members to investigate the facts and recommend action to be taken by the full Committee.

7. SERVICE OF COMPLAINTS.

A copy of each complaint, and documents filed with each complaint, shall be served immediately by Committee staff on the candidate, campaign committee or other person or entity against whom the complaint has been made, and may be served on other interested parties in the discretion of the Chair. Service may be electronic or by mail.

8. RESPONSE TO COMPLAINTS.

Any candidate, campaign committee, or other person or entity that would be affected by the Committee's decision on the complaint may file a response with the Committee, by mail or electronic means. Responses should be filed immediately, or as quickly as possible, in that the Committee is expected to act quickly on all complaints. Committee staff shall serve each response on all members of the Committee immediately. If, in the sole discretion of the Committee, the real parties in interest have had a reasonable opportunity to respond, the Committee may proceed to a decision whether or not any response has been filed.

9. INVESTIGATION OF COMPLAINTS.

The panel to whom the complaint is referred by the Chair shall investigate the facts quickly but deliberately in behalf of the Committee. Any panel member having a conflict of interest shall immediately recuse and advise the Chair of the conflict and shall take no part in the investigation or recommendation of the panel. The Chair shall appoint another member of the Committee to serve in place of the recused panel member. After the panel has investigated the complaint, the panel shall send written findings and a recommendation for action by the Committee to the email address of the Committee at the State Bar Center, which will immediately disseminate the recommendation to the full Committee. At the call of the Chair, the full Committee will consider the complaint, all responses, and the recommendation of the investigating panel, and decide how to respond to the complaint.

10. DECISIONS.

A decision of the Committee finding that a violation of the Code of Judicial Conduct or of the Rules of Professional Conduct has occurred requires the concurrence of a majority of members of the whole Committee. All members are requested and entitled to participate in person or by telephone conference concerning each complaint, except those members having a conflict of interest.

The Committee has no power to censor any campaign advertisement or statement, or to order a retraction or amendment to any advertisement or statement, or to issue a cease and desist order. However, the Committee has discretion to recommend and request withdrawal or amendment of any advertisement or statement, to recommend corrective action, to give all its reasons for a decision, to objectively and professionally censure, criticize and condemn, and to fully and fairly describe any violation it believes has occurred.

11. SERVICE OF DECISIONS.

The official decision of the Committee on any complaint shall be kept on file at the State Bar Center. Every decision of the Committee shall be in writing, signed by the chair, or other authorized member, and shall be served by mail or by electronic means on the complainant, on each candidate, candidate campaign committee, citizen, political party, citizen group, political action committee, and any other group, person or entity involved, on every member of the Committee, and on such other parties as the Committee shall direct.

12. CONFIDENTIALITY AND PUBLICATION OF DECISIONS.

Except as necessary to the investigation of a complaint, all complaints, responses to complaints, and documents and correspondence relating to complaints, shall be held in confidence pending investigation and decision by the Committee.

The resolution of the BBC, as amended on November 30, 2007, authorized the Committee, in the exercise of discretion, to publish those decisions that find that a violation of the Code of Judicial Conduct or the Rules of Professional Conduct has occurred. The Committee may, in its sole discretion, also publish all or parts of the complaint and the results of the investigation, and may allow public access to the Committee's file. Publication in all statewide and local media is authorized, in the discretion of the Committee.

If the Committee decides to dismiss a complaint, notice of dismissal will be served on the complainant, the respondent and parties in interest, but otherwise the decision and the entire file relating to that complaint shall remain confidential, unless the complainant or respondent publicly releases the Committee's decision, wholly or partially, in which case the Committee can make a separate decision to publish its file, and to allow public access to its file.

The purpose of publication is primarily to encourage compliance, secondarily to encourage correction or retraction of violations found by the Committee, and thirdly to educate. Criticisms, if any, are intended to be constructive, not punitive. Complainants and respondents have an equal right to publish.

These bylaws concerning confidentiality and publication do not create any right or expectation in any candidate, respondent, or other party, either to confidentiality or to publication. Decisions to publish or not publish, under the conditions imposed by these bylaws, are entirely within the discretion of the Committee.

13. FORCE AND EFFECT OF DECISIONS.

The decisions of the Committee are offered for the guidance of candidates in judicial elections, campaign committees, political parties, political action committees, advocacy groups, the media and members of the public who are interested in:

- a. Raising the level of civility, dignity, and decorum in campaigns for the election of judicial officers;
- b. Promoting compliance with the standards of the Code of Judicial Conduct and the Rules of Professional Conduct as they apply to judicial elections and campaigns;
- c. supporting the integrity, impartiality and independence of the judicial branch of government;
- d. promoting public confidence in the judicial branch of government;
- e. Improving public understanding of the organization, function and authority of the judicial branch of government, and how judicial office differs from executive, legislative, administrative and other political offices.

14. FREEDOM OF SPEECH, PRESS AND PETITION.

The Committee recognizes that courts, as public institutions, judges, as public officers, and candidates for election to judicial office, are subject to public comment and criticism. Every citizen has the right to speak freely about courts, judges, and candidates. The media have the right to publish and broadcast freely about courts, judges, candidates and court decisions. Constructive comments, criticisms and publications enhance the public's understanding of the judicial branch of government, and are to be encouraged. The Committee has no wish and no power to abridge, disparage or limit these rights.

When comments about courts, judges, candidates for judicial office, cases pending in court, and court decisions, are made by incumbent judges, lawyers, candidates for judicial office, and members of campaign committees in elections for judicial office, they are required to comply with the Rules of Professional Conduct and the Code of Judicial Conduct.

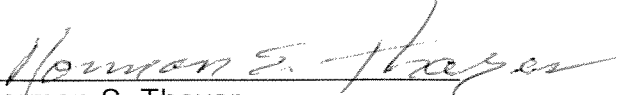
Judges are elected by popular vote in both contested and retention elections that are a part of the political process, but judicial office is not political office, and that fact is reflected in the restrictions that the Code of Judicial Conduct and the Rules of Professional Conduct impose on the conduct of candidates for election to judicial office, and on incumbent judges.

The Committee has no power to enforce its decisions. The Committee's decisions are advisory and educational in nature, and are offered as thoughtful deliberations on the requirements of the Code of Judicial Conduct and the Rules of

Professional Conduct, and, particularly, those requirements that protect the independence, integrity, impartiality, dignity and decorum of courts and judges necessary to the administration of justice.

Adopted January 16, 2007.  
Amended April 24, 2008

Fair Judicial Elections Committee

  
Norman S. Thayer  
Chair