

# **SELECT ABA POLICIES RELATING TO STATE JUDICIAL INDEPENDENCE**

## **JUDICIAL INDEPENDENCE: GENERAL**

### **February 2007**

RESOLVED, That the ABA join in efforts by state, local and territorial bar organizations to defend against attacks on the judiciary and oppose any measure that is proposed by any state legislation, referendum, or ballot initiative that would interfere with or impede the ability of courts to apply independently the law and the Constitution fairly and impartially.

<http://www.abanet.org/leadership/2007/midyear/docs/journal/tenb.doc>

### **August 2005**

RESOLVED, the American Bar Association deplors attacks on the independence of the judiciary that demean the judiciary as a separate and co-equal branch of government.

FURTHER RESOLVED, the American Bar Association affirms its belief that a fair, impartial, and independent judiciary is fundamental to a free society and calls on all Americans, including elected officials, to support and defend our judiciary and its role in maintaining the fundamental liberties under the Constitution of the United States.

FURTHER RESOLVED, the American Bar Association will accelerate its effort to provide public education on the system of justice and assist organized bars in responding to unjustified criticisms and inaccuracies regarding the justice system.

<http://www.abanet.org/leadership/2005/annual/dailyjournal/10a.doc>

### **\*August 2003**

RESOLVED, That the American Bar Association adopts the Principles and Conclusions of the Commission on the 21st Century Judiciary, dated August 2003, to ensure judicial independence, accountability and efficiency.

FURTHER RESOLVED, That the American Bar Association urges all state, local and territorial bar associations to ensure the integrity of state and territorial judiciaries by promoting the implementation of the Principles and Conclusions of the Commission on the 21st Century Judiciary.

## **Principles and Conclusions, August 2003**

### **I. Enduring Principles**

- A. Judges should uphold the law.
- B. Judges should be independent.
- C. Judges should be impartial.
- D. Judges should possess the appropriate temperament and character.
- E. Judges should possess the appropriate capabilities and credentials.
- F. Judges and the Judiciary should have the confidence of the public.
- G. The judicial system should be diverse and reflective of the society it serves.
- H. Judges should be constrained to perform their duties in a manner that justifies public faith and confidence in the courts.

### **II. Preserving the Judiciary's Institutional Legitimacy**

#### **A. Judicial Qualifications, Training and Evaluation**

States should establish credible, neutral, non-partisan and diverse deliberative bodies to assess the qualifications of all judicial aspirants so as to limit the candidate pool to those who are well qualified.

The judicial branch should take primary responsibility for providing continuing judicial education, that continuing judicial education should be required for all judges, and that state appropriations should be sufficient to provide adequate funding for continuing judicial education programs.

Congress should fully fund the State Justice Institute.

States should fully fund the National Center for State Courts.

States should develop judicial evaluation programs to assess the performance of all sitting judges.

#### **B. Judicial Ethics and Discipline**

The American Bar Association should undertake a comprehensive review of the Model Code of Judicial Conduct.

The codes of judicial conduct should be actively enforced.

### C. Diversification of the Justice System

Members of the legal profession should expand their use of training and recruitment programs to encourage lawyers who reflect diversity to join their firms, they should include them fully in firm life, and they should prepare them for pursuing careers on the bench following their years in practice.

Courts should promote a representative work force and diverse court appointments.

Courts should act aggressively to ensure that language barriers do not limit access to the justice system.

Courts should have in place formal policies and processes for handling allegations of bias.

Information regarding diversity should be shared among the courts in a state and among the states.

Measures should be adopted to improve and expand jury pool representation.

### D. Improving Court-Community Relationships

Courts should take steps to promote public understanding of and confidence in the courts among jurors, witnesses and litigants.

Courts should engage and collaborate with the communities of which they are a part, by hosting trips to courthouses and by judges and court administrators speaking in schools and other community settings.

The continuation of problem-solving courts as a means to promote public confidence in the courts.

## **III. Improving Judicial Selection**

A. The preferred system of state court judicial selection is a commission-based appointive system, with the following components:

The governor should appoint judges from a pool of judicial aspirants whose qualifications have been reviewed and approved by a credible, neutral, non-partisan, diverse deliberative body or commission.

Judicial appointees should serve until a specified age. Judges so appointed should not be subject to reselection processes, and should be entitled to retirement benefits upon completion of judicial service.

Judges should not otherwise be subject to reselection, nonetheless remain subject to regular judicial performance evaluations and disciplinary processes that include removal for misconduct.

## B. Alternative Recommendations on Systems of Judicial Selection

For states that cannot abandon the judicial reselection process altogether, judges should be subject to reappointment by a credible, neutral, non-partisan, diverse deliberative body.

For states that cannot abandon judicial elections altogether, elections should be employed only at the point of initial selection.

For states that retain judicial elections as a means of reselection, judges should stand for retention election, rather than run in contested elections.

For states that retain contested judicial elections as a means to select or reselect judges, all such elections should be non-partisan and conducted in a non-partisan manner.

For states that continue to employ judicial elections as a means of judicial reselection, judicial terms should be as long as possible.

For states that use elections to select or reselect judges, states should provide the electorate with voter guides on the candidate(s).

For states that use elections to select or reselect judges, state bars or other appropriate entities should initiate a dialogue among affected interests, in an effort to deescalate the contributions arms race in judicial campaigns.

For states that use elections to select or reselect judges, state bars or other appropriate entities should reach out to candidates and affected interests, in an effort to establish voluntary guidelines on judicial campaign conduct.

For states that do not abandon contested elections at the point of initial selection or reselection, states should create systems of public financing for appellate court elections.

For states that retain contested judicial elections and do not adopt systems of public financing, states should impose limits on contributions to judicial candidates.

#### **IV. Promoting an Independent Judicial Branch that Works Effectively with the Political Branches of Government**

Standards for minimum funding of judicial systems should be established.

The judiciary's budget should be segregated from that of the political branches, and it should be presented to the legislature for approval with a minimum of non-transferable line itemization.

States should create independent commissions to establish judicial salaries.

States should create opportunities for regular meetings among representatives from all three branches of government to promote inter-branch communication as a means to avoid unnecessary confrontations on such issues as court funding, judicial salaries, and structural reform of courts.

\* Hank: This report is over 200 pages long; I did not include a copy but you can either download it or request it from the Judicial Division.

#### **August 1996**

**RESOLVED**, that the American Bar Association (ABA) opposes efforts to adopt any measure to place an automatic limit on the number of term a person may serve in a judicial position and urges voters and legislators to oppose such efforts;

**FURTHER RESOLVED**, that the ABA urges all bar associations, and other organizations whose goals include the improvement of the legal profession, judiciary and system of justice in the United States, to speak against such measures.

## **BIAS/DISCRIMINATION IN THE COURTS**

### **August 1995**

RESOLVED, that the American Bar Association:

- a) condemns the manifestation by lawyers in the course of their professional activities, by words or conduct, of bias or prejudice against clients, opposing parties and their counsel, other litigants, witnesses, judges and court personnel, jurors and others, based upon race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status, unless such words or conduct are otherwise permissible as legitimate advocacy on behalf of a client or a cause;
- b) opposes unlawful discrimination by lawyers in the management or operation of a law practice in hiring, promoting, discharging or otherwise determining the conditions of employment, or accepting or terminating representation of a client;
- c) condemns any conduct by lawyers that would threaten, harass, intimidate or denigrate any other person on the basis of the aforementioned categories and characteristics;
- d) discourages members from belonging to any organization that practices invidious discrimination on the basis of the aforementioned categories and characteristics;
- e) encourages affirmative steps such as continuing education, studies, and conferences to discourage the speech and conduct described above.

### **February 1990**

BE IT RESOLVED, That the ABA urges judicial leaders to encourage and promote the full participation in the work forces of the court systems under their jurisdiction of all persons regardless of their race, sex, color, national origin, religion, age or handicap; and

BE IT FURTHER RESOLVED, That the ABA encourages each court system, and each major local court with significant control over personnel administration, to adopt merit-based personnel systems, including specific equal employment opportunity and affirmative action plans, that encompass all facets of court personnel management including recruitment, hiring, training, promotion and advancement; and

BE IT FURTHER RESOLVED, That the ABA calls upon officials within the legislative and executive branches of government who select and appoint persons to the judiciary, and members of judicial selection commissions or advisory groups who assist them, to incorporate affirmative action values as they decide whom to recommend and appoint to judicial positions; and

BE IT FURTHER RESOLVED, That the ABA encourages executive agencies that control or share in the selection of court personnel to implement equal employment opportunity and affirmative action plans and programs as they staff the courts.

**August 1986**

BE IT RESOLVED, That the American Bar Association recommends that state and federal education programs for judges include:

- (a) a course devoted to fairness and the judiciary's role in ensuring a courtroom atmosphere free of both overt and subtle forms of race and sex bias; and
- (b) analysis of race and sex - biased stereotypes, myths, beliefs and biases that may affect judicial decision - making, as part of substantive law courses dealing with subjects such as sentencing, treatment of domestic violence and rape victims, alimony and child support awards and damages awards.

**COMPENSATION FOR JUDGES**

**August 2003**

RESOLVED, That the American Bar Association reaffirms its support for adequate levels of compensation for state and territorial judges in order to attract and retain the best-qualified persons to serve on the judiciary.

FURTHER RESOLVED, That the American Bar Association encourages state, local and territorial bar associations to take a leadership role in promoting adequate compensation for state and territorial judges and independent mechanisms for determining judicial compensation levels.

FURTHER RESOLVED, That the American Bar Association encourages states and territories to determine judicial compensation levels through the use of independent commissions that have the following characteristics and authority:

**Authority.**

Judicial compensation commissions may be established by constitutional provision or by statute. Commissions should determine compensation levels only for justices and judges. In those states and territories having compensation commissions for all public officials, compensation levels for the judiciary should be considered separately.

**Appointment of Members.**

Members of judicial compensation commissions should be appointed by leaders of the executive, legislative and judicial branches of government and, where appropriate, by the governing body of the state or territorial bar association. The membership of such commissions should include both lawyers and lay members

of the public and should reflect the diversity of the population. Appointed or elected public officials, public employees, and political party officers should not be allowed to serve on commissions.

**Terms.**

Commissioners should serve fixed, staggered terms.

**Meetings.**

Commissions should meet at least once annually.

**Sources of Information and Expertise.**

Commissions should employ such academic or professional experts as they see fit to provide statistical analyses and relevant data upon which to base recommendations.

Commissions should hold open public hearings and invite members of the public, the bar, the state judiciary, and other appropriate public officials and experts to provide testimony on judicial compensation levels.

**Issuance of Report.**

Commissions should issue reports at least every two years with recommendations for adjusted compensation levels at least thirty days prior to the start of the regular legislative session.

**Binding Nature of Report.**

Commissions should have the authority to set compensation levels. Their recommendations should have the force of law unless rejected by a two-thirds majority legislative vote within a fixed period of time following receipt of the commission's report. In those states having initiative petition, the commission's report may be rejected by the completion of a petition within a short, fixed time period to trigger a voter referendum on the commission's recommendations.

<http://www.abanet.org/leadership/2003/journal/105a.pdf>

**February 2003**

RESOLVED, That salary levels of federal, state, and territorial judges and the administrative judiciary should be reviewed on a regular, periodic basis and adjusted to ensure that judicial salaries are not, in effect, diminished by increases in the cost of living.

**February 1994**

RESOLVED, That salary levels of federal, state, and territorial judges and the administrative judiciary should be reviewed on a regular, periodic basis and adjusted to ensure that judicial salaries are not, in effect, diminished by increases in the cost of living.

**BOG November 1988**

BE IT RESOLVED, that the American Bar Association strongly reaffirms its support of efforts to improve state judicial salaries and fringe benefits.

**August 1981**

BE IT RESOLVED, That the American Bar Association recommends that the salaries of the justices of the highest courts of the States should be substantially equal to the salaries paid to judges of the United States courts of appeal, and the salaries of State trial judges of courts of general jurisdiction should substantially equal the salaries paid to judges of the United States district courts.

**COURT INTERPRETERS**

**February 2002**

RESOLVED, That in recognition of the fact that the United States is a diverse and multicultural society, the American Bar Association urges the federal government and the states, territories and possessions to commit sufficient resources to all courts and administrative agencies to enable them to provide qualified live, in-person language interpreters to ensure that all parties and witnesses may fully and fairly participate in all proceedings, and

FURTHER RESOLVED, That courts and agencies should provide live in-person interpreters in all cases, except that in brief, preliminary proceedings or in other matters involving an urgent need for the protection of life and safety, the imminent removal of persons or evidence from the jurisdictions, or in other cases involving similar emergent circumstances, when an in-person interpreter is not available, a qualified interpreter who is employed by a telecommunications or other technology-based interpretation service may be provided.

**August 1998**

RESOLVED, That the American Bar Association recommends that all courts be provided with qualified language interpreters, including sign language interpreters, in order that parties and witnesses with no or limited command of English and those who are deaf or hearing-impaired may fully and fairly participate in court proceedings;

FURTHER RESOLVED, That court interpreters should be qualified, should maintain their proficiency through continuing education, and should adhere to standards of professional conduct.

## **DISCIPLINARY ENFORCEMENT**

### **August 1994:**

BE IT RESOLVED, That the American Bar Association adopts the *Model Rules for Judicial Discipline Enforcement*.

## **CRITICISM: RESPONSE TO JUDICIAL CRITICISM**

### **February 1998 ( *Model Program Outline included in materials* )**

RESOLVED, that the American Bar Association encourages all state, local and territorial bar associations to adopt programs enabling timely and effective responses to criticism of judges as the “Model Program for the Outline for State and Local Bar Associations: Suggested Programs for Appropriate Response to Criticism of Judges and Courts,” dated February 1998.

(See also August 2005 policy on judicial independence, above.)

## **DIVERSITY IN THE LEGAL PROFESSION AND THE COURTS**

We have a host of positions urging greater diversity in the profession and on the bench. We will add them when there is more time.

## **ELECTIONS: FINANCING/CAMPAIGN CONDUCT**

### **February 2004**

RESOLVED, that the public’s trust and confidence in a fair, impartial and independent judiciary is threatened by previously unregulated, non-candidate electioneering communications regarding judicial elections.

FURTHER RESOLVED, that the American Bar Association urges states and territories to take appropriate steps, through legislation or administrative regulation consistent with the constitutional principles articulated in the decision of the Supreme Court of the United States in *McConnell v. Federal Election Commission* (02-1674, 2003), to require timely public disclosure of expenditures, by and the source and amount of all contributions exceeding a specified amount, for electioneering communications designed to regarding judicial elections.

### **August 2002**

RESOLVED, That the American Bar Association while reaffirming its long-standing support of selection of judges by merit selection, urges states and territories that select judges in contested elections to finance judicial campaigns with public funds.

FURTHER RESOLVED, That the American Bar Association adopts the following principles concerning public financing of judicial elections and supports legislation that

incorporates these principles:

1. Public financing programs must be sensitive to Constitutional limitations on states' power to regulate judicial campaign finance.
2. Public financing programs should be designed to best suit the particular needs of a particular state or territory.
3. Public financing programs are most suitable for primary and general election campaigns of high court judges, and in some cases, intermediate appellate judges.
4. Public financing programs should provide judicial candidates with full public funding in amounts sufficient to encourage participation.
5. Public financing programs should be restricted to serious candidates in contested elections who have met specified criteria indicating a certain level of support.
6. Public financing programs should be conditioned on the candidates' agreement to forego private financing and to limit their use of public funds to legitimate campaign purposes.
7. States and territories should address the impact of independent campaign expenditures and recognize the impact of general issue advocacy on public financing programs.
8. Public financing programs should distribute funds in the form of bloc grants to candidates and should also provide voter guides to the electorate.
9. Public financing programs should be funded from a stable and sufficient revenue source.
10. Public financing programs should be administered by an independent and adequately staffed entity.  
[http://www.abanet.org/judind/jud\\_campaign.html](http://www.abanet.org/judind/jud_campaign.html)

**February 2002 ( *Report included in materials* )**

RESOLVED, That the American Bar Association encourages dissemination of information in judicial elections that advances the public's knowledge about the justice system and urges all participants in judicial campaigns to conduct themselves with honesty and integrity so as not to undermine public trust and confidence in the justice system;

FURTHER RESOLVED, That the ABA encourages the study of judicial campaigns to determine the impact of campaign spending and advertising on the public's knowledge about and trust and confidence in the justice system;

FURTHER RESOLVED, That, in order to further the public's knowledge about and trust and confidence in the justice system, the ABA encourages state, local and territorial bar associations in states and territories that conduct judicial elections to establish judicial campaign conduct committees to promote honesty and integrity in judicial campaigns.  
<http://www.abanet.org/judind/resourcekit/conductcomm.html>

### **August 1994**

BE IT RESOLVED, That the American Bar Association urges state, territorial and local bar associations in jurisdictions where judges are elected in partisan or non-partisan elections to work for the adoption of merit selection and retention, and to consider means of improving the judicial elective process, including improving campaign conduct and financing, and adopting programs that are best suited to the needs of their jurisdictions.

BE IT FURTHER RESOLVED, That the following types of actions be considered for such adoption:

1. Seek legislation to improve financial reporting requirements governing judicial election campaigns, so that meaningful, relevant reports are widely available.
2. Develop guidelines for the proper funding and conduct of judicial election campaigns, tailored to local circumstances, to assure that judicial campaigns are conducted with the highest standards of fairness and propriety, and seeking voluntary compliance with those guidelines.
3. Inform judicial candidates of applicable ethical and legal constraints.
4. Help form and support community-based campaign monitoring committees.
5. Educate the public and the press about the nature of judicial work and the proper limits of judicial campaigning.
6. Sponsor candidate forums.
7. Developing procedures for responding quickly and publicly to unfair criticism of judges, whether or not in the context of an immediate judicial election.

## **FUNDING FOR STATE COURTS**

### **August 2004** ( *Recommendations included in packet* )

RESOLVED, That the American Bar Association urges states and territories to support quality and accessible justice by adopting judicial branch budget procedures that will ensure adequate, stable, long-term funding of their courts under all economic conditions.

FURTHER RESOLVED, That the American Bar Association adopts the black-letter recommendations of the ABA Commission on State Court Funding, dated August 2004.

<http://www.abanet.org/leadership/2004/annual/dailyjournal/107.doc>

### **August 1991**

RESOLVED, That the American Bar Association recognizes that the highest priority of the bar and bench must be to promote improvements in the American system of justice by ensuring balanced and adequate funding for, and timely access to, the entire justice system urges Association entities, state and local bars and affiliated organizations to form coordinated action committees with non-lawyer groups to:

1. Assess the depth and breadth of the crisis in their jurisdictions;
2. Design and implement an action plan to attack the crisis and maintain and improve balanced and adequate funding for the entire justice system; and
3. Educate policy makers that their actions may have consequences for the entire justice system well beyond their intended purpose.

## **SELECTION/MERIT SELECTION**

### **August 2003**

From: Commission on the 21st Century Judiciary: Principles and Conclusions

....

### **III. IMPROVING JUDICIAL SELECTION**

#### **A. The preferred system of state court judicial selection is a commission-based appointive system, with the following components:**

- The governor should appoint judges from a pool of judicial aspirants whose qualifications have been reviewed and approved by a credible, neutral, nonpartisan, diverse deliberative body or commission.
- Judicial appointees should serve until a specified age. Judges so appointed should not be subject to reselection processes, and should be entitled to retirement benefits upon completion of judicial service.
- Judges should not otherwise be subject to reselection, nonetheless remain subject to regular judicial performance evaluations and disciplinary processes that include removal for misconduct.

....

## **B. Alternative Recommendations on Systems of Judicial Selection**

- For states that cannot abandon the judicial reselection process altogether, judges should be subject to reappointment by a credible, neutral, non-partisan, diverse deliberative body.
- For states that cannot abandon judicial elections altogether, elections should be employed only at the point of initial selection.
- For states that retain judicial elections as a means of reselection, judges should stand for retention election, rather than run in contested elections.
- For states that retain contested judicial elections as a means to select or reselect judges, all such elections should be non-partisan and conducted in a nonpartisan manner.
- For states that continue to employ judicial elections as a means of judicial reselection, judicial terms should be as long as possible.
- For states that use elections to select or reselect judges, states should provide the electorate with voter guides on the candidate(s).

...

### **August 2000** ( *Standards included in packet* )

RESOLVED, That the American Bar Association adopts the black letter of the Standards On State Judicial Selection, dated July 2000.

[http://www.abanet.org/judind/jud\\_selection.html](http://www.abanet.org/judind/jud_selection.html)

### **August 1999**

RESOLVED, That the American Bar Association hereby affirms its commitment to the merit selection of judges, and urges all jurisdictions to enact constitutional provisions setting out procedures for the merit selection and either appointment or retention election of their judges; and

FURTHER RESOLVED, That in states and territories which merit selection and retention of judges have not been established by constitutional change or legislative enactment, state, local, and territorial bar association be encourage to persuade the governors of their respective states and territories to establish, on their own motion, judicial nominating commissions to advise them with respect to the filling of judicial vacancies, and to appoint only such judges as are recommended by the nominating commission; and

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bar associations to support and promote the development of educational initiatives to inform the public regarding the nature of judicial responsibilities, the importance of the independence of the judiciary, the qualification of candidates for judicial office, and the proper operations of the nation's courts; and

FURTHER RESOLVED, that the ABA Code of Judicial Conduct (1990) be amended by adding the following new subsections:

**February 1998**

RESOLVED, That the American Bar Association recommends that when making character and fitness determinations of state and territorial judicial candidates, nominees, or appointees, any nominating or evaluating entity: 1) consider the privacy concerns of the candidates; 2) narrowly tailor questions concerning physical and mental disabilities or physical and mental health treatment in order to elicit information about current fitness to serve as a judge, with such reasonable modifications as may be required; and 3) take steps to ensure that the process does not have the effect of discouraging those who would seek judicial office from pursuing professional assistance when needed.

**February 1991**

RESOLVED, That the American Bar Association supports the participation of state and local bar associations in merit selection mechanisms developed to assist in evaluating and recommending candidates for judicial appointment.

**August 1994**

BE IT RESOLVED, That the American Bar Association urges state, territorial and local bar associations in jurisdictions where judges are elected in partisan or non-partisan elections to work for the adoption of merit selection and retention, and to consider means of improving the judicial elective process, including improving campaign conduct and financing, and adopting programs that are best suited to the needs of their jurisdictions.

BE IT FURTHER RESOLVED, That the following types of actions be considered for such adoption:

1. Seek legislation to improve financial reporting requirements governing judicial election campaigns, so that meaningful, relevant reports are widely available.
2. Develop guidelines for the proper funding and conduct of judicial election campaigns, tailored to local circumstances, to assure that judicial campaigns are conducted with the highest standards of fairness and propriety, and seeking voluntary compliance with those guidelines.

3. Inform judicial candidates of applicable ethical and legal constraints.
4. Help form and support community-based campaign monitoring committees.
5. Educate the public and the press about the nature of judicial work and the proper limits of judicial campaigning.
6. Sponsor candidate forums.
7. Developing procedures for responding quickly and publicly to unfair criticism of judges, whether or not in the context of an immediate judicial election.

**August 1986**

BE IT RESOLVED, That the American Bar Association urges appointing authorities selecting members of merit selection judicial nominating commissions to ensure that there are no barriers to the selection of women and minorities for service on the commissions;

BE IT FURTHER RESOLVED, That judicial nominating commissions and the appointing authority are urged to ensure that there are no barriers to the selection of women and minorities as judges;

RESOLVED, That the American Bar Association recommends that efforts to eliminate such barriers include the conscious consideration of qualified women and minorities, and that qualifications should be viewed with greater emphasis on professional capabilities and achievements, than upon socio-economic status or financial history.

**August 1973**

BE IT RESOLVED, That the American Bar Association reaffirm its support of merit selection and retention of judges, first endorsed by the Association in 1937, and that it oppose the selection of judges by the elective process; and

RESOLVED, That state and local bar associations in those states that still select judges by vote of the electorate be urged to record their opposition to that form of judicial selection, to draft legislation or constitutional amendment where necessary, to terminate such form of selection, and to seek immediate enactment of such legislation or amendment.

**February 1972**

RESOLVED, That in states in which merit selection has not been established by constitutional change or legislative enactment, state and local bar associations be encouraged to persuade the governors of their respective states to establish, on their own motion, judicial nominating commissions to advise them with respect to the filling of

judicial vacancies, and to appoint only such judges as are recommended by the nominating commissions.

RESOLVED, That state bar associations be encouraged to seek commitments from United States Senators and candidates for election to the United States Senate, to the effect that whenever a vacancy exists in a federal court within their respective states, they will make recommendations to the President for the filling of such vacancies only after they have consulted with the state bar association, and will transmit to him the names of only such persons as are recommended to them by such association; and

RESOLVED, That whenever a United States Senator agrees to consult with the state bar association prior to making a recommendation for the filling of a federal judicial vacancy, the bar association should set up an appropriate committee to screen all candidates who may be suggested for the filling of the vacancy, and to recruit the best qualified persons for recommendation by the Senator to the President.

RESOLVED, That the House approve in principle S.2854, introduced by Senator Burdick on 11/12/71, and dealing with pensions for widows of Supreme Court Justices.

## **PERFORMANCE: EVALUATION OF JUDICIAL PERFORMANCE**

### **February 2005 ( Guidelines included in packet)**

RESOLVED, That the American Bar Association adopts the black letter Guidelines for the Evaluation of Judicial Performance dated February 2005, which replace the 1985 Guidelines.

<http://www.abanet.org/jd/lawyersconf/performanceresource/guidelines/ABABlackLetterGuidelinesforJudicialPerformanceEvaluation.pdf>

### **August 2003**

From: Commission on the 21st Century Judiciary: Principles and Conclusions

...

## **II. Preserving The Judiciary's Institutional Legitimacy**

### **A. Judicial Qualifications, Training and Evaluation**

· States should establish credible, neutral, non-partisan and diverse deliberative bodies to assess the qualifications of all judicial aspirants so as to limit the candidate pool to those who are well qualified.

- The judicial branch should take primary responsibility for providing continuing judicial education, that continuing judicial education should be required for all judges, and that state appropriations should be sufficient to provide adequate funding for continuing judicial education programs.
- Congress should fully fund the State Justice Institute.
- States should fully fund the National Center for State Courts.
- States should develop judicial evaluation programs to assess the performance of all sitting judges.

...

## **PUBLIC EDUCATION / JUDICIAL OUTREACH**

### **August 2006**

RESOLVED, That the American Bar Association encourages all lawyers and judges to be personally and actively engaged in civic education in their communities and schools.

FURTHER RESOLVED, That the American Bar Association urges all lawyers and judges to work to increase Americans' understanding of the role of separation of powers in our constitutional democracy.

FURTHER RESOLVED, That the American Bar Association urges policymakers at all levels of government to ensure that: all students experience high quality civic learning—including study of law, government, and history; students' civic learning is regularly and appropriately assessed; and civic learning is accorded national educational priority on a par with reading and mathematics.

### **August 2003**

RESOLVED, That the American Bar Association urges judges, court personnel and judicial organizations to incorporate as an integral function of their position, furtherance of the public's understanding of and confidence in the American system of justice.

FURTHER RESOLVED, That the American Bar Association urges judges, court personnel and judicial organizations to develop, support and actively participate in public education programs about the law and the justice system, in order to promote the trust and confidence of the public that is crucial to maintaining an independent judiciary.

### **August 2003**

From: Commission on the 21st Century Judiciary:Principles and Conclusions

...

## **II. Preserving The Judiciary's Institutional Legitimacy**

#### **D. Improving Court-Community Relationships**

- Courts should take steps to promote public understanding of and confidence in the courts among jurors, witnesses and litigants.
- Courts should engage and collaborate with the communities of which they are a part, by hosting trips to courthouses and by judges and court administrators speaking in schools and other community settings.
- The continuation of problem-solving courts as a means to promote public confidence in the courts.

...

#### **February 1995**

RESOLVED, that the American Bar Association (1) commits its support for public education to foster understanding of the Constitution and the rights and responsibilities of citizenship and advance this goal of civil literacy as fundamental to the continued functioning of the United States as a constitutional democracy and a nation under the rule of law; and (2) urges the legal profession and the organized bar to engage the support of policy makers, educators, the media and the general public to further this goal through implementation of the national education goals and voluntary standards for civics education at the elementary and secondary school levels.

#### **August 1992**

RESOLVED, that the American Bar Association urges judges, courts, and judicial organizations to support and participate actively in public education programs about the law and justice system, and further, that judges be allotted reasonable time away from their primary responsibilities on the bench to participate in such public education programs, consistent with the performance of their primary responsibilities and the Code of Judicial Conduct.

#### **February 1992**

RESOLVED, that the American Bar Association reaffirms its support for citizenship education in elementary and secondary schools, including, as essential components, study of the Constitution, the extended Bill of Rights and law generally; and urges the legal profession, policy makers, educators, members of the private sector, the media, and the general public to support effective citizenship education in public policy at the federal, state, territorial, and local levels.

## **TERM LIMITS**

### **August 1996**

RESOLVED, that the American Bar Association (ABA) opposes efforts to adopt any measure to place an automatic limit on the number of terms a person may serve in a judicial position and urges voters and legislators to oppose such efforts;

FURTHER RESOLVED, that the ABA urges all bar associations, and other organizations whose goals include the improvement of the legal profession, judiciary and system of justice in the United States, to speak against such measures.

Prepared by:

Denise A.Cardman  
Acting Director  
Governmental Affairs Office  
[cardmand@staff.abanet.org](mailto:cardmand@staff.abanet.org)

October 26, 2007