

American Bar Association: Criteria for choosing judges
(from Ballotpedia: https://ballotpedia.org/Bar_association_ratings)

1. Integrity

A candidate should be of undisputed integrity.

The integrity of the judge is, in the final analysis, the keystone of the judicial system; for it is integrity which enables a judge to disregard personalities and partisan political influences and enables him or her to base decisions solely on the facts, and the law applicable to those facts. It is, therefore, imperative that a judicial candidate's integrity and character with regard to honesty and truthfulness be above reproach. An individual with the integrity necessary to qualify must be one who is able, among other things, to speak the truth without exaggeration, admit responsibility for mistakes and put aside self-aggrandizement. Other elements demonstrating integrity are intellectual honesty, fairness, impartiality, ability to disregard prejudices, obedience to the law and moral

A candidate's past personal and professional conduct should demonstrate consistent adherence to high ethical standards. The evaluator should make inquiry of judges before whom the candidate has appeared and among other members of the bar as to whether or not a candidate's representations can be relied upon. A candidate's disciplinary record, if any, should be considered.

Hence, a candidate should waive any privilege of confidentiality, so that the appropriate disciplinary body may make available to the evaluator the record of disciplinary sanctions imposed and the existence of serious pending grievances. The reputation of the candidate for truthfulness and fair dealing in extra-legal contexts should also be considered. Inquiry into a candidate's prejudices that tend to disable or demean others is relevant. However, since no human being is completely free of bias, the important

consideration is that of whether or not the candidate can recognize his or her own biases and set them aside.

2. Legal Knowledge and Ability

A candidate should possess a high degree of knowledge of established legal principles and procedures and have a high degree of ability to interpret and apply them to specific factual situations.

Legal knowledge may be defined as familiarity with established legal principles and evidentiary and procedural rules. Legal ability is the intellectual capacity to interpret and apply established legal principles to specific factual situations and to communicate, both orally and in writing, the reasoning leading to the legal conclusion. Legal ability connotes also certain kinds of behavior by the judge such as the ability to reach concise decisions rapidly once he or she is apprised of sufficient facts, the ability to respond to issues in a reasonably unequivocal manner and to quickly grasp the essence of questions presented.

Legal knowledge and ability are not static qualities, but are acquired and enhanced by experience and the continual learning process involved in keeping abreast of changing concepts through education and study. While a candidate should possess a high level of legal knowledge, and while a ready knowledge of rules of evidence is of importance to judges who will try contested cases, a candidate should not normally be expected to possess expertise in any particular substantive field. More important is the demonstration of an attitude reflective of willingness to learn the new skills and knowledge which will from time to time become essential to a judge's performance and of a willingness to improve judicial procedure and administration.

A review of a candidate's academic record, participation in continuing legal education forums, legal briefs, and other writings and reputation among judges and professional colleagues who have had first-hand dealings with the candidate will be helpful in evaluating knowledge and ability.

3. Professional Experience

A candidate should be a licensed, experienced lawyer.

A candidate should be admitted to practice law in the jurisdiction.

The length of time that a lawyer has practiced is a valid criterion in screening candidates for judgeships. Such professional experience should be long enough to provide a basis for the evaluation of the candidate's demonstrated performance and long enough to ensure that the candidate has had substantial exposure to legal problems and the judicial process.

It is desirable for a candidate to have had substantial trial experience. This is particularly true for a candidate for the trial bench. Trial experience includes the preparation and presentation of matters of proof and legal argument in an adversary setting. The extent and variety of an candidate's experience as a litigator should be considered in light of the nature of the judicial vacancy that is being filled. Although substantial trial experience is desirable, other types of legal experience should also be carefully considered. An analysis of the work performed by the modern trial bench indicates that, in addition to adjudication, many judges perform substantial duties involving administration, discovery, mediation and public relations. A private practitioner who has developed a large clientele, a successful law teacher and writer or a successful corporate, government or public interest attorney all may have experience which will contribute to successful judicial performance. Outstanding persons with such experience should not be deemed unqualified solely because of lack of trial experience. The important consideration is the depth and breadth of the professional experience and the competence with which it has been performed, rather than the candidate's particular type of professional experience.

For a candidate for the appellate bench, professional experience involving scholarly research and the development and expression of legal concepts is especially desirable.

4. Judicial Temperament

A candidate should possess a judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding. Judicial temperament is universally regarded as a valid and important criterion in the evaluation of a candidate. There are several indicia of judicial temperament which, while premised upon subjective judgment, are sufficiently understood by lawyers and non-lawyers alike to afford workable guidelines for the evaluator.

Among the qualities which comprise judicial temperament are patience, open-mindedness, courtesy, tact, firmness, understanding, compassion and humility. Because the judicial temperament requires an ability to deal with counsel, jurors, witnesses and parties calmly and courteously, and the willingness to hear and consider the views of all sides. It requires the ability to be even-tempered, yet firm; open-minded, yet willing and able to reach a decision; confident, yet not egocentric. Because of the range of topics and issues with which a judge may be required to deal, judicial temperament requires a willingness and ability to assimilate data outside the judge's own experience. It requires, moreover, an even disposition, buttressed by a keen sense of justice which creates an intellectual serenity in the approach to complex decisions, and forbearance under provocation. Judicial temperament also implies a mature sense of proportion; reverence for the law, but appreciation that the role of law is not static and unchanging; understanding of the judge's important role in the judicial process, yet recognition that the administration of justice and the rights of the parties transcend the judge's personal desires. Judicial temperament is typified by recognition that there must be compassion as the judge deals with matters put before him or her.

Factors which indicate a lack of judicial temperament are also identifiable and understandable. Judicial temperament thus implies an absence of arrogance, impatience, pomposity,

loquacity, irascibility, arbitrariness or tyranny. Judicial temperament is a quality which is not easily identifiable, but which does not wholly evade discovery. Its absence can usually be fairly ascertained.

Wide-ranging interviews should be undertaken to provide insight into the temperament of a judicial candidate.

5. Diligence

A candidate should be diligent and punctual.

Diligence is defined as a constant and earnest effort to accomplish that which has been undertaken. While diligence is not necessarily the same as industriousness, it does imply the elements of constancy, attentiveness, perseverance, painstakingness and assiduousness. It does imply the possession of good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished.

Punctuality should be recognized as a complement of diligence. A candidate should be known to meet procedural deadlines in trial work and to keep appointments and commitments. A candidate should be known to respect the time of other lawyers, clients, and judges.

6. Health

A candidate should be in good physical and mental health.

Good health embraces a condition of being sound in body and mind and with relative freedom from physical disease or pain.

This is one criterion which may be capable of objective consideration. Any history of a past disabling condition or suggestion of a current disabling condition should require further inquiry as to the degree of impairment. Physical handicaps and diseases which do not prevent a person from fully performing judicial duties should not be a cause for rejection of a candidate. However, any serious condition must be considered carefully as to the possible effect it would have on the candidate's ability to perform the duties of a judge. Thus, it is proper for the evaluator

to require a candidate to provide a physician's written report of a recent thorough medical examination.

Good health includes the absence of erratic or bizarre behavior which would significantly affect the candidate's functioning as a fair and impartial judge. Addiction to alcohol or other drugs is of such an insidious nature that the evaluator should affirmatively determine that a candidate does not presently suffer from any such disability.

The ability to handle stress effectively is a component of good mental health. A candidate should have developed the ability to refresh himself or herself occasionally with non-work-related activities and recreations. A candidate should have a positive perception of his or her own self-worth, in order to be able to withstand the psychological pressures inherent in the task of judging.

The evaluator should give consideration to the age of a candidate as it bears upon the health and upon the number of years of service that the candidate may be able to perform.

7. Financial Responsibility

A candidate should be financially responsible.

The demonstrated financial responsibility of a candidate is one of the factors to be considered in predicting the candidate's ability to serve properly. Whether there have been any unsatisfied judgments or bankruptcy proceedings against a candidate and whether the candidate has promptly and properly filed all required tax returns are pertinent to financial responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures that might compromise independence and impartiality.

8. Public Service

Consideration should be given to a candidate's previous public service activities.

Participation in public service and pro bono activities adds another dimension to the qualifications of the candidates. The

degree of participation in such activities may indicate social consciousness and consideration for others. The degree to which bar association work provides an insight into the qualifications of the candidate varies in each individual. Significant and effective bar association work may be seen as a favorable qualification. The rich diversity of backgrounds of American judges is one of the strengths of the American judiciary, and a candidate's non-legal experience must be considered together with the candidate's legal experience. Experience which provides an awareness of and a sensitivity to people and their problems may be just as helpful in a decision making process as a knowledge of the law. There is, then, no one career path to the judiciary. A broad, non-legal academic background, supported by varied and extensive non-academic achievements are important parts of a candidate's qualification. Examples of achievements are important parts of a candidate's qualifications. Examples of such non-legal experience are involvement in community affairs and participation in political activities, including election to public office. The most desirable candidate will have a broad life experiences.

There should be no issue-oriented litmus test for selection of a candidate. No candidate should be precluded from consideration because of his or her opinions or activities in regard to controversial public issues. No candidate should be excluded from consideration because of race, creed, sex or marital status. While interviews of candidates may touch on a wide range of subjects in order to test a candidate's breadth of interests and thoughtfulness, the candidate should not be required to indicate how he or she would decide particular issues that may arise on litigated cases. However, a candidate's judicial philosophy and ideas concerning the role of the judicial system in our scheme of government are relevant subjects of inquiry.