I. **Judicial Evaluation Committee:**

A. The Judicial Evaluation Committee shall consist of a minimum of seven members appointed by the President of the Board of Governors for staggered three-year terms. The President shall also appoint the Chair of the Committee.

B. The Committee shall have ongoing responsibility for developing, implementing, monitoring, evaluating and recommending changes to the Board of Governors on the judicial evaluation process.

II. **Judicial Evaluation Process:**

A. **Judges Evaluated**

   Trial judges in the District Court and the Superior Court, including Active Retired, will be evaluated after the completion of every judge’s second year of the first term of appointment and will be evaluated as late as possible in the sixth year of any term of appointment.

B. **Survey Instrument**

   1. Evaluations will be performed by written or electronic survey, which survey shall include, but shall not be limited to, questions related to each judge’s legal ability, impartiality, integrity, judicial temperament, diligence, and special skills.

   2. Space for additional comments shall be provided on the survey.

   3. The Judicial Evaluation Committee shall be responsible for developing the survey, which shall be approved by the Board of Governors.

C. **Survey Process**

   1. Evaluations will be forwarded to all attorneys licensed to practice law in Maine, unless the attorney has notified the MSBA that he or she does not appear in court before trial judges, or unless the attorney does not maintain an office within the state of Maine.

   2. The method of returning the survey must ensure the confidentiality of the survey respondent.
3. A staff person assigned to the Judicial Evaluation Committee shall be responsible for and maintain possession of all surveys returned to the MSBA.

4. Individual survey responses are entered online by the person taking the survey. Should a paper version of the survey be returned to the MSBA, these results shall be entered in the online survey instrument by the staff person assigned to the Judicial Evaluation Committee. The staff person assigned to the Judicial Evaluation Committee shall ensure that appropriate procedures are developed to protect confidentiality during the data entry process. Summary reports and relational sub-reports may be generated from the data entered in the online survey instrument.

D. Dissemination of Survey Results

1. The raw data from any survey performed on any judge shall be available to members of the Judicial Evaluation Committee, the staff member assigned to the Committee, members of the Board of Governors, the judge evaluated, the Chief Judge of that judge’s court and the Chief Justice of the Maine Supreme Judicial Court. The raw data, including comments, shall be otherwise kept strictly confidential.

2. The results of the first evaluation done on any judge shall not be released or used by the MSBA in any manner except as set forth in Section II (D)(1).
   a. The Judicial Evaluation Committee will afford each judge evaluated the opportunity to comment on the evaluation. Any written or oral response to the evaluation by any judge will only be disseminated to those persons and entities outlined in Section II (D)(1).
   b. The MSBA Judicial Evaluation Committee will prepare a written report following each evaluation of a judge in the sixth year of the judge’s term. The report will consist of a concise summary of the survey data, advice from the Committee whether the judge should be recommended or not recommended for reappointment, the reasons for a recommendation, if any, that a judge should not be reappointed, and any suggestions from the Committee for further assessment by the Board. The report, the raw data and any response from the judge will be submitted to the Board of Governors.
   c. The MSBA Board of Governors, after review of the Committee report and raw data, shall make a formal opinion as to whether the judge is recommended or not recommended for reappointment. In the event the Committee report states that a judge is not recommended, or reports a split decision on whether or not a judge is recommended for reappointment, an independent
assessment as to the judge’s qualifications will be conducted by the Board of Governors President, or his or her designee, and four Board members appointed by the President. Additional information will be gathered in a manner appropriate to the particular circumstances. The Board may confer informally with such organizations and individuals it deems necessary to address particular concerns. The Board may only issue a not recommended for reappointment opinion after its independent assessment and upon an affirmative vote of two-thirds of the entire Board. Otherwise, the Board will issue a recommended for reappointment opinion.

d. The Board of Governors shall provide the judge and the Chief Justice of the Supreme Court with advance written notice of its position on reappointment.

e. The Board of Governors shall endeavor to send the Governor or his or her designee the recommendation before the judge’s renomination is posted.

f. The Board of Governors may vote to reconsider a previous recommendation upon a showing of good cause provided that the motion to reconsider shall require for passage an affirmative vote of two-thirds of the entire Board.

E. Retention of Data

Original paper surveys shall be destroyed after data entry and compilation of survey responses is complete.

III. Confirmation and Reconfirmation Hearings:

An MSBA representative appointed by the President may appear at reconfirmation hearings to express the Association’s position on a candidate for judicial office based on the recommendation made in Section II D(2)(c). An MSBA representative appointed by the President may appear at confirmation hearings for new judges only following consultation with the Board of Governors.

Approved by Board of Governors
August 23, 2016