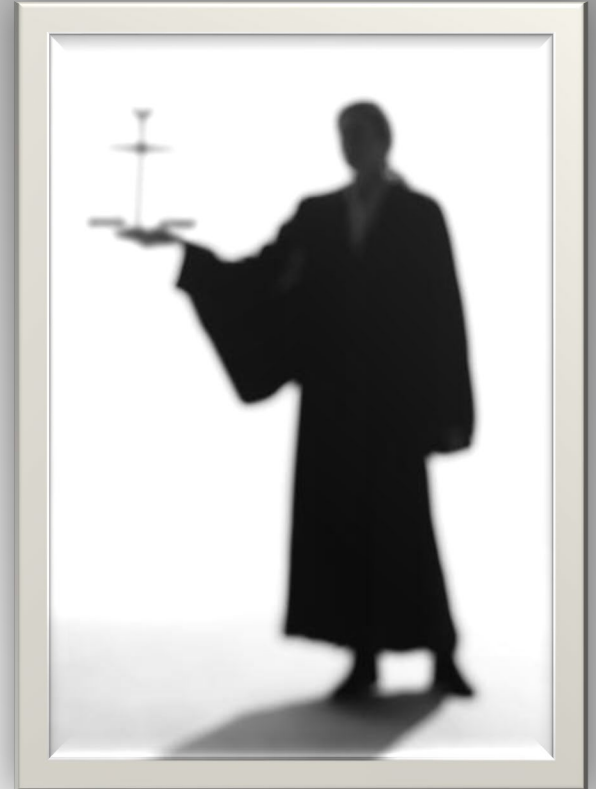




# THE MERIT SELECTION PROCESS

# How Do Judges Become Judges?



- **Non-Partisan Election**

- Superior Court in Apache, Cochise, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai and Yuma Counties

- **Partisan Election**

- All Justices of the Peace

- **Merit Selection/Appointment**

- Supreme Court
- Court of Appeals
- Superior Court in Coconino, Maricopa, Pima and Pinal Counties
- Municipal Courts

**How Do Judges Become Judges?**

- **Merit Selection** is a way of choosing judges that uses a non-partisan commission of lawyers and non-lawyers to:
  - Locate, recruit, investigate and evaluate applicants for judgeships
  - Submit the names of at least 3 of the most highly qualified applicants to the Governor, who must make a selection from that list

**What is Merit Selection?**

- Five Nominating Commissions
  - Appellate Courts
  - Maricopa County Trial Courts
  - Pima County Trial Courts
  - Pinal County Trial Courts
  - Coconino County Trial Courts
- Each commission has:
  - 10 public members
  - 5 attorney members
  - 1 chair [commissions are chaired by the Chief Justice or designated Supreme Court Justice]

## Commission Membership

- County supervisors appoint 7-member citizen committees to recommend public members of trial court commissions
- Governor appoints 9-member statewide committee to recommend public members to appellate commission
- State Bar recommends attorney members for all commissions.
- Governor appoints all members
- Governor's appointees must be confirmed by the Senate
- Members serve staggered 4-year terms and may be reappointed

## **Commission Membership**

- Commission announces judicial vacancy, stating where application forms can be obtained and the deadline for submitting applications
- Names of the applicants are released to the public, who are invited to submit oral or written comments about the applicants' qualifications
  - <http://www.azcourts.gov/jnc>

## The Nominating Process

- **Rule #1**

- The goal of the judicial nomination process is to select judges who:
  - Have outstanding professional competence and reputation
  - Are sensitive to the needs of and held in high esteem by the communities they serve
  - Reflect, to the extent possible, the ethnic, racial and gender diversity of those communities

**Uniform Rules of Procedure**



- **Evaluation Criteria**

- Integrity
- Legal Knowledge & ability
- Professional experience
- Judicial temperament
- Diligence
- Health
- Financial Responsibility
- Public Service

**The Nominating Process**

- Commission conducts further investigation of the applicants to be interviewed
  - Professional discipline and criminal history records are requested
  - Commission members seek comments from judges, attorneys and the community
  - Commission meets to discuss the results of the background investigations and to interview the applicants
  - The meeting is open to the public

## **The Nominating Process**

- After the interviews, the commission:
  - Discusses the relative qualifications of each applicant
  - Votes, in public, to decide the nominees to be submitted to the Governor
    - If there are 3 nominees, no more than 2 can be members of the same political party
    - If there are more than 4 nominees, no more than 60% can be members of the same political party

## The Nominating Process

- Names of at least 3 nominees for each vacancy are submitted to the Governor
  - Nominees are listed in alphabetical order without any indication of preference by the commission
  - Each nominee's application and all written public comment on file are given to the Governor
  - Names of the nominees are announced to the public and citizens may contact the Governor with comments

## **The Nominating Process**

- If the Governor does not appoint one of the nominees to fill the vacancy within 60 days of receiving the nominations, the Chief Justice of the Supreme Court appoints the judge on the basis of merit alone without regard to political affiliation

**Key Constitutional Requirements**

- Results in a highly qualified judiciary
- Replaces politics with professionalism
- Fosters the rule of law
- Promotes public accountability
- Encourages diversity on the bench
- Incorporates representative democracy

## **Benefits of Merit Selection**

- No Senate confirmation of the Governor's judicial appointments
- No lifetime appointments
  - Arizona judges must stand for retention election at the end of their term and voters decide whether or not a judge remains in office

## **Key Differences:**

### **Arizona Merit Selection and the Federal System**

- After appointment by the Governor:
  - Judges and justices are on the bench for 2 years before undergoing a retention election
  - If retained:
    - Superior Court judges serve 4-year terms
    - Appellate Court judges serve 6-year terms