

§ 1-602. Disqualification process.

(A) If a relationship between a commission member, or the Supreme Court member who chairs the commission, and an applicant falls into one of the following four categories, the commission member or chairperson shall recuse himself or herself from the commission:

(1) Any relationship to the applicant by blood or marriage by virtue of being the applicant's spouse, child, or spouse of a child. The commission member shall not be related to the applicant under the third degree of relationship test. The third degree of relationship test is defined as being the applicant's or the applicant's spouse's parent, grandparent, aunt, uncle, sibling, nephew, or niece, or spouse of any of these relatives. Additionally, the commission member shall recuse himself or herself in situations where the applicant and commission member are sharing or have shared a residence during the past 5 years.

(2) Any arrangement involving the practice of law or an employment relationship including, but not limited to, partnership, professional corporation, or office sharing within the past 5 years.

(3) Any relationship in which the commission member and applicant are actively engaged in managing a common profitmaking business or venture.

(4) Any instance in which the member of the commission would cast his or her vote on a basis other than an applicant's qualification for the office.

(B) If the person recusing himself or herself is the Supreme Court member who chairs the commission, the Chief Justice or the next senior judge shall request the Governor to appoint another member of the Court to chair such commission meeting.

(C) Any person may challenge the impartiality of a member or the chairperson of a judicial nominating commission. The challenge shall be in writing and directed to the Supreme Court member chairing such commission. If a challenge is raised regarding the impartiality of a member or the chairperson and the person so challenged declines to disqualify himself or herself, the unchallenged members of the commission shall rule on the challenge by a majority vote. Any such decision shall be attached to the information forwarded to the Governor and attached to the report submitted to the State Court Administrator.

(D) A violation of § 1-602(A) by a commission member will not constitute cause for rescission of a judicial nomination or reopening of the commission process.
