

Colorado Women's Bar Association
Policy Regarding Due Diligence and Endorsement
of Federal Judicial Candidates
Effective September 22, 2021

- I. Applicability.** This Policy Regarding Due Diligence and Endorsement of Federal Judicial Candidates (“Policy”) applies to the CWBA’s due diligence and endorsement process for federal judicial appointments and is not meant to abrogate or alter the CWBA Policy Regarding Due Diligence and Endorsement of State Judicial Candidates (“State Judicial Endorsement Policy”).
- A. Pursuant to this Policy, the CWBA may endorse judicial candidates for Article III appointments to:
 - 1. The United States District Court for the District of Colorado; and
 - 2. The United States Court of Appeals for the Tenth Circuit, when the appointment will be for a Colorado vacancy.
 - B. The CWBA will consider requests for endorsement from federal judicial candidates for the positions described above only when both of the following conditions are satisfied:
 - 1. A list of candidates for a vacancy described above in Section I.A (“federal judicial candidates”) is recommended to the White House or the Executive Branch of the United States government; and
 - 2. The list of candidates provided to the White House or Executive Branch of the United States government is publicly released and/or publicly disclosed through official channels.
 - C. The CWBA will not consider requests for endorsement for any federal judicial vacancy not listed in Section I.A above without further authorization from the CWBA Board of Directors.
- II. Due Diligence Process.** The Judicial Committee of the CWBA shall be responsible for investigating and evaluating federal judicial candidates for vacancies described above in Section I.A. Such due diligence will only be conducted for federal judicial candidates who affirmatively seek the CWBA’s endorsement.
- A. In the event the requirements of Section I.B are satisfied, each federal judicial candidate seeking the CWBA’s endorsement shall provide the following materials to the Judicial Committee:

1. The public portion of the candidate's Senate Judiciary Questionnaire;
2. A list of three references selected from Question 17 of the candidate's Senate Judiciary Questionnaire, all of whom must have either (a) served as opposing counsel or presiding judge over the matter listed in Question 17, or (b) appeared before the federal judicial candidate in the matter listed in Question 17 if the candidate is a current judicial officer; and
3. A written statement regarding how the candidate meets and advances the mission of the CWBA, as set forth below in Section III.E.

B. In conducting due diligence, the Judicial Committee shall:

1. Contact the three references provided by the candidate to solicit feedback;
2. Identify and contact CWBA members listed in Question 17 of the candidate's Senate Judiciary Questionnaire to solicit feedback; and
3. Solicit feedback from the CWBA's general membership.

C. The results of the due diligence conducted pursuant to the above-described process will be summarized in an informal memo that is strictly confidential. The informal memo shall not be circulated outside of the CWBA Judicial Committee and Executive Committee. Any individual who provides feedback or comments regarding a candidate will only be identified in the informal memo by gender and practice area. In addition, if appropriate and not revealing of the individual's identity, the commenting individual's general relationship or length of relationship with the candidate may be included.

III. Endorsement of Federal Judicial Candidates. In the event the requirements of Section I.B are satisfied, and a federal judicial candidate seeks the CWBA's endorsement pursuant to Section II.A, the CWBA may endorse one or more of the candidates pursuant to the process set forth below.

A. The CWBA shall endeavor, but maintains discretion should circumstances justify, to submit an endorsement letter for a federal judicial candidate, if any, within two weeks of public release or disclosure of the list described in Section I.B.1. An endorsement letter for a federal judicial candidate may, however, be submitted after that time period if necessary, in light of the Judicial Committee's work on other matters or if the particular circumstances of the

disclosure of the shortlist for the federal vacancy compel a longer time period.

- B. Any endorsement of a federal judicial candidate in the name of the CWBA must be specifically authorized by the Executive Committee pursuant to Section 6.3(a) of the Bylaws (“Executive Committee”). In the event of a tie vote by the Executive Committee, such tie will be broken pursuant Section IV.D of the State Judicial Endorsement Policy.
- C. After conducting due diligence as set forth in Section II, the Judicial Committee shall present the results of that due diligence to the Executive Committee and, if appropriate, make either an oral or written recommendation for the CWBA’s endorsement, guided by the factors outlined below.
- D. The following qualifications shall be assessed in determining endorsement of federal judicial candidates:
 - 1. Experience;
 - 2. Legal ability;
 - 3. Reputation for fairness and integrity;
 - 4. Judicial temperament;
 - 5. Treatment of women;
 - 6. Treatment of people of color and/or members of other minority groups;
 - 7. Dedication to goals consistent with the stated purposes of the CWBA; and
 - 8. Any and all qualifications that are consistent with the stated purposes of the CWBA.
- E. The CWBA may endorse a federal judicial candidate only when that candidate furthers one or more of the stated objectives of the CWBA. Section 1.2 (“Objectives”) of the May 21, 2021 Amended and Restated Bylaws of the Colorado Women’s Bar Association (“Bylaws”) provides:

The primary objective of the CWBA shall be to advance women as leaders in the legal profession and the interests of women generally. It shall also be the purpose of the CWBA:

- To encourage the advancement of women in the law;
- To provide a forum for the exchange of ideas and legal skills and for continuing legal education;
- To promote the highest standards of the legal profession;

To advance justice;

To be a welcoming and supportive organization that promotes diversity, equity, and inclusion in the legal profession; and

To pursue these goals through appropriate legal, social, and legislative action.

- F. The CWBA President will prepare a letter stating the CWBA's endorsement, if any, and submit the endorsement letter to the White House. If for any reason the CWBA President is unable to prepare the letter, it shall be prepared and signed by another member of the CWBA Executive Committee. The letter may summarize information obtained through the due diligence process described in Section II, but shall not include the identifying information of any commenter.
- G. Endorsement of federal judicial candidates does not include letters of support to judicial nominating commissions for the nominations of more females. Such letters of support shall be general in nature and shall not include names of particular candidates and may be sent on behalf of the CWBA without authorization as set forth herein.

IV. Relevant CWBA Bylaws. The CWBA's endorsement of federal judicial candidates shall comply with its Bylaws.

- A. Section 3.1 of the CWBA's Bylaws relates to the general powers of the Board of Directors and provides in part:

The affairs of the CWBA shall be managed by its Board of Directors ("Board"). The Board of Directors shall have all powers of a Board of Directors as set forth in the Act and these Bylaws.

- B. Section 6.3(a) of the CWBA's Bylaws relates to the Executive Committee and provides in part:

The Executive Committee shall consist of the officers of the CWBA as defined in Section 4.1 and shall hold meetings as called by the President. The Executive Committee shall have such authority as is delegated to it by the Board. Unless the Board otherwise determines, the Executive Committee shall have all of the powers of the Board during intervals between meetings of the Board except for the power (i) to amend the Bylaws or (ii) to take any action related to the removal of Officers and Directors from office. The Executive Committee shall provide the full Board with reports of all actions taken by the Executive Committee at the next regular or special meeting of the Board. In the event of a tie vote of the Executive Committee, the matter shall be brought before the full Board for vote.

C. Section 6.3(e) of the CWBA's Bylaws relates to the Judicial Committee and provides in part:

“The Judicial Committee shall promote the appointment of women to the judiciary and shall conduct such programs and provide such support as is consistent with that goal. . . . The Committee shall also conduct due diligence of judicial nominees for vacancies on state district courts and above.”