

5. Communicate with the governor concerning the qualifications of any person whom it has recommended to the governor, and communicate with the senate concerning the qualifications of the person appointed by the governor.

6. The commission may appoint, and at pleasure remove, a counsel and such other staff as it may require from time to time, and prescribe their powers and duties. The commission shall fix the compensation of its staff and provide for reimbursement of their expenses within the amounts appropriated by law.

7. Do all other things necessary and convenient to carry out its functions pursuant to this article.

Added L.1978, c. 156, § 5.

Historical Note

Effective Date. Section effective May 19, 1978, pursuant to L.1978, c. 156, § 15.
Separability of Provisions. See section 14 of L.1978, c. 156, set out as a note under section 40.

Cross References

Functions of commission, see McKinney's Const. Art. 6, § 2.

New York Codes, Rules and Regulations

Solicitation of candidates for judicial nomination, investigations, consideration, etc., see 22 NYCRR 7100.5 et seq.

Library References

Judges ⇨3.
 States ⇨67.

C.J.S. Judges §§ 12, 13.
 C.J.S. States §§ 120, 121, 136 to 138, 140.

§ 65. Rules of the commission

1. The commission shall adopt, and may amend, written rules of procedure not inconsistent with law.

2. Rules of the commission shall be filed with the secretary of state and the clerk of the court of appeals and shall be published in the official compilation of codes, rules and regulations of the state. Upon request of any person, the secretary of state shall furnish a copy of the commission's rules without charge.

3. Rules of the commission may prescribe forms and questionnaires to be completed and, if required by the commission, verified by candidates.

4. Rules of the commission shall provide that upon the completion by the commission of its consideration and evaluation of

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the qualifications of a candidate, there shall be no reconsideration of such candidate for the vacancy for which he was considered, except with the concurrence of nine members of the commission.

Added L.1978, c. 156, § 5.

Historical Note

Effective Date. Section effective May 19, 1978, pursuant to L.1978, c. 156, § 15.
Separability of Provisions. See section 14 of L.1978, c. 156, set out as a note under section 40.

New York Codes, Rules and Regulations

Rules of the judicial nomination commission, see 22 NYCRR Part 7100.

Library References

Judges ⇨3.

C.J.S. Judges §§ 12, 13.

§ 66. Confidentiality of proceedings and records

1. All communications to the commission, and its proceedings, and all applications, correspondence, interviews, transcripts, reports and all other papers, files and records of the commission shall be confidential and privileged and, except for the purposes of article two hundred ten of the penal law, shall not be made available to any person except as otherwise provided in this article.

2. The governor shall have access to all papers and information relating to persons recommended to him by the commission. The senate shall have access to all papers and information relating to the person appointed by the governor to fill a vacancy. All information that is not publicly disclosed in accordance with subdivisions three and four of section sixty-three of this article, or disclosed in connection with the senate's confirmation of the appointment, shall remain confidential and privileged, except for the purposes of article two hundred ten of the penal law.

3. The commission staff shall not publicly divulge the names of, or any information concerning, any candidate except as otherwise provided in this article.

Added L.1978, c. 156, § 5.

Historical Note

Effective Date. Section effective May 19, 1978, pursuant to L.1978, c. 156, § 15.
Separability of Provisions. See section 14 of L.1978, c. 156, set out as a note under section 40.

Judges \Rightarrow 3.

Library References

C.J.S. Judges §§ 12, 13.

Notes of Decisions

1. Information from Commission on Judicial Conduct

The Commission on Judicial Conduct may, subject to certain caveats, comply with a request by the Commission on Judicial Nomination for all information that the Commission on Judicial Conduct has with respect

to named judges, who are being considered by the Commission on Judicial Nomination for a judicial position on the Court of Appeals unless the same is subject to absolute judicial or executive privilege. 1979, Op. Atty. Gen. Mar. 15.

§ 67. Breach of confidentiality of commission information

1. Any staff member, employee or agent of the state commission on judicial nomination who violates any of the provisions of section sixty-six of this article shall be subject to a reprimand, a fine, suspension or removal by the commission.
2. Within ten days after the commission has acquired knowledge that a staff member, employee or agent of the commission has or may have breached the provisions of section sixty-six of this article, written charges against such staff member, employee or agent shall be prepared and signed by the chairman of the commission and filed with the commission. Within five days after receipt of charges, the commission shall determine, by a vote of the majority of all the members of the commission, whether probable cause for such charges exists. If such determination is affirmative, within five days thereafter a written statement specifying the charges in detail and outlining his rights under this section shall be forwarded to the accused staff member, employee or agent by certified mail. The commission may suspend the staff member, employee or agent, with or without pay, pending the final determination of the charges. Within ten days after receipt of the statement of charges, the staff member, employee or agent shall notify the commission in writing whether he desires a hearing on the charges. The failure of the staff member, employee or agent to notify the commission of his desire to have a hearing within such period of time shall be deemed a waiver of the right to a hearing. If the hearing has been waived, the commission shall proceed, within ten days after such waiver, by a vote of a majority of all the members of such commission, to determine the charges and fix the penalty or punishment, if any, to be imposed as hereinafter provided.

3. Upon receipt of a request for a hearing, the commission shall schedule a hearing, to be held at the commission offices, within twenty days after receipt of the request therefor, and shall immediately notify in writing the staff member, employee or agent of the time and place thereof.

4. The commission shall have the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. All such hearings shall be held before a hearing panel composed of three members of the commission selected by the commission. Each hearing shall be conducted by the chairman of the panel who shall be selected by the panel. The staff member, employee or agent shall have a reasonable opportunity to defend himself and to testify on his own behalf. He shall also have the right to be represented by counsel, to subpoena witnesses and to cross-examine witnesses. All testimony taken shall be under oath which the chairman of the panel is hereby authorized to administer. A record of the proceedings shall be made and a copy of the transcript of the hearing shall, upon written request, be furnished without charge to the staff member, employee or agent involved.

5. Within five days after the conclusion of a hearing, the panel shall forward a report of the hearing, including its findings and recommendations, including its recommendations as to penalty or punishment, if one is warranted, to the commission and to the accused staff member, employee or agent. Within ten days after receipt of such report the commission shall determine whether it shall implement the recommendations of the panel. If the commission shall determine to implement such recommendations, which shall include the penalty or punishment, if any, of a reprimand, a fine, suspension for a fixed time without pay or dismissal, it shall do so within five days after such determination. If the charges against the staff member, employee or agent are dismissed, he shall be restored to his position with full pay for any period of suspension without pay and the charges shall be expunged from his record.

6. The accused staff member, employee or agent may seek review of the determination of the commission by way of a special proceeding pursuant to article seventy-eight of the civil practice law and rules.

Added L.1978, c. 156, § 5.