



Santa Clara County

FAQ'S

***HOW IS THE JUDICIAL SYSTEM ORGANIZED
IN CALIFORNIA ?**

***HOW ARE JUDGES/JUSTICES APPOINTED
OR ELECTED IN CALIFORNIA ?**

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January 2024

In response to numerous questions posed by League members and the general public about how the CA Judicial System is organized and the election of judges and/or justices, the following FAQ's (Frequently Asked Questions) were drafted. *All statements refer only to the California Judicial System*

1. **Organization of the California Judicial System** page 3
 - a. How is the system organized?
 - b. What is the difference between a judge and a justice?

2. **Nomination, Vetting, and Election of California's Judges and Justices** page 4
 - a. How are Supreme and Appellate Court Justices nominated?
 - b. Are there term limits for Supreme and Appellate court Justices?
 - c. How are Superior Court Judges elected?
 - d. Are there qualifications to run for Superior Court?
 - e. Are there term limits for Superior Court Judges?
 - f. For the California Superior Court what happens if a judge is appointed in the middle of a term and, at the next General Election, no one runs against them? Are they considered "re-elected" and won't appear on the ballot or does this become a "retention election" so the voters get to weight in?
 - g. Do candidates, opposing an incumbent Superior Court Judge, go through any formal vetting process?

3. **Voter Resources about California Judges** page 8
 - a. Does the Judicial Nominees Evaluation (JNE) Commission rate Superior Court Judges?
 - b. How do I find out how a Superior Court Judge has ruled and how do I research their judicial philosophy?
 - c. Is the information about judicial candidates available from the California Judicial Nominees Evaluation Commission (JNE)?
 - d. What does the California Judicial Nominees Evaluation (JNE) Commission do?
 - e. How do I find out about Superior, Appellate, and Supreme Court judges in California?

4. **The Importance of Your Vote | Why is my vote for California judicial candidates important?** page 12
 - a. Direct Impact on Local Decisions
 - b. Setting Legal Precedents
 - c. Accountability
 - d. Community Representation
 - e. Counterbalance to Special Interests - Cumulative Impact

5. **Conclusion** page 13
 - a. Observation
 - b. Recommendation

1. Organization of the California Judicial System (courts and other judicial bodies)

a. How is the judicial system organized?

Our judicial system is one of the largest court systems in the United States. It is organized hierarchically and can be broadly described as follows:

1. Supreme Court:

- a. The highest court
- b. Has seven justices, including one Chief Justice
- c. Primarily handles appellate cases, but has original jurisdiction in a limited number of cases
- d. Reviews decisions made by the Courts of Appeal
- e. Has discretionary review (it chooses most of the cases it wants to hear)

2. Courts of Appeal:

- a. Intermediate appellate courts
- b. Divided into six appellate districts throughout the state
- c. Each district may be further divided into multiple divisions.
- d. Reviews decisions from Superior Courts that have been appealed
- e. Typically, three-judge panels hear and decide the cases.

3. Superior Courts:

- a. These are the trial courts and handle the majority of the state's legal matters.
- b. One Superior court in each of the state's 58 counties, each court will have many judges
- c. Handles both criminal and civil matters
- d. Divided into various departments such as criminal, civil, family, probate, and more
- e. Judges hear cases and render decisions, which can be appealed to the Courts of Appeal.

4. Judicial Council of California:

- a. The policymaking body of the California courts.
- b. Headed by the Chief Justice
- c. Responsible for setting administrative policy for the courts, ensuring the consistent and efficient administration of justice, and more
- d. Doesn't hear cases but plays a pivotal role in the administration and function of the entire California judicial system

5. Other Administrative Bodies and Programs:

- a. The judicial system also includes various administrative bodies and programs designed to provide specialized services, including ADR (Alternative Dispute Resolution) programs, the Commission on Judicial Performance (which handles complaints against judges), and more.

This hierarchical organization ensures that there's a clear path of appellate review in the state, enabling checks and balances on judicial decisions.

b. What is the difference between a judge and a justice?

Both judges and justices are part of the judicial system, but serve on different courts and have different jurisdictions and roles. Here's a breakdown of the differences:

1. Level of Court:

- a. **Judge:** A judge serves on trial courts, which in California are called Superior Courts. These courts are the first level of the judicial system and handle both criminal and civil cases.
- b. **Justice:** A justice serves on appellate courts, which in California include the Courts of Appeal and the California Supreme Court. These courts review decisions made by trial courts to ensure the law was applied correctly.

2. Role & Responsibility:

- a. **Judge:** In the Superior Courts, a judge oversees trials, makes rulings on evidence, instructs juries, and makes findings of fact and conclusions of law in bench trials (trials without a jury). They play a direct role in determining the outcome of cases.
- b. **Justice:** In appellate courts, justices review Superior Court decisions, when the case has been appealed. They determine if legal errors occurred that affected the trial's outcome. They don't oversee new trials but instead review and rule on arguments presented by attorneys in appellate briefs and oral arguments. Justices write opinions that can set legal precedents.

3. Number:

- a. **Judge:** There are over 2,100 judges across California's 58 counties, as each county has its own Superior Court with multiple departments and judges.
- b. **Justice:** There are fewer justices since they serve on appellate courts. The California Courts of Appeal have a total of 105 justices. They are divided into six districts. The California Supreme Court has seven justices, including the Chief Justice.

4. Appointment & Tenure:

- a. **Judge:** Judges are elected to six-year terms in non-partisan elections. If a vacancy arises mid-term, the governor can appoint a replacement who would then file to run in the next general election to serve a full term.
- b. **Justice:** Justices on the Courts of Appeal and the California Supreme Court are appointed by the governor and then confirmed by the Commission on Judicial Appointments. Once appointed, they face retention elections (in gubernatorial election years), in which voters decide whether they remain in office for another 12-year term.

2. Nomination, Vetting, and Election of California's Judges and Justices

a. How are Supreme Court and Courts of Appeal justices nominated?

In California, the process for nominating justices to the California Supreme Court and the Courts of Appeal is notably similar. Here's a breakdown of the nomination process:

1. **Vacancy Occurs:** A seat becomes vacant on the California Supreme Court or one of the Courts of Appeal due to retirement, resignation, etc.

2. **Governor's Nomination:** The Governor of California nominates an individual to fill the vacancy. This nomination is often influenced by recommendations from legal organizations, advisors, and informal advisory committees.
3. **Evaluation by JNE Commission:** The JNE Commission evaluates the nominee's qualifications, including their professional competence, experience, integrity, and temperament. The Commission conducts thorough background checks, interviews people who have worked with the nominee, and may also consider public comments.
4. **Rating:** After its evaluation, the JNE Commission provides a rating to the Governor. This rating usually falls into categories like "Exceptionally Well Qualified," "Well Qualified," "Qualified," or "Not Qualified."
5. **Governor's Decision:** While the Governor is not bound by the JNE Commission's rating, it is a significant factor in the decision-making process. A negative rating from the JNE Commission can influence public perception and the level of support for the nominee.
6. **Commission on Judicial Appointments:** After the governor makes a nomination, the Commission on Judicial Appointments reviews the nominee. This commission typically consists of:
 - a. The Chief Justice of the California Supreme Court
 - b. The Attorney General of California
 - c. The Senior Presiding Justice of the Court of Appeal of the affected appellate district (for Courts of Appeal nominees) or the presiding justice of another appellate district (for Supreme Court nominees).
7. **Public Hearing:** The Commission on Judicial Appointments holds a public hearing regarding the nominee. At this hearing, witnesses can speak in support of or against the nomination. This is a key part of the transparency and public accountability of the process.
8. **Commission's Decision:** After reviewing the nominee's qualifications and the input received during the public hearing, the commission votes. A majority is needed to confirm the nominee.
9. **Retention Election:** Once confirmed by the commission, the justice will serve a 12-year term. In the event of a midterm vacancy, the appointed justice is subject to voter approval at the next gubernatorial election. In this retention election, voters decide "yes" or "no" on whether the justice should remain in office. If retained, the justice serves for 12 years before facing another retention election. If the justice is not retained by voters, the seat becomes vacant, and the process begins anew.

b. Are there term limits for Supreme and Appellate Court justices?

In California, there are no term limits for Supreme Court and Courts of Appeal justices in the traditional sense, meaning they do not have a set number of terms they can serve. However, they don't have lifetime appointments as U.S. Supreme Court justices. Instead, they serve for specific terms and face retention elections.

1. **Term Length:** If retained, a justice of the California Supreme Court or a Court of Appeal serves a 12-year term. At the end of this term, the justice faces another retention election. If the majority of voters opt for retention again, the justice serves another 12-year term, and so on.

So, while there aren't traditional term limits, justices must periodically secure the approval of the voters to continue serving. If they fail to gain majority approval in a retention election, their tenure on the bench ends.

c. How are Superior Court judges selected/elected in California?

In California, Superior Court judges are chosen through a mixed method involving both appointment and non-partisan elections.

1. **Appointment by the Governor:** When there is a vacancy on the Superior Court bench, which occurs when a judge retires or resigns before the end of their term, the Governor of California has the authority to appoint a judge. The Governor's nominees are thoroughly reviewed by the California Judicial Nominees Evaluation (JNE) Commission. Appointed judges serve until the next general election after the second January 1 following the vacancy.
2. **Non-Partisan Election:** After being appointed, or when their term is up, Superior Court judges face a non-partisan election to remain on the bench. In California, Superior Court judge terms last six years. If a judge wishes to serve another term, they must stand for reelection.

Here's how the election process typically works: If only one person (usually the incumbent) files to run for a Superior Court judge position, and there is no write-in candidate, their name will not appear on the ballot for either the primary or general election. The candidate is deemed elected to that office.

3. If more than one person files to run for a position, the contest will appear on a ballot. If one candidate receives more than 50% of the vote in the primary election, they are elected. If no candidate receives over 50%, the top two vote-getters face off in the general election.
4. Incumbent Superior Court judges can be challenged in elections. However, most judges run unopposed.
5. After being elected or reelected, judges serve for six years, and there is no limit to how many terms they can serve.

d. Are there qualifications to run for Superior Court in California?

Yes, to be eligible for the position of a Superior Court judge, the California state constitution, requires a judge to be an attorney admitted to practice law in the state of California or have served as a judge of a court of record in California for at least 10 years prior to appointment or election. Courts of record include the Superior, Appeals, and Supreme courts in California.

1. On first blush this requirement might seem circular. You can't be a judge unless for the prior 10 years you have been a member of the State Bar or a judge of a court of record.
 - a. But how do you become a judge on a court of record if you haven't been a member of the bar.
 - b. The answer is, once an individual becomes a Superior Court judge in California, they are no longer required to maintain active membership in the State Bar of California. While active membership in the State Bar is a prerequisite for appointment or election to the bench, judges are typically exempt from the licensing and continuing education requirements that apply to practicing attorneys.

- c. Judges in California are governed by the California Code of Judicial Ethics and are subject to oversight by the Commission on Judicial Performance, rather than the State Bar.

e. Are their term limits for California Superior Court judges

California Superior Court judges do not have term limits in the traditional sense. They do have set **term lengths** and must stand for re-election to continue serving.

Here's how it works for Superior Court judges in California:

1. **Election:** Superior Court judges are elected by the voters in their respective counties. Once elected, they serve six-year terms.
2. **Re-election:** At the end of their six-year term, if they wish to continue serving, they must stand for re-election. If no other candidate files to run against them, they are automatically re-elected for another six-year term and their name will not appear on the ballot. If another candidate(s) does run, there will be an election with all names appearing on the ballot, and the winner will serve the next term. If there is a write in candidate the incumbent's name will appear on the ballot. Write in candidates get 10 extra days after the filing deadline to target an incumbent judge. They must gather 100 signatures. The challenger's name won't go on the ballot but the incumbent's name will appear.
3. **Mid-term Vacancies:** If a Superior Court judgeship becomes vacant before the term is up (due to resignation, retirement, etc.), the governor has the authority to appoint a replacement. The appointee will then serve until the next general election after the second January 1 following the vacancy at which point, they must run for election to retain the seat and serve a full six-year term.

While there is no limit to the number of terms a Superior Court judge can serve, they must periodically gain the approval of their county's voters to continue serving.

f. For the California Superior Court what happens if a judge is appointed in the middle of a term and, at the next General Election, no one runs against them? Are they considered "re-elected" and won't appear on the ballot or does this become a "retention election" so the voters get to weigh in?

For the state of California, Superior Court judges serve six-year terms. If a vacancy occurs during a term, the Governor can appoint someone to fill that vacancy. Here's how it works:

1. **Mid-Term Appointment:** Appointed judges serve until the next general election after the second January 1 following the vacancy.
2. **Next General Election:** If that term has more than two years remaining at the next general election, then that seat will be up for election. If no one else files to run against the incumbent judge by the end of the nomination period, then the incumbent judge is automatically re-elected without their name appearing on the ballot.
3. **Less Than Two Years left in the term:** If the remainder of the term is two years or less at the next general election, the appointed judge will run at the end of the full term.
4. **If no one runs against an incumbent** Superior Court judge, the judge is effectively "re-elected". Every judge who has no opponent on the ballot will get re-elected. The judge then serves a full six-year term, at the end of which they can choose to run again.

g. In California do candidates opposing an incumbent Superior Court Judge go through any formal vetting process?

In California, when an individual decides to run for a Superior Court judgeship—whether they are opposing an incumbent judge or seeking an open seat—they do not undergo a formal vetting process. Here's a general breakdown:

1. **Appointed Judges:** When a judge is appointed (for example, to fill a vacancy), the appointment process involves a vetting procedure. In California, the governor's appointments must be evaluated by the Commission on Judicial Nominees Evaluation (JNE), which is an arm of the State Bar of California. The JNE provides a rating on the qualifications of the potential appointee which is confidential.
2. **Election Candidates:** When someone decides to run for a judgeship in an election, they don't go through a vetting process. Instead, they simply have to meet the basic qualifications to serve as a judge, which in California generally includes being a member of the State Bar for a minimum of ten years or having served as a judge of a court of record in the state for a certain period. The public and media can scrutinize the candidates, and sometimes local bar associations or other groups may weigh in with endorsements or evaluations, but there's no formal state-run vetting process equivalent to the JNE review for appointed judges.

3. Voter Resources about California Judges and Justices

a. Does the California Judicial Nominees Evaluation (JNE) Commission review Superior Court judges?

1. The California Judicial Nominees Evaluation (JNE) Commission is primarily tasked with evaluating the qualifications of individuals under consideration for appointment (not election) to judicial offices by the Governor of California. This includes positions on the Superior Court, as well as Appellate Courts in the state.

So, yes, if the Governor of California is considering appointing someone to a vacancy on a Superior Court bench, the JNE Commission will review that individual's qualifications, conduct investigations, solicit public comment, and rate the nominee's suitability for the position.

If the JNE Commission finds a judicial nominee not qualified the Governor may nevertheless appoint a judicial nominee.

For appointees for the Appeals and Supreme Court the JNE results are made public.

However, it's essential to understand that the JNE Commission doesn't evaluate Superior Court judges who are up for re-election. Once a judge has been elected or appointed to the bench and subsequently runs for re-election, the JNE Commission is not involved in any review or evaluation for that re-election process. The re-election of Superior Court judges is determined by voters during regular elections.

See further discussion below in **2.c.**

b. In the state of California how do I find out how a Superior Court judge has ruled and how do I find out their judicial philosophy?

In California, as in other states, understanding a Superior Court judge's past ruling and their judicial philosophy involves a combination of research and observation. This is admittedly extremely difficult to do. For those intrepid voters willing to undertake the journey here is a step-by-step guide:

Past Rulings:

1. **Legal Databases:** Websites like Westlaw, LexisNexis, Google Scholar, or other legal databases often catalog rulings. Access might require a subscription or a visit to a law library.

Judicial Philosophy:

1. **Published Opinions:** Appellate decisions in which the judge may have participated can give insights into their judicial thinking. Reading their reasoning in several cases can provide a glimpse into their philosophy.
2. **Legal Publications and Journals:** Sometimes, judges write articles or give interviews. Research journals or magazines that focus on law and justice in California.
3. **Public Statements and Talks:** Check if the judge has given public lectures, speeches, or appeared in seminars or conferences. Some of these might be available online.
4. **Professional Biography:** Look up the judge's professional biography. Sometimes, it's available on the court's website or other legal directories. It can give insights into the judge's educational background, professional history, affiliations, etc., which can hint at their judicial philosophy.
5. **Observation:** Attend the judge's hearings if they're open to the public. Observing the judge firsthand can give a sense of their approach, temperament, and style.
6. **Ask Attorneys:** Lawyers who've appeared before the judge can often provide valuable insights (although remember these are subjective opinions).

Other Sources:

1. **Bar Associations:** They sometimes provide evaluations of judges, especially around election times. Check the website or publications of local or state bar associations.
2. **Media Reports:** News stories or articles might profile judges or cover high-profile cases they've handled.
3. **Books:** Occasionally, there are books or chapters dedicated to influential or long-serving judges.

c. Is the information about judicial candidates available from the California Judicial Nominees Evaluation Commission?

1. The California Judicial Nominees Evaluation (JNE) Commission is responsible for evaluating the qualifications of individuals under consideration for a judicial appointment by the Governor. The JNE Commission's primary role is to provide an independent review of the candidate's qualifications, including their abilities, character, experience, and more.
2. The JNE Commission's evaluations for Superior Court judges, however, are confidential. The Commission rates the candidate as "Exceptionally Well Qualified," "Well Qualified,"

"Qualified," or "Not Qualified," and this rating, along with a detailed evaluation, is submitted to the Governor.

3. JNE evaluations for Superior Court candidates is not made available to the candidate unless the candidate is rated "Not Qualified".
4. If a candidate is found not qualified by the Commission, and the Governor then appoints that candidate to a Superior Court, the State Bar of California may publicly disclose that fact.
5. When the Governor nominates a person for the Court of Appeal or the Supreme Court, the JNE Commission makes a report at the public hearing of the Commission on Judicial Appointments for each candidate regardless of the rating of the commission.
6. If you're looking for information about specific judicial candidates, it might be more accessible to check local bar associations, legal publications, and news outlets. These sources sometimes provide profiles, endorsements, or articles on individuals running for judicial positions.

d. **What does the California Judicial Nominees Evaluation (JNE) Commission do?**

The California Judicial Nominees Evaluation (JNE) Commission plays a critical role in the judicial appointment process in California. Here's what the JNE Commission does:

1. **Evaluation of Judicial Nominees:** The primary responsibility of the JNE Commission is to evaluate the qualifications of individuals who are under consideration for a judicial appointment by the Governor of California.
2. **Investigative Process:** The evaluation process is thorough and involves a comprehensive review of the nominee's background. This can include:
 - a. Soliciting input from judges, attorneys, and members of the public who are familiar with the nominee.
 - b. Reviewing the nominee's legal writings, decisions (if they've served as a judge before), and other professional works.
 - c. Conducting personal interviews with the nominee.
3. **Confidentiality:** The evaluations and deliberations of the JNE Commission are confidential. This ensures candor in evaluations and encourages individuals to provide frank assessments of the nominee's qualifications.
4. **Rating System:** After reviewing all information, the JNE Commission rates the nominee's qualifications. The ratings can be:
 - a. "Exceptionally Well Qualified"
 - b. "Well Qualified"
 - c. "Qualified"
 - d. "Not Qualified"

These ratings, along with more detailed evaluations, are then submitted to the Governor.

5. **Composition:** The JNE Commission is made up of attorneys and public members. The State Bar's Board of Trustees appoints these members, ensuring that the Commission has a

diverse representation in terms of professional experience, geography, ethnicity, gender, and other factors.

6. **Objective and Independent Evaluation:** The Commission's goal is to provide an independent, objective, and thorough evaluation to ensure that judicial appointees are of the highest quality and can serve the public effectively and fairly.

By serving these functions, the JNE Commission contributes significantly to the integrity, quality, and transparency of the judicial appointment process in California.

e. **How do I find out about Superior, Appellate, and Supreme Court judges in California?**

If you're looking to find out about Superior, Appeals, and Supreme Court judges in California, there are several resources available to help you with your research. This is admittedly extremely difficult to do. For those intrepid voters willing to undertake the journey here is a step-by-step guide:

1. Go to the official website of the California Courts at www.courts.ca.gov.
2. Look up judicial candidates on [Vote 411](#)
3. For information on the **California Supreme Court** and **Courts of Appeal** justices, navigate to the specific court section. This site provides biographies of the justices and other related information.
4. For **Superior Court** judges, visit the website of the specific county's Superior Court as the state is divided into 58 county Superior Courts.
5. **California Judges Association (CJA):**
 - a. The CJA is an association that represents California judges. Their website might have publications, news, and other information about judges across the state.
6. **Ballotpedia:**
 - a. Ballotpedia is an online encyclopedia that covers American political topics including federal, state, and local government. You can search for individual judges to see their biographies, appointments, and election results.
 - b. Visit www.ballotpedia.org and search for the judge or court you're interested in.
7. **Local Media and News Outlets:**
 - a. Newspapers, TV stations, and online news outlets often cover judicial appointments, elections, and other pertinent news about judges.
8. **Legal Publications:**
 - a. Legal publications and databases, such as the Daily Journal or LexisNexis, can provide detailed professional histories, rulings, and opinions of judges.
 - b. Legal Databases: Resources like Westlaw, LexisNexis, or Google Scholar allow you to search for specific cases. Reading through a judge's opinions can give you a direct understanding of their legal reasoning and perspective.

9. **Judicial Performance Evaluations:**

- a. In California, the Commission on Judicial Performance conducts investigations into judicial misconduct and discipline. Their website provides some information on judges if there are actions taken against them.

10. **Local Law Libraries:**

- a. Many county law libraries maintain directories or have resources on local judges. Visiting or contacting them can be helpful.

11. **Bar Associations:**

- a. The State Bar of California might provide information or resources about judges.
- b. Local or county bar associations may have information or evaluations of appellate justices, especially when those justices are up for retention elections.

Remember that if you're trying to understand a specific judge's rulings or judicial philosophy, reading their written opinions and rulings is invaluable. It gives insight into their legal reasoning and perspective on the law.

In addition to the above, to find out about Appeals Court judges in California, including their backgrounds, rulings, and more, you can utilize a few different resources:

12. **California Courts Official Website:** The Judicial Branch of California has an official website that provides detailed information about the structure of the state's court system, including the Courts of Appeal. This site usually contains biographical information about each justice, including their educational background, professional experience, and appointment details.

- a. Direct link: [California Courts of Appeal](#)

13. **Retention Election Information:** Appellate justices in California face retention elections where voters can choose to keep or remove them from the bench. During election years, voter guides sent out by the state or county election departments will provide information on justices up for retention.

When researching a specific Appeals Court judge, it's useful to gather information from multiple sources to ensure a well-rounded understanding of their qualifications, experience, and judicial approach.

4. **How important is my vote when voting for a Superior Court judge?**

Your vote in a Superior Court judge election, as with all elections, is significant and carries several important implications:

- a. **Direct Impact on Local Decisions:** Superior Court judges make decisions on a wide range of cases, including civil disputes, criminal cases, family law matters, probate, and more. Their rulings directly affect the lives of individuals in your community. Voting for a judge who aligns with your values and views on justice ensures that those principles are upheld in local decisions.
- b. **Setting Legal Precedents:** While Superior Courts are trial courts and don't set binding precedents in the way that appellate courts do, their decisions can still influence future cases, shape legal arguments, and occasionally, when appealed, lead to significant appellate or even Supreme Court decisions.

- c. **Accountability:** Judges are not politicians. Unlike elected officials, judges are independent. Their only obligation is to uphold the law. Their decisions should not be influenced by the whims of the public. Judges are held accountable by Appellate Courts who review their decisions when appealed, by recall elections which may remove a judge accused of misconduct, and by election challengers, allowing voters to choose the individuals to fill judicial positions.
- d. **Community Representation:** Voting ensures that the judiciary represents the community's demographics, values, and perspectives, thereby increasing the legitimacy and trust in the judicial system.
- e. **Counterbalance to Special Interests:** Sometimes, special interest groups might support or oppose a particular judicial candidate for reasons that align with their specific agendas. Individual voters casting their ballots can serve as a counterbalance to these groups, ensuring that the elected judges serve the broader public interest rather than specific special interests.
- f. **Cumulative Impact:** While a single vote in a large electorate might seem insignificant, the cumulative effect of many individuals thinking this way can lead to unexpected election outcomes. Remember, many elections, especially local ones, can be decided by surprisingly small margins.

1. **Look for candidate forums**, organized by LWV or Bar Associations.

It's also essential to acknowledge that many voters often feel less informed about judicial candidates compared to other offices, given the non-political nature and the lower profile of judicial races. It's crucial to research and understand the qualifications, experiences, and values of judicial candidates before casting your vote.

In sum, your vote for a Superior Court judge is essential, both for the immediate impact on your local community and for the broader health and legitimacy of the judicial system.

5. **Observation and Recommendation**

- a. **Observation:** For potential or incumbent judges, it is extremely difficult to learn about their judicial philosophy or qualifications. When voting, this makes it hard to impossible to assess a judicial candidate or differentiate between judicial candidates.
- b. **Recommendation:** One source of information is the rating of the judicial candidate made by the Judicial Nominees Evaluation (JNE) commission (see sections 3.c and 3.d. above). For the sake of transparency and accountability, we recommend for any judicial appointment made by the Governor where the JNE commission has found a candidate **not qualified**, the JNE commission rating be made public.