

Judicial Merit Selection Commission

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Judicial Candidates
Fall 2016 Screening

RE: Rules Governing Contact with Members of the General Assembly and Members of the Judicial Merit Selection Commission

Dear Judicial Candidates:

This letter is written to call your attention to the rules governing contact with members of the General Assembly and members of the Judicial Merit Selection Commission prior to and during the judicial screening process for the Fall 2016 screening.

Section 2-19-70(C) of the South Carolina Code contains strict prohibitions concerning candidates seeking or legislators giving their pledges of support or implied endorsements through an introduction prior to 48 hours after the release of the final report of the Judicial Merit Selection Commission (the "Commission"). For purposes of this section, indirectly seeking a pledge means the candidate, or someone acting on behalf of and at the request of the candidate, requesting a person to contact a member of the General Assembly on behalf of the candidate before nominations for that office are formally made by the Commission. The General Assembly enacted this provision for the purpose of ensuring that members of the General Assembly had full access to the report of judicial candidates *prior* to being asked by a candidate to pledge his or her support. The final sentence of Section 2-19-70(C) provides that "the prohibitions of this section ***do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate's qualifications.***" S.C. Code Ann. § 2-19-70(C) (emphasis added). However, ***candidates may not contact members of the Commission regarding their candidacy.*** Please note that six members of the Commission are also legislators.

In April 2000, the Commission determined that Section 2-19-70(C) means that no member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission's report. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General Assembly, only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates' qualifications.

The Commission would again like to remind all judicial candidates that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate's fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

Under the current schedule for the Fall 2016 screening, judicial candidates are *prohibited* from asking for commitments until **12:00 Noon on Tuesday, January 17, 2017**. Further, members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate's qualifications, or commitments to vote for a candidate **until 12:00 Noon on Tuesday, January 17, 2017**. In summary, no member of the General Assembly should, orally or by writing, communicate about a candidate's candidacy until the time designated after the release of the Judicial Merit Selection Commission's Report of Candidate Qualifications. Please note that these are the dates under the current schedule and are subject to change, based upon issuance of the draft report, which dictates the 48-hour period.

Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Elizabeth H. Brogdon, Chief Counsel to the Commission, at (803) 212-6629.

Sincerely,

Senator Larry A. Martin
Chairman