

**Hawaii Federal
Judicial Selection Commission**

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HAWAII FEDERAL JUDICIAL SELECTION COMMISSION

United States Senators Daniel K. Inouye and Daniel K. Akaka recognize the need for a strong, competent and independent federal judiciary. In order to meet this need, the Hawaii Federal Judicial Selection Commission (Commission) is hereby established to recommend and advise the Senators on the selection of well-qualified, knowledgeable and experienced individuals from Hawaii for federal judgeships.

SECTION I. Purposes:

The Commission is established to assist in the search for well-qualified, knowledgeable and experienced individuals to serve as federal judges, and to assist the Senators in providing advice and consent to the President for the appointment of such persons on the following courts, as vacancies occur:

1. The United States Court of Appeals for the Ninth Circuit, for judgeships which are appropriately considered Hawaii seats.
2. The United States District Court for the District of Hawaii.

SECTION II. Commission Composition:

The Commission shall consist of respected Hawaii citizens, with appropriate professional and personal qualifications and attributes, appointed as follows:

1. When the President is of the same political party as both Senators, the Commission shall consist of nine members, as follows:
 - a) The Senior Senator shall select four members, and the Junior Senator shall select three members.
 - b) The Hawaii State Bar Association Board of Directors (HSBA) shall select two members.
2. When the President is of the same political party as one but not both of the Senators, the Commission shall consist of nine members, as follows:
 - a) The Senator belonging to the same political party as the President shall select five members, and the other Senator shall select two members.
 - b) The HSBA shall select two members.
3. When the President is of a different political party than both Senators, the Commission shall consist of eight members, as follows

- a) The Senior Senator shall select two members, and the Junior Senator shall select one member.
 - b) The HSBA shall select one member.
 - c) A representative of the President's party shall select four members. If the White House does not designate a representative, that person will be a member of the President's party serving, in order of priority as Governor, U.S. Representative, Attorney General (if that is an elected position), President of the Hawaii Senate, Speaker of the Hawaii House of Representatives, or state legislative minority leaders and state party chairman (the three acting jointly). If there is uncertainty as to the identity of person(s) to represent the President's party, the Senators will determine the appropriate appointing authority, recognizing that an inappropriate designation will diminish the likelihood that the White House will recognize the results of the Commission's efforts.
4. The composition and membership of the Commission will be adjusted, whenever necessary to reflect changes in the identity and party of the President, the Senators, and other appointing authorities.
 5. The Commissioners appointed by the HSBA shall be appointed to four-year terms, the dates of which will be staggered in two-year cycles. At the outset one member will be appointed to a four-year term and the other member to a two-year term.
 6. Commissioners, other than those appointed by the HSBA shall be appointed to four-year terms (the dates of which will be staggered in two-year cycles at the outset), but they serve at the pleasure of the person who appointed that member while they are in office and are subject to being replaced by the successor appointing authority.
 7. When a vacancy occurs due to resignation, disability or death, a successor shall be appointed by the original appointing authority or his/her successor to serve out the remaining term.
 8. No person shall serve on the Commission for more than eight years.

SECTION III. Restrictions on Commission Members:

No federal or state judge or justice, or individual currently holding elective office, or individual currently holding statewide office in any political party shall be a member of the Commission. No Commissioner shall take an active part in political management or in political campaigns.

1. No Commissioner shall be eligible for appointment to a federal judicial office so long as that person is a Commissioner and for a period of three years after ceasing to be a Commissioner.

SECTION IV. Commission Organization:

1. The Commission shall select one of its members to serve as Chairperson, who shall preside at any meeting at which he or she is present, and one of its members to serve as Vice-Chairperson, who shall serve in the absence of the Chairperson.
2. The Commission shall select one of its members to serve as Secretary who shall prepare and keep minutes of all meetings. In the Secretary's absence, the Chairperson shall choose a member to be acting Secretary.

SECTION V. Recommendation Process:

At the request of the Senators or upon learning of a vacancy or prospective vacancy within its jurisdiction, the Commission shall identify and recommend qualified candidates for the position.

1. The Commission may publicize the vacancy. It may establish and publicize minimum prescribed professional and personal qualifications or minimum legal qualifications. It shall accept applications from prospective nominees and may solicit applications from other persons recommended to the Commission.
2. Within a reasonable amount of time, the Commission shall evaluate the qualifications of all candidates. It may interview candidates and conduct investigations into their backgrounds and qualifications. Two or more Commissioners may be delegated responsibility to interview and investigate candidates.
3. Upon completion of the evaluation process, the Commission, voting by secret ballot, shall recommend no fewer than three persons for any position. No candidate may be recommended unless he or she receives votes from five Commissioners. In the event that the Commission is unable to recommend at least three candidates in this way, the Commission may recommend additional candidates if that individual receives at least votes from four Commissioners. No candidate may be recommended unless the Commission determines that:
 - a) the candidate possesses all the qualifications provided by law for the office involved; and
 - b) the candidate is in good standing with the Hawaii State Bar Association, the Office of the Disciplinary Counsel, and, if relevant, the Hawaii State Judicial Conduct Commission; and

- c) the candidate is so willing to be recommended.

SECTION VI. Transmittal of Recommendations:

1. The Chairperson shall deliver the list of recommended candidates, in alphabetical order, to the offices of both Hawaii Senators, HSBA President and of any other official who appointed members to the Commission.
2. Within a reasonable amount of time, the Hawaii Senators shall submit the list of recommended candidates, under cover letter of the Senior Senator, directly to the President, along with summary information, prepared by the Commission, on the recommended candidates.

SECTION VII. Confidentiality:

1. The Commission shall operate confidentially. The Commission is not and shall not be deemed a public agency or be subject to any public disclosure requirements. Commission meetings shall not be public. Except for candidates being interviewed and other persons being consulted in connection with particular matters, only Commissioners shall attend meetings. The Commissioners shall not make public the names of candidates considered or recommended, except that the Commission shall confirm whether or not a person subsequently nominated for a federal judgeship was on the list of recommended candidates. Personal information concerning candidates shall also be kept confidential.
2. All documentation from the evaluation process shall be retained by the Senior Senator for no longer than three years after the submission of the list of recommended candidates.
3. Candidates may be required by the Commission to consent to reasonable investigation or to authorize the Commission to obtain relevant private and confidential information.

SECTION VIII. Non-discrimination:

The Commission shall not discriminate on the basis of, nor manifest, by words or conduct, bias or prejudice based on race, religion, gender, or national origin.

SECTION IX. Communication Controls:

The Chairperson shall be the designated spokesperson, and the Commission shall establish appropriate communication controls where needed.

SECTION X. Commission Ethics:

The Commission shall have the power to decide whether a conflict of interest exists, and shall also have the power to appropriately resolve such a conflict.

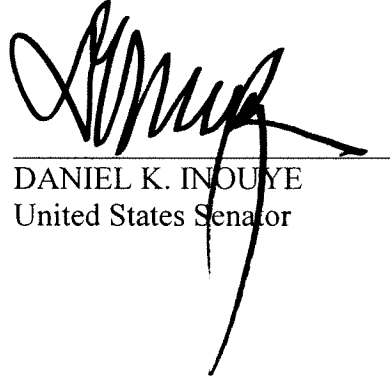
SECTION XI. Constitutional Prerogatives:

Nothing contained herein is intended to impair or delegate the constitutional and statutory powers, duties and prerogatives of the President or the Senators.

Dated at Honolulu, Hawaii, this 7th day of July, 2006.



DANIEL K. AKAKA
United States Senator



DANIEL K. INOUE
United States Senator