

What are the benefits of merit selection? (cont'd)

Commission members have repeatedly and publicly affirmed that their nominations are not inappropriately influenced by lawyers or judges.

Provides continuous improvement of the judiciary

Arizona's JPR process includes a second important component, self-evaluation and improvement. Midway through a judge's term in office, and again before a retention election, the judge meets with a conference team composed of one public volunteer, one attorney, and one judge to identify areas of needed improvement and establish specific performance goals. This makes self-evaluation and continuous improvement an integral component of the judiciary.

What are some of the high standards set for the judiciary?

Judges should:

- ◆ administer justice fairly, ethically, uniformly, promptly and efficiently;
- ◆ be free from personal bias when making decisions and decide cases based on the facts and proper application of law;
- ◆ issue prompt rulings that can be understood by the parties and the public and make decisions that demonstrate competent legal analysis;
- ◆ act with dignity, courtesy and patience; and
- ◆ effectively manage their courtrooms and administrative responsibilities.



Judicial Merit Selection & Retention in Arizona

Resources for more information

Commissions on Appellate and Trial Court Appointments

1501 West Washington, Suite 221
Phoenix, Arizona 85007-3231
Telephone: (602) 452-3098
Fax: (602) 452-3652
E-mail: jnc@courts.az.gov
Website: www.azcourts.gov/jnc

Commission on Judicial Performance Review

1501 West Washington, Suite 221
Phoenix, Arizona 85007-3231
Telephone: (602) 452-3098
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E-mail: jpr@courts.az.gov
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What is merit selection and retention?

Merit selection is a method of choosing judges through a non-partisan commission of lawyers and non-lawyers that investigates and evaluates applicants. The commission submits the names of the most highly qualified applicants to the Governor, who makes the final selection. Two-thirds of the states and the District of Columbia use some form of merit selection to choose their judges.

Merit selection has been part of Arizona's constitution since 1974 when Arizonans voted to discontinue the popular election of appellate judges, Supreme Court justices, and trial court judges in the most populous counties. Four judicial nominating commissions have been established to screen judicial candidates for nomination to the Governor for appointment (currently the Commission on Appellate Court Appointments, and the Maricopa, Pima and Pinal County Commissions on Trial Court Appointments).

A constitutional amendment in 1992 increased the number of non-lawyer members on the nominating commissions and required a performance review process. The Court established the statewide Commission on Judicial Performance Review (JPR) to give the public information on the performance of judges. These developments increased transparency and citizen involvement in both the merit selection and performance review of judges.

Once judges are appointed, they must periodically stand for retention election. The JPR Commission, comprised of mostly laypersons, conducts a performance review of each judge who seeks to remain on the bench. During these reviews, the commission evaluates each judge's job performance to determine whether the judge meets judicial performance standards. Information from the performance reviews and the commission's votes on each judge is provided to voters to assist in the voting process. While a number of states use some form of performance review to evaluate their judges, Arizona also requires its merit selection judges to undergo a self-evaluation process.

What are the benefits of merit selection?

Results in a highly qualified judiciary

Merit selection judges are chosen from a large pool of applicants on the basis of merit rather than on political signs, slogans and campaigns. Qualified attorneys are often unwilling to risk their practices on the expensive effort that is required for election to office. Candidates who are unable to raise sufficient campaign contributions are less likely to win office — no matter their qualifications. This results in a reduced field from which qualified candidates can be selected.

Merit selection removes these impediments and also prevents qualified applicants from being screened out by political parties because of their lack of political credentials. Furthermore, it has the advantage of assuring that only qualified and competent applicants reach the bench. The Arizona merit system has produced one of the finest judiciaries in the nation.

Replaces politics with professionalism

The merit selection process promotes judicial impartiality and integrity because it allows judges to avoid having to solicit campaign contributions from, among others, attorneys who practice before them and people who might someday appear before them in court.

Fosters the rule of law

Sometimes judges are required to make unpopular decisions in order to uphold the law. It is the job of the courts to make sure that the limits of power placed on each branch of government are observed. Judges who must depend on winning re-election to keep their jobs may be unable to remain impartial as they could be penalized by the voters for making even one unpopular decision.

Promotes public accountability

Retention elections held under merit selection systems are an effective and appropriate means of holding judges accountable to the people. In addition to being subject to removal and

other sanctions by the constitutionally created Commission on Judicial Conduct, all merit system judges are regularly subject to removal from office by popular vote. By contrast, elected judges in other states can be removed by popular vote only if they are opposed in the general election. Because incumbent judges are frequently unopposed, the people often have less "control" over elected judges. Retention elections also allow the general public, bar associations and the media to focus on problems with a particular judge's performance, rather than on campaign rhetoric and hyperbole often heard in contested election campaigns.

The JPR Commission assesses whether judges meet judicial performance standards through the collection of firsthand survey data from court participants and communicates its findings to voters in the Secretary of State's Voter Information Pamphlet and online at www.azjudges.info.

Then the voters decide, at the general election, whether to retain the judges in office.

Encourages diversity on the bench

An increased number of minorities and women have been appointed to the bench, because merit selection encourages a larger pool of qualified candidates. In addition, the Arizona Constitution requires the judicial nominating commissions to consider the diversity of the state's population in the screening and nomination of judicial applicants.

Incorporates representative democracy

Merit selection compensates for limited voter knowledge about, or interest in, even contested judicial elections. Under merit selection, a nominating commission, rather than the Governor alone, makes the initial determination of the applicants' qualifications. The majority of the commission members are non-lawyers appointed by the Governor with the approval of the Arizona Senate. Many of the