



AMERICAN CIVIL LIBERTIES UNION

Rhode Island

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Krystle Tadesse, Esq.
Chairperson
Judicial Nominating Committee
c/o Troutman Pepper Locke LLP
2800 Financial Plaza
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VIA EMAIL

Dear Ms. Tadesse:

I am writing to you in your capacity as Chairperson of the state's Judicial Nominating Commission. We received a call from The Womxn Project this morning regarding the public comment procedures that the Commission has in place for receiving testimony at its scheduled meeting later today, where it will be receiving public comment about applicants under consideration to fill two court vacancies. Because we believe that the Project has raised a legitimate concern, I'm writing to request that the Commission revise its process governing the taking of testimony from the public at today's meeting.

We understand that sometime in the past year, the Commission revised its public comment practices to require individuals who wish to testify at judicial nomination hearings to register at least *two weeks* in advance. Because the Project was unaware of this process, they failed to contact the Commission in time even though they have a strong interest in testifying at today's meeting. We also understand from the Project that a number of other individuals sought to sign up to speak about five days ago – more than sufficient advance notice, in our view – but were rebuffed.

We acknowledge that the notice posted for the meeting specifies this requirement. At the same time, we trust you can appreciate that some people with an interest in speaking at a Commission meeting about the candidates might not have gone to the original source – the meeting notice itself – to become aware of this requirement. And we can easily envision other interested individuals not learning about the hearing until after that deadline had passed.

The ACLU of Rhode Island has long had an interest in the strengthening of public access to government meetings and encouraging the widest reasonable opportunities for the public to participate in those meetings. We are not aware of any other state or local public body that, like the Commission, has a vested interest in receiving public comment that has established such a restrictive policy regarding advance notice. Nor can we think of any compelling rationale for imposing such a lengthy advance notice requirement. It can only impede the Commission from receiving all the public comment it should be interested in obtaining when considering the weighty matter of recommending judicial nominees.

We certainly understand the Commission's interest in having an orderly process for taking public comment at these meetings. If it does not already do so, the Commission clearly has the ability and the right put a time limit on the total comments and on individual statements. For individuals who have not signed up in advance, the Commission can place them at the end of the allotted speaking time. But a complete bar on speaking for individuals who missed this strict deadline strikes us as inappropriate.

We note that this two-week requirement is not contained in the Commission's formal regulations establishing its procedures. Those rules instead only reference the convening of a public meeting "to afford an opportunity to members of the public to comment on the list of candidates," an opportunity that is severely limited by this informal policy. While we recognize that individuals retain the ability to submit written comments after the deadline, the particular impact that verbal testimony may have cannot be discounted.

In short, we believe it is unwarranted to prevent individuals from commenting at today's meeting based on formalistic adherence to a recently adopted practice that is not a part of the agency's regulations and is not required. Instead, we would encourage the Commission to exercise its discretion and maximize transparency and the public interest by allowing individuals who show up today to be able to offer comments within appropriate time limits.

I apologize in advance for the very short notice in which we are raising this issue, but we hope that in the interest of openness in the process, the Commission will consider this request at today's meeting. Thank you in advance for your attention to our request.

Sincerely,



Steven Brown
Executive Director

cc: Judicial Nominating Commission members
Laura Jeanne Verdecchia
Jocelyn Foye, The Womxn Project