



July 11, 2022

Justice K.J. Wall
Chair, 28th Judicial District Nominating Commission
Kansas Judicial Center
301 SW 10th Ave.
Topeka, KS 66612-1507

Re: 28th Judicial District New District Judge and Magistrate Judge Nominations

Dear Justice Wall and Members of the 28th Judicial District Nominating Commission:

On behalf of the Kansas Women Attorneys Association (KWAA) and in my capacity as president of this organization, I want to thank you for serving on the 28th Judicial District Nominating Commission. Your dedication to our judicial system and the selection of fair and impartial judges is valuable and appreciated.

As you work to fill this current vacancy, KWAA reminds you that an important consideration for your impending deliberations is the demographic representation of the 28th District's bench. We direct your attention to *The Gavel Gap: Who Sits in Judgment on State Courts*, a report issued by the American Constitution Society for Law and Policy, which shows that state courts do not adequately reflect the diversity of our citizens.¹ As you can see from this study, Kansas' judiciary received an "F" on its report card, based on its assigned gavel gap score of -57.²

Report Card



¹ Tracey E. George & Albert H. Yoon, American Constitution Society for Law and Policy, *The Gavel Gap: Who Sits in Judgment on State Courts?* (2016), available at <https://kswomenattorneys.com/files/gavel-gap-report.pdf>.

² The authors calculated the "gavel gap" by dividing the difference between the proportion of women and minorities on the bench and women and minorities in the general population by the proportion of women and minorities in the general population. For a full description of their methodology, please visit <https://www.acslaw.org/analysis/reports/gavel-gap/>.

Half of the population is female and a quarter of Kansas residents are racial and ethnic minorities³; but, as you can see, these groups are underrepresented on our state court benches. KWAA reminds you that the benefits of a diverse bench are largely undisputed. Research has consistently shown that when courts reflect the populations they serve, judges bring a broader range of experiences to the judicial decision-making process, which, in turn, results in increased confidence in the fairness and impartiality of our justice system.⁴

KWAA understands your mission is to select the most qualified candidates, regardless of race, ethnicity, or gender, and we are confident that no member of the Nominating Commission enters the process with explicit biases. But, as reflected by research documented by the American Bar Association,⁵ many decisions are unknowingly impacted by implicit bias. KWAA asks that you remain mindful of the impact of implicit bias on your deliberations and encourages you to recommend diverse candidates, including women and persons of color, when selecting candidates to fill these newly-created judicial positions.

Thank you for the important role you play in addressing the lack of diversity among judges in our state courts. We strongly urge you to consider these points when implementing this historic collaboration between all three branches of state government that created 14 new district judge divisions and nine new district magistrate judge positions. Your work will not only ensure that the Judicial Branch can better meet the case processing needs of Kansas communities, but will be instrumental in ensuring that Kansans can access a court system that is representative of the people it serves.

A copy of this letter will be published at: <https://kswomenattorneys.com/news>.

Sincerely,



Eunice Peters
KWAA President

³ Based on July 2020 Census data, available at <https://www.census.gov/library/stories/state-by-state/kansas-population-change-between-census-decade.html>.

⁴ The Brennan Center for Justice provides a variety of resources on its Judicial Diversity Resource Page, available at <https://www.brennancenter.org/our-work/research-reports/judicial-diversity-resource-page>.

⁵ The ABA maintains an implicit bias resources page on its website, which includes, among other things, a training video entitled "Bias on the Bench" and a toolkit entitled "Implicit Bias & Judges: How innate attitudes shape behavior, even on the bench," available at <https://www.americanbar.org/groups/diversity/resources/implicit-bias/>.