



August 25, 2021

Justice Dan Biles
Chair, 25th Judicial District Nominating Commission
Kansas Judicial Center
301 SW 10th Ave.
Topeka, KS 66612-1507

Re: District Judge Vacancy

Dear Justice Biles and Members of the 25th 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 25th Judicial District Nominating Commission. Your dedication to our judicial system and the selection of fair and impartial judges is valuable and appreciated.

KWAA applauds your success in increasing the diversity of the bench earlier this year with the appointment of the Honorable Kristi Cott in Finney County. As you work to fill this current vacancy, we again remind you that an important consideration for your impending deliberations is the demographic representation of the 25th Judicial District's bench. KWAA brings to your attention *The Gavel Gap: Who Sits in Judgment on State Courts* issued by the American Constitution Society for Law and Policy, which shows that state courts do not adequately reflect the diversity of our citizens (<https://kswomenattorneys.com/files/gavel-gap-report.pdf>). As you can see from this study, in 2016, the state of Kansas judiciary received the grade of F in its report card, based on its assigned gavel gap score of -57.¹

Report Card



¹ ACS calculates 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. The Gavel Gap = ((fraction of judges who are women and/or minorities *minus* fraction of general population who are women and/or minorities) *divided* by fraction of general population who are women and/or minorities). Thus, if half of a state's judges were women and/or minorities and half of its general population were

In the 25th Judicial District, while half the population is female and half its residents belong to racial and ethnic minority groups, a majority of its District Judges are still white men. The contrast is starker in Finney County alone where a majority of residents—60%—belong to racial and ethnic minority groups. KWAA again 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.

KWAA understands your mission is to select the most qualified candidates, regardless of race or gender. KWAA is confident that no member of the Nominating Commission enters the process with explicit biases, but, as reflected by research documented by the American Bar Association², many decisions are unknowingly impacted by implicit bias. KWAA asks that you remain mindful of the impact of implicit bias on your deliberations. KWAA respects the work you have already done this year to diversify the bench in the Twelfth Judicial District and encourages you to continue recommend diverse candidates, including women and persons of color, for judicial vacancies.

Thank you for the important role you play in addressing the lack of diversity among judges in our state courts. We look forward to practicing in 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

women and/or minorities, the state would have no gap $((.50-.50)/.50=0)$. If ten percent of a state's judges were women and/or minorities and half of its general population were women and/or minorities, the state would have a gap of $-.80 ((.10 -.50)/.50 = -.80)$. That is, the state has 80% fewer women and/or minorities on the bench than we would have predicted based on its general population. Stated differently, the state has only 20% of the number of women and/or minorities on the bench as we would expect. Gavel Gap methodology available at <https://www.acslaw.org/analysis/reports/gavel-gap/>.

² <https://www.americanbar.org/groups/diversity/resources/implicit-bias/> (providing resources to combat implicit bias, including a training video on “Bias on the Bench” and a toolkit about “Implicit Bias & Judges: How innate attitudes shape behavior, even on the bench”).