

## American Bar Association News Service

### Judicial Vacancies Slow the Wheels of Justice

*American Bar Association President says the need to fill federal court vacancies is “urgent”*

By: Kristin Loiacono  
July 12, 2010

**Note to editors:** For [audio](#) and [video](#) of ABA President Carolyn B. Lamm explaining how people across the nation are affected when there aren't enough judges to hear their cases, [click here](#). This video is also accessible on YouTube. For questions or additional information, please contact Kristin Loiacono at 202/662-1092 or [loiaconok@staff.abanet.org](mailto:loiaconok@staff.abanet.org)

WASHINGTON, D.C. — As the Senate prepares to vote on whether Elena Kagan should fill the vacancy on the U.S. Supreme Court, there remain a substantial number of other vacancies in the nation's lower federal courts that urgently need filling.

Currently, there are about 100 vacancies in the lower federal courts. The American Bar Association says the lack of judges is affecting the efficiency and fairness of the justice system.

ABA President Carolyn B. Lamm said, “Our courts are already terribly strained at the federal level because of the caseload and the workload, and when you're a hundred justices down...that's a big gap. We have speedy trial rules that require them to put criminal cases first. As a result, all of the civil proceedings are put off and there is a real gap in terms of a significant delay as a result of the vacancies. It is edging toward a crisis not to have a full bench.”

Even if all the vacancies were filled, said Lamm, a significant number of new judgeships would still be necessary to handle caseload growth. In fact, the Judicial Conference of the United States is recommending 67 new permanent and temporary judgeships.

Beyond the existing 100 vacancies, more than 20 additional judges have announced that they will retire in the next several months. Since the start of the 111<sup>th</sup> Congress, President Obama has made 78 nominations to fill the empty seats, and the Senate has confirmed 36 of the nominees.

Lamm noted that most nominees have moved through the Senate with little dissent and little delay.

When they finally are scheduled for a vote by the Senate, Lamm commented, “None of them have in fact engendered huge debate on the floor of the Senate.... No one has seen a pattern of inappropriate people being nominated; it is simply very slow and it really needs a full bipartisan effort to move these nominations. And quite frankly, it is becoming urgent,” said Lamm.

## SIDEBAR: EVALUATING JUDGES' QUALIFICATIONS

The ABA's Standing Committee on the Federal Judiciary evaluates the professional qualifications of candidates for all Article III federal court vacancies. While the committee started its evaluation of Supreme Court nominee Elena Kagan *after* President Obama nominated her, all potential lower federal court nominees are evaluated *before* the President nominates them. Lower federal court evaluations are conducted throughout the year as names of potential nominees are sent from the White House or the Department of Justice.

For every federal court judgeship, the standing committee's objective is to provide an impartial peer-review of each nominee's integrity, professional competence and judicial temperament. The evaluation process includes conducting confidential interviews — which could number anywhere

from 40 to more than 100 — with lawyers and judges who know the work of, or who have worked with the candidate or nominee. The committee’s evaluator, who is typically from the same federal judicial circuit as the prospective nominee, will also interview the individual and examine all of his or her writings, including, briefs, publications, speeches, court transcripts, articles and decisions (if applicable).

There are three possible ratings that a prospective nominee may receive: “Well Qualified,” “Qualified” and “Not Qualified.”

For more information about the evaluation process, [click here](#).