

State of New York  
Commission on Judicial Nomination

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Hon. John L. Sampson  
Member, State Senate  
19th Senatorial District  
9114 Flatlands Avenue  
Brooklyn, New York 11236

March 25, 2009

Dear Senator Sampson:

I write to follow up on my February 3, 2009 testimony to the Judiciary Committee. During my appearance before the Committee, I provided the Committee with statistics that the Commission on Judicial Nomination had at that time been able to compile regarding the gender and ethnic makeup of applicants for vacancies on the Court of Appeals. Since that time, the Commission has been able to assemble more expansive historical information, covering the last ten vacancies on the Court (occurring from 1997 to 2008). This historical data reflects three overall trends:

- Overall applications to the Commission are trending significantly downward. Although the Commission received over 40 candidate applications to fill a Court vacancy as recently as 2003, since that point in time no more than 26 candidates have submitted an application for an individual vacancy, and the two most recent vacancies on the Court drew only 15 and 17 applications, respectively.
- Relative to the overall applicant pool, women and minorities have been proportionately represented both in the candidates both selected by the Commission to interview, and the nominees sent by the Commission to the Governor. Women have represented approximately 18% of applicants to

the Commission since 1997, and in that time have comprised approximately 22% of the candidates interviewed by the Commission, and approximately 19% of the candidates nominated by the Commission to fill Court of Appeals vacancies. Ethnic minorities have represented approximately 15% of applicants to the Commission since 1997, and in that time have comprised approximately 17% of the candidates interviewed by the Commission, and approximately 16% of the candidates nominated by the Commission to fill Court vacancies.

- Female attorneys significantly underapply to the Commission relative to their participation in the legal profession as a whole. Although women represent approximately 33% of New York State attorneys (according to the 2000 U.S. Census), and approximately 31% of New York State judges (according to the data compiled by the N.Y.S. Office of Court Administration), they represent only approximately 18% of applicants to the Commission since 1997.

Gubernatorial appointments to the Court of Appeals demonstrate that the work of the Commission has facilitated diversity. However, I strongly believe that the road to continued diversity on the Court is to encourage more applications by a greater number and variety of candidates than have submitted applications in recent years. The Commission looks forward to working with the Judiciary Committee and the Governor in order to achieve this goal.

My term on the Commission runs out at the end of this month, but please let me know if you have any questions in the interim. It has been an honor and a privilege to serve the State of New York on the Commission, and I will continue to follow further developments relating to the Court of Appeals with great interest.

Sincerely,

John F. O'Mara  
Chair

cc: Hon. George D. Maziarz  
Tim Spotts, Esq.

# N.Y.S. Commission on Judicial Nomination

## Data on New York Court of Appeals Applicants (1997-2008)

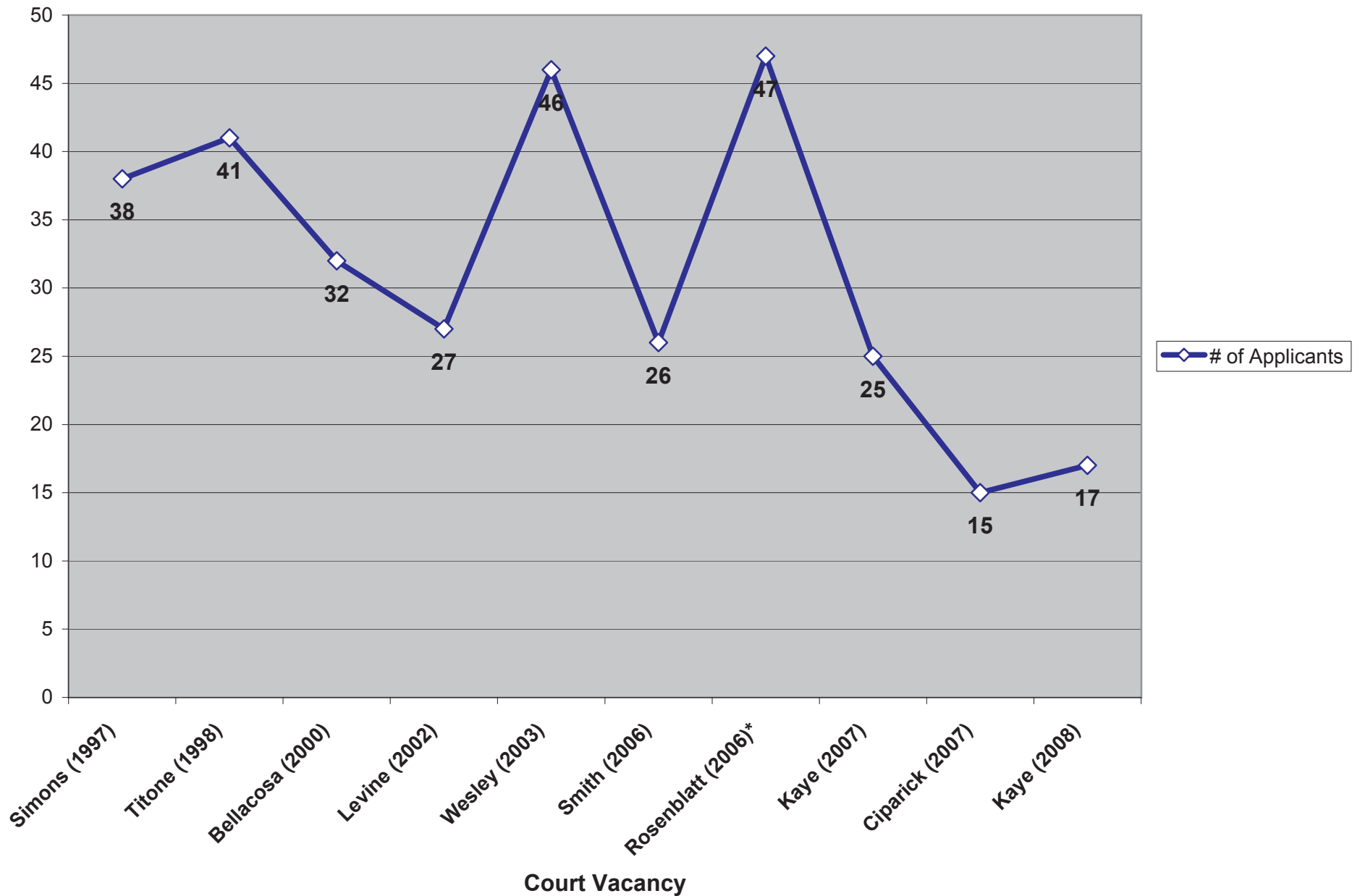
	Richard D. Simons Vacancy (1997)		Vito J. Titone Vacancy (1998)		Joseph W. Bellacosa Vacancy (2000)		Howard A. Levine Vacancy (2002)		Richard C. Wesley Vacancy (2003)	
<b>Total Applicants:</b>	38		41		32		27		46	
<b>Total Female</b>	5	13%	7	17%	7	22%	4	15%	11	24%
<b>Total Ethnic Minority Applicants:</b>	2	5%	6	15%	2	6%	4	15%	1	2%
<b>Applicants Interviewed:</b>	22		18		24		18		23	
<b>Interviewees Who Were Female:</b>	4	18%	3	17%	7	29%	3	17%	4	17%
<b>Interviewees Who Were Ethnic Minorities:</b>	2	9%	4	22%	2	8%	3	17%	0	0%
<b>Candidates on Nomination List:</b>	7		7		7		7		7	
<b>Nominees Who Were Female:</b>	1	14%	0	0%	3	43%	3	43%	1	14%
<b>Nominees Who Were Ethnic Minorities:</b>	1	14%	2	29%	1	14%	1	14%	0	0%

	George Bundy Smith Vacancy (2006)		Albert M. Rosenblatt Vacancy (2006)*		Judith S. Kaye Vacancy (2007)		Carmen B. Ciparick Vacancy (2007)		Judith S. Kaye Vacancy (2008)	
<b>Total Applicants:</b>	26		47		25		15		17	
<b>Total Female</b>	2	8%	10	21%	4	16%	5	33%	3	18%
<b>Total Ethnic Minority Applicants:</b>	5	19%	11	23%	5	20%	4	27%	7	41%
<b>Applicants Interviewed:</b>	16		24		14		9		12	
<b>Interviewees Who Were Female:</b>	2	13%	7	29%	3	21%	3	33%	3	25%
<b>Interviewees Who Were Ethnic Minorities:</b>	3	19%	6	25%	3	21%	3	33%	4	33%
<b>Candidates on Nomination List:</b>	7		7		7		5		7	
<b>Nominees Who Were Female:</b>	1	14%	1	14%	1	14%	2	40%	0	0%
<b>Nominees Who Were Ethnic Minorities:</b>	1	14%	2	29%	1	14%	1	20%	1	14%

<b>Totals</b>	
<b>314</b>	
58	18%
47	15%
<b>180</b>	
39	22%
30	17%
<b>68</b>	
13	19%
11	16%

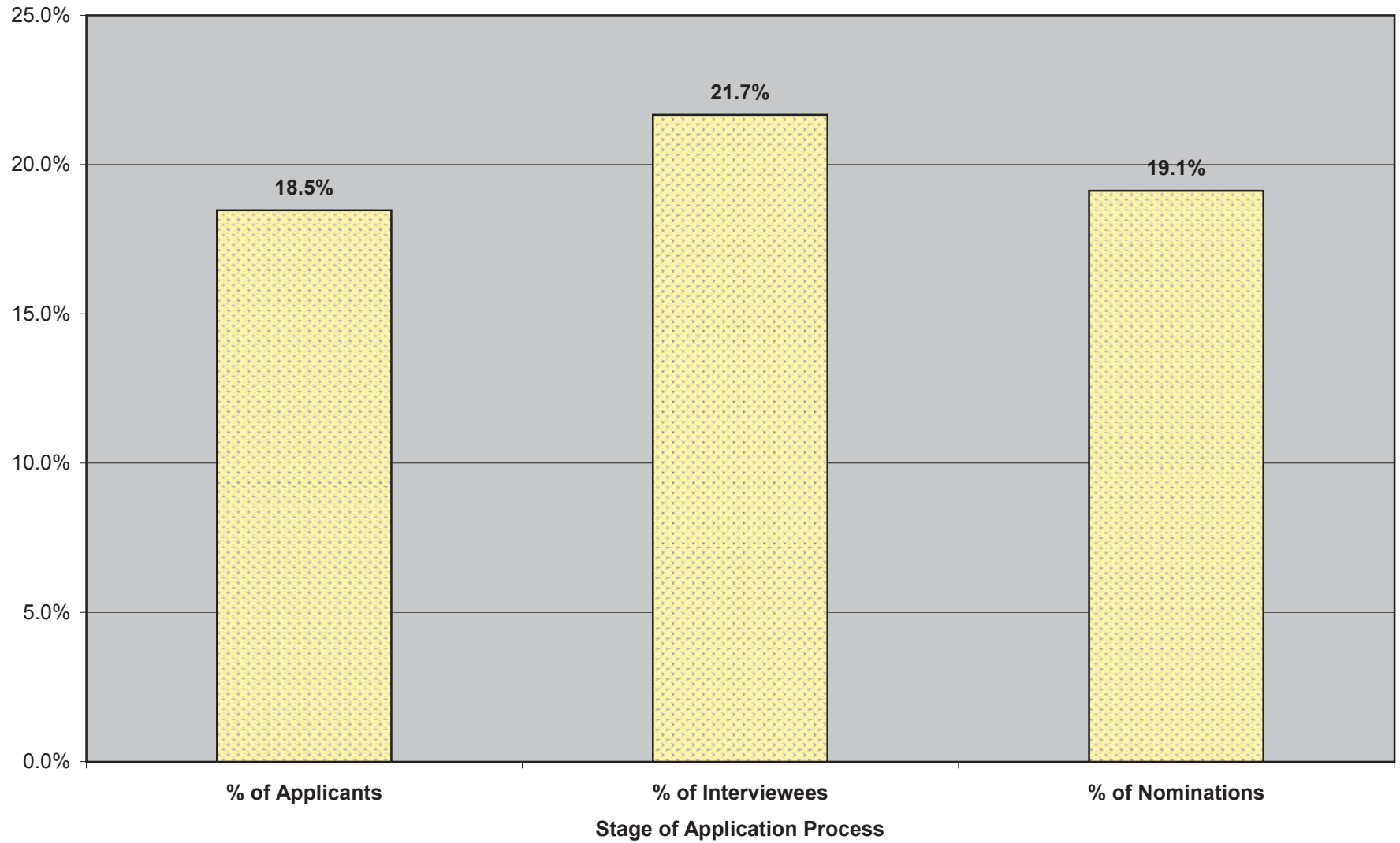
\* Rosenblatt vacancy figures include 25 candidates who applied for the Rosenblatt vacancy, and 22 candidates who applied for the 2006 Smith vacancy, and whose applications were reconsidered for the Rosenblatt vacancy.

## Total Applications to Court of Appeals, 1997-2008

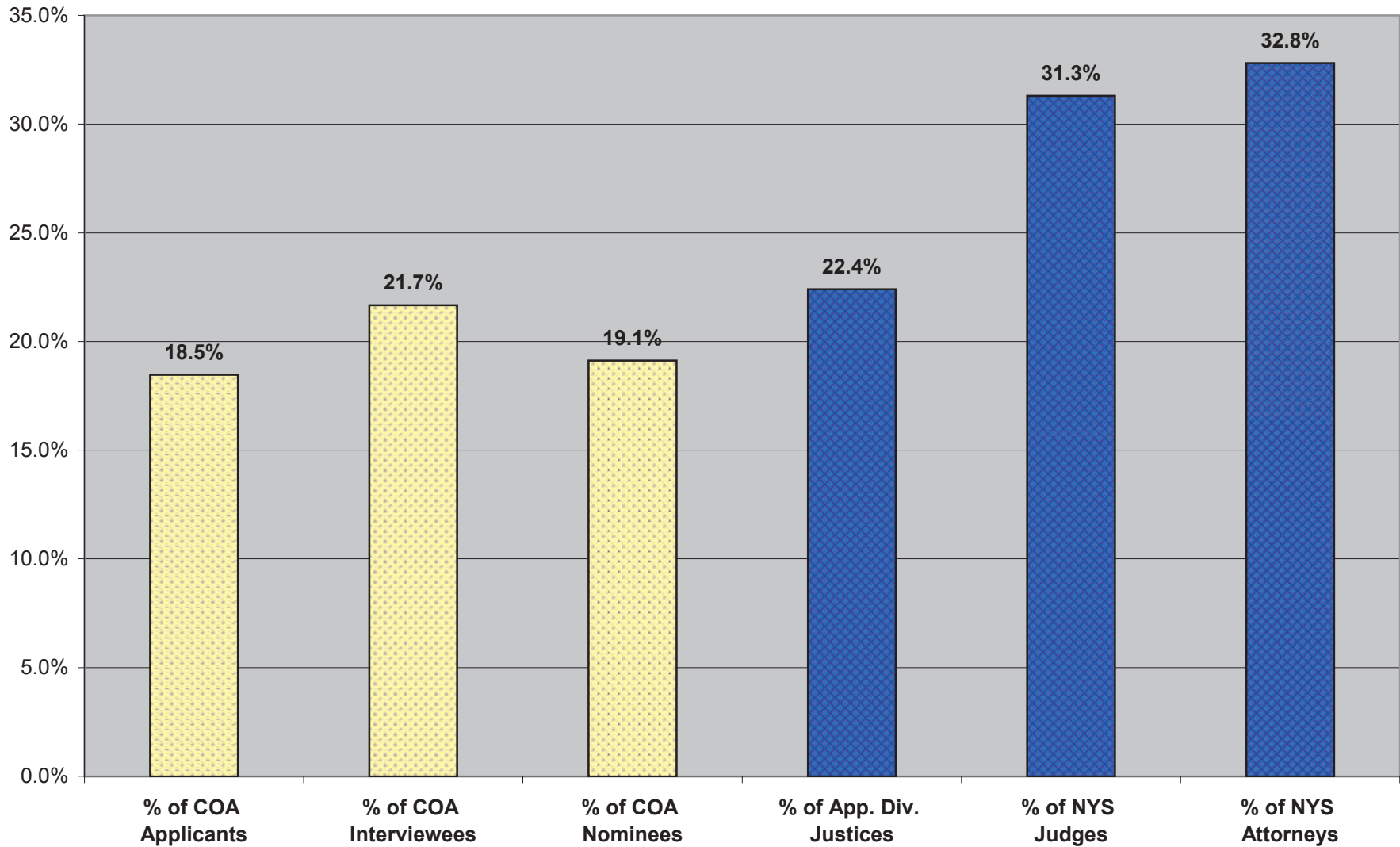


\* Rosenblatt vacancy figures include 25 candidates who applied for the Rosenblatt vacancy, and 22 candidates who applied for the 2006 Smith vacancy, and whose applications were reconsidered for the Rosenblatt vacancy.

**Female Applicants to Court of Appeals, 1997-2008**

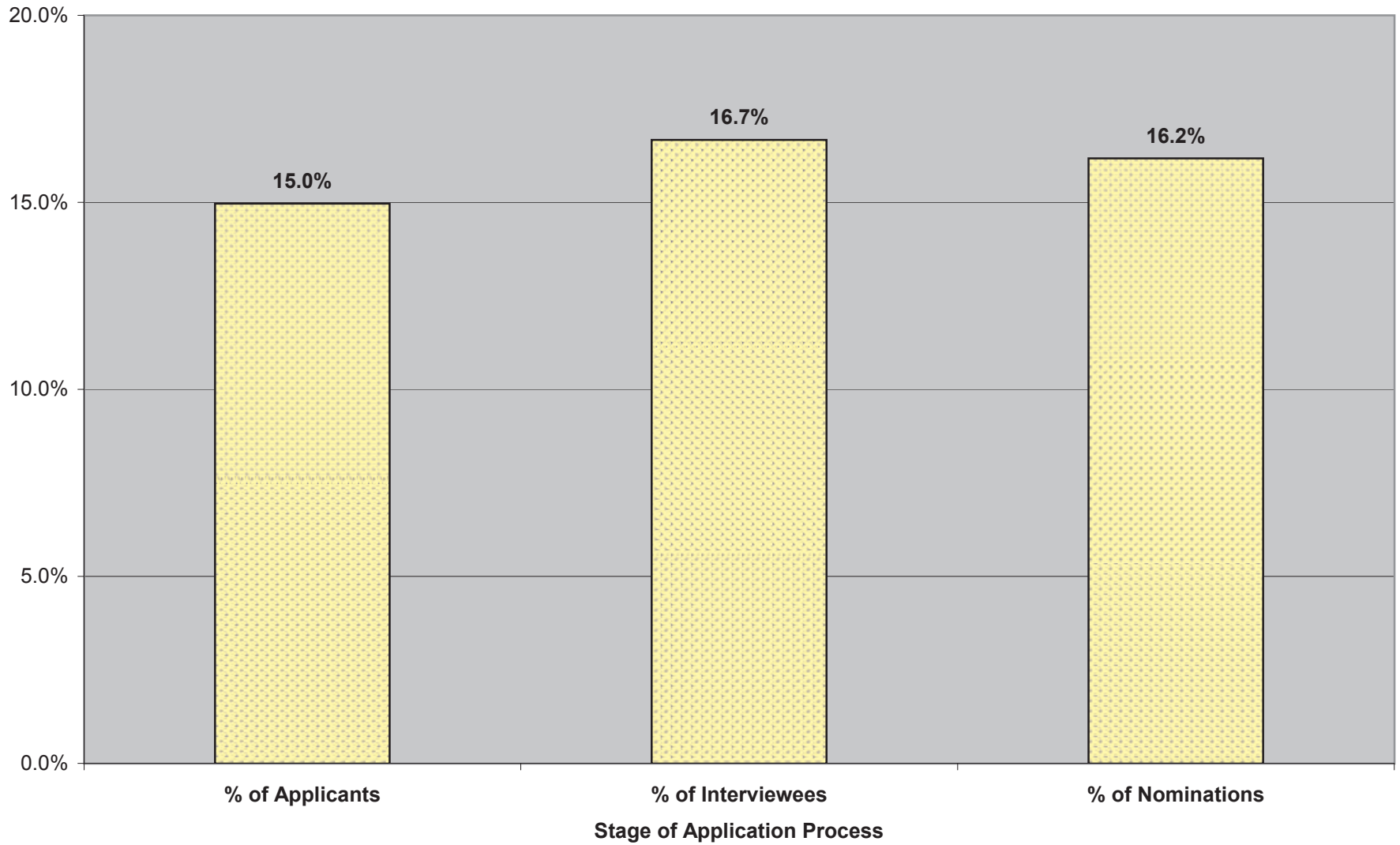


**Female COA Applicants (1997-2008) Compared to Other NYS Metrics**

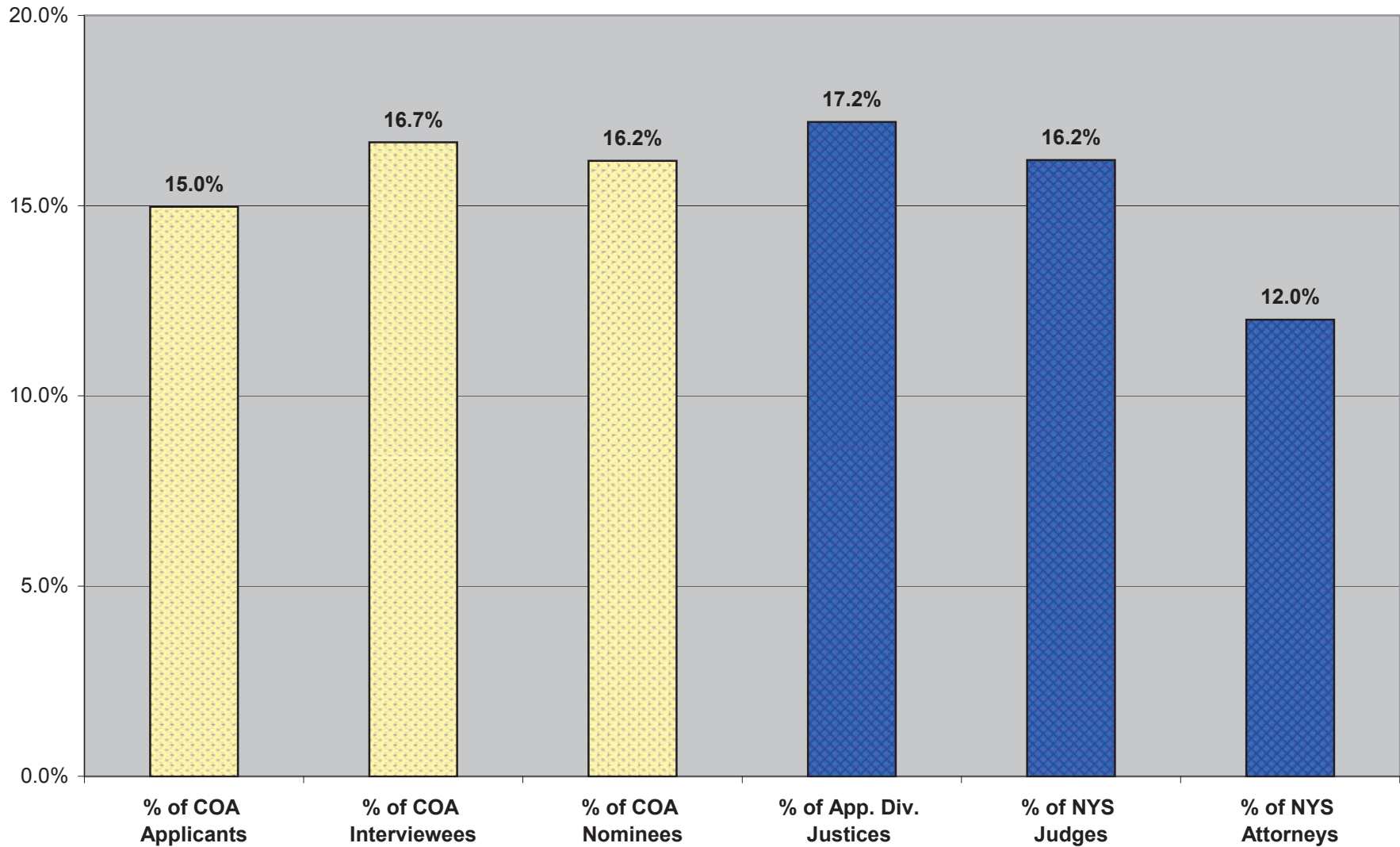


Appellate Division and NYS Judges statistics are provided by Office of Court Administration, and are current through January 2009.  
NYS Attorneys statistics are drawn from the 2000 U.S. Census.

**Minority Applicants to Court of Appeals, 1997-2008**



**Minority COA Applicants (1997-2008) Compared to Other NYS Metrics**



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NYS Attorneys statistics are drawn from the 2000 U.S. Census.