



Handbook for Iowa Judicial Nominating Commissioners

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**IOWA SUPREME COURT COUNCIL
ON JUDICIAL SELECTION**

FINAL REPORT

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PREFACE TO THE FINAL REPORT

The Iowa Supreme Court Council on Judicial Selection was created in July 1986 to explore the concept of training judicial nominating commissioners. A list of members is appended. These Council members surveyed available literature, reviewed the American Judicature Society **Handbook For Judicial Nomination Commissioners**, the American Bar Association "Guidelines for Reviewing Qualifications of Candidates for State Judicial Office," and compiled the results of questionnaires sent to all 169 judicial nominating commissioners in Iowa.

The Council broadened its charge to include development of the training materials it determined were necessary for judicial nominating commissioners to operate effectively. The Council also offers specific recommendations for policies and procedures that it suggests each judicial nominating commission in Iowa adopt and follow. Finally, the Council offers suggestions for other training media and orientation sessions which should be available to commissioners on an annual basis. It is our hope that the recommendations made will serve as the basis for discussions among nominating commissioners as they attempt to develop procedural guidelines.

The publication of this report and handbook was made possible by a grant from the Iowa Bar Association. Any questions about this report should be directed to the Chair. The Council appreciates the opportunity to be of service to the Court and to all Iowans. The council members have also volunteered to provide training in each of the judicial districts to facilitate each commission's preparation of its own handbook. A training session in Des Moines with the American Judicature Society has also been funded by the Iowa Bar Foundation.

Respectfully submitted,



Celeste F. Bremer
Chairperson
September 1987

*The 1987 **Handbook** was updated in April 1996

**MEMBERS OF THE IOWA SUPREME COURT
COUNCIL ON JUDICIAL SELECTION
1987**

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Philip J. Willson, Past President, The Iowa State Bar Association

FINAL REPORT AND RECOMMENDATIONS SUPREME COURT COUNCIL ON JUDICIAL SELECTION

The judicial selection process in Iowa for all levels of courts is the "merit system" involving elected and appointed commissioners, who review qualifications of applicants and then nominate a statutory number of candidates to an appointing authority. These commissioners represent the public, and are chosen without reference to political affiliations. This system was adopted as an amendment to the Iowa Constitution.

This Council's review of the procedures used by the various state, district, and magistrate nominating commissions found that they generally meet the objective of providing a sound and fair system to nominate the best qualified applicants.

By sharing reported experiences of commissioners and learning from published articles and systems promoted by the American Bar Association and American Judicature Society, the Council has determined improvements which can be made to Iowa's system. These include:

- A. Annual orientation sessions for all nominating commissioners;
- B. Training materials available for each commissioner;
- C. Procedures and guidelines adopted and published by each commission; and
- D. Reimbursement of expenses of judicial nominating commissioners for training and commission meetings.

The following are the specific recommendations and materials developed by the Council for use as a model by nominating commissions. We are interested in feedback from commissioners and invite comments to be directed to the Chairperson or State Court Administrator.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

1. TRAINING/PER DIEM

GOAL To educate and support judicial nominating commissioners in order to ensure participation by all commissioners.

COMMENT The current system depends upon each of the 169 commissioners finding sufficient time to research the applicable law, policies guidelines, current literature as to commission operation and then allocating additional time for interviews, review of applications, checking references and attending commission meetings. While there has been every indication that most commissioners are dedicated to these tasks, the judicial hiring process is large enough (there are currently 15 appellate court judges, 108 district court judges, 54 associate district court judges, and 136 magistrates) and significant enough to merit regular funding by the Legislature to cover the cost of training materials and meetings. This budget could be included in and supervised by the Judicial Department to provide at least a biennial training session in each district (as one-third of the commissioners are replaced every two years) and updates to the annual which have been developed by this Council. Further, sufficient funding for a per diem to cover travel/lodging expenses of all state and district commissioners should be allocated to facilitate commissioners' attendance at the general sessions and availability in one location for candidate interviews. A per diem would also encourage commissioners to spend more time in the interviewing and deliberation process.

RECOMMENDATION

The Legislature should fund educational conferences and materials for all judicial nominating commissioners in Iowa. Additionally, all state and district judicial nominating commissioners should be provided with a per diem for days spent interviewing candidates and attending commission meetings.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

2. ANNUAL MEETINGS

GOAL To make training, orientation, and resource materials available to all commissioners.

COMMENT At a minimum, an annual meeting with time allocated solely for training and administrative matters is required for the most effective functioning of a commission. Operational and procedural rules and policies should be adopted before their application in a commission meeting. Also any vacancies on the commission can then be filled, and all members can receive orientation about the work of the commission and be advised of any projected schedule of meetings on upcoming vacancies. A handbook for each commission should be developed and kept current by the Chairperson. Commissions are encouraged to use the sample handbook drafted by this council as a base for their discussions.

RECOMMENDATION

The State and District Court Judicial Nominating Commissions shall meet annually for an orientation session. The chair shall provide each member with orientation materials explaining the operation of the commission as well as notice by projected vacancies on the commission and court. The commission shall adopt rules and procedures which shall be published and made available to anyone requesting a copy from the District and State Court Administrator's Office.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

3. RECRUITING

GOAL To develop a broad base of well-qualified applicants.

COMMENT Because well-qualified candidates will frequently not actively seek judicial appointment, or possibly be unaware of the deadlines for filing an application, commissioners should personally recruit applicants. Commissioners may contact judges, attorneys, community interest groups, and law professors as sources of information and names of possible candidates. Commissioners are encouraged to broaden the base of available applicants by considering candidates with non-traditional backgrounds. When recruiting, a commissioner should make clear to the applicant that solicitation of an application is not a promise of endorsement throughout the commission process. A commissioner who solicits an applicant shall disclose that solicitation to the commission. The commission should determine whether there any forms of recruitment which are not appropriate.

RECOMMENDATION

The commissioners shall actively recruit qualified applicants.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

4. CRITERIA

GOAL Advance adoption of merit selection criteria, with discussion and application of their criteria to candidates before voting.

COMMENT Because of the varied perspectives and opinions commissioners bring to the nominating process, it is important the commission determine, in advance of deliberation, what evaluative criteria will be used. This eliminates confusion and misunderstanding as to the appropriate types of candidates the commission is seeking for the appointing authority. Also, published criteria let potential applicants decide for themselves whether they are sufficiently qualified for the position. Full and open discussion of an applicant's qualifications is required prior to voting to ensure that all commissioners are operating from the same information base and that all relevant data have been considered.

RECOMMENDATION

A commission shall adopt and publish its evaluative criteria before receiving applications. At a general meeting all commissioners shall discuss the qualifications of all applicants before any balloting takes place.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

5. PUBLICITY

GOAL To develop a broad base of qualified applicants.

COMMENT The commission should balance the need and opportunity for obtaining information about the applicant from the general public and Bar with the need to encourage and facilitate a broad spectrum of applications.

A significant detriment to attracting well qualified applicants could be the impact on their practices by general publication of all applicants' names. To be able to apply, perhaps repeatedly, without affecting an applicant's relationship with clients or members of the judiciary is important to the recruitment of quality applicants. Once nominees have been selected, the public and members of the Bar have a mechanism for passing comments to the appointing authority. Commissioners are encouraged to contact references and develop all relevant sources of information about the applicants. Alternatively, a commission may decide that it prefers to have the names of all applicants published prior to its meeting so that sources which the commissioners might otherwise be unaware may contact the commissioners about an applicant's merit and qualifications.

RECOMMENDATION

A commission shall adopt a policy regarding the publication of applicant's names.

A commission may wish to keep the names secret. Alternatively, a commission may choose to disclose the names of all applicants before convening to vote for nominees. If a commission chooses to publish the names of all applicants that policy shall be indicated on the application form.

Regardless of which policy is adopted, commissioners may make appropriate inquiries from any source to gather relevant information about the applicant. The names of the nominees shall be made public when they are sent to the appointing authority.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

6. INTERVIEWS

GOAL To give commissioners sufficient data to enable them to make an informed choice regarding the skills and abilities of the candidates.

COMMENT In fairness to the applicants and to provide all commissioners with a common base of information, sufficient time shall be allocated for individual interviews and discussion of qualifications prior to voting.

Due to the number of applicants there is often insufficient time available during the general commission meeting for more than a perfunctory interview, and no time to digest or research information developed during this interview. Therefore, some commissioners may wish to conduct private interviews with candidates prior to the general commission meeting. To ensure all candidates are given the same opportunities for these interviews and to provide some consistency in the process, notice of the commission's policies and guidelines regarding interviews shall be provided to applicants with their application forms. Commissioners may wish to make themselves available in small groups so that all candidates would have a chance to have a personal interview with all commissioners.

RECOMMENDATION

Individual interviews with each applicant shall be conducted by the commission as a whole. Commissioners, at a closed meeting, shall discuss all applicants' qualifications prior to voting. The commission shall adopt a policy on whether private interviews shall be held prior to the commission meetings and guidelines for private interviews, if allowed. A copy of this policy shall be provided with the application forms.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

7. COURT ADMINISTRATOR

GOAL Efficient processing of commission work while maintaining confidentiality of the applications and procedure.

COMMENT Our survey disclosed that in some districts the Court Administrator participated in the meetings by offering comments about the applicants (as a general reference) or tallying ballots. The confidentiality of the commission's work can be compromised by this procedure. Additionally, there is no statutory authority for the Court Administrator's participation at the meeting. It may also subject the Court Administrator to pressures from the applicants.

RECOMMENDATION

The Court Administrator's Office shall provide required clerical support at the discretion of the chairperson but no one other than commissioners shall be present at any closed meeting of the commission.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

8. DELIBERATION

GOAL Nomination of the best qualified applicants by sharing information on all applicants.

COMMENT Commissioners are encouraged to review applications, contact references and seek relevant information about the applicant. However, to avoid misunderstanding and enable all commissioners to operate on the same basis, the facts and sources relied upon should be disclosed to all the commissioners. If confidentiality has been promised to a source, then commission members can decide whether to give less weight to information from an unattributed source. Of paramount importance is full and fair discussion of all applicants' qualifications before voting.

RECOMMENDATION

The commission shall fully discuss the qualifications of each applicant before voting. During these discussions commissioners shall disclose full details of all interviews, references, and other information sources relied upon. To encourage frank discussion, the substance of deliberations and voting of the commission shall not be disclosed.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

9. CONFLICTS

GOAL Publication of guidelines for disqualification of a commissioner.

COMMENT The commission should determine, before being faced directly with the problem, the circumstances and types of conflicts which disqualify a commissioner from voting and types of relationships between a commissioner and applicant which must be disclosed. This should prevent criticism that a commissioner *manipulated* the voting system to obtain a result favorable to family, friends, or co-workers.

RECOMMENDATION

A commissioner is disqualified from voting on the application of a family member within the third degree of consanguinity or present co-worker. A commissioner shall disclose to the commission any relationship with an applicant (business, personal, attorney-client) or any other possible cause for bias or prejudice towards.

**SUPREME COURT COUNCIL
ON JUDICIAL SELECTION
POLICY RECOMMENDATIONS**

10. VOTING METHODS

GOAL Adoption of a uniform and fair method of voting to be published in the commission guidelines.

COMMENT It is better to decide the voting system, which should be set forth in the commission's published procedures, before accepting applications. This will give the commission time to consider various alternatives. Our survey showed at least six different balloting systems used by the state and district commissions. Some commissioners criticized certain procedures as unfair because of a perceived "preselecting" of nominees, a perceived "hidden agenda," or consideration of factors other than the merit of the candidates such as politics, regionalism, sexism, racism, disability, national origin, color, or creed. Another concern was confusion over balloting procedures. To avoid such criticisms, which undermine confidence in the system, the commission should choose the voting method least susceptible to manipulation. In addition, it may be better to decide before accepting applications or at least prior to balloting, whether to have an open or closed voting procedure. Some commissioners may feel that an open ballot inhibits discussion, but others may be concerned that secret ballots do not promote sufficient discussion. Further, the commissioners should determine prior to voting whether the chairperson should cast votes on each ballot; only in the case of ties, or both.

Below are several types of balloting systems which were considered and specifically rejected by this Council as unfair because they allow balloting to be manipulated:

1. *Bloc*: Each commissioner has a number of votes equal to the number of nominees. These votes can be applied to different candidates, all cast for one candidate, or otherwise apportioned.
2. *Bullet*: Commissioners are allowed to cast fewer votes than the number of nominees, skewing the number of votes a candidate might receive in a round of balloting.
3. *Plunking*: In voting on each nominee's position separately (especially with bullet voting) the commissioners can send to the appointing authority a slate of "strong" and "weak" candidates rather than the total number of top candidates, on the assumption that the "weak" candidates will be rejected. This in effect vitiates the power of the appointing authority. The balloting can be manipulated to give the appearance of a candidate's strength or weakness by trading votes on a particular round or by bloc voting.

4. *Weighted:*

a) Commissioners mark all candidates in numerical order with the most favored given the highest numerical ranking. The lists are collated and those nominees with the highest ranking are submitted to the appointing authority; or

b) Voting for one nominee at a time until the statutory number of nominees is reached.

The voting method used influences the ultimate selection. The easiest system may not be the fairest system, particularly when more than one nominee is to be chosen. The result of voting on a slate of candidates rather than on individual candidates is to avoid a weighted ranking of individual nominees, and instead to present a more accurate reflection of the top candidates as seen by a majority of the commissioners. The integrated voting system recommended is designed to encourage the selection of the best candidates. It substantially reduces the potential for voting manipulation that was criticized in our survey. A similar system has been used by some district commissions in the past. The integrated voting procedure can be set out and discussed in advance, so that all commissioners have notice of the procedure and can understand how the balloting will occur.

RECOMMENDATION

Regardless of the balloting method chosen, a commission should agree in advance to have open or secret balloting and on the role of the chairperson in voting. It is recommended that open discussion of the qualifications of all candidates be followed by secret balloting, with the chairperson voting on each ballot.

An integrated balloting method is recommended; balloting continues until candidates receive a number of votes equal to the majority of the statutory number of commissioners. This system is outlined below:

1. Ballot Round 1 and 2: From the list of all applicants, commissioners vote for the number of nominees to be chosen [i.e., 3 for Supreme Court, 5 for Court of Appeals, 2 for District Court, 3 for Associate District Court]. Commissioners cannot bloc or bullet vote.
2. To stay in the running after Rounds 1 and 2, each applicant must receive the number of votes at least equal to one less than a majority of the statutory number of commissioners [i.e., 7 for State commission, 5 for District commission, 3 for Magistrate commission].
3. Ballot Round 3: Commissioners vote for the number of nominees to be chosen [i.e., 3 for Supreme Court, 5 for Court of Appeals, 2 for District Court, and 3 for Associate District Court]. To be further considered, a candidate must received the number of votes at least equal to a majority of the statutory number of commissioners [i.e., 8 for State commission, 6 for District commission, 4 for Magistrate commission].

4. Subsequent Ballot Rounds: If further rounds of balloting are necessary, each commission votes for one candidate less than the number of nominees required [i.e., 2 for Supreme Court, 4 for Court of Appeals, 1 for District Court, and 2 for Associate District Court].

HANDBOOK FOR IOWA JUDICIAL NOMINATING COMMISSIONERS

**Prepared by the
Iowa Supreme Court
Council on Judicial Selection
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OVERVIEW OF THE IOWA JUDICIAL DEPARTMENT

The Constitution of the State of Iowa vests the powers of government in three departments: the Legislative, Executive, and the Judicial (Article III, Section 1). The Supreme Court is composed of nine justices and exercises supervisory and administrative control over the Judicial Department and all inferior judicial tribunals throughout the state (Article V, Section 4.)

The Iowa Supreme Court has appellate jurisdiction over every kind of case which can be brought in Iowa Courts. This includes appeals from final judgment in civil or criminal cases, interlocutory review, and certiorari actions. The Supreme Court also has original jurisdiction in some cases. The Court of Appeals was created by legislative action in 1976. This six-judge court decides cases referred by the Supreme Court.

Since 1973 Iowa has had a "unified court system." Under this system, all cases begin in district court, not separate divorce courts, juvenile courts, and traffic courts. There is one court system with various jurisdictions.

The unified court system includes three different types of judges at the district court level. First, magistrates handle cases such as traffic violations, simple misdemeanors, and small claims. These judges are chosen by a county magistrate appointing commission. Each magistrate's term is four years; they serve on a part-time basis.

District associate judges hear more serious cases such as serious or aggravated misdemeanors, civil cases not to exceed \$10,000. They can exercise the same jurisdiction as a magistrate. In addition, they can be assigned specially by the chief judge of the district to hear other cases on a temporary basis. A district associate judge is nominated by the county magistrate appointing commission. The district court judges then choose from those nominees.

District court judges have the power to preside over any civil, criminal, or juvenile cases. They are located throughout Iowa in eight judicial districts according to population and caseload. A judicial district nominating commission makes nominations and the Governor selects a district court judge from those nominees. Senior judges are active retired judges and justices who assist at the district or appellate level on temporary assignment.

The Supreme Court has supervisory and administrative control over the judicial department and all 1,900 judicial officers and court employees. The State Court Administrator is the principal administrative officer of the judicial department, subject to the immediate direction and supervision of the Chief Justice. In addition to judicial duties, the Chief Judge of a judicial district supervises all judicial officers and court employees serving within the district. The District Court Administrator assists the Chief Judge in the supervision and administration of the judicial district. The District Court Administrator assists the State Court Administrator in the implementation of policies of the department and in the performance of the duties of the State Court Administrator.

Iowa is unique in its commitment to decentralized administration as well as equitable allocation of resources for its court system. The Supreme Court and State Court Administrator set the basic policy of the judicial department, determining what will best serve the needs of all Iowans. The policies are carried out on the judicial district level. Employment decisions and management responsibilities also are placed at the judicial district level, as well as budgeting and accounting functions.

JOB DESCRIPTION SUPREME COURT JUSTICE

Iowa Code Sections 602.4101 - .4305

A Supreme Court Justice in Iowa is one of the nine members of the court that sits at the apex of Iowa's judicial system. In carrying out its constitutional and legislative duty to operate the judicial branch of government, the court (1) has appellate jurisdiction in equity cases and corrects error in law cases; (2) has original jurisdiction to issue writs and process to secure justice to parties and to implement its other jurisdiction, and (3) has supervisory and administrative responsibility over the Iowa court system. Justices, after appointment, serve for one year and until January 1st of the year following the next retention election after the initial year. They may request retention and have their names placed on the general election ballot for the voters to decide whether they will be retained for a term of eight years. They may seek retention for additional terms but are subject to mandatory retirement at age 72. They are members of the judicial retirement system, and their salaries are determined by the legislature.

Supreme Court justices hear and decide appeals from the district court in every kind of case that can be brought in Iowa courts. Justices must do extensive research and considerable writing. The cases are resolved by written decision and opinions except in those cases where the court determines that written opinion is not necessary. The court also hears and decides original actions, writs, petitions for further review from the Court of Appeals, applications for interlocutory review, petitions for rehearing, and various procedural motions. The Court screens the cases on its docket to determine what cases should be transferred to the Court of Appeals for consideration. Each justice of the Supreme Court has the assistance of a law clerk.

Court members have responsibility for rule-making in the areas of civil and criminal procedure; evidence; appellate procedure; probate procedure; rules of involuntary hospitalization of the mentally ill and involuntary commitment or treatment of substance abusers; district court practice; and rules of conduct of lawyers and judges.

The Court administers attorney and judicial discipline systems. This includes conducting hearings and making disciplinary decisions.

The Court controls licensing of lawyers, the client security and attorney discipline commission, the Continuing Legal Education Commission, and the Interest of Lawyer Trust Account (IOLTA) program. The Court supervises committees, commissions and boards in each major area of responsibility.

The Court must exercise supervisory and administrative control over the judicial department and all judicial officers and court employees. This requires a personnel system and pay plan. Court members employ legal assistants and secretaries. They employ the court administrator, clerk of court, and other key staff personnel. The court is also responsible for the judicial department budget. A

proposed budget must be developed annually and presented for legislative consideration. The Court is responsible for the fiscal affairs of the judicial department.

Court members participate in each of these activities. They also are each assigned liaison duties with the state's eight judicial districts.

Approximately eighty percent of the time of associate justices is spent on case decisions and case conferences. The remaining time is occupied with motion practice, rule-making and other administrative responsibilities.

JOB DESCRIPTION COURT OF APPEALS

Iowa Code Sections 602.5101 - .5205

Judges of the six-member Court of Appeals must have the same qualifications and are subject to the same tenure provision as Justices of the Supreme Court. They serve six-year terms. The Court of Appeals has jurisdiction to decide cases transferred to it by the Supreme Court from its docket according to criteria established and applied by the Supreme Court. These cases are generally of less precedential significance than those decided by the Supreme Court but of no less importance to the parties. The emphasis in the Court of Appeals is on deciding a higher volume of appeals than the Supreme Court based on the nature of the case and the role of the Court of Appeals as an intermediate court. The decisional responsibilities of judges of the Court to Appeals are the same as those of members of the Supreme Court. Each judge of the Court of Appeals has the assistance of a law clerk.

A major difference in responsibility between Court of Appeals Judges and Supreme Court Justices is that Court of Appeals Judges have supervisory and administrative duties only in relation to their own court. They do not engage in rule-making, bar admission, lawyer or judicial discipline, commission, board or committee activities, nor do they have responsibility for fiscal and personnel matters for the department. This frees Court of Appeals judges to concentrate on deciding cases, and the productivity of that court in written opinions is about twice that of the Supreme Court.

JOB DESCRIPTION DISTRICT COURT JUDGE

Iowa Code Sections 602.6101 - .6201

The unified trial court system in Iowa is the "Iowa District Court," which has exclusive general and original jurisdiction over almost all civil, criminal, probate, and juvenile cases in state courts. The District Court Judges may act as District Associate Judges or Magistrates.

There are eight judicial districts in Iowa with District Court Judges appointed to serve for the district in which they reside. The number of judges in each district is based on population and caseload. Usually the judge will be assigned on a rotation basis to various counties throughout the District. District Judges therefore travel long distances and may be required to spend long hours on the job.

On Court Service Days, the judge may preside over arraignments, guilty pleas, sentencing, and juvenile hearings, as well as hearings on motions in criminal and civil cases. Decisions must be made in a timely fashion in order to expedite the judicial process.

During a jury trial the judge is responsible for the supervision and instruction of the jury. After a trial to the Court the judge must research and decide the case in a timely fashion. District Judges share the services of several law clerks in the district.

A judge's administrative obligations include judicial committee work and personnel matters involving court administrators, court attendants, clerks, and court reporters.

It is most desirable that the person acting as judge be kind, considerate, patient, attentive, and thorough, as well as firm and direct when the occasion requires. A judge should have a well-rounded background with enough experiences in life to be fair and objective.

**JOB DESCRIPTION
DISTRICT ASSOCIATE JUDGE**

Iowa Code Sections 602.6301 - .6306

Qualifications

In order to qualify for appointment as a District Associate Judge, a person must be a resident of the county in which a vacancy exists, a lawyer licensed to practice law in Iowa and able to complete a four-year term of office before reaching age 72.

District Associate Judges must retain their residency in the county of appointment and are subject to retention vote within the election district every four years.

Jurisdiction

A District Associate Judge's jurisdiction includes all the duties of a Magistrate plus civil actions for money judgment where the amount in controversy does not exceed \$10,000, involuntary commitments, serious and aggravated misdemeanors, and felony violations of operating a motor vehicle while intoxicated.

Upon appointment by the Chief Judge, a District Associate Judge may serve as the Juvenile Court Judge for one or more counties within the district. Under limited circumstances, a District Associate Judge may temporarily assume the duties of a District Judge, as authorized by the Chief Judge. A District Associate Judge exercises limited appellate jurisdiction in connection with rulings entered by Magistrates in small claims and simple misdemeanor cases.

JOB DESCRIPTION MAGISTRATE

Iowa Code Sections 602.6401 - .6404

Qualifications

A Magistrate must be an elector of the county of appointment during the Magistrate's term of office and less than 72 years of age at the time of appointment. Admission to the practice of law in this state is not a requirement for appointment, but the Magistrate appointing commission shall first consider applicants who are admitted to practice law. About two-thirds of the Magistrates are law-trained. The term of office of a Magistrate is four years, commencing August 1, 1989. The Magistrate position is considered a part-time job with most Magistrates engaged in other employment such as the practice of law.

Jurisdiction

Ordinarily, a Magistrate holds court in the Magistrate's county of residence but, if necessary for the orderly administration of justice, may be assigned by the Chief Judge to serve in any county within the judicial district in which appointed. The magistrate has limited jurisdiction over criminal and civil proceedings as follows:

1. Criminal

Magistrates have jurisdiction to issue search and arrest warrants, hold preliminary hearings, and preside at initial appearances for all classes of criminal defendants. At the initial appearance, the magistrate must notify defendants of their constitutional rights, appoint counsel if necessary and set bail. Magistrates preside at trials of simple misdemeanors including traffic and ordinance violations, both jury and non-jury. In connection with all simple misdemeanors, Magistrates have the jurisdiction to enter pleas of guilty and pronounce sentence.

2. Civil

Magistrates preside at the trial of small claims actions and hearings on petitions for forcible entry and detainer. Jurisdiction in small claims is restricted to damage claims not exceeding \$4,000. Magistrates usually rule from the bench orally in these matters but sometimes issue written opinions.

Additionally, Magistrates make findings and enter orders in connection with emergency mental health commitments. Magistrates may also perform weddings. Because of the emergency nature of many duties assigned to Magistrates (issuance of arrest and search warrants, mental health commitments) Magistrates must be available to serve at times other than customary business hours.

STATUTORY PROCEDURES STATE JUDICIAL NOMINATING COMMISSION

I. Generally

The State Judicial Nominating Commission recommends to the Governor nominees to fill vacancies on the Iowa Supreme Court and the Iowa Court of Appeals. The commission consists of a chairperson, as well as one elected and one appointed member from each congressional district. "Congressional district" refers to Iowa congressional districts in effect in 1966. There are seven such districts. See Appendix A. These congressional districts are different from "judicial districts," defined in Iowa Code Section 602.6107, or "judicial election district," defined in Iowa Code Section 602.6109. See Appendices B and C.

II. Procedure for Filling Court Vacancy.

The procedure for nominating persons to fill court vacancies is set out in the Iowa Constitution, Iowa Code Chapter 46 and in the Commission's Internal Rules of Procedure.

When a vacancy on the Supreme Court or Court of Appeals occurs or will occur within 120 days, the state commissioner of elections must notify the chairperson of the State Judicial Nominating Commission. Iowa Code Section 46.12. The chairperson must call a meeting of the commissioners within ten days of that notice. Id. If the chairperson fails to do so, the Chief Justice shall call the meeting. Id.

Within sixty days of receiving the notice of vacancy, the Commission must certify to the Governor and the Chief Justice the names of the nominees, in alphabetical order. Iowa Code Section 46.14; Internal Rule 3.3(2)(b). The names of three nominees are presented to fill a Supreme Court vacancy and the names of five nominees are presented to fill a Court of Appeals vacancy. Iowa Const. Art. V, Section 15; Iowa Code Section 46.14; Internal Rule 3.3(2)(b).

Within thirty days of the certification of the names of nominees, the Governor must appoint one of the nominees to fill the vacancy. Iowa Code Section 46.15. If the Governor fails to make the appointment within thirty days, the Chief Justice must make the appointment from the list of nominees. Id.

Nominees are chosen by a majority of the statutory number of commission members on the basis of their qualifications and without regard to political affiliation. Iowa Const. Art. V, Section 16; Iowa Code Section 46.14. Nominees must be members of the Iowa bar, residents of the state and of an age such that they can serve an initial term and one regular term of office before reaching age 72. Iowa Code Section 46.14. The "initial term" is "one year after appointment and until January 1 following the next judicial election after expiration of such year." Iowa Code Section 46.16(1)(a). A "regular term" for a supreme court justice is eight years. Iowa Code Section 46.16(1)(b).

In choosing nominees, Commissioners should consider all persons who have applied, who have been recommended as good candidates or who have been sought out. The internal operating rules of this commission require that Commission members shall investigate the qualifications, both personal and professional, of candidates under consideration, and that commission members may personally interview candidates.

III. Commissioners

Chairperson. The chairperson of the State Judicial Nominating Commission is the Supreme Court Justice of the longest service, other than the Chief Justice. Iowa Const. Art. V, Section 16; Iowa Code Section 46.6. If the Justices of the longest service are of equal service, then the eldest of those Justices serves as chairperson. Iowa Code Section 46.6.

Appointed Commission Members. The Governor appoints, subject to Senate confirmation, one eligible elector from each congressional district to the State Judicial Nominating Commission. Iowa Code Section 46.1. "Congressional district" refers to the congressional districts in effect in 1966. See Appendix A. The appointment is for a six year term. The terms are staggered so that no more than three nor less than two of the members' terms will expire within the same two-year period. Iowa Code Section 46.1. Commissioners are ineligible for a second term. Iowa Const. Art. V, Section 16. No more than a simple majority of the members appointed shall be of the same gender. Iowa Code Section 46.1.

The Governor must promptly certify to the State Commissioner of Elections and to the Commission chairperson the names and addresses of appointive commissioners. Iowa Code Section 46.11.

Elected Commission Members. The resident members of the Bar of each congressional district elect one eligible elector of that district to be a member of the State Judicial Nominating Commission for a six-year term. Iowa Code Section 46.2. Elections occur in January and the commissioner's term begins July 1. Id. The terms are staggered so that no more than three nor less than two members' terms expire within the same two-year period. Id. Commissioners are ineligible for a second term. Iowa Const. art. V, Section 16. For the first elective term open on or after July 1, 1987, in the odd-numbered districts the elected member shall be a woman and in the even-numbered districts the elected member shall be a man. Thereafter, those districts shall alternate between women and men elected members. Iowa Code Section 46.2.

To be eligible to vote in the election of a commissioner, a member of the Bar must be a resident of the state of Iowa and of the appropriate congressional district as shown by the member's most recent filing with the Supreme Court for the purposes of showing compliance with the court's continuing legal education requirements, or for members who are not required to file such compliance, any paper which the Supreme Court deems sufficient to establish eligibility to vote. Iowa Code Section 46.7. "Congressional district" refers to the congressional districts in effect in 1966. See Appendix A. On July 15 of each year, the Clerk of the Supreme Court must provide to each District Court Clerk a certified list of the name, address and year of admission of each Bar member eligible to vote in a judicial nominating commission election. Iowa Code Section 46.8. The Supreme Court Clerk must mail notice of commissioner elections to each eligible elector. Iowa Code Section 46.9A.

When an election for Judicial Nominating Commissioner is held, the Supreme Court Clerk must mail ballots to the resident members of the Bar. Iowa Code Section 46.9. The form for the ballot is set out in the statute. Id. Ballots must be mailed or delivered to the Supreme Court Clerk before the election period expires (by January 31). Id. The elector receiving the most votes is elected. Id. If more than one position must be filled, the electors receiving the most votes will be elected, in the same number as the offices to be filled. Id.

Electors become eligible by filing with the Supreme Court Clerk a petition signed by at least fifty (50) resident members of the appropriate congressional district. Iowa Code Section 46.10.

"Congressional district" refers to the congressional districts in effect in 1966. See Appendix A. The petition must be filed at least thirty days before expiration of the period within which the election must be held (that is, by December 31). Id. No member of the bar may sign more nominating petitions than there are commissioners to be elected. Id.

The Supreme Court Clerk must promptly certify to the State Commission of Elections and to the Commission chairperson the names and addresses of elective commissioners. Iowa Code Section 46.11.

Vacancies--Appointed Commission Members. When a vacancy occurs on the State Judicial Nominating Commission, the chairperson of the Commission must notify the governor in writing. Iowa Code Section 46.5. The Governor appoints a replacement, consistent with eligibility requirements, whose term begins upon confirmation by the Senate. Iowa Code Section 46.5.

Vacancies--Elected Commission Members. If the vacancy on the State Judicial Nominating Commission occurs less than 90 days before the term expires, the vacancy is not filled. Iowa Code Section 46.5. If more than 90 days remain before the term expires, a special election is held to fill the vacancy on the Commission. Id. The special election is conducted in the same manner as a regular election. Id. Notice of the vacancy must be mailed to all eligible electors by the Supreme Court Clerk. Iowa Code Section 46.5.

STATUTORY PROCEDURES DISTRICT JUDICIAL NOMINATING COMMISSION

I. Generally

The District Judicial Nominating Commission recommends to the governor nominees to fill vacancies within the judicial election district. A "judicial election district" is defined in Iowa Code Section 602.6109. See Appendix C. It is different from a "judicial district," defined in Iowa Code Section 602.6107. See Appendix B. The commission consists of five members appointed by the governor and five members elected by the Bar as well as a ~~chairperson~~, who is the District Judge of the longest service.

II. What the Commission Does

The procedure for naming candidates to fill vacancies on the District Court Bench is set out in the Iowa Constitution, Iowa Code Chapter 46 and in the Internal Operating Rules of each District Commission.

When a vacancy on the District Court occurs or will occur within 120 days, the state commissioner of elections must notify the chairperson of the District Judicial Nominating Commission. Iowa Code Section 46.12. The chairperson must call a meeting of the commissioners within ten days of that notice. Id. If the chairperson fails to do so, the Chief Justice shall call the meeting. Id.

Within sixty days of receiving the notice of vacancy, the Commission must certify to the governor and chief justice the names of two nominees, in alphabetical order. Iowa Const. Art. V, Section 16; Iowa Code Section 46.14.

Within thirty days of the certification of the names of the nominees, the Governor must appoint one of the nominees to fill the vacancy. Iowa Code Section 46.15. If the Governor fails to make the appointment within thirty days, the Chief Justice must make the appointment from the list of nominees. Id.

Choosing Nominees. Nominees are chosen by a majority of the statutory number of commission members on the basis of their qualifications and without regard to political affiliation. Iowa Code Section 46.14; Iowa Const. art. V, Section 16. Nominees must be members of the Iowa bar, residents of the district and of an age such that they can serve an initial term and one regular term of office before reaching age 72. Iowa Code Section 46.14. The "initial term" is "one year after appointment and until January 1 following the next judicial election after expiration of such year." Iowa Code Section 46.16(1)(a). A "regular term" for a District Court Judge is six years. Iowa Code Section 46.16(1)(b). No commissioner can be eligible to be a nominee. Id.

III. Commissioners

Chairperson. The chairperson of the District Judicial Nominating Commission is the district court judge of the longest service. Iowa Const. Art. V, Section 16; Iowa Code Section 46.6. If the judges

of the longest service are of equal service, then the eldest of those judges serves as chairperson. Iowa Code Section 46.6.

Appointed Commission Members. The governor appoints five members of each District Judicial Nominating Commission. Iowa Code Section 46.3. The terms of appointed members are staggered so that one or two new members are appointed every even numbered year. Id. Each appointee serves a six-year term. Id. Commissioners are ineligible for a second term. Iowa Const. art. V, Section 16. No more than a simple majority of the commissioners appointed shall be of the same gender. Iowa Code Section 46.3.

The Governor must promptly certify to the state commissioner of elections and to the Commission chairperson the names and addresses of appointive commissioners. Iowa Code Section 46.11.

Elected Commission Members. The resident members of each judicial district elect five members of the District Judicial Nominating Commission. Iowa Code Section 46.4. Elections occur in January and the commissioner's six-year term begins February 1. Id. The terms of elected members are staggered so that one or two members are elected every even-numbered year. Id. Commissioners are ineligible for a second term. Iowa Const. Art. V, Section 16. Beginning with the January 1988 election, the election of commissioners must alternate between a woman and a man so that no more than a simple majority of the commissioners shall be of the same gender. Iowa Code Section 46.4.

To be eligible to vote in the election of a commissioner, a member of the Bar must be a resident of the state of Iowa and of the appropriate election district (See Appendix C) as shown by the member's most recent filing with the Supreme Court for the purposes of showing compliance with the Court's continuing legal education requirements, or for members who are not required to file such compliance, any paper which the Supreme Court deems sufficient to establish eligibility to vote. Iowa Code Section 46.7. On July 15 of each year, the Clerk of the Supreme Court must provide to each District Court Clerk a certified list of the name, address and year of admission of each bar member eligible to vote in a judicial nominating commission election. Iowa Code Section 46.8. The Supreme Court Clerk must mail notices of commissioner elections to each eligible elector. Iowa Code Section 46.9A.

When an election for District Judicial Nominating Commissioner is held, the Supreme Court Clerk must mail ballots to the resident members of the Bar. Iowa Code Section 46.9. The form for the ballot is set out in the statute. Id. Ballots must be mailed or delivered to the Supreme Court Clerk before the election period expires (by January 31). Id. The elector receiving the most votes is elected. Id. If more than one position must be filled, the electors receiving the most votes will be elected, in the same number as the offices to be filled. Id.

Electors become eligible by filing with the Supreme Court Clerk a petition signed by at least ten (10) resident members of the district. Iowa Code Section 46.10. The petition must be filed at least thirty days before expiration of the period within which the election must be held (that is, by December 31). Id. No member of the Bar may sign more nominating petitions than there are commissioners to be elected. Id. The Supreme Court Clerk must promptly certify to the state commission of elections and to the Commission chairperson the names and addresses of elective commissioners. Iowa Code

Section 46.11.

Vacancies--Appointed Commission Members. When a vacancy occurs on the District Judicial Nominating Commission, the chairperson of the Commission must notify the Governor in writing. Iowa Code Section 46.5. The governor appoints a replacement, whose term begins immediately. Id.

Vacancies--Elected Commission Members. If a vacancy occurs on the District Judicial Nominating Commission, a meeting pursuant to Iowa Code Section 46.13 shall be called. Iowa Code Section 46.5. The vacancy shall be filled by a majority vote of the authorized number of ~~elective members~~ of the Commission, consistent with eligibility requirements. Iowa Code Section 46.5. Notice of the vacancy must be mailed to all eligible electors by the Supreme Court Clerk. Iowa Code Section 46.5.

STATUTORY PROCEDURES MAGISTRATE APPOINTING COMMISSION

I. Generally

The Magistrate Appointing Commission recommends to the District Judges of the judicial district (See Appendix B) nominees to fill vacancies as Associate District Judge. Iowa Code Section 602.6304(1). The Magistrate Appointing Commission actually appoints Magistrates itself. Iowa Code Section 602.6403. Each county has a ~~Magistrate Appointing Commission~~, which consists of a designated district judge, three appointed members and two elected members. Iowa Code Section 602.6501.

II. Procedure for Filling Associate District Court Vacancy.

The procedure for filling vacancies on the associate district court are set out in Iowa Code Sections 602.6304(2)-(4). There are two types of situations in which a vacancy may occur: first, as a result of a District Associate Judge not being retained pursuant to a judicial election; and second, as a result of the death, retirement, resignation or removal of a District Associate Judge or as a result of an increase in the number of district associate positions authorized. Iowa Code Sections 602.6304(2)-(3).

If a District Associate Judge is not retained pursuant to a judicial election in November, the Magistrate Appointing Commission must publicize the vacancy in at least two publications in the official county newspaper. Iowa Code Section 602.6304(2). The Commission shall accept applications until 15 days before certifying, by majority vote, the names of its three nominees to the Chief Judge of the District. Id. Certification must occur on or before December 15. Id. If there are three or fewer applicants, the Commission shall certify the names of all statutorily qualified applicants. Id.

If the vacancy occurs for some reason other than a judicial retention election, the Commission shall publicize notice of the vacancy in at least two publications in the official county newspaper, and shall accept nominations until 15 days before certifying, by majority vote, the names of its three nominees to the Chief Judge of the District. Iowa Code Section 602.6304(3). Certification must occur within 30 days after notification of an actual or impending vacancy. Id. If there are three or fewer applicants, the Commission shall certify the names of all statutorily qualified applicants. Id.

Nominees for District Associate Judge should be chosen solely on the basis of qualifications, and without regard to political affiliation. Iowa Code Sections 602.6304(2), (3). Within 15 days of certification of the nominees, the District Judges in the judicial election district must, by majority vote, appoint one of the nominees to fill the District Associate Judge vacancy.

Procedure for Filling Magistrate Vacancy. The procedure for filling a vacancy in Magistrate court are set out in Iowa Code Section 602.6403.

In June of each year in which magistrates' terms expire, the County Magistrate Appointing Commission shall appoint the number of Magistrates apportioned to that county by the State Court Administrator. Iowa Code Section 602.6403(1). That apportionment must be done in March of each odd-numbered year. Iowa Code Section 602.6401(4).

When a vacancy occurs, the Commission shall publish notice of the vacancy in at least two publications in the official county newspaper. Iowa Code Section 602.6403(2). The Commission must accept applications for at least 15 days before making an appointment. The appointment must be made within 30 days of the notice of vacancy. ~~Iowa Code Section 602.6403(3). The Commission~~ must promptly certify the names of the appointees to the Chief Judge of the District, and the Clerk of the District Court, who in turn must promptly certify the names of the appointees to the State Court Administrator. Iowa Code Section 602.6403(5).

III. How Commissioners are Chosen

The Chief Judge of the District must designate one District Judge to sit on the Magistrate Appointing Commission. Iowa Code Section 602.6501(1)(a).

Appointed Commission Members. The County Board of Supervisors appoints three electors to the Commission for six year terms. Iowa Code Section 602.6503(1). If only one lawyer member is elected to the Commission, only two commissioners can be appointed; if no lawyer members are elected, only one Commissioner can be appointed. Id. A county attorney or an active law enforcement officer is not eligible to be appointed to the commission. Iowa Code Section 602.6503(2).

Elected Commission Members. The resident attorneys of the county shall elect two attorneys to the Magistrate Appointing Commission for six-year terms. Iowa Code Section 602.6504(1). The election must be held in December preceding the commencement of new terms. Id. The resident attorneys may elect only one lawyer member if there is only one who is qualified and willing to serve, or if there are no resident attorneys who are willing to serve, none shall be elected. Id.

In order to be placed on the ballot, an eligible attorney elector must file a nomination petition in the district court clerk's office on or before November 30 of the year in which the election for attorney positions is to occur. Write-in votes are permitted regardless of whether a nominating petition was filed. Iowa Code Section 602.6504(3A).

To be eligible to vote in the election of a commissioner, a member of the Bar must be a resident of the county as shown by the member's most recent filing with the Supreme Court for the purposes of showing compliance with the court's continuing legal education requirements, or for members who are not required to file such compliance, any paper which the Supreme Court deems sufficient to establish eligibility to vote. Iowa Code Sections 46.7; 602.6504(3).

APPENDIX A
Congressional Districts
(in effect in 1966)

District 1

Iowa, Johnson, Cedar, Scott, Muscatine, Louisa, Washington, Jefferson, Henry, Des Moines, Lee, Van Buren.

District 2

Winnebago, Allamakee, Clayton, Fayette, Buchanan, Delaware, Dubuque, Jackson, Clinton, Jones, Linn.

District 3

Winnebago, Worth, Mitchell, Howard, Chickasaw, Floyd, Cerro Gordo, Hancock, Wright, Franklin, Butler, Bremer, Black Hawk, Grundy, Hardin, Hamilton.

District 4

Marshall, Tama, Benton, Poweshiek, Jasper, Warren, Marion, Mahaska, Keokuk, Wapello, Monroe, Lucas, Clarke, Union, Ringgold, Decatur, Wayne, Appanoose, Davis.

District 5

Webster, Boone, Story, Polk.

District 6

Lyon, Osceola, Dickinson, Emmet, Kossuth, Palo Alto, Clay, O'Brien, Sioux, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Calhoun, Sac, Ida, Woodbury.

District 7

Monona, Crawford, Carroll, Greene, Dallas, Guthrie, Audubon, Shelby, Harrison, Pottawattamie, Cass, Adair, Madison, Adams, Montgomery, Mills, Fremont, Page, Taylor.

APPENDIX B
Judicial Districts - 1988

District 1

Dubuque, Delaware, Clayton, Allamakee, Winneshiek, Chickasaw, Fayette, Buchanan, Black Hawk, Howard, Grundy.

District 2

Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, Franklin, Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, Carroll, Greene, Hardin, Marshall, Story, Boone.

District 3

Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista, Plymouth, Sioux, Woodbury, Ida, Monona, Crawford.

District 4

Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, Page.

District 5

Guthrie, Dallas, Polk, Jasper, Madison, Warren, Marion, Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, Wayne.

District 6

Tama, Benton, Linn, Jones, Iowa, Johnson.

District 7

Jackson, Clinton, Cedar, Scott, Muscatine.

District 8

Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, Van Buren, Louisa, Henry, Des Moines, Lee.

APPENDIX C
Judicial Election Districts

District 1A: Dubuque, Delaware, Clayton, Allamakee, Winneshiek.

District 1B: Chickasaw, Fayette, Buchanan, Black Hawk, Howard, Grundy.

District 2A: Mitchell, Floyd, Butler, Bremer, Worth, Winnebago, Hancock, Cerro Gordo, Franklin.

District 2B: Wright, Humboldt, Pocahontas, Sac, Calhoun, Webster, Hamilton, ~~Carroll~~, Greene, Hardin, Marshall, Story, Boone.

District 3A: Kossuth, Emmet, Dickinson, Osceola, Lyon, O'Brien, Clay, Palo Alto, Cherokee, Buena Vista.

District 3B: Plymouth, Sioux, Woodbury, Ida, Monona, Crawford.

District 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, Page.

District 5A: Guthrie, Dallas, Jasper, Madison, Warren, Marion.

District 5B: Adair, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, Wayne.

District 5C: Polk.

District 6: Tama, Benton, Linn, Jones, Iowa, Johnson.

District 7: Jackson, Clinton, Cedar, Scott, Muscatine.

District 8A: Poweshiek, Mahaska, Keokuk, Washington, Monroe, Wapello, Jefferson, Appanoose, Davis, Van Buren.

District 8B: Louisa, Henry, Des Moines, Lee.

EVALUATIVE CRITERIA FOR JUDICIAL SELECTION

In choosing judicial nominees based on merit, commissioners must first determine the evaluative criteria to be used in the selection process.

The selection of judicial nominees is an important process. It is the personnel and hiring process of the state judicial system. The selection process should be based on merit and ability.

Some criteria are improper and should not be considered at all. These include sex, race, creed, religion, disability, national origin and politics. Age also should not be considered, except insofar as it is necessary to address whether the statutory age requirement is met.

There are other criteria, such as regionalism, that may not be related to merit, but that nevertheless may come into play. If commissioners are going to consider criteria that are not related to merit, they must discuss these criteria before voting, and the criteria should be recognized for what they are--criteria unrelated to merit. Such factors should not be controlling in the selection process, as the process is intended to be based on merit.

For example, one such factor unrelated to merit is that of regionalism; i.e., when an applicant's place of residence is considered as a positive or negative factor. While consideration of regionalism has a historical background, the reason for its initial consideration may no longer exist with today's technology which affords ease in communication and transportation. The following examination of criteria focuses on the many facets of an effective judge. It discusses the general attributes of all judges and the more specific attributes of trial-level and appellate-level judges.

CRITERIA FOR SELECTING JUDGES --QUALITIES OF ALL JUDGES

1. Integrity

The focal point of the judicial system is the integrity of the judge. A judge, whose decisions will affect the lives of many, must be able to put aside personalities and partisan political influences and to base decisions solely on the facts and the applicable law. Integrity means intellectual honesty, fairness, impartiality, moral vigor, professional uprightness and unswerving ethics. A candidate should be known to make representations that can be relied upon. The evaluator should consider a candidate's disciplinary record, if any. A candidate should be able to recognize his or her own biases and set them aside. A candidate should also demonstrate financial responsibility, that is, self-discipline and the ability to withstand pressures that might compromise independence and impartiality.

2. Professional Skills

The candidate should be a licensed attorney who has gained a high degree of knowledge of established legal principles and procedures. Legal analytic ability is important. However, experience on the Bench is not a requirement for appellate service. The candidate should possess intelligence, a

capacity for abstract thought and intellectual curiosity. Knowledge of a particular substantive area is less important than an attitude showing a willingness to learn new skills and knowledge necessary to adapt to new assignments and a willingness to improve judicial procedure and administration. In evaluating professional skills it is helpful to examine the candidate's academic record, length and type of experience, participation in continuing legal education forums, legal briefs and other writings and reputation among judges and professional colleagues who have dealt with the candidate firsthand.

3. Diligence and Industry

Given the demands of increased caseloads in the courts, it is imperative for a candidate to have exhibited diligence and industriousness. The candidate should show a willingness to devote sufficient, or even extra, time to complete the tasks undertaken. The candidate should possess good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished. A judge must be willing and able to make decisions with confidence and without hesitation, and to manage time and ensure that any judicial staff work at peak efficiency. Punctuality is also important. The candidate should be known to meet deadlines, keep commitments, and respect the time of other lawyers, clients, and judges.

4. Judicial Temperament

Among the qualities that comprise judicial temperament are dignity, patience, open mindedness, courtesy, tact, firmness, understanding, compassion and humility. Because the judicial function is essentially one of facilitating conflict resolution, judicial temperament requires an ability to deal with counsel, jurors, witnesses and parties calmly and courteously, and the willingness to hear and consider the views of all sides. It requires the ability to be even tempered, yet firm; open minded, yet willing and able to reach a decision; confident, yet not egocentric. Because of the range of topics and issues with which a judge may be required to deal, judicial temperament requires a willingness and ability to assimilate data outside the judge's own experience. It requires, moreover, an even disposition, buttressed by a keen sense of justice which creates an intellectual serenity in the approach to complex decisions, and forbearance under provocation. Judicial temperament also implies a mature sense of proportion; reverence for the law, but appreciation that the role of law is not static and unchanging; understanding of the judge's important role in the judicial process, yet recognition that the administration of justice and the rights of the parties transcend the judge's personal desires. Judicial temperament is typified by recognition that there must be compassion as the judge deals with matters put before him or her. Judicial temperament thus implies an absence of arrogance, impatience, pomposity, loquacity, irascibility, arbitrariness or tyranny.

5. Health and Stamina

Because of the high demands of judicial office, candidates should be physically and mentally healthy. Physical handicaps or diseases which do not prevent a person from performing judicial duties should not disqualify a candidate. Candidates should possess alertness and emotional stability with a demonstrated ability to handle the stress and pressures inherent in the judicial role.

6. Public Service

A candidate's non-legal experience contributes to the rich diversity of the judiciary. The degree of participation in public service and *pro bono* activities may indicate social consciousness and consideration of others. A judge's participation in community activities may enhance the public's view of the Court and at the same time make the judge more sensitive to the problems and concerns of attorneys and clients appearing before them. The most desirable candidate will have had broad life experiences.

There should be no issue-oriented litmus test for selection of a candidate. No candidate should be excluded from consideration because of race, creed, sex, marital status or political affiliation. A candidate's judicial philosophy and ideas about the judicial system in our scheme of government are relevant subjects of inquiry.

ADDITIONAL QUALITIES OF APPELLATE JUDGES

1. Collegiality

Appellate Judges write their decisions in isolation from lawyers, jurors, witnesses and litigants. They do, however, work closely with the other appellate judges. The appellate judge must be loyal to the appellate court as an institution and to the appellate court as a collection of diverse individuals whose purpose is to express the law. Collegiality requires judges to understand and respect their colleagues' differing views. Personality disputes must be minimized and the art of compromise developed. An appellate judge must be capable of both giving and receiving criticism.

2. Writing Ability

Appellate judges spend a great deal of time writing opinions, many of which will be published. It is therefore crucial that they be able to produce understandable opinions. The judge's written opinion should persuade the reader through its logic and internal coherence.

3. Background

Whether or not an applicant for an appellate judge position is at present on the Bench should not be considered a significant or controlling factor. Proven abilities in legal writing and logic are the primary skills which an applicant should possess. These can be demonstrated in many forms of experience other than service at the trial court level.

ADDITIONAL QUALITIES OF TRIAL JUDGES

1. Decisiveness

A trial judge must be able to make quick decisions under pressure. A trial judge must be able to rule on motions and objections quickly in order to keep cases moving. A trial judge must be able to quickly assimilate law and facts to respond to issues raised by counsel with confidence and without hesitation. The judge must be willing to make hard decisions and be able to rule with firmness. The trial judge has fewer opportunities to issue written opinions.

2. Ability to Communicate

A trial judge should speak effectively in order to be understood by those appearing before the Bench as well as by visitors in the courtroom. Communication skills are vitally important in dealing with litigants who are unrepresented by counsel and in communicating with jurors. The Judge must be able to give the jury an understanding of its role and instruct the jurors on the law using plain language. Mediation skills are frequently required to facilitate settlement or resolve disputes between lawyers or litigants.

APPLICATION FORM

Provide answers on a separate page and return it with the completed release of information to the Court Administrator's Office no later than _____.

The names of applicants will/will not be released to the public. Commissioners may make inquiry of any sources they deem necessary to determine an applicant's qualifications

I. PERSONAL DATA.

- A. Full name.
- B. Home and office addresses and phone numbers.
- C. Have you ever failed to file your state or federal income tax return? If so, please explain. You may rely upon your 5th Amendment right not to answer.
- D. Have you ever been convicted of a crime other than a traffic violation? If so, include the details of each conviction.
- E. Have you ever been disciplined, cited for a breach of ethics or unprofessional conduct, or been the subject of a complaint to any Court Administrative agency, Bar Association, disciplinary committee, or other professional group? If so, please give the particulars, including how and when it was resolved.
- F. Is there any circumstance in your professional or personal life that creates a substantial question as to your qualifications to serve as a judicial officer?
- G. Do you have any health problem which would prevent you from performing judicial duties?
- H. Are you related within the third degree of consanguinity, or do you have a business or social relationship with any of the members of this judicial nominating commission?

II. EDUCATION, PUBLICATIONS, HONORS.

- A. List each college and law school you have attended including the dates and any degrees awarded.
- B. List any relevant honors, prizes, awards, or other forms of recognition which you have received.
- C. Have you published any legal books or articles? If so, please list them, giving the citations and dates. Please submit a brief, opinion or other legal writing sample. _____

III. LAW PRACTICE/EMPLOYMENT

- A. List the courts in which you are admitted to practice including any administrative bodies with special admission requirements and the dates of admission for each.
- B. List chronologically the employment which you have had since admission to the Bar. For each such employment, generally describe the type of legal practice, if any, in which you were involved.
- C. State whether you are now an officer or director in any business organization or corporation including the name of the business, the nature of the business, the title of your position, the nature of your duties and the term of your service.
- D. List all Bar Associations and professional organizations of which you are a member and give the titles and dates of any offices which you have held in such groups.
- E. Please describe the general nature of your law practice. Are you a member of the Volunteer Lawyers Project or does your practice include *pro bono* cases?
- F. List any employment outside of the legal profession that you have had since graduating from law school, or any such employment prior to graduating from law school which may be relevant to this application.
- G. State whether you have ever held public office or have been a candidate for public office. If so, describe the office held or sought and the dates.
- H. List any civic organizations to which you belong, including any offices held.

IV. REFERENCES

- A. List the names and addresses and telephone numbers of not more than five persons who are in a position to comment on your qualifications for this judicial position.

RELEASE OF INFORMATION

I authorize the Judicial Nominating Commission to consult with any past or present employers, my professional colleagues, or others with regard to matters pertinent to my qualifications for a judicial position.

I authorize a search of the records of the Grievance Commission, Professional Ethics and Conduct Commission of the Iowa State Bar Association and the Iowa Supreme Court, the Iowa Division of Criminal Investigation or local law enforcement agencies for information about me, which these agencies are authorized to release to this commission.

Signed _____

Dated: _____

INTERVIEW TECHNIQUES

1. Style

Ask open-ended, but not leading questions. Take brief notes of applicant's remarks. Allow applicant to talk freely. Ask all applicants identical questions as best each situation allows.

2. Opening the Interview and Establishing Rapport

Establish an atmosphere that promotes two-way communication through your greeting, small talk, open-ended questions, introduction to you and judicial system. Look for appearance, manner, self-expression, responsiveness, and poise.

3. Discovering Work Experience Applicable For Vacancy

Ask questions regarding current and previous positions (both full-time and volunteer), things liked best and least, major accomplishments, experience in handling difficult problems and in dealing effectively with people, level of earnings, and description of a typical day. Discuss why the applicant wants to change positions, long term goals and expectations. Look for relevance of work, skill and competency, adaptability, productivity, motivation, and leadership.

4. Discussing Education, Present Activities, and Interest

Review educational achievements, continuing education courses, articles written, lectures given, membership in professional associations or organizations, community interests, hobbies, and career goals. Look for intellectual abilities, level of accomplishment, leadership abilities, diversity of interest, social interest and skills, basic values, and goals.

5. What Applicant Can Bring To Judiciary Position

Review position available, duties, working conditions, pay and benefits, the nominating process, applicant's assets, strengths, shortcomings, qualities recognized by peers, and previous experience. Look for talents, skills, knowledge, energy, character, and personal qualities.

6. Evaluation and Recommendation

Evaluation should be done as soon after the interview as possible while your memory is fresh. Write a few brief notes regarding why you would or would not recommend applicant for the opening. It may be helpful to use a ranking system (for example, one to five system) for comparison of applicants. Any such system should be very flexible in order to allow for subjective considerations and changed perceptions after seeing other applicants.

INTERVIEWING SUGGESTIONS

Interviewing candidates is not required of the commissioners individually or by the various commissions. Often, however, commissions interview the candidates individually before the nominating meeting. Where that is done, the candidates seek personal interviews with the commissioners, on a one to one (or small group) basis. Both kinds of interviews can be helpful to the commissioners in evaluating a candidate, particularly if the candidate and the commissioners are not well acquainted.

The interview gives a candidate the opportunity to answer questions about job skills and qualifications. The interviewer must try to look beyond the applicant's ability to interview well and try to determine whether the applicant will make a good judge.

The commissioner can direct the interview by asking a series of primarily open-ended, non-leading questions that will reveal the applicant's strengths and weaknesses. These open-ended questions often begin with questions. The applicant should do most of the talking, but the interviewer should determine the topics for discussion. Review of a completed questionnaire from the candidate before the interview will help you prepare for the subjects you may want to cover.

The interview should draw the applicant out and provide insight into the person's abilities. To ease the candidate's initial nervousness the opening questions appropriately can be common, non-threatening questions such as: Where did you study law; why did you go there; what subjects did you enjoy most? More probing questions can follow. See the list attached as an example of some of the kinds of questions which are ordinarily appropriate.

Some questions are not appropriate. These areas include: (1) personal and family financial information and credit ratings, (2) physical measurements and statistics, (3) ethnic origin and race, (4) political party affiliation, (5) political issues, e.g., abortion, ERA, death penalty, (6) social, religious and fraternal affiliations, (7) domestic problems. These questions do not relate to a candidate's abilities and undermine confidence that the process is truly merit selection.

In summary, the interviewing process should help to establish how well-rounded the candidates are both personally and professionally, how their experience qualifies them for the position, their temperament and how they are perceived by themselves and their peers.

The general commission interviews will be useful, too, in allowing commissioners to see and hear candidates they did not get to interview personally, focus on things they did not ask, note a candidate's self assurance and ease as compared to the individual interview. The applicants can be compared by seeing them in fairly rapid succession and in a short time.

SUGGESTED QUESTIONS FOR COMMISSIONERS TO USE DURING THE INTERVIEW PROCESS

1. General Questions

How would you describe yourself?

What do you consider to be your greatest strengths and weaknesses?

Why do you want to change occupations?

Why do you want to become a member of the judiciary? Do you think you would be a good judge? Why? What do you think are the qualities of a good trial (appellate) judge?

What are your short and long term career goals?

What qualifications do you possess and what ideas do you have which could enhance the judicial system?

What does judicial ethics mean to you?

What have you contributed to your profession and the practice of law?

What would you describe as your most rewarding experience in the practice of law?

What accomplishments in the practice have given you the most satisfaction? Why?

Tell me about your work habits.

How do you think your professional peers who know you well would describe you?

How do you think your professional peers who know you only casually would describe you?

What self improvement would you have to achieve to be a good judge?

What experience have you had in dealing with the public?

What do you believe is the proper function of law in society?

What is a judge's role in that function?

How do you view the role of the judiciary and its relationship to other branches of government?

How do you view the role of a judge in a courtroom/appellate setting, the profession, and society?

Do you understand the hours you may be required to work? Will you be available for after hours and weekend calls should you be needed?

Why should I vote for you?

2. Background Questions

Do you know of any possible conflicts of interest which would interfere with your duties as a member of the judiciary?

What is your background or training in law or law enforcement? Where did you study law? What do you think of your law school? Why?

What legal subjects did you like the best? Why? What subjects did you like least? Why? Do you have trial experience? What have you learned from the mistakes you have made in the practice (or on the bench)?

Do you specialize in any area of the law?

Who are your major clients?

Have you ever personally been a party to a lawsuit? If so please explain.

If you attain the office sought, how will the salary compare to your recent annual income?

Will you be able to complete your full term of office (that is serve an initial term and one regular term of office) before reaching age 72?

3. Hypothetical Questions

Can you reach a fair and impartial decision in all types of cases?

Do you agree with me that we all have prejudice no matter how deeply we try to bury them? How would you handle your prejudices in a case you were hearing?

How would you react in a contempt situation?

Under what circumstances would you recuse yourself?

Will you file conclusions promptly and make decisions without delay?

What are your feelings or policy regarding continuances?

What is your philosophy on sentencing?

Would you show favoritism for or against any attorneys?

Are you willing to limit activities and relationships that could interfere with your role as a judge?

Would you agree that a citizen always has an obligation to obey the law?

Have you ever had to support a legal position that was contrary to your personal moral belief? How did you handle that situation?

INAPPROPRIATE QUESTIONS

1. General

Do you have a disability or handicap?
What is your nationality, race, or color?
Will you submit a photograph of yourself?
Are you married or planning to get married?
Where were you born?
What is your maiden name?
How tall are you?
How much do you weigh?
What is your spouse's name?
Where is your spouse employed?
How much do they earn?
Do you have a satisfactory credit rating?

2. Personal Views

What does your spouse think about your being a judge?
Have you survived your mid-life crisis?
What are your personal views on abortion?
What is your political affiliation?
What is your religion or ethnic background?
Are you pregnant or planning to become pregnant soon? Can you have children? How many children to you have? Are you planning to have children?
Have you ever smoked marijuana?
Are you in favor of the death penalty?
Do you support the Equal Rights Amendment?

3. Age

What is your date of birth? (See appropriate question regarding age on Page 44 in the section entitled Background Questions.)

SAMPLE PROCEDURES FOR DISTRICT JUDICIAL NOMINATING COMMISSIONS

I. Administration

1. The District Court Judge of the judicial election district who is senior in length of service, but is not the Chief Judge, shall be responsible for carrying out the provisions of Article V, Sections 15 and 16 of the Iowa Constitution, Chapter 46 of the Iowa Code, and these rules of procedure as a member of the district nominating commission and shall act as its chairperson.
2. The Court Administrator of the judicial election district shall assist the chairperson of the judicial election district by furnishing clerical assistance to the District Judicial Nominating Commission and shall perform such other duties as may be assigned by the chairperson, such as compiling record checks or forwarding applications to commissioners, but shall not attend any closed session of the commission.
3. In February of each year the chairperson shall contact all the appointed and elected District Judicial Nominating Commissioners to confirm that they are residents of a judicial election district. If a vacancy exists among appointive Judicial Nominating Commissions, the chairperson shall promptly notify the Governor of this fact. Vacancies of elective members of the District Judicial Nominating Commission shall be filled by a majority vote of the remaining elective members of the Judicial Nominating Commission.
4. The commission shall meet annually for an orientation and administrative session and to ensure each commissioner has received a handbook or has access to other training materials.
5. The commission shall adopt rules and procedures which shall be published and made available through the Court Administrator's Office. Also, the commission shall determine and publish in its procedural guidelines its evaluative criteria before receiving applications.

II. Duties Of Judicial Nominating Commission

The responsibility of the District Judicial Nominating Commission is to nominate the most qualified persons for the position of District Court Judge without regard to their political affiliation.

Commissioners should seek out well qualified persons and encourage them to seek nomination. Commissioners may interview candidates, if they so desire, in advance of the commission meeting. The commission should determine and publish its policy regarding private interviews with candidates.

III. Procedure

1. When a vacancy will exist in the office of the District Court Judge, the chairperson of the District Judicial Nominating Commission will contact commission members to arrange a date and place for the commission to meet that will facilitate attendance by the maximum number of commissioners.

2. The chairperson shall issue a news release to the public media advising that a vacancy will exist in the office of District Court Judge, that applications are solicited from qualified candidates and the names and addresses of appointed and elected judicial district nominating commissioners, and their availability for interviews with candidates outside of the general commission meeting.
3. Prospective nominees should be advised that they must be members of the Iowa Bar, residents of the judicial election district, and be of such an age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of 72 years.
4. The judicial district nominating commission shall prepare an application to be completed by each candidate and may require the candidate to mail the completed application to each member of the Judicial District Nominating commission.
5. The chairperson of the Judicial District Nominating Commission will set a deadline by which candidates for the nomination must file their completed applications with the Chairperson/Court Administrator.
6. After the time for returning applications has expired, the chairperson shall have the names of all candidates searched in the records of the Grievance Commission and the Professional Ethics and Conduct Commission of the Iowa Supreme Court and the Iowa State Bar Association, the Iowa Division of Criminal Investigation and any other source deemed necessary by the chairperson so that members of the commission may be informed as to the personal and professional qualifications of all candidates.
7. A commissioner is disqualified from voting on the application of a family member within the third degree of consanguinity, present co-workers and former co-workers with whom the commissioner was associated during the previous 12 months. A commissioner shall disclose to the commission any relationship with an applicant (business, personal, attorney-client) or any other possible cause for bias or prejudice towards an applicant.
8. The commission shall interview each candidate in private to determine the candidate's qualification to be a district court judge.
9. Nominees shall be selected by the commission at a private meeting. Prior to voting the commission shall fully discuss the qualifications of each applicant, fully disclosing all sources of information.
10. There shall be secret balloting with the chairperson voting on each ballot. An integrated balloting method should be used; balloting shall be continued until candidates receive a number of votes equal to the majority of the statutory number of commissioners. This integrated balloting system is:

- a. Ballot Round 1 and 2: From the list of all applicants, commissioners vote for two nominees. Commissioners cannot bloc or bullet vote.
 - b. To stay in the running after Rounds 1 and 2, each applicant must receive the number of votes at least equal to one less than a majority of the statutory number of commissioners [i.e., 5 for district commission].
 - c. Ballot Round 3: Commissioners vote for two nominees. To be further considered, a candidate must receive the number of votes at least equal to a majority of the statutory number of commissioners [i.e., 6 for district commission].
 - d. Subsequent Ballot Rounds: If further rounds of balloting are necessary, each commissioner votes for one candidate less than the number of nominees required [i.e., 1 for district court].
11. The deliberations and balloting shall be held strictly confidential.
 12. After the commission has chosen the nominees, they shall be listed alphabetically and communicated to the Governor and the Chief Justice of the Iowa Supreme Court; an appropriate news release to the public media shall be distributed by the chairperson.
 13. Confidential applications submitted by each candidate to members of the commission shall be destroyed by commission members after the Governor has made the appointment from the list of nominees submitted.

Copies of these articles are available from the State Court Administrator's Office.

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