

# **Judicial Selection in Colorado — Fact Sheet**

## ***Fair and Impartial Courts***

### **How Judges are Chosen (Colorado Constitution, Article VI, Section 20)**

#### ***Applying for the Job***

1. When there is a judicial vacancy, interested attorneys apply to the nominating commission in their district.
2. The judicial nominating commission interviews candidates and recommends two or three individuals to the governor. Three nominees must be submitted for appellate judgeships. (Denver County Court judge candidates are sent to the mayor instead of the governor.)

#### ***Timeline***

1. Within 30 days of a vacancy, the commission must meet and select its nominees based on written applications, recommendations, and personal interviews.
2. The governor must select one of the nominees within 15 days. If the governor does not do so, the Colorado Supreme Court Chief Justice appoints one of those individuals to fill the vacancy.
3. The new judge will serve a two-year initial term, and then stand for retention at the next general election.

### ***Types of Nominating Commissions (Colorado Constitution, Article VI, Section 24)***

1. The Supreme Court Nominating Commission: nominates candidates for the supreme court and court of appeals.
2. Judicial District Nominating Commissions: select candidates for county and district court positions.

### ***Nominating Commission Details***

1. Supreme Court Nominating Commission
  - a. The chief justice of the Supreme Court is the ex-officio, non-voting chair of the Colorado Supreme Court Nominating Commission.
  - b. The 15-member panel includes two persons from each of Colorado's seven congressional districts – one person in each district must be a non-attorney and one must be a person who is admitted to practice law.
  - c. The fifteenth member is a citizen who is not admitted to practice law.
2. Judicial district commissions
  - a. Each of the state's 22 judicial districts has a nominating commission chaired on a rotational basis by a supreme court justice who serves as a non-voting member.
  - b. District commissions consist of seven citizens residing in the district.

c. No more than four members can be from the same political party, and there must be at least one voting member from each county in the district.

1. In districts with populations more than 35,000, the voting members consist of four citizens not admitted to practice law in Colorado and three admitted to practice law.

2. In districts with populations under 35,000, at least four voting members are citizens not admitted to practice law in Colorado. A majority vote of the governor, attorney general, and chief justice determines how many, if any, of the remaining three members will be persons admitted to practice law.

#### *Nominating Committee Members*

1. Non-attorneys are the majority of every commission, and are appointed by the governor.

2. Attorney members are appointed by the governor, the attorney general, and the chief justice (majority action)

3. Commissioners serve six-year terms.

#### **How Judges Are Held Accountable**

##### *Retention Elections (Colorado Constitution, Article VI, Section 25)*

1. After an initial two-year term, all judges are up for retention elections.

2. Upon receiving voter approval, judges serve a full-term on the bench.

3. After the initial two-year term, state court judges serve as follows:

a. County Court – four years

b. District Court – six years

c. Court of Appeals – eight years

d. Supreme Court – ten years

4. A judge can stand for multiple terms, but must be retained by voters after the expiration of each term.

5. Colorado state court judges must retire by age 72.

##### *Performance Evaluations (Colorado Revised Statutes, §13-5.5-101 et. seq.)*

1. In 1987, the Colorado Supreme Court proposed adding performance evaluations to make the retention elections more effective.

a. The following year, the Colorado General Assembly created commissions on judicial performance to provide voters with fair, responsible evaluations of trial and appellate judges and justices seeking retention.

b. The evaluations also provide judges with constructive information to improve their professional skills as judicial officers.

2. Today, prior to retention elections, citizen judicial performance commissions in each judicial district evaluate every judge standing for retention to develop voter recommendations.

- a. Each commission is a 10-member body comprised of four attorneys and six non-attorneys.
  - b. The chief justice, governor, president of the senate and speaker of the house appoint state and local commission members.
3. Thousands of surveys are sent to people who have appeared before the judge, and interacted with his/her court or work in the court.
4. Once the evaluation process is completed, recommendations are developed and made available to the public.
5. It was not until recently that the commissions received sufficient funding to do professional surveys and print the evaluations in the legislative Blue Book.
  - a. The Blue Books are mailed to every voter.
  - b. Evaluations are provided at the election booths in the back of the materials.
  - c. Evaluations are also posted online at [www.cojudicialperformance.com](http://www.cojudicialperformance.com). The site is organized by county, for ease of reference.

#### *Judicial Discipline* (Colorado Constitution, Article VI, Section 23)

1. The Commission on Judicial Discipline is established in the Colorado Constitution.
  - a. The commission is composed of 10 members: four citizens, two attorneys, two district court judges and two county court judges.
  - b. The citizen and attorney members are appointed by the governor and must be approved by the state senate.
  - c. The judge members are appointed by the Colorado Supreme Court.
2. The Commission on Judicial Discipline investigates allegations that a judge is not properly performing his or her official duties because of willful misconduct, ethical violations or a permanent disabling health condition.
3. All judges must comply with the Colorado Code of Judicial Conduct or are subject to discipline or removal from the bench.
4. The commission may take various actions to remedy improper conduct including simply meeting with the judge, privately or publicly reprimanding the judge, or recommending that the Supreme Court remove a judge from office. In an appropriate case, the commission also may place a judge on disability retirement.

#### **Merit Selection Synopsis**

1. The goal of the Merit Selection plan is to keep judges independent, so that they will make decisions based upon law, not on pressure, political whim, or the amount of campaign contributions they received.
  - a. Judges remain separated from partisan politics.
  - b. Judges cannot receive campaign funds, hold political office, make or receive campaign contributions, endorse political candidates or participate in political campaigns.
  - c. Judicial nominees are selected based on qualifications.

- d. Citizen commissions select judicial nominees, evaluate judges and participate in disciplining the judges.
- e. Judges are held accountable for their performance through the Commission on Judicial Performance, retention elections, and the Judicial Discipline Commission.

2. The only time a judge may respond to criticism waged against their retention election is when an organized effort has been established against the incumbent judge. Even then, the judge is prohibited from raising any campaign funds to protest the effort.

## **Historical Timeline of Judicial Selection in Colorado**

**1876** – Colorado became a state

Judges were chosen through contested elections

Judges got political sponsors, bore party labels, and campaigned for office

**1934** – The American Bar Association took stand in favor of non-political merit selection of judges.

**1939** – The Colorado Bar Association began a twenty-six year effort toward making such a change.

Justice Knous of the Colorado Supreme Court warned lawyers of the “popular prejudice” against them. To reform judicial selection, he said, would take a plan “acceptable to the cross-section of the whole citizenry

**1949** – The CBA Judiciary Committee sent proposals to the General Assembly. These proposals included establishment of non-partisan commissions to nominate “according to merit and without regard to political party affiliations, persons for appointment” to judicial office by the Governor. Retention elections would be held at the end of specified terms, should the judge wish to continue serving. Mandatory retirement would occur at the age of 75.

The 1949 General Assembly declined to refer this proposed constitutional amendment to the voters.

**1954** – Dramatic example of the toll electoral politics can take on a sitting judge for making an unpopular decision:

A month prior to the election, Chief Justice Mortimer Stone authored a 4-3 opinion holding Denver’s Dillon Reservoir on the Blue River to be junior in priority to the downstream Green Mountain Reservoir of the Colorado Big-Thompson Project. The Water Department and the Denver press campaigned vehemently against Stone because of this decision, endorsing his opponent. The Chief Justice was turned out of office.

**1957–1959** – The state legislature postponed and then let fizzle a study of judicial reform proposals.

**1960** – The CBA Board of Governors authorized the Judiciary Committee “to enlist the aid of other lay groups in the formation of a lay committee to bring about the non-partisan selection of judges.”

**1963** – A meeting of 100 leading Colorado citizens was convened to consider non-political judicial selection and tenure. It was sponsored by the Joint Committee for the Effective Administration of Justice, the University of Colorado School of Law, the University of Denver College of Law, the American Judicature Society, and the Colorado Bar Association.

**1966** – The General Assembly session again defeated a resolution to refer the judicial merit selection amendment to the voters. The Colorado League of Women Voters, along with Colorado Medical Association and the Colorado Bar Association, then endorsed the voter petition drive that resulted in collecting over 47,000 signatures and placing Amendment No. 3 on the 1966 general election ballot.

Justice Tom C. Clark of the U.S. Supreme Court came to Colorado to urge its adoption. He was quoted as saying, “(T)here’s almost universal agreement that the merit selection system produces a higher quality of judge than the election system.”

On November 8, 1966, Colorado voters approved the judicial merit selection system constitutional amendment by a vote of 293,771 to 261,558.

**1988** – Colorado General Assembly created commissions on judicial performance to provide voters with fair, responsible evaluations of judges seeking retention.

Colorado Constitution, Article VI, Section 20.

Section 20. Vacancies.

(1) A vacancy in any judicial office in any court of record shall be filled by appointment of the governor, from a list of three nominees for the supreme court and any intermediate appellate court, and from a list of two or three nominees for all other courts of record, such list to be certified to him by the supreme court nominating commission for a vacancy in the supreme court or a vacancy in any intermediate appellate court, and by the judicial district nominating commission for a vacancy in any other court in that district. In case of more than one vacancy in any such court, the list shall contain not less than two more nominees than there are vacancies to be filled. The list shall be submitted by the nominating commission not later than thirty days after the death, retirement, tender of resignation, removal under section 23, failure of an incumbent to file a declaration under section 25, or certification of a negative majority vote on the question of retention in office under section 25 hereof. If the governor shall fail to make the appointment (or all of the appointments in case of multiple vacancies) from such list within fifteen days from the day it is submitted to him, the appointment (or the remaining appointments in case of multiple vacancies) shall be made by the chief justice of the supreme court from the same list within the next fifteen days. A justice or judge appointed under the provisions of this section shall hold office for a provisional term of two years and then until the second Tuesday in January following the next general election. A nominee shall be under the age of seventy-two years at the time his name is submitted to the governor.

(2) Repealed.

(3) Other vacancies occurring in judicial offices shall be filled as now or hereafter provided by law.

(4) Vacancies occurring in the office of district attorney shall be filled by appointment of the governor. District attorneys appointed under the provisions of this section shall hold office until the next general election and until their successors elected thereat shall be duly qualified. Such successors shall be elected for the remainder of the unexpired term in which the vacancy was created.

**JUDICIAL NOMINATING COMMISSION  
APPLICATION FOR COLORADO STATE COURT JUDGESHIP**

*NOTE: For the required number of copies to file, please refer to the INSTRUCTION SHEET that corresponds to the specific vacancy for which you are applying.*

(designate vacancy for which application is being made)

**I. The information you provide in questions 1 – 34 is public information and will be released upon request if the applicant’s name is forwarded to the Governor for consideration of appointment.**

**A. PERSONAL INFORMATION**

1. Full Name:
2. Birth year:
3. Are you a United States citizen?
4. Attorney Registration Number:
5. Work Address:
6. Telephone (w):
7. List your place of residence for the past five years.

Dates	City	County	State

**B. EDUCATIONAL BACKGROUND**

8. List the names and locations of schools attended, beginning with high school.

Name	Location	Dates Attended	Degree

9. List scholarships, awards, honors, and citations you received during college and law school.

**C. PROFESSIONAL BACKGROUND AND EXPERIENCE**

10. List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

Bar Admission	Date

11. Indicate your present employment (list professional partners or associates, if any, and include dates). If you currently practice law, describe the nature of your present law practice, listing the major types of law you practice and the percentage each constitutes of your total practice.

12. If you have a subspecialty in any major types of law listed in number 11, what is your subspecialty?

13. List other areas of law in which you have practiced.

14. Have you practiced in the appellate courts of Colorado within the past five years? If so, please state the number and the types of matters handled.

15. Have you practiced in the trial courts of Colorado within the past five years? If so, please state what percentage of your total practice your trial practice constituted and the types of matters handled.

16. List five litigated cases in which you participated as a judge or lawyer in the past five years, the names of the judges presiding, and the names of counsel. Please list current telephone (including area code) for each person identified.

1. Case Name/Number:

Presiding Judge:

Phone:

List name(s) and telephone number(s) for opposing counsel:



List name(s) and telephone number(s) for co-counsel:

Briefly describe the case and your involvement:

**2. Case Name/Number:**

Presiding Judge:                      Phone:

List name(s) and telephone number(s) for opposing counsel:

List name(s) and telephone number(s) for co-counsel:

Briefly describe the case and your involvement:

**3. Case Name/Number:**

Presiding Judge:                      Phone:

List name(s) and telephone number(s) for opposing counsel:

List name(s) and telephone number(s) for co-counsel:

Briefly describe the case and your involvement:

**4. Case Name/Number:**

Presiding Judge:                      Phone:

List name(s) and telephone number(s) for opposing counsel:

List name(s) and telephone number(s) for co-counsel:

Briefly describe the case and your involvement:

**5. Case Name/Number:**

Presiding Judge:

Phone:

List name(s) and telephone number(s) for opposing counsel:

List name(s) and telephone number(s) for co-counsel:

Briefly describe the case and your involvement:

**17. Summarize your experience in adversary proceedings before administrative boards or commissions.**

**18. List any law related lectures, speeches, or other presentations you have given and any such books or articles you have authored.**

**19. List your prior professional or business employment since completion of your formal education (include dates).**

**20. If you have not been employed continuously since completion of your formal education, describe generally what you were doing (include dates).**

**D. PROFESSIONAL AND PUBLIC SERVICE**

**21. List activities in professional associations, including offices held, committees, awards, honors, and citations (include dates).**

**22. List your activities in civic and charitable organizations, including offices held, awards, honors, and citations (include dates).**

**23. List all public offices to which you were appointed or elected (include dates served). Have you had any military or other public service? If so, please give details.**

## **E. REQUIREMENT TO COMPLY WITH JUDICIAL CODE OF CONDUCT**

**If appointed to the bench, you will be required to comply with the canons contained in the Colorado Code of Judicial Conduct.**

24. Are you familiar with the Commission on Judicial Discipline and its function?
  
25. Do you understand a judge is required to file reports of compensation for quasi-judicial and extra-judicial activities in conformance with the Code of Judicial Conduct?
  
26. Do you understand that a judge must comply with the Public Official Disclosure Law (Section 24-6-202, C.R.S.)?
  
27. If you are now active in partisan politics, would you cease such activity if you are appointed to judicial office?
  
28. Are you now an officer or director of any business organization or otherwise engaged in the management of any business enterprise? If so, please give details.
  
29. Colorado judges are expected to use computer technology for a wide variety of functions including word processing, legal research, case management, e-filing and e-mail. Do you **personally use** a computer for any of the purposes listed above or for similar purposes? If yes, describe the functions you perform and state how frequently you perform each function. If no, state whether you will participate in training to develop and maintain your personal skills in using computer technology.
  
30. Have you ever been cited for contempt of Court? If so, please give details.

## **F. MISCELLANEOUS**

31. Describe how you spend your leisure time (including special interests, hobbies, reading preferences, vacation activities).
  
32. List the names of no more than five individuals from whom you are requesting a letter of reference.

- 33.** Please attach a statement not to exceed one page in length, double-spaced, discussing: **(a)** your knowledge of and experience with the court served by the judgeship for which you are applying; and **(b)** the reasons why you wish to be appointed to this vacancy and the qualities you would bring to the bench if appointed.
  
- 34.** If you are applying for an appellate judgeship, you **MUST** submit a sample of your legal writing of not more than twenty (20) pages with this application.

**II. The information you provide in questions 35 to 51 is NOT public information to the extent allowed by law. It is for the use of the Nominating Commission, the Governor, and, if appointed, the State Court Administrator.**

### **G. ADDITIONAL PERSONAL INFORMATION**

- 35. Full Name:
- 36. Home Address:
- 37. Date of Birth:
- 38. Telephone (h):
- 39. Cell Phone:
- 40. Email Address:

### **H. ABILITY TO PERFORM ESSENTIAL JOB-RELATED FUNCTIONS**

- 41. Within the past five years have you experienced any physical or mental condition, illness, or injury which (1) is continuing or is likely to reoccur and (2) with or without reasonable accommodation, would adversely affect your ability to perform essential job-related functions as a judge? If so, please give details.

### **I. PROFESSIONAL CONDUCT AND ETHICS**

- 42. Have you ever been disciplined or sanctioned for a breach or possible breach of ethics or unprofessional conduct by the Supreme Court Grievance Committee, the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, the Commission on Judicial Discipline (including a private letter of admonition, reprimand, or censure), or by any administrative agency or disciplinary committee? If so, please give details.
- 43. Do you know if any proceeding is pending against you before the Attorney Regulation Committee, the Presiding Disciplinary Judge, the Colorado Supreme Court, or by any administrative agency or disciplinary committee? If so, please give details.
- 44. Have you ever been summonsed for, arrested for or charged with a felony, misdemeanor, or serious traffic offense? If so, please give details. This question includes charges that have been deferred, dismissed, expunged or pardoned.
- 45. Have you ever been a party to, or the subject of, or otherwise involved in any other legal proceedings, civil or criminal, including dissolution or bankruptcy proceedings? If so, please give details.

46. Is there any circumstance or event in your personal or professional life which, if brought to the attention of the Commission, might tend to affect adversely your qualifications to serve on the court for which you have applied? If so, please explain.

## **J. BUSINESS AND FINANCIAL INFORMATION**

**The Nominating Commission may request that you disclose your financial affairs and discuss them with the Nominating Commission.**

47. Do you have any sources of income other than your income from your practice of law or judicial position? If so, please identify the source and the approximate percentage of your total income it constituted over the past three years.
48. Do you have any financial interests, investments, or retainers which might conflict with the performance of your judicial duties, or which in any manner or for any reason might embarrass you? If so, please explain.
49. Have you ever failed to file your state or federal income tax return? If so, please explain.
50. Have you been found by the IRS to have willfully failed to properly disclose your income during the last five years? If so, please give details.
51. Do you owe any unpaid taxes? If so, please explain.

**CERTIFICATE OF APPLICANT**

I understand the submission of this application expresses my willingness to accept appointment to the judiciary of the State of Colorado, if tendered by the Governor, and further, my willingness to abide by the rules of the Judicial Nominating Commission with respect to my application and the Code of Judicial Conduct, if appointed. I hereby certify that the information given in this application is correct and complete.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Print or Type Name

**WAIVER**

I grant the Commission the right to examine the records of the Attorney Regulation Counsel (formerly maintained by the Supreme Court Grievance Committee) and the records of the Commission on Judicial Discipline. I consent to the release of information by employers, schools, law enforcement agencies, and other authorized personnel to verify the information contained in this application.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Print or Type Name

# COLORADO JUDICIAL NOMINATING EXPERIENCE THE APPLICATION AND INTERVIEW

by

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## APPLICATION:

The application for judgeship requires disclosure of personal information, educational background, professional background and experience (both law related and otherwise, and with an emphasis on legal experience), professional and public service, ability to perform essential job-related functions, professional conduct and ethics, business and financial information and miscellaneous information. The application also requests a personal statement. The personal statement is a significant part of the application, and should be thoughtful, professional and concise. The idea of the personal statement is to provide the nominating commission with insight as to who you are and why you are pursuing the judicial position. Spend time on the personal statement to tell the commissioners who you are. This personalizes the application and gives the commissioners the opportunity to get to know you when making the decision whether or not to grant an interview.

## REFERENCES:

Be thoughtful about who you select to write letters of reference. Speak to them in advance. Tell them something unique or special about yourself that they might use in the letter. Don't just use judges and lawyers as references. The lay persons on the panel want to hear from everyday people. You will come across as a better-rounded individual.

## INTERVIEW

### Know Your Audience.

If granted an interview, you will appear before the panel of commissioners for a very brief personal interview in which each commissioner and the Supreme Court justice sitting as ex officio chair will all likely ask a question. Be mindful that the commission is composed of attorneys and lay people. It is helpful to know who your audience is before the interview, so inquire as to the occupations and backgrounds of the various commissioners.

### Be Prepared.

The questions you may be asked are varied and follow no particular theme. Questions may be open-ended or very specific. You may find them a bit off the



wall. However, you will ultimately be asked to address why you want to become a judge, why you believe you are qualified and why the nominating commission should send your name to the Governor. You will be given the opportunity to make a statement at the end of the interview. Practice what you want to say and be concise and thoughtful.

### Some questions.

- Why do you want to become a District Court judge?
- Who has been the most influential person in your life?
- What are the qualities you admire in a district court judge?
- Do you have any hobbies and if so, explain them?
- How will you be able to judge in areas of law you don't practice?
- Do you have any weaknesses?
- What are your strengths?
- Be prepared to provide examples of your past legal experience.
- How do you intend to address those areas you have not practiced?
- How many jury trials have you been involved in?
- Have you ever been on a jury?
- What book are you currently reading?
- What newspapers or periodicals do you read regularly?
- Have you ever written a letter to an editor of a periodical that was published?
- What television shows do you watch?
- How do you spend your leisure time?
- What make and model car do you drive?
- Have you recently performed volunteer work or public service? If so, explain?
- Are you familiar with the docket and bench in the judicial district to which you seek appointment?
- Please tell us anything else about yourself that you think we should know.

Remember, the commissioners will have a copy of your application and recommendation letters. You may be asked a question based on any statement made in the application, or in a letter, or in an area of particular interest to the particular commissioner that has nothing to do with being a judge.

### Interview Tips.

- Turn off your cell phone.
- Dress appropriately in business attire.
- Make eye contact when answering a question.
- Be confident.
- Relax and be yourself.
- Thank the nominating commission for their time.