

Summary of Standard Appointment Procedures for Magistrate Judges

(From the Judges Information Series No. 1, [Getting Started as a Federal Judge](#).)

United States magistrate judges are appointed through a merit selection process similar in many ways to that used to appoint bankruptcy judges. Magistrate judges are judicial officers of the district courts and are appointed by majority vote of the active judges of the district court. Full-time magistrate judges are appointed for eight-year terms, and part-time magistrate judges are appointed for four-year terms. See 28 U.S.C. § 631(e).

Magistrate judge nominees must possess the following qualifications:

- Nominees must have been members in good standing for at least five years of the bar of the highest court of a state, the District of Columbia, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.
- Nominees must have engaged in the active practice of law for at least five years. The court may consider the following experience as a substitute for the active practice of law: service as a state or federal judicial officer, as an attorney for federal or state agencies, as a law clerk for any judge or judicial officer (up to two years), or other legal experience that is appropriate in the opinion of a majority of the court.
- Nominees for an initial appointment must not have reached the age of 70.
- Nominees must not be related to a district judge of the appointing district court within the degree of relationship specified by 28 U.S.C. § 458 (*i.e.*, "by affinity or consanguinity within the degree of first cousin") at the time of the initial appointment.
- Nominees for appointment to serve in a national park must reside within park boundaries or at a reasonably adjacent place.
- Nominees must be competent to perform the duties of a United States magistrate judge, must be of good moral character, must be emotionally stable and mature, must be committed to equal justice under law, must be in good health, must be patient and courteous, and must be capable of deliberation and decisiveness.
- Nominees must possess such other qualifications for the position as may be established by the district court.

See 28 U.S.C. § 631(b); vol. III, section B, ch. V of the *Guide to Judiciary Policies and Procedures*. Judges Information Series No. 2, *The Selection and Appointment of United States Magistrate Judges* (October 1997), an Administrative Office publication, contains suggestions as to other factors that courts may consider in making hiring decisions.

Under 28 U.S.C. § 631(b)(5) and Judicial Conference regulations, public notice of all vacancies in magistrate judge positions must be provided. At its September 1998 meeting, the Judicial Conference approved an amendment to sections 2.01 and 6.03(a) of the regulations to require that before a district court selects a magistrate judge, whether a new appointment or a reappointment, it must publish a public notice in a general local newspaper, in a widely-circulated local legal periodical, or in both. In addition, the statute and the regulations require that district courts utilize merit selection panels to evaluate the applicants. For full-time magistrate judge positions and many part-time magistrate judge positions, the merit panel must be composed of at least seven persons, must serve without compensation (save expenses), must consist of residents of the district, and must include within its membership both lawyers and at least two non-lawyers (judicial officers are prohibited from service).

For part-time magistrate judge positions in which the authorized annual salary will be less than one-third of the maximum salary authorized a full-time magistrate judge, the merit selection panel can consist of as few as three members. Judicial officials may serve on these panels, but at least two members must be other members of the community.

The panel must conduct its inquiry and report back to the district court within 90 days of its creation, unless otherwise ordered by the court. The panel's report should list the five best qualified applicants, unless for good cause shown the panel recommends fewer than five applicants. The report must also contain all written documentation relied upon by the panel in making its recommendations. By majority vote of the active district judges, the court then selects the new magistrate judge nominee from the list submitted by the merit selection panel; if the court cannot agree, the court must request a second list of five candidates. If the court is still unable to agree, the chief judge of the district court is authorized to select the new magistrate judge nominee from either list. Once a nominee is selected, the district court will notify the nominee and obtain the nominee's acceptance.

Appointment Paperwork

Once a district court has selected a new magistrate judge nominee, the court notifies the Magistrate

Judges Division of the Administrative Office, which then provides the court with the necessary Federal Bureau of Investigation (FBI) and Internal Revenue Service (IRS) investigative forms to be completed by the nominee. Nominees for full-time and part-time magistrate judge positions must undergo an FBI full-field background investigation and an IRS tax check. Once the forms are completed and returned, the Magistrate Judges Division will request the necessary background reports from the FBI and IRS. The FBI investigation is usually a 10 to 12 week process. If the IRS report is not completed in a timely manner, the court may waive that report, provided that it has taken steps to ensure that the nominee has properly filed tax returns. The FBI full-field background investigation may not be waived by the court. The Committee on the Administration of the Magistrate Judges System is authorized to grant waivers to this provision, on an individual case basis, in circumstances involving high turnover and recruitment problems due to isolated locations of certain part-time magistrate judge positions.

Once the background investigations are completed and received by the Magistrate Judges Division, the reports are sent by overnight mail to the chief judge of the district court, along with the appointment form, AO Form 79A. If the district court finds that the results of the investigations are satisfactory, it will issue an order of appointment and arrange for the completion of the appointment form. The AO Form 79A and the order of appointment are then sent to the Magistrate Judges Division, for submission to the Judges Compensation and Benefits Branch of the Article III Judges Division. At this point, the judge is entered into the payroll system. The Magistrate Judges Division will accept faxed copies of the appointment paperwork to facilitate starting the new judge's pay, but original or certified copies must also be sent.

The Administrative Office sends new judges identification cards. The judge is asked to sign the card and return it to the Judges Compensation and Benefits Branch of the Article III Judges Division along with an appropriate photograph. The Director of the Administrative Office signs the card, and it is then laminated and returned to the judge in a wallet-type case.

For further information concerning the selection of magistrate judges, see Judges Information Series No. 2, *The Selection and Appointment of United States Magistrate Judges* (October 1997), an Administrative Office publication. Copies are available from the Magistrate Judges Division. See also vol. III, section B, ch. V of the *Guide to Judiciary Policies and Procedures*.

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