



## JOINING THE DISTRICT OF COLUMBIA COURTS



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## INTRODUCTION

This pamphlet is a guide for law students and lawyers who may be interested in pursuing a career as a judge on the District of Columbia Court of Appeals or the Superior Court of the District of Columbia (“District of Columbia courts”). The District of Columbia courts are unique among local courts nationwide in that they are Article I courts whose judges are nominated by the President of the United States and confirmed by the United States Senate. This pamphlet provides basic information about the judicial recommendation and nomination process, both to make the process as transparent as possible and to help potential candidates plan ahead. The goal of the District of Columbia Judicial Nomination Commission (“JNC” or “Commission”) is to encourage a diverse group of talented lawyers to apply to join one of the most respected courts in the country.

There is no one, single professional path to the local courts. Judges in the District of Columbia come from a wide variety of professional, social, economic, and educational backgrounds. The JNC evaluates each applicant on the basis of merit, and recommends applicants to the President on that basis. Following recommendation, District of Columbia judges are appointed only after being nominated by the President and confirmed by the United States Senate.

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*District of Columbia Judicial Nomination Commission*

## ASSESSING YOUR CANDIDACY

The JNC is responsible for recommending to the President three persons for possible nomination for each vacancy on the District of Columbia courts. D.C. Code § 1-204.34(d)(1). When a vacancy occurs, the JNC solicits applications via a notice on its website. As set forth in D.C. Code § 1-204.33, persons eligible to be recommended must be:

- a United States citizen;
- an active member of the unified District of Columbia Bar;
- engaged in the active practice of law in the District of Columbia for the five years immediately preceding the nomination (serving as a law school professor or attorney in the U.S. or District of Columbia government expressly counts towards this requirement); and
- a bona fide resident of the District of Columbia, with an “actual place of abode in the District.”

Individuals who have served on either the JNC or the District of Columbia Commission on Judicial Disabilities and Tenure within the past two years are not eligible for recommendation.

Judges on the District of Columbia courts must retire at the age of 74, D.C. Code § 11-502, but there is no minimum requirement for serving on the District of Columbia courts. According to a study conducted by the Council for Court Excellence, between 1994 and 2011, nominees ranged in age from 33 to 60 years of age, with an average age of 47 at the time of nomination. How the District of Columbia Gets Its Judges, Council for Court Excellence (DC 2011).

In addition to determining whether applicants meet the statutory eligibility criteria, the JNC evaluates applicants’ integrity, professional competence, experience, judicial temperament, and involvement in the District of Columbia community. This evaluation is accomplished through review of the application submitted to the JNC, a background investigation, and personal interviews.

The Applicant Questionnaire, JNC Form 21, provides an overview of the types of professional experience and community involvement that will be important in assessing your candidacy. Keeping up-to-date records of the items listed below will make it easier for you to complete your application:

- *Educational background, including degrees, honors, and awards received.*
- *Bar and court admission(s), including dates, status, and administrative bodies that require special admission.*
- *Chronological employment experience after law school.*
- *The nature of your legal practice and client base, including areas of specialization.*
- *Detailed information for the past five years about court appearances, trials, settlements, and appeals.*
- *Summary information about your career prior to the past five years.*
- *List of the five most significant legal matters for which you were responsible, or, if you have none, the contributions you have made in other areas related to the law including teaching, court administration, rule-making, alternate dispute resolution, etc.*
- *Information about any prior judicial or elective offices you have held.*
- *Other, non-legal experience.*
- *Information relating to possible conflicts of interest (e.g., current business interests).*
- *Your history of tax compliance, involvement in legal proceedings, and any encounters with the criminal justice system.*
- *Your professional responsibility and ethics track record.*
- *Your membership in professional and other associations.*
- *A list of legal books or articles published, with citations.*

A word to the wise: As the JNC conducts a background investigation on each applicant, and if you are nominated, the White House and Senate will conduct further investigations, it is best to err on the side of inclusion in your application materials. It does not bode well for a candidate if issues

arise during these investigations that contradict information in the application. Keep track of your obligations, personal (e.g., taxes, other debts) and professional (e.g., bar dues), and stay on top of them.

#### The JNC's RECOMMENDATION PROCESS

If you believe you have the experience, expertise, and temperament to serve as a judge on the District of Columbia courts, check the JNC website at [www.jnc.dc.gov](http://www.jnc.dc.gov) for vacancy announcements and invitations to apply. Sign up there for the JNC listserv so that you will be notified when a vacancy occurs.

Applications are usually due 30 days after a vacancy is announced, and no late applications are accepted. The current version of the application materials will be available at the JNC website.

Pay close attention to the instructions for applying as your attention to detail is one element of your application.

#### **After You Submit Your Application**

The JNC announces the names of all applicants for each vacancy on the website and solicits public input through either a confidential online survey or letters. Once you have decided to apply, ask judges before whom you have appeared, colleagues, and opposing counsel to fill out the online survey or write a letter on your behalf. If you are recommended by the JNC to the President for possible nomination, you may wish to consider asking your references to write a letter to the President on your behalf as the JNC does not share survey results or letters with the White House.

The JNC also conducts an investigation into your professional background, which includes a credit check, tax check, education verification, employment verification, and contact with any bars or courts to which you are admitted. You will be contacted if the JNC has follow-up questions.

The JNC may speak with current and former colleagues, judges before whom you have appeared, as well as co-counsel and opposing counsel in your cases.

The JNC interviews all first-time applicants who meet the basic, statutory qualifications. The Commission may also re-interview applicants who are re-applying. Be prepared to discuss your qualifications – beyond the information you provided in your application. You may be asked hypotheticals to help the JNC get a sense of your decision-making style and temperament. Commissioners may be available for individual applicant meetings at the discretion of the Commissioner.

If you are not recommended to the President, do not be discouraged from applying for a future recommendation. Given the depth of talent and commitment to public service in the District of Columbia legal community, the candidate pool is quite strong. It is not uncommon for lawyers to apply several times before being recommended to the President.

#### THE NOMINATION PROCESS

Once your name has been forwarded to the White House, the President has 60 days within which to nominate a candidate for the vacancy. At this point, the White House will conduct its investigation and may contact you for an interview.

Even if you are not nominated for the vacancy for which the JNC recommended you, until that vacancy has actually been filled with a nominee confirmed by the Senate, you remain a viable candidate to be nominated for *any* vacancy on the same court. If you are in this position, feel free to contact the JNC if you have any questions.

## THE CONFIRMATION PROCESS

After the President submits your nomination to the Senate, it will be forwarded to the Committee on Homeland Security & Governmental Affairs (“Committee”) for action. You can track the progress of your nomination on the Committee’s website: <http://www.hsgac.senate.gov/> The Committee may schedule a hearing, and may request you to submit responses to its own questionnaire.

### What to Expect at a Committee Hearing

The Committee hearing is intended to be a question and answer session. Some or all of the Committee members will attend the hearing, depending on the Senate’s calendar and their availability. If a senator does not attend, he or she may have staff attend and report back. The questions posed typically address the individual’s qualifications, understanding of how to interpret and apply the law, previous experience in court, judicial temperament, as well as the role of judges. You should, however, be prepared to speak about the entirety of your legal career, writings, and speaking engagements. You may wish to view hearings online at the Committee’s website (search “Associate Judge” on the Hearings page to review past hearings).

After the hearing, you may receive written follow-up questions from Committee members. The written follow-up may address issues not raised in the hearing, or may seek more information about issues that arose during the hearing.

For your nomination to proceed past the hearing stage, a majority of Committee members must support it.

## Senate Votes

Once the hearing and any follow-up conclude, you need two votes to move forward with your nomination: (1) a Committee vote to report your nomination to the Senate, and (2) a confirmation vote on the Senate floor. The floor vote is scheduled by the Majority Leader.

Once reported by the Committee, you need to receive a majority vote in the Senate to be confirmed.

Even if your nomination has been reported to the Senate, it may still be returned to the President. This occurs when either the Committee or the Senate takes no action on your nomination. Senate rules provide that any nomination pending when the Senate adjourns or recesses for more than 30 days is returned to the President. Standing Rules of the Senate, Rule XXXI, ¶ 6. This typically occurs at the end of each two-year Congress. If this happens, as explained above, you remain in the candidate pool at the White House, and may be nominated for the same or different vacancy on the same court, *until the vacancy for which you were recommended has been filled*.

### Timing

There is no time limit within which the Senate must act on nominations to the District of Columbia courts. Feel free to discuss the pace of confirmations with the JNC in order to understand what you might expect. While your nomination is pending, and while you remain an active candidate at the White House, keep track of the same information you developed when preparing your application. Any aspect of your professional life, or personal events to the extent they relate to your fitness for office, may be considered – including those that occur after you submit your application.

## PATHS TO THE DISTRICT OF COLUMBIA COURTS

There is not just one path to the courts in the District of Columbia, but one of the most common is to have courtroom experience. In addition, half of the candidates recommended to the White House since 2010 had experience as a federal or state judicial law clerk.

Candidates recommended to the President by the JNC reflect the makeup of the District of Columbia legal community: between 1994 and 2015, approximately 30% came from the private and non-profit sectors, and approximately 70% from local or federal government positions.

Superior Court judges generally are assigned to one or more of the Court's divisions during their fifteen years within the courts – Civil, Criminal, Family Court, Probate, Tax, and the Domestic Violence Unit. Some lawyers recommended have specialized experience, having focused throughout their career on one broad substantive area of law (criminal prosecution, criminal defense, civil, or family law), while others have a more diverse background.

To give you a better idea of the different paths lawyers have taken within the courts, review some of the biographical statements of the Associate Judges and the Chief Judges of the District of Columbia Courts, which are available on the DC Courts website: [www.dccourts.gov](http://www.dccourts.gov)

## FOR MORE INFORMATION...

We hope this guide has provided basic information about the judicial recommendation and nomination process, pointed out pitfalls to avoid, and provided useful advice for aspiring judges. If you are considering applying for a judgeship, be active in the local legal community, get to know people who can serve as mentors and advisors, and stay informed of issues confronting the District of Columbia courts. Feel free to contact the JNC at any time. The names and contact information for JNC staff and Commissioners are on the JNC website [www.jnc.dc.gov](http://www.jnc.dc.gov)

***Good luck!***

### ***Additional Resources***

*How the District of Columbia Gets Its Judges*, Council for Court Excellence (DC 2011), <http://www.courtexcellence.org/digital-library> (last accessed March 19, 2018)

For more information on JNC's recommendations, review the *Report of Historical Recommendations*, updated annually: [www.jnc.dc.gov](http://www.jnc.dc.gov)

For more information on the courts: [www.dccourts.gov](http://www.dccourts.gov)

For more information on the Senate Committee: [www.hsgac.senate.gov](http://www.hsgac.senate.gov)

*District of Columbia Judicial Nomination Commission*