

## **The Selection and Appointment of United States Magistrate Judges**

Magistrate judges operate under the authority of Congress to establish federal courts as set forth in Article I of the United States Constitution, making them Article I judges.<sup>1</sup> As such, magistrate judges are part of the district court, and their caseload is exclusively Article III work that would otherwise be assigned to district judges. The selection process for newly appointed magistrate judges is governed by 28 U.S.C. § 631, et seq, and Chapter 1 of the Regulations of the Judicial Conference of the United States Establishing Standards and Procedures for the Appointment and Reappointment of United States Magistrate Judges, *Guide to Judiciary Policy*, Vol. 3.

Among other requirements, magistrate judges must be at least five-year members in good standing of a Bar of the highest court of the state or other jurisdiction. The applicant must be competent to perform the duties of the office, of good moral character, emotionally stable and mature, committed to equal justice under the law, in good health, patient, courteous, and capable of deliberation and decisiveness when required. The applicant must be less than 70 years old. The applicant may not be related by blood or marriage to a judge of the appointing district

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<sup>1</sup> In contrast, district judges are appointed pursuant to Article III, and have life tenure.

court. Scholarship, type of law practice, and knowledge of the federal court system are also considered.

The Judicial Conference Regulations require publication of the magistrate judge vacancy announcement. The district court appoints a merit selection panel to receive applications. The panel must be composed of attorneys and other members of the community. In the selection process, the merit selection panel is encouraged to consider that the “essential roles of a magistrate judge are to dispense justice and to assist the judges of the district courts in disposing of the court’s caseload effectively and efficiently.” Although the applicable Judicial Conference regulations do not specify how the merit selection panel is to proceed, traditionally the panel relies upon the lengthy written application each applicant submitted to select certain applicants for an in-person interview with the panel. The panel will then recommend to the court five applicants they deem to be best qualified. The merit selection panel is obligated to give due consideration to all qualified applicants, including those from underrepresented groups.

The five recommended applicants will typically be interviewed by all or some of the district judges in the district. After the interviews, the district judges will make the final selection of the nominee. The nominee will be required to undergo an FBI background check and an IRS tax check. The FBI background check is comprehensive, entailing both written questions and interviews with the nominee

and others who know the nominee either personally or professionally. Disclosure to the FBI of an incident in the past may not be disqualifying. Ultimately, the judges of the court determine whether the person is qualified to be named as a magistrate judge.

A publication by the Administrative Office of the United States Courts, entitled “The Selection, Appointment, and Reappointment of United States Magistrate Judges,” provides detailed information on the criteria and selection process for the magistrate judge position. A link to the publication is provided [here](#). The publication includes a sample notice of the appointment of a new magistrate judge, Appendices A & B, [here](#), and a sample application form, Appendix G, [here](#).

The term of office for a full-time magistrate judge is 8 years and is renewable for additional terms through a reappointment process similar to the one used to make the initial appointment.