

Media Alert

Colorado Judicial Branch
Mary J. Mullarkey, Chief Justice
Gerald Marroney, State Court Administrator

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TO: Media Outlets and the Legal Community
FROM: Karen Salaz, State Court Administrator's Office, 303-837-3633,
karen.salaz@judicial.state.co.us
RE: Judicial selection and retention in Colorado

The following information has been compiled for your use as the judicial retention process gets underway for the November 2004 judicial performance and retention cycle. This provides an overview of the Colorado judicial performance system and delineates the differences between the state and federal systems which differ significantly.

You will find on the following pages:

1. A flow chart of how the Colorado judicial selection process works.
2. A side-by-side comparison of the state and federal selection/evaluation processes.

Colorado Judicial Selection: Application through First Retention Election

Within 30 days of a judicial vacancy:

- Announcement of the vacancy is distributed requesting applications.
- County & district judgeships: local judicial nominating commission interviews applicants and recommends 2 to 3 finalists to the governor for consideration. Local commissions are made up of seven citizens (4 citizens not admitted to practice law, 3 citizens admitted to practice law in Colorado) residing in the judicial district, no more than 4 members can be from the same political party.
- Court of Appeals and Supreme Court: a statewide judicial nominating commission interviews applicants and recommends 3 finalists to the governor for consideration. The state commission includes 1 citizen admitted to practice law in Colorado and 1 citizen not admitted to practice law residing in each of the state's 7 congressional districts, and 1 additional citizen not admitted to practice law in Colorado.

The governor must select one of the nominees within 15 days after receiving the list of finalists from the commission.

Justice/judge appointed to an initial, provisional 2-year term.

First retention election for a justice/judge is in the next general election after the initial 2-year term expires.

Every justice and judge is evaluated by a citizen's commission and stands for retention at the expiration of each term of office. Prior to retention elections:

- Local judicial performance commissions prepare evaluations of district and county judges in the retention cycle. Local performance commissions have 10 members (six non-attorneys and four attorneys).
- State judicial performance commission prepares evaluations of Supreme Court justices and Court of Appeals judges up for retention. The state judicial performance commission is also made up of 10 members (six non-attorneys and four attorneys).

Subsequent to the initial term of office:

- The term of office for a Supreme Court Justice is 10 years;
- Court of Appeals Judge, 8 years;
- District Court Judge, 6 years; and
- County Court Judge, 4 years.

Differentiation between Colorado's Current Merit Selection System and the Federal Judicial Selection System

Colorado Judges	Federal Judges
<p>Terms of Office</p> <ul style="list-style-type: none"> • The term of office for a Supreme Court Justice is 10 years; Court of Appeals Judge, 8 years; District Court Judge, 6 years; and County Court Judge, 4 years. 	<ul style="list-style-type: none"> • No terms of office are specified in the U.S. Constitution.
<p>Term Limits</p> <ul style="list-style-type: none"> • Justices and judges must stand for retention election at the expiration of each term. He/she must receive a majority of the votes cast. Mandatory retirement is age 72. 	<ul style="list-style-type: none"> • No mandatory retirement age.
<p>Judicial Selection Process</p> <ul style="list-style-type: none"> • County & district judgeships: Within 30 days of a vacancy, a local judicial nominating commission (made up of seven citizens [4 citizens not admitted to practice law, 3 citizens admitted to practice law] residing in the judicial district, no more than 4 members can be from the same political party) interviews applicants and recommends 2 to 3 individuals to the governor for consideration. The governor must select one of the nominees within 15 days upon receipt of the list from the commission. • Court of Appeals & Supreme Court: Within 30 days of a vacancy, a statewide commission (includes 1 citizen admitted to practice law and 1 citizen not admitted to practice law residing in each of the state's 7 congressional districts, and 1 additional citizen not admitted to practice law in Colorado.) interviews applicants and recommends 3 individuals to the governor for consideration. The governor must select one of the nominees within 15 days upon receipt of the list from the commission. • More information is at http://www.courts.state.co.us/supct/committees/supctnomincomm.htm • An applicant must be a licensed attorney in Colorado for at least five years to qualify for appointment to the district court, Court of Appeals, or Supreme Court. 	<ul style="list-style-type: none"> • Supreme Court justices, Court of Appeals judges, and district court judges are nominated by the President and confirmed by the U.S. Senate with 51 votes as stated in the Constitution. The Senate Judiciary Committee typically conducts confirmation hearings for each nominee. Article III of the Constitution states that these judicial officers are appointed for a life term. The federal judiciary, the Judicial Conference of the United States and the Administrative Office of the United States Courts play no role in the nomination and confirmation process. (http://www.uscourts.gov/faq.html)
<p>Judicial Discipline Commission</p> <ul style="list-style-type: none"> • The Colorado Constitution established the commission in 1966. It is composed of 4 citizens not admitted to practice law, 2 citizens admitted to practice law, 2 district court judges, and 2 county court judges. The non-attorney and attorney members are appointed by the Governor and must be approved by the Colorado Senate. The judge members are appointed by the Supreme Court. Commission members serve staggered 4-year terms. • The commission has the constructional authority to investigate any willful misconduct by a judge, including misconduct which, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice; willful or persistent failure of a judge to perform judicial duties, including the incompetent performance of judicial duties; intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotics or dangerous drugs; any conduct on the part of a judge that constitutes a violation of the Colorado Code of Judicial Conduct; or a disability, which is or is likely to become permanent, that interferes with the performance of judicial duties. • More information is at http://www.courts.state.co.us/supct/committees/judicialdiscipline.htm 	<ul style="list-style-type: none"> • The Judicial Conduct and Disability Act (28 U.S.C. § 372(c) allows any person to file a written complaint with an allegation that a judge has engaged in “conduct prejudicial to the effective and expeditious administration of the business of the courts” or “is unable to discharge all duties of office by reason of mental or physical disability.” The chief judge in the circuit in which the judge sits can dismiss the complaint, conclude the proceeding if corrective action has been taken, or appoint a special committee to investigate and file a written report and a recommendation. Additional information is available at http://www.ck10.uscourts.gov/judicial_misconduct.cfm

Colorado Judges	Federal Judges
<p>Judicial Performance and Retention</p> <ul style="list-style-type: none"> • Upon appointment, justices and judges serve a 2-year provisional term of office. Their first retention election takes place in the next general election following the initial 2-year term expires. • The state judicial performance commission (10-members including 6 non-attorneys and 4 attorneys) prepares a narrative evaluation for each justice and Court of Appeals judge whose term is to expire following a given general election. • Local commissions in each judicial district with the same non attorney/attorney balance prepare evaluations for county and district court judges. • The evaluations are based on survey data collected from questionnaires completed by attorneys (including district attorneys and public defenders), jurors, litigants, probation officers, social services case workers, crime victims, court personnel and law enforcement officers who have appeared before the judicial officer. Evaluation data is also drawn from the following sources: a personal interview with the judge; a self-evaluation completed by the judge; public hearings, court statistics such as caseload and case types, interviews with other persons, and information from other appropriate sources, such as court observations. • The narrative, a retention recommendation, survey results and any other relevant information are released to the public via the internet at least 45 days prior to the retention election. This information is also summarized in the ballot information booklet (blue book) that is distributed to all registered voters. Additional information is at http://www.courts.state.co.us/panda/judicialperformance/judperfindex.htm • In a retention election, a vote greater than 50 percent retains a justice or judge for another term. • When a justice or judge is convicted of a felony, or other offense involving moral turpitude, the Supreme Court shall enter an order suspending the justice or judge in question without pay. If the conviction becomes final (after sentencing), the Supreme Court shall enter an order removing said justice or judge from office. 	<ul style="list-style-type: none"> • Appointments are for the life of the judge. Voters do not elect or retain. • The Federal system has laws guiding the conduct of judges and mechanisms in place to respond to complaints about judges. • Does not apply in Federal system. • No mechanism for removal of judges short of impeachment exists. There is standing precedent in Congress that judges can only be removed for acts of a criminal nature.
<p>Retired Judges</p> <ul style="list-style-type: none"> • The senior judge program assigns retired judges, at the request of trial courts, to hear cases in which judges have recused themselves, to fill in when a judge is absent, a judicial vacancy or an overscheduled docket. Senior judges contract to provide 60 or 90 days of service per year. In return, the judge's retirement benefit is temporarily increased. 	<ul style="list-style-type: none"> • Senior judges, who essentially provide volunteer service to the courts, typically handle about 15 percent of the federal court's workload annually. (http://www.uscourts.gov/faq.html)