

SIXTH CIRCUIT JUDICIAL COUNCIL

**PROCEDURES FOR THE SELECTION OF BANKRUPTCY JUDGE NOMINEES
AND
PROCEDURES FOR THE REAPPOINTMENT OF BANKRUPTCY JUDGES**

**PURSUANT TO SEC. 120(B), BANKRUPTCY AMENDMENTS AND FEDERAL JUDGESHIP ACT
(PUBLIC LAW 98-353, 98 STAT. 345)
AND
REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES**

United States Bankruptcy Judges exercise highly important judicial powers and responsibilities as officers of the United States District Courts. A person appointed as bankruptcy judge should have the character, ability, and impartiality to qualify such person for service in the Federal Judiciary. The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353, 98 Stat. 345, authorizes the Court of Appeals for each circuit to appoint bankruptcy judges for 14 year terms with respect to vacancies occurring on or after July 10, 1984, the effective date of the Act. The Court of Appeals will make an appointment to each vacancy from a list of at least three nominees submitted to it by the Circuit Judicial Council. The Circuit Council is required under the Act to seek applications and to review and evaluate the applicants in accordance with regulations promulgated by the Judicial Conference of the United States. These procedures describe the steps which will be followed by the Sixth Circuit Judicial Council in recommending nominees for appointment as bankruptcy judges to the United States Court of Appeals for the Sixth Circuit. These regulations set forth procedural guidelines that create no vested rights for any incumbent or prospective bankruptcy judge.

1. **QUALIFICATIONS.** To be eligible for consideration by the Council for nomination for appointment as bankruptcy judge, an applicant must possess all of the qualifications established by the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353, 98 Stat. 345, and the Regulations of the Judicial Conference of the United States adopted pursuant thereto. The following are the minimum qualifications established by the Act and Regulations:
 - (a) An applicant must be a member in good standing of the highest court of at least one state, the District of Columbia, or the Commonwealth of Puerto Rico, and a member in good standing of every other bar of which the applicant is a member.
 - (b) Unless the Council determines that special conditions exist, an applicant must have engaged in the active practice of law for at least five years. The Council may consider as substitute experience for the active practice of law the following, including any combination thereof:
 - (1) Judge of a state court of record or other state judicial officer.
 - (2) United States bankruptcy judge, referee in bankruptcy, United States Magistrate, or other federal judicial officer.

- (3) Attorney for state or federal agency.
 - (4) Law clerk to any judge or judicial officer (limited to two years).
 - (5) Other legal experience which is suitable as a substitute in the opinion of a majority of the judicial council.
- (c) The applicant also must possess the following abilities or characteristics:
- (1) Competence to perform the duties of the office.
 - (2) Integrity and good character, and the reputation therefor.
 - (3) A demonstrated commitment to equal justice under the law.
 - (4) Sound physical and mental health.
 - (5) Outstanding legal ability and competence as evidenced by ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes.
 - (6) Demeanor, character and personality that would exhibit good judicial temperament.
- (d) An applicant may not be related to a judge of the appointing Court of Appeals or judicial council of the Circuit, or to a judge of the District Court to be served, by blood or marriage within the degree of first cousin.

2. **ADDITIONAL QUALIFICATIONS.** The Council may establish additional qualification standards appropriate for a particular position, taking into account the specific responsibilities anticipated for that position.

3. **PUBLIC NOTICE.** With respect to each vacancy, a public notice shall be given which shall identify the vacant position, and shall describe the nature of the position and the procedures for submission of applications. An affirmative effort shall be made to insure that all qualified candidates without regard to race, color, age (over 40), gender, religion, national origin or disability are informed of the vacancy and are invited to apply.

(a) **Publication.** Unless otherwise ordered by the Council because of exigent circumstances, the notice of the vacancy shall be published at least two times in major newspapers of general circulation in the geographic area in which the vacancy exists. The notice also should be published, to the extent feasible, in bar journals, newsletters, and local legal periodicals, if available.

(b) **Posting.** The public notice of a vacancy also shall be posted in the office of the clerk of the United States Court of Appeals for the Sixth Circuit and in the offices of the clerks of the district court and bankruptcy court for the district in which the vacancy exists.

4. **FORM OF APPLICATION.** Applications for appointment as bankruptcy judge shall be submitted on the form prescribed by the Council. A copy of the prescribed form is attached to these procedures as Appendix A.

- (a) Availability of application forms. Application forms may be obtained from the office of the circuit executive, the office of the clerk of the United States Court of Appeals for the Sixth Circuit, or from the office of the clerk of the district or bankruptcy court in which the vacancy exists, or at www.ca6.uscourts.gov.
- (b) Submission of applications. Applications for appointment as bankruptcy judge shall be submitted to:

**Office of the Circuit Executive
503 Potter Stewart United States Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202-3988**

- (c) Number of copies. Each applicant shall submit **12** copies of the application form.
 - (d) Application period. Unless otherwise ordered by the Council, applications must be submitted within 30 days of the announcement by the Council of the vacancy.
- 5. MERIT SELECTION PANEL.** For the purpose of assisting the Council in reviewing and evaluating the applications for appointment as bankruptcy judge, the Chief Judge of the Circuit shall appoint, for districts in this circuit in which a bankruptcy vacancy occurs, merit selection panels; provided, however, that the Council may, by majority vote, dispense with the appointment of a merit selection panel for a particular vacancy because of exigent circumstances.
- (a) Membership. A merit selection panel shall consist of three to seven members, including the chairperson. The members of the panel shall be appointed by the chief judge of the circuit in consultation with the circuit and district judges of the district concerned. Each member of the panel shall be a resident of the circuit.
 - (b) Term of office. Members of a panel shall serve for a term of one year and may be reappointed at the discretion of the chief judge of the circuit.
 - (c) Compensation. Members of a panel shall receive no compensation for their services, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.
 - (d) Duties. A panel shall examine all applications for the purpose of identifying qualified applicants. A panel shall make an effort to identify and give due consideration to all qualified applicants, without regard to race, color, age (over 40), gender, religion, national origin or disability. A panel shall grant a personal interview to each applicant whose name is submitted to the Council. A panel, or members thereof, may, subject to the confidentiality provisions of paragraph 7 of these procedures, solicit information regarding an applicant from any persons who are familiar with the applicant's qualifications. A panel shall solicit confidential comments from the circuit, district and bankruptcy judges of the district concerned regarding the qualifications of each applicant whose name is submitted to the Council. All panel meetings shall be closed to preserve confidentiality.

- (e) Activation of the panel. A panel shall be activated upon notification to it by the Chief Judge of the Circuit of the existence of a vacancy in the office of bankruptcy judge for the district in which the panel serves. For the purposes of these procedures, the Chief Judge may deem a bankruptcy judge position to be vacant and may, after consultation with the Administrative Office of the United States and the Bankruptcy Committee of the Judicial Conference of the United States and approval of the filling of the position by the Judicial Council of the Sixth Circuit, activate a panel upon the death of a bankruptcy judge or upon receipt of written notification from a sitting bankruptcy judge of his or her intention to resign or retire from active service upon a date certain in the future.
- (f) Panel report. Within 90 days after the application deadline, a panel shall submit a report to the council. Such report shall specify five to ten persons found best qualified by the panel for appointment as bankruptcy judge. For good cause shown, the council may accept a list containing fewer than five persons. The report of the panel also shall include a description of the panel's activities and all written materials received by it or prepared by the panel concerning the recommended nominees.
- (g) Successive vacancies. In the event a new vacancy occurs within 90 days after submission of a panel report for a prior vacancy in the same district and geographic area, the panel may include in the list of persons found best qualified nominees for the prior vacancy together with other persons also deemed qualified.

6. COUNCIL EVALUATION AND NOMINATION. To fulfill the responsibilities for selection and appointment of bankruptcy judges pursuant to the provisions of 28 U.S.C. Section 152(a)(1), the Sixth Circuit Judicial Council (“Judicial Council”) shall act as a reviewing panel for all Merit Selection Panel reports and perform the following tasks:

- (a) Form a Judicial Council Committee (the “Committee”) consisting of three Court of Appeals Judges, the Chief District Judge from the District involved in the appointment and the Bankruptcy Judge Representative to the Judicial Council. The Chief Judge should select Court of Appeals Judges based on: (1) the judges’ residence in the city or location where the bankruptcy judge vacancy exists; (2) the judges’ residence within the state, by seniority, where the vacancy exists; (3) selection at the discretion of the Chief Judge.¹
- (b) The Committee shall:
 - (1) Schedule and conduct interviews for all persons recommended by the Merit Selection Panel (the “finalists”).
 - (2) Gather any additional investigative information to supplement the Merit Selection Report.
 - (3) Contact the Chief Bankruptcy Judge of the District involved.
 - (4) Prepare a report to the Judicial Council ranking the top three candidates and making any other report that may be appropriate.

¹ Judicial Council Minutes, at 5 (June 26-27, 2005) (on file with the Circuit Executive’s Office).