

Iowa Judicial Branch
Office of the State Court Administrator



***Magistrate
Appointing Commission
Handbook***

(Updated: September 12, 2018)



Iowa Judicial Building
1111 East Court Avenue
Des Moines, Iowa 50319

Table of Contents

| | |
|--|-----------|
| I. Mission and Core Values | 1 |
| II. Purpose and Procedures of the Magistrate Appointing Commission | 2 |
| III. Judicial Job Descriptions | 4 |
| IV. Criteria for Judicial Selection | 6 |
| V. Interview Policies and Techniques | 9 |
| VI. Public Records Law | 13 |
| VII. Open Meetings Law | 14 |
| VIII. Sunshine Law Enforcement | 16 |
| IX. Application Forms | 16 |
| ◆ Application for a District Associate Judge or Magistrate Position (2 Parts) | |

I. Mission and Core Values of the Iowa Judicial Branch

In 1999, the Iowa Supreme Court officially adopted the following mission statement and statement of core values. They serve as guiding principles for the work of the courts and the selection of judicial officers, who are the heart of the judicial branch of government.

Mission Statement

The Iowa Judicial Branch dedicates itself to providing independent and accessible forums for the fair and prompt resolution of disputes, administering justice under law equally to all persons.

Core Values

Fairness: Guided by the rule of law and committed to impartiality in all its decisions and actions, the Iowa Judicial Branch delivers high quality justice and service to all persons regardless of their gender, race, age, ethnicity, religion, nationality, or political affiliation.

Accessibility: Iowa's courts are committed to reasonable and affordable fees and procedures, as well as safe and convenient court locations, facilities accessible to persons with disabilities, and high quality language interpretation services. Court instructions, orders, judgments, and forms shall be understandable to the average citizen. Unless prohibited by law, all court proceedings and records shall be open and accessible to the public we serve.

Integrity: Iowa's courts employ well-trained and hard-working personnel who are committed to excellence, bound by codes of professional ethics and conduct, and accountable for the public funds allocated for judicial branch operations.

Independence: Empowered by the constitutional principles of our democracy, the Iowa Judicial Branch exercises governmental autonomy while maintaining respect for, and fostering cooperation with, the executive and legislative branches of government. Iowa's courts are free from, and do not engage in, any partisan politics.

Efficiency: Civil claims, criminal charges, and all other matters coming before Iowa's courts shall be addressed with efficiency and dispatch, consistent with careful and thoughtful deliberation. To that end, the Iowa Judicial Branch applies its resources toward practical and innovative technologies for the administration of justice.

II. Purpose and Procedures of the Magistrate Appointing Commission

A. Purpose and Composition of the Magistrate Appointing Commission

The Magistrate Appointing Commission appoints judicial magistrates (Iowa Code § 602.6403) and recommends nominees to fill district associate judge vacancies. Iowa Code § 602.6304(1). The final appointment of a district associate judge is made by the district judges of the judicial election district. Each county has a Magistrate Appointing Commission (commission), which consists of a designated district judge, three members appointed by the county board of supervisors, and two members elected by lawyers who reside in the county. Iowa Code § 602.6501.

B. How Commissioners are Chosen

Commissioner Designated by the Chief Judge. The chief judge of the judicial district must designate one district judge to be on the commission. Iowa Code § 602.6501(1)(a).

Commissioners Appointed by the County Board of Supervisors. The county board of supervisors appoints three commissioners to the commission for six-year terms. Iowa Code § 602.6503(1). If only one attorney is elected to the commission (*see below*), only two commissioners can be appointed; if no attorney is elected, only one commissioner can be appointed. *Id.* The board may not appoint an attorney or active law enforcement officer to serve as a commissioner. Iowa Code § 602.6503(2).

Commissioners Elected by Attorneys in the County. The resident attorneys of the county shall elect two attorneys to the magistrate appointing commission for six-year terms. Iowa Code § 602.6504(1). The election must be held in December preceding the commencement of new terms. *Id.* The resident attorneys may elect only one commissioner if there is only one attorney who is qualified and willing to serve, or if there are no resident attorneys who are willing to serve, none shall be elected. *Id.* A county attorney may not be elected to the commission. Iowa Code § 602.6504(2).

To be placed on the ballot, an eligible attorney commissioner must file a nomination petition in the district court clerk's office on or before November 30 of the year in which the election for attorney positions is to occur. Write-in votes are permitted regardless of whether a nominating petition is filed. Iowa Code § 602.6504(4).

To be eligible to vote in the election of a commissioner, a member of the bar must be a resident of the county, as shown by the member's most recent filing with the supreme court for the purpose of showing compliance with the court's continuing legal education requirements, or for members who are not required to file such compliance, any paper which the supreme court deems sufficient to establish eligibility to vote. Iowa Code §§ 46.7; 602.6504(3).

C. Procedure for Filling a District Associate Judge Vacancy

Iowa Code § 602.6304(1)-(4) sets forth the procedure for filling district associate judge vacancies. A vacancy may occur as a result of:

A district associate judge not being retained pursuant to a judicial retention election; the death, retirement, resignation, or removal of a district associate judge; or an increase in the number of district associate positions authorized by the Iowa legislature. Iowa Code § 602.6304(3).

If a district associate judge is not retained pursuant to a judicial retention election in November, the magistrate appointing commission must publish notice of the vacancy at least twice in the official county newspaper. Iowa Code § 602.6304(2).¹ The commission shall accept applications for a minimum of fifteen days before certifying, by majority vote, the names of its three nominees to the chief judge of the judicial district. *Id.* Certification must occur on or before December 15. *Id.* If there are three or fewer applicants, the commission shall certify the names of all statutorily qualified applicants. *Id.*

If a vacancy occurs for some reason other than a judicial retention election, the commission shall publish notice of the vacancy at least twice in the official newspaper in the county, and shall accept nominations for a minimum of fifteen days before certifying, by majority vote, the names of its three nominees to the chief judge of the judicial district. Iowa Code § 602.6304(3). Nominees for district associate judge must be chosen based solely on their qualifications and without regard to political affiliation. Iowa Code section 602.6304(2)-(3).

Certification by the commission must occur within thirty days after notification of an actual or impending vacancy. *Id.* If there are three or fewer applicants, the commission shall certify the names of all statutorily qualified applicants. *Id.* Within fifteen days after certification of the nominees to the chief judge of the judicial district, the district court judges in the judicial election district must, by majority vote, appoint one of the nominees to fill the district associate judge vacancy. Iowa Code § 602.6304(4).

Recommendations for conducting the commission's meeting: The district judge appointed pursuant to Iowa Code § 602.6501(1)(a) shall serve as temporary chair of the commission and convene the commission when necessary to fulfill its statutory duties. When the commission meets to interview and select nominees to fill a vacant district associate judge position, the temporary chair should appoint a secretary to record the meeting minutes. The commission should then nominate and select a chair of the meeting by majority vote. After the meeting, the secretary should submit the minutes of the meeting to the chair of the meeting. At or soon after the conclusion of the meeting, the chair should also collect from the commissioners all written materials pertaining to the candidate interviews including, but not limited to, any written notes and any letters or printouts of emails received or written by the commissioners. The chair should deliver all these written materials to the clerk of district court, who should maintain them as part of the public record.

D. Procedure for Filling a Magistrate Vacancy

By the end of February of each year in which the magistrates' four-year terms expire (e.g., 2013, 2017, etc.), the state court administrator shall apportion magistrates among the counties in accordance with

¹ Note: There is no definition of the "official" county newspaper in the Iowa Code. The term is normally interpreted to mean the newspaper with the largest circulation.

the criteria set forth in Iowa Code section 602.6401(2). The state court administrator must give notice of that apportionment to the clerks of district court and the chief judges of the judicial districts in March of that year. Iowa Code § 602.6401(4). By June 1 of each year in which magistrates' terms expire, the magistrate appointing commission shall appoint the number of magistrates apportioned to that county by the state court administrator. Iowa Code § 602.6403(1). The procedure for filling a vacancy in magistrate court is set out in Iowa Code section 602.6403.

When a vacancy occurs, the commission shall publish notice of the vacancy at least twice in all official county newspapers. Iowa Code § 602.6403(2). The commission must accept applications for at least fifteen days before making an appointment. *Id.*

Recommendations for conducting the commission's meeting: The district judge appointed pursuant to Iowa Code § 602.6501(1)(a) shall serve as temporary chair of the commission and convene the commission when necessary to fulfill its statutory duties. When the commission meets to interview and select nominees to fill a vacant magistrate position, the temporary chair should appoint a secretary to record the meeting minutes. The commission should then nominate and select a chair of the meeting by majority vote. After the meeting, the secretary should submit the minutes of the meeting to the chair of the meeting. At or soon after the conclusion of the meeting, the chair should also collect from the commissioners all written materials pertaining to the candidate interviews including, but not limited to, any written notes and any letters or printouts of emails received or written by the commissioners. The chair should deliver all these written materials to the clerk of district court, who should maintain them as part of the public record.

The appointment must be made within thirty days of the notice of vacancy. Iowa Code § 602.6403(3). The commission must promptly certify the names of the appointees to the chief judge of the district, and the clerk of the district court, who in turn must promptly certify the names of the appointees to the state court administrator. Iowa Code § 602.6403(5).

E. Ethical Conflicts for Commissioners

A member of a magistrate appointing commission is not eligible to be appointed to the office of magistrate, and shall not be nominated for, or appointed to, the office of district associate judge (or associate juvenile judge or associate probate judge). Iowa Code § 602.6502. In addition, a member of the commission shall not be eligible to vote for appointment or nomination of a family member, current law partner, or current business partner. A "family member" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepbrother, stepsister, half-brother, or half-sister. Iowa Code § 602.6502.

III. Judicial Job Descriptions

A. District Associate Judge (Iowa Code §§ 602.6301-.6306)

Qualifications. At the time of appointment, an applicant for a district associate judge position must be:

- A resident of the judicial election district in which a vacancy exists;

- An attorney admitted to the practice law in Iowa; and
- Able to complete a six-year term of office before reaching age seventy-two.

District associate judges must retain their residency in the judicial election district of appointment during their term of appointment.

Term of Office. District associate judges are subject to retention vote every six years within the judicial election district. Iowa Code § 46.16(2).

Jurisdiction. A district associate judge's jurisdiction includes all the duties of a magistrate (see description that follows) plus civil actions for money judgment in which the amount in controversy does not exceed \$10,000; involuntary mental health or substance abuse commitments; serious and aggravated misdemeanors; felony violations of operating a motor vehicle while intoxicated; and temporary and emergency orders of protection under chapter 236.

Upon appointment by the chief judge, a district associate judge may serve as the juvenile court judge for one or more counties within the district. A district associate judge exercises limited appellate jurisdiction in connection with rulings entered by magistrates in small claims and simple misdemeanor cases. Under limited circumstances, a district associate judge may temporarily assume the duties of a district judge, as authorized by the chief judge. In addition, the Chief Justice of the Iowa Supreme Court may reassign a district associate judge (or magistrate) as needed to handle the judicial business in all districts promptly and efficiently. Iowa Code § 602.6108.

B. Magistrate (Iowa Code §§ 602.6401 - .6405)

Qualifications. At the time of appointment, a magistrate must be:

- Less than seventy-two years of age (but a magistrate is subject to *mandatory retirement at age seventy-two* pursuant to Iowa Code § 602.1610(1)(c));
- An attorney admitted to practice law in Iowa, except a magistrate not licensed to practice law in Iowa and who was holding office as a magistrate on April 1, 2009, is eligible to be reappointed as a magistrate in the same county for subsequent successive terms (Iowa Code § 602.6404(3)); and
- A resident of the county of appointment or a resident of a county contiguous to the county of appointment during the magistrate's term of office, but a person will not be appointed to fill two separate magistrate positions in contiguous counties. Iowa Code § 602.6108.²

Currently, a substantial majority of Iowa's magistrates are attorneys. As non-lawyer magistrates retire, all magistrates eventually will be attorneys.

² **Note:** In 2011, in an effort to expand the number of law-trained applicants for magistrate positions, especially in rural counties, the legislature authorized attorneys to apply for a magistrate position in a county contiguous to their own county of residence. Iowa Code § 602.6108. This change also created the appearance that one attorney could be appointed to serve as a magistrate in two or more contiguous counties, which was not the intent of the Code amendment. A person who accepts appointments to fill more than one magistrate position **may be deemed to have vacated all but the last magistrate position to which the person was appointed.**

Magistrates are paid approximately one-third the salary of a full-time district associate judge and are considered part-time judicial officers. Most magistrates are engaged in other employment, such as the practice of civil law.

Term of Office. A magistrate's term of office is four years. A magistrate may apply for appointment to additional four year terms. However, every four years the county magistrate appointing commission should appoint the most qualified candidate available, which might or might not be the magistrate who previously served in that position.

Jurisdiction. Ordinarily magistrates hold court in the magistrate's county of residence but, if necessary for the orderly administration of justice, magistrates may be assigned by the chief judge to serve in any county within the judicial district in which the magistrate has been appointed. Magistrates have limited jurisdiction over criminal and civil proceedings as follows:

Criminal: Magistrates have jurisdiction to issue search and arrest warrants, hold preliminary hearings, and preside at initial appearances for all classes of criminal defendants. At the initial appearance in a criminal case, magistrates must notify defendants of their constitutional rights, appoint counsel, if necessary, and set bail. In simple misdemeanor cases, including traffic and ordinance violations, magistrates preside at jury and non-jury trials, accept guilty pleas, and enter sentences.

Civil: Magistrates preside at the trial of small claims actions and hearings on petitions for forcible entry and detainer (i.e., landlord/tenant cases). Jurisdiction in small claims is restricted to damage claims up to \$5,000. Magistrates often issue oral rulings from the bench, but enter written rulings in most cases that go to trial. Magistrates also make findings and enter orders in connection with emergency mental health commitments. They may also perform marriage ceremonies.

Because of the emergency nature of many duties assigned to magistrates (issuance of arrest and search warrants, mental health commitment proceedings), magistrates must be available to provide services after regular work hours during the week and on weekends.

IV. Criteria for Judicial Selection

A. Selection Based on Merit

Judges and magistrates make decisions that affect the lives of tens of thousands of people in Iowa each year, so the selection of judicial nominees is a very important process. All judicial officers should be selected based on merit, i.e., the extent to which a candidate possesses the experience, abilities, and other essential qualities of an effective judge or magistrate (see IV.C., below).

B. Factors that Should Not be Considered

Some factors should not be considered at all in judicial selection, including: gender, race, ethnicity, religious affiliation, physical handicap, national origin, marital status, political affiliation, sexual orientation, or county of residence (if candidates from other counties qualify for appointment to a

magistrate or district associate judge position). Age also should not be considered, except to ensure the statutory age requirement is met. In addition, a candidate's views on highly controversial political issues are not relevant for determining whether a candidate has the essential qualifications to be judge or magistrate. However, a candidate's ideas about the role of the courts compared to the roles of the legislative and executive branches of government are relevant subjects of inquiry.

There are other factors, such as regional representation (e.g., rural applicants vs. urban applicants), that are not related to merit, but sometimes may be considered if there are two or more candidates with equal ability, skills, and experience. If commissioners consider factors that are not related to merit, they must openly discuss these factors before voting, and recognize the factors as unrelated to merit. Because the selection of judges and magistrates should be based on merit, factors such as regional representation shall not control the commission's decision.

C. Essential Qualities of an Effective Judge or Magistrate

When determining which candidates are the most qualified to be a district associate judge or magistrate, commissioners should focus on the essential judicial qualities described below.

1. Integrity

Integrity is absolutely essential for a judicial candidate. A person with integrity has a reputation for honesty, reliability, unswerving ethics, and a clear commitment to fairness, impartiality, and the rule of law. A candidate should be able to recognize his or her own biases and set them aside when making decisions. A candidate should also demonstrate financial responsibility, self-discipline, and the ability to withstand social, political, and financial pressures that might compromise a judicial officer's independence and impartiality. The evaluator should consider a candidate's criminal history and professional disciplinary sanctions, if any.

2. Professional Skills

The candidate should possess a range of intellectual and professional skills, including the ability to quickly review and understand potentially large amounts of written materials, understand the facts and the relevant law that applies to those facts, and critically question parties and their attorneys regarding the facts and arguments presented in court.

Because of the wide range of topics and issues judges and magistrates confront, a candidate must be willing and able to assimilate and understand information outside the judge's own experience. Therefore, knowledge of a particular substantive area of law is less important than a desire and ability to learn and adapt to new assignments.

All judicial officers receive a judicial branch laptop computer and have access to the judicial branch's automated case management system, email system, standard online templates for court orders, online legal research services, and an online video conference application for remotely conducting initial appearances in criminal cases (as needed). In addition, the Iowa courts have a statewide electronic filing and document management system, and the Iowa Court Rules require almost all documents to be electronically filed and managed. Given this technological work environment, all judicial officer candidates should have sufficient computer skills -- or the ability to expeditiously

acquire those skills -- to effectively manage their cases and communicate with others in the court system.

When evaluating professional skills, commissioners should examine the candidate's academic record, length and types of professional experiences, evidence of leadership in the profession, participation as a presenter in continuing legal education programs, and writing skills as reflected in legal briefs and other writings. Also important is the candidate's reputation among professional colleagues who have firsthand professional experience working with or against a candidate on legal issues.

3. Diligence and Industry

Given the substantial caseload demands in Iowa's courts, a candidate for a district associate judge or magistrate position must have a reputation for being diligent and industrious. The candidate should be known for having good work habits, using work time effectively, and devoting whatever time is required to complete tasks in a timely, high quality, and professional manner. Punctuality is also important. As an attorney, the candidate should have a reputation for appearing at hearings at the scheduled time, meeting deadlines, keeping commitments, and respecting the time of other lawyers, clients, jurors, and judges.

4. Judicial Temperament and Demeanor

An ideal judicial temperament includes the qualities of patience, courtesy, tact, firmness, compassion, humility, and civility. Because one of the primary roles of judges and magistrates is to facilitate conflict resolution, judicial temperament requires an ability to deal calmly and courteously with attorneys and litigants who often have strongly held opposing views and interests and might not demonstrate courtesy and respect themselves. Judges and magistrates must be even-tempered, yet firm; open-minded, yet able to reach a decision; confident, but not arrogant. They must exhibit self-control under conditions that, at times, might provoke intemperate responses from less disciplined persons.

The temperament and demeanor of judges and magistrates in the courtroom can significantly influence the perceptions of litigants regarding the fairness of the court process. Judicial officers must always strive to make fair decisions, but they should also strive to ensure that parties in a case perceive that they have been treated fairly. Research have found that people are most likely to say they were been treated fairly in court when they believe the judge:

- Listened to them;
- Treated them with courtesy and respect; and
- Clearly explained the ruling in understandable language.

Judicial officers who routinely exhibit these aspects of judicial temperament and demeanor in court proceedings can contribute significantly to the public's trust and confidence in the Iowa court system.

5. Decisiveness

Judges and magistrates must be able to make quick decisions under pressure to rule on motions and objections in court proceedings. They must also be able to quickly assimilate and understand the facts and relevant law to respond to issues raised by attorneys, and to do so with confidence and without

hesitation. Judges and magistrates also must be willing and able to make difficult decisions and rule with firmness in a timely manner in written rulings.

6. Communication Skills

Judges and magistrates should speak clearly and effectively to be understood not only by attorneys, but by the parties (many of whom are not represented by an attorney), jurors, and visitors in the courtroom. They should be able to speak in plain language with an appropriate tone of voice, especially when dealing with litigants who are not represented by an attorney and when communicating with jurors.

While speaking skills are critically important for judges and magistrates, listening skills are equally important. Judges and magistrates must also be aware of their nonverbal communication in the courtroom. Parties and attorneys can discern a judicial officer's feelings about, and attentiveness to, what is being said in the courtroom by observing the facial expressions, eye contact, posture, and hand gestures of a judge or magistrate. As indicated above, litigants sometimes believe they have not been treated fairly when a judge or magistrate appears not to be listening, or exhibits nonverbal signs that suggest a lack of courtesy toward or respect for the litigant, even if a judge's or magistrate's decision is legally correct.

7. Public Service and Community Involvement

A candidate's life experiences contribute to the rich diversity of the judiciary. The degree of a candidate's participation in public service activities might also indicate a commitment to improving the lives of others in the community. A successful candidate who has a record of participation or leadership in community activities could enhance the public's trust and confidence in the courts and, at the same time, increase the likelihood that the judge or magistrate will be committed to strengthening and improving the administration of justice in Iowa.

8. Health and Stamina

The demands of judicial office are substantial. Candidates should be physically, emotionally, and mentally able to perform the essential functions of a judicial officer. They should be able to handle the physical and emotional stress that is inherent in the role of a judge. A candidate with some type of disability or handicap should not be disqualified from appointment based on disabilities that currently do not affect the person's ability to perform the essential functions of a judicial officer.

V. Interview Policies and Techniques

A. Ethical Issues for Commissioners in the Interview Process

Commissioner must strive to be objective during the judicial nomination or appointment process. Commissioners might already know one or more of the candidates, which could make it difficult to be

objective. In an effort to maintain objectivity and avoid the appearance of impropriety or bias, commissioners must:

- Decline any form of gift offered by a candidate for judicial office (e.g., an offer to pay for lunch or dinner);
- Decline to make any promise to vote for a particular candidate; and
- Decline to give any candidate advance notice of the questions that will be asked during the interview of candidates before the entire commission.

B. Individual or Small Group Interviews with Candidates

Candidates for judicial office often wish to meet one-on-one or with small groups of commissioners to give the commissioners an opportunity to become familiar with the candidate on a more personal level than is possible during the formal interview process conducted by the entire magistrate appointing commission. However, commissioners are not required to conduct individual one-on-one interviews with judicial candidates. If a commissioner offers to conduct a one-on-one or small group interview with a judicial candidate, the commissioner should offer the same opportunity to all candidates – to avoid the appearance of favoritism.

C. Interviews During a Meeting of the Entire Magistrate Appointing Commission

Interviewing all candidates before the entire commission is very useful. It allows commissioners to see and hear candidates they might not have had an opportunity to interview individually. This is also an opportunity to see and hear how each candidate responds to the same questions and to assess each candidate's knowledge, verbal skills, self-confidence, personality, and performance in a group setting.

D. General Interviewing Suggestions

1. Preparation

Before the interviews, commissioners should review the official application forms the candidates completed for the judge or magistrate position. Review of the application forms will help commissioners prepare for the interviews and could be helpful in preparing follow-up questions for specific candidates.

2. Standard Questions and Question Format

To ensure fairness and comparability in this interview process, the commission should ask all applicants the same questions, which should be selected to determine whether the applicant has the "essential judicial qualities" (identified above).

In addition, commissioners should ask primarily open-ended questions that require a candidate to provide a description, explanation, or analysis. Avoid asking questions that require only a "yes" or "no" response. Examples of open-ended questions include: "Tell us about your law practice." "What do you think are the three or four most important qualities of a good judge?" "What would you do if X happens?"

Commissioners should avoid asking leading questions in which it is clear what the commission expects for an answer. An example of a leading question is: “When X happens, don’t you think judges should do Y?” Rather, a commissioner could rephrase the question by asking: “What do you think a judge should do when X happens?”

Throughout the interview process, observe each candidate’s personal manner, poise, listening skills, and responsiveness to questions.

3. Inappropriate Questions

Some questions are not appropriate and may be legally impermissible during any form of interview session because they are not related to a person’s professional experience, knowledge, skills, leadership, or other essential judicial qualities (see below). Examples of issues that are not appropriate for questioning include:

- Personal and family finances and credit ratings;
- Physical measurements and statistics;
- Ethnic or racial group or origin;
- Religious affiliation;
- Political party affiliation or controversial political issues;
- Sexual orientation;
- Marital status;
- How a candidate would decide a case that is currently pending in an Iowa court; and
- Social and fraternal affiliations.³

Focusing on these types of issues undermines the commission’s goal that selection of judges and magistrates be truly merit based and grounded on legally permissible factors.

4. Opening the Interview and Establishing Rapport

Establish a friendly but professional atmosphere that promotes two-way communication by pleasantly greeting each candidate and having the commissioners briefly introduce themselves. In addition, the chair should provide each candidate an overview of the job description, duties, working conditions, pay and benefits, and the nominating process.

5. Discovering Evidence of the Essential Judicial Qualities

The commission should ask questions to solicit key information that will reveal the extent to which the candidates possess the essential judicial qualities (see section IV.C). The commission can ask whatever questions it decides are appropriate. The following are intended to provide ideas regarding potentially useful types of questions or approaches:

³ Questions about social or fraternal affiliations: Iowa Code of Judicial Conduct, Rule 51:3.1 (Comment 3), on extrajudicial activities, prohibits judicial officers from affiliation with organizations that engage in invidious discrimination (e.g., based on race, gender, etc.). Therefore, it would be appropriate for the commission to ask all candidates if they belong to or have affiliations with any organization that engages in discrimination against any group or class of people protected by the U.S. or Iowa constitutions or laws.

- Describe your current professional position – and what you like most and least about it.
- Describe your two prior professional positions – and what you liked most and least about them.
- Describe your major professional and educational accomplishments.
- Tell us about the two most difficult clients you have had.
 - What made them difficult to deal with?
 - What did you do to deal with them?
 - What was the outcome of those encounters?
 - Describe your current relations with them.
- Tell us about the two most difficult opposing attorneys you have encountered.
 - What made them difficult to deal with?
 - What did you do to deal with them?
 - What was the outcome of those encounters?
 - Describe your current relationship with those attorneys.
- Tell us about your most significant failure as an attorney.
 - What you would do differently if you had the opportunity?
- Tell us about the most significant disagreement you have had with a judge.
 - How did you handle the situation?
 - What was the outcome?
 - Describe your current relationship with that judge.
- Tell us about the most significant ethical dilemma you have faced as an attorney.
 - How did you handle the situation?
 - What was the outcome?
- Tell us about your community and/or public service activities and how long you have been involved in them.
 - Why did you choose these activities rather than others?
- Describe two ways that you have exhibited leadership in your profession or community.
- What do you believe would be the most rewarding aspects of being a judge (or magistrate)? Explain.
- What do you believe would be the least rewarding aspects of being a judge (or magistrate)? Explain.
- A judge must be a person of impeccable integrity. What does that mean to you?
 - How can the commission know that you are a person of impeccable integrity?
- Describe what you believe constitutes the “ideal judicial temperament.”
 - On a scale of 1 to 10 (1 = lowest, 10 = highest), how would you rank yourself on “ideal judicial temperament”? Explain your ranking.
- Judges (or magistrates) must also make decisions quickly on motions and objections during hearings and issue written rulings in a timely manner.
 - On a scale of 1 to 10 (1 = lowest, 10 = highest), how would you rank yourself on “decisiveness”? Explain your ranking.
- What is your greatest strength as a candidate for this position? Explain.
- What is your greatest weakness as a candidate for this position? Explain.
- In three sentences or less, tell the commission why you are the best candidate for this position.

6. Post-Interview Evaluation of Candidates

Commissioners should evaluate the candidates as soon after the interview as possible while commissioners can clearly recall candidates' responses during the interviews. Discussions about each candidate should focus on the extent to which the candidate possesses or demonstrates the eight essential qualities of an effective judge or magistrate.

VI. Public Records Law

The following sections provide guidance to commission members on responding to requests for disclosure of documents the commission obtained or created. Final decisions on these issues are the responsibility of the commission and its chair after examination of the pertinent sections of the Iowa Code.

A. Commission Documents are Generally Available to the Public

Iowa Code section 22.1(3) defines "public records" to include all records stored in any medium of or belonging to this state or any branch, department, board, bureau, commission, council, or committee of the state. Therefore, records created or received by the commission are subject to Iowa Code chapter 22 and should be treated as public records open to public examination unless there is a specific legal basis to treat all or a part of a particular record as confidential. Records subject to Iowa's Public Records Law may be in any form, such as paper, electronic, email, or video. The records should be maintained by the clerk of district court for at least five years. See Iowa Code § 602.8103(4)(b). Commission members should refer requests for public records to the district court administrator to assure requests are handled properly under Iowa Code chapter 22 and confidential information is not released.

B. Candidate Application Form

Some information obtained on candidates' application forms is likely to be confidential (e.g., full birth date or social security number). State court administration has developed a recommended application form (see part IX, below) that separates confidential information from other non-confidential information that can be released to the public.

C. Letters Supporting or Opposing Candidates for Judicial Office

Candidates or members of the public occasionally request copies of the letters of support or opposition to one or more candidates for a district associate judge or magistrate position. As indicated above, there is a presumption under Iowa Code chapter 22 that these types of documents are available to the public. Of course, confidential information (e.g., a person's birth date or reference to a person's medical condition) must be redacted from any letter prior to disclosure by the commission. In addition, Iowa Code section 22.7(18) allows some possibility for shielding from full disclosure at least part of a record, including a letter, if all the following are true:

1. The record is a communication from an identified person outside of government. (Letters of support for, or opposition to, a judicial candidate are almost always from persons outside of government.)
2. The record is not required by law. (These types of letters are not required by law.)
3. The government body receiving the communication or record must reasonably believe the person submitting the communication would be discouraged from submitting the communication if it is not to be held as confidential.

The commission wants to encourage members of the public to openly express their views about judicial candidates without fear of reprisal or backlash from the candidates, but the commission cannot declare all letters submitted to the commission regarding the candidates to be confidential. Whether a specific letter or a portion of a letter can be treated as confidential depends on the nature and content of the specific letter or document. In most situations, it should be clear to the commission whether a letter meets the first two criteria (above). The commission might reasonably believe the third criterion is met if the author explicitly requests confidentiality, or if the letter includes information the author might not have submitted in writing had the author known the letter would be released to the public.

If the commission concludes all three criteria (above) apply, the commission must contact the author to determine if the author consents to disclosure. See Iowa Code § 22.7(18)(a). The letter must be disclosed if the author consents. If the author requests confidentiality, the letter should still be disclosed if it can be redacted to remove information that specifically identifies the author or enables others to ascertain the identity of the author.

D. Commissioners' Meeting Notes, Letters, and Email Communications

Commissioners' notes from commission meetings and emails commissioners send or receive in their official capacity as commissioners are public records that are subject to public examination, unless all or some portion of the record is confidential under a provision of law.

VII. Open Meetings Law

A. Commission Meetings are Open to the Public

Magistrate appointing commissions are subject to the Open Meetings Law. 1990 Op. Att'y. Gen. 37. Iowa Code section 21.1 declares: "This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this chapter should be resolved in favor of openness." Consequently, all meetings of the commission when a majority or more of commissioners are present, including the interviews of all candidates for judicial office, must be open to the public unless a legal basis exists to close the meeting.

The commission may only deliberate or take action at a meeting preceded by at least 24 hours notice to the public and a posted agenda. Iowa Code § 21.3. A "meeting" occurs anytime a majority of the

commission is present in person or electronically and deliberates or takes action about matters within the scope of the commission's duties. Iowa Code § 21.2(2). The votes of all members must be public and clear during the meeting and in the minutes. Iowa Code § 21.3. Secret ballots are not allowed.

Minutes of all open sessions shall include the date, time, and place of the meeting, which members were present, and the actions taken, with sufficient information to reflect members' votes. Iowa Code § 21.3.

B. Minutes and Recording of a Closed Session

Members of the public should never be asked to leave a meeting unless the commission has a legal basis to close the meeting and publicly states the legal basis while still in open session. Iowa Code § 21.5(2), (3). A vote to close a meeting should be taken by roll call vote and entered into the minutes of the open session. The commission may only close a session upon an affirmative vote of two-thirds of the members or all members present. Iowa Code § 21.5(1).

While in closed session the commission must electronically record the session (and keep the recording for at least one year), take detailed minutes, and limit the discussion to the announced legal basis for the closed session. Iowa Code § 21.5(4). The recording and minutes shall be sealed and can only be made public under very limited circumstances. Iowa Code § 21.4.

Final action must be taken in open session. Iowa Code § 21.5(3). When the closed session discussion is finished, members should return to open session, allow those who left the meeting for the closed session to return, and then vote on any final action in open session. Final votes are recorded in the open session minutes.

One possible basis to go into closed session could occur if the commission wishes to discuss a matter revealed by a candidate that must by law be kept confidential, such as a medical condition. Iowa Code § 21.5(1)(a). The commission could also go into closed session to "evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered" if the commission determines that a closed session is "necessary to prevent needless and irreparable injury to that individual's reputation" and "that individual requests a closed session." Iowa Code § 21.5(1)(i). Note that this ground to go into closed session must be applied to each candidate separately.

C. Use of Cameras and Recording Devices During Open Meetings

According to Iowa Code section 21.7, the public may use cameras or recording devices at any open session. However, the commission may establish reasonable rules for the conduct of the meetings to assure the meetings are orderly and free from interference by spectators. For example, if someone requests to video record the interviews of candidates, the commission may wish to suggest that district court administration staff set up its own video recording equipment and record the meeting. This approach would allow all members of the public to request a copy and would assure the original recording is not altered.

VIII. Sunshine Law Enforcement

Actions to enforce Iowa's Open Meetings and Public Records Laws can be brought by a citizen of Iowa, a person who pays taxes of any type to the State of Iowa, a person individually aggrieved by a violation, a county attorney, and the Attorney General. Iowa Code §§ 21.6, 22.5, 22.10. Remedies include removal from office upon a second violation, damages (up to \$2,500 for a knowing violation), expenses and attorneys fees, and injunctive relief.

IX. Application Forms

Applicants for a District Associate Judge or a Judicial Magistrate position must complete two application forms. Part 1 includes background information that will be subject to public information requests. Part 2 includes confidential information that will not be subject to public information requests. The forms are available on the Iowa courts' Sharepoint website, which is accessible by clerks of court and district court administrators. Applicants can obtain the application forms from the clerk of district court (for Magistrate positions) or the district court administrator (for District Associate Judge positions).

DAJ-Magistrate Application – Instruction Sheet

Note: The Instruction Sheet must be modified by the clerk of court in each county (for appointment of Magistrates) and by the district court administrator (for appointment of District Associate Judges)

DAJ-Magistrate Application Part 1 (Public Information)

DAJ-Magistrate Application Part 2 (Confidential Information)