

Note Regarding Materials

The following is an excerpt from *The Selection, Appointment, and Reappointment of United States Magistrate Judges*. The publication is produced by the Judicial Services Office of the Administrative Office of the United States Courts and is designed to assist district courts and members of merit selection panels in carrying out their responsibilities in selecting, appointing, and reappointing federal magistrate judges in accordance with statutory and regulatory policies. It was last updated in October 2016 and is currently being revised in light of certain intervening changes to the process and forms.

The excerpt is provided for educational purposes for “Roadways to the Bench: Who Me? A Bankruptcy or Magistrate Judge?”, a national event for law students and attorneys, and does not include appendices, other than Appendix G (a sample application form). Local policies and procedures established by individual district courts are not covered in these materials. Attendees may contact their local district court to request copies of actual application forms.

The Qualifications of Magistrate Judges

The qualifications required for appointment or reappointment as a United States magistrate judge are set forth in 28 U.S.C. § 631, and in the Regulations of the Judicial Conference of the United States. See Appendix K.

Bar Membership

To be eligible for appointment as a magistrate judge, an applicant must be, and have been for at least five years, a member in good standing of the bar of the highest court of a state, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States. The term “member in good standing” is not defined in the Federal Magistrates Act or any other statutory provisions applicable to magistrate judges. In the absence of any federal statute regarding bar membership, the question of what constitutes “member in good standing” is governed by the requirements of state law. Several state bars have ruled that “inactive” status qualifies as membership “in good standing.”

The bar requirements may be waived for a part-time magistrate judge if the appointing court and the Judicial Conference of the United States determine that no qualified individual who is a member of the bar is available to serve at a specific location.

Experience as an Attorney

An applicant must have actively practiced law for at least five years. The court may consider the following substitute experience, including any combination thereof:

- Experience as a judge of a state court of record or other state judicial officer.
- Experience as a United States magistrate judge, bankruptcy judge or other federal judicial officer.
- Experience as an attorney for a federal or state agency.
- No more than two years experience as a law clerk to any judge or judicial officer, or as a staff attorney, or pro se law clerk in a court.
- Other types of substantial legal experience (subsequent to receipt of a law degree or license to practice law) suitable as a substitute in the opinion of the majority of the district judges of the court.

Age

In the case of an initial appointment as magistrate judge, an applicant must not be 70 years of age or older at the time of appointment. A magistrate judge, however, may continue to serve and be reappointed after age 70 upon a majority vote of all district judges of the court, which is taken when the magistrate judge reaches age 70 and upon each anniversary thereafter. A magistrate judge already serving in a full-time or part-time position may be appointed to a different full-time or part-time position in the same district after age 70.

Relationship to District Judges

At the time of the initial appointment, an appointee to a magistrate judge position may not be related by blood or marriage to a judge of the appointing district court within the degree of relationship specified in 28 U.S.C. § 458, i.e., “by affinity or consanguinity within the degree of first cousin.”

National Park Residency Requirement

In the case of an individual appointed to serve in a national park, he or she must reside within the exterior boundaries of that park, or at some place reasonably adjacent thereto.

Personal Attributes

An appointee to a magistrate judge position 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
- Capable of deliberation and decisiveness when required to act on his or her own reason and judgment.

Additional Qualifications

A district court may establish additional qualification standards appropriate for a particular magistrate judge position, taking into account the specific responsibilities anticipated for that position.

CHAPTER 4

Public Notice

The Judicial Conference Regulations require wide circulation of magistrate judge vacancy announcements and notices of consideration of reappointments and provide that publication of such notices through print advertisements and legal periodicals is optional rather than required. In light of the ready availability and low cost of electronic publication of public notices, each district court has the discretion to determine how best to meet the requirement for wide circulation of magistrate judge position vacancy announcements and notices of consideration of reappointments of magistrate judges. The court should consider which procedure will attract the greatest number of applicants and encourage applications from all qualified persons without regard to race, color, age (40 and over), gender, religion, national origin, or disability.

Since the Regulations specify that the merit selection panel normally must submit its report containing the names of the best-qualified applicants to the court within 90 days of its creation, it is recommended that the court issue the required public notice before or at the same time it appoints the panel.

The Regulations do not prescribe the minimum amount of time a public notice should be published. It is required, however, that a full notice, such as Appendix A for appointment of a new magistrate judge, or Appendix E for a reappointment of an incumbent magistrate judge, be published in sources that will either reach a wide audience of qualified applicants or invite comments on the reappointment. These sources may include, but are not limited to, the following: a general

local newspaper; a newspaper with statewide circulation; a widely circulated local legal periodical; the court's internet web site; state and local bar association web sites; government web sites; national legal journals web sites; and other resources relied upon by legal professionals. In addition, it is recommended that a link to the full public notice on the court's web site be sent to the court's CM/ECF users. In order to more fully publicize the public notice, an abbreviated announcement that notes only the magistrate judge position and the specific location where the full public notice is published should be published thereafter in any of the sources mentioned above for a reasonable time in the discretion of the court. Appendix B is a sample abbreviated public notice for a vacant or new magistrate judge position, and Appendix F is a sample abbreviated public notice for the reappointment of an incumbent magistrate judge. The public notice on the court's web site should be easily located and include links to all relevant selection, appointment, and reappointment documents and should highlight all relevant deadlines.

To attract the greatest number of applicants, the public notice for a new appointment should be disseminated as widely as practicable. The court should encourage applications from all qualified individuals, including those from underrepresented groups. Accordingly, the court is encouraged to transmit the public notice to state and local bar associations and interest groups that focus on women and minorities and should also consider utilizing national publications and the Judiciary's JNet Job Vacancies site.

The full notice must describe the duties of the position to be filled, and give the qualification standards, the authorized salary, the term of office, and application procedures, including the name and address of the person to whom applications should be submitted. It must specify that applications should be submitted only by the applicant, personally demonstrating that person's willingness to serve if selected by the court. Generally, applications should be sent to the clerk of court or his or her designee. A copy of the notice must be sent to the Judicial Services Office of the Administrative Office as soon as it is available.

Since potential applicants may wish to obtain additional information about the magistrate judge position to be filled, including authority, support services, conflicts of interest, and the like, the court should consider designating the clerk of the court as a central person to

respond to all inquiries from the bar and the press concerning the advertised position.

The court should use an application form that will elicit information from applicants relating to the qualifications prescribed for the office. A resume may be considered as an alternative. A sample application form is provided at Appendix G. Courts can access electronic versions of the sample application form from the Selection, Appointment, and Reappointment area of the Magistrate Judges page on the JNet. Applicants should be requested to submit copies of their application or resume in sufficient number to provide one for each panel member. After a magistrate judge position vacancy has been announced, members of the court are encouraged to personally contact bar groups, the United States attorney's office, the public defender's office, and individual attorneys, especially those from diverse backgrounds, to announce the available position and to invite all qualified candidates to consider applying.

Expenses for publication of public notices of magistrate judge positions should be paid from court funds. The budget object code for publication of notices/advertising (BOC 2544) is one of the aggregate BOCs and is funded as part of the aggregate formula. Requirements should be addressed through local reprogramming since there are no additional allotments to that BOC. Any questions should be referred to the Budget Division of the Administrative Office.

CHAPTER 5

Appointment of the Merit Selection Panel

The merit selection panel is appointed by majority vote of the district judges of the court. It must consist of lawyers and other members of the community as described below. Each member must either be a resident of the district or, if a nonresident, have significant ties to the community of the district within which the magistrate judge is to serve. No active, senior, or recalled federal judges, or retired Article III judges, or other district court officers or employees may be members of the merit selection panel. Retired magistrate judges and bankruptcy judges not serving on recall may be appointed as members of the panel. This prohibition, however, does not preclude a federal judge or other court officer or employee from advising the panel. This prohibition also does not preclude United States attorneys, assistant United States attorneys, and federal defenders (including community defenders) and their assistants from serving on panels. While some district courts exclude federal prosecutors and defenders from membership on the merit selection panel, the Committee on the Administration of the Magistrate Judges System has expressed the view that the matter is best left to local courts' determinations. **An exception, set forth below, exists with respect to panels dealing with the appointment of part-time magistrate judges whose salaries are less than one-third of a full-time magistrate judge's salary.**

The panel must consist of a chairperson and at least six other members. It is recommended that the panel be composed of an odd number of persons in order to avoid the possibility of tie votes. The membership of the panel must include lawyers and at least two non-lawyers. A lawyer is defined as one who is licensed to practice law. In the event one or

more members of a panel withdraw, leaving the panel with less than seven members, the court may either replace the member(s) or proceed with a panel of less than seven members. The chairperson exercises duties the court assigns.

No person may be considered for selection by the court for a magistrate judge position while serving as a member of a panel. For a former panel member to be considered for a subsequent magistrate judge position, one year must elapse between the earlier of when a former merit selection panel submitted its report to the court or when the member of that panel seeking a position resigned, and the date by which applications for a subsequent vacancy are due to be submitted to the court. The Committee on the Administration of the Magistrate Judges System may waive this provision, on an individual case basis.

The clerk of court or other compiler of applications should identify any applicants for a magistrate judge position whose previous service on a merit selection panel falls into the restricted one-year period under Section 420.30.20(d) of the selection and appointment regulations and then identify those applicants to the merit selection panel. This restriction applies to a former member of a merit selection panel for the appointment or reappointment of a United States magistrate judge. The clerk or other compiler should advise the panel that if the panel wishes to recommend any of the identified applicants to the court, a waiver is required for each identified applicant who is recommended. Consistent with the purpose of the regulation to guard against a former merit selection panel member having a real or perceived insider's advantage with respect to a magistrate judge position, the views of the district court or its chief judge should not be included on a request for a waiver of Section 420.30.20(d) to the Magistrate Judges Committee. Since the waiver process is to be independent of the court, the court and its chief judge should not advise the merit selection panel members or the magistrate judge position applicant of their perspective on the waiver request.

To further efforts to achieve diversity in all aspects of the magistrate judge selection process, courts are strongly encouraged to appoint a diverse merit selection panel.

Courts may use a panel to consider applicants for more than one position or for multiple reappointments. Standing panels may

also be appointed to assist with filling vacant positions and with reappointments as they occur.

In the case of the appointment of a part-time magistrate judge whose authorized annual salary is less than one-third of the maximum salary authorized for a full-time magistrate judge, a selection panel of fewer than seven members but no fewer than three members may be appointed by the court. It is recommended that the panel be composed of an odd number of persons to avoid the possibility of tie votes. Moreover, circuit judges and “judges of the district court” (including senior judges, active or retired district judges, and active, recalled, or retired magistrate judges or bankruptcy judges) may serve on this panel. Other district court officers or district court employees also may serve on the panel, but at least two members of the panel must be either lawyers or non-lawyers from outside the court.

The panel must be established by an order of the district court specifying the names of the members, whether each individual is a lawyer or a non-lawyer, and the effective date of the panel’s appointment. The panel must report to the district court within 90 days of its appointment unless otherwise directed by the court. A copy of the court’s order appointing the merit selection panel must be sent to the Director of the Administrative Office of the United States Courts through the Judicial Services Office at the time it is issued.

The court’s order containing the names of the members of the merit selection panel and whether each is a lawyer or a nonlawyer is a public document and should be made available for inspection upon request. Beyond that, the names of the members of the panel may be disclosed or made public in the discretion of the court. For example, some district courts list the members of the merit selection panel by name in the public notice.

CHAPTER 7

Meetings of the Panel

The merit selection panel may hold an organizational meeting before applications have been received or may wait until all applications have been received, enabling it to begin the process of reviewing the applications at the time of its first meeting.

At its initial meeting, the panel should discuss the nature of the particular magistrate judge position to be filled and the criteria to be applied in screening applicants, and establish the procedures and rules to be followed during its deliberations. A district judge, a magistrate judge, the clerk of court, or other district court employee might be invited to the meeting to acquaint the members of the panel with the work of the district court and the nature of the duties to be assigned to a magistrate judge.

Although the Regulations of the Judicial Conference provide the panel with a large degree of discretion in the review of applications and the selection of individuals to recommend to the court, the panel members must nonetheless abide by specific rules. For example, the Regulations provide that all decisions of the panel will be by majority vote of all members. Also, the Committee on the Administration of the Magistrate Judges System is of the view that each panel member must disclose to all other panel members any personal or professional relationships with any applicants for the position.

If the district court has not already established rules of procedure for the panel to follow, the panel should do so at its first meeting. The panel should address such matters as open voting vs. secret ballots,

attendance requirements, absentee ballots, and quorum rules. The panel should also decide on the appropriate screening procedures it will follow. Depending on the actual or anticipated number of applications submitted, the panel may consider whether to delegate the task of screening applications to the chairperson, to a committee, or to individual members of the panel. Delegation of this first step might be appropriate when a large number of applications has been submitted or is anticipated.

Following the initial screening of applications, the panel in its discretion may choose to conduct personal interviews of some or all applicants. Interviews may be necessary in those situations where members of the panel have no personal knowledge of the applicants or their legal abilities. Care should be taken, however, to assure fairness in the interviewing process. The panel members should determine beforehand the types of questions that should be asked, and the same general questions and areas of inquiry normally should be addressed to each interviewee.

Confidentiality Requirements

To encourage the greatest number of applicants and to protect their privacy, the Regulations of the Judicial Conference impose a requirement of confidentiality on the panel and the court. Generally, neither the names of the applicants nor the identities of those individuals recommended by the panel to the court may be disclosed other than as a necessary part of the panel's report to the court. The Judicial Conference Regulations provide, however, that the applicants may, upon request, waive the confidentiality requirements to allow the panel or the court to "to publicize the applicants' names in order to solicit comments from the bar and the public." Panel members should keep confidential all information, written and oral, obtained in the course of performing their duties. The court may wish to include in its public notice and/or application form a confidentiality statement that all applications will be kept confidential unless the applicant consents to disclosure. The confidentiality statement included at the end of the sample full public notice (see Appendix A) states that "All applications will be kept confidential, unless the applicant consents to disclosure, and all applications will be examined only by members of the merit selection panel and the judges of the district court. The panel's deliberations will remain confidential." The confidentiality statement included at the end of the sample application form (see Appendix G), states that individuals listed as references by the applicant may be contacted by the panel, but that no other employers, colleagues, or other individuals will be contacted without prior approval of the applicant.

The Judicial Conference Regulations do not address whether the names of applicants, other than those recommended by the merit selection panel, may be made available to individual judges of the court. The Committee on the Administration of the Magistrate Judges System has adopted a resolution stating that it was the sense of the Committee that nothing in the Regulations prohibits disclosure of the names of the applicants to the judges of the court selecting the magistrate judge.

The panel's deliberations also should remain confidential. During its deliberations, it may be necessary to verify or augment the written information provided by the applicant on the application form. To avoid possible embarrassment to the applicant and the possible breach of the pledge of confidentiality, it is suggested that the panel seek the applicant's approval before contacting present or past employers or colleagues, or seeking the views of other individuals who have material knowledge of the applicant's abilities. Ample opportunity should be provided to the applicants to disclose any conflict of interest that they may have with the position for which they are applying, and to withdraw from the selection process if necessary.

It is suggested that inquiries of employers and others be made only after the initial screening process is completed and be limited to those applicants being considered seriously for the position, such as those whom the panel has decided to interview. In limiting such inquiries until a later stage, the panel protects the privacy of the applicants. A sample waiver of confidentiality form is included as Appendix H. The panel should not conduct full background investigations on applicants, since the person selected by the court for appointment must undergo the required FBI and IRS background investigations.

Evaluating the Applicants

The Regulations of the Judicial Conference do not prescribe how the panel should evaluate the applicants. The procedures are generally left to the discretion of the individual courts and panels. The following suggestions are offered as a guide.

In General

Failure to meet any one of the statutory or regulatory requirements will result in automatic rejection of an applicant. A district court may establish additional qualification standards appropriate for a particular magistrate judge position, taking into account the specific responsibilities anticipated for the position. These additional qualification standards, however, must be consistent with the court's policy as an equal opportunity employer.

The range of duties delegated to magistrate judges by district judges varies substantially from one district to another. The panel's objective is to recommend individuals most suited to the needs of the particular district court. Emphasis should be placed on those qualities and professional skills most often demanded for the specific duties to be assigned. Accordingly, the members of the panel should acquaint themselves with the specific duties that the successful applicant will be assigned by the district judges. (Reference should be made both to the Federal Magistrates Act and to the local rules or standing orders of the district court for specific guidance in this regard.)

Since full-time magistrate judges generally have a broader range of duties than part-time magistrate judges, the panel may require greater pertinent experience from applicants for a full-time magistrate judge position than from applicants for a part-time magistrate judge position. The difference is manifest in those situations where the part-time magistrate judge is located in a remote region and the range of duties is limited.

During their deliberations, the members should bear in mind the judicial nature of the office of United States magistrate judge. A considerable number of former United States magistrate judges have been appointed and are now serving as United States district judges and court of appeals judges. The position of magistrate judge is viewed by many as a proving ground that can provide invaluable practical experience for future Article III judges. Thus, the panel should recommend individuals who possess the same types of personal and professional qualities expected of district judges.

Scholarship

Panel members should consider each applicant's academic record and related achievements in law school and college. Special attention might be given to class standing, quality of the schools attended, membership on the law review board, and membership in other associations.

Active Practice of Law

The panel should consider how long the applicant has practiced law and the type of legal practice. The applicant should have demonstrated professional competence, including an ability to deal with complicated legal problems, an aptitude for legal scholarship, and effective writing. The applicant also should be well regarded professionally by other lawyers. The members of the panel should also consider whether the applicant has been recently involved in any pro bono or public service activity. The panel should not confine its considerations to persons with any one type of legal work. It should consider candidates from all segments of the bar, including government service, law school faculties, legal aid associations, public interest establishments, and state courts.

Knowledge of the Court System

Because the rules of procedure in the federal judicial system frequently differ from those practiced in the various state court systems, the panel might consider the applicant's familiarity with the federal court system. Recent litigation before the federal bench may indicate familiarity with the rules and procedures of federal court. Successful completion of legal courses in the Federal Rules of Evidence and the Federal Rules of Civil and Criminal Procedure also shows familiarity.

Personal Attributes

The regulations of the Judicial Conference require that a magistrate judge 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 deliberateness and decisiveness. These characteristics, by their nature, are subjective and not readily quantified. Yet they may ultimately be the most important qualities necessary for the successful performance of judicial duties.

Measurement of the Qualifications

It is not possible to formalize a comprehensive or mathematical evaluation procedure. Nonetheless, some degree of uniformity is essential in the selection process. The panel may consider the following list of relevant qualities as a checklist to be applied to all applicants. The panel might assign a weight to each factor, signifying the degree of importance attached to each.

The panel should also bear in mind 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. Thus, great weight should be accorded to those personal qualities, pertinent experience, and practical knowledge desired by the judges in the person who is selected to fill the magistrate judge position.

Pertinent Criteria

1. Personal Characteristics

- Intelligence
- Honesty and morality
- Maturity and stability
- Demeanor and temperament
- Reasonableness and objectivity
- Ability to work with others
- Compassion
- Fairness and commitment to equal justice for all people
- Decisiveness and deliberateness
- Industriousness
- Immunity from undue influences
- Mental and physical health
- Activity in civic and community affairs.

2. Legal Skills and Professional Background

- Professional reputation among bar members
- Reputation for fairness
- Reputation for propriety and integrity
- Reputation for being well prepared
- Experience with complex problems
- Previous service as attorney, judge, or public official
- Writing skills
- Courtroom experience

- Knowledge of legal procedures
- Familiarity with federal rules and procedures
- Participation in professional associations and activities
- Pro bono and public service activities
- Publications.

Equal Employment Opportunity

The Judicial Conference Committee on Judicial Resources supports the following principle, as articulated by its diversity subcommittee, reflecting the judiciary's commitment to a diverse workforce:

“The essential function of courts is to dispense justice. An important component of this function is the creation and maintenance of diversity in the court system. A community's belief that a court dispenses justice is heightened when the court reflects the community's racial, ethnic, and gender diversity.”

The Judicial Conference Committee on the Administration of the Magistrate Judges System fully supports this principle, particularly as it applies to the selection of magistrate judges. The merit selection panel is obligated, under the Judicial Conference's selection and appointment regulations, to give due consideration to all qualified applicants for a magistrate judge position, particularly those from underrepresented groups.

Report and Recommendations to the Court

After all written information has been obtained, all interviews have been completed, and all follow-up information has been gathered, members of the panel should determine collectively which individuals among the applicants meet all the standards and appear qualified for appointment as a United States magistrate judge. The members may now consider it appropriate to conduct a full and candid discussion of the qualifications of the various applicants. Each member should be free to contribute personal views as to the qualifications of each applicant.

Following these discussions, the panel should designate those five applicants that it finds most qualified to serve as a United States magistrate judge. If the panel believes, however, that either the number or the caliber of applicants is inadequate, the panel chairperson should promptly consult with the court and consider whether other steps should be taken to attract additional qualified candidates. A second notice might be published, for example, and assistance in obtaining additional applications might be solicited from bar association officials, law school faculties, and community leaders. Such measures should begin promptly, however, since the panel must file its report within the 90-day limitation imposed on the panel by the Regulations of the Judicial Conference (unless the court directs a different duration).

The report of the panel to the court should specify the total number of individuals who applied for the position and the names of the five persons it has determined to be most qualified. All written information received or prepared by the panel concerning the recommended applicants must accompany the panel's report to the court. Adequate

measures should be taken to protect the confidentiality of these records during their transmittal to the court. It is recommended that the chairperson of the panel submit the report directly to the chief judge of the court.

No individual should be included on the list of recommended applicants unless a majority of all the members of the panel deem that person fully qualified to serve as a United States magistrate judge. The panel may wish to note which characteristics or qualities it considered important in its deliberations. It may also wish to note how these characteristics or qualities were manifested in the recommended applicants, if not otherwise apparent in the written materials submitted by the applicants.

The panel should consider the order in which the names of the recommended applicants appear in the report. The Regulations of the Judicial Conference are silent as to whether the individuals recommended should be ranked. The panel may choose to list the recommended individuals without preference, or to rank them, especially where the quality varies substantially among the individuals recommended. The panel chairperson may wish to explore this issue with the court before submitting the panel's report.

A list containing fewer than five names may be submitted to the court by the panel, but only for good cause shown by the panel in its report. The panel, for example, might specify that it simply has not found five individuals among those who applied who meet all the high standards required.

In the case of the appointment of a part-time magistrate judge whose authorized annual salary is less than one-third of the maximum salary authorized for a full-time magistrate judge, the court may give the panel discretion to submit a list of less than five names to the court.

In a situation where a merit selection panel is recommending applicants for more than one magistrate judge position, the court should direct the panel to recommend more than five individuals. For example, if the court is filling two vacancies the panel could be directed to submit a list of six names so that once one name is selected for one position, five names would remain from which to select for the other position.

Alternatively, a court could require the panel to submit a list of ten names from which the court would select two.

Selection by the Court

After receiving the report of the merit selection panel, the court should review the qualifications of the individuals recommended by the panel. At its discretion, the court may accept the findings contained in the panel report, or it may conduct an additional inquiry into the qualifications of the recommended individuals. The court may also wish to conduct its own interviews with the recommended applicants.

Thereafter, all the district judges must determine, by majority vote, a final selectee for appointment from the list provided by the panel. Under 28 U.S.C. § 296, those senior judges with at least a 50 percent workload in the preceding calendar year may participate in court governance activities generally, including magistrate judge appointments.

If the district court, by majority vote, does not select an individual from the five names on the list, the court must request a second list of five names from the panel. The district court must then choose a final selectee from either list. If, again, no recommended applicant receives a majority vote, the chief judge must make the selection for the court from either list.

Once the court has selected a new magistrate judge, it should notify and obtain the acceptance of the selected applicant. It should then inform panel members of its choice. The court may notify the other applicants that a selection has been made and thank them for their interest in applying. The court should respect the confidentiality of the names of the other applicants.

The name of the applicant selected must be submitted to the Director of the Administrative Office through the Judicial Services Office which will request the necessary background reports from the Federal Bureau of Investigation and the Internal Revenue Service. The applicant selected for appointment to either a full-time or part-time magistrate judge position must undergo a FBI full-field investigation, with a 15-year scope, and an IRS tax check. A part-time magistrate judge, who was the subject of a full-field FBI investigation before appointment to the part-time position, is required to undergo a second full-field investigation before appointment to a full-time position. The Committee on the Administration of the Magistrate Judges System is authorized to grant waivers to the requirement for full-field background investigations by the FBI, on an individual case basis, in circumstances involving high-turnover and recruitment problems due to isolated locations of certain part-time magistrate judge positions.

The results of the FBI and IRS investigations are forwarded to the Judicial Services Office which, in turn, transmits the results to the chief judge of the district court. After the district court has reviewed (and determined its satisfaction with) complete investigation reports from the FBI and the IRS, the court may issue an order of appointment. If, in the judgment of the court, the IRS report has not been completed in a timely manner, the court may waive that report, provided it has taken steps to assure itself that the applicant selected has properly filed tax returns. The FBI report may not be waived, except as noted above for isolated locations. The timing and manner of a public announcement by the court should take into account the possible discovery of unfavorable information by the FBI or IRS investigations.

Before entering on duty as a magistrate judge, the appointee is required to take the judicial oath or affirmation prescribed by 28 U.S.C. § 453 and the constitutional oath of office prescribed by 5 U.S.C. § 3331.

Procedures for swearing in the new magistrate judge are determined at the discretion of the particular district court. There is no requirement for a formal swearing-in ceremony. Nevertheless, it would be entirely appropriate for the court to arrange for a formal swearing-in ceremony for the new magistrate judge. Such a ceremony may be an effective way to acquaint the bar and the public with the new judge. Court funds may be used to pay for certain expenses, such as invitations and postage, relating to a swearing-in ceremony.

The appointment of the magistrate judge must be entered of record in the district court on or before the effective date of appointment. The court must also execute AO Form 79A (Appointment of United States Magistrate Judge) (Appendix I). Both AO Form 79A and the order of appointment must be submitted by the clerk of the district court to the Director of the Administrative Office through the Judicial Services Office. A certificate of appointment is prepared by the Administrative Office and forwarded to the chief judge of the district court for signature.

APPENDIX G

Sample Application Form

(This is a comprehensive list of questions that may be asked of applicants. The court should select those questions that it believes are appropriate for inclusion in its application form.)

APPLICATION FOR UNITED STATES MAGISTRATE JUDGE

Please answer all questions. If a question is not applicable, indicate this by marking "N/A." Return completed form to the Clerk of Court.

General

1. Full name: _____

2. All other names by which you have been known: _____

3. Office address: _____

City: _____ State: _____

Zip: _____ Telephone: _____

4. Residential address: _____

City: _____ State: _____ Zip: _____

5. Place of Birth: _____ Date of Birth: _____

6. Length of residence in state: _____

7. If you are a naturalized citizen, state the date and place of naturalization: _____

8. Military Service:

Branch: _____ Dates: _____

Rank or Rate at Discharge: _____ Type of Discharge: _____

If still a Reserve or National Guard Member, give service, branch, unit, and present rank. _____

9. Are you related by blood or marriage to any judges of this court?
Yes ___ No ___ If yes, give name(s) and relationship: _____

Health

10. What is the present state of your health?

11. Do you have any mental or physical impairment that would affect your ability to perform the duties of a magistrate judge with or without reasonable accommodation?

Education

12. Colleges and universities attended, dates, and degrees: _____

13. Continuing legal education courses completed within the last 10 years: _____

Honors

14. Were you a member of law review? Yes ___ No ___ . If yes, describe role: _____

15. If you have published any legal books or articles, list them, giving citations and dates. _____

16. List any honors, prizes, or awards you have received.

Professional Admissions

17. List all courts (including state bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case:

Court or Administrative Body	Date of Admission
_____	_____
_____	_____
_____	_____
_____	_____

Law Practice

18. State the names, addresses, and dates of employment for all law firms with which you have been associated in practice, all government agencies, and all private business organizations in which you have been employed. Also provide all dates during which you have practiced as a sole practitioner.

Organization	Address	Position	Dates
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

19. Describe the general nature of your current practice including any legal specialties and character of your typical clients; also, if your practice is substantially different now than previously, give details of prior practice. _____

20. Do you regularly appear in court? Yes ___ No ___

What percentage of your appearances in the last five years was in the following forums?

1. Federal courts?..... %
2. State or local courts of record?..... %
3. Administrative bodies?..... %

4. Other?..... _____ %
..... _____ %
..... _____ %

21. During the past five years, what percentage of your practice has been trial practice?..... _____ %

22. How frequently have you appeared in court?..... __ times/mo.

23. How frequently have you appeared at administrative hearings?
..... __ times/mo.

24. What percentage of your practice involving litigation has been:
Civil _____ %
Criminal _____ %
Other..... _____ %
..... _____ %
..... _____ %

25. State the number of cases you have tried to conclusion in courts of record during the past five years, indicating whether you were sole, associate, or chief counsel. Give citations of any reported cases.

26. Summarize your courtroom experience for the past five years.

27. State the names and addresses of adversary counsel against whom you have litigated your primary cases over the past five years.

Public Office

28. Have you ever run for, or held, public office? Yes___No___ If yes, give details. _____

Prior Judicial Experience

29. a) Have you ever held judicial office or been a candidate for judicial office? If so, state the courts involved and the dates of service, or dates of candidacy. _____

b) If you have held judicial office, state the names and addresses of counsel who have appeared before you who would be knowledgeable of your work, temperament, and abilities. _____

c) Prior quasi-judicial service:
Name of agency: _____
Position held: _____
Hearings on what types of issues: _____

Number of cases adjudicated: _____
Dates of service: _____

Business Involvement

30. a) If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment to judicial office. _____

b) Since being admitted to the Bar, have you ever engaged in any occupation, business, or profession other than the practice of law? Yes ___ No ___ If yes, give the details, including dates.

c) During the past five years have you received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization, or association of any kind? Yes ___ No ___ If yes, identify the source of such compensation,

the nature of the business enterprise, institution, organization or association involved, and the dates such compensation was paid.

31. a) Have you ever been arrested, charged, or convicted for violation of any federal law, state law, county or municipal law, regulation, or ordinance? Yes ___ No ___ If yes, give details. (Do not include traffic violations for which a fine of \$200 or less was imposed unless it also included a jail sentence.) _____

b) Have you, to your knowledge, ever been under federal, state or local investigation for possible violation of a criminal statute? Yes ___ No ___ If yes, give particulars. _____

32. a) Have you ever been sued by a client? Yes ___ No ___ If yes, give particulars. _____

b) Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? Yes ___ No ___ If yes, give particulars, including the amounts involved.

33. Have you ever been charged in any civil or criminal proceedings with conduct alleged to involve moral turpitude, dishonesty, or unethical conduct? Yes ___ No ___ If yes, give particulars.

34. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group? Yes ___ No ___ If yes, give particulars. _____

35. Have you filed appropriate tax returns as required by federal, state, local, and other government authorities? Yes ___ No ___ If no, explain. _____

36. Have any liens or claims ever been instituted against you by the federal, state, or local authorities? Yes ___ No ___ If yes, explain. _____

Professional and Other Activities

37. a) List all bar associations and legal professional societies of which you are a member and give the titles and dates of any office you have held in such groups, and committees to which you belonged. _____

b) List all organizations and clubs, other than bar associations and professional societies identified in response to Question No. 37.a), of which you have been a member during the past ten years, including the titles and dates of any offices you have held in each such organization. _____

c) Have you ever served on a merit selection panel to consider the appointment or reappointment of a United States magistrate judge in this district? If yes, please provide date(s) or appointment(s). _____

Supplemental Information

38. State any achievements or actions you have accomplished, demonstrating your commitment to equal justice under the law. _____

39. State any additional education or other experiences you believe would assist you in holding judicial office. _____

40. State any other pertinent information reflecting positively or adversely on you, which you believe should be disclosed to the district court and the selection panel in connection with your possible selection as United States magistrate judge. _____

41. a) List three individuals as references who are familiar with your abilities.

Name _____

Address _____

Telephone _____

Name _____

Address _____

Telephone _____

Name _____

Address _____

Telephone _____

b) List three individuals as references who are familiar with your personal character.

Name _____

Address _____

Telephone _____

Name _____

Address _____

Telephone _____

Name _____

Address _____

Telephone _____

Confidentiality Statement

This form will be kept confidential and will be examined only by members of the merit selection panel and the judges of the district court. The individuals whom you have listed as references above may be contacted by the panel, but no other employers, colleagues, or other individuals will be contacted without your prior approval.

I declare under penalty of perjury that the foregoing is true and correct.

Signature of Applicant: _____ Date _____