



Is a federal judgeship in your future?

Path to Federal Judgeship CLE
July 15, 2021

Sponsored by the Diversity and
Professionalism and Ethics Sections
of the Idaho State Bar, Idaho Women
Lawyers, and the Idaho Chapter of
the Federal Bar Association

U.S. Magistrate Judges

- Title has been Magistrate Judge since 1991.
- Positions created by Judicial Conference of the United States per Article 1 of the Constitution.
- Preside in District Court – authority in 28 U.S.C. § 631 et seq, Fed. R. Civ. P. 72 and 73, and local rules.



Criminal Caseload

- Preliminary felony proceedings, including initial appearances, arraignments, detention hearings
- Petty offense and Class B misdemeanors; Class A misdemeanors with consent of defendant
- Felony guilty pleas up on referral of district judge and consent of defendant to take plea
- Search and seizure warrants and complaints
- Grand jury selection, returns and management
- START – reentry court



Civil Caseload

- On the random wheel for direct assignment of standard civil cases – 50% – consent rate is high vis a vis other districts
- Settlement conferences
- 100% of Social Security cases – consent rate is high, but have some RNRs
- 100% of habeas and prisoner pro se cases after screening
- Some referrals for pro se or complex discovery



Other

- Naturalization ceremonies
- Participate in governance
- Ninth Circuit and JCUS Committees



Salary and Retirement

- 92% of district judge salary (currently at \$201,112)
- 8-year term appointment, subject to reappointment
- Annuity upon retirement – vesting formula is same as bankruptcy judges (at least 14 years of service and 65 years of age)
- Best position in the federal judiciary, especially if you are in the District of Idaho!



Additional Resources

U.S. Courts, District of Idaho, Website (www.id.uscourts.gov)

Knowledge Seminar: Magistrate Judges – Integral to the Judiciary
(<https://www.uscourts.gov/news/2018/05/23/celebrating-50-years-magistrate-judges>)

UNLV Magistrate Judge Law Review Article – “Nothing Less Than Indispensable: The Expansion of Federal Magistrate Judge Authority and Utilization in the Past Quarter Century”
(https://id.uscourts.gov/Content_Fetcher/index.cfm/UNLV_Magistrate_Judge_Law_Review_Article_2596.pdf?Content_ID=2596)

FMJA flyer – “United States Magistrate Judges: Their Function and Purpose in Our Federal Courts”
(https://id.uscourts.gov/Content_Fetcher/index.cfm/Read_more_about_Magistrate_Judges_901.pdf?Content_ID=901)



Magistrate Judge Qualifications

To be qualified for appointment, an applicant must:

1. 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, and have been engaged in the active practice of law for a period of at least five years (with some substitutes authorized);
2. Be competent to perform all the duties of the office; be of good moral character; be emotionally stable and mature; be committed to equal justice under the law; be in good health; be patient and courteous; and be capable of deliberation and decisiveness;
3. Be less than 70 years old and a citizen of the United States; and
4. Not be related to a judge of the District Court.



Application Documentation

An application for a U.S. Magistrate Judge vacancy must include:

1. A completed application form (including your consent and waiver to participate in a bar survey or your indication that you decline to participate);
2. A current resume; and
3. A certificate of good standing from the highest court of at least one state or territorial bar to which you are admitted to practice law.

Reference letters are optional.



Application Review Process

- A merit selection panel is appointed by the district judges of the District of Idaho.
- The merit selection panel reviews applications received and identifies applicants for initial interviews.
- After conducting initial interviews, the merit selection panel recommends a list of finalists to the judges.
- Final interviews are conducted by all district court judges, with the selection made by majority vote of the district judges.
- The selected appointee is notified and undergoes an FBI full-field investigation and IRS tax check and must comply with all statutory financial disclosure requirements.
- Once completed, the appointee is sworn in and takes the bench for a term of 8 years, subject to reappointment for an additional term(s).



Diversity

Consistent with the Committee on the Administration of the Magistrate Judges System and the Committee on Judicial Resources of the JCUS, and the Fairness Committee of the Ninth Circuit, the Court will continue efforts to seek diversity not only in the final selection of a new magistrate judge, but in all aspects of the magistrate judge selection process. The Court will ensure that the merit selection panel members are aware of their responsibilities under the appointment regulations to “make an affirmative effort to identify and give due consideration to all qualified applicant without regard to race, color, age (40 and over), gender, religion, national origin, or disability.” (*Guide to Judiciary Policy*, Vol. 3, Ch. 4, Section 420.30.30(d).)



Bar Survey (1-5 Rating)

Integrity and Moral Courage	Legal ability and experience	Intelligence	Wisdom	Work in timely manner
Capacity to be fair	Compatibility of personal habits	Courteous and respectful	Willingness to share responsibilities	Knowledge of the law and procedure
Legal research and writing	Overall qualifications	Written assessments		



Timeline for Upcoming Vacancy

- The merit selection panel will be appointed by September 1, 2021.
- Applications accepted August 2, 2021, through September 3, 2021.
- Bar survey will follow.
- Interviews by the merit selection panel will be held September 30 and October 1 in Boise.
- Interviews with district court judges will follow in late October in Boise.
- Appointee takes the bench on April 1, 2022, following all necessary background checks.



U.S. District Judges

- Position created by Article III of the Constitution.
- Nominated by the President of the United States and confirmed by the U.S. Senate.
- Lifetime appointment, except under limited circumstances; can only be removed through impeachment by the U.S. House of Representatives and conviction by the U.S. Senate.
- Authorized to hear both civil and criminal cases; consent not required.
- First Idaho Article III judgeship created in 1891; second Idaho Article III judgeship in Idaho authorized in 1954.



District Judge Responsibilities

Responsible for supervising the pretrial process and conducting trials, including:

- Managing the selection of juries and the instructions jurors receive throughout a trial;
- Ruling on admission of evidence;
- Trials and pleas in criminal cases;
- Resolving any issues surrounding the acceptance of the verdict and entry of judgment;
- Sentencing the convicted criminal defendant whether convicted by plea or trial; and
- Capital habeas cases (in District of Idaho).



Salary and Retirement

- Salary of \$218,600 per year
- Lifetime appointment
- Retirement is subject to the Rule of 80 but requires judge to be at least 65 years old
- Paid current salary for life with no pay raises



Historical Perspective

Idaho Senators

- Senator Crapo first took office in 1998 – 23 years
- Senator Risch first took office in 2009 – 12 years

Idaho District Judges

- Judge Winmill took the federal bench in 1995
- Judge Nye took the federal bench in 2017



History of the Federal District Court in Idaho

Seat 1	
Seat established on July 3, 1890 by 26 Stat. 215	
Beatty	1892–1907
Dietrich	1907–1927
Cavanah	1927–1942
Clark	1943–1964
McNichols	1964–1981
Ryan	1981–1992
Winmill	1995–present

Seat 2	
Seat established on February 10, 1954 by 68 Stat. 8	
Taylor	1954–1971
Anderson	1971–1976
Callister	1976–1989
Lodge	1989–2015
Nye	2017–present



Timeline for Upcoming Vacancy

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Statement from Senator Crapo

It is a pleasure to be discussing Article III nominations before this conference. In this statement, I will go over Idaho's process and Senators' role in producing nominees for Article III judgeships.

While each state's U.S. Senators have used varying methods and processes to provide nominations to the President, I actively consult with my colleague, Senator Risch, on a slate of potential nominees. This process includes stringent background checks, interviewing candidates, collecting references and discussions between Idaho's two Senators to identify a nominee who will enforce the law as written. Our office receives inquiries from and about numerous qualified applicants; in such a small (but growing) state as ours, we have the luxury of choice with candidates. After collecting a slate of up to three names, we will submit those choices for the president for him to select his choice. The White House will then make its own determination, based on further background checks and discussions. Idaho's two Senators will work with the White House in an attempt to reach agreement as to who is the preferred nominee.



Statement from Senator Crapo continued ...

There has been what is known as “the Blue Slip” tradition, wherein the Senators of the state in question will return a blue slip to the Chairman with the Senate Judiciary Committee if they agree with the White House’s choice, and not return a slip if they disagree with the choice. Under the previous tradition, not returning Blue Slips would kill a potential nomination; if the White House tried to put someone up who did not get the blue slips, the nomination would die in Committee. In more recent times, the Blue Slip tradition has not always been honored. It is unclear whether Senator Durbin, Chairman of the Senate Judiciary Committee, will honor the Blue Slip tradition.

Currently, Senator Risch’s and Senator Crapo’s offices have received a number of inquiries about filling the upcoming vacancy created by Judge Winmill’s retirement. In addition, we are aware of other efforts to make recommendations to the White House for the position, but we are not aware of who those individuals might be. We have had several preliminary conversations with the White House, and are hopeful that Idaho’s two United States Senators and the White House will be able to find consensus about a preferred candidate for the position.



Nomination Process (continued)

- Once President Biden nominates you for the position, the Senate refers your name to the Senate Judiciary Committee.
(<https://www.judiciary.senate.gov/nominations/judicial>)
- You are asked to complete the Senate Judiciary Committee's application.
- You are asked to go to Washington, D.C., and spend a day with Department of Justice and White House attorneys.
- You attend the Senate Judiciary Committee's hearing.
- If voted out of committee and to the full Senate, your name is placed on the Senate Executive Calendar.
- Then, you wait for a confirmation vote.



Thank you for joining us!

Please remember that you MUST email your name, bar number, and the name/ID on your Zoom account (or the phone number used to connect) to clerk@id.uscourts.gov to receive MCLE credit for attending.

