

## Qualifications Checklist

In order for a person to be eligible for judicial appointment, he or she must meet the following statutory criteria:

1. Citizenship. The person must be a U.S. citizen. (Application question no. 3.)
2. Age. The person must be at least 30 years of age. (Application question no. 2.)
3. Experience in the Legal System. The person must have been engaged in the practice of law in the State of Nebraska for at least 5 years, which may include prior service as a judge. (Application question no. 7.)
4. Supreme Court Practice. The person must be currently admitted to practice before the Nebraska Supreme Court. (Application question no. 12.)
5. Commission Service. A nominee for a judicial vacancy must not have served as a member of the nominating commission to which he/she is making application within a period of 2 years immediately preceding the date of nomination. (Personal Data Sheet no. 19.) Neb. Rev. Stat. § 24-803 provides that a member has served on a commission “if he or she was a member of the commission at the time of publication of the notice required by subsection (1) of section 24-810.”
6. Residence.

### Supreme Court:

The person must, on the effective date of appointment, be a resident and elector in the district which he/she would represent if appointed. (Application question no. 4.)

### Court of Appeals:

The person must, at the time of consideration of appointment, be a resident of Nebraska. The Governor appoints one judge from each Supreme Court judicial district; the judge’s residence on the effective date of appointment shall be considered the judge’s residence during his or her service on the Court of Appeals.

### District Court:

The person must, on the effective date of the appointment, be a resident of the district to be served and remain a resident of such district during the period of service.

### County Court:

The person must, on the effective date of the appointment, be a resident of the county court district to be served and remain a resident of such district during the period of service.

### Workers’ Compensation Court:

The person must be a resident of Nebraska and remain a resident during the period of service.

These guidelines attempt to identify the characteristics which predict successful judicial performance. The identified traits are not mutually exclusive and cannot be wholly separated from one another. The criteria given are not intended to constitute a definitive list; rather, the function of these guidelines is to present minimum qualities which a candidate must possess.

According to Nebraska statute, commission members shall consider the following when considering the applicant's qualifications for a judicial vacancy:

- Knowledge of the Law
- Experience in the Legal System
- Intellect
- Capacity for Fairness
- Probity
- Temperament
- Industry

All of the above criteria are listed by title with the exception of experience in the legal system. Experience is included throughout the checklist under each appropriate title.

References to the application form and personal data sheet (PDS) under each criteria description will guide you to the appropriate questions on these forms. Additional questions not covered in the Application and PDS are listed below the references. Some application and PDS questions have been referenced more than once, since they apply to more than one category.

1. Knowledge of the Law. The candidate should have thorough knowledge of established legal principles. The applicant's academic record and participation in continuing legal education may be indicators of legal knowledge.

Application questions: 7, 8, 14, 15

PDS questions: 6, 8, 9, 10, 11, 12, 13, 14, 15

-What has been the general nature of this person's legal practice? Has he/she specialized in any areas? What are the areas of specialization?

-Has this person regularly appeared in court as part of his/her legal practice? If so, how many cases has this person tried to conclusion as a trial lawyer? Generally, what type of cases were they?

-How many appeals has this person argued? Generally, what were some of the issues on appeal?

-How many cases has this person handled before administrative agencies? What did some of the proceedings involve?

-How extensively has this person been involved in depositions, motions, and other activities related to discovery?

-Does this person show an understanding of legal issues in writings and arguments?

-Does the candidate have a thorough knowledge of established legal principles?

-Is this person well-versed in the procedural and evidentiary law of the jurisdiction?

2. Intellect. As well as having actual knowledge of legal principles, the candidate must have the capacity for learning and assimilating new material. The candidate should also have the ability to apply known legal principles to a variety of factual situations.

Application question: 14, 15

PDS questions: 11, 12, 13, 15

-Is this person generally familiar with current legal trends and new developments in statutory and case law?

-Does this person show an understanding of legal issues in rulings and decisions?

Additional question for applicants presently sitting on the bench:

-Does this person ask relevant, perceptive questions about matters before his/her court?

3. Capacity for Fairness. The candidate must be able to determine disputes objectively and impartially, to consider all sides of an issue, and to put aside prejudice and bias. An applicant who is an attorney must be able to make the transition from trained advocate to independent fact finder and evaluator.

PDS question: 18

-Has this person had to mediate among differing demands when in a leadership position?

-Can this person listen to the arguments of all parties before making up his/her mind completely on the determination of legal issues?

-Is this person willing to limit activities and relationships that will tend to interfere with his/her usefulness as a judge?

-Does this person have the integrity to avoid undue influence on his/her decisions because of flattery or adverse comments and criticism?

-Is it likely this person will be influenced by demands of particular groups or organizations or by desire for personal popularity or notoriety?

-Can this person set aside party preference and be free from political ties which may bias his/her decisions?

-Is there anything in this person's background to suggest that this person can understand persons of different racial, sexual, religious, or cultural backgrounds?

-Will this person be free from predispositions in criminal cases? In suits for money damages? In domestic relations cases? In class action suits? For or against corporate defendants?

-Will this person show favoritism for or against any attorneys?

-Will this person refuse presents or favors from lawyers or litigants?

4. Probity. The candidate must adhere to the highest principles and ideals. Such integrity enables a judge to disregard personalities and politics and to base decisions solely on the law and facts. The candidate must be honest, truthful, fair, impartial, unprejudiced, obedient to the law, and morally courageous. A candidate's past personal and professional conduct should demonstrate consistent adherence to high ethical standards. A candidate's disciplinary record, if any, should be considered.

Application questions: 13, 15, 16, 17

PDS questions: 5, 11, 12, 14, 15, 17, 18, 20, 21, 23, 24

-Does this person have a reputation for cutting corners?

-How does this person perceive his/her fellow workers and subordinates? How do his/her fellow workers and subordinates perceive him/her?

-Has this person taken responsibility for errors and oversights committed by the staff he/she supervises?

-Is this person an effective supervisor? Does this person train his/her staff? Does this person review the work of his/her staff? Does this person keep his/her staff informed about its level of performance?

-Does this person have a reputation for refusing to deal openly and fairly with adversary counsel or other attorneys?

-Has this person been found by a court to file misleading documents or papers?

-Has this person ever been held in contempt for deliberately misquoting the law?

-Does this person have a reputation for misrepresenting facts or evidence?

-Has this person made any false or misleading representations on his/her applicant questionnaire?

-What is this person's reputation in the community for integrity and respect for the law?

5. Temperament. Interviews with the applicant and with other members of the bar who have practiced alongside the applicant may reveal the presence or absence of judicial temperament. The commission should seek a candidate with patience, openmindedness, courtesy, tact, confidence, firmness, maturity, compassion, and humility.

Application question:

PDS questions: 25, 26, 27

- Is he/she a good listener?
- Does this person have a reputation for losing his/her temper?
- Is this person courteous in his/her dealings with others?
- Does this person often speak in an intimidating manner?
- Is this person tactful and diplomatic?
- Does this person put others at ease?
- Has this person been flexible in dealing with different people in different situations?
- Does this person get along with partners?
- Does this person treat subordinates with respect?
- Does this person exercise tolerance and self-restraint?
- Has this person ever been held in contempt of court? If so, what were the circumstances?

Additional questions for applicants presently sitting on the bench:

- Does this person pay attention to the arguments of counsel and testimony of witnesses?
  - Does this person avoid sensationalism in court?
  - Does this person have a reputation for being coercive in conducting court?
  - Was this person ever rebuked by an appellate court for the lack of judicial temperament?
6. Industry. The candidate should have good work habits, the ability to meet deadlines, the ability to keep appointments and commitments, and the ability to set priorities. Perseverance, diligence, efficiency, and attentiveness are attributes to be sought in candidates. The candidate must also be dedicated and willing to devote sufficient time to complete tasks.

Application questions: 11, 13

PDS questions: 11, 14, 15

-Is this person an earnest worker?

-Is this person willing to devote time beyond the normal length of a working day to get his/her job done?

-What have this person's working hours been like in the past? Would they be likely to change?

-To what extent does this person balance doing his/her own work with delegating to others?

-Does this individual make steady progress on assignments given to him/her?

-Does this individual have a reputation for completing assignments on time?

-Is this individual well-prepared and thorough in his/her work?

-Does this individual have a habit of keeping appointments and arriving on time?

Additional questions for applicants presently sitting on the bench:

-Does this person begin court promptly?

-Does this person issue timely rulings and judgments?

-Does this person make appropriate use of time in the courtroom and move his/her docket effectively?

7. Health. The candidate must be of sufficient mental and physical health to be able to carry out the functions of the position. Any indications of a condition which could impact the candidate's ability to serve should be thoroughly investigated.

-Will this person's physical health interfere with the performance of judicial duties?

-Does this person have any habits which would impair his/her ability to perform judicial functions?

-If this person has had an illness, are there any continuing side effects from this illness? What are they? Would they interfere with the performance of judicial-duties?

-If this person has been treated for alcoholism, when was the treatment sought and will this person and his/her physician certify the alcohol problem is controlled?

-If this person has been under psychiatric or psychological care, what was the problem? Would the problem interfere with his/her effectiveness on the bench? Does the problem still exist?

8. Social Awareness. The candidate should have awareness of and sensitivity to social issues which often confront the courts. However, the candidate must also be aware of the limitation of the law as a tool for correcting social problems and must be cognizant of the need for stability and predictability in the law.

PDS questions: 12, 14, 17, 18

-Does this person appear to have a strong sense of social and moral responsibility?

-Has this person exhibited any knowledge or perspective and understanding about legal history and philosophy?

-Has this person demonstrated an ability to balance competing interests of stare decisis (adherence to precedent) and social change?

Notes:

9. Financial Responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures that might compromise independence and impartiality. Investigation should be made as to unsatisfied judgments, bankruptcy, and tax delinquency.

PDS questions: 16, 23

-Has this person regularly filed federal (and where applicable state and local) income tax returns?

-Does this person pay his/her debts and discharge his/her obligations promptly?

10. Public Service/Community Contacts. Participation in public service activities may indicate social consciousness and consideration for others.

Application question:

PDS questions: 8, 9, 10, 12, 17

-Is this individual involved in any civic or charitable activities? What are they? What is the extent of his/her involvement?

-Is this individual willing to serve as a lecturer or teacher in a law school in the future? In another educational institution?

-Is this individual willing to spend time speaking to bar associations or professional organizations?

-What are this individual's hobbies, outside interests, cultural interests, or activities?

11. Decisiveness. A judge's ability to be decisive is one of the harder qualities to test. Some find the judicial decision-making role to be very compatible with their personalities.

-Can this person make up his/her mind? -Does this person have the conviction to stand by his/her decisions? -Can this person be firm in conducting court proceedings?

Additional questions for applicants presently sitting on the bench:

-Is this person able to keep the caseload moving? -Is this person firm in conducting court proceedings?

Notes:

12. Speaking Ability. The practice of law is a career which requires the ability to communicate through speaking. Whether a lawyer tries cases, argues appeals, or negotiates corporate contracts, he/she must be able to persuade others through his/her speaking skills. Thus the lawyer's entire career should help provide clues about his/her oral communications skills.

PDS questions: 4, 15

-If the individual was invited for an interview, did he/she give convincing well-spoken responses to questions? Could he/she explain legal concepts clearly to any nonlawyers involved in evaluation?



-What is this person's reputation for effective speaking among his/her colleagues?

-Does this candidate have a fluency with and command of the English language in his/her speaking?

-Has this person demonstrated talent in communicating technical and complex legal matters to clients?

-Is this person skilled at mediation? Can he/she persuade people to compromise?

13. Writing Ability. The candidate for an appellate position must be able to produce well-reasoned, lucid and understandable opinions. The candidate must be able to logically organize his/her thoughts and put them on paper in a coherent fashion. Commission members should consider the applicant's writing samples with these guidelines in mind.

PDS questions: 13, 15

-Can this person claim sole or primary authorship of any briefs, law review articles, continuing legal education articles or bar journal articles? How many? Are they clear and understandable?

-Has this person done any nonlegal writing? What has he/she written? Is it clear and understandable?

-Does this person's writing indicate a good style of composition, a good command of English grammar, and the ability to logically organize his/her thoughts?

-Can this person meet writing deadlines?

Additional question for applicants presently sitting on the bench:

-Has this person written any judicial opinions? How many? Are they clear and understandable?

Additional Criteria for Appellate Judges:

14. Collegiality. Because of the collective nature of an appellate decision, the candidate must be able to understand and respect the differing views of colleagues and to compromise. The candidate must also be able to give and receive criticism with grace.

-Does this person tend to monopolize conversations?

-Can this person respond well to criticism?

-Is this person perceived as unreasonably rigid in his/her views?

-Can this person constructively criticize others?

-How long has this person been employed at his/her current place of business? How long was he/she employed at his/her previous place of business?

-Does this person indicate loyalty to his/her current or former employer?

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**Overall Notes and Ranking of Applicant**