

**United States Court of Appeals
for the Sixth Circuit**

Procedures for the Selection of Federal Public Defender Nominees

**Pursuant to 18 U.S.C. Section 3006A(g)(2)(A)
and
Regulations of the Judicial Conference of the United States**

Pursuant to 18 U.S.C. Section 3006A(a) each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation in accordance with this section. For a district, or part of a district, in which at least 200 persons annually require the appointment of counsel, a federal public defender organization may be established. These procedures describe the steps which will be followed by the United States Court of Appeals for the Sixth Circuit in selecting nominees for appointment as federal public defenders to administer federal public defender organizations within the Sixth Circuit and for the reappointment of incumbent federal public defenders.

1. QUALIFICATIONS. The federal public defender shall be appointed by the United States Court of Appeals for the Sixth Circuit for a term of four years unless sooner removed. To be eligible for consideration by the Court for appointment as federal public defender, an applicant must possess all of the following qualifications:

- (a) An applicant must be a member in good standing of the highest court of at least one state or of the District of Columbia, and a member in good standing of every other bar of which the applicant is a member.
- (b) An applicant must have a minimum of five years criminal practice experience, preferably with significant federal criminal trial experience, which demonstrates an ability to provide zealous representation of consistently high quality to criminal defendants.
- (c) An applicant must have the ability to effectively administer the office;
- (d) An applicant must possess a reputation for integrity;
- (e) An applicant must have a commitment to the representation of those unable to afford counsel.
- (f) An applicant may not be related to a judge of the Court of Appeals, or to a judge of the district court in the district in which the vacancy exists by blood or marriage within the degree of first cousin.

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

3. PUBLIC NOTICE. With respect to each vacancy, a public notice shall be given which shall identify the vacant position, and shall describe the nature of the position and the procedures for submission of applications. An affirmative effort shall be made to insure that women, blacks, Hispanics, and other minority individuals are informed of the vacancy and are invited to apply.

(a) Publication. Unless otherwise ordered by the Court because of exigent circumstances, the notice of the vacancy shall be nationally distributed to other federal public defender offices and to organizations such as the National Center for State Courts; the American, Federal and National Bar Associations; and the National Association of Criminal Defense Attorneys with nationwide mailing capabilities. The notice should also be published to the extent feasible, in state bar journals, newsletters, and local legal periodicals, if available. The public notice shall set a firm deadline for applications.

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

4. FORM OF APPLICATION. Applications for appointment as federal public defender shall be submitted on the form prescribed by the Court. A copy of the prescribed form is attached to these procedures as Appendix A.

(a) Availability of application forms. Application forms may be obtained from the office of the circuit executive, the office of the clerk of the United States Court of Appeals for the Sixth Circuit, or from the offices of the clerk of the district court clerk in which the vacancy exists.

(b) Submission of applications. Applications for appointment as federal public defender shall be submitted to:

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

(c) Number of copies. Each applicant shall submit **10** copies of the application form.

5. MERIT SELECTION PANEL. For the purpose of assisting the Court in reviewing and evaluating the applications for appointment as federal public defender, the Court shall appoint, as needed, merit selection panels for districts in which vacancies exist.

(a) Membership. A merit selection panel shall consist of three to seven members, including the chairperson. The members of the panel shall be appointed by the chief judge of the circuit in consultation with the circuit and district judges of the district concerned. The membership of a panel shall consist of persons knowledgeable in federal criminal defense issues, but shall not include probation, pretrial services, enforcement or prosecutorial personnel. Each member of the panel shall be a resident of the circuit.

(b) Duties. A panel shall examine all applications for the purpose of identifying qualified applicants. A panel shall make an effort to identify and give due consideration to all qualified applicants, without regard to race, color, sex, religion or national origin. A panel shall grant a personal interview to each applicant whose name is submitted to the Court. A panel, or members thereof, may, subject to the confidentiality provisions of paragraph 8 of these procedures, solicit information regarding an applicant from any persons who are familiar with the applicant's qualifications. A panel shall solicit confidential comments from the district court or courts to be served regarding the qualifications of each applicant whose name is submitted to the Court and shall include in its report the recommendations of the district court along with the committee's response to the district court's comments and recommendations, where appropriate. All panel meetings shall be closed to preserve confidentiality.

(c) Appointment and activation of the panel. A panel shall be appointed by the Chief Judge of the Circuit upon the recommendation and approval of the Sixth Circuit Judicial Council and the Administrative Office of the creation of a federal public defender organization or when a vacancy occurs in the office of federal public defender. For purposes of these procedures, the Chief Judge of the Circuit may deem a federal public defender position to be vacant and may appoint a panel upon the death of a federal public defender, upon receipt of written notification from a federal public defender of his or her intention to resign or retire from active service upon a date certain in the future, or in the event the court of appeals declines to reappoint an incumbent federal public defender.

(d) Panel report. Within 90 days after the application deadline, a panel shall submit its report to the Court of Appeals. Such report shall specify three to five persons ranked in order of preference by the panel. Pursuant to the provision of the Criminal Justice Act requiring the courts of appeals to consider the recommendation of the district court to be served, the recommendations of the district court shall be included in the committee's report to the Court of Appeals, along with the committee's response to the district court's comments and recommendations, where appropriate. The report of the panel also shall include a description of the panel's activities and all written materials received by it or prepared by the panel concerning the recommended nominees.

6. COURT EVALUATION AND NOMINATION. The Court, or committee thereof, shall review the report and recommendation of the panel. The Court shall select the final nominee from the list provided by the panel. However, the Court may, by majority vote, reject the first list Submitted by the panel and direct that the panel submit a second list from which the Court shall then select its nominee. The Court, or a committee thereof, may personally interview applicants and may solicit information regarding an applicant from persons familiar with the applicant's qualifications. Following selection of a final nominee, the name of the attorney selected shall be submitted to the Administrative Office of the United States Courts which shall initiate F.B.I. and I.R.S. investigations. The Chief Judge of the Circuit shall review the F.B.I. and I.R.S. reports and, finding same satisfactory, complete the order of appointment.

7. REAPPOINTMENT OF FEDERAL PUBLIC DEFENDER. An evaluation committee of three to seven members shall be appointed by the Chief Judge of the Circuit in consultation with the circuit and district judges of the district in which the federal public defender serves to assess the quality of representation, level of commitment and service to clients, and administrative efficiency of the federal public defender office prior to deciding whether to recommend to the Court of Appeals the reappointment

of an incumbent federal public defender.

(a) Duties. The committee shall solicit the views of those in a position to evaluate the performance of the federal public defender as well as the quality of the services provided by the federal public defender organization by conducting a survey of district court personnel, including district and magistrate judges, probation officers, law enforcement officers and prosecutors, as well as attorneys who regularly practice criminal law in federal court. To accomplish this goal, the committee may use a questionnaire seeking input from court personnel and criminal defense attorneys; may post a notice in the various court offices where attorneys and other court personnel would see it seeking written comments to be forwarded to the committee; may write individual letters to court personnel and attorneys seeking written comments; or may do a telephone survey of court personnel and attorneys.

The federal public defender shall be interviewed and given an opportunity to respond to comments, including adverse comments which would not influence the decision to reappoint, so that the Defender may benefit from constructive criticism. The committee shall not disclose the identity of the person, but shall provide the defender with a general description of the source and nature of the comments.

(b) Evaluation Committee Report. The committee's report and assessment of the reappointment of an incumbent federal public defender shall be filed with the court of appeals within 90 days of the date of appointment of the committee and shall include its recommendation on reappointment of the federal public defender as well as any recommendations from the district court to be served. Upon receipt of the committee's report, the court, or a committee thereof, may personally interview the defender and solicit additional information regarding the defender prior to deciding whether the reappointment of the incumbent defender is warranted. Should the Court of Appeals decide not to reappoint an incumbent federal public defender, the Chief Judge of the Circuit shall declare a vacancy in the position effective upon the date of expiration of the incumbent defender's term, and the procedures outlined above for the appointment of a new federal public defender shall be instituted.

8. CONFIDENTIALITY. All information received by the Court or a Merit Selection Panel in the performance of its responsibility under these Regulations, including the application forms, the names of applicants and the identities of persons recommended by the Merit Selection Panel to the Court, shall be kept in strict confidence, except as may be necessary to permit the Court or Merit Screening Panel to obtain necessary information about an applicant's qualifications for appointment. The panel may contact personal references listed in the application form without securing a waiver of confidentiality. No other disclosure of an applicant's name or solicitation of information about an applicant will occur unless the applicant has executed a waiver of confidentiality. All Court and panel meetings concerning the review of applicants or potential nominees shall be closed to preserve confidentiality.

In executing its duties and responsibilities to the court on the reappointment of an incumbent federal public defender all individual responses shall be held in strict confidence. The incumbent defender shall be given an opportunity to respond to the results of the survey conducted, including any adverse comments received by the committee. The committee may provide the defender with a general description of the source and nature of the comments.

11/01/93

United States Court of Appeals for the Sixth Circuit
Application for the Position of Federal Public Defender
for the
District of _____

Please answer all questions.

Instructional Note: Use letter size paper in preparing application. Type each question and place your answer immediately beneath it. Use single-space typing. A total of ten copies of application must be submitted.

GENERAL

1. Full name and social security number; all other names by which you have been known:

2. Present occupation and title:

3. Office address, zip code, telephone and fax numbers with area code.

4. Home address, zip code, telephone and fax numbers with area code.

(If more than one home or office is maintained, list all addresses and state the circumstances.)

5. Date, place of birth, and length of residence in State.

6. Are you a naturalized citizen? If so, give date and place of naturalization.

7. Are you related by blood or marriage to any member of the Federal Judiciary? If so, please list name(s), office address and telephone number with area code.

8. Family status:

(a) State whether you are single, married, widowed or divorced. If married, state the date of marriage and your spouse's full name.

(b) Names of your children, with age, address and present occupation of each.

9. Spouse's Occupation:

If spouse is an attorney will he/she practice before the District Court if you are appointed Federal Defender? List areas of specialization of spouse.

10. Military Service.

(a) If you served in the military, give dates, branch of service, rank, serial number and present status. If discharged, state character of discharge.

(b) If still a reserve or national guard member, please give service, branch unit and present rank.

Health Note: The applicant agrees that the Court or the Merit Selection Panel may request medical information, and the applicant agrees to submit such information upon request. See also the confidentiality statement at the end of this form.

11. What is the present state of your health?

12. Do you have any impairment of eyesight or hearing not corrected by corrective lenses or hearing aid, or other physical handicap or disease? If yes, please specify.

13. Have you had any hospital confinement or incapacitation in excess of 10 days due to mental illness or serious physical illness or injury during the past ten years? If yes, explain and identify your attending physician, the names of any hospital or other institution to which you were admitted and the date(s) of your hospitalization or incapacitation.

14. Are you presently receiving treatment for a physical or mental illness or condition or for problems related to the consumption of alcohol or drug dependency? If yes, please give details.

15. What was the date of your most recent general physical examination?

EDUCATION

16. List each college, university and law school you attended, including dates of attendance, the degree awarded, and if you left any institution without receiving a degree, the reason for leaving. Include the following:
 - (a) College - Major academic achievements and other significant activities.
 - (b) Law School - Major academic achievements and other activities.
 - (c) If you have published any legal books or articles, please list them, giving citation and dates.
 - (d) List any honors, prizes or awards you have received.
 - (e) List the continuing legal education courses or seminars which you have completed or taught within the last 10 years.
17. List any honors, prizes or awards you have received for service to the legal profession or civic organizations:

PROFESSIONAL ADMISSIONS

18. 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.

LAW PRACTICE

19. List chronologically, since graduation from law school, the names, dates, addresses and telephone numbers of all law firms with which you have been associated in practice, and of all governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice.
20. Describe the general nature of your current practice including any legal specialties which you possess and the character of your typical clients. Additionally, if your practice is substantially different now than previously, please give details of prior practice.
21. (a) Do you regularly appear in Court?

(b) During the last five years, what percentage of your practice has been:

Civil%
Criminal.....%
Administrative.....%
Other.....%

22. What percentage of your court appearances in the last five years were in:

(a) Federal Courts.....%
(b) State or Local Courts of Record.....%
(c) Administrative Bodies.....%
(d) Other.....%

23. During the last five years, what percentage of your practice has been trial practice? How frequently have you appeared in court? How frequently have you appeared at administrative hearings?

24. What percentage of these trials were:

(a) Jury
(b) Non-jury

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

26. Summarize your courtroom experience prior to the last five years.

27. List five cases handled by you in which you consider to be major matters. State the names and addresses of co-counsel and adversary counsel in such cases.

28. Are you now or have you in the past been a member of any Criminal Justice Act (CJA) panel from which lawyers are selected and appointed for criminal defense services? If so, indicate court and location of each panel.

PUBLIC OFFICE

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

JUDICIAL EXPERIENCE

30. Have you ever held judicial office or been a candidate for judicial office? If yes, please state the courts involved and the dates of service, or dates of candidacy.

BUSINESS INVOLVEMENT

31. 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? If yes, please give the details, including dates.

c) State whether during the past five years you have 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. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved, and the dates such compensation was paid.

32. Are you familiar with the canons of the code of conduct for Federal Public Defenders Volume II Guide to Judiciary Policies and Procedures, Chapter II page II-45 (copies are available at all U.S. Courts libraries), and the limitation upon federal employees on earning outside income prescribed under Title VI of the Ethics Reform Act of 1989, P.L. No 101-94, Sections 601-603, 103 Stat. 1716, 1760-1763 (1989), as amended?

OTHER

33. Have you ever been arrested, charged or convicted for violation of any federal law, state law, county or municipal law, regulation or ordinance? If yes, please give details. Do not include traffic violations for which a fine of \$50 or less was imposed unless it also included a jail sentence.

34. (a) Have you ever had a claim prosecuted or been sued by a client? If yes, please give particulars, including results.

(b) Have you or your professional liability insurance carrier ever settled a claim against you

for professional malpractice? If yes, please give particulars, including the amounts involved.

(c) Have you ever been a party to a lawsuit? If so, please give particulars, including the result.

35. Have you ever been charged in any civil or criminal proceedings with conduct alleged to involve moral turpitude, dishonesty and/or unethical conduct? If yes, please give particulars, including the full style of the cause.
36. 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? If yes, please give the particulars.
37. Have you filed all appropriate tax returns as required by federal, state, local and other government authorities? If no, please explain.
38. Do you have any liens or claims outstanding against you by the Internal Revenue Service or any state or local tax authority? If yes, please explain.

PROFESSIONAL AND OTHER ACTIVITIES

39.
 - 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. 39a, 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.
40. Do you hold membership in any professional, social, fraternal or civic organization or association which bars membership to persons by reason of race, religion, sex or national origin? If yes, provide pertinent details.

SUPPLEMENTAL INFORMATION

41. Describe your administrative and supervisory experience.

42. How has your educational, legal, administrative and business experience prepared you for this position?
43. State any achievements or actions you have accomplished, demonstrating your commitment to equal justice under law.
44. State any additional education or other experiences you believe would assist you in performing the duties of the position for which you are applying.
45. State any other pertinent information reflecting positively or adversely on you which you believe should be disclosed in connection with your possible nomination as United States Federal Public Defender.
46. List five individuals as references who are familiar with your abilities and personal character. You must provide addresses, telephone and fax numbers for each reference.
47. In your own words, on one page, state why you desire appointment to this position.

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

Date: _____

Signature of Candidate

Confidentiality Statement

This form will be kept confidential. The individuals whom you have listed as references above may be contacted, and the district and magistrate judges of the district may be asked to provide confidential comments regarding your qualifications, but no other employers, colleagues or other individuals will be contacted without your prior approval. In the event you are selected for final consideration, you will be asked to provide a waiver of confidentiality authorizing the release of information from current or former employers, professional colleagues, physicians and other information, including medical records.

10 copies of the Completed Application Form must be submitted to:

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