

IDAHO DISTRICT MAGISTRATES COMMISSION MANUAL



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TABLE OF CONTENTS

A LETTER TO THE DISTRICT MAGISTRATES COMMISSION MEMBERS.....	1
PART I. GENERAL PROVISIONS.....	2
Rule 1 Introduction.....	2
Rule 2 Scope and Title	2
Rule 3 Definitions.....	3
Rule 4 Organization and Administration.....	4
Rule 5 Oath of Office	6
Rule 6 Duties of Commission.....	6
Rule 7 Jurisdiction and Powers	7
Rule 8 Expenses	7
Rule 9 Meetings.....	7
Rule 10 Immunity.....	8
Rule 11 Voting	8
Rule 12 Conflicts.....	8
Rule 13 Ex Parte Communications.....	10
Rule 14 Abuse of Position.....	10
Rule 15 Confidentiality	11
Rule 16 Destruction of Records	11
Rule 17 Vacancies on the Commission	11
PART II. STANDARDS FOR RECRUITMENT AND SELECTION OF MAGISTRATE JUDGES.....	14
Rule 18 Fairness and Equality Standards	14

Rule 19	Recruitment Process.....	14
Rule 20	Selection Process	14
Rule 21	Preliminary Evaluations.....	16
Rule 22	Magistrates Commission Interview Planning Proceedings.....	17
Rule 23	Interviews.....	18
Rule 24	Interview Questions Concerning Race, Color, Religion, Sex, Disability Status, Genetic Nondiscrimination Act, Pregnancy Discrimination Act or National Origin ..	19
Rule 25	Interview Guidelines	19
Rule 26	Appointment of Magistrate Judges	21
 PART III. POST APPOINTMENT PERFORMANCE EVALUATION		22
Rule 27	Goals of Performance Appraisals	22
Rule 28	Appraisal Criteria.....	22
Rule 29	Performance Appraisal Procedures.....	22
 PART IV. DISCIPLINE AND REMOVAL OF MAGISTRATE JUDGES		24
Rule 30	General Discipline and Removal Information	24
Rule 31	Discipline or Removal of a Magistrate Judge.....	24
 APPENDIX A. IDAHO COURT STRUCTURE.....		28
 APPENDIX B. IDAHO CODE OF JUDICIAL CONDUCT		32
 APPENDIX C. STATUTES AND COURT RULES		71
 APPENDIX D. MAGISTRATES COMMISSION FORMS		80
Form 1	Notice of Recruitment - Vacancy to Lawyers	
Form 2	Application for Judge of the Magistrate Division of the District Court	
Form 3	Reserved for Future Use	

- Form 4 Attorney Questionnaire of Application Qualification
- Form 5 Public Announcement of Magistrate Judge Applicants
- Form 6 Cover Sheet Public Questionnaire of Applicant Qualifications
- Form 7 Public Questionnaire on Performance of Recent Appointees
- Form 8 Notice of Appointment
- Form 9 Notice of Magistrates Commission Action
- Form 10A Notice of Vacancy on Magistrates Commission – Mayor and Elector
- Form 10B Notice of Vacancy on Magistrates Commission – Attorney
- Form 11 Magistrates Commission Member Data Sheet
- Form 13 Administrative Order of Appointment
- Form 14 Notice of Removal Hearing
- Form 15 Notice of Procedures for Hearing

**A letter to the District Magistrate Commission Members
from the Idaho Supreme Court**

Thank you for accepting your appointment to the magistrates commission for your judicial district. The Court is very appreciative of the service of all magistrate commission members and hope that they find this important role to be fulfilling and an honor to perform. The commission is responsible for selecting new members of the Idaho Judiciary. You should not take your responsibilities lightly. The decisions of the commission will affect the well-being of the individuals, families, agencies, organizations and communities that come before the court during a magistrate judge's career.

In addition, the impact of your decisions on the commission will extend well beyond your judicial district to the state of Idaho and the judiciary as a whole. The magistrate judges you select will touch the lives of the public more than any other members of the judiciary. In addition, magistrate judges often move on to district and appellate judge positions.

Given the seriousness and importance of the work you will be required to perform, please take the time to read through the Magistrates Commission Manual and familiarize yourself with the guidelines, policies, and procedures surrounding the selection and evaluation of new magistrate judges. We hope you will find the manual helpful and that it will help resolve any policy and administrative questions you may have, leaving you to spend your time involved in the important work of evaluating magistrate judge candidates. Of course, if you have further questions, feel free to ask questions your Trial Court Administrator or Administrative District Judge.

Thank you again for your service. It is your efforts and thoughtful decision-making that will help shape the judiciary in the future.

GENERAL PROVISIONS

Rule 1. Introduction

The Idaho District Magistrates Commissions serve the critical function of selecting new members of the Idaho Judiciary - magistrate judges - whose decisions will profoundly affect the well-being of the individuals, families, agencies, organizations and communities that come before the court during the magistrate judge's career. Service on a District Magistrates Commission is, therefore, a serious undertaking. It requires a willingness to devote the time and energy to select the applicant who will most effectively enhance the quality of the bench. It requires the commitment to proceed through the various steps of the judicial selection process expeditiously, but with diligence, care, and integrity. While the work of a District Magistrates Commission is both concentrated and time consuming, participants will find satisfaction in the knowledge that their work directly improves the quality of Idaho's judicial system.

Throughout their thoughtful and impartial deliberations, the Magistrate Commissioners must hold the public interest foremost in the decision making process. This manual was developed to assist the District Magistrates Commission members by providing a common background of information and by establishing guidelines both for Commission procedures and the applicant evaluation process. Its goal is to enhance the efficiency of each Magistrates Commission by resolving procedural and administrative issues and preserving the time of the members for a more thorough investigation and evaluation of the candidates. It also describes the qualifications and some of the more important qualities for judicial office, thus providing practical guidelines for the evaluation process both before selection and during the first eighteen months of the new judge's appointment.

Rule 2. Scope and Title

- (a) **Scope.** The District Magistrates Commission has the following responsibilities under the statutes of Idaho:
- (1) To determine the number and location of magistrate judges to be appointed within the judicial district. I.C. §1-2205.
 - (2) To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section I.C. §§1-2220 and 1-2205.
 - (3) To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, the Idaho Supreme Court, the district court and such other governmental agencies as may be interested in or affected by such recommendations. I.C. §1-2205.
 - (4) To conduct removal proceedings pursuant to these procedures. I.C. §1-2207(3).

- (b) **Title.** These Rules shall be known and cited as the Idaho District Magistrates Commission Manual (I.D.M.C.M.).

Rule 3. Definitions

- (a) **“Applicant”** means any person who submits an application to fill a judicial vacancy for consideration by the Commission, whether statutorily qualified or not.
- (b) **“Candidate”** means any person who submits an application to fill a judicial vacancy for consideration by the Commission and who meets all Idaho statutory qualifications for judicial candidacy. Alternatively, any incumbent magistrate judge who seeks retention pursuant to I.C. §1-2220.
- (c) **“Chair”** means the chair of the Commission or the acting chair of the Commission.
- (d) **“Commission”** or **“Magistrates Commission”** means the Idaho Magistrates Commission of any district.
- (e) **“Commissioner”** or **“Magistrate Commissioner”** means any voting member of a Magistrates Commission.
- (f) **“Communications”** means either verbal or written communication, statistical data, graphs, survey results, or any other form or method of conveying information.
- (g) **“Ex Parte Communications”** means any written or oral communication by any person outside the Magistrates Commission to any Commissioner or any member of a Commissioner's staff that imparts information or argument regarding prospective Commission action or potential action concerning any candidate, any pending decision, or any other commission matter that would fall within the confidentiality provisions of these rules.
- (h) **“Disability”** means a mental or physical condition, or mental and physical condition combined, that seriously interferes with a judge’s performance of duties.
- (i) **“I.C.A.R.”** means Idaho Court Administrative Rules.
- (j) **“Mail”** means first-class mail, personal delivery, or delivery by commercial mail service.
- (k) **“Majority”** means either more than fifty percent (50%) of the total voting members of a Magistrates Commission, or more than fifty percent (50%) of the voting members of a Magistrates Commission in actual attendance for a vote, as specified in these Rules.
- (l) **“Member”** means a member or special member of the Commission.
- (m) **“Proceedings”** include meetings, hearings, and the like, regardless of number of members present, wherein any matter pertaining to the Magistrates Commission or any matter or individual under consideration by any Magistrates Commission is being discussed.

- (n) **“Quorum”** constitutes a majority of the acting members of a Commission. (I.C. §1-2204).
- (o) **“Record”** specific to Rule 32 herein shall mean court record, physical record, or electronic record, as defined by I.C.A.R. 32.
- (p) **“Shall”** is mandatory and **“May”** is permissive.
- (q) **“Supreme Court”** means the Idaho Supreme Court.
- (r) The masculine gender includes the feminine gender.

Rule 4. Organization and Administration

- (a) **General Requirements.** Each member of a Magistrates Commission must be over the age of 18, of good moral character, a United States citizen, and a resident of the state of Idaho and the particular judicial district for which the Magistrates Commission is assigned. I.C. §1-2203.
- (b) **Composition.** The Magistrates Commission shall consist of members as described below and provided in Idaho Code §1-2203.
- (c) **Terms of Service.** Each commission member will serve a term of service on the magistrates commission as described below and provided in I.C. 1-2203A.
- (d) **Voting Members.** Pursuant to Idaho Code §1-2203, the voting members of the Magistrates Commission shall be:
 - (1) Chair. The administrative district judge of the particular judicial district shall serve as the chair of the Commission. The administrative district judge may designate another district judge in the district to serve in his or her place on the Magistrates Commission (pursuant to I.C. §1-2204);
 - (2) Vice-Chair. The vice-chair shall be elected by the Magistrates Commission annually to serve until the 30th day of June of the next succeeding year, or until a successor is elected (pursuant to I.C. §1-2204);
 - (3) County Commissioners. Chair of the board of county commissioners of each county in the judicial district, or another commissioner from that county designated by the chair;
 - (4) Mayors. Mayors of three (3) municipalities within the judicial district as appointed by the Governor, and serving terms of five (5) years, which terms may be succeeded provided their terms shall end when they cease to hold the office which entitles them to membership on the Commission. One mayor must be from a municipality with a population of more than 10,000 based on the most recent federal decennial census, which position shall be designated as mayor A, and the other two (2) positions designated as mayor B and mayor C respectively;

(a) Mayor A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of mayor A shall end on September 30 in years that end in two (2) or seven (7);

(b) Mayor B, the initial term shall be three (3) years, ending September 30, 2024, and thereafter the term of mayor B shall end on September 30 in years that end in four (4) or nine (9); and

(c) Mayor C, the initial term shall be five (5) years, ending September 30, 2026, and thereafter the term of mayor C shall end on September 30 in years that end in one (1) or six (6).

(5) Electors. Two qualified electors residing within the district as appointed by the Governor, and serving terms of five (5) years and may succeed themselves, provided that their terms will end when they cease to reside in the district.

(a) Elector A, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of elector A shall end on September 30 in years that end in three (3) or (8); and

(b) Elector B, the initial term shall be four (4) years, ending September 30, 2025, and thereafter the term of elector B shall end on September 30 in years that end in zero (0) or five (5).

(6) Attorneys. Two attorneys as appointed by the Idaho State Bar Association, and serving terms of two (2) years and may succeed themselves for two (2) additional terms.

(a) Attorney A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of attorney A shall end on September 30 in even-numbered years; and

(b) Attorney B, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of attorney B shall end on September 30 in odd-numbered years.

(7) Magistrate Judge. A magistrate judge in the district as appointed by the administrative district judge and serving a two (2) year term and may succeed himself for (2) additional terms. The term of the magistrate judge shall end on September 30 in odd-numbered years.

(8) County Clerk. A county clerk in the district to be appointed by the administrative district judge. The county clerk shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of the county clerk shall end on September 30 in even-numbered years.

(d) Secretary. The trial court administrator shall ordinarily serve as secretary of the Commission, but a member of the Commission may be appointed to do so at the

discretion of the administrative district judge, or district judge designee. (I.C. §1-2204). The Commission may adopt rules for the administration of the secretary's duties not inconsistent with applicable provisions of law. The secretary shall maintain the official minutes of all meetings of actions taken by the Commission. (I.C. §1-2204).

Rule 5. Oath of Office

- (a) **Taking of Oath of Office.** After accepting a nomination to a District Magistrates Commission, and before undertaking substantive Magistrates Commission business, each Magistrates Commission member shall take the following oath, a copy of which shall be dated and signed by the Magistrates Commission member, and by the chair of the District Magistrates Commission, to be retained by the trial court administrator during the pendency of the Commission members' term(s) of office,
- (b) **Form of Oath.** The oath shall be in the form required in Idaho Code §59-401.

Before any officer elected or appointed to fill any office created by the laws of the state of Idaho enters upon the duties of his/her office, he/she must take and subscribe an oath, to be known as the official oath, which is as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of (insert office) according to the best of my ability."

Rule 6. Duties of Commission

The Magistrates Commission shall:

- (a) Determine the number and location of magistrate judges within the judicial district (subject to funding appropriations by the legislature) (I.C. §1-2205);
- (b) Appoint magistrate judges within the judicial district on a non-partisan, merit basis (I.C. §1-2205);
- (c) Conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements to the legislature, the Supreme Court, the district court, and such other governmental agencies as may be interested in the recommendations of the District Magistrates Commission. (I.C. §1-2205); and
- (d) Vote by majority of all voting members to remove a magistrate from office without cause within eighteen (18) months of his or her appointment. (I.C. §1-2207).

Rule 7. Jurisdiction and Powers

- (a) **Administrative Powers.** The Commission may adopt administrative policies, procedural rules, or forms for its internal operation or proceedings that do not conflict with the provisions of Idaho statute or these Rules. (I.C. §1-2204).
- (b) **Communications.** The Commission may distribute information to the judiciary and the public concerning its authority, procedures, or practices. (I.C. §1-2204).
- (c) **Subject to Disapproval.** The actions of the Commission with regard to Rule 6(a) and (b) herein shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days of written notice to the district judges of the Commission's actions, unless such time be extended for good cause by order of the Idaho Supreme Court. (I.C. §1-2205).

Rule 8. Expenses

- (a) **Submission Form.** The trial court administrator shall distribute the Non-Judicial Employee Travel Reimbursement Form to commission members with instructions for completion.
 - (1) Travel expenses to and from Magistrates Commission meetings are reimbursed by the state of Idaho at the mileage rate set by the Board of Examiners for all state travel. Meals are reimbursed at the rate set by the Board of Examiners for all state travel, and overnight lodging, if necessary, will also be reimbursed.

Rule 9. Meetings

- (a) **Meeting Request and Notice.** Meetings shall be held at the call of the chair or at the request of any three (3) members. Meetings shall be at times and places determined by the membership or by the chair after reasonable notice are provided to all members. (I.C. §1-2204).
- (b) **Meeting Minutes.** The trial court administrator, acting as secretary to the Commission, shall maintain official minutes of all meetings or actions taken by the Commission. (I.C. §1-2204).

All records and records of proceedings, except the identity of applicants for appointment to judicial office, of the Idaho Judicial Council or any District Magistrates Commission pertaining to the appointment, performance, removal, disability, retirement or disciplining of judges or justices. Provided, however, that the record of a disciplinary proceeding filed by the Judicial Council in the Supreme Court loses its confidential character upon filing. I.C.A.R. 32(g)(28)

- (c) **Quorum.** A majority of the acting members of a Commission constitutes a quorum. (I.C. §1-2204).
- (d) **Obligation to Attend.** Magistrate Commission members shall attend all regular meetings of the Commission unless excused by the chair for good cause. If a member

is absent without good cause for two consecutive meetings, the chair may formally request the resignation of that member.

Rule 10. Immunity

Members of the Magistrates Commissions have limited immunity from civil liability under the Idaho Torts Claims Act. Members are considered employees under I.C. §6-902(4), which defines “Employee” as any “officer, board member, commissioner, executive, employee or servant of a governmental entity.” As such, under I.C. § 6-903, the state of Idaho shall provide a defense to members and indemnify them against any claims related to the course and scope of their employment as commission members. Further, the state shall not be entitled to contribution or indemnification for damages or reimbursement for legal fees or expenses from the commission member, unless the employee’s act or omission was outside the course and scope of employment or included malice or criminal intent.

Rule 11. Voting

- (a) **Method of Voting.** The Commission decides the method of voting in advance. Whatever method selected, if no candidate receives a majority on the first ballot, the candidate with the lowest vote total shall be struck and the Commission will then choose again between the remaining candidates. If there is still no majority candidate, the candidate with the lowest vote total of those remaining will again be struck and the process repeated until a majority candidate is selected.
- (b) **Nature of Voting.** The Commission acts by affirmative vote of a majority of the members present with the exception of votes for removal, for which a majority vote of all voting members of the District Magistrates Commission is required. (I.C. §§1-2204 and 1-2207(3); I.C.A.R. 2(e)).

Rule 12. Conflicts

- (a) **Conflicts of Interest.** Every member of the Magistrates Commission shall avoid conflicts of interest in the performance of Magistrates Commission duties. Every member is required to exercise diligence in becoming aware of conflicts of interest and shall disclose any conflicts to their Magistrate Commission. If a member knows of any personal, business, or legal relationship that the member had or has with the applicant, the member must report this fact to the Commission. The Magistrates Commission shall then decide the extent to which the involved member shall participate in the proceedings concerning said applicant. In the event that a member does not vote, the fact that a member of the Magistrates Commission did not vote may be announced publicly. The Magistrates Commission may disclose its decision on this issue. I.C. §1-2203(5).
- (b) **Relationships.** If a relationship between a Commission member and an applicant falls into one of the following four categories, the Commission member shall recuse himself or herself from the selection process unless such applicant withdraws or is withdrawn from further consideration by the Commission.

- (1) Any relationship to the applicant by blood or marriage by virtue of being the applicant's spouse, child, or spouse of a child. The Commission member shall not be related to the applicant under the third degree of relationship test. The third degree of relationship test is defined as being the applicant's or the applicant's spouse's parent, grandparent, aunt, uncle, sibling, nephew, or niece, or spouse of any of these relatives. Additionally, the Commission member shall recuse himself or herself in situations where the applicant and Commission member are sharing or have shared a residence during the past 5 (five) years.
 - (2) Any arrangement involving the practice of law or an employment relationship including, but not limited to, partnership, professional corporation, or office sharing within the past 5 (five) years, except that a member who is on the Commission as a representative of a governmental entity which has employed an applicant shall not be disqualified by that relationship; however, such relationship shall be disclosed to the Commission.
 - (3) Any relationship in which the Commission member and applicant are actively engaged in managing a common profit-making business or venture.
 - (4) Any instance in which the member of the Commission would cast his or her vote on a basis other than an applicant's qualification for the office.
- (c) **Recusal.** When an attorney member has recused himself or herself, a temporary attorney member may be appointed by the Idaho State Bar, from candidates nominated by the district bar association, to fill such vacancy. (I.C. §1-2203(1)).
- (d) **Disciplinary Proceedings.** No member of the Magistrates Commission shall participate in any disciplinary proceeding regarding a magistrate judge if that member has a substantive matter pending before that judge.
- (e) **Impartial and Objective.** Each member of the Magistrates Commission shall consider each applicant for a judicial office in an impartial, objective manner. No member shall discriminate, nor manifest by words or conduct, any bias or prejudice based on race, ethnicity, religion, sex, national origin, gender, socioeconomic status, age, disability, marital status, sexual orientation, or political affiliation in the conduct of the business of the Magistrates Commission.

Rule 13. Ex Parte Communications

- (a) **Ex Parte Communications.** Members of the Magistrates Commission should avoid *ex parte* (unofficial and one-sided) communications on matters relating to the Magistrates Commission's proceedings, or to applicant qualifications, or the performance of any judicial officer subject to Magistrates Commission supervision from persons outside of the Magistrates Commission, *including the applicant*. Persons who seek to communicate such matters to an individual member shall submit their comments in writing to the Commission as a whole. Failing that, the member receiving *ex parte* communications should transmit the substance of the communication to the Commission at the earliest opportunity.

Commissioners should recall, when evaluating whether a communication is ex parte, the decade-long struggle that culminated in 1971 with the unification and reform of Idaho's entire lower court structure. Citizen involvement was an essential ingredient in this effort then, and citizen involvement is an essential ingredient today. Commissioners should take care to avoid shutting the door on a communication from a member of the community simply because it may be ex parte. Weigh the seriousness of the comments and consider the appropriateness of neutralizing the information by transmitting the substance of the communication to other Commission members at the next available opportunity.

- (b) **Written or Oral Communications.** Any written or oral communications (whether solicited or not) that are received by an individual member of the Magistrates Commission from any person or organization regarding Magistrates Commission proceedings, the qualifications of any candidate, or the performance of any judicial officer, should be promptly forwarded to the administrative district judge or the trial court administrator for distribution to all other members.

Rule 14. Abuse of Position

- (a) No member of the Magistrates Commission shall use or attempt to use his or her official position to secure privileges or exemptions for the member or others.
- (b) No member of the Magistrates Commission shall attempt, solicit, or agree to accept any gift, favor or anything of value based upon any understanding, either explicit or implicit, that the official actions, decisions or judgment of any member would be influenced thereby. Nothing in this section shall prohibit a member from accepting a public award presented in recognition of public service.
- (c) No member of the Magistrates Commission shall request or accept any fee or compensation, on Commission related matters, other than reimbursement from the appropriate governmental entity for authorized expenditures.
- (d) Each member of the Magistrates Commission shall use District Magistrates Commission resources, property and funds under the member's official control judiciously and solely in accordance with prescribed statutory and regulatory procedures.

- (e) Each member of the Magistrates Commission shall immediately report to the chair of the district Magistrate Commission (that is, the administrative district judge or designee judge) any attempt to induce the member to violate any of the standards set out herein.
- (f) Any member of the Magistrates Commission who seeks appointment as a magistrate judge within the district must resign from the Magistrates Commission prior to the date of the application.

Rule 15. Confidentiality

- (a) **Disclosure Exemption.** Under I.C.A.R. 32(g)(28), District Magistrates Commissions' proceedings and records are exempt from disclosure. Except for the identity of the applicants for judicial office, all records and proceedings of the District Magistrates Commissions regarding the appointment, performance, removal, or disciplining of magistrate judges are confidential and should not be discussed outside Commission meetings, except among Commission members.
- (b) **Confidentiality of Information.** Any communications between members of the Magistrates Commission, between a member and a candidate, or between a member and any other person or organization with respect to the judicial qualifications of an applicant shall be kept confidential and discussed only among Commission members. A member of the Magistrates Commission, or former member, shall not disclose confidential information, except as provided in these rules. (I.C.A.R. 32(d)).
- (c) **Disclosure to Applicants.** Candidates shall be allowed to see their own qualifications questionnaire results, but not the comments received by the Commission from the bar or the public.
- (d) **Record of Application.** A copy of the application of a successful candidate for magistrate judge shall be forwarded to the Administrative Director of the Courts at the Idaho Supreme Court for inclusion in the candidate's personnel file.

Rule 16. Destruction of Records

All documents pertaining to the selection process except Commission minutes and notices of appointment, but including applications of unsuccessful applicants and computer tabulation reports of attorney surveys, shall be destroyed by the trial court administrator no later than thirty (30) days after the vacancy is filled. The trial court administrator shall collect and destroy all Commission materials previously distributed to Commission members by the trial court administrator within thirty (30) days.

Rule 17. Vacancies on the Commission

- (a) **Creating Commission Vacancies.**
 - (1) All voting members. Vacancies created by death, resignation, or member moving their residence outside of the county or district. (I.C. §1-2203B(1)).

- (2) Administrative District Judge, District Judge, or Magistrate Judge member. Vacancies created by the disqualifications specified in (1) above and/or loss of official status. (I.C. §1-2203B(1)). A temporary vacancy shall be caused by a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years. (I.C. §1-2203B(4)).
- (3) County Commission members. Vacancies created by the disqualifications specified in (1) above and/or loss of official status. (I.C. §1-2203B(1)).
- (4) Mayor members. Vacancies created by the disqualifications specified in (1) above and/or loss of official status. (I.C. §1-2203B(1)).
- (5) Attorney members. Vacancies created by the disqualifications in (1) above and/or suspension or disbarment from the practice of law. (I.C. §1-2203B(2)). A temporary vacancy caused by an attorney member currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district or by an attorney member having been engaged in the practice of law as a partner of such applicant within the last five (5) years. (I.C. §1-2203B(4)). Temporary attorney members may be nominated in such number as the Idaho State Bar Association in each district deems appropriate at any time the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrate commission. (I.C. §1-2203B(6)).
- (6) County Clerk members. Vacancies created by the disqualification (a) above and/or loss of official status (I.C. §1-2203B(1)). A temporary vacancy on the commission for the county clerk member shall occur if the magistrate judge position being filled or the removal process of a magistrate judge is in the county clerk's county. (I.C. §1-2203B(5)).
- (5) Continuation of Service. Except for resignation, or death, all members shall continue to serve until their successors are appointed and qualify. (I.C. §1-2203B(1)).
- (6) Responsibility to Report. It shall be the duty of any member who has become disqualified for any reason to promptly report that fact in writing to the chair and secretary of the commission. It shall be the duty of the chair or secretary to promptly report in writing to the appropriate appointing authority the existence of any vacancy on the commission. (I.C. §1-2203B (7)).

(b) Reporting Commission Vacancies.

- (1) It shall be the duty of the chair or secretary to promptly report in writing to the appropriate appointing authority the existence of any vacancy on the commission. (I.C. §1-2203B(7)). (Appendix D Form 10 A or B).
- (2) The respective appointing authorities shall duly certify in writing to the Administrative Director of the Courts at the Idaho Supreme Court and to the Secretary of State the following facts with respect to each appointee pursuant to Idaho Code § 1-2203(3) (Appendix D Form 11):

- (i) Full name;
 - (ii) Age;
 - (iii) Residence address;
 - (iv) If employed, the nature of his or her occupation and business address;
 - (v) The name of the district magistrates commission to which appointed;
 - (vi) The date of expiration of term for which appointed;
 - (vii) The name of the person the appointee succeeds on the Commission; and
 - (viii) If a member other than a mayor, magistrate judge, or district judge, the appointee's political party.
- (3) The Idaho Supreme Court, through the Administrative Director of the Courts maintains a central record of the members of several Magistrates Commissions. To ensure the Court's records are accurate and current, trial court administrators shall promptly report both vacancies and new appointments as they occur to the Administrative Director of the Courts as well as the appointing authority. For that purpose the following two forms are provided:
- (i) Notice of Vacancy on District Magistrates Commission – Mayor or Elector (Appendix D Form 10A)
 - (ii) Notice of Vacancy on District Magistrates Commission – Attorney (Appendix D Form 10B)
 - (iii) Magistrates Commission Member Data Sheet (Appendix D Form 11)
- (4) The governor's office notifies the Administrative Director of the Courts and the appropriate administrative district judge when the appointment is made. Upon receiving notice of an appointment, a copy thereof will immediately be sent by the Administrative Director of the Courts to the appropriate trial court administrator.

II. STANDARDS FOR RECRUITMENT AND SELECTION OF MAGISTRATE JUDGES

Rule 18. Fairness and Equality Standards

- (a) The Magistrates Commission shall meet and perform their Commission duties without bias or prejudice, to the end that the district magistrate selection process shall be administered in every respect, in a fair, equal, and non-discriminatory manner. While functioning in their official capacity, the Magistrates Commission members shall not manifest any belief, attitude or position, by word or act, which causes to embarrass, harass, or discriminate against another person by reason of such person's race, ethnicity, religion, sex, national origin, gender, socioeconomic status, age, disability, marital status, sexual orientation, or political affiliation. (Report of the Fairness and Equality Committee of the Supreme Court of Idaho, 1995)

Rule 19. Recruitment Process

- (a) Upon determining that a vacancy has or will occur, the trial court administrator shall contact the Administrative Director of the Courts Office of the Idaho Supreme Court to request that a Notice of Vacancy (Appendix D, Form 1) be sent to each lawyer in the state. The trial court administrator and Administrative Director of the Courts shall establish a workable timeline for the proper recruitment procedures, including the questionnaires of the bar and public, the completion of background checks, and the compilation and distribution of the information to the District Magistrates Commission.
- (b) The magistrate judge vacancy is advertised in such a way that all lawyers in the state of Idaho are aware of the opportunity to apply for the vacant position, including:
- (1) Notices of the vacancy are sent to each lawyer in Idaho via e-mail to the last address provided to the Idaho State Bar, or in some other manner as determined by the Supreme Court. Notices include the legal requirements for the position and an Equal Employment Opportunity ADA Statement.
 - (2) A news release pertaining to a Notice of Recruitment is made by the trial court administrator's office to newspapers of record and broadcast media in the judicial district and, where appropriate, in adjoining districts.
- (c) Once the deadline for applications has passed, a news release is issued to newspapers of record and broadcast media in the judicial district, and in adjoining districts where appropriate, listing the names of the applicants in order to allow public notice and comment upon the applicants, and informing the public where and how public comment forms may be obtained and submitted.

Rule 20. Selection Process

- (a) After applications are received, the trial court administrator makes an initial determination as to whether each applicant satisfies the minimum statutory

qualifications to be a magistrate judge, and submits a report of those determinations to the administrative district judge.

- (b) The statutory qualifications to be a magistrate judge are:
- (1) Be an elector of the state of Idaho;
 - (2) Be at least thirty (30) years of age prior to taking office;
 - (3) Be a citizen of the United States;
 - (4) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;
 - (5) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment;
 - (6) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment.
- (c) There is no requirement that an applicant be a resident of the county at the time of application; however, a magistrate judge shall reside in the county for which the appointment is made throughout the term of service as magistrate judge.
- (d) The Magistrates Commission members determine those qualifications which are the most important in selecting a magistrate judge. Commission members apply whatever weight to these individual qualifications they feel is appropriate. These individual qualifications may include, but are not limited to:
- (1) Integrity and moral courage;
 - (2) Legal ability and experience;
 - (3) Wisdom;
 - (4) Intelligence;
 - (5) Capacity to be fair-minded and deliberate;
 - (6) Industriousness and promptness in performing duties;
 - (7) Compatibility of personal habits and outside activities with judicial office;
 - (8) Capacity to be courteous and considerate on the bench;
 - (9) Legal research and writing;
 - (10) Have you ever personally handled or presided over a legal matter or case in which this person was counsel or a party;
 - (11) Have you ever personally observed this person's legal writing; and
 - (12) Have you ever personally observed this person's courtroom performance?

(e) Additional qualifications for magistrate judges may include:

- (1) Awareness of recent legal developments;
- (2) Management abilities;
- (3) Patience and tolerance;
- (4) Listening skills;
- (5) Courtesy;
- (6) Compassion; and
- (7) Independence from public and political influence.

Rule 21. Preliminary Evaluations

(a) **Evaluations.** Evaluations are solicited from practicing lawyers about all applicants in the following manner:

- (1) A standard form questionnaire is made available online from the Administrative Office of the Courts, to each practicing lawyer in the state, seeking an assessment of the applicant's qualifications. (Appendix D Form 4).
- (2) Results of the questionnaire are compiled and submitted to the trial court administrator for further distribution to each member of the Magistrates Commission.
- (3) Consistent with Rule 15(c), the trial court administrator should develop a standard process to provide all candidates with their individualized, numeric results from the qualification survey. The trial court administrator may also provide a generic statement for each candidate characterizing the numeric results from the qualification survey as being in the top or bottom half of all candidates' numeric results. The comments from the qualification survey may not be disclosed to candidates.

(b) **Public Comment.** Public comment is solicited through a news release issued by the trial court administrator requesting the public to complete a separate questionnaire available in district court clerk offices and through the office of the district trial court administrator. Such questionnaires are not "ballots" and require a statement of the relationship to the applicant or the basis upon which any public comments are made. All comments must be based on personal experience with the candidate.

(c) **Background check.** Prior to interviewing an applicant, the following background information is compiled by the Administrative Office of the Courts, (a standard waiver statement is included in each signed magistrate judge applicant form to allow access to the following records) and the results communicated to the trial court administrator who distributes the information to Magistrates Commission members:

- (1) State and national records are searched to determine whether the applicant has a prior criminal history, or a history of domestic violence.
- (2) The Idaho State Bar is contacted to obtain the results of any complaints and/or discipline action(s) against the applicant.
- (3) The Idaho State Tax Commission is contacted to determine whether the applicant has filed all required state tax returns, whether the applicant has timely paid all state tax liabilities and/or whether the Idaho State Tax Commission has filed any liens against the applicant.
- (4) If instructed by the Magistrates Commission, the trial court administrator shall request from the applicant a copy of university and law school transcripts for review by the Commission.

Rule 22. Magistrates Commission Interview Planning Proceedings

- (a) **Planning Proceedings.** Upon completion of preliminary evaluations, the Magistrates Commission shall conduct a Commission meeting in order to decide the following issues:
 - (1) From standing policy, or by majority vote of the members present, narrow the list of candidates pursuant to section (c) below;
 - (2) From standing policy, or by majority vote of the members present, determine which members of the Commission will present questions to candidates;
 - (3) From standing policy, or by majority vote of the members present, approve the questions proposed by members of the Commission presenting questions to candidates. The trial court administrator shall circulate, by e-mail, draft interview questions for comment and finalization prior to this meeting;
 - (4) From standing policy, or by majority vote of the members present, determine the approximate duration of each interview, and;
 - (5) The members of the Commission shall confirm the interview schedule by e-mail, which shall be circulated via e-mail for comment and finalization by the trial court administrator or by some other process as agreed upon by majority vote by the Commission members present.
- (b) **Persons who may be present at interviews.** Members of the public, press, legislators from the district, and other judges may be present at the interview stage of the selection process, but they may not be present during the Commission's deliberations and vote on the applicants. The district trial court administrator may be present at all proceedings of the Magistrates Commission. Other candidates for a position may not be present.
- (c) **Abbreviated list of applicants.** Magistrates Commissions are encouraged to consider interviewing all candidates when feasible. Magistrates Commissions may adopt a process, subject to standards of fairness, equal opportunity, and merit

selection, whereby the total number of applications for a vacant position is reduced to a short-list of finalists for purposes of receiving an interview by the Magistrates Commission. The process used shall be based on application materials and the factors described in Rule 21; Magistrate Commissions shall determine the number of candidates to be interviewed based upon each recruitment and refrain from interviewing a pre-determined number of candidates.

- (d) **Member contact outside of proceedings.** Individual Commission members should not entertain individual contacts by applicants in support of their application outside of Commission proceedings.

Rule 23. Interviews

- (a) **Duration.** Interview duration shall be determined ahead of time pursuant to Rule 22 herein.
- (b) **Questioners.** The list of members asking questions shall be determined ahead of time pursuant to Rule 22 herein.
- (c) **Technique.** Pursuant to the fairness and equality standards set forth in these rules and the suggested interview questions contained herein, the following interviewing techniques are suggested for use by Magistrates Commission members when interviewing applicants:
- (1) When interviewing applicants, Magistrates Commission members should seek examples of occasions when particular job qualifications were exhibited by the applicant. Examples of past behavior are the appropriate measure of the applicant's probable future behavior. Questions which ask for "an example of a time when you" are encouraged to provide a basis for evaluating the applicant's probable success as a magistrate judge.
 - (2) Each applicant shall be asked the same core group of questions so that the Magistrates Commission may compare the applicants' qualifications and so that each applicant is given an equal opportunity to respond. Individualized questions may also be asked of a particular applicant in order to solicit further information or to clarify a response to one of the standard questions.
 - (3) Commission members shall provide the administrative district judge with any questions they may have for a particular candidate that reference information from application materials.
 - (4) Applicants shall be briefed at the interview that it is a condition of employment, and should be requested to confirm, that if hired, they will, among other tasks:
 - (i) Timely move to, and reside in, the official county of residence;
 - (ii) Agree to travel throughout their district and the state, as assigned, to hear cases;

- (iii) Work with and through the administrative district judge and the trial court administrator on all matters administrative;
- (iv) Be a team player with regard to court coverage; sensitive to the demands on the court. Work with other magistrate judges to ensure smooth flow of cases through the judicial system and the availability of magistrate services;
- (v) Attend all Supreme Court sponsored educational programs, conferences, or similar events to which invited; and
- (vi) Understand that magistrate judges must work within the existing integrated court system, structure, and procedures.

Rule 24. Interview Questions Concerning Race, Color, Religion, Sex, Disability Status, or National Origin

- (a) There are several state and federal laws that regulate questions that may be asked during interviews. These measures include Title 7 of the Civil Rights Act, Age Discrimination In Employment Act, Immigration Reform and Control Act, Title I of the Americans With Disabilities Act, Pregnancy Discrimination Act, and Genetic Nondiscrimination Act.
- (b) Rule 25 herein provides a list of regulated status subjects, together with appropriate questions or inappropriate questions in respect to each subject, are submitted for the guidance of Magistrates Commission members.

Rule 25. Interview Guidelines

Subject	Acceptable Questions	Questions to Avoid
Race, Color, or Ethnicity		All Questions
Religion or Creed		All Questions
National Origin		All Questions
Sex		All Questions.
Marital Status		Are you married? Where does your spouse work? What are the ages of your children, if any?
Age	If selected, will you be at least 30 years of age when you assume this office?	How old are you? What is your date of birth?
Health and Disability	This position requires that a person perform the following tasks:	Do you have a disability? Will you require special leave because

Subject	Acceptable Questions	Questions to Avoid
	<u>Describe</u> - Will you be able to perform these functions with or without a reasonable accommodation? If an applicant indicates that s/he can perform the tasks with an accommodation, s/he may be asked, "How would you perform these tasks and with what accommodation(s)?"	of disability? Have you ever been treated for any of the following diseases? Has any member of your family ever had any of the following diseases?
Address or Duration of Residence	Applicant's place of residence. How long have you resided at this address?	
Birthplace		All questions
Citizenship	Are you a U.S. citizen?	
Language	What foreign language(s) do you read fluently? Write fluently? Speak fluently?	How applicant acquired ability to read, write, or speak a foreign language.
Education	About the academic, vocational, or professional education of an applicant and the public and private schools attended.	
Experience	About the applicant's work experience.	
Character	Have you ever been convicted of any crime? If so, when, where, and what was the disposition of offense?	Have you ever been arrested?
Notify in Case of Emergency	Name and address of person to be notified in case of an accident or emergency.	
Military	Questions regarding any military disciplinary proceedings or actions taken against the applicant; did your military experience have any relationship to the position of magistrate judge?	Any questions regarding an applicant's separation or discharge for medical reasons.
Organizations	Describe the professional organizations of which you are a member. (Exclude organizations, the name or character of which	Describe all clubs, societies, and lodges to which you belong.

Subject	Acceptable Questions	Questions to Avoid
	indicates race, creed, color, or national origin of members.)	
Personal Matters		Avoid inquiries or references to matters of marital status, pregnancy, sexual preference, and caregiving responsibilities.

Rule 26. Appointment of Magistrate Judges

- (a) The Magistrates Commission appoints the magistrate judge, in writing, using Form 8 in Appendix D.
- (b) The Magistrates Commission submits the dated, written Notice of Magistrates Commission Action to the district judges in the district using Form 9 in Appendix D. I.C. §1-2205(c).
- (c) Prior to performing any judicial duties, the magistrate judge shall take an oath of office in the form prescribed by law (I.C. §59-401), which oath shall be submitted for recording to the clerk of the district court in the county for which the appointment was made. A copy of the oath showing its recordation shall also be submitted to the Idaho Supreme Court for provision to the Secretary of State.

III. POST APPOINTMENT PERFORMANCE EVALUATION

Rule 27. Goals of Performance Appraisals

- (a) Magistrates Commissions should gather and assess reliable information concerning judicial performance. The trial court administrator coordinates this process:
- (1) So the magistrate judge may maximize his or her potential for judicial excellence through self-improvement, thereby enhancing the quality of justice to the public;
 - (2) To facilitate assignment and use of the judge within the judiciary;
 - (3) To assess educational needs of the judge; and
 - (4) To measure performance of the magistrate judge to allow the Commission to make a determination as to whether the magistrate judge should be removed during the initial 18-month appointment, or other remedial action pursuant to these rules.

Rule 28. Appraisal Criteria

- (1) Legal skills;
- (2) Fairness and impartial decision-making;
- (3) Listening and communication skills;
- (4) Case management skills;
- (5) Teamwork and leadership skills;

Rule 29. Performance Appraisal Procedures

- (a) **Probationary Period.** Once the magistrate judge takes office the magistrate judge must satisfactorily complete an 18-month probationary period prior to standing for election. The Magistrates Commission conducts two appraisals of the magistrate judge's performance prior to the expiration of the probationary period at approximately nine and eighteen months after appointment. Observations or recommendations of the Magistrates Commission as a result of studying the appraisals are communicated to the magistrate judge, prior to the expiration of the probationary period.
- (b) **Data Collection.** Information is elicited from a variety of reliable sources, encouraged by assuring confidentiality to respondents, and should be based on first-hand, reasonably current knowledge. It is recommended that data be collected through responses to questionnaires only, and personal interviews with court users not be incorporated into the appraisal process. Appropriately drafted questionnaires are made available online to lawyers within the judicial district, and in some circumstances to neighboring judicial districts, to court and county personnel, and

court users. Information concerning a magistrate judge that is received by letter or other (non-anonymous) writing may be considered by the Magistrates Commission.

- (c) **Synthesis and Analysis.** Results of the questionnaires are tabulated and analyzed by the Administrative Office of the Courts and by the trial court administrator. The questionnaire results and any letters received are communicated to the Magistrates Commission and used to determine whether the Commission needs to meet and discuss the evaluation results. The Commission may decide not to meet, but to communicate the questionnaire results to the individual judge, through the trial court administrator.
- (d) **Usage.** Results of the judicial performance evaluation are sent to the Judge being evaluated as well as trial court administrator and the Magistrates Commission. If the results received cause concerns, those concerns may be raised with the magistrate judge through the trial court administrator, the administrative district judge or designee, by means of a meeting with the Magistrates Commission as a whole, or such other method of communication as is reasonable under the circumstances. Educational needs, if any, shall be communicated to the Administrative Director of the Courts by the trial court administrator or the magistrate judge being evaluated.
- (e) **Confidentiality.** Because the purpose of the judicial performance evaluation process is to provide an opportunity to each judge for self-improvement, results of the judicial performance evaluation are not published in any fashion, ranked in any way, or made available to anyone except members of the Magistrates Commission, the trial court administrator, and the magistrate judge whose performance has been evaluated.
- (f) **Self-Assessment.** Magistrates Commissions may also consider asking judges whose performance is being appraised to complete a self-assessment. The self-assessment is intended to be for the judge's personal use.

IV. DISCIPLINE AND REMOVAL OF MAGISTRATE JUDGES

Rule 30. General Discipline and Removal Information

- (a) **Within eighteen (18) months of appointment.** The method for the discipline and/or removal of a magistrate judge depends upon how long the magistrate judge has served the office. During the first 18 months of a magistrate judge's initial appointed term, a magistrate judge may be removed from office with or without a reason or explanation by majority vote of all voting members of the district Magistrates Commission. (I.C. §1-2207(3); I.C.A.R 2).
- (b) **More than eighteen (18) months after appointment.** The Supreme Court also has the authority to discipline or remove a magistrate judge for certain causes at any time, including the first 18 months after appointment. This process involves an investigation and recommendation by the Idaho Judicial Council, and a review and final decision by the Supreme Court, in accordance with the Idaho Judicial Council Rules of Procedure (I.J.C.R.P.).

Rule 31. Discipline or Removal of a Magistrate Judge

- (a) **Intent of Rule.** Removal proceedings are administrative personnel proceedings and are not adversary or judicial in nature. Formal rules of evidence do not apply, although “no provision of the rule shall be construed to limit the gathering of necessary information by the Magistrates Commission.” (I.C.A.R. 2).
- (b) **Time, Method and Grounds for Removal.** A magistrate judge may be removed by a majority vote of the Magistrate Commission. A majority vote of a quorum shall not suffice unless such majority is also a majority of the entire voting membership. Such removal may be without cause and without a statement of reason at any time within 18 months of appointment. (I.C. §1-2207(3)).
- (c) **Procedures for Discipline or Removal.**
 - (1) Personnel review meeting.
 - (i) The District Magistrates Commission shall hold a personnel review meeting, the purpose of which is to determine whether a removal hearing should be held or whether the magistrate judge should be offered a proposal for discipline.
 - (ii) The personnel review meeting may be called by the administrative district judge, or the judge’s designee, or by three members of the District Magistrates Commission upon written application to the administrative district judge.
 - (iii) Reasonable notice is to be given to all Commission members but need not be given to the magistrate judge.
 - (iv) During the personnel review meeting the Magistrates Commission shall:

- a. Determine whether a proposal for discipline pursuant to paragraph (c)(2) of this section shall be presented to the magistrate judge, which determination shall be superseded upon the occurrence of item (b) of this subparagraph below.
 - b. Set a removal hearing upon the request of three voting members of the Commission.
- (v) At any time during the personnel review meeting, the Commission may, by majority vote of the members, continue the Commission meeting and request an informal appearance by the magistrate judge at that continued meeting. Such request for informal appearance may be submitted to the magistrate judge by telephone call, e-mail, or any other informal means.
- a. If the magistrate judge declines to make an informal appearance at the continued Magistrates Commission meeting, the Commission may proceed in the magistrate judge's absence according to paragraph (c)(1)(iv) of this section.
 - b. If the magistrate judge agrees to make an informal appearance, the Commission may, as determined by majority vote of members present, allow the magistrate judge to be present for all or some portion of the continued meeting, and may engage in an exchange of informal questions and answers with the magistrate judge to clarify for Commission members information pertaining to any area(s) of concern.
 - 1. Appearance by the magistrate judge is not intended to be in the nature of a formal evidentiary hearing, rather an informal platform for explanation by the magistrate judge, and an opportunity for the Magistrates Commission to propose a remedial measure and retain the magistrate judge rather than proceed with immediate removal.
 - 2. Subsequent to the informal appearance of the magistrate judge, the Commission may proceed pursuant to paragraph (c)(1)(iv) of this section.

(2) Remedial Measures Available to Commission.

- (i) Intent. The intent of remedial measures is to allow the Magistrates Commissions to provide a magistrate judge acting in the first eighteen (18) months of service with constructive feedback and/or correction specific to areas of concern, which may not, in the discretion of the Commission, warrant immediate removal.
- (ii) Majority vote. Remedial measures shall be determined by majority vote of members present.
- (iv) Proposal for Discipline. Remedial measures shall be proposed to the magistrate judge in the form of a proposal for discipline.

(iv) Remedial Measures.

- a. **Issuance of Education Proposal.** Upon issuance of an education proposal, such proposal will be served upon the magistrate judge in accordance with paragraph (c)(4)(ii) of this section, and the magistrate judge will have seven (7) days from the date of service within which to accept the Commission's proposal. If the magistrate judge accepts the education proposal, the magistrate judge shall be responsible for compliance with the education proposal. If the Commission does not receive written notice of the magistrate judge's compliance with the education proposal within the timeframe set forth in the proposal, the Commission may proceed with a removal hearing. If the magistrate judge does not accept the education proposal, the Magistrates Commission may proceed with a removal hearing pursuant to this section.
 1. An education proposal is typically used when a magistrate judge shows lack of knowledge in a particular area of the law, or needs help maintaining proper judicial temperament, or for any other reason determined by the Commission. An education proposal may be combined with any other remedy.
- b. **Issuance of Private Reprimand.** Upon issuance of proposal for private reprimand, such proposal will be served upon the magistrate judge in accordance with paragraph (c)(4)(ii) of this section, and the magistrate judge will have seven (7) days from the date of service within which to accept the Commission's proposal. If the magistrate judge accepts the Commission's proposal, a private reprimand will be generated and forwarded to the Idaho Judicial Council for inclusion in the magistrate judge's permanent record. If the magistrate judge does not accept the Commission's proposal within seven (7) days, the Magistrates Commission may proceed with a removal hearing pursuant to this section.
 1. A private reprimand is a serious matter, but represents actions on the part of a magistrate judge from which a majority of the Commission has determined the public can be adequately protected without public disclosure. It is intended to send a strong message that the magistrate judge's actions are prohibited and, if repeated, may result in removal.
- c. **Commission's Discretion.** At any time during the discipline proposal process, the Commission may waive the proposal and proceed with removal.

(3) Notice of Removal Hearing.

- (i) Action to remove a magistrate judge may be taken at a regular or special meeting of the District Magistrates Commission after giving fourteen (14) days written notice to the members of the District Magistrates Commission and to the magistrate judge.

- (ii) Service to the magistrate judge shall be by personal service or in such manner as prescribed by the administrative district judge and proof of service shall be lodged with the administrative district judge. Service to Commission members shall be by regular mail or personal delivery.
 - (iii) Notice to the magistrate judge shall inform the magistrate judge that the purpose of the meeting is to consider the magistrate judge's removal pursuant to I.C. §1-2207, and that the magistrate judge may attend such portion of the meeting as may be permitted by the Commission.
 - (iv) Notice to the Commission members shall inform each member of the Commission that the purpose of the meeting will be to consider the removal of the named magistrate judge and that action for removal can be taken only by majority vote of all voting members of the District Magistrates Commission. (I.C. §1-2207(3)). The Commission may permit the magistrate judge to testify and produce evidence. The procedural aspects of the meeting are determined by a majority vote of the members present.
- (4) Confidentiality. All proceedings for the removal of a magistrate judge are closed to the public and confidential, under the provisions of I.C.A.R. 32(g)(28). The records of any removal proceeding are confidential and exempt from public access as provided in I.C.A.R. 32(g)(28).
- (5) Removal order. If the Commission determines that the magistrate judge should be removed, it shall issue a written order of removal, signed by the chair of the Commission, and personally served on the magistrate judge or mailed to the magistrate judge by certified mail at the magistrate judge's judicial chambers or home address. This order shall specify the date of termination. This order is filed with the clerk of the district court of the county where the magistrate judge resides and a copy is mailed to the Idaho Supreme Court.
- (d) Resignation in lieu of removal. While not authorized by statute, where the interests of justice will be served, a Magistrates Commission may inform the magistrate judge that an unconditional and appropriate letter of resignation may be accepted by the Magistrates Commission prior to the issuance of its removal order.

IDAHO COURT STRUCTURE

A. OVERVIEW

Idaho has what is termed a unified court system, which means that all state courts are administered and supervised by the Idaho Supreme Court. The source of this authority is Article 5, Section 2, of the State Constitution, which states: "The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court." Idaho unified its court system by ratification of the present constitutional provision in the November 1962 general election.

In many states, trial courts are a mixture of specialized courts with overlapping jurisdictions, one-judge districts, and differing procedures, all causing extra expense and confusion to the taxpayers and users of the system. Idaho's court reform efforts of the early 1960's culminated in 1969 when probate courts, police courts, and justice of the peace courts were abolished and replaced with a single, unified trial court in each county. Some 300 part-time, untrained judges were replaced by 60 full-time, lawyer judges, and trained non-lawyer judges. Today, all of Idaho's judges are lawyers. The district court and its magistrate division handle all trials and special proceedings in each of Idaho's 44 counties. Some cases are heard by district judges and some by magistrate judges.

Magistrate judges in Idaho have particularly wide jurisdiction. They hear juvenile corrections and child protection act cases, domestic violence proceedings, divorces, child custody and support, probate cases, and guardianships and conservatorships. Magistrate judges also hear personal injury, property damage, and contract disputes when the dollar amount of the controversy does not exceed \$10,000. They preside over Small Claims Court in which citizens represent themselves, without attorneys, in civil cases involving amounts of money up to \$5,000. Magistrate judges hear infractions and misdemeanor criminal cases, including DUIs, and they hold preliminary hearings in criminal cases to determine whether a defendant charged with a felony should stand trial in the district court. They also issue felony and misdemeanor arrest warrants and search warrants. Finally, magistrate judges may also hear cases otherwise assignable only to district judges when authorized by the Supreme Court.

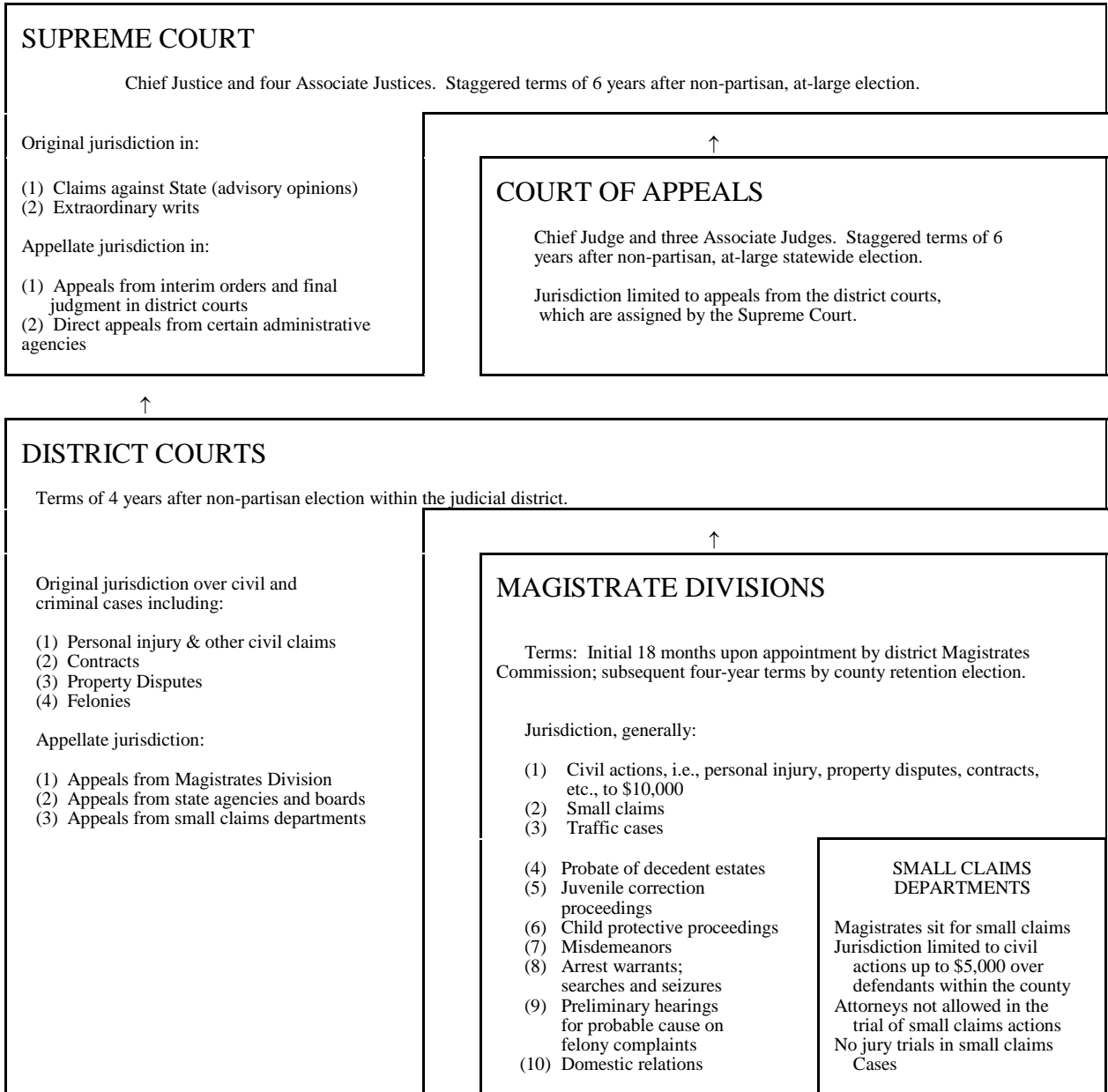
Because of the geographical differences and population distributions within Idaho, many judges must travel extensively and routinely within and outside of their counties and districts to hear cases.

While district judges and magistrate judges decide a different category of cases, they both serve as part of one integrated district court. Consequently, magistrate judges of the district court and district judges of the district court are served by the same clerical staff and are usually in the same court building. Integration of the clerical and support staff and, in most cases, physical court facilities of the trial bench has led to more uniform court procedures statewide and savings for taxpayers.

The state pays the salaries and travel expenses of all judges, court reporters and court administrators, and also supplies computer equipment and software for the judges and for other court staff, such as the deputy court clerks. The counties and cities furnish the clerical staff, other equipment and supplies, and court facilities.

Members of the District Magistrates Commission are encouraged to attend courtroom proceedings in the magistrate division on busy days to get a firsthand account of the variety of cases that magistrate judges preside over and decide and to develop a better sense of the workloads of magistrate judges.

B. IDAHO'S INTEGRATED COURT STRUCTURE



↑ Indicates court to which appeals are taken.

C. JUDICIAL DISTRICTS

Regional Structure

The Idaho Supreme Court, as the supervisor of the entire court system, establishes statewide rules and policies for the operation of its functions and that of the district courts.

The state is divided into seven judicial districts, each encompassing four to ten counties. This regional structure is designed to delegate authority to the judicial districts and to insure their participation in policy decisions while maintaining uniform, statewide rules and procedures.

An administrative district judge, chosen by the other district judges in the district, performs a number of administrative duties in addition to handling a judicial caseload. The administrative district judge, assisted by a trial court administrator, manages court operations in the district, assigns judges to cases, and coordinates activities of the clerks of the district courts.

Final recommendations for local court budgets and facilities are made by the administrative judge or designee, as well as personnel decisions for the district. Local rules of practice and procedure are recommended to the Idaho Supreme Court by the administrative district judge with the concurrence of the other district judges. The administrative district judge also jointly supervises the deputy clerks of the district courts.

The administrative judge additionally serves as chair of the District Magistrates Commission, a representative body of county commissioners, mayors, citizens, and private attorneys which, among other things, appoints magistrate judges to their initial terms of office.

District One. Benewah, Bonner, Boundary, Kootenai, Shoshone

District Two. Clearwater, Idaho, Latah, Lewis, Nez Perce

District Three. Adams, Canyon, Gem, Owyhee, Payette, Washington

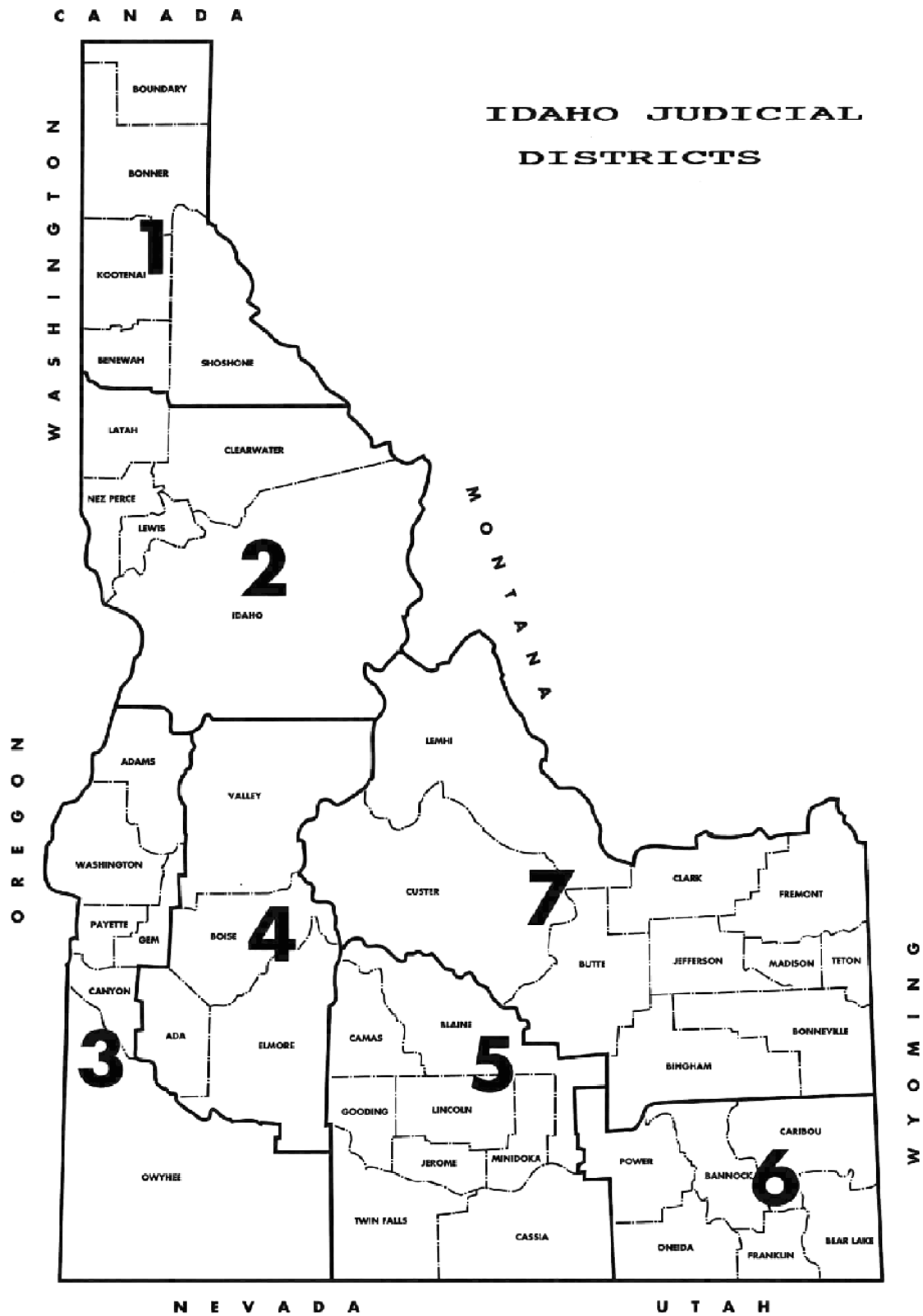
District Four. Ada, Boise, Elmore, Valley

District Five. Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls

District Six. Bannock, Bear Lake, Caribou, Franklin, Oneida, Power,

District Seven. Bingham, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi,
Madison, Teton

D. STATE OF IDAHO JUDICIAL DISTRICTS



IDAHO CODE OF JUDICIAL CONDUCT

CONTENTS

PREAMBLE 1
SCOPE 1
TERMINOLOGY 3
APPLICATION..... 6

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY

RULE 1.1 Compliance with the Law 8
RULE 1.2 Promoting Confidence in the Judiciary..... 8
RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office 9

CANON 2

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1 Giving Precedence to the Duties of Judicial Office..... 11
RULE 2.2 Impartiality..... 11
RULE 2.3 Bias, Prejudice and Harassment..... 12
RULE 2.4 External Influences on Judicial Conduct 13
RULE 2.5 Competence, Diligence, and Cooperation 13
RULE 2.6 Ensuring the Right to Be Heard 14
RULE 2.7 Responsibility to Decide 14
RULE 2.8 Decorum, Demeanor, and Communication with Jurors..... 15
RULE 2.9 Ex Parte Communications..... 15
RULE 2.10 Judicial Statements on Pending and Impending Cases 17
RULE 2.11 Disqualification..... 18
RULE 2.12 Supervisory Duties..... 20
RULE 2.13 Administrative Appointments..... 21
RULE 2.14 Disability and Impairment 21
RULE 2.15 Responding to Judicial and Lawyer Misconduct 22
RULE 2.16 Cooperation with Disciplinary Authorities..... 23

CANON 3

A JUDGE SHALL CONDUCT THE JUDGE’S PERSONAL AND EXTRAJUDICIAL ACTIVITIES IN SUCH MANNER AS TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1 Extrajudicial Activities in General.....24

RULE 3.2 Appearances before Governmental Bodies and Consultation with Government Officials.....25

RULE 3.3 Testifying as Character Witness26

RULE 3.4 Appointments to Governmental Positions26

RULE 3.5 Use of Nonpublic Information26

RULE 3.6 Affiliation with Discriminatory Organizations.....27

RULE 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities28

RULE 3.8 Appointments to Fiduciary Positions.....29

RULE 3.9 Service as Arbitrator or Mediator30

RULE 3.10 Practice of Law30

RULE 3.11 Financial, Business, or Remunerative Activities31

RULE 3.12 Compensation for Extrajudicial Activities.....31

RULE 3.13 Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value32

RULE 3.14 Reimbursement of Expenses and Waivers of Fees or Charges.....34

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY

RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General.....36

RULE 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections.....39

RULE 4.3 Activities of Candidates for Appointive Judicial Office.....40

RULE 4.4 Campaign Committees.....41

RULE 4.5 Activities of Judges Who Become Candidates for Nonjudicial Office42

IDAHO CODE OF JUDICIAL CONDUCT

PREAMBLE

[1] An independent and impartial judiciary is indispensable to our system of justice. The legal system in the State of Idaho is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should at all times conduct themselves in a manner that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Idaho Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct and to provide a basis for regulating their conduct through disciplinary agencies.

SCOPE

[1] The Idaho Code of Judicial Conduct consists of Four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. Scope and Terminology sections provide additional guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to a judge or judicial candidate.

[2] The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as “may” or “should,” the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term “must,” it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the Comments identify behavioral goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those goals, thereby enhancing the dignity of the judicial office.

[5] The Rules of the Idaho Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

[7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

“Appropriate authority” means the authority having responsibility for initiation of disciplinary proceedings in connection with the violation to be reported. See Rules 2.14 and 2.15.

“Contribution” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests;
or
- (4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

“Fiduciary” includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

“Impartial,” “impartiality,” and **“impartially”** mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

“Impending matter” is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, 3.13, and 4.1.

“Impropriety” includes conduct that violates the law, or provisions of this Code, and conduct that undermines a judge’s independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

“Independence” means a judge’s freedom from influence or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

“Integrity” means probity, impartiality, honesty, uprightness, and soundness of character. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

“Judicial candidate” means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes others to solicit or accept contributions or support on the judge’s behalf, or is nominated for election or appointment to office. See Rules 2.11, 4.1, 4.2, and 4.4.

“Judicial duties” means all the adjudicative, administrative, and supervisory duties of the judge’s office prescribed by law.

“Knowingly,” “knowledge,” “known,” and **“knows”** mean actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

“Law” encompasses court rules, as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14, 3.15, 4.1, 4.2, 4.4, and 4.5.

“Member of the candidate’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

“Member of the judge’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rules 2.11 and 3.13.

“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

“Personally solicit” means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

“Public election” includes primary and general elections, partisan elections, nonpartisan elections, and retention elections. See Rules 4.2 and 4.4.

“Staffing” means a regularly scheduled, informal conference not occurring in open court, the purpose of which is to permit the presiding judge and others, including counsel, to discuss a participant’s progress in a problem-solving court, treatment recommendations, or responses to participant compliance issues. See Rule 2.9(6).

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See “The Nolan Chart of Relationships and Degrees of Kindred.” See Rule 2.11.

APPLICATION

This application section establishes when the various Rules apply to a Judge or judicial candidate:

A. APPLICABILITY OF THIS CODE

1. The provisions of the Idaho Code of Judicial Conduct shall apply to all judges except as may be stated hereafter. A judge within the meaning of this Code, is an individual authorized to perform judicial functions which shall include:
 - a. Magistrate judges (Idaho Code section 1-101(4));
 - b. District judges (Idaho Code section 1-101(3));
 - c. Any judge of the Court of Appeals (Idaho Code section 1-101(2));
 - d. Any justice of the Supreme Court (Idaho Code section 1-101(1));
 - e. Persons designated as senior judges pursuant to Idaho Code sections 1-2005 or 1-2221;
 - f. Any individual serving pursuant to court appointment as a special master in a water adjudication proceeding.
2. Any person appointed by a court to serve as a master or special master or judge pro tempore, as defined by Section 12 of Article 5 of the Idaho Constitution and I.C.A.R. 4, in a case-specific capacity (other than in a water adjudication) shall, while so serving, comply with Canons 1 and 2.
3. Retired judges (Plan A Senior Judges and Plan B Senior Judges who have completed their five year commitment) and judges who have resigned, who are designated to act temporarily as judges should comply with all of the provisions of this Code, except Rules 3.4, 3.8, 3.9 and 3.11, during such temporary service.

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific Rules apply to an individual judicial officer, depends upon the facts of the particular services.

[3] Any special master or judge pro tempore subject to this Code is not bound by the provisions of Idaho Code 59-502 requiring an oath that no decision has been pending for more than thirty days concerning payment of their salary (the thirty day rule).

B. TIME FOR COMPLIANCE

1. A person to whom this Code becomes applicable shall begin complying immediately with its provisions, except that those judges to whom Rule 3.9 (Appointments to Fiduciary positions) and 3.11 (Financial, Business or Remunerative Activities) apply shall comply with those Rules as soon as is reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as a judge, a new judge may, notwithstanding the provisions in rule 3.8, continue to serve as a fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1

Compliance with the Law

A judge shall comply with the law,* including the Code of Judicial Conduct.

RULE 1.2

Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary and shall avoid impropriety* and the appearance of impropriety.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens and must accept the restrictions imposed by the Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 1.3

Avoiding Abuse of the Prestige of Judicial Office

IDAHO DISTRICT MAGISTRATES COMMISSION MANUAL

JULY 1, 2021

PAGE 40

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind for himself or herself or any other person. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials or to allude to such status in any other commercial, financial, business, social or other personal situation to gain personal advantage or potential deferential treatment of any kind.

[2] A judge shall not use judicial letterhead to gain an advantage or potential deferential treatment in conducting his or her personal business, including but not limited to financial matters, private business dealings, discharging parental responsibility, private disputes, political activities or charitable solicitations or endeavors. It is not an abuse of the prestige of the judicial office to write letters on judicial letterhead, on a de minimis basis, that are congratulatory in nature, letters of appreciation, letters of recognition or other laudatory letters written in connection with law-related activities, community outreach activities, civic activities, or educational activities so long as there is no reasonable likelihood that the use of the letterhead would be perceived as any attempt to exert pressure by reason of the judicial office or to gain any personal advantage or potential deferential treatment for the judge or others. Judges should be cautious in writing such letters for any person who regularly appears before the court, has a matter pending or impending before the court, political figures or other personnel such as law enforcement officers or attorneys who appear before the court.

[3] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

[4] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

[5] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this Rule or other applicable law.

CANON 2

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1

Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law,* shall take precedence over all of a judge's personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.

[2] Although it is not a duty of judicial office, unless prescribed by law, judges should participate in activities that promote public understanding of and confidence in the justice system.

RULE 2.2

Impartiality

A judge shall uphold and apply the law,* and shall perform all duties of judicial office impartially.* A judge shall maintain professional competence in the performance of judicial duties*.

COMMENT

[1] To ensure impartiality to all parties, a judge must be objective.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard. A judge's ability to make reasonable accommodations for self-represented litigants does not oblige a judge to overlook a self-represented litigant's violation of a clear order, to repeatedly excuse a self-represented litigant's failure to comply with deadlines, or to allow a self-represented litigant to use the process to harass the other side.

RULE 2.3

Bias, Prejudice, and Harassment

- (A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.
- (B) A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.
- (C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.
- (D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

[3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

RULE 2.4

External Influences on Judicial Conduct

- (A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to improperly influence or coerce the judge.

COMMENT

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge’s friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

RULE 2.5

Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties competently and diligently, and shall comply with all laws concerning timeliness of decisions and salary affidavits.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge’s responsibilities of judicial office.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities, and should ordinarily be present during regular business hours.

[3] Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

RULE 2.6

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.*

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties or their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 2.11(A)(1).

RULE 2.7

Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.*

COMMENT

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

RULE 2.8

Decorum, Demeanor, and Communication with Jurors

- (A) A judge shall require order and decorum in proceedings before the court.
- (B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.
- (C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case. Judges should be aware of the implications from *Gillingham Construction, Inc. v. Newby Wiggins Construction*, 142 Idaho 15, 121 P.3d 946 (2005), which prohibits certain communication with jurors by judges.

RULE 2.9

Ex Parte Communications

- (A) A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending* or impending matter,* except as follows:
 - (1) When circumstances require it, *ex parte* communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:
 - (a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication; and
 - (b) the judge makes provision promptly to notify all other parties of the substance of the *ex parte* communication, and gives the parties an opportunity to respond.
 - (2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.
 - (3) A judge may consult with court staff and court officials whose functions are

to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.

(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.

(5) During a scheduled court proceeding, including a staffing*, conference, hearing, or trial, a judge may initiate, permit, or consider communications dealing with substantive matters or issues on the merits of the case in the absence of a party who had notice of the proceeding and did not appear.

(6) Communications during a staffing* are not ex parte merely because a defendant, who is represented by counsel, is not permitted to attend the staffing*.

(7) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so.

(B) An electronic communication sent simultaneously to the judge and all parties or their respective lawyers is not an ex parte communication, nor is a written communication that is served substantially simultaneously upon the judge and all parties or their respective counsel prior to any staffing*, hearing, trial, or other court proceeding at which the written communication may be relevant.

(C) If a judge receives an unauthorized ex parte or other prohibited communication bearing upon the substance of a matter, the judge shall promptly make provision to notify the parties of the substance of the communication and provide the parties with an opportunity to respond. If the communication was in writing, the judge shall promptly provide a copy to the parties.

(D) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(E) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law professors, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, or drug courts. In

this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

[5] A judge may consult with other judges on pending matters, but must avoid ex parte discussions of a case with judges who have previously been disqualified from hearing the matter, and with judges who have appellate jurisdiction over the matter.

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this Code. Such consultations are not subject to the restrictions of paragraph (A)(2).

RULE 2.10

Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) A judge should refrain from responding directly to allegations through the media or elsewhere concerning the judge's conduct in any matter. Subject to the requirements of paragraph (A), a judge may respond personally or through the Administrative Office of the Courts to allegations concerning the judge's conduct in a matter by explaining the law, procedural rules, administration of justice or applicability of the Idaho Code of Judicial Conduct.

COMMENT

[1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, or represents a client as permitted by these Rules. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] A judge may comment on legal terms, statutory language, procedural rules and legal concepts if any allegation is made concerning the judge's official conduct. The judge would be well

advised to issue any such comments through the Administrative Office of the Courts. Judges are cautioned, however, there should never be comments on the results of a case consistent with Rule 2.10(A)

RULE 2.11

Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.

(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic interest* in the subject matter in controversy or is a party to the proceeding.

(4) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

COMMENT

[1] Under this Rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. In many jurisdictions, the term “recusal” is used interchangeably with the term “disqualification.”

[2] A judge’s obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge’s impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge’s disqualification is required.

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] “Economic interest,” as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
- (4) an interest in the issuer of government securities held by the judge.

RULE 2.12

Supervisory Duties

- (A) A judge shall require* court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.
- (B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

RULE 2.13

Administrative Appointments

- (A) In making administrative appointments, a judge:
- (1) shall exercise the power of appointment impartially* and on the basis of merit; and
 - (2) shall avoid nepotism, favoritism, and unnecessary appointments.
- (B) A judge shall not appoint a lawyer to a position under circumstances where it could be reasonably interpreted to be quid pro quo for campaign contributions or other favors, unless:
- (1) the position is substantially uncompensated;
 - (2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or
 - (3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.
- (C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

COMMENT

[1] Appointees of a judge include assigned counsel, officials such as referees, masters, judges pro tempore, special masters, receivers, and guardians, and personnel such as clerks, secretaries,

and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

RULE 2.14

Disability and Impairment

A judge, having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a judge's responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge's attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority, agency, or body. See Rule 2.15.

RULE 2.15

Responding to Judicial and Lawyer Misconduct

(A) A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.*

(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

COMMENT

[1] Taking action to address known misconduct is a judge's obligation. A reporting judge's duty is fulfilled by reporting the alleged violation to that judge's supervisory authority or the Idaho Judicial Council. Paragraphs (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a substantial question regarding the honesty, trustworthiness, or fitness of that judge or lawyer. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. This Rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

[2] A judge who does not have actual knowledge that another judge or a lawyer may have committed misconduct, but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under paragraphs (C) and (D). Appropriate action may include, but is not limited to, communicating directly with the judge who may have violated this Code, communicating with a supervising judge, or reporting the suspected violation to the appropriate authority or other agency or body. Similarly, actions to be taken in response to information indicating that a lawyer has committed a violation of the Rules of Professional Conduct may include but are not limited to communicating directly with the lawyer who may have committed the violation, or reporting the suspected violation to the appropriate authority or other agency or body.

RULE 2.16

Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known* or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

COMMENT

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

CANON 3

A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1

Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;**
- (B) participate in activities that will lead to frequent disqualification of the judge;**
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality*;**
- (D) engage in conduct that would appear to a reasonable person to be coercive; or**
- (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.**

Refusing or declining to participate in an extrajudicial activity does not call into question the judge's integrity or impartiality.

COMMENT

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule

3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

[5] While judges are not prohibited from participating in online social networks, such as Facebook, Instagram, Snapchat, and the like, they should exercise restraint and caution in doing so. A judge should not identify himself as such, either by words or images, when engaging in commentary or interaction that is not in keeping with the limitations of this Code.

RULE 3.2

Appearances before Governmental Bodies and Consultation with Government Officials

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

- (A) in connection with matters concerning the law, the legal system, or the administration of justice;**
- (B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or**
- (C) when the judge is acting pro se in a matter involving the judge's legal or economic interests, or when the judge is acting in a fiduciary* capacity.**

COMMENT

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions, and must otherwise exercise caution to avoid using the prestige of judicial office.

RULE 3.3

Testifying as a Character Witness

IDAHO DISTRICT MAGISTRATES COMMISSION MANUAL

JULY 1, 2021

PAGE 55

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

COMMENT

[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

RULE 3.4

Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

COMMENT

[1] Rule 3.4 implicitly acknowledges the value of judges accepting appointments to entities that concern the law, the legal system, or the administration of justice. Even in such instances, however, a judge should assess the appropriateness of accepting an appointment, paying particular attention to the subject matter of the appointment and the availability and allocation of judicial resources, including the judge's time commitments, and giving due regard to the requirements of the independence and impartiality of the judiciary.

[2] A judge may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

[3] A retired judge is allowed to be engaged as a hearing officer for a governmental agency, and is also permitted to act as a judge on behalf of a tribe in Idaho.

RULE 3.5

Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

COMMENT

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of the judge or a member of a judge's family, court personnel, or other judicial officers if consistent with other provisions of this Code.

RULE 3.6

Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

(C) A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

COMMENT

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls but, rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] This Rule does not apply to national or state military service.

RULE 3.7

Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the judge; or

(b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(B) A judge may encourage lawyers to provide *pro bono publico* legal services as long as the encouragement is not coercive in nature.

COMMENT

[1] The activities permitted by paragraph (A) generally include those sponsored by or undertaken on behalf of public or private not-for-profit educational institutions, and other not-for-profit organizations, including law-related, charitable, and other organizations.

[2] Even for law-related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely upon a judge's independence, integrity, and impartiality.

[3] Mere attendance at an event, whether or not the event serves a fund-raising purpose, does not constitute a violation of paragraph 4(A). It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal, or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

[4] Identification of a judge's position in educational, religious, charitable, fraternal, or civic organizations on letterhead used for fund-raising or membership solicitation does not violate this Rule. The letterhead may list the judge's title or judicial office if comparable designations are used for other persons.

[5] In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in *pro bono publico* legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do *pro bono publico* legal work, and participating in events recognizing lawyers who have done *pro bono publico* work.

RULE 3.8

Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than *de minimis*.

RULE 3.9

Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law.*

COMMENT

[1] This Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of regular judicial duties.

RULE 3.10

Practice of Law

A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family,* but is prohibited from serving as the family member's lawyer in any forum.

COMMENT

[1] A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

RULE 3.11

Financial, Business, or Remunerative Activities

- (A) A judge may hold and manage investments of the judge and members of the judge's family.***
- (B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:**
 - (1) a business closely held by the judge or members of the judge's family; or**
 - (2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.**
- (C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:**
 - (1) interfere with the proper performance of judicial duties;**
 - (2) lead to frequent disqualification of the judge;**

- (3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or
- (4) result in violation of other provisions of this Code.

COMMENT

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising, or to conduct his or her business or financial affairs in such a way that disqualification is frequently required. See Rules 1.3 and 2.11.

[2] As soon as practicable without serious financial detriment, the judge must divest himself or herself of investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

RULE 3.12

Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law* unless such acceptance would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

COMMENT

[1] A judge is permitted to accept honoraria, stipends, fees, wages, salaries, royalties, or other compensation for speaking, teaching, writing, and other extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

RULE 3.13

Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(A) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law* or would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.*

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following:

- (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;**
- (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or impending* before the judge would in any event require disqualification of the judge under Rule 2.11;**
- (3) ordinary social hospitality;**
- (4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;**
- (5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;**
- (6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;**
- (7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or**
- (8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge.**
- (9) gifts incident to a public testimonial;**
- (10) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:
 - (a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or**
 - (b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge.****

COMMENT

[1] Whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge's decision in a case. Rule 3.13 imposes restrictions upon the acceptance of such benefits, according to the magnitude of the risk. Paragraph (B) identifies circumstances in which the risk that the acceptance would appear to undermine the judge's independence, integrity, or impartiality is low. As the value of the benefit or the likelihood that the source of the benefit will appear before the judge increases, the judge is prohibited under paragraph (A) from accepting the gift.

[2] Gift-giving between friends and relatives is a common occurrence, and ordinarily does not create an appearance of impropriety or cause reasonable persons to believe that the judge's

independence, integrity, or impartiality has been compromised. In addition, when the appearance of friends or relatives in a case would require the judge's disqualification under Rule 2.11, there would be no opportunity for a gift to influence the judge's decision making. Paragraph (B)(2) places no restrictions upon the ability of a judge to accept gifts or other things of value from friends or relatives under these circumstances.

[3] Businesses and financial institutions frequently make available special pricing, discounts, and other benefits, either in connection with a temporary promotion or for preferred customers, based upon longevity of the relationship, volume of business transacted, and other factors. A judge may freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 3.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. Where the gift or benefit is being made primarily to such other persons, and the judge is merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges, and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office. Such contributions are governed by other Rules of this Code, including Rules 4.3 and 4.4.

RULE 3.14

Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner,* or guest.

COMMENT

[1] Educational, civic, religious, fraternal, and charitable organizations often sponsor meetings, seminars, symposia, dinners, awards ceremonies, and similar events. Judges are encouraged to attend educational programs, as both teachers and participants, in law-related and academic disciplines,

in furtherance of their duty to remain competent in the law. Participation in a variety of other extrajudicial activity is also permitted and encouraged by this Code.

[2] Not infrequently, sponsoring organizations invite certain judges to attend seminars or other events on a fee-waived or partial-fee-waived basis, and sometimes include reimbursement for necessary travel, food, lodging, or other incidental expenses. A judge's decision whether to accept reimbursement of expenses or a waiver or partial waiver of fees or charges in connection with these or other extrajudicial activities must be based upon an assessment of all the circumstances. The judge must undertake a reasonable inquiry to obtain the information necessary to make an informed judgment about whether acceptance would be consistent with the requirements of this Code.

[3] A judge must assure himself or herself that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

- (a) whether the sponsor is an accredited educational institution or bar association rather than a trade association or a for-profit entity;
- (b) whether the funding comes largely from numerous contributors rather than from a single entity and is earmarked for programs with specific content;
- (c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;
- (d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;
- (e) whether information concerning the activity and its funding sources is available upon inquiry;
- (f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 2.11;
- (g) whether differing viewpoints are presented; and
- (h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1

Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law,* or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate* shall not:

- (1) act as a leader in, or hold an office in, a political organization;*
- (2) make speeches on behalf of a political organization;
- (3) publicly endorse or oppose a candidate for any public office;
- (4) solicit funds for, pay an assessment to, or make a contribution* to a political organization or a candidate for public office;
- (5) attend political gatherings if by such attendance and actions the judge is endorsing or seeking the endorsement of a political organization. A judge may speak at political gatherings concerning matters of law, the legal system or the administration of justice.
- (6) publicly identify himself or herself as a candidate of a political organization;
- (7) seek, accept, or use endorsements from a political organization;
- (8) personally solicit* or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;
- (9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;
- (10) use court staff, facilities, or other court resources in a campaign for judicial office;
- (11) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;
- (12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court; or
- (13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for the same judicial office for which they are running. See Rules 4.2(B)(2) and 4.2(B)(3).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take, reasonable steps to avoid any implication that they endorse any family member’s candidacy or other political activity.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. For purposes of this Canon, participation in a caucus-type election procedure does constitute public support for or endorsement of a political organization or candidate, and is prohibited by paragraphs (A)(2) or (A)(3).

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(11), (A)(12), or (A)(13), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(12) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other

than in an impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond to media and other inquiries should also give assurances that they will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

RULE 4.2

Political and Campaign Activities of Judicial Candidates in Public Elections

(A) A judicial candidate* in a public election* shall:

- (1) act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;**
- (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;**
- (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and**
- (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.**

(B) A judicial candidate in a public election may, unless prohibited by law,* and not earlier than one (1) year before the first applicable public election:

- (1) establish a campaign committee pursuant to the provisions of Rule 4.4;**
- (2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;**
- (3) publicly endorse or oppose candidates for the same judicial office for which he or she is running;**

COMMENT

[1] Paragraph (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1.

[2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13).

[3] For purposes of paragraph (B)(3), candidates are considered to be running for the same judicial office if they are competing for a single judgeship or if several judgeships on the same court are to be filled as a result of the election. In endorsing or opposing another candidate for a position on the same court, a judicial candidate must abide by the same rules governing campaign conduct and speech as apply to the candidate's own campaign.

[4] Although judicial candidates in nonpartisan public elections are prohibited from running on a ticket or slate associated with a political organization, they may group themselves into slates or other alliances to conduct their campaigns more effectively. Candidates who have grouped themselves together are considered to be running for the same judicial office if they satisfy the conditions described in Comment [4].

RULE 4.3

Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may:

(A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and

(B) seek endorsements for the appointment from any person or organization other than a partisan political organization.

COMMENT

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(13).

[2] A candidate may not use a sitting judge as a reference on an application for a judgeship unless the applicant has received permission from the judge to do so.

RULE 4.4

Campaign Committees

(A) A judicial candidate* subject to public election* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.*

(B) A judicial candidate subject to public election shall direct his or her campaign committee;

- (1) **to solicit and accept only such campaign contributions* as are allowed by law from any individual or from any entity or organization**
- (2) **to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions.**

(C) A judicial candidate shall direct his campaign committee and chairperson that he/she is not to be informed as to the names of contributors or the individual amounts contributed to his or her campaign.

COMMENT

[1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This Rule recognizes that judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions that are in conformity with applicable law.

RULE 4.5

Activities of Judges Who Become Candidates for Nonjudicial Office

(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office.

COMMENT

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in

the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.

**PERTINENT STATUTES AND SUPREME COURT RULES
RELATING TO THE MAGISTRATES COMMISSION AND THE
APPOINTMENT AND RETENTION OF MAGISTRATE JUDGES**

**1-2203. DISTRICT MAGISTRATES COMMISSION CREATION MEMBERS –
APPOINTMENT - QUALIFICATIONS.**

(1) There is hereby established in each judicial district of the state of Idaho a district magistrates commission to be known as the “district magistrates commission of the . . . judicial district,” the members of which shall consist of:

(a) The chair of the board of county commissioners of each county in the district or member of such board designated by the chair;

(b) The mayors of three (3) municipalities, to be appointed by the governor, one (1) of whom shall be from a city of more than ten thousand (10,000) population based on the most recent federal decennial census, which position shall be designated as may A, and the other two (2) positions designated as may B and may C, respectively;

(c) Two (2) qualified electors residing within the district, to be appointed by the governor, one (1) position designated as elector A and the other as elector B:

(d) The administrative district judge of the district or district judge of the district designated by the administrative district judge;

(e) Two (2) attorneys nominated by the district bar associations in each district and appointed by the Idaho state bar, one (1) position designated as attorney A and the other as attorney B;

(f) A magistrate judge in the district, to be appointed by the administrative district judge; and

(g) A county clerk in the district, to be appointed by the administrative district judge. .

(2) Each of the members shall be over the age of majority and shall be and remain a citizen of the United States, a bona fide resident of the state and district, and of good moral character.

(3) Forthwith after making any appointments to such commissions the respective appointing authorities shall duly certify in writing to the administrative director of the courts and to the secretary of state the following facts with respect to each appointee:

(a) Full name;

(b) Age;

(c) Residence address;

(d) If employed, the nature of the appointee's occupation and business address;

(e) The name of the district magistrate commission to which appointed;

(f) The date of expiration of term for which appointed;

(g) The name of the person the appointee succeeds on the commission and, for a mayor, elector, or attorney member, the member's appropriate designation; and

(h) If a member other than a mayor, magistrate judge or district judge, the appointee's political party.

(4) No member, other than the persons appointed while serving as mayor, county commissioner, magistrate judge or district judge shall hold any city, county or state elective office or be employed by the state or any city or county while a member of the commission.

1-2203A. DISTRICT MAGISTRATE COMMISSION – TERMS

(1) Except as otherwise provided in this subsection, the mayors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to hold the office that entitles them to membership on the commission. The terms of all mayors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a mayor to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

(a) Mayor A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of mayor A shall end on September 30 in years that end in two (2) or seven (7);

(b) Mayor B, the initial term shall be three (3) years, ending September 30, 2024, and thereafter the term of mayor B shall end on September 30 in years that end in four (4) or nine (9); and

(c) Mayor C, the initial term shall be five (5) years, ending September 30, 2026, and thereafter the term of mayor C shall end on September 30 in years that end in one (1) or six (6).

(2) Except as otherwise provided in this subsection, the qualified electors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to reside in the district. The terms of all qualified electors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a qualified elector to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

(a) Elector A, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of elector A shall end on September 30 in years that end in three (3) or (8); and

(b) Elector B, the initial term shall be four (4) years, ending September 30, 2025, and thereafter the term of elector B shall end on September 30 in years that end in zero (0) or five (5).

(3) Except as otherwise provided in this subsection, attorneys shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The terms of all attorneys on a magistrates commission on September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint an attorney to an applicable designated position on the commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to:

(a) Attorney A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of attorney A shall end on September 30 in even-numbered years; and

(b) Attorney B, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of attorney B shall end on September 30 in odd-numbered years.

(4) Except as otherwise provided in this subsection, the magistrate judge shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all magistrate judges serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a magistrate judge to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, the term of the magistrate judge shall end on September 30 in odd-numbered years.

(5) Except as otherwise provided in this subsection, the county clerk shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all county clerks serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a county clerk to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to the county clerk, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of the county clerk shall end on September 30 in even-numbered years.

1-2203B. DISTRICT MAGISTRATES COMMISSION – VACANCIES – TEMPORARY VACANCIES – TEMPORARY MEMBERS.

(1) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his residence outside the district, moving his residence to another county and, in the case of a mayor, magistrate judge, district judge, county clerk, or county commissioner member, losing his status as such official for any reason; provided, however, that except in the case of death or resignation of a member, the member who is not otherwise disqualified by law from continuing to serve shall continue to serve until a successor is duly appointed and qualified.

(2) In the case of an attorney member, a vacancy on the commission shall also be caused by being suspended or disbarred from the practice of law.

(3) Appointment to fill all vacancies, including temporary vacancies, shall be made by the initial appointing authority for the unexpired term or for the period of any temporary vacancy.

(4) A temporary vacancy on the commission shall be caused by an attorney member currently practicing law in the same firm as an applicant seeing a magistrate judge's position in the commission's judicial district or by an attorney member or a magistrate judge member having been

engaged in the practice of law as a partner of such applicant within the last five (5) years.

(5) A temporary vacancy on the commission for the county clerk member shall occur if the magistrate judge position being filled or the removal process of a magistrate judge is in the county clerk's county.

(6) Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commission.

(7) It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chair and the secretary of the commission. It shall be the duty of the chair or secretary promptly to report in writing to the appropriate appointing authority the existence of any vacancy on the commission.

1-2204. DISTRICT MAGISTRATES COMMISSION--MEETINGS--QUORUM--OFFICERS--RULES.

The district magistrates commission of each judicial district shall meet initially to organize and transact any necessary business on the second Monday of September, 1977, unless earlier convened, and at such other times as shall be necessary in the discharge of its official duties. The commission shall meet at the times and places determined by the commission or by the chair after reasonable notice. In addition a meeting may be called by any three (3) of the voting members after reasonable notice. A majority of the voting members of the commission shall constitute a quorum. The commission shall act by affirmative vote of a majority of the voting members present. The commission shall elect a vice-chair to serve until the 30th day of June of the next succeeding year or until a successor be elected. The trial court administrator shall ordinarily serve as secretary of the commission but a member of the commission may be appointed to do so at the discretion of the administrative district judge, or district judge designee. The commission may adopt rules for the administration of its duties not inconsistent with applicable provisions of law. The secretary shall maintain the official minutes of all meetings of actions taken by the commission.

1-2205. DISTRICT MAGISTRATES COMMISSION--POWERS AND DUTIES.

The district magistrates commission shall have the following powers and duties:

- (a) To determine the number and location of magistrate judges to be appointed within the judicial district, subject to appropriations by the legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge; pursuant to section 31-879, Idaho Code;
- (b) To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code;
- (c) To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, supreme court, district court and such other governmental agencies as may be interested in or affected by such recommendations.

The actions of the commission pursuant to subsections (a) and (b) hereof shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the supreme court.

1-2206. MAGISTRATES--QUALIFICATIONS--INSTITUTE--EXCEPTIONS--OFFICE APPOINTIVE.

- (1) A magistrate shall be an elector of the state of Idaho and shall reside in the county for which the appointment is made throughout the term of service as a magistrate.
- (2) To be appointed to the office of magistrate judge a person must be at least thirty (30) years of age prior to taking office; be a citizen of the United States; have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment; have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment.
- (3) Magistrates shall not take office for the first time as magistrates until they have attended an institute on the duties and functioning of the magistrate's office to be held under the supervision of the Supreme Court, unless such attendance is waived by the Supreme Court. All magistrates shall be entitled to their actual and necessary expenses while attending institutes. The Supreme Court will establish the institute to which this subsection refers and will provide that the institute be held at such other times and for such other purposes as it deems necessary and may require the attendance of magistrate judges.

(4) Notwithstanding the provisions of subsection (2) of this section, all magistrates holding office on the effective date of this act shall be eligible for appointment to the office of magistrate and for retention in office pursuant to section 1-2220, Idaho Code.

1-2207. MAGISTRATRES – TERM – REMOVAL - VACANCIES.

(1) The term of office of a magistrate shall be four (4) years. The term of office of a magistrate shall begin on the second Monday of January of the odd-numbered year next succeeding his election.

(2) Vacancies in the office of magistrate shall be filled by appointment pursuant to section 1-2205, Idaho Code.

(3) Any magistrate appointed pursuant to section 1-2205, Idaho Code, and subsection (2) of this section, shall exercise the authority of a magistrate from the date of taking office. A magistrate appointed after the effective date of this act may be removed from office within eighteen (18) months of his appointment by majority vote of all the voting members of the district magistrates commission without cause in accordance with procedures to be established by rules of the Supreme Court.

(4) A magistrate may be removed from office before the expiration of the term to which he was appointed or elected as provided by section 1-2103A, Idaho Code.

1-2220. RETENTION OR NONRETENTION OF MAGISTRATE BY VOTE.

Any magistrate appointed pursuant to the provisions of section 1-2205, Idaho Code, and section 1-2207(2), Idaho Code, shall stand for office in the first general election next succeeding the expiration of the eighteen (18) month period established pursuant to section 1-2207, Idaho Code. Any magistrate may, not less than sixty (60) days prior to the holding of the general election next preceding the expiration of his term of office, file in the office of the county clerk of the county for which he is a resident magistrate, accompanied by a filing fee of forty dollars (\$40.00), a declaration of candidacy to succeed himself. If a declaration is not so filed by any magistrate, the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided, except that any magistrate who does not file shall be ineligible for appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired. If such a declaration is filed, his name shall be submitted at the next general election to the voters eligible to vote within the county for which he is appointed, on a nonpartisan judicial ballot, without party designation, which shall read:

"Shall Magistrate (Here insert the name of the magistrate) of (Here insert the name of the county) County of the (Here insert the judicial district number) Judicial District be retained in office?" (Here provision is to be made for voting "Yes" or "No.")

The votes shall be canvassed as provided in chapter 12, title 34, Idaho Code.

If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 1-2205, Idaho Code, except that the magistrate not retained in office shall be ineligible for

appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired.

If a majority of those voting on the question vote for retaining him in office, the county clerk shall issue him a certificate of election as provided in section 34-1209, Idaho Code, and said magistrate shall, unless removed for cause, remain in office for an additional term of four (4) years, and at the expiration of each such four (4) year term shall be eligible for retention in office by election in the manner herein prescribed.

§ 59-401. LOYALTY OATH – FORM.

Before any officer elected or appointed to fill any office created by the laws of the state of Idaho enters upon the duties of his office, he must take and subscribe an oath, to be known as the official oath, which is as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of (insert office) according to the best of my ability."

[59-401, added 1983, ch. 160, sec. 2, p. 463.]

I.C.A.R. 2. REMOVAL OF MAGISTRATES WITHOUT CAUSE.

(a) Statement of intent. This rule is promulgated by the Idaho Supreme Court pursuant to the authority of section 1-2207(3), Idaho Code, to govern the proceedings for the removal of a magistrate by the magistrates commission during the first eighteen (18) months after the magistrate takes office following appointment. Proceedings for the removal of a magistrate pursuant to this rule are administrative personnel proceedings and shall not be deemed adversary or judicial in nature. Formal rules of evidence shall not apply to any proceeding under this rule. No provision of this rule shall be construed to limit the gathering of necessary information by the district magistrates commission. As used in these rules, "magistrate" refers to the magistrate who is the subject of the personnel review meeting or the removal proceedings.

(b) Time and method of removal. At any time within eighteen (18) months after a magistrate takes office pursuant to appointment, the magistrate may be removed by a majority vote of all of the voting members of the appointing district magistrates commission. A majority vote of a quorum shall not suffice unless it is also a majority of the entire voting membership.

(c) Grounds for removal. A magistrate may be removed pursuant to this rule without cause and without a statement of the reason for removal.

(d) Personnel review meeting. Prior to holding a removal hearing, the district magistrates commission shall hold a personnel review meeting. The purpose of the meeting is to determine if a removal hearing should be held. The personnel review meeting may be called by the district administrative, or the judge's designee or by three members of the district magistrates commission upon written application to the administrative judge. Reasonable notice shall be given to all district

magistrates commission members but need not be given to the magistrate. The magistrates commission shall set a removal hearing upon demand of three voting members of the commission.

(e) Removal hearing, notice. Action to remove a magistrate may be taken at a regular or special meeting of the district magistrates commission upon no less than fourteen (14) days written notice to all members of the district magistrates commission and the magistrate. Notice to the magistrate shall be by personal service or in such manner as prescribed by the administrative judge. Proof of service shall be lodged with the administrative judge. Such notice shall inform the magistrate that the purpose of the meeting is to consider the magistrate's removal pursuant to section 1-2207, Idaho Code, and that the magistrate may attend such portion of the meeting as permitted by the commission. Notice to the members of the district magistrates commission shall be given by regular mail or personal delivery and shall inform the member that the purpose of the meeting will be to consider the removal of the named magistrate and that action for removal can be taken only by majority vote of all the voting members of the district magistrates commission. The commission may permit the magistrate judge to testify and produce evidence. Procedural conduct of the meeting shall be determined by a majority vote of the voting members present.

(f) Confidentiality, records. All proceedings for the removal of a magistrate shall be closed to the public and confidential. The records of any removal proceeding are confidential and exempt from public access as provided in Rule 32(d), I.C.A.R.

(g) Subpoena power. There shall be no subpoena power available for proceedings under this rule.

(h) Order of removal. If the district magistrates commission determines that the magistrate should be removed, it shall issue a written order of removal, signed by the chair of the commission, and shall have the order personally served on the magistrate or mailed to the magistrate by certified mail at the magistrate judicial chambers or home address. Such order shall provide that the date of termination is effective immediately. The order shall be filed with the clerk of the district court. The administrative judge shall cause a copy to be mailed to the Administrative Office of the Courts.

(i) Removal for cause. Nothing contained in this rule shall be deemed to limit the authority of the Judicial Council and the Supreme Court to take action to remove a magistrate for cause pursuant to Section 1-2103A, Idaho Code.

I.C.A.R. 3. DISCIPLINE AND REMOVAL OF MAGISTRATES.

The discipline or removal of a magistrate shall be done by the Supreme Court on recommendation of the Judicial Council pursuant to Section 1-2103A, Idaho Code.

I.C.A.R. 32(g). COURT RECORDS EXEMPT FROM DISCLOSURE.

Except as provided in paragraph (h) of this rule, court records specified below are confidential and are exempt from disclosure:

. . . (28) All records and records of proceedings, except the identity of applicants for appointment to judicial office, of the Idaho Judicial Council or any District Magistrates Commission pertaining to the appointment, performance, removal, disability, retirement or disciplining of magistrates, judges

or justices. Provided, however, that the record of a disciplinary proceeding filed by the Judicial Council in the Supreme Court loses its confidential character upon filing.

MAGISTRATES COMMISSION FORMS

FORM NUMBER:

- 1 Notice of Recruitment - of Vacancy to Lawyers**
- 2 Application for Magistrate Judge**
- 3 Reserved for Future Use**
- 4 Attorney Questionnaire**
- 5 Public Announcement of Magistrate Judge Applicants**
- 6 Public Questionnaire for Magistrate Judge**
- 7 Public Cover Sheet Magistrate Judge Performance**
- 7 Public Questionnaire on Magistrate Judge Performance**
- 8 Appointment of Magistrate Judge**
- 9 Notice of Magistrate Commission Action**
- 10 Notice of Vacancy on District Magistrates Commission**
- 11 Magistrates Commission Member Data Sheet**
- 12 Attorney Performance Evaluation of Magistrate Judge**
- 13 Administrative Order of Appointment**
- 14 Notice of Removal Hearing**
- 15 Notice of Procedures for Hearing**

**Individual Notice of
Vacancy to Lawyers**

NOTICE OF RECRUITMENT

_____ Judicial District
Magistrate Judge - _____ County

The Magistrates Commission of the _____ Judicial District is seeking applicants for the position of magistrate judge for _____ County to replace Judge _____ who is leaving the Commission.

Effective July 1, 2015, to be appointed to the office of magistrate judge, a person must, at the time of appointment meet all the following qualifications:

- (a) Be an elector of the State of Idaho; and
- (b) Be at least thirty (30) years of age;
- (c) Be a citizen of the United States;
- (d) Have been a legal resident of the State of Idaho for at least two (2) continuous years immediately preceding such appointment;
- (e) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment;
- (f) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment;
- (g) After appointment, Shall reside in the county for which the appointment is made throughout the term of service as a magistrate judge.

The appointee may be assigned to hear cases throughout the judicial district and may also be assigned outside the district by the Idaho Supreme Court. The annual salary for the position is _____ plus state benefits. Application forms are available by U.S. Mail or e-mail from the office of _____, Trial Court Administrator, _____ Judicial District, _____ [address]. Recruitment information is also available at the _____ Judicial District Court website at: _____.

All application materials for this position must be received by the Trial Court Administrator of the _____ Judicial District at the address listed above no later than 5:00pm on _____, _____, _____.

Do not attach any documents not specifically required by this application. Letters of recommendation are limited to a quantity of five (5) and must be submitted to the Trial Court Administrator by no later than _____.

The State of Idaho is an equal opportunity employer and its employment practices conform to the requirements outlined in Title I and Title II of the Americans with Disabilities Act.

APPLICATION

JUDGE OF THE MAGISTRATE DIVISION OF THE DISTRICT COURT

INSTRUCTIONS

- ◆ Read every question carefully and answer each question accurately. An applicant may be disqualified from further processing if the applicant intentionally makes a false statement of a material fact or practices or attempts to practice any deception or fraud in the application, in the examination, or in the appointment.

- ◆ ALL ENTRIES, EXCEPT FOR SIGNATURE, MUST BE PRINTED LEGIBLY WITH PEN AND INK, BALLPOINT PEN, OR be TYPED.

- ◆ If the space provided is not sufficient for complete answers, or you wish to furnish additional information, attach sheets of paper the same size as this application and number answers to correspond with questions.

- ◆ If you wish to submit letters of recommendation with your application, you must limit the quantity to no more than five (5).

I. PERSONAL DATA

1. Name: _____

Last
First
Middle

2. Present Address: _____

City
State
ZIP

3. List how long you have lived at this address: _____

4. Give your home address for the past five (5) years, excluding your present address:

<u>Address</u>	<u>City</u>	<u>State</u>	<u>ZIP</u>	<u>Dates Lived At Address</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

5. Telephone Number: Home _____ Business _____

6. E-mail address: _____
7. If appointed to the magistrate judge position, will you be at least thirty (30) years of age at the time you assume the position? () Yes () No
8. Are you a U.S. Citizen? () Yes () No
9. If appointed to the magistrate judge position, will you have been a legal resident of the state of Idaho for at least two (2) continuous years by the time you assume the position? () Yes () No
10. If appointed to the magistrate judge position, will you have been in good standing as an active or judicial member of the Idaho state bar of at least two (2) continuous years immediately preceding the appointment? () Yes () No
11. If appointed to the magistrate judge position, will you have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding appointment? () Yes () No
12. Do you have the ability to travel? () Yes () No

II. EDUCATION

9. Name of colleges or universities attended:

<u>School and Location</u>	<u>Dates Attended</u>	<u>Degree</u>	<u>Year Degree Rec'd.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

A. Chief undergraduate college subjects: _____

B. Chief graduate college subjects: _____

C. State major field of study at highest level of college work: _____

D. List other schools or training (for example: trade, vocational, Armed Forces or business) and give for each the name and location of school, dates attended, subjects studied, certificates and any other pertinent date:

(a) _____

(b) _____

(c) _____

(d) _____

III. MILITARY

10. Are you presently serving or have you ever served in the Armed Forces of the United States? () Yes () No

11. If YES, attach a detailed statement including:

- (a) branch of service;
- (b) serial number;
- (c) rank;
- (d) inclusive dates of your service;
- (e) type of discharge (A less than honorable or general discharge is not an absolute bar to appointment, and other factors will affect a final decision to appoint.);
- (f) whether or not you were ever convicted by a court-martial or subjected to punishment under article 15 of the Uniform Code of Military Justice (If yes, give complete details.);

(g) if discharged, attach a copy of your discharge or separation papers. Do not attach a discharge or separation based on medical reasons.

IV. EMPLOYMENT

12. What is your present occupation? _____

13. List below your complete work history for the past fifteen (15) years, starting with your present position and working backward to your first employment. List any periods of unemployment. All of your time must be accounted for.

A. _____

_____	_____
Date of Employment (From/To)	Place of Employment
_____	_____
Exact Title of Position	Type of Business (Mnfg., Acct., Ins., etc.)
_____	_____
Address of Employment	City State ZIP
_____	_____
Phone Number	Type and Number of Employees you Supervised
_____	_____
Name, Title and Address of Immediate Supervisor	

Description of Work: _____	

Reason for Leaving: _____	

B. _____

_____	_____
Date of Employment (From/To)	Place of Employment
_____	_____
Exact Title of Position	Type of Business (Mnfg., Acct., Ins., etc.)
_____	_____
Address of Employment	City State ZIP
_____	_____
Phone Number	Type and Number of Employees you Supervised
_____	_____
Name, Title and Address of Immediate Supervisor	

Description of Work: _____	

Reason for Leaving: _____

C.

Date of Employment (From/To)

Place of Employment

Exact Title of Position

Type of Business (Mnfg., Acct., Ins., etc.)

Address of Employment

City

State

ZIP

Phone Number

Type and Number of Employees you Supervised

Name, Title and Address of Immediate Supervisor

Description of Work: _____

Reason for Leaving: _____

D.

Date of Employment (From/To)

Place of Employment

Exact Title of Position

Type of Business (Mnfg., Acct., Ins., etc.)

Address of Employment

City

State

ZIP

Phone Number

Type and Number of Employees you Supervised

Name, Title and Address of Immediate Supervisor

Description of Work: _____

Reason for Leaving: _____

E.

Date of Employment (From/To)

Place of Employment

Exact Title of Position

Type of Business (Mnfg., Acct., Ins., etc.)

Address of Employment

City

State

ZIP

Phone Number

Type and Number of Employees you Supervised

Name, Title and Address of Immediate Supervisor

Description of Work: _____

Reason for Leaving: _____

F.

Date of Employment (From/To)

Place of Employment

Exact Title of Position

Type of Business (Mnfg., Acct., Ins., etc.)

Address of Employment

City

State

ZIP

Phone Number

Type and Number of Employees you Supervised

Name, Title and Address of Immediate Supervisor

Description of Work: _____

Reason for Leaving: _____

MAGISTRATE APPLICATION - 6

14. Have you ever been discharged (fired) from employment for any reason?
 Yes No
15. Have you ever resigned after being informed that your employer intended to discharge you for any reason?
 Yes No
16. Were you ever subjected to disciplinary action in connection with any employment?
 Yes No
17. If your answer to item 14, 15, or 16 is YES, give details showing the name and address of employment, approximate date, and reasons in such case. This information should agree with statements made regarding experience.

V. HEALTH

18. Does the state of your health permit you to perform job-related functions with or without accommodation?
 Yes No
19. Would you agree to comply with all state, city and county policies regarding smoking?
 Yes No

I hereby certify that the information given herein is true and complete to the best of my knowledge and belief. I agree that if I am selected for this position, I will authorize any clinic, physician, surgeon, or other practitioner mentioned herein to furnish to the District Magistrates Commission a complete transcript of my medical record for the purpose of evaluating my qualifications for employment within the Idaho Judiciary.

Dated
MAGISTRATE APPLICATION - 7

Signature

VI. GENERAL BACKGROUND

20. Have you ever plead guilty or been found guilty of any federal law, state law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations for which a fine of \$50.00 or less was imposed.

DATE	LOCATION	VIOLATION (Actual Charge)	COURT DISPOSITION OF SENTENCE	POLICE AGENCY INVOLVED

21. Do you have a valid motor vehicle operator's license? () Yes () No

22. If so, list your driver's license number, state, and expiration date: _____

23. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprise, please give details, including the name of the enterprise, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If it is not your intention to resign such positions and give up any other participation in the management of any of the foregoing enterprises, please so state, giving reasons.

24. Have you ever held judicial office? If so, give the details, including the court involved, whether elected or appointed, and the periods of service.

25. Have you ever held public office other than a judicial office, or have you ever been a candidate for such an office? If so, give the details, including the office involved, whether elected or appointed, and the length of your service.

26. List any honors, prizes, or other forms of recognition that you have received.

27. List all courts in which you are presently admitted to practice, including the dates of admission in each case. Give the same information for administrative bodies having special admission requirements.

28. Are you actively engaged in the practice of law at the present time? If you are connected with a law firm, corporate law department, or a governmental agency, please state its name and indicate the nature and duration of your relationship.

29. If in the past you have practiced in other localities or have been connected with other law firms, corporate law departments, or governmental agencies, please give the particulars, including the locations, the names of the firms, corporate law departments, or agencies, and your relationship thereto, and the relevant dates. Also indicate any period in the past during which you practiced alone.

30. What is the general nature of your practice? Indicate the nature of your typical clients and mention any legal specialties that you possess. If the nature of your practice has been substantially different at any time in the past, give the details, including the nature of such and the periods involved.

31. What percentage of your practice involves court appearances? _____%

32. What percentage of your court appearances in the last five (5) years was in:

- (a) Federal Courts _____%
- (b) State Courts of Record _____%
- (c) Other Courts _____%

33. What percentage of your litigation in the last five (5) years was:

- (a) Civil _____% Approximate number of Jury Trials _____
- (b) Criminal _____% Approximate number of Jury Trials _____

34. Have you ever been engaged in any occupation, business, or profession other than the practice of law? If so, please give the details, including dates.

35. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem, a witness, or stockholder. Include all legal proceedings in which you were a party in interest, were named as a co-conspirator or a co-respondent, and any grand jury investigation in which you figured as a subject.

36. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency,

37. bar association, disciplinary committee, or other professional group? If so, please give the particulars.

38. Have you ever published any legal books or articles? If so, please list them, giving the citations and dates.

39. List all bar associations and professional societies of which you are a member, and give the titles and dates of any offices that you have held in such groups. Also list committees in bar associations and professional societies and memberships on any committees that you believe to be of particular significance (i.e., judicial selection committee, committee of censors, grievance committee) or for which you served as the chairperson.

VII. REFERENCES

40. List any persons (at least four (4) of whom are lawyers) living in the United States or territories of the United States who are NOT RELATED TO YOU AND WHO HAVE DEFINITE KNOWLEDGE of your qualifications and fitness for the position for which you are applying. Do not repeat names of supervisors listed under the Employment Section.

A. _____
Complete Name Occupation Years Known

Home Address

City State ZIP Phone Number

B. _____
Complete Name Occupation Years Known

Home Address

City State ZIP Phone Number

C. _____
Complete Name Occupation Years Known

Home Address

City State ZIP Phone Number

D. _____
Complete Name Occupation Years Known

Home Address

City State ZIP Phone Number

The applicant, being sworn, having read the foregoing, says that the responses to the foregoing questions, and information contained on any attached materials, are true and complete to the best of my knowledge. I have not withheld any information that would be significant to the Magistrates Commission in evaluating my fitness for the judicial office for which I have applied. I have met, or will timely meet, any residency requirements or other legal requisites for such judicial office. I understand that any misstatement or omission in respect to any material fact which would in any way affect my eligibility for appointment or employment will subject me to immediate disqualification from further processing of this application or, if appointed as a magistrate judge with the state of Idaho, to immediate dismissal. I further expressly authorize the Magistrates Commission to inquire of the Idaho State Bar regarding disciplinary matters involving me, the U.S. Armed Forces or state national guard regarding my general service record, including performance evaluations, and the Idaho State Tax Commission to verify that income tax returns have been filed and the status of any investigations conducted by the Tax Commission. I hereby waive any confidentiality, privilege or other restrictions involving the release of the above information about me by those organizations, and to verify any other statements made in this application or in any examinations or interviews conducted relative to this application, including but not limited to criminal arrest and/or conviction information. I further expressly authorize the release of any university or law school transcripts, and waive any privilege or confidentiality or other restrictions involving the release of such transcripts. By submitting this application, I agree and understand that if I am offered and accept the position of Magistrate Judge, I may be assigned by the Idaho Supreme Court, Administrative District Judge or the Trial Court Administrator of this District to preside over and dispose of cases outside of the county for which I am appointed.

Printed Name

Signature

Dated

STATE OF IDAHO)
COUNTY OF _____) ss.

Subscribed and sworn to before me this _____ day of _____, 20 _____.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

Notice: If you are offered this magistrate judge position, you may be required to provide information regarding your place of birth, credit history and medical history. Further, a security investigation of you will be made.

ADDITIONAL PERSONAL DATA

Note: This information is gathered for the sole purpose of obtaining a criminal history background check, and for identification purposes in conducting complete background checks on the applicant. The information on this page will not be disclosed to the Magistrate Commission.

Your Current Name: _____
(As Listed on Page 1 of Application)

List any other names you have ever used:	Date of Name Change:
_____	_____
_____	_____
_____	_____
_____	_____

Your Date of Birth: _____

Your Social Security Number: _____

Reserved for future use

ATTORNEY QUESTIONNAIRE ON QUALIFICATION OF APPLICANTS FOR APPOINTMENT AS MAGISTRATE OF THE _____ JUDICIAL DISTRICT

You are requested to complete the qualification questionnaire regarding the candidates for Magistrate Judge in the _____ Judicial District, _____ County. We encourage lawyers with knowledge of these candidates' qualifications to complete the questionnaire to provide their evaluations and comments.

Idaho Rule of Professional Conduct 8.2(a) prohibits a lawyer from making a statement *“that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge ... or of a candidate for election or appointment to judicial or legal office.”*

Please note that the Magistrates Commission engages in the analysis of broad trends as shown by the surveys, without particular emphasis on any one criteria or response, while ensuring the anonymity of the lawyers' responses.

The candidates are not provided the comments from this survey.

From time to time, a member of the Magistrates Commission will follow up on comments in the candidate interview. If a comment is so specific that it might reveal the identity of the responding lawyer, it is edited to a more general statement to ensure anonymity.

To complete the questionnaire, please go to the following link:

{ Active link will be included in e-mail }

Attorney’s Questionnaire Regarding Applicants for the position of Magistrate Judge for _____ County, _____ Judicial District

Instructions:

Please rank the candidates in each category below. A ranking of 5 is highly laudatory, 4 is above average, 3 is average, 2 is below average, and 1 is severely derogatory and requires further explanation in the comments section at the bottom of the survey.

If you do not know how to respond on a particular point, leave it blank. Lack of response will neither aid nor hinder the result.

_____ DISTRICT MAGISTRATE JUDGE CANDIDATE SURVEY SUMMARY

Candidate	Integrity and Moral Courage	Legal ability and Experience	Intelligence	Wisdom	Capacity to be fair-minded And deliberate	Industriousness and Promptness in performing duties	Compatibility of personal habits and outside activities with judicial office	Capacity to be courteous and considerate on the bench	Legal Research and writing	AVERAGE of Questions 1-9	Do you consider this person 'qualified' for this position?		Handled legal matter with candidate as opposing counsel?		Personally observed this person's legal writing		Personally observed this person's courtroom performance		
											Yes	No	Yes	No	Yes	No	Yes	No	Yes

PUBLIC ANNOUNCEMENT OF MAGISTRATE JUDGE APPLICANTS

The _____ Judicial District Magistrates Commission will meet _____ to select a magistrate judge to replace _____ in _____ County.

_____, who will retire to private practice at the end of _____, has served as a magistrate judge since _____, 20____.

_____ applicants are being considered.

From _____ are: (Name) _____
_____.

From outside of _____ are: (Name and place of residence) _____
_____.

Evaluation questionnaires on the applicants will be sent to attorneys statewide. Questionnaires for public comment may be obtained from the _____ clerk of the district court, (address) _____, telephone number _____, or at the district Trial Court Administrator's office, (address and telephone number) _____.

Evaluations should be returned to the Trial Court Administrator's office no later than _____.

Cover Sheet
Public Questionnaire on Qualifications of
Applicants for Appointment as Magistrate Judge of
the _____ Judicial District

Pursuant to Idaho Code §1-2205(b), the Magistrates Commission is reviewing applicants for appointment to fill the position of Magistrate Judge of the _____ Judicial District chambered at _____ County. The Commission requests your assistance in discharging its statutory responsibilities.

In order to assure proper evaluation of your response, please do the following before starting on the questionnaire:

1. Please print your name and address: _____

2. Please sign your name: _____

This cover sheet will be detached from the completed questionnaire. The confidentiality of your responses will be protected.

Complete this questionnaire only with respect to individuals whom you know sufficiently well, based upon personal contact and/or professional experiences, to render a sound and informed opinion. The pattern of responses applicant, rather than the quantity of responses, will be the focus of the Magistrates Commission's review. (If you have additional remarks, write them on the back of the questionnaire. They will be read and discussed.)

The names and occupations of the applicants are attached to the questionnaire itself. Select those on whom you will respond and then complete the questionnaire. When you are finished, please mail the questionnaire and cover sheet to:

Trial Court Administrator

Your comments must be received no later than _____, in order to be considered. Thank you for your assistance.

Public Questionnaire

Instructions:

For each applicant on whom you wish to comment, please state briefly: (a) in what connection you know the applicant, and (b) information you believe the District Magistrates Commission should have about the applicant's qualifications. The area(s) most important to the Commission are each applicant's integrity and moral courage, legal ability, legal experience, intelligence and wisdom, capacity to be fair-minded and deliberate, industriousness and promptness in performing duties, compatibility of personal habits and outside activities with judicial office, and capacity to be courteous and considerate on the bench. Please make additional copies of this page if you wish to comment on more applicants.

Last name of applicant on whom you are commenting:
Personal or professional experience with applicant upon which comments are based:
Comments about applicant's qualifications:

Last name of applicant on whom you are commenting:
Personal or professional experience with applicant upon which comments are based:
Comments about applicant's qualifications:

Last name of applicant on whom you are commenting:
Personal or professional experience with applicant upon which comments are based:
Comments about applicant's qualifications:

**Public Questionnaire on Performance of Recent
Appointee as _____ County Magistrate Judge of the
_____ Judicial District**

Pursuant to Idaho Code Section §1-2207(3), the Magistrates Commission of the ____ Judicial District is reviewing the performance of Honorable _____ to the position of _____ County Magistrate Judge. The Magistrates Commission requests your assistance in discharging its statutory responsibilities.

In order to assure proper evaluation of your responses, please do the following before starting on the questionnaire:

1. Please print your name and address: _____

2. Please sign your name: _____

This cover sheet will be detached from the completed questionnaire by the Magistrates Commission staff. The confidentiality of your responses will be protected.

Complete this questionnaire only if you know Judge _____ sufficiently well, based upon personal contact and/or professional experience, to render a sound and informed opinion. The pattern of responses, rather than the quantity of responses, will be the focus of the Magistrates Commission's review. If you have additional remarks you would like to pass on to the Commission, please write them on the back of the questionnaire. They will be read and discussed.

When you are finished, please mail the questionnaire and this coversheet to:

The questionnaires must be received by the Trial Court Administrator no later than ____, ____
__, 20__.

The Commission would like to thank you for your assistance in providing feedback to members of the judiciary on the quality of their work in serving the people of the ____ Judicial District.

**Magistrates Commission Questionnaire
Performance Appraisal**

Regarding Magistrate Judge: Hon. _____

Instructions: Please provide feedback regarding the judge in the following categories

1. Legal Skills

Comments:

2. Fairness and Impartial Decision Making

Comments:

3. Listening and Communication Skills

Comments:

4. Case Management Skills

Comments:

5. Teamwork and Leadership Skills

Comments:

6. Other Comments or Observations

Personal or professional experience with the judge upon which comments are based:

--

BEFORE THE DISTRICT MAGISTRATES COMMISSION OF
THE ____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO

RE: APPOINTMENT OF)
MAGISTRATE JUDGE) NOTICE OF APPOINTMENT
)

Pursuant to Idaho Code §§1-2205 and 1-2207;

The District Magistrates Commission of the ____ Judicial District hereby appoints:

[Appointee's Name]

to the office of Magistrate Judge for the county of:

[Name of County]

The effective date of this appointment is:

[Starting Date]

DATED:

[Name of Administrative District Judge], Chair
Administrative District Judge
for the ____ Judicial District

BEFORE THE MAGISTRATES COMMISSION OF THE
_____ JUDICIAL DISTRICT OF
THE STATE OF IDAHO

RE: APPOINTMENT OF _____)
MAGISTRATE JUDGE) NOTICE OF MAGISTRATES
) COMMISSION ACTION
)

TO: THE HONORABLE _____, DISTRICT JUDGE OF THE
_____ JUDICIAL DISTRICT OF THE STATE OF IDAHO.

Pursuant to Idaho Code §1-2205, please take notice that the District Magistrates Commission of the _____ Judicial District has appointed _____ as magistrate judge for the county of _____. The effective date of this appointment shall be the date of taking office.

A copy of the Commission's appointment is attached hereto.

Dated: _____

[Name of Administrative District Judge], Chair
Administrative District Judge
for the _____ Judicial District

To: Governor Brad Little
Attn: Jared Larsen
P.O. Box 83720
Boise, ID 83720

From: _____
_____ Judicial District
_____, Idaho

NOTICE OF VACANCY OF MAYOR OR ELECTOR
ON DISTRICT MAGISTRATES COMMISSION

The following vacancy has occurred in the _____ Judicial District Magistrates Commission.

Name: _____

Address: _____

Representing:

- Mayor A of city with population over 10,000 (_____)
- Mayor B of city (_____)
- Mayor C of city (_____)
- Elector A
- Elector B

Reason for vacancy: (Check applicable reason)

- Death
- Resignation
- Moving residence out of district
- Moving residence to another county
- Loss of official status (for county commissioner or mayor)
- Expiration of term--date of expiration _____

Date of vacancy: _____

(Signature)

Please send a copy of this form to the Administrative Office of the Court, 451 W. State St.,
Boise, ID 83702.

To: Diane Minnich
Idaho State Bar
525 West Jefferson Street
Boise, Idaho 83702

From: _____
_____ Judicial District
_____, Idaho

**NOTICE OF VACANCY OF ATTORNEY
ON DISTRICT MAGISTRATES COMMISSION**

The following vacancy has occurred in the _____ Judicial District Magistrates Commission.

Name: _____

Address: _____

Representing:

- Attorney A
- Attorney B

For attorney member: (Check applicable reason)

- Death
- Resignation
- Moving out of judicial district
- Suspension or disbarment from practice of law
- Expiration of term--date of expiration _____

Date of vacancy: _____

(Signature)

Please send a copy of this form to the Administrative Office of the Court, 451 W. State St.,
Boise, ID 83702.

DATE: _____

MAGISTRATES COMMISSION MEMBER DATA SHEET

Appointed to _____ District Magistrates Commission

Name: _____
(Last) (First) (Middle)

Birth Date: _____

Home Address: _____
(Street/P.O. Box) (City) (State) (Zip)

Business Phone: _____ Home Phone: _____

Email Address _____

Term From: _____ To: _____

Succeeding: _____

Member is:

Attorney From: _____ County Commissioner From: _____
(County) (County)

Mayor From: _____ Private Elector From: _____
(City) (County)

If otherwise employed, the nature of that occupation and the business address:

If a voting member (other than a mayor, magistrate judge, or district judge), member's political party: _____

Signed _____

Please send a copy of this document to the Administrative Director of the Courts, P.O. Box 83720, Boise, ID 83720-0101. Also, whenever practicable, please attach a copy of the actual appointment document.

IN THE DISTRICT COURTS OF THE _____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO

IN RE: APPOINTMENT OF _____)
MAGISTRATE JUDGE) ADMINISTRATIVE ORDER
)
)

Pursuant to Idaho Code §1-2203(1), the Administrative District Judge of the _____
Judicial District shall appoint a Magistrate Judge in the district to serve on the Magistrates
Commission as a voting member.

IT IS HEREBY ORDERED that the Honorable _____ is appointed to serve as a
member of the Magistrates Commission of the _____ Judicial District, in the seat vacated by the
Honorable _____.

This designation shall be effective until _____ Date _____. IT IS SO
ORDERED.

Dated this _____ day of _____, _____.

[Name of Administrative District Judge], Chair
Administrative District Judge

cc: _____ District Magistrates Commission Members
_____, Administrative Director of the Courts

Date

PERSONAL AND CONFIDENTIAL

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Honorable _____

Address

RE: NOTICE OF REMOVAL HEARING

Dear Judge _____:

As you are aware, the _____ Judicial District Magistrates Commission (the Commission) met on _____ in _____. During this meeting the Commission conducted a personnel review meeting pursuant to the Idaho District Magistrates Commission Manual, Part _____, and the Idaho Court Administrative Rules (I.C.A.R.), Rule 2(d). As part of this meeting you were invited to address the Commission regarding your current status as a magistrate judge and to address issues that have been brought to the Commission’s attention.

After due consideration of your remarks, along with the appraisal criteria and goals listed in Part _____ of the manual, and pursuant to the authority of I.C.A.R. 2, the Commission voted to conduct a removal hearing pursuant to section 1-2207, Idaho Code, on _____ at _____(pm/am) in the _____ County Courthouse. The purpose of this meeting is to consider whether you should be removed from office prior to the expiration of your probationary term, pursuant to Idaho Code §1 -2207 and I.C.A.R. 2(e).

You may attend part of this meeting with or without counsel, if you desire. You may also testify and present evidence; however, the Commission requires that you provide notice of your intent to appear and to present evidence, no later than _____. If you intend to appear and/or present evidence, the Commission will provide you with the procedural aspects governing the removal meeting pursuant to I.C.A.R. 2(e).

The Commission was reminded of the confidential nature of this process, this Notice, and the Removal Hearing. See I.C.A.R. 2(f) and the manual, _____ and _____. This letter is being sent via certified mail to ensure that confidentiality. If you have any questions, or wish further clarification, please contact me. Also, if you intend to provide the notice described above, please provide it to the address set forth above.

Sincerely,

Administrative District Judge

cc: District Magistrates Commission Members

Date

PERSONAL AND CONFIDENTIAL

VIA [METHOD OF DELIVERY]

Honorable _____

[Address]

RE: NOTICE OF PROCEDURES FOR HEARING

Dear Judge _____:

The purpose of this notice is to set forth the procedures that will govern the hearing, pursuant to I.C.A.R. 2(e). Those procedures are as follows:

1. The Commission shall conduct the hearing for removal in accordance with the standard set forth in I.C.A.R. 2(c).
2. The Administrative District Judge will be the presiding officer for the hearing. The proceedings at the hearing may be reported by such method as the Commission may prescribe. Any member may question witnesses.
3. The Idaho Rules of Evidence will not apply to the hearing.
4. The Commission will request the appointment through the Idaho Supreme Court of an examiner, to act as an advisor to the Commission. The examiner will assist the Commission in making investigation, as necessary, of any relevant matters. The examiner may also question any witnesses brought before the Commission. The examiner will not take part in any deliberations.
5. There shall be no subpoena power available for these proceedings in accordance with I.C.A.R. 2(g).
6. The service of any papers upon Judge _____ will be by hand delivery to Judge _____ with copies mailed or faxed to [her/his] counsel.
7. These proceedings shall be closed to the public and are confidential. The records of the proceeding are confidential and exempt from public access as provided in I.C.A.R. 32(g).
8. Judge _____ will be allowed to attend the hearing with [his/her] counsel and will be allowed to testify under oath, and to present live testimony from other witnesses. Judge _____ may also present evidence in writing, which may include, but is not

limited to affidavits or letters from third persons. No third person will be allowed to attend the hearing and witnesses will be excluded other than the time during which the witness testifies.

9. Judge _____'s attorney will be allowed to present evidence on [his/her] behalf and question any witnesses.
10. Upon completion of the presentation, Judge _____ and [his/her] attorney will be excused while the Commission deliberates.
11. Any procedure not enumerated will be governed by I.C.A.R. 2, Idaho Code §1-2207, and the Idaho District Magistrates Commission Manual, or as voted upon by a majority vote of the Commission members at any time.
12. If a majority of the Commission members vote to remove the magistrate judge, then an Order of Removal shall be prepared in the form prescribed by I.C.A.R. 2(h).

These procedures are designed to ensure fairness in the proceedings and your right to be heard.

Sincerely,

Administrative District Judge

cc. District Magistrates Commission Members