

## Judicial Selection in Minnesota

***What are the qualifications for becoming a judge in Minnesota?***

To serve as a supreme court, court of appeals, or district court judge in Minnesota, an individual must be eligible to vote, be at least age 21, and be “learned in the law.” Courts have interpreted “learned in the law” to mean that the individual must be a licensed attorney-at-law. Judges are subject to mandatory retirement upon reaching age 70.

Any modification of the requirements for judicial office must be made through a constitutional amendment; qualifications may not be restricted or enlarged by statute.

***How long is a judge’s term?***

A full term of office for judges is “six years and until their successors are qualified.” A judge may run for re-election.

***How are judicial elections conducted?***

Elections to fill a judicial office are conducted consistent with the same general campaign and election provisions that apply to candidates for other elective office, except that judicial elections are “nonpartisan” elections and subject to the Minnesota Code of Judicial Conduct, Canon 5.

***What does “nonpartisan” mean?***

In this context, “nonpartisan” means that a candidate’s name will appear on the ballot, but no party affiliation will be listed. Candidates are, however, permitted to be involved in partisan politics and to seek and accept the endorsement of a political party (see discussion below).

***Are there restrictions on judicial candidate campaign conduct?***

In general, candidates for judicial office are subject to the requirements of the Minnesota Fair Campaign Practices Act ([Minn. Stat. ch. 211B](#)).

Candidates are permitted to speak to gatherings, appear in advertisements supporting their candidacy, and distribute campaign literature supporting their candidacy.

As a result of recent court rulings, candidates may also state positions on disputed legal or political issues, solicit contributions generally from an audience of 20 or more people, sign letters for distribution by the candidate’s campaign committee soliciting contributions, and seek and accept the endorsement of a political party. These activities, which had been prohibited by the Minnesota Code of Judicial Conduct, Canon 5, are permissible following decisions of both the U.S. Supreme Court and the Eighth Circuit Court of Appeals declaring certain sections of Canon 5 unconstitutional. (See *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002) (striking down the “announce” clause); and *Republican Party of Minnesota v. White*, 416 F.3d 738 (8<sup>th</sup> Cir. 2005) (*cert. denied*) (striking down the “partisan-activities” and “solicitation” clauses)). See also Minnesota Code of Judicial Conduct, Canon 5 (2007).

***How are judicial campaigns financed?***

Candidates may establish a committee to raise funds and conduct a campaign for their candidacy. A committee may solicit, accept, and manage the expenditure of funds for the campaign, but may not disclose to the candidate the identity of contributors, or those who refused to contribute.

In addition, candidates for judicial office are subject to certain campaign finance reporting requirements established in Minnesota Statutes, chapter 10A. However, candidates for judicial office are not eligible to receive a public subsidy to help fund their campaign under section [10A.31](#).

Unlike candidates for many other elective offices, current law imposes no limit on contributions made by any individual, political committee, or political fund to a candidate for judicial office.

***What happens if a judicial office becomes vacant?***

If a judicial office becomes vacant, the governor must appoint a qualified person to fill the vacancy until a successor is elected and qualified. The appointee must stand for election for a full six-year term at the next general election that occurs more than one year after the governor's appointment.

In practice, most judges are initially seated through appointment, rather than the electoral process.

***Who may the governor appoint?***

The governor may appoint any qualified person to fill a judicial vacancy. In other words, the individual appointed must meet the standard constitutional qualifications for judicial office: at least age 21, eligible to vote, and learned in the law.

***What is the Commission on Judicial Selection?***

Established by statute, the Commission on Judicial Selection recruits, evaluates, and recommends candidates for appointment to a vacant district court or worker's compensation court of appeals judicial office. Some governors have chosen to use the merit selection process for appellate judges as well.

The commission is composed of nine at-large members and four members from each judicial district. Both the governor and the supreme court appoint members of the commission, which must be composed of both attorneys and nonattorneys.

The commission must recommend to the governor between three and five nominees for each judicial vacancy, no more than 60 days after receipt of notice of the vacancy.

***Is the governor required to follow the commission's recommendations?***

The governor may choose to fill the vacancy by appointing one of the commission's nominees, or the governor may fill the vacancy without regard to the commission's recommendation.

**For more information:** Contact legislative analyst Matt Gehring at 651-296-5052. Also see the House Research publication *The Minnesota Judiciary*, March 2003, for more information on the judicial branch. For more information about campaigns and elections, visit the elections area of our web site, [www.house.mn/hrd/issinfo/elect.htm](http://www.house.mn/hrd/issinfo/elect.htm).

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