

# BECOMING A COLORADO STATE JUDGE

## Lesson Plan Summary



### OBJECTIVE

Students will be able to describe how judges become judges, what criteria qualifies them for the job, and what attributes they must have to retain their positions.

### INQUIRY QUESTIONS

- What qualities do you think are necessary to be a judge?
- Do you think the merit selection and retention system in Colorado is effective? Why or why not?

### COLORADO ACADEMIC STANDARDS

**SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to understanding the three branches of government at each level of government.

**SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

**SS.HS.4.2.EOg.** Understand the structure of the American judicial system, the process of judicial appointments and key court decisions, in both Colorado and the United States, that affect the system of checks and balances and interactions of the local, state, tribal, and federal systems.

### ACTIVITIES

How Judges are Selected Video ([youtube.com/watch?v=zUL2zgEfEdY](https://www.youtube.com/watch?v=zUL2zgEfEdY)), What Makes a Good Judge? Activity, Lecture/reading, Writing, Extension Activities

### MATERIALS

“Judge Qualities” Worksheets, “Judge Evaluation” Handouts, Reading

### GRADE LEVEL

High School

### TIME

One to two class periods

### KEY TERMS

- **Merit Selection:** Colorado's judicial system that aims to ensure that judges are qualified for their positions and are accountable to the public. Political affiliation is not a consideration in this selection process.
- **Judicial Nominating Commission:** Groups of people who review applicants for judge positions. The commissions are nonpartisan and made up of a mix of attorneys and other citizens who are not attorneys.
- **Judicial Disciplinary Commission:** This commission is responsible for investigating allegations and prosecuting charges against judges. The commission members include judges, lawyers, and non-lawyers selected by the Governor and the Supreme Court.
- **Judicial Independence:** Judges are not subject to pressure and influence and are free to make impartial decisions based on fact and law. An independent judge can assure that cases will be decided according to the law and the facts and not a shifting political climate.

Find more legal terms in our [Courts in the Community Teaching Materials](#).

# BECOMING A COLORADO STATE JUDGE

## Lesson Background and Class Preparation



### LESSON BACKGROUND

The goal of this lesson is to help students understand the qualities that it takes to become a judge as well as Colorado's merit selection and retention system for judges. Colorado voters adopted a constitutional amendment in 1966 aimed at taking judges out of politics. This amendment created a judicial merit selection system by which judges apply to nonpartisan nominating commissions that conduct comprehensive reviews of the judicial applicants' backgrounds and qualifications. The commission provides a slate of two or three finalists to the Colorado governor, who appoints a candidate after further reviewing the candidates' qualifications.

After being appointed, judges are evaluated by nonpartisan judicial performance evaluation commissions, which determine and then report to the public whether the judges meet or do not meet certain performance standards. Voters thereafter decide, in a nonpartisan election, whether the judge should continue to serve. In addition to the judicial evaluation process, Colorado has an independent judicial disciplinary commission that may take action to deal with a judge's unethical or improper behavior.

This is a lesson from our Courts in the Community curriculum. Find out more about this program ([coloradojudicial.gov/courts-community](https://coloradojudicial.gov/courts-community)) and our lessons ([coloradojudicial.gov/community-and-educational-resources/lesson-plans](https://coloradojudicial.gov/community-and-educational-resources/lesson-plans)).

### CLASS PREPARATION

- Write the Key Terms and definitions on the board or on the screen and refer to them as needed during class.
- Review Tips for Diverse Learners on p. 16 to determine the best way for your students to engage with the content.
- Determine which class activities to do with your students and how you want to teach them.
- Make copies of "What Makes a Good Judge?" and "Qualities of a Good Judge" worksheets for first activity
- Make copies of Judicial Evaluations so that each student gets one evaluation. We have provided evaluations without names for two judges who did not meet standards and two who did. You are welcome to use other judges' evaluations from the Office of Judicial Performance Evaluation website: [judicialperformance.colorado.gov/judicial-evaluations](https://judicialperformance.colorado.gov/judicial-evaluations)
- Determine whether to lecture about the content or have students read through the content in small groups.
- Decide whether to do any extension activities to further understanding of the content.

# BECOMING A COLORADO STATE JUDGE

## Class Lecture



### CLASS LECTURE

#### How a judge becomes a judge

- Qualifications
  - Supreme Court justice or Court of Appeals judge
    - Must be a qualified elector in the state of Colorado
    - Must have been licensed to practice law in Colorado for at least five years
    - Must be under the age of 72 at the time their name is submitted to the governor
  - District Court judge
    - Must be a qualified elector in the judicial district or county in which the judge will serve at the time the judge is sworn into office
    - Must have been licensed to practice law in Colorado for at least five years
    - Must be under the age of 72 when their name is submitted to the governor
  - County Court judge
    - Must be a qualified elector in the judicial district or county in which the judge will serve at the time the judge is sworn into office
    - Must have been licensed to practice law in Colorado, except that in counties with populations of under 35,000, candidates for county court positions do not have to be licensed to practice law but must have graduated from high school or have attained the equivalent of a high school education
    - Must be under the age of 72 when their name is submitted to the governor
- Nomination and selection process
  - Colorado Supreme Court or Court of Appeals vacancy
    - A nominating commission (17 members) reviews applications and conducts interviews. This commission is composed of:
      - One lawyer and one non-lawyer from each congressional district
      - One at-large appointee who is not a lawyer
      - No political party can have a majority of more than one
    - The commission must recommend two or three nominees to the governor within 30 days of the vacancy (three nominees for appellate vacancies)
    - The governor must select one of the nominees within 15 days
    - If the governor does not do so in the allotted time, then the chief justice makes the selection from the list
  - District Court or County Court vacancy
    - A nominating commission (7 members) reviews applications and conducts interviews. This commission is composed of:
      - Three lawyers and four non-lawyers
      - No more than four members can be of one political party
    - The commission must recommend two or three nominees to the governor within 30 days of the vacancy
    - The governor must select one of the nominees within 15 days
    - If the governor does not do so in the allotted time, then the chief justice makes the selection from the list

# BECOMING A COLORADO STATE JUDGE

## Class Lecture (con't)



### CLASS LECTURE

#### How a judge stays a judge

- Terms
  - Once chosen, all judges in the state court system serve a two-year provisional term. After that term, they come up for their first retention election
  - If a judge or justice is retained after term, they can serve subsequent terms of the following lengths before coming up for retention again:
    - County Court judges – 4 years; District Court judges – 6 years; Court of Appeals judges – 8 years; Supreme Court justices – 10 years
- Performance evaluation
  - Judicial performance evaluation commissions
    - There are 10-member judicial performance evaluation commissions in each of the 23 judicial districts. The governor appoints two non-lawyers, the Chief Justice appoints two lawyers, the President of the Senate and Speaker of the House each appoint one lawyer and one non-lawyer, and the Minority Leaders of the Senate and House each appoint one non-lawyer to each commission
    - There is an 11-member statewide judicial performance evaluation commission for judges and justices serving on the Colorado Court of Appeals and Supreme Court. Its members are appointed in a similar manner except that the governor also appoints one lawyer
- The evaluation
  - The process
    - Self-evaluation by the judge
    - Surveys of other judges, lawyers, parties, jurors, court staff, and law enforcement
    - Interview judge's supervising judge (e.g., judge's chief judge)
    - Sometimes interview the local district attorney and public defender
    - Observe the judge in court
    - Interview the judge
    - After considering all of this information, the commission authors a report indicating whether a justice or judge meets performance standards or does not meet performance standards
  - Criteria
    - Integrity and judicial temperament
    - Knowledge and understanding of substantive, procedural, and evidentiary law
    - Communication skills
    - Preparation, attentiveness, and control over judicial proceedings
    - Docket management and prompt case disposition
    - Administrative skills
    - Effectiveness in working with participants in the judicial process
    - Service to the legal profession and the public

# BECOMING A COLORADO STATE JUDGE

## Lesson Instructions



### INTRODUCTION (2 minutes)

Begin class by explaining: “Today we are going to talk about what qualities are needed to become a judge as well as how judges are selected and retained in Colorado. We are going to start with an activity where you will review possible qualities for a judge and determine which you think are essential, desirable, undesirable, or unnecessary qualities. Then write your own definition of a good judge. You don’t have to use all of the qualities listed and can think of your own.” (Optional: Please write some questions that you would ask to determine whether the candidate has these qualities.)

### WARMUP

Divide students into groups. Hand out the “What Makes a Good Judge?” and “Qualities of a Good Judge” worksheets.

### Judge Qualities Activity (15 minutes)

Have students complete worksheet, write a definition and prepare optional questions for candidates.

### Discussion (5 minutes)

Ask a few students to share their definitions or write them on the board to open discussion about what makes a qualified or unqualified judge.

### DIGGING IN

### Lecture or Reading (15 minutes)

Share the lecture provided about becoming a state judge, or show [the video about how judges are selected](#) or divide students into small groups and assign sections of the reading. Have students take notes while you are lecturing, watching the video or about the reading using a graphic organizer.

### Judge Evaluation Activity (15 minutes)

Divide students into small groups. Hand each group a judicial evaluation. Have students read the evaluation out loud or do a read around.

Ask students to discuss in their groups the following questions:

- Based on the qualities you identified, do you think this judge should have been retained?
- After reading the evaluation, has your list of qualifications for a judge changed?

### EXIT TICKET (2 minutes)

Have students update their definition of what qualities are needed for judges.

### EXTENSION ACTIVITIES

- Have students compare and contrast the federal judicial selection system and Colorado’s merit selection system, identifying positive and negative attributes of each.
- Ask students to compare and contrast Colorado’s merit selection system with the systems in states that elect judges in partisan political elections, identifying positive and negative attributes of each.
- Have students write responses to the following questions, referencing the reading material provided with this lesson:
  - What is your opinion of the judicial nominating and retention process?
  - Under what circumstances would you vote to have a judge removed from office?

# BECOMING A COLORADO STATE JUDGE

## Worksheet: What Makes a Good Judge?



### WHAT MAKES A GOOD JUDGE?

*Adapted from "What makes a good Supreme Court Justice" by Debra Hallock Phillips*

Assume that you are appointed to a committee to determine what qualities we should consider in selecting judges in Colorado. Review the qualities listed below and categorize them on the chart provided under the most appropriate heading. You don't need to use all the qualities, and you can also write down others not listed here.

Following the activity, develop a definition for a "good" judge.

- |                                   |                        |                       |
|-----------------------------------|------------------------|-----------------------|
| Female                            | Humane                 | Prosecution oriented  |
| Old and wise                      | Traditional            | Defense oriented      |
| Mediator                          | Well-educated          | Opposes school prayer |
| Fair                              | Democrat               | Ethnic minority       |
| Radical                           | Liberal                | Opposes higher taxes  |
| Determined                        | Controversial          | Civil rights activist |
| Youthful                          | Strong communicator    | Held public office    |
| Pro-environment                   | Family-oriented        | Skeptical             |
| Friendly                          | Supports welfare       | Firm and in control   |
| Member of a gender-specific group | Lobbyist               | Business background   |
| Good campaigner                   | Trustworthy            | Pro death penalty     |
| Aggressive                        | Risk-taker             | Distinguished lawyer  |
| Self-reliant                      | Feminist               | Follows party line    |
| Honest                            | Religious              | Middle of the road    |
| Good looking                      | Loyal                  | Tough on crime        |
| Clear thinker                     | Impartial              | DWI conviction        |
| Concise writer                    | Service to the public  | Eminent legal scholar |
| Rural background                  | Good fundraiser        | Brilliant mind        |
| Perceptive                        | Trial attorney         | Judicial experience   |
| Male                              | U.S. citizen           | Bilingual             |
| Single parent                     | Independent thinker    | Legal experience      |
| Good health                       | Strict constructionist | Patient               |
| Conservative                      | Christian              | Unbiased              |
| Honest                            | Open minded            |                       |
|                                   | Strong manager         |                       |

# BECOMING A COLORADO STATE JUDGE

## Worksheet: Qualities of a Good Judge



### QUALITIES OF A GOOD JUDGE

List the qualities from “What Makes a Good Judge” sheet in the boxes below. Feel free to add other qualities not listed above.

Essential	Desirable	Undesirable	Unnecessary

**Your definition of a good judge:**

**(If assigned) Possible questions to determine whether the candidate has these qualities:**

# BECOMING A COLORADO STATE JUDGE

## Handout: Judicial Evaluation #1



### JUDGE #1

A Judicial District Commission on Judicial Performance finds [this judge] DOES NOT MEET PERFORMANCE STANDARDS. Five members of the Commission voted that [this judge] does not meet performance standards, while one voted that he does meet performance standards (three members did not participate and there is one vacancy on the Commission).

[This judge] has been serving as a County Court Judge for three years. This is a part-time position. [This judge] is a lay judge with no prior formal legal training or experience. The Commission conducted an interim evaluation in the spring of 2019, which identified significant deficiencies in the areas of application and knowledge of the law, communications, diligence, and case management. As a result of these deficiencies, the Commission recommended [this judge] complete a Performance Improvement Plan (PIP) focused on mastering legal procedure. As part of the PIP, [this judge] observed other judges in the courtroom and had a senior judge observe and critique some of his own courtroom proceedings. He has sought the continued guidance and mentorship of that senior judge from time to time. He has also developed written tools to aid him on the bench and availed himself of bench book materials available to judges. Overall, the Commission found [this judge] did satisfactorily follow the PIP, although it notes that he did not follow the Commission's recommendation that he begin regularly utilizing written orders, rather than making only oral rulings.

While admittedly the types of cases that usually come before [this judge] are of a nature that oral rulings are often sufficient, the Commission felt that developing and using written orders would assist [this judge] in honing his skills. Nonetheless, it was evident that [this judge] took the Committee's feedback to heart, has made concerted efforts to improve his performance since the interim evaluation, and remains committed to continued learning and professional development. Indeed, [this judge]'s receptiveness to constructive feedback and willing attitude are notable strengths. However, the Commission continues to have concerns. Of the judicial performance criteria that the Commission is tasked with evaluating, the areas of greatest concern continue to be legal knowledge and communication skills, while the areas of greatest strength are integrity and judicial temperament. By all accounts and based upon the Commission's interactions and observations, [this judge] is kind, fair, and even tempered. The Commission does not believe any available additional training is likely to remedy the identified deficiencies in a timely manner.

The Commission conducted two personal interviews with [this judge]. It also reviewed transcripts and recordings of court proceedings; written materials, including a self-evaluation and orders issued; an appellate order reversing one of [this judge]'s rulings in part; and interim survey results. The Commission was unable to consider subsequent survey results due to an insufficient number of responses. Prior to his appointment, [this judge] was a semi-retired financial advisor and consultant.

**Judge's response:** A County Court's Jurisdiction is limited to lesser crimes and misdemeanors. The knowledge and experience required of a county judge is less than that of a judge in a higher court, and the satisfactory performance standards for all trial judges measured by the expected legal background and experience in the court room. Over the last three years, as a lay judge, extensive legal knowledge and experience has been acquired to adequately perform in the position. I believe my overall performance is satisfactory. Justice continues to be served and the public trust and confidence has been maintained. I am committed and confident in my abilities.

# BECOMING A COLORADO STATE JUDGE

## Handout: Judicial Evaluation #2



### JUDGE #2

A Judicial District Commission on Judicial Performance finds that [this judge] DOES NOT MEET PERFORMANCE STANDARDS, by a vote of 4-3 (with three members absent and not voting). The judicial performance standards are: integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and the public.

[This judge] exhibits some strengths as a judge, particularly with regards to her integrity. She is compassionate, thoughtful, and runs an impartial courtroom. However, the majority of the commission found her legal knowledge and administrative performance in need of further development. Her interpretation and application of the law at times is inconsistent. Her demonstrated discomfort from the bench with certain defendant situations has called into question her judicial temperament.

Since her initial evaluation a year ago, [this judge] has taken steps to improve her docket management but still struggles with administrative efficiency. [This judge] has taken proactive measures to improve in those areas, and several Commissioners believe that with an adequate performance-improvement plan she might advance her legal knowledge and administrative performance enough to meet performance standards.

But as of the date of her evaluation, the majority of Commissioners believe that her need for improvement remains. In evaluating [this judge], the Commission afforded her two interviews, read a selection of her legal opinions, observed her in court, reviewed survey results from both attorneys and non-attorneys who have appeared before her, interviewed representatives from the district attorney's and public defender's office, reviewed her self-evaluation, and met with the Chief Judge. Additional written input was received from the court clerk's office, the Chief Judge, and the district attorney.

[This judge] was appointed by Governor Polis and took the bench October 1, 2023. She was a judge advocate and air combat command in the U.S. Air Force. She earned her B.A. from the University of New Mexico and her J.D. from the University of Denver, Sturm College of Law.

**Judge's Response:** This job is a privilege to hold, and I acknowledge the Commission's comments, favorable and unfavorable. Case closure rates have improved by 59% with only 13% of 630 open cases being greater than six months old—the benchmark is 20%. My appeal rate is less than ½% with no cases overturned due to knowledge or application of the law. I have supportive judicial mentors who assist with the steep learning curve of the job. I encourage everyone to observe my courtroom and see for themselves. I am dedicated to serving my community of 17 years with integrity, humility, and compassion.

# BECOMING A COLORADO STATE JUDGE

## Handout: Judicial Evaluation #3



### JUDGE #3

The State Commission on Judicial Performance finds that [this judge] MEETS PERFORMANCE STANDARDS by a vote of 10–0 with one recusal. The Colorado statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and the public.

[This judge] has been a member of the Colorado Supreme Court since 2021. The Commission finds that [this judge] received high scores in all areas in her 2024 Evaluation including fairness and impartiality, issuing timely written opinions solidly based upon the facts and law, and being a leader in effective judicial administration and community service. These scores are consistent with the high scores she received in her 2023 Interim Evaluation. Comments from attorneys and judges include that she is thoughtful, practical, kind, and respectful in her approach to the parties, counsel, and other justices. Her written opinions are clear and well-organized. The Commission was especially impressed with [this judge's] leadership in addressing the issues raised by the lawyers' and judges' use of artificial intelligence and her positive efforts to help achieve team collaboration among other members of the judiciary, law clerks, and staff.

To conduct the evaluation, the Commission interviewed [this judge], reviewed her self-evaluation, observed Oral Arguments, read a selection of her legal opinions, and considered survey responses from attorneys and judges. One survey question asked whether [this judge] met judicial performance standards. Of the attorneys who responded to that question, 91% answered yes and 9% answered no. Of the judges who responded to that question, 100% answered yes. A total of 54 attorneys and judges responded to the survey.

Prior to her appointment to the Colorado Supreme Court, [this judge] served as a District Court Judge in the Twentieth Judicial District from 2006 to 2013 and served as the Chief Judge of the Twentieth Judicial District from 2013 to 2017. Following her District Court experience, [this judge] conducted complex mediations, arbitrations, and judge pro tem appointments while at the Judicial Arbiter Group, Inc. Prior to her judicial experience, she led the Antitrust, Consumer Protection and Tobacco Litigation Units of the Colorado Attorney General's Office and was in private practice at Holmes & Starr, P.C. in Denver. She also clerked for Justice Howard M. Kirshbaum of the Colorado Supreme Court after graduating from the University of Denver Sturm College of Law in 1987.

# BECOMING A COLORADO STATE JUDGE

## Handout: Judicial Evaluation #4



### JUDGE #4

The State Commission on Judicial Performance finds that [this judge] MEETS PERFORMANCE STANDARDS, by a vote of 10–0 with one recusal. Colorado’s statutory judicial performance standards are integrity, legal knowledge, communication skills, judicial temperament, and service to the legal profession and the public.

[This judge] has been on the Colorado Court of Appeals since July 2021, and this is his first time standing for retention as a Court of Appeals Judge. The Commission finds that his opinions are timely, clear, and well-reasoned. At Oral Arguments, he is well-prepared, succinct in his questions, and respectful. The Commission commends [this judge] for his collegiality and collaboration among his colleagues, for his work on a special division to help reduce the court’s COVID backlog, and also for his work as the Co-Chair of the Appellate Courts Technology Committee. In sum, the Commission find [this judge] is a valuable addition to the Court of Appeals.

To conduct our evaluation, the Commission interviewed [this judge], reviewed his self-evaluation, observed Oral Arguments, read a selection of his legal opinions, and considered survey responses from attorneys and judges. Survey respondents agreed [this judge] meets judicial performance standards. 88% of attorneys and 100% of judges who responded to that question answered “yes.” He received an overall score of 3.7 on a 4.0 scale. [This judge] received positive comments from lawyers for his preparation and temperament at oral argument, and comments from fellow judges for his collegiality and work ethic. A total of 18 attorneys and 24 judges responded to the survey.

[This judge] joined the Colorado Court of Appeals in 2021. He earned his undergraduate degree from Colorado College and his law degree from the University of Denver. He started his career in private practice handling probate and estate planning matters. He moved to the Colorado Department of Law where he served as a Senior Assistant Attorney General in the Health Care and Public Officials Units. In those roles, he handled all aspects of advice, litigation, and appeals, focusing on healthcare, public health, and complex constitutional and legal questions faced by elected officials and government agencies. He is an active member of the Minoru Yasui Inn of Court and is a trustee for a national foundation focused on innovations in aging.

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# BECOMING A COLORADO STATE JUDGE

## Reading: The Merit Selection System



*by Supreme Court Justice Richard L. Gabriel*

The way federal judges are selected is reasonably well known: the president nominates a candidate, the Senate Judiciary Committee holds hearings, and the full Senate confirms the appointment. That process has received ample attention, particularly when the president nominates someone to serve on the United States Supreme Court.

Less well known is how states select their judges. Most states elect judges, many through partisan elections that include candidate fundraising and media advertising.

In 1966, Colorado voters adopted a constitutional amendment aimed at taking judges out of politics. This amendment created a judicial merit selection system by which judges apply to nonpartisan nominating commissions that conduct comprehensive reviews of the judicial applicants' backgrounds and qualifications. The commission provides a slate of two or three finalists to the Colorado governor, who appoints a candidate after further reviewing the candidates' qualifications.

After being appointed, judges are evaluated periodically by nonpartisan judicial performance evaluation commissions, which determine and then report to the public whether the judges meet or do not meet certain identified performance standards. Voters thereafter decide, in a nonpartisan election, whether the judge should continue to serve.

In addition to the judicial evaluation process, Colorado has an independent judicial disciplinary commission that may take action to deal with a judge's unethical or improper behavior.

### **Colorado's Merit Selection System for Selecting Judges**

Colorado is divided into 23 judicial districts. Each district has a judicial nominating commission comprised of seven members (four non-lawyers and three lawyers). The non-lawyers are appointed by the governor, and the lawyers are appointed jointly by the governor, the attorney general, and the chief justice. By law, not more than four members of the nominating commission can be from the same political party. The district nominating commissions are involved in selecting Colorado's district court and county court judges (i.e., Colorado's trial court judges). The Denver County Court has its own nominating commission, but the process parallels the state district nominating commissions.

In addition, Colorado has a statewide judicial nominating commission. This commission is comprised of 17 members (nine non-lawyers and eight lawyers). Again, the governor appoints the non-lawyers, and the governor, the attorney general, and the chief justice jointly appoint the lawyers. The statewide nominating commission, which includes one non-lawyer and one lawyer from each congressional district and one non-lawyer at large, cannot have more than nine members from the same political party. The statewide nominating commission is involved in selecting Colorado's Supreme Court justices and Court of Appeals judges (i.e., Colorado's appellate court judges).

The composition of the judicial nominating commissions reflects an intention to ensure the commissions remain nonpartisan. Although the law prohibits any political party from having a majority of more than one on any nominating commission, in practice, commissions have historically included relatively equal numbers of Republicans, Democrats, and politically unaffiliated or

# BECOMING A COLORADO STATE JUDGE

## Reading: The Merit Selection System (con't)



independent members. The commission's composition also reflects a desire to ensure that non-lawyers have an important voice in the judicial selection process.

### **Filling a Judicial Vacancy**

When a judicial vacancy arises, the Colorado Judicial Department announces the vacancy, and qualified candidates may apply to the relevant judicial nominating commission. In general, candidates are required to be lawyers and must have practiced law for at least five years. In Colorado counties with populations of under 35,000, however, candidates for county court positions do not have to be licensed to practice law but must have graduated from high school or have attained the equivalent of a high school education. Candidates must be registered electors in the district or county in which they will serve on the date they are sworn in as judges.

The applications for judicial positions are detailed, and they are designed to allow the nominating commissioners to consider whether the candidate has the attributes necessary to ensure success as a judge (e.g., knowledge of the law, relevant legal experience, personal integrity and professionalism, and an appropriate judicial temperament). Thus, the application asks for detailed information regarding, among other things, candidates' prior residences, educational backgrounds, and work histories; a listing of five cases in which the candidate was involved (listing all of the other attorneys and their contact information, to allow commissioners to contact those attorneys for information about the candidate); a recitation of any lawsuits in which the candidate was involved as a party or a witness; an indication as to whether the candidate has ever been charged with a crime, been the subject of an ethics complaint, or failed to file their taxes on time; a narrative indicating why the candidate would like to be a judge; letters of reference; and, for appellate judge candidates, a writing sample. Notably, the application does not ask the candidate's political affiliation.

Once the nominating commission receives the applications, the commissioners meet to determine which candidates the commission would like to interview. The commission then conducts the interviews and recommends two or three individuals to the governor for consideration (three nominees must be submitted for an appellate judgeship). The commission has 30 days from the date the vacancy is announced to send the names to the governor. So, this process is expeditious.

Once the governor receives the names of the candidates, the governor solicits and receives information about the candidates from the community and from bar association groups and typically interviews the candidates (the governor's staff members usually attend these interviews as well). The governor then has 15 days to appoint a candidate from the nominating commission's list. If the governor does not act in that time period, then the chief justice appoints one of the individuals recommended by the commission.

### **Colorado's Judicial Performance Evaluation Process**

Unlike federal judges, Colorado state court judges are not appointed for life. Instead, every new Colorado state court judge, including every new Supreme Court justice, serves a two-year provisional term. The judge is subject to a retention vote during the next general election occurring in an even-numbered year. If the justice or judge is successfully retained by the voters in an election, then the justice or judge must periodically stand for retention. By law, county court judges serve for four years

# BECOMING A COLORADO STATE JUDGE

## Reading: The Merit Selection System (con't)



before again appearing on the general election ballot; district court judges stand for retention every six years; a Court of Appeals judge must face the voters again in eight years; and a Supreme Court justice will serve for a 10-year period before again standing for retention. All Colorado state court justices and judges must retire by age 72.

As noted above, judicial retention elections in Colorado are nonpartisan. Justices and judges who stand for retention are generally not allowed to campaign, and no one runs against the justice or judge on the ballot. Rather, the ballot simply asks voters whether the justice or judge should be retained in office, with the voter voting “yes” or “no.”

So, how do voters, and especially non-lawyers, obtain sufficient information to allow them to vote on judges in an educated way? Since 1988, nonpartisan judicial performance evaluation commissions have been charged with evaluating Colorado state judges and sharing the evaluation results with the public.

Each of Colorado's 23 judicial districts has a judicial performance evaluation commission composed of 10 members (six non-lawyers and four lawyers) that is tasked with evaluating Colorado's District Court and County Court judges. In addition, a statewide judicial performance evaluation commission composed of 11 people (six non-lawyers and five lawyers) is tasked with evaluating Colorado's Court of Appeals judges and Supreme Court justices. In the district commissions, the governor appoints two non-lawyers, the chief justice appoints two lawyers, the Senate president and the Colorado House of Representatives speaker appoint one lawyer and one non-lawyer, and the minority leaders of the Senate and the House each appoint one non-lawyer. The appointments for the statewide commission are the same except that the governor also appoints one lawyer. These commissions are separate and independent from the judicial nominating commissions discussed above.

The judicial performance commissions use the following criteria, among others, when evaluating a judge's performance:

- integrity and judicial temperament;
- knowledge and understanding of substantive, procedural, and evidentiary law;
- communication skills;
- preparation, attentiveness, and control over judicial proceedings;
- docket management and prompt case disposition;
- administrative skills;
- punctuality;
- effectiveness in working with participants in the judicial process; and
- service to the legal profession and the public.

To determine whether a judge has these attributes, the commissions obtain a detailed self-evaluation from the judge; survey other judges, lawyers, parties, jurors, court staff, and law enforcement; interview the judge's supervising judge (e.g., the judge's chief judge); sometimes interview the local district attorney and public defender; observe the judge in court; and interview the judge. After compiling information from these sources, the commissions develop a narrative for each judge, stating whether the judge “meets performance standards” or “does not meet performance

# BECOMING A COLORADO STATE JUDGE

## Reading: The Merit Selection System (con't)



standards” (and indicating the vote of the commission on that subject, e.g., a 10-0 vote, an 8-2 vote, etc.). These narratives also contain biographical information about the judge, a recitation of the commission’s methodology for compiling the evaluation report, and a statement of the reasons supporting the commission’s determination.

Once the narrative is prepared, a draft is shared with the judge, and if the judge has questions or concerns, the judge can ask the commission for corrections or modifications or request another interview. Once the commission finalizes its evaluation, the judge makes a final decision as to whether to stand for retention. If the judge receives an unfavorable recommendation but chooses to stand for retention, then the judge is given the opportunity to draft a brief response to the commission’s evaluation, and the judge’s response will be published with the commission’s report.

Since 1998, the commission’s narratives (and any responses from the judge) have been published in the “Colorado Voter Information Guide,” also known as the “Blue Book,” which is published by the Colorado Legislature and sent to every voter household prior to the general election. In addition, these narratives, the commission’s full survey results, and other valuable information about the judicial performance evaluation process are available on the Colorado Judicial Performance Evaluation Commission’s website: [judicialperformance.colorado.gov/](http://judicialperformance.colorado.gov/). These resources help Colorado voters educate themselves and make informed decisions about judges who are standing for retention.

In addition to informing voters about the abilities and record of those serving on the bench, the evaluation process provides valuable feedback to the judges and can help them to improve their judicial skills.

### **The Colorado Judicial Discipline Process**

Finally, Colorado judges’ performance is overseen by the independent Colorado Commission on Judicial Discipline, which is charged with reviewing allegations of judicial misconduct, including alleged violations of the Colorado Code of Judicial Conduct. Originally created in 1966, this commission is comprised of 10 members: two county court judges and two district court judges who are appointed by the Chief Justice and two lawyers and four citizens who are neither lawyers nor judges who are appointed by the Governor.

For further information on the Colorado Commission on Judicial Discipline, see the Commission’s webpage: <https://ccjd.colorado.gov/>

# TIPS FOR DIVERSE LEARNERS



- Post key terms on the board or on the screen for students to revisit.
- Introduce key vocabulary the day before the lesson and review before teaching the content, either through a handout or a document you create using your school's virtual classroom tool.
- Consider having students make a drawing or sketch about the concepts being taught, which could be posted in the room to aid with learning. Prompt students to use these drawings and other visuals to remember vocabulary words or skills that have been taught.
- Combine students with varying learning abilities, interests, language proficiencies, or other skill strengths into groups of two or more for the reading activity to provide peer support throughout a lesson. You may want to alter the makeup of working groups according to the activity at hand, e.g. sometimes heterogeneous grouping is appropriate, where at other times, same-language or more homogenous groups may work best.
- Provide a T-chart or graphic organizer for note taking, or project one as you are teaching the content to help students track on the content.
- Allow students to demonstrate their knowledge through a range of options, such as written responses, presentations, projects or oral assessments.
- Empower students to share their thoughts and experiences about how the concept being taught has impacted Americans throughout history.
- Work with a partner or in a small group.
- Assign roles to students to help them in completing activities.
- Add pictures, photos or other visual aids to help explicitly teach skills.
- Try different discussion techniques, including jigsaw, fishbowl or wrap around.

# EDUCATIONAL RESOURCES



## COLORADO JUDICIAL DEPARTMENT RESOURCES

Lesson Plans: [coloradojudicial.gov/community-and-educational-resources/lesson-plans](https://coloradojudicial.gov/community-and-educational-resources/lesson-plans)

Supreme Court or Court of Appeals tours: [cjlccolorado.gov/book-a-tour-of-the-ralph-l-carr-judicial-center](https://cjlccolorado.gov/book-a-tour-of-the-ralph-l-carr-judicial-center)

Visit the Judicial Learning Center: [cjlccolorado.gov](https://cjlccolorado.gov)

## JUDICIAL DEPARTMENT INFORMATION

Colorado Supreme Court: [coloradojudicial.gov/supreme-court](https://coloradojudicial.gov/supreme-court)

Colorado Court of Appeals: [coloradojudicial.gov/court-appeals](https://coloradojudicial.gov/court-appeals)

Map of Colorado Judicial Districts: [coloradojudicial.gov/colorado-judicial-district-map](https://coloradojudicial.gov/colorado-judicial-district-map)

Supreme Court Library: [cjlccolorado.gov/colorado-supreme-court-library](https://cjlccolorado.gov/colorado-supreme-court-library)

## OTHER EDUCATIONAL RESOURCES

Glossary of Legal Terms: [uscourts.gov/glossary](https://uscourts.gov/glossary)

Ben's Guide to the U.S. Government: [bensguide.gpo.gov](https://bensguide.gpo.gov)

Bill of Rights Institute: [billofrightsinstitute.org](https://billofrightsinstitute.org)

Center for Civic Education: [civiced.org](https://civiced.org)

Digital Civics Toolkit: [digitalcivicstoolkit.org](https://digitalcivicstoolkit.org)

iCivics: [vision.icivics.org](https://vision.icivics.org)

Colorado Council for the Social Studies: [coloradocouncilforthesocialstudies.org](https://coloradocouncilforthesocialstudies.org)

Annenberg Guide to the Constitution: [annenbergclassroom.org/constitution](https://annenbergclassroom.org/constitution)

Constitution Annotated: [constitution.congress.gov](https://constitution.congress.gov)

The Constitutional Sources Project (ConSource): [consource.org](https://consource.org)

Teach Democracy: [teachdemocracy.org/curriculum](https://teachdemocracy.org/curriculum)

The Rendell Center for Civics and Civic Education: [rendellcenter.org](https://rendellcenter.org)