New Judges Need Clerks, Too!
Tips and Tools for Applying to Newly- or Nearly-Confirmed Federal Judges

Marilyn F. Drees, Director, Career Development Office, Yale Law School
Elizabeth K. Peck, Assistant Dean for Clerkships, Cornell Law School

A new Presidential administration means a new start to federal judicial confirmations. Those new judges will need clerks to assist them. The clerkship process for these new judges, however, may seem even less straightforward than the "regular" clerkship process. A quick refresher on the Senate's judicial confirmation process and a few strategic tips will assist you in making the most of these new opportunities.

First, a brief primer on the steps from nomination to confirmation:

After the White House nominates a candidate, the nominee is referred to the Senate Judiciary Committee, and she must complete a detailed Biographical Questionnaire (which, once posted on the Committee website, can be invaluable for applicants researching a nominee). The Committee will calendar a hearing on the nomination; however, the hearing can be calendared many times. Once the hearing is actually held, and follow-up written questions answered, the Committee votes to report the nominee to the full Senate (that vote can also be rescheduled many times). The Committee may report the nominee to the Senate favorably, unfavorably, or without recommendation. Alternatively, the Committee may take no action, and the nomination is returned to the President. If the nominee is reported to the full Senate, a majority must vote for confirmation. Over the last 10-15 years, the typical time from nomination to confirmation has been at least 100 days, with some nominees waiting upwards of 300 days.

Newly confirmed federal judges will typically hire clerks in short order. The number of vacancies will depend on the type of court. In addition, new judges who are already on the bench may bring one or more of their clerks with them (e.g., a federal district judge moving to a federal circuit court, or a state judge moving to a federal court).

It seems obvious that students and alumni would apply for clerkships with these new judges immediately after confirmation. But, should you apply sooner? For students, the answer is most likely, “No.” The new judges' top priority is finding clerks who can start immediately. Student applicants, offering their services for one or more years in the future, can be ignored or overlooked if applying too soon. Alumni can take a different approach because they can leave their current jobs to clerk for a new judge rather quickly.

Because they are expected to hit the ground running, nominees may quietly begin considering applications while their nomination is pending, when signs are positive. Given the uncertainty of the confirmation process, what indicators can help potential applicants? The earliest indication of progress is the Senate Judiciary Committee hearing; applications before the hearing is completed are probably premature. An affirmative Committee vote to send the nominee to the full Senate is a stronger indicator and may offer an appropriate opening for an application.
Should an alumni applicant who applied pre-confirmation reapply post-confirmation if he heard nothing during the nomination process? Most certainly. If the newly confirmed judge posts a position to OSCAR or her website, the alumni applicant should reapply. Even without a formal notification that the judge is hiring, the applicant can write to the judge, congratulating her on her confirmation (that you have so dutifully been following) and include application materials.

In the absence of specific information, you should submit the standard materials. The cover letter should acknowledge the nominee’s status (e.g., understand that the nomination is pending with the full Senate or that the judge has been recently confirmed) and request the nominee consider the application when it is appropriate for her. Obviously, it is also important for you to be clear about your own availability.

It is generally not difficult to find the current workplace of a nominee, and a paper application packet can be sent to that address. It is often possible to find a nominee’s email address, in which case a PDF application could be submitted. Immediately after confirmation, candidates should mail applications to the court on which the judge will sit.

Additionally, here are some useful websites for monitoring nominations:

US Senate Judiciary Committee Page
https://www.judiciary.senate.gov/nominations/judicial

US Senate Nominations Page
www.senate.gov/reference/Nominations/Index.htm

USDOJ Office of Legal Policy Page
https://www.justice.gov/olp/judicial-nominations

Judicial Vacancies Page – Administrative Office of the US Courts
http://www.uscourts.gov/judges-judgeships/judicial-vacancies

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