

**Senator Grassley  
Questions for the Record**

**Rebecca Goodgame Ebinger  
Nominee, U.S. District Judge for the Southern District of Iowa**

**1. What is the most important attribute of a judge, and do you possess it?**

Response: A good judge must possess many positive attributes, including integrity, a keen intellect, patience, a strong work ethic, and a commitment to the rule of law. The most important attribute a judge must possess, however, is humility. A humble judge treats the attorneys and litigants who come before her with respect and courtesy; recognizes the limits of her authority; and appreciates her role within our constitutional system. I believe I possess humility and would continue to be humble, should I be so fortunate as to be confirmed.

**2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: Appropriate judicial temperament is courteous and respectful. A judge must remain dispassionate; she must treat each person who comes before her with dignity and apply the law fairly and impartially. I believe I have demonstrated appropriate judicial temperament as a state court judge, and should I be so fortunate as to be confirmed, I will continue to treat all who come before me with dignity and respect.

**3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents.**

Response: Should I be so fortunate as to be confirmed to the District Court for the Southern District of Iowa, I would faithfully follow and apply the binding precedents of the United States Court of Appeals for the Eighth Circuit and the United States Supreme Court. My personal opinion would have no bearing on my fair and impartial application of all binding precedent.

**4. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: Should I be confirmed and presented with a case of first impression, I would be guided by the text of the provision at issue. If the text of the statute, regulation, or rule

at issue were clear, I would apply the plain and ordinary meaning of the text to the specific facts of the case before me. If the language were ambiguous, I would look to established canons of interpretation and construction to interpret and apply the provision. I would rely upon cases in the United States Court of Appeals for the Eighth Circuit and the United States Supreme Court interpreting analogous provisions for guidance.

- 5. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: As a United States District Court judge, I would faithfully follow and apply all binding precedents of the United States Court of Appeals for the Eighth Circuit and the United States Supreme Court, regardless of my personal view of any such decisions.

- 6. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Should I be confirmed, I would begin consideration of any constitutional challenge to a statute with the understanding that statutes enacted by Congress are presumed to be constitutional. *See United States v. Morrison*, 529 U.S. 598, 607 (2000). I would follow binding precedent and invalidate a statute “only upon a plain showing that Congress has exceeded its constitutional bounds.” *Id.* Additionally, under the doctrine of constitutional avoidance, I would consider whether the statute could be interpreted in such a way as to avoid the conclusion that it is unconstitutional. *See Clark v. Martinez*, 543 U.S. 371, 381 (2005).

- 7. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: In general, it is not proper for a judge in the United States to rely upon foreign law, or the views of the “world community,” in determining the meaning of the United States Constitution. As a district court judge, I would only look to foreign law to interpret the United States Constitution to the extent required by the binding precedents of the United States Supreme Court or the United States Court of Appeals for the Eighth Circuit. *See, e.g., United States v. Jones*, 132 S. Ct. 945, 949 (2012) (citing English common law in determining the scope of the Fourth Amendment).

- 8. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: Should I be confirmed, all of my decisions will be grounded in precedent and the text of the applicable law. Political ideology or motivation has no place in our judicial

system and will play no part in my decisions. The Committee can look to my tenure as a state court judge for assurance that I will continue to faithfully follow precedent and will not be motivated by any political ideology.

**9. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Should I be confirmed, I will treat all who appear before me with dignity and respect. My personal views will have no bearing on my decision making. The Committee can look to my tenure as a state court judge for assurance that I will continue to be fair to all who enter my courtroom and render decisions based upon the faithful application of the law and not my personal views.

**10. If confirmed, how do you intend to manage your caseload?**

Response: Having presided over a busy state court docket, I understand the importance of efficiently managing my caseload and rendering timely and thoughtful opinions on filed motions. I would actively engage counsel for all parties to work towards an efficient resolution of each case. I would make myself available for scheduling conferences or hearings to resolve discovery disputes, as appropriate. I would also work closely with Magistrate Judges to ensure the efficient use of judicial resources and the timely resolution of contested matters.

**11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Judges play an important role in controlling the pace and conduct of litigation. Should I be confirmed, I would set firm expectations and deadlines in each case to ensure against inappropriate delays in the resolution of cases. I would also rule promptly on motions so as to not cause unnecessary delays.

**12. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: In cases that currently come before me, I begin by carefully reading the parties' filings and reviewing any materials related to the issues at hand, such as an appendix or administrative record, prior to a scheduled hearing. At the hearing, I listen to the arguments of counsel and ask any questions raised by my review of the briefing, the submitted materials, or the oral argument. After submission, I conduct independent research on the applicable law governing the issue—as a trial court judge in Iowa, that typically means Iowa statutes and binding precedent from the Iowa Court of Appeals and

the Iowa Supreme Court. I then apply the law to the facts and draft an opinion that thoroughly analyzes and resolves all issues raised by the parties.

- 13. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not familiar with this statement or its context. Should I be confirmed as a federal district judge, I will base my decisions on the applicable law and binding precedent. I will fairly and impartially apply the law to the relevant facts of each case.

- 14. Please describe with particularity the process by which these questions were answered.**

Response: I received these questions from the Office of Legal Policy of the United States Department of Justice on October 28, 2015. I reviewed the questions, conducted necessary research, and drafted my responses. I forwarded a draft of my responses to the Office of Legal Policy. After reviewing my responses with the Office of Legal Policy, I finalized my responses and authorized the submission of my responses to the Committee.

- 15. Do these answers reflect your true and personal views?**

Response: Yes.

**Written Questions of Senator Jeff Flake**  
U.S. Senate Committee on the Judiciary  
*Judicial Nominations*  
*Responses of Rebecca Goodgame Ebinger*  
*Nominee for the United States District Court for the Southern District of Iowa*  
October 27, 2015

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**1. What is your approach to statutory interpretation? Under what circumstances, if any, should a judge look to legislative history in construing a statute?**

Response: In interpreting a statute, the text controls. If the text of the statute is clear, I apply the plain and ordinary meaning of the text to the specific facts of the case before me. If the statutory language is ambiguous, I look to established canons of interpretation and construction to interpret and apply the provision. Should I be confirmed as a federal district judge, I would rely upon cases in the United States Court of Appeals for the Eighth Circuit and the United States Supreme Court for guidance in interpreting a given statute. I would rely upon legislative history to interpret an ambiguous statute only to the extent required by binding precedent from the United States Court of Appeals for the Eighth Circuit and the United States Supreme Court. *See, e.g., Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 567–68 (2005).

**2. What is the proper scope of the 10th Amendment to the Constitution? In what circumstances should a judge apply it?**

Response: The Tenth Amendment to the United States Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Should I be confirmed as a federal district judge, I would follow United States Supreme Court precedent to interpret the scope of the Tenth Amendment and to determine when it should be applied. *See, e.g., New York v. United States*, 505 U.S. 144 (1992).

**3. Does current standing doctrine foster or impede the ability of litigants to obtain relief in our legal system?**

Response: Should I be so fortunate as to be confirmed as a United States District Court Judge, I will faithfully apply the current standing doctrine set forth by the United States Supreme Court and the United States Court of Appeals for the Eighth Circuit. *See, e.g., Arizona State Legislature v. Arizona Indep. Redistricting Com’n*, 135 S. Ct. 265 (2015). My personal opinion on the current standing doctrine will have no bearing on my ability to fairly and impartially apply the law.