

## **JUDGESHIP RECOMMENDATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES**

### **JUDICIAL CONFERENCE PROCESS**

In developing judgeship recommendations for consideration by Congress, the Judicial Conference, through its committee structure, uses a formal survey process to review and evaluate Article III judgeship needs, regularly and systematically. The nationwide surveys of judgeship needs are based on established criteria related to the workload of the judicial officers. These reviews are conducted biennially by the Committee on Judicial Resources (Committee), with final recommendations on judgeship needs approved by the Judicial Conference.

The recommendations are based on justifications submitted by each court, the recommendations of the judicial councils of the circuits, and an evaluation of the requests by the Committee using the most recent caseload data. During each judgeship survey, the Judicial Conference reconsiders prior, but still pending, recommendations based on more recent caseload data and makes adjustments for any court where the workload no longer supports the need for additional judgeships. The Judicial Conference has also implemented a process for evaluating situations where it may be appropriate to recommend that certain positions in district courts be eliminated or left vacant when the workload does not support a continuing need for the judicial officer resource.

In general, the survey process is very similar for both the courts of appeals and the district courts. First, the courts submit a detailed justification to the Committee's Subcommittee on Judicial Statistics (Subcommittee). The Subcommittee reviews and evaluates the request and prepares a preliminary recommendation which is given to the courts and the appropriate circuit judicial councils for their recommendations. More recent caseload data are used to evaluate responses from the judicial council and the court, if a response is submitted, as well as to prepare recommendations for approval by the Committee. The Committee's recommendations are then provided to the Judicial Conference for final approval.

## COURT OF APPEALS REVIEWS

At its September 1996 meeting, on the recommendation of the Judicial Resources Committee, which consulted with the chief circuit judges, the Judicial Conference unanimously approved a new judgeship survey process for the courts of appeals. Because of the unique nature of each court of appeals, the Judicial Conference process involves consideration of local circumstances that may have an impact on judgeship needs. In developing recommendations for courts of appeals, the Committee on Judicial Resources takes the following general approach:

- A. Courts are asked to submit requests for additional judgeships provided that at least a majority of the active members of the court have approved submission of the request; no recommendations for additional judgeships are made without a request from a majority of the members of the court.
- B. Each court requesting additional judgeships is asked to provide a complete justification for the request, including the potential impact on its own court and the district courts within the circuit of not getting the additional judgeships. In any instance in which a court's request cannot be supported through the standards noted below, the court is requested to provide supporting justification as to why the standard should not apply to its request.
- C. The Committee considers various factors in evaluating judgeship requests, including a statistical guide based on a standard of 500 filings (with removal of reinstated cases) per panel and with pro se appeals weighted as one third of a case. This caseload level is used only as a guideline and not used to determine the number of additional judgeships to recommend. The Committee **does not** attempt to bring each court in line with this standard.

The process allows for discretion to consider any special circumstances applicable to specific courts and recognizes that court culture and court opinion are important ingredients in any process of evaluation. The opinion of a court as to the appropriate number of judgeships, especially the maximum number, plays a vital role in the evaluation process, and there is recognition of the need for flexibility to organize work in a manner which best suits the culture of the court and satisfies the needs of the region served.

## DISTRICT COURT REVIEWS

In an ongoing effort to control growth, in 1993, the Judicial Conference adopted new, more conservative criteria to evaluate requests for additional district judgeships, including an increase in the benchmark caseload standard from 400 to 430 weighted cases per judgeship. Although numerous factors are considered in looking at requests for additional judgeships, the primary factor for evaluating the need for additional district judgeships is the level of weighted filings. Specifically, the Committee uses a case weighting system<sup>1</sup> designed to measure judicial caseload, along with a variety of other factors, to assess judgeship needs. The Judicial Conference and its Committee review all available information on the workload of the courts and supporting material provided by the individual courts and judicial councils of the circuits. The Committee takes the following approach in developing recommendations for additional district judgeships:

- A. In 2004, the Subcommittee amended the starting point for considering requests from current weighted filings above 430 per judgeship to weighted filings in excess of 430 per judgeship *with the additional judgeships requested*. For courts with fewer than five authorized judgeships, the addition of a judgeship would often reduce the caseload per judgeship substantially below the 430 level. Thus, for small courts the 430 per judgeship standard was replaced with a standard of current weighted filings above 500 per judgeship. These caseload levels are used only as a guideline and a factor to determine the number of additional judgeships to recommend. The Committee **does not** attempt to bring each court in line with this standard.
- B. The caseload of the individual courts is reviewed to determine if there are any factors present that create a temporary situation that would not provide justification for additional judgeships. Other factors are also considered that would make a court's situation unique and provide support either for or against a recommendation for additional judgeships.
- C. The Committee reviews the requesting court's use of resources and other strategies for handling judicial workload, including a careful review of each court's use of senior judges, magistrate judges, and alternative dispute resolution, in addition to a review of each court's use of and willingness to use visiting judges. These factors and geographic considerations are used in conjunction with the caseload information to decide if additional judgeships are appropriate, and to arrive at the number of additional judgeships to recommend for each court.

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<sup>1</sup> "Weighted filings" is a mathematical adjustment of filings, based on the nature of cases and the expected amount of judge time required for disposition. For example, in the weighted filings system for district courts, each civil antitrust case is counted as 3.72 cases while each homicide defendant is counted as 4.50 weighted cases. The weighting factors were updated by the Federal Judicial Center in June 2015 based on criminal defendants and civil cases closed in calendar year 2012.