

# Choosing a judge

This lesson will introduce students to the process of appointing judges in Minnesota. They will explore the considerations that play a role in judicial selection.

## Students will:

1. Explain and evaluate the procedures used to select judges.
2. Understand the governor's constitutional power to appoint judges.
3. Identify factors that are considered in judicial appointments.

**Materials needed:** Copies of **Student Handout: JUDICIAL SELECTION PROCESS**,  
**Student Handout: YOU DECIDE**

**Time needed:** 1-2 class periods

**Grade level:** Grades 7-12

## Procedure:

1. Introduce activity by asking students to pretend that they are the governor and that a judicial vacancy has occurred in one of the district courts. Ask the students who they would choose to be the new judge. (Answers will range from "my best friend" to "a highly respected lawyer.")
2. Explain to students that under a new Minnesota law, a Commission on Judicial Selection consisting of lawyers and non-lawyers who are appointed by the governor's office and the Supreme Court makes recommendations for vacancies occurring in the district courts. The governor may select from the recommended individuals but is not required to do so. (These individuals will be lawyers. All judges in Minnesota must be lawyers.) This procedure is not used for vacancies occurring in the Court of Appeals or in the Supreme Court. For these vacancies, the governor may use whatever procedure he or she wishes. Most often, the governor creates a committee to help identify judge candidates.
3. Ask students to read the first half of the **Student Handout: JUDICIAL SELECTION PROCESS**. Discuss the questions presented.
  - A. Should the new judge be a friend? In many cases, governors will appoint persons they know. Is this a good idea? Why or why not?
  - B. Should an independent group make recommendations to the governor? What are the advantages? (No appearance of partisanship.) What are the disadvantages? (Will the independent group make quality recommendations? What is to prevent them from recommending friends?)

## Procedure cont.

- C.** If an independent group is to decide, who should belong to the group? Lawyers? People who are not lawyers?
- 4.** Have students, working independently or in small groups, read the **Student Handout: YOU DECIDE** and select the characteristics that they think are required, recommended, undesirable, and unnecessary. Discuss as a large group.
- 5.** Instruct students that they are the governor. A vacancy has recently occurred in the Supreme Court. The Supreme Court is currently comprised of six judges (seven when all positions are filled), three are women and three are men. There are no minority judges on the Supreme Court. Most of the members of the court will be retiring in the next ten years. (In Minnesota, judges must retire when they reach the age of 70 years old.)
- 6.** Working in small groups, have students select one of the five candidates to appoint to fill the vacancy. Ask students to explain their selections, addressing the characteristics discussed during step four.

## Student Handout: JUDICIAL SELECTION PROCESS

Judges in the Minnesota court system are elected to six-year terms. However, most often judges will retire in the middle of their terms. When this happens, the state’s governor has the authority under the Minnesota Constitution to appoint replacements. A replacement judge is then up for election the first election that occurs at least one year after the date of appointment. This gives the judge an opportunity to become familiar with the job and provides the people with enough information to evaluate the judge during the election. A judge who is running for election does not declare a political party because judges are non-partisan.

The selection process used by a governor is often the subject of controversy. Should the new judge be a friend? Should an independent group make recommendations to the governor? If so, who should belong to the group? Lawyers? People who are not lawyers? What personality traits and experiences should be viewed as important?

You have been appointed to a advisory group that will be recommending persons to the governor. Read the characteristics listed below and categorize them under the most appropriate heading: essential requirements, desirable qualities, undesirable qualities, and unnecessary qualities. After you have completed this activity, develop a definition of a “good” judge. Write it in the space provided.

### CHARACTERISTICS

- |                     |                         |                            |                                |
|---------------------|-------------------------|----------------------------|--------------------------------|
| 1. female           | 17. concise writer      | 32. handicapped            | 47. supports foreign aid       |
| 2. old and wise     | 18. child of immigrant  | 33. trustworthy            | 48. opposes school prayer      |
| 3. Republican       | 19. male                | 34. risk-taker             | 49. member of a minority group |
| 4. pro peace        | 20. single parent       | 35. helpful                | 50. opposes higher taxes       |
| 5. fair             | 21. good health         | 36. religious              | 51. civil rights activist      |
| 6. radical          | 22. conservative        | 37. loyal                  | 52. holder of public office    |
| 7. determined       | 23. humane              | 38. brilliant mind         | 53. business background        |
| 8. youthful         | 24. traditional         | 39. eminent legal scholar  | 54. community-minded           |
| 9. pro environment  | 25. well-educated       | 40. good fundraiser        | 55. distinguished lawyer       |
| 10. collegial       | 26. Democrat            | 41. trial attorney         | 56. follows party line         |
| 11. good campaigner | 27. liberal             | 42. U.S. Citizen           | 57. middle-of-the-road         |
| 12. aggressive      | 28. controversial       | 43. independent thinker    | 58. tough on crime             |
| 13. self-reliant    | 29. judicial experience | 44. strict constructionist | 59. DWI conviction             |
| 14. honest          | 30. family-oriented     | 45. eloquent speaker       |                                |
| 15. good looking    | 31. supports welfare    | 46. supports abortion      |                                |
| 16. clear thinker   |                         |                            |                                |

**ESSENTIAL  
REQUIREMENTS**

**DESIRABLE  
QUALITIES**

**UNDESIRABLE  
QUALITIES**

**UNNECESSARY  
QUALITIES**

Develop a definition of a "good" justice or judge.

## Student Handout: YOU DECIDE

You are the governor of Minnesota. Under the Minnesota Constitution, you have the power to appoint judges to fill vacancies. A vacancy has occurred in the Supreme Court. A list of five finalists is on your desk. You must decide which person to appoint to the position.

### **Candidate 1: Sue Johnson**

Sue has been a lawyer for 25 years. She is 53 years old. She is active in the area of family law (child custody and support, divorce, adoption). She grew up in a small town in southern Minnesota and now practices in a neighboring town. Sue has been the chair of several community organizations and has received the volunteer of the year award in her town. She has also been named as a WCCO Good Neighbor.

### **Candidate 2: Byron Wright**

Byron is the county attorney for one of the heavily populated counties. In this role, he is often quoted in the media as he tries to solve many serious crimes including murder. Because he spends all of his time working, he has little time for volunteer work. However, he is very active in his church. Before beginning his 6 years as county attorney, he worked for the public defender's office for 15 years. Byron is 46 years old.

### **Candidate 3: Stephen Blum**

Stephen is a lawyer in private practice in Minneapolis. The areas of law he works in most often are environmental and agricultural law. Stephen has been practicing law for 31 years. He spends much of his spare time representing poor people and people who feel that their first amendment right to practice their religion has been infringed. Stephen is 58 years old.

### **Candidate 4: Tibetha Cunningham**

Tibetha is an African American lawyer in St. Paul. Although she has only been practicing 10 years, she has developed a reputation for being a top personal injury lawyer (representing people who have been injured). She spends most of her time in the courtroom trying cases. She is active in the Minnesota Women Lawyers' Association and actively recruits other women of color to go to law school. Tibetha is 36 years old.

### **Candidate 5: Bouy Hey**

Bouy is a lawyer who has been practicing for 9 years. He lives in a community with other Southeast Asians. He escaped from Cambodia in the 70s and settled in Minnesota where he went to college and law school. Bouy has devoted his practice to helping other Asians in their efforts to get jobs, buy houses, educate their children, and live happy lives. Bouy is very well respected in his community and has become the spokesperson for the Southeast Asians. Bouy is 39 years old.