



A guide for Florida voters: Questions and answers about Florida judges and judicial elections

1. What is the difference between a county and circuit court judge and an appellate judge?

In Florida, both county court and circuit court judges are trial judges. County court judges hear only criminal misdemeanors, which consist of crimes that have a possible sentence of less than one year in jail, and civil cases in which the amount in dispute is \$15,000 or less. Circuit court judges deal with criminal felonies, domestic relations, probate matters and civil cases in which the amount in dispute is greater than \$15,000. Judges on the five District Courts of Appeal and the Florida Supreme Court review the decisions of the lower trial courts.

2. Why are county and circuit judges elected in Florida?

Florida Statute §105.031 requires an individual seeking a position as a county or circuit court judge to qualify as a candidate for a judicial election. Once all qualifications are met, candidates may run in the non-partisan elections. The people in the area of the state where individuals would serve as judges elect the candidates who will serve in various judicial positions.

3. Are all judges elected in Florida?

No. Currently, most circuit court judges and county court judges are elected. If a circumstance arises where there is a mid-term vacancy -- for example, if a judge retires, resigns or dies before the end of the judge's term -- the governor fills the position by appointment. Additionally, Florida Supreme Court justices and District Courts of Appeal judges are appointed by the governor and then run in merit retention elections to stay in office.

4. What is a "non-partisan" election?

In non-partisan elections, candidates appear on the ballot without reference to any political party (i.e., Democrat or Republican). Florida law requires judicial

elections to be non-partisan in order to preserve the impartiality of the judge's position.

5. Why are judicial elections not held in November during general elections?

Most judicial races appear on the primary ballot and then on a subsequent ballot in the general election only if no candidate receives a majority of votes during the primary election. While this format means that many judges' races never appear on the general election ballot, it allows for the second round of voting to be completed during the general election if necessary.

6. Even if we don't know their political parties, why don't judges campaign on platforms? How can voters know how a judge will rule on issues?

Judicial candidates are prohibited by law from making predictions and promises about issues that could arise once they are on the bench because their job is to make impartial decisions that relate to the law on the cases before them. Judges must consider the facts of each case and apply the appropriate law at that time without regard to their personal views or beliefs.

7. What are the qualifications for running for a judicial seat?

A person is qualified to run for judicial election after earning a law degree from a law school accredited by the American Bar Association. All candidates for trial judge also must be members of The Florida Bar for at least five years. Appellate judges also must be active members of The Florida Bar for at least 10 years. Furthermore, judicial candidates must run in the geographic areas in which they reside.

8. How long is the term of a judge?

Circuit judges and county court judges are elected for six-year terms, which begin on the first Tuesday after the first Monday in January following the general election. To retain their seats at the end of their terms, they must be re-elected. Judges who were appointed to county or circuit court through a vacancy must sit for election at the end of the remainder of those terms. Appellate judges, appointed by the governor, are subject to retention votes.

9. Do judges have term limits?

No, judges do not have limits on the number of times they may be elected. However, judges may not serve in Florida past the age of 70.

10. Does a retention election mean we are losing our right to vote?

No. Appellate court judges in Florida, including Florida Supreme Court justices, are appointed by the governor and are subject to merit retention elections in which a majority of the voters decide if they keep their positions. If retained by voters, judges and justices continue in their appointments for six more years before facing another retention election. Retention votes are part of the general election with the names of the Supreme Court justices and judges of the District Courts of Appeal appearing on the ballot. Those receiving a majority of “yes” votes serve additional full terms. A judge or justice who received a majority of “no” votes would be removed from office at the end of the year.

11. Why is it important to vote in judicial elections and merit retention elections?

Florida requires that judges be elected or retained by the voters, so the power over who holds these important positions rests with the voters. All Floridians are affected by the laws of the state and county in which they live. Judges make decisions on a wide range of issues large and small including traffic, small claims, landlord-tenant, personal injury, criminal, death penalty, probate, guardianship and others. In most cases, judges are bound to the previously decided law that applies to a particular case, but judges may interpret a law when the law is ambiguous or create new law if there is no law on point for a particular case. Even for voters not directly affected by a particular law or judicial decision, future decisions by judges could affect them or their family and friends.

12. What exactly is a judge’s job?

Judges preside over trials and hearings. In court, judges make decisions on the acceptability of testimony and evidence. Judges can make new law only when there is no applicable law on point to resolve an issue. Judges also ensure that

jurors have a clear understanding of the law. If no jury is present, the judge decides the case based on applicable law and the judge's view of the evidence, relying on the judge's knowledge and expertise in the law.

13. What makes someone qualified to be a judge? Incumbent judges will say they have more experience “judging” than their challengers. However, what else should be taken into account in deciding who will be a better judge?

Judges must display impartiality and an understanding of the law. All judges may deal with cases that are either civil or criminal in nature. So while it is important that judges have experience in the areas over which they will preside, knowledge in one particular area is not more important than the other. Florida does not require a specified judicial education or experience in order to become a judge. Judges should be selected based on their legal abilities, temperament and commitment to follow the law and decide cases impartially.

14. Other than campaign materials distributed by the candidates, where is more information available on judicial candidates?

- ✓ The Florida Bar's Judicial Administration and Evaluation Committee established the “Voluntary Self-Disclosure Statement,” which allows judicial candidates to publish statements on The Florida Bar website -- www.floridabar.org -- about their backgrounds and qualifications to be judges.
- ✓ The Florida Bar produces pamphlets regarding appellate judges and Supreme Court justices participating in retention elections.
- ✓ News organizations provide information about candidates and occasionally endorse one candidate over another.
- ✓ Local bar associations may conduct and publish judicial polls to assist voters in making better-informed decisions on judicial candidates.

This guide has been prepared as a public service by The Florida Bar's Judicial Independence and Judicial Administration and Evaluation committees.