

*“Judges rule on the basis of law, not public opinion, and they should be totally indifferent to pressures of the times.”*

*— Warren E. Burger, chief justice, U.S. Supreme Court, 1969–1986*

# GUIDE FOR FLORIDA VOTERS



ANSWERS TO YOUR QUESTIONS ABOUT FLORIDA JUDGES,  
JUDICIAL ELECTIONS AND MERIT RETENTION



**ELECTION DATES 2020:**

Primary – Tuesday, Aug. 18

General – Tuesday, Nov. 3

# Frequently asked questions about merit retention elections

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## 1. Why am I being asked to vote on judges?

Florida law requires Florida Supreme Court justices and appeals court judges to be placed on the ballot in nonpartisan elections every six years so voters can determine whether they should remain on their courts for another six-year term. These are called “merit retention” elections. This year, one Supreme Court justice and 24 appeals court judges will be on the ballot.

## 2. What do “Yes” and “No” votes mean?

A “Yes” vote means you want the judge or justice to remain on the court for another six-year term. A “No” vote means you want the judge or justice to be removed from the court. The majority of voters decides.

## 3. Do appeals court judges and Supreme Court justices have opponents?

No. Your vote determines whether each judge or justice should remain on the court. They are not running against opponents or each other. Merit retention elections are nonpartisan. In nonpartisan elections, candidates appear on the ballot without reference to any political party, (e.g. Democrat or Republican). Florida law requires judicial elections to be nonpartisan in order to preserve impartiality.

## 4. How do appeals court judges and Supreme Court justices get on the court?

The governor appoints judges or justices from lists submitted by [Judicial Nominating Commissions](#), which screen candidates and make recommendations based on their merits. Newly appointed judges go on the ballot for the first time within two years after appointment. If the voters retain them, they then go on the ballot again every six years.

## 5. Which courts are subject to merit retention elections?

The [Florida Supreme Court](#) and the five [District Courts of Appeal](#) are subject to merit retention elections.

## 6. Can judges who commit unethical acts be removed from office?

Yes. This can happen after an investigation by the [Judicial Qualifications Commission](#). The JQC ([www.floridajqc.com](http://www.floridajqc.com)) is an independent agency created through the Florida Constitution to investigate alleged misconduct by Florida state judges. Through this system, judges have been removed from office.

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**7. Can appeals court judges and Supreme Court justices state their views on issues that may come before them?**

**Canon 7** (<https://tinyurl.com/FloridaCanon7>) of the Florida Code of Judicial Conduct forbids judges and justices from saying how they will decide future cases. Judges and justices must remain impartial and decide cases without regard to their personal views or beliefs.

**8. Can I read the opinions of the judges and justices in cases they decided?**

Yes. Records of judges' decisions can be found on the decision pages of the websites for the District Courts of Appeal and the Florida Supreme Court, accessible through the Florida Courts section of [www.flcourts.org](http://www.flcourts.org).

**9. Can I watch videos of the justices and appeals court judges at work?**

Yes. Court arguments are webcast live and archived on court websites.

**10. How can I learn more about judges' and justices' backgrounds?**

Biographies are on court websites and accessible through The Florida Bar website; search for TheVotesInYourCourt. [www.floridabar.org/TheVotesInYourCourt](http://www.floridabar.org/TheVotesInYourCourt).

**11. How did Florida decide to use the merit retention election system?**

In the mid-1970s, Florida voters overwhelmingly approved a constitutional amendment requiring that the merit retention system be used for all appellate judges. This happened in response to public concern over abuses under the former system of contested elections.

**12. Where can I find results from prior merit retention elections?**

The [Florida Division of Elections](http://www.fde.state.fl.us) maintains a searchable database of election results since 1978. Merit retention elections occur only during general elections in even numbered years if any appeals court judges or Supreme Court justices are nearing the end of their terms ([www.dos.myflorida.com/elections](http://www.dos.myflorida.com/elections)).



Judicial merit retention. Know the facts.

# A GUIDE FOR FL

## Questions and answers about Florida j

### 1. What are the differences between a county judge, a circuit judge and an appellate judge?

In Florida, both county and circuit judges are trial judges. County judges hear criminal misdemeanors – those are crimes that have possible sentences of up to one year in jail – and civil cases in which the amount in dispute is \$30,000 or less. Circuit judges deal with criminal felonies, domestic relations, juvenile matters, probate issues and civil cases in which the disputed amount is greater than \$30,000. Judges on the five District Courts of Appeal and the Florida Supreme Court review the decisions of county and circuit trial courts.

### 2. What is a “nonpartisan” election?

In nonpartisan elections, candidates appear on the ballot without reference to any political party (e.g. Democrat or Republican). Florida law requires judicial elections to be nonpartisan in order to preserve the impartiality of the judge’s position.

### 3. Why are county and circuit judges elected in Florida?

Florida law requires an individual seeking a position as a county or circuit judge to qualify as a candidate for a judicial election. Once qualifications are met, candidates may run in nonpartisan elections.

### 4. Are all judges elected in Florida?

No. Currently, most circuit and county court judges are elected. If 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 Court of Appeal judges are appointed by the governor and then run in merit retention elections to stay in office.

### 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. While this means that many judicial races never appear on the general election ballot, it allows for the second round of voting during the general election if necessary.

### 6. Why don’t judges campaign on platforms?

Judicial candidates are prohibited from making predictions and promises about issues that could arise once they are on the court because their job is to make impartial decisions that relate to the law on the cases before them.

# FLORIDA VOTERS:

## Judges and judicial elections



### **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 must be members of The Florida Bar for at least 10 years. Furthermore, judicial candidates must live in the geographic areas they will serve when they take office.

### **8. How long is the term of a judge?**

Circuit judges and county court judges are elected for six-year terms. To retain their seats, 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 their appointed terms. Appellate judges, appointed by the governor, run in merit retention elections for six-year terms.

### **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 75 except upon temporary assignment.

### **10. 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. 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.

### **11. What exactly does a judge do?**

Trial judges preside over trials and hearings. In court, judges make decisions on the acceptability of testimony and evidence. Judges also ensure that jurors understand the law. When a jury is not required, the judge decides the case based on applicable law and the judge's knowledge of the law. District Court of Appeal judges decide appeals of trial court decisions. Supreme Court justices decide death penalty appeals and appeals from decisions of the appellate courts; resolve conflicts among appellate courts; and oversee the administration of Florida's court system.

### **12. What makes someone a "good" judge?**

Judges must be impartial and fair, and understand the law. All judges may deal with cases that are either civil or criminal in nature. Knowledge in one particular area is not more important than the other. Judges should be selected based on their legal abilities, temperament and commitment to follow the law and decide cases consistent with a judge's duty to uphold the law regardless of his or her personal view.

# Learn more about judicial candidates

- The Florida Bar Voluntary Self-Disclosure Statement allows judicial candidates to publish statements at [www.floridabar.org/public/faircts/votes010/judicialcandidates/](http://www.floridabar.org/public/faircts/votes010/judicialcandidates/).
- The Florida Bar webpage – [www.floridabar.org/TheVotesInYourCourt](http://www.floridabar.org/TheVotesInYourCourt) – has information about appellate judges and Supreme Court justices..
- News organizations provide information and occasionally endorse candidates.
- **Local bar associations** may conduct and publish judicial polls to assist voters in making better-informed decisions on judicial candidates.



## **Benchmarks: Raising the Bar on Civics Education**

is a Florida Bar program that helps to educate the public about the court system, the rule of law and our rights. Learn more at [www.floridabar.org/benchmarks](http://www.floridabar.org/benchmarks).

If your civic or community group wants to request a Benchmarks speaker, please contact The Florida Bar Speakers Bureau ([www.floridabar.org/speakersbureau](http://www.floridabar.org/speakersbureau)) at [Speakerrequest@floridabar.org](mailto:Speakerrequest@floridabar.org)



This guide has been prepared as a public service by The Florida Bar and its Constitutional Judiciary Committee.

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