



ILLINOIS INSTITUTE OF TECHNOLOGY

JUDICIAL CLERKSHIP HANDBOOK

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If you are considering applying for a clerkship, you should read carefully the entire contents of this handbook; you should also make an appointment to meet with a member of the Faculty Judicial Clerkship Committee. You can arrange that by e-mailing a request to Committee Chair, Professor Mark Rosen at mrosen1@kentlaw.edu.

Why Clerk?

A judicial clerkship is typically a one- or two-year post-graduate position in the chambers of a judge. A judicial clerk serves, in essence, as a judge's attorney, and judges typically place an enormous amount of reliance on the counsel of their clerks. Clerks therefore have great responsibility and an unparalleled opportunity for learning.

EDUCATIONAL BENEFITS: A judicial clerkship is an intensive period of post-graduate education. A clerkship allows a lawyer to view the system of justice from the perspective of the judiciary at the beginning of one's career. Unless you become a judge, you will never again have an insider's view of how judges make decisions, and how judges respond to different methods of advocacy. You will also probably never again be in as good a position to make a mark on the law, by helping a judge, as a trusted aide, to reach his or her decisions. To witness, and take part in, the judicial decision making process and the writing of court opinions, is simply an invaluable asset to anyone interested in understanding the law thoroughly and becoming an effective legal advocate.

There are a wide variety of courts -- state and federal, trial and appellate, specialty -- and the work can vary widely as well, but typically, clerks read briefs, attend court proceedings, write bench memoranda analyzing parties' arguments, advise the judge on the disposition of a case, and draft opinions. Thus, a clerk is in the enviable position of thoroughly learning various substantive areas of the law, free from the pressures of advocacy and billable hours. You will learn how quickly and cogently to articulate the law in writing, and sometimes orally, in order adequately to prepare your judge. You will learn the difference between good and bad advocacy from reading briefs and watching oral arguments, and assessing their effects on your own judge's decision making in any given case. And you will master procedural minutiae without having to fear the penalties of missing a filing deadline.

CAREER BENEFITS: A judicial clerkship can be a valuable stepping stone for one's career. You will be working closely with a distinguished member of the legal profession, from whom you can learn a great deal. Usually a judge develops a great deal of affinity for his or her clerks, and is eager to serve as a mentor for years to come. Further, few employers -- firms, government, public interest, and the academy -- are insensible to the educational benefit and the perspective gained from the clerkship experience. Many large law firms offer monetary bonuses to individuals who have previously clerked.

Finally, a judicial clerkship is, almost invariably, an enormously enjoyable way to spend a year or two at the beginning of your practice. Talk to people who have clerked; it is rare that you will hear a complaint. You will find many former clerks who say that clerking was the most interesting job they have had in their career. Consistently intellectually challenging work that can be of enormous public consequence is rare to come by in any field, at any stage of one's career.

Types of Clerkships

Many different types of clerkships exist, with a wide range of competitiveness and types of cases. While there are certain commonalities within these variations (most clerkships involve research and writing, and require a clerk to work closely with one judge), there are clerkships to appeal to many different interests. The Career Services Office's on-line career management system (Symplicity) contains a database of the federal judiciary which includes name and address information for the U.S. Courts of Appeals, U.S. District Courts, Federal Magistrate Judges, Federal Bankruptcy Judges, the Court of Federal Claims and the Court of International Trade. The CSO also has a separate database of Illinois judges (Supreme Court, Appellate Court and Presiding judges of the Circuit Court of Cook County). Contact information for other state courts is readily available through the many print resources in the CSO library and through state government websites - <http://www.ncsc.org/>

A. FEDERAL CLERKSHIPS

1. ARTICLE III JUDGES

a. UNITED STATES SUPREME COURT

At its discretion, and within certain guidelines established by Congress, the Supreme Court each year hears a limited number of the cases it is asked to decide. Those cases may begin in the federal or state courts, and they usually involve important questions about the Constitution or federal law. The court consists of the Chief Justice of the United States and eight associate justices. U.S. Supreme Court justices are authorized to hire four clerks each, with the exception of the Chief Justice, who may hire five. Clerks are hired for a single one-year term. Retired Supreme Court justices also can hire one clerk; the work there will vary, ranging from sitting on Court of Appeals cases when the Justice sits as a circuit judge to being "on loan" to the chambers of the Justice who replaced the retired Justice. Justices usually hire clerks who, by the time they arrive at the Supreme Court, will have clerked for at least one year for another judge, most frequently at the federal appellate level.

b. UNITED STATES COURTS OF APPEALS

There are thirteen judicial circuits, each with a court of appeals - the Court of Appeals for the Federal Circuit, which has jurisdiction over certain types of cases, and twelve regional courts, which have jurisdiction over certain geographic areas. The smallest court is the First Circuit, with six active judgeships; the largest is the Ninth Circuit, with 28. The First through Eleventh Circuits each comprise three or more states; the District of Columbia Circuit hears cases arising in the District of Columbia. The number of judgeships in each circuit is set forth in 28 U.S.C. § 44. Different circuits often have different caseloads. For example, the District of Columbia Circuit has a lot of administrative cases, but not a lot of criminal law cases; the Second Circuit tends to have a lot of financial and corporate cases; and the Sixth Circuit tends to have a lot of labor-law cases. The Federal Circuit has jurisdiction over patent cases as well as cases brought against the federal government - so, given the profound importance of intellectual property law, the rethinking of the role and power of government and the political battles between property-rights activists and environmentalists, the Federal Circuit is at the center of a lot of current legal debate.

The 13 judicial circuits of the United States are constituted as follows:

Federal Circuit

District of Columbia Circuit

District of Columbia

First Circuit

Maine; Massachusetts; New Hampshire; Rhode Island; Puerto Rico

Second Circuit

Connecticut; New York; Vermont

Third Circuit

Delaware; New Jersey; Pennsylvania; Virgin Islands

Fourth Circuit

Maryland; North Carolina; South Carolina; Virginia; West Virginia

Fifth Circuit

Louisiana; Mississippi; Texas

Sixth Circuit

Kentucky; Michigan; Ohio; Tennessee

Seventh Circuit

Illinois; Indiana; Wisconsin

Eighth Circuit

Arkansas; Iowa; Minnesota; Missouri; Nebraska; North Dakota; South Dakota

Ninth Circuit

Alaska; Arizona; California; Hawaii; Idaho; Montana; Nevada; Oregon; Washington; Guam; Northern Mariana Islands

Tenth Circuit

Colorado; Kansas; New Mexico; Oklahoma; Utah; Wyoming

Eleventh Circuit

Alabama; Florida; Georgia

Active judges generally hire two to four law clerks, depending on the number of secretaries (two or one, respectively) they choose to have. Chief judges may hire four or five clerks, and senior (retired) judges may have from one to three, depending on the size of the caseload they elect to maintain. Some federal judges (both circuit and district), however, have begun hiring career, or "permanent," clerks to fill one slot in their chambers, which will reduce their need for rotating clerks.

Appellate clerks generally have no contact with the attorneys or parties in cases before the court. Typical duties for a clerk include reading the briefs and selected portions of the record (called the joint appendix) in a case scheduled for argument and preparing a bench memorandum prior to oral argument (although some courts, and some judges, do not use pre-argument bench memoranda). The format of bench memoranda can vary greatly between chambers; some judges prefer cursory, five-page treatments; others prefer a lengthy exegesis.

As a general matter, though, the bench memo will contain independent research and will include a recommendation on the disposition of the case. Usually clerks attend oral argument, and discuss cases with the judge. After oral argument, if the judge is assigned to write the opinion, the clerk will usually be asked to write a first draft, which the judge will revise and edit. In some chambers, however, it is the judge who provides the first draft, and the clerk is asked to comment, edit, and provide additional research. If the judge is not writing the opinion, often the clerk will be expected to read the proposed opinion from another judge's chambers once it is circulated. The amount of advice a clerk is asked to render on these opinions varies with the judge.

c. UNITED STATES DISTRICT COURTS

There are 89 districts in the 50 states, which are listed in 28 U.S.C. §§ 81-144. District courts also exist in Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and the Northern Mariana Islands, making a total of 94 district courts. Some states, such as Minnesota and Alaska, are composed of a single judicial district; others, such as Illinois and California, are composed of multiple judicial districts. The number of active judgeships allotted to each district is set forth in 28 U.S.C. § 133.

District judges typically hire two recent law school graduates as law clerks; many district judges offer only two-year clerkships, while others offer one-year terms.

The hallmark of the district court clerkship is variety. District court clerks are in daily contact with attorneys and parties proceeding without counsel. While the extent to which the clerk is permitted to discuss cases with attorneys varies among chambers, what does not vary is the need for a law clerk to develop great tact and discretion if called upon to do so. District court clerks do almost all of the things appellate court clerks do, and also have a number of additional tasks. That is, many cases are decided by dispositive motions that are briefed and argued in much the same manner as are appellate cases. A district court clerk assigned a case with a pending dispositive motion is, in essence, performing the same role as an

appellate court clerk. District court judges also function as appellate judges at times, "sitting by designation" on courts of appeals. District court clerks are also heavily involved in the discovery process. They will often play the leading role in resolving discovery-related motions, and will also play a role in recommending, and sometimes participating in, pretrial conferences. Much of the discovery stage of the case turns on practical wisdom rather than book knowledge; clerks learn much by watching the process at work. Many cases settle before trial, and in-chambers settlement conferences are an important part of that process. Law clerks are asked to prepare judges for these conferences (often by reviewing the long history of multi-year cases, sometimes by researching issues likely to arise at later stages of the case), and clerks often attend the conferences as well. Finally, in those cases that do reach trial, the clerk will generally attend the trial and all related hearings. If there is a jury, the clerk may be involved in the preparation of jury voir dire and jury instructions. In civil bench trials, the clerk will often draft findings of fact and conclusions of law. The clerk may well be asked to participate in sidebar conferences on disputed evidentiary issues. In criminal cases, clerks are likely to be involved in the evaluation of sentencing recommendations under the Federal Sentencing Guidelines.

d. UNITED STATES COURT OF INTERNATIONAL TRADE

In the Customs Court Act of 1980, Congress created the U.S. Court of International Trade within the judicial branch, to deal with cases involving international trade and customs duties. Previously named the U.S. Customs Court, the court has the same powers in law and equity as the district courts. Most of its cases concern the classification and valuation of imported merchandise, customs duties, and unfair import practices by trading partners. The court is located in New York, NY.

2. ARTICLE I JUDGES

a. BANKRUPTCY JUDGES

A bankruptcy judge is a judicial officer of the U.S. District Court who is appointed by the majority of judges of the U.S. Court of Appeals to exercise jurisdiction over bankruptcy matters. Bankruptcy judges are appointed for fourteen-year terms.

Bankruptcy courts are trial courts, and have jurisdiction over some of the most complex and economically significant litigation in the United States. Their clerks are exposed not only to bankruptcy law and procedure, but also to all of the other areas of law embodied in claims against the bankrupt's estate (called "adversary proceedings"). If you think you might be interested in a bankruptcy court clerkship, scan a volume of West's Bankruptcy Reporter to get a sense of the wide range of legal experience a bankruptcy court clerk can obtain. Again, because bankruptcy judges publish opinions, the tasks a law clerk is called upon to perform in these courts are quite similar to those of district court clerks, including drafting judicial opinions and orders of the court, attending and assisting in pre trial conferences and hearings, etc.

b. MAGISTRATE JUDGES

A U.S. magistrate judge is a judicial officer of the district court and is appointed by majority vote of the active district judges of the court to exercise jurisdiction over matters assigned by statute as well as those delegated by the district judges. A full-time magistrate judge serves a term of eight years. A magistrate judge may eventually become appointed to the U.S. District Court.

Duties assigned to magistrate judges by district court judges can vary considerably from court to court, and from judge to judge. Generally, however, magistrate judges are often heavily involved in criminal cases, conducting arraignments, reviewing requested warrants, reviewing habeas petitions, etc. District court judges often delegate to magistrate judges significant responsibilities in civil cases as well; magistrate judges are often asked to attempt to settle cases, and often handle the pretrial stage of complex civil cases. Magistrate judges frequently write opinions, called "reports and recommendations," advising the district judge as to how a case should be resolved. Occasionally, magistrate judges preside over trials, at the consent of the parties. A clerkship with a magistrate judge is very similar to a district court clerkship.

c. "SPECIALTY" COURTS (US Tax Court; US Court of Federal Claims; US Court of Appeals for the Armed Forces; US Court of Appeals for Veteran Claims)

So-called specialty courts may require specific background. Examples include the United States Tax Court, located in Washington, DC, which hears disputes involving the Internal Revenue Service and deficiencies or overpayment of taxes, as well as some other federal tax issues; the United States Court of Federal Claims, located in Washington, DC, which has nationwide jurisdiction over civil claims, other than

tort claims, against the federal government (such as government contract disputes, eminent domain, military pay, and patent or copyright violations by the government), as well as over claims brought by Native American tribes, and a handful of other matters; the United States Court of Appeals for the Armed Forces, located in Washington, DC; and the United States Court of Appeals for Veteran Claims, located in Washington, DC.

B. STATE CLERKSHIPS

Most legal disputes in this country are handled in state courts, which are the primary fora for contract disputes, torts, criminal prosecutions, divorce and custody matters, and probate of estates. While the subject matter one sees in the federal court is by no means narrow, what one sees in state courts is even broader.

1. SUPREME COURTS

State supreme courts are usually courts of discretionary review (although this is not true in states such as Alaska where there is not intermediate court of appeals); the justices tend to cherry pick the most interesting cases with the best attorneys to settle the questions of the moment. In addition, since it is the state's highest court, the ability to influence state law is tremendous. And as a substantive matter, state supreme courts develop and interpret the common law, rather than statutes; many lawyers find this a more interesting emphasis. Apart from those considerations, though, a clerk's tasks in the state supreme courts largely mirror those of a federal appellate court clerk.

2. INTERMEDIATE APPELLATE COURTS

Not all states have intermediate courts of appeals, and the quality of the court and duties of the clerks can vary greatly. The nature of the work, however, is quite similar to that of federal courts of appeals.

3. TRIAL COURTS

Students who know they wish to settle in a particular geographic area should consider applying to state trial judges for clerkships. These positions provide an unparalleled opportunity for students to get to know, and become known by, members of the local bar; usually, clerks in these positions have far more contact with attorneys and court staff than is typical in the federal court system. It is also an excellent opportunity for learning state-court civil procedure as well as the substance of state law. State court trial judges typically do not publish opinions, but their clerks may be called upon to research legal issues (often on short notice, such as during trial); advise the judge on rulings; and observe and assist at trials.

C. OTHER TYPES OF CLERKSHIPS

1. STAFF ATTORNEY POSITIONS

Law clerks who serve many judges or an entire court are commonly referred to as staff attorneys, staff counsel, research attorneys or pro se law clerks. These positions can be found in both federal and state appellate and trial courts. Some state Supreme Courts, including Illinois, also have research staffs. The duties and responsibilities of a staff attorney vary by court, but may include reviewing appeals and correspondence, preparing memoranda, and assisting in case management and settlement procedures. The length of service for these positions varies by court. Information regarding federal staff attorney positions can be found on the OSCAR site.

2. ADMINISTRATIVE LAW JUDGES (ALJS)

ALJs are independent, impartial triers of fact in formal administrative hearings. Over 30 U.S. government departments and agencies employ ALJs. Some ALJs hire recent law school graduates as law clerks. These positions may be for a term or an indefinite period. West's Federal-State Court Directory is a good source of information on federal agencies and ALJs (e.g., FDA, NLRB, FERC, FCC, FTC, SSA, SEC, SBA, DEA, etc.). See <http://www.firstgov.gov> for links to various federal agencies.

3. TRIBAL COURTS

Some states have tribal courts that hire law clerks, although funding for such positions tends to be quite limited. Postings can often be found in Indian Country Today - online at www.indiancountry.com. In addition, the National American Indian Court Judges Association may list postings on its website, www.naicja.org. See also www.tribal-institute.org which is a clearinghouse of information for the tribal courts.

Resources for Judicial Clerkship Application

To assist in you in the judicial clerkship application process, there are a number of resources that you should rely on.

Federal Clerkship Application Resources

1. OSCAR - <https://oscar.symplicity.com/> or <https://oscar.uscourts.gov/>

A critical source of information and applications for federal clerkships is the **Online System for Clerkship Application and Review (OSCAR)**. This is an internet-based application system founded by a committee of judges and law schools, under the auspices of the US Administrative Office of the Courts (developed by the Symplicity Corporation). In its original version it provided information regarding federal judges who only wanted to receive applications on-line. **The OSCAR program permitted applicants to file their federal clerkship application materials online and designate those judges to whom they wish to apply.** Federal judges and chambers staff could then read, sort, and manage those applications on-screen; they could also download and print those applications. OSCAR also allowed letters of recommendation to be placed confidentially in applicants' online files, either directly by the recommender, or through the applicant's law school.

Overtime, OSCAR has gone through some major revisions. OSCAR now includes information about judges who want to receive applications only on-line as well as info for judges who want to receive paper/hard-copy applications; and judges who are not accepting applications at all. While there is a push to get all federal judges to participate in this system, it is not a mandatory system and therefore, while OSCAR will list every federal judge, it will not necessarily contain info pertaining to hiring clerks for each judge. Many of the judges who do not put information into OSCAR may indeed still be accepting applications via US mail. Note: although the OSCAR website is also run by Symplicity, it is a separate system and you will need to register in OSCAR to utilize it.

2. Symplicity

The Career Services Office's on-line career management system (Symplicity) contains a database of most of the federal judiciary and is a good source for creating an excel spreadsheet of the federal judges who do not use OSCAR and who you want to apply to through the US mail. The database includes all judges of the US Courts of Appeals, the US District Courts (including bankruptcy & magistrate judges), the Court of Federal Claims and the Court of International Trade. This database is kept current by the "Symplicity" corporation which downloads updated information from the Administrative Office of the Courts.

Once you have logged into Symplicity (using the same username/password as you use for job postings, on-campus interviewing, etc.), click on the "clerkships" tab at the top of the page. You will then need to register in the clerkship section to access the database. Do not worry about the info you put into the registration form – it is not used for anything but is required by the system in order to move to the database. Once you have registered and clicked the "submit" button the program will take you to a page where you can search the database by various criteria (federal circuit, district court, city, state, OSCAR, etc.). Once you have completed your search, you will be able to export your list to an excel spreadsheet for use in a mail-merge and/or to give to your recommenders so that they may write recommendation letters to the judges you have chosen.

This program will also tell you which judges are accepting applications through the OSCAR system (explained below).

Please note: Symplicity does its best to maintain an error-free and up-to-date list of addresses; however the addresses are a download from the Administrative Office of the Courts and if they have a wrong address, there is no way for Symplicity or us to know otherwise. In addition, judges may retire or decide to stop hiring clerks and the database may not automatically reflect that. It is important that you check with the OSCAR (Online System for Clerkship Application Review) for hiring status (see below). Should you discover any database errors, please also let the CSO office know by e-mailing kentcso@kentlaw.iit.edu.

3. Other Resources Relevant to Federal Clerkship Applications

Court website links: For links to court websites see: <http://www.uscourts.gov/links.html>. The National Center for State Courts website also is a good source: <http://www.ncsc.org/> (it has links to international, federal, & state court websites).

Almanac of the Federal Judiciary, located in the KF8700.A19 section of the library (9th floor) and also in the Career Services. One Volume contains information on US Supreme and Appellate Courts; one volume has info on US District Courts. This directory includes information specific to each judge – when and by whom they were appointed, education, prior legal positions, noteworthy rulings, media coverage, and lawyer’s evaluations. The information contained in these directories can be especially helpful at the interview stage.

The American Bench: Judges of the Nation, available for review in the Career Services Office is a directory with biographical information on over 18,000 judges in all levels of federal, state and local courts with jurisdictional, structural and geographical facts on the courts they serve, as provided by federal sources and by the individual states.

Want’s Federal-State Court Directory, provides a comprehensive listing of the nation’s courts plus federal and state enforcement officials. Provides a reference guide to the federal and state judicial systems, including charts, glossary of terms and other explanatory material. Available in the CSO.

Behind the Bench, The Guide to Judicial Clerkships by Debra M. Strauss, Esq.

Because this was written before the new federal law clerk hiring plan was in place, it contains some outdated information. For example, the book advises you to apply in the middle of your second year, which is no longer applicable for federal clerkships under the new system which does not allow any applications until the first week of September of third year. However, outside of that, this book contains helpful information on federal judicial clerkship application process.

State Clerkship Application Resources

Unlike the federal arena, there is no specific timetable for state court application. It is probably wisest to contact the clerk of any court that you are interested in and inquire as to deadlines. Another source, which provides a quick reference chart for all of the states is the *2014 Guide to State Judicial Clerkship Procedures* (produced by Vermont Law School), which is available on-line under the “Resources” tab in Chicago-Kent’s Symplicity system. (see number 2. below for access instructions).

1. Chicago-Kent Databases for Illinois & Other State Courts

Illinois Supreme, Appellate & Circuit Court of Cook County spreadsheet. The Career Services Office has created an excel spreadsheet to assist students interested in state court clerkships in Illinois (all IL Supreme Court, IL Appellate Court, and chief/presiding judges of the Circuit Court of Cook County). This is available on-line on the CSO web-site and in the C-K Symplicity website under the “resources” tab.

2. Other Resources relevant to State Court Clerkship Applications

The National Center for State Courts website also is a good source for information on state courts: <http://www.ncsc.org/>. This site has links to state, federal & international court websites and also includes state court structure charts.

2014 Guide to State Judicial Clerkship Procedures (Compiled by Vermont Law School), available in Career Services. You may also access the Guide on-line at: <http://forms.vermontlaw.edu/career/guides/>. You can access the complete Guide (in either MS Word or pdf format). Username is: sugar
Password is: maple
Please note: The username and password are updated each year in July. If the above username & password doesn't work, please contact kentcso@kentlaw.edu for the newest information.

BNA's Directory of State and Federal Courts, Judges and Clerks, a state-by-state and federal listing.

Want's Federal-State Court Directory, provides a comprehensive listing of the nation's courts plus federal and state enforcement officials. Provides a reference guide to the federal and state judicial systems, including charts, glossary of terms and other explanatory material. Available in the CSO.

The American Bench: Judges of the Nation, available for review in the Career Services Office is a directory with biographical information on over 18,000 judges in all levels of federal, state and local courts with jurisdictional, structural and geographical facts on the courts they serve, as provided by federal sources and by the individual states.

The Application Process

A. TIMING

1. FEDERAL COURTS/ FEDERAL CLERKSHIP HIRING PLAN

For a number of years, the federal judiciary followed a "Hiring Plan" which was developed in an attempt to rationalize the increasingly early and often chaotic timing of clerkship applications, which often found students applying to the most competitive clerkships at the beginning of their second year, and more than two years out from the time they would actually begin their clerkship. The clerkship hiring decisions based on no more than the student's first year grades and their selection for journals was a disservice to all of the parties to the process.

The Hiring Plan was created and originally provided: 1) an arrangement ensuring that the hiring of law clerks will not be done earlier than the Fall of the third year of law school; and 2) an agreement that the focus of law clerk hiring will be on third year law students and law graduates.

Recently the Hiring Plan has been abandoned by much of the judiciary. Based on the number of judges abandoning the Federal Law Hiring Plan (Hiring Plan) and feedback from the law schools, the OSCAR Working Group judges recently recommended de-linking OSCAR from the Federal Law Clerk Hiring Plan. As of November 4, 2013, the Administrative Office of the United States Courts (AO) opened OSCAR to second-year law school students and now releases their finalized applications at the time of submission, rather than holding them until a specified date.

As judges are now free to accept online applications from law students at any time, OSCAR will now require judges to populate the "Hiring Practices" field of their online judge profile to inform potential applicants of their hiring preferences. The Administrative Office will work with judges and chambers staff to ensure that these profiles are informative and up-to-date.

With that in mind, 2L students (rising 3Ls) can start to view OSCAR listings in the winter of their second year and apply to any that are of interest as soon as possible thereafter. Some judges may require that a student has two full years of law school grades, so applications should be made to those as soon as possible after grades come out in June.

2. STATE COURTS

Applications to state courts are not technically governed by a formal hiring plan. Some state courts have traditionally hired in the summer between a students' second and third year, or in the fall of the third year, and will simply continue to do so. Many state courts will continue to follow their own hiring timetable. For example, the state supreme courts of Illinois, Minnesota, Oregon, Washington and Wisconsin (to name a few) hired in the spring or summer last year, prior to the Fall hiring season. These and other state courts

will most likely continue to hire early. This doesn't mean that all state courts are going to hire early. Students should check with the courts and a judge's chambers to see when they will be taking clerkship applications.

As mentioned above, there is no centralized source of information on applications to state courts and the timing may change from year to year. Therefore, if you know you are interested in a state court clerkship, err on the side of caution and contact the clerk of the court in which you have an interest. In addition, check the *Guide To State Court Clerkships* for updated information on types of state clerkships, contact information and application requirements. This publication is updated each summer and is available in the CSO library, and online

B. STUDENTS WHO ARE NOT U.S. CITIZENS

Current appropriations law prohibits the use of appropriated funds to pay the compensation of any employee of the U.S. federal government where the duty location is in the continental U.S. unless such person:

1. is a U.S. citizen;
2. is a person who owes allegiance to the U.S. (i.e., nationals of American Samoa, Swains Island, and the Northern Mariana Islands, and nationals who meet other requirements described in [8 U.S.C. 1408](#));
3. is a person admitted as a refugee or granted asylum who has filed a declaration of intention to become a lawful permanent resident and then a citizen when eligible; or
4. is a lawful permanent resident who is seeking citizenship as outlined in 8 U.S.C. 1324b(a)(3)(B).

The appropriations law requirements apply to anyone appointed into a paid position within the judiciary in the continental U.S. The appropriations law requirements do not apply to employees with a duty station in Alaska, Hawaii, the Virgin Islands, Puerto Rico, Guam, or the Northern Mariana Islands, nor do the requirements apply to unpaid volunteers.

Judiciary offices must obtain concurrence from the Administrative Office of the U.S. Courts, Office of General Counsel, to appoint an individual who is not a U.S. citizen.

In addition to the above appropriations law, The United States Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), mandates all federal government agencies in the continental U.S. comply with the Immigration Reform and Control Act of 1986 (IRCA) which states that federal government agencies must hire only U.S. citizens and aliens who are authorized to work in the United States. All individuals appointed by a judiciary office must complete the [Employment Eligibility Verification Form \(Form I-9\)](#) certifying their eligibility to work in the U.S.

For additional information regarding the employment of non-United States citizens call the Office of General Counsel at the Administrative Office of the U.S. Courts at (202)502-1100.

Citizenship requirements for applicants to state courts will depend on the individual state's laws; students should contact the court's clerk or administrator directly.

C. APPLICATION MATERIALS

For federal clerkships, Judges will indicate in OSCAR what materials they like to see as part of an application. The basic application materials typically include the following components:

1. COVER LETTER

The cover letter should be addressed to the specific judge to whom you are applying. As discussed previously, the CSO's Symplicity career management system allows you to search the federal judiciary and create excel spreadsheets to facilitate the mail merge process. On OSCAR, judges may not be looking for a personalized letter. See the OSCAR system for instructions on uploading cover letters and other materials.

Your cover letter should be brief and to the point, stating that you are a student at Chicago-Kent College of Law and that you wish to apply for a clerkship for a specified year. It is helpful to name in the cover letter the professors who will be submitting (either independently or in sealed envelopes along with your application or via OSCAR) recommendation letters on your behalf, and to provide their phone numbers. It may be worth including information about your ties to or

interest in the geographical area in question, if that is not otherwise obvious from your application materials. Sometimes it is worth mentioning something particular about the judge or the court that makes you want to work there. This kind of information will help convince the judge that you will not be unwilling to pay travel expenses to come interview, or that if you are offered a clerkship, you will not spend the year weeping in your office, sorry that you have ended up in Nebraska. In general, however, it is not necessary to convince a judge of your sincerity of interest in clerking; they largely assume that to be the case.

2. RESUME

The resume should cover academic background, outside activities (including membership in student groups), employment experience (including first and second summer jobs, and where you have been offered a post graduation position, if known), publications (or a draft note title and indication of where it is in the review process), and any other information that might help a judge make his or her decision. *In addition, include your cumulative GPA and ranking on your resume.*

Remember that the judge is looking for someone with whom he or she can work in close quarters; make sure that who you are comes through in your resume. This might be a good time to add a personal interest section to your resume to add a human dimension to your obvious academic achievements.

3. TRANSCRIPT(S)

An unofficial copy of your law school transcript should be included with your application materials. In addition, it is very helpful to include the names of professors who taught your classes. Many judges also like to see undergraduate transcripts, so be prepared and request a copy from your undergraduate institution sufficiently in advance. Occasionally a judge will ask you to provide an official copy of your transcript. In terms of transcript substance, be aware that many judges will frown on a plethora of Ps, particularly if they are for courses that are directly relevant to clerking, or if they are clustered in a single semester. Likewise, judges will be pleased to see that you are taking classes that are helpful to preparing for a clerkship, such as evidence, administrative law, jurisdiction, or federal courts. OSCAR will not allow for the updating of official transcripts due to the background printing on these types of documents. OSCAR includes instructions on uploading grades.

4. WRITING SAMPLE

Most judges also require applicants to submit a legal writing sample. Be forewarned that some require that the writing sample represent a sample of your work that has not been edited by others-and in any event, it should not be something that has been heavily edited. If you are using a writing sample drawn from experience in law practice or as a judicial intern, you must obtain the firm's or judge's permission, and you may be expected to redact client names or other identifying information from the writing sample. In that instance, it is helpful to indicate on the face of the writing sample that you are presenting it with permission. If the sample is an opinion or draft decision for a judge, *you must indicate that you have the judge's permission* and clearly state that your sample is a draft. (Judges are *always* the sole author of their opinions).

If you are using a journal note, make certain it is the version you submitted prior to staff edits. Your own subsequent edits are fine to include. It is also fine to use writing samples from work you did in school (although legal writing work from your first-year is theoretically a fine sample, it is not ideal because so much time has lapsed between your first and third year, and a judge may want something more recent and more sophisticated). Another good sample may be a sample note you may have submitted for the law review contest, or a brief prepared for a moot court competition. The sample should be between 5 and 25 pages (optimally, 10-15); it is fine to use an excerpt from a longer piece. In either case, it is useful to provide a cover sheet which describes important facts and the general context. If you find that editing for length will sacrifice comprehensibility, then by all means provide a longer sample.

5. RECOMMENDATIONS

a. WHO SHOULD YOU ASK?

It is typical to ask two or three law professors to write letters of recommendation for you. Recommendations from legal employers may also be useful. Clinical and legal-writing professors are also fine choices for recommenders. If you are a transfer student, it is fine to rely on professors at your prior law school for recommendations, but if you can develop adequate relationships with Chicago-Kent professors in time to

request a recommendation, that would be beneficial. Recommendations from non-lawyers, or lawyers who know you only on a personal basis, are usually not helpful, except in rare circumstances.

Usually those professors who have given you your best grades are most likely to be willing to write, and can often write the strongest letters. However, a professor who has gotten to know you well and appreciates your talents - one for whom, for example, you have participated meaningfully in class, or one for whom you have worked - will often write a stronger letter than a professor who gave you a higher grade but does not know you as well; a letter that merely states the grade you received in a course adds nothing to the transcript and is unimpressive to a judge, even if the grade is an A or an A +. Of course, some students simply haven't come to know any of their professors very well; in that case, take the time to meet with the specific professor and discuss your background and aspirations. Such a meeting may help the professor write a more three-dimensional letter for you. Visiting and adjunct professors are also appropriate recommenders but make certain to allow enough time to contact them if they are not currently on campus.

Students often think that the only professors worth having as recommenders are those on the faculty who are most well-known in the community. This is not necessarily correct. It can be helpful to have a recommender who personally knows a judge to whom you have applied, but that is very hard to predict or control. But most judges are not likely to take a recommendation letter appreciably more seriously simply because they know of the name of the writer. In choosing a recommender, the most important consideration is how well the recommender knows you and what he or she thinks of you.

b. HOW TO ASK

When asking a professor to write a letter of recommendation, you should provide the professor with a copy of your resume, transcript (or grade list), and writing sample, and remind the professor of which of his/her classes you took and your grades in those classes, and ask the professor if he or she would be able to write a positive and specific letter. If you fear the professor does not know you well, offer to provide the professor with additional information about your background and any special circumstances that should be referred to in the letter of recommendation.

Most students prefer to send an email to a professor initially to ask for the recommendation letter. That is fine, *but if you do not hear a response, you should definitely follow up in person or by phone.* Do not assume silence equals a refusal. And it can be helpful to go in person in the first instance; if you are in a position to choose among several possible recommenders, you should ask any potential recommender if he or she will write you a strong letter of recommendation. If a professor appears willing, but less than enthusiastic about writing a letter of recommendation, you may wish to reconsider. A "plain vanilla" letter may actually be a negative for you in the judge's analysis.

If a faculty member has agreed to write a good letter for you, it is helpful to also ascertain whether your recommender would also be willing to make a phone call, or take some extra effort on your behalf, where appropriate (again, that is their prerogative). Because judges are deluged with applications, they are much more likely to consider applicants about whom they have heard independently or with whom there is some connection.

c. REFUSALS

Some professors may refuse to send letters of recommendation to more than a specific number of judges, or may be willing to recommend only a small number of students to each judge. This is their prerogative. A letter of recommendation is a favor, not an entitlement. Those professors who insist on limiting the number of letters they will send usually believe they can write more effectively if their letters are directed personally to the judges involved, and that they cannot give sufficiently strong recommendations for a large number of students applying to the same judge. Their concern is legitimate. If a faculty member should refuse to provide all of the letters

you request, consider whether you might be well-advised to readjust your application strategy in light of his or her advice.

d. ADMINISTRATIVE ISSUES

For Applications that will be Mailed

If your recommenders are all current Chicago-Kent faculty, the process is fairly simple. Select the judges you wish to apply to by mail through Symplicity and download them to an excel spreadsheet through the system. Save the spreadsheet to a file and add (copy and paste) any state court judges to your spreadsheet using the CSO's state court database; further add any other state court judges you're interested in from states not included in the CSO state database and save this all as one excel spreadsheet.

The spreadsheet should include all the information downloaded from Symplicity (judge name, address, etc.) and the format for the federal and state judges should be the same so your recommenders' administrative assistants can do one mail merge. Give this spreadsheet to each of your faculty recommenders and/or their administrative assistants for their use in creating a mail-merge for their letter of recommendation.

If you are using outside recommenders, you will need to provide them with the same information (and same spreadsheet) but you may need to instruct them on how to proceed. **Whether the letter is from faculty or an outside recommender, each letter of recommendation should be put in a sealed No. 10 (letter sized) envelope with the judges name and address on the front. You should include these sealed recommendations in your packet of materials when you mail them.**

For Applications to OSCAR Judges

When you apply to judges through OSCAR, you may select your faculty recommenders from a drop down list of all Chicago-Kent full-time faculty (**remember: you should always first ask a faculty member if they will serve as a recommender before you select them as a recommender in OSCAR**).

Recommenders you have asked that are not full-time C-K faculty will have to be added to OSCAR. There is a user manual on the OSCAR web-site that explains how to add a recommender to the OSCAR site as well as how to upload letters

When you select faculty recommenders from the OSCAR drop down list or add your outside recommenders and submit this info through OSCAR, the system will notify the recommender of their OSCAR username and password and send a copy to their administrative assistant. However, the system does this only *the first* time someone selects a particular recommender. **You should therefore always notify each recommender directly once you have submitted your information in OSCAR, so they can go in and upload their letters.** The system will provide a list of the judges you want them to send a recommendation to.

D. THE INTERVIEW

Few judges will choose a clerk without an interview. A recommendation from a faculty member and a strong transcript will get you a chance to speak with and/or see the judge, but the final selection depends on your performance in that interview. A few judges may make their selections based upon telephone interviews, but most require a personal interview, which occurs at the applicant's expense. **An important caveat: Don't take an interview for a clerkship which, if offered, you are not prepared to accept.** And be prepared for whimsy on the part of a judge offering you an interview: he or she may expect you to arrive for an interview on very short notice. Think in advance about how you will handle that situation should it arise.

1. THE CONDUCT OF THE INTERVIEW

In an interview, the judge is primarily interested in determining whether you are the sort of person with whom he or she prefers to work. Remember what was said earlier about the intimacy of the clerkship experience: the judge is choosing a companion, not simply an employee. And it is not only the judge who is doing the "choosing." You should assume that anyone you meet in the judge's chambers-not just the law clerks (who often have considerable influence over the selection), but also the judge's bailiff, secretary, and the court reporter-will form an impression of you, and those impressions are an important part of the interview. Do not treat secretaries and

other support personnel as subordinates: give them the respect they deserve as the structural backbone of the chambers. This is important; the judge who will hire a clerk after his or her secretary has expressed disapproval is rare indeed.

Some judges may grill you on your substantive knowledge of the law; some judges ask their law clerks to do so. But even if the interview is not centered on testing your legal knowledge, the judge (and clerks) will almost always seek to engage you on some legal or other intellectual topic of mutual interest. Don't present yourself as a passive law student. Be prepared to talk intelligently about your courses and why you selected them, about the topics of your seminar papers or journal note, about the substance of your past work or academic experience, and about your plans for the future.

Familiarity with the judge's major opinions and with the types of legal issues that most frequently arise in the judge's court is helpful (e.g., if you are applying for a clerkship in the Fifth Circuit, you should know about Louisiana's unique legal system and you should be aware of the circuit's significant death penalty and admiralty dockets; you should be aware of the Second Circuit's historical leadership in securities litigation, etc.). Being sycophantic, however, and praising a judge's past work is a risky business; it is more often than not perceived as impertinent rather than gracious. Consider, too, that judges often do not like to get the sense that you have selected them; unlike firms, where you should demonstrate your knowledge of the institution, an individual judge may find it unsettling if you know too much about his or her biography. On the other hand, it is not unheard of for judges explicitly to ask why you have applied to him or her, so it can be useful to have an answer in case this question is posed. As a general rule, however, do not go out of your way to demonstrate to the judge your knowledge of the judge.

The overall impression you should seek to convey is that you are grateful to have the opportunity to interview, and that you would be enthusiastic about clerking for the judge and would work hard.

2. THANK YOU LETTERS

It is always good form (if time allows) to send a prompt thank you letter after an interview. As with any employer, a thank you letter underscores your interest in the job and serves to remind the judge of your application. It is also polite and in keeping with traditional business etiquette. It should also be in the form of a typed business letter. Of course, it goes without saying that any follow up correspondence should be *absolutely* error free

2. MINIMIZING EXPENSE/LEVERAGING INTERVIEWS

If you are applying to clerkships that are distant from Chicago, interviewing with judges can be expensive. There are some things you can do to minimize the expense and inconvenience of interviewing, however, as well as to maximize your interview options (and thus your chances of getting an offer). For example, *calling chambers to parlay interviews is an accepted part of the clerkship process*. If you have plans to be in the judge's city (for personal reasons, for non-clerkship job interviews, or for a scheduled interview with another judge), you may call the judge's chambers to inform him or her of that fact and to ask whether the judge would be interested in interviewing you at that time. Such a call will probably not yield an interview that you would not otherwise obtain; judges value their time and will not interview students they do not view as strong candidates. But the call might have the effect of accelerating the judge's decision as to whether you are "in the running." This may be especially valuable in the current timing of applications, where chambers are literally flooded with applications after Labor Day; calling chambers may get your application "plucked out of the pile" for a look.

Alternatively, it is possible that a judge will be willing to conduct a telephone interview, or even, in this era of modern technology, a videoconference interview. For the latter, the Law School has equipment that you may use. If you are interested in this option, you need to talk to someone in the CSO; be aware that IT needs about a week's notice to arrange such interviews.

E. OFFERS

Unlike firms, which elect to be governed by guidelines of the National Association for Law Placement with regard to the on-campus interviewing process, judges are their own masters. Indeed, one of the most difficult things for students to accept about the clerkship process is the fact that you do not have the freedom to gather multiple clerkship offers and then decide which one to accept. Thus, if at any point you have resolved that you would not ultimately accept an offer from a given judge, you should withdraw from consideration by that judge promptly,

BEFORE an offer is given.

Once a judge makes you an offer, there are two possible responses - to accept graciously, or to ask for some additional time before deciding. We encourage you to accept an offer once given. However, we do not believe it is improper to ask for more time, and if it is given you may contact other judges for whom you would prefer to clerk. But be aware that the judge may decide not to give you additional time. If that is so, then you must decide on the spot whether to accept or not. Moreover, when judges do give additional time for consideration, it is usually rather brief; in many cases, twenty-four hours is the best you can hope for. But again, be aware. Occasionally a judge will rescind an offer, or offer the position to another candidate by the time you call back to accept. So, while you are not obligated to accept the first offer given, you do have an obligation to the judge, and to the school, to act in a professional and straightforward way. And you have an obligation to yourself to think ahead and weigh your options carefully.

Not all judges take advantage of their power in this manner. Some judges are kind enough to give you a few days before accepting an offer, which will allow you to contact any other judges with whom you have interviewed and for whom you would prefer to clerk. Consider yourself very fortunate if the first judge who offers you a clerkship is one of these. Many judges however expect an immediate response to an offer. A twenty-four hour consideration period is often the best you can hope for.

IF YOU OBTAIN A CLERKSHIP

Please let your faculty mentor and the Career Services Office know when you obtain a clerkship, or if you decide to stop pursuing one.

You should write to your judge to accept a clerkship formally, even after accepting orally. The letter can be short and to the point, telling the judge how much you look forward to working with him or her in the upcoming year.

Once you accept an offer from a judge, make sure to write to all the judges with whom you have an application outstanding and immediately withdraw yourself from consideration. This practice should also be followed if you change your mind about wanting a clerkship for which you had earlier applied.

RESOURCES TO ASSIST IN PREPARING FOR YOUR CLERKSHIP

While the scope of this manual doesn't allow an in-depth treatment of how to prepare for your clerkship, there are resources which you may wish to review. See the following:

Baicker-McKee, Janssen and Corr, "Federal Civil Rules Handbook"

Bartell, Laura B., *Rubin: Practitioner, Professor, and Judge: A Splendid Relationship -- Judge and Law Clerk*, 52 *La. L. Rev.*, 1429

Broodo, Kenneth C., and Haolftis, Douglas D., *Practice in the Federal District Courts From the Law Clerk's Perspective*, 43 *Baylor L. Rev.*, 333

Chambers and Case Management," by Barbara J. Rothstein - http://fjc.gov/library/fjc_catalog.nsf .
In general, see all of the Federal Judicial Center's publications under "Orientation for Clerks "at: http://www.fjc.gov/library/fjc_catalog.nsf

Chemerinsky, Erwin, Federal Jurisdiction, 4th Edition, Aspen Publishers

Chipcase, Calvert G., Federal District Court Law Clerk Handbook, ABA Publishing, 2007.

George, Joyce J., "Judicial Opinion Writing Handbook" (- KF250.G42007, Reserve Room, 10th floor)

Lemon, Jr., Joseph L., Federal Appellate Court Law Clerk Handbook, ABA Publishing, 2007.

Sirico, Jr., Louis J., Judging: A Book for Student Clerks, Lexis Nexis, 2002

Strauss, Debra M., Behind the Bench: The Guide to Judicial Clerkships, The BarBri Group, 2002.

Understanding the Federal Courts, Administrative Office of the U.S. Courts - <http://www.uscourts.gov/about.html> and <http://www.uscourts.gov/faq.html>

Wanderer, Nancy, "Writing Better Opinions: Communicating with Candor, Clarity, and Style." 54 *Me.L.Rev.* 47.