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CHAPTER 1
JUDICIAL CLERKSHIPS: PRELIMINARY QUESTIONS

1. What Types of Clerkships are Available?

Judicial clerkships are available in federal and state courts of general and limited jurisdiction, at the trial and appellate levels. Most clerkships are temporary positions lasting one or two years, although some judges hire permanent or career law clerks. Positions with individual judges are known as “elbow” clerkships. There are also staff attorneys and pro se clerks in all of the federal circuit courts and some of the federal district courts. Attorneys in these positions work for the whole court or panels of judges and perform many of the same tasks as elbow clerks. These staff positions also generally last one or two years. Some state courts have a similar system where clerks are hired for a central legal staff that serves all judges. In addition, clerkships are available in some foreign courts; see CDO’s guide Opportunities with International Tribunals and Foreign Courts.

Clerkship opportunities in the U.S. are available at many different levels:

- U.S. Supreme Court. Students apply after they have obtained another clerkship, usually a federal appellate clerkship (See CDO’s guide U.S. Supreme Court Clerkships)
- U.S. Courts of Appeals
- U.S. District Courts, including bankruptcy and magistrate judges
- Special federal courts, including Court of Federal Claims, Court of International Trade, Tax Court, and Court of Appeals for Veterans Claims
- Administrative law judges in some agencies; for example, immigration judges take clerks through the Executive Office for Immigration Review (EOIR) in the U.S. Department of Justice Attorney Honors Program
- State supreme courts, intermediate appellate courts, and trial courts in some states

2. Type of Work

All clerkships are fundamentally research and writing positions. Much of the written work disseminated from the chambers starts, and occasionally ends, with a law clerk. Clerks can prepare memoranda, orders, opinions, jury instructions, letters, and any other document that could come from the court. Within that broad framework, the duties of clerks vary a good deal.

Judges take a highly individualized approach to their work. The type and amount of work, hours, and vacation policies can vary greatly among judges, even judges on the same court. Some judges prefer oral reports to bench memoranda. Some trial court judges frequently rule from the bench, eliminating the need for written opinions. Judges may also keep certain work for themselves, such as routine petitions or criminal matters. Some clerks assist judges with special projects, e.g., speeches and publications, committee work, and mediation. An increasing number of federal judges are giving up a secretarial position in return for an additional law clerk slot. In those chambers, clerks share routine administrative duties such as opening the mail. The work can be as simple as photocopying or as complex as acting as a sounding board for the judge while working through a knotty issue—sometimes in the same day!

The scope of jurisdiction, and consequently the types of cases that are heard, varies among the federal and state courts. The substantive mix of cases before a court differs from circuit to circuit, district to district,
and state to state. In addition, the particular cases assigned to or selected by an individual judge changes within a court.

3. To Clerk or Not To Clerk

Typically, around 45-50 percent of the members of a YLS class will serve as a judicial clerk at some point in their careers; for many of them, it is their first job after YLS graduation, though others will clerk one or more years later. Approximately half of each class makes other career choices. For statistics and further details on career paths, consult CDO’s *Introduction to Career Development* and other specialized guides.

Why Clerk?
Students decide to clerk for a variety of reasons:

- To hone research, writing, and legal skills
- To work closely and form professional and personal relationships with a judge and other clerks
- To gain a mentor who can provide career advice, networking opportunities, and feedback on research, writing, negotiation, litigation, policy, style of practice, and substantive law
- To gain exposure to and make contacts in a legal community
- To gain insight into the workings of the legal system that can be valuable in later practice: what goes into an opinion, how judges work and think, and the context in which decisions are made
- To see different attorneys’ styles of practice
- To obtain practical training in litigation, trial strategy and techniques, and other legal skills
- To obtain exposure to a variety of legal issues and areas of law or to a particular area of law
- To learn to make tough decisions quickly
- To take an intellectually stimulating interim job between law school and a longer term work commitment
- To add another respected credential to a résumé

One YLS graduate has offered advice on whether or not to clerk:

*Like many law students, I had some doubts about whether I would enjoy clerking, and whether I should apply. People offered simple advice, which I now pass on to others: DO IT. There is no substitute for being in court every minute the judge is for an entire year. You see good styles and bad, observe brilliant strategies and embarrassing gaffes, and soak in a wealth of experience. More importantly, it’s simply fun. I recommend the experience strongly even if a student already knows that she will not be a trial lawyer and, indeed, even if a student does not plan to pursue a traditional legal career. The opportunity to observe a...court in action is a fascinating end in itself, even if, for someone not planning to litigate, it is less a means of substantive courtroom instruction.*

Why Not Clerk?
Many students say that they felt “swept up” by their classmates’ clerkship application energy and applied for clerkships without thinking about whether a clerkship was the best post-graduation option for them. Many YLS graduates choose other options, such as fellowships, government, law firms, corporations, legal services, or other public interest organizations. In the words of Professor Jean Koh Peters, whose full narrative appears later in this chapter:

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1 Detailed statistics about circuit and district caseloads are published annually by the Director of the Administrative Office of the U.S. Courts. The Director’s Reports for the past ten years are posted [here](#).
I urge you all strongly to clerk only if it is the right choice for you, and then to choose your judges very carefully. The experience will stay with you for your lifetime and deserves careful attention.

A clerkship is not necessarily the best choice for people who:

- Have other interests that they prefer to pursue
- Have interests in law which are far removed from the courtroom and wish to concentrate on developing their skills in a more relevant arena
- Prefer not to delay their entry into permanent legal positions for financial or other reasons
- Have difficulty with the disruption of another short-term job; families may find it especially onerous, particularly if the clerkship would involve moving to another city

Bear in mind also that although a clerkship is a useful credential for most legal jobs, it is not a requirement. Even if a clerkship is preferred for a particular position, it is almost always possible to substitute other relevant experience, such as a government honors program or, for budding academics, a publication. Remember the other side of the statistic—approximately half of YLS graduates do not clerk, and they have satisfying and successful careers in business, law teaching, and the public and private sectors.

4. Federal Trial Court versus Appellate Court

The work done on trial and appellate courts differs. Some YLS clerks express a strong preference for one type of clerkship over the other. Others state that the judge, rather than the court or the location, is the most important consideration. One YLS clerk’s view:

[A] word about the District Court v. Circuit Court decision. Many . . . will debate the relative merits and demerits, which to my mind seem to balance very evenly . . . . I would only stress that if students already have a clear hunger for one or the other, they should go with their instincts. If the students are like the majority of people, and can see themselves as happy with either position, they should apply to both and simply go with the judge they find most likeable. The quality of the clerk/judge relationship, it seems to me, is far more determinative than the court, or even the caseload.

Trial Court

YLS federal trial court clerks report that they research and write bench memoranda, draft orders and opinions for motions, plea memoranda, and jury instructions. In addition to researching case law and writing, clerks analyze briefs, review evidence, discuss issues with the judge, cite check, and proofread. They may attend trials, oral argument on motions, sentencings, jury charges, status conferences, and evidentiary hearings. Clerks may also be in charge of case management, which includes talking to counsel about scheduling, dealing with requests for extensions, responding to attorney telephone calls about case status and the judge’s procedures, and juggling hearing dates on the calendar.

One YLS clerk described the work typical of a U.S. District Court clerk:

A district court clerkship is probably the ideal training for someone who wishes to be a litigator. Most of one’s time as a circuit court clerk is spent in individual research and writing. District court clerks do a good deal of this kind of research and writing; but we also spend more time in court and get involved in the practical aspects of trial court litigation, such as scheduling motions and trials, preparing orders, responding to
requests for emergent relief, and, most importantly, following a case’s development from its inception to its conclusion . . . [W]e have been introduced to dozens of substantive subject areas of the law and to the sometimes bewildering intricacies of federal court practice. Finally, a district court clerk has the unique opportunity to study a wide range of lawyering styles from a judge’s perspective.

A trial court clerkship can provide a perspective not obtained in law school. Professor Jean Koh Peters explained:

I am glad I clerked for a trial judge. Law school had filled my head with appellate perspectives and appellate reasoning in a way that needed, for me, to give way to the nitty-gritty of the trial level. It was very important for me to see lawyers arguing matters in the first instance and seeing the litigants beside them.

Appellate Court

YLS federal appellate court clerks report that they research and write bench memoranda, draft opinions, summary orders, and voting memoranda; comment on and edit other clerks’ draft opinions; and cite check and proofread. They give recommendations on petitions for rehearing and suggestions for rehearing en banc. In addition, clerks read briefs and transcripts; brief the judge on cases, individual issues, and recommended outcomes; help the judge prepare for oral argument; and attend oral argument. Judges may also assign other duties, such as managing pro se litigant correspondence.

One YLS appellate court clerk believed that a circuit court clerkship is best for students who “enjoy intellectual issues more than they enjoy actual advocacy and debate” and “have no desire to litigate or try cases.” Another described the clerkship:

As a federal appellate law clerk, I am responsible for reading the parties’ briefs once they come into chambers, supplementing the parties’ research, and making a recommendation to the judge about how best to decide the case . . . . There are no evidentiary hearings, no trials, and no contact with the parties or their lawyers. Except for oral argument (which occurs approximately seven weeks a year), I have no job-related contact with the outside world at all. In short, this is a wonderful job!

At the appellate level, the clerks have the time and resources to consider carefully the legal issues raised, relatively free from distractions. In many ways, I have found clerking to be a challenging and invigorating intellectual experience. I get paid to think and write; I like that. Unlike law school, my mental ruminations are limited by a factual context involving real people who will be affected by the Court’s decision. I have found clerking to be a very happy medium between the abstraction of law school and the routine of daily legal practice.

5. State Supreme Courts

Advantages of State Supreme Court Clerkships

State courts are exciting places to clerk. As the Supreme Court and Congress have moved toward constricting federal jurisdiction, state courts have tackled a broader array of issues and their decisions have taken on increasing significance. In addition, after many years of conservative appointments to the federal bench, attorneys in various areas—such as civil rights, criminal, and environmental law—are turning to state courts to achieve their objectives. As a result, many state supreme courts are re-examining state constitutions to find ways to maintain or expand civil rights, criminal law, and environmental law
doctrines.

YLS graduates who clerked for state judges and reported back to CDO were very positive about their experiences. They described their state court clerkships as enjoyable, instructive, interesting, demanding, and intellectually stimulating. Clerks noted that state court dockets were at least as varied as federal court dockets. One YLS state supreme court clerk observed:

The work is great. We are constantly faced with making new law and setting precedent in the state. This is truly exciting. . . . We are relatively free to think through legal questions with a fresh mind. The cases coming before the Court are incredibly diverse, maybe half criminal appeals. . . and half civil: boundary disputes, family law, commercial law, administrative law, civil rights, torts, etc.

For graduates expecting to practice in the geographic area where they are clerking, a state court clerkship can provide valuable knowledge of that state’s legal system. Clerks have the opportunity to become familiar with the practice and practitioners there. Even if you intend to practice elsewhere, a state court clerkship can be beneficial. One YLS graduate explained:

I was concerned when I took this job that involvement with state law might not be valuable for working out of state. My concern is ill-founded. Many important state statutes are modeled after federal ones. So we rely on the best reasoned federal decisions. . . . Moreover, federal law comes up directly or by analogy very often.

6. Clerking Now or Later

There is no single window of opportunity to apply for a judicial clerkship. Some students may find it beneficial to apply later in law school or after graduation. Based on figures from OSCAR (Online System for Clerkship Application and Review), over the past several years, the applicants have been divided almost evenly between alumni and third-year students. A number of YLS graduates have successfully chosen to clerk after they have completed a post-JD fellowship or engaged in practice for one or more years.2

Potential Advantages of Applying Later

Students delay the clerkship application process for a variety of reasons:

- Actual work experience. Judges often appreciate the substantive knowledge, maturity, and perspective that come with legal work experience, and some judges now only hire clerks with work experience.
- A fuller record of law school experience. Your candidacy may be enhanced if you have completed more courses, papers, or a note or other publication; have participated in additional extracurricular activities or jobs during the school year; or have held supervisory positions in a clinic, student organization, or journal.
- More opportunities for professors or legal employers to get to know you and your work. This could provide you with additional, or possibly stronger, recommenders.
- More application options. You can also apply to judges who have odd-term vacancies with earlier start dates, or to newly-confirmed judges who might need clerks right away.
- A better understanding of why and where you want to clerk.

2 It is also important to be aware that some federal judges have developed a practice of hiring current students multiple years ahead, with the assumption that the applicant will gain practical legal experience in the interim. This practice is much rarer in state courts. In all events, consider at the outset how flexible you can be with a start date.
• Higher salary with bar admission and a year or more of legal experience, as discussed below.
• The ability to transition to a new career path. Some graduates see the clerkship as a way to demonstrate to potential employers that they are interested in changing the direction of their career.

Potential Disadvantages of Applying Later
Disadvantages of a short-term deferral include:

• Finding a one-year job before the clerkship commences. Some law firm employers will allow a student with a permanent offer from a summer to return for a year, clerk, and return again. Others are reluctant to make a commitment. If the clerkship search comes as a surprise to the firm, there may be some annoyance upon learning that a new associate will be leaving in a year or less. Finally, even if the employer is pleased about your clerkship and willing to hold your place, your judge may not allow the clerk to retain an offer of employment. One-year public interest positions, other than fellowships, are rare. Unless you are willing to fulfill the minimum time commitment (often two years), you could find a one-year time constraint considerably impedes a public interest job search.
• Deferring or foregoing federal government honors programs, which require a two- or three-year commitment.
• Deferring or foregoing some public interest fellowships, such as Skadden or Equal Justice Works, which require a two-year commitment.
• Disrupting an orderly career progression. This is particularly true for graduates who accept two successive clerkships and then return to practice. They may be considered to be at the same seniority/skill level as other associates who graduated the same year, but their experience in performing the specific work required by the employer may be lagging.
• Moving multiple times in a relatively short period, probably at least once at your own expense.

A quick perusal of these lists, especially the potential disadvantages, highlights the importance of assessing when it makes the most sense in your overall career path to transition from your job. Perhaps a nine- to twelve-month gap seems perfect; alternatively, based on your work style or the particular jobs you wish to pursue, it may be too short. For example, in private practice, it may be beneficial to you in terms of training and professional development to spend more than one year at your firm. Similarly, if you are interested in public interest fellowships, you may prefer not to limit your opportunities to one-year fellowship options. Judges are regularly hiring clerks and appreciate legal experience, so look beyond the first moment you can submit an application and choose the timing that is most sensible for you.

7. Hiring Criteria and Competitiveness

The hiring criteria can vary greatly from judge to judge. Some former clerks stress the importance of a strong academic record, and others state that their academic record was not a critical factor in obtaining their clerkship. Do not presume that you need a certain number of honors or Yale Law Journal membership to obtain a clerkship. While some judges may value those qualities, others will place greater emphasis on other factors such as public interest activities, prior work experience, an ability to work as part of a team, maturity, or interpersonal skills. In some cases, recommendation letters play a significant role, and at other times applicants have had interviews before all of their recommendation letters had arrived. Among the qualities that judges may seek are your ability to:

• research and write well
• think and reason clearly
• recognize and analyze legal issues, complex facts, and legal doctrines
• articulate and defend your positions
• manage many projects simultaneously
• complete assignments on time
• work as a member of a team and get along with others
• perform well under pressure
• maintain confidences

There is no question that the clerkship process is a competitive one. Each federal and state judge has a limited number of available positions and applications are submitted by candidates from national and regional schools throughout the United States. Although YLS has an excellent success rate, not all candidates obtain a clerkship; exact figures are not available because students and alumni who apply are not required to report to CDO the fact that they applied. Nevertheless, in view of the wide variety of criteria discussed above, opting out based on your own evaluation of your qualifications is not the best approach. Instead, research judges’ selection criteria and preferences. Consult YLS Judicial Clerkship Comment Surveys and other resources; see Chapter 3 and Appendix B. Talk to professors and former clerks. Look for judges with whom you would enjoy working and who would appreciate your strengths. Consider ways in which you might bolster your application through additional research and writing, clinic participation, or work with a professor. Finally, be flexible about geographic locations, types of courts, and judges when selecting judges to whom to apply.

8. One Clerkship or Two

For some students, the prospect of two clerkships is very appealing. Before pursuing more than one clerkship, determine how the clerkships fit into your short- and long-term career plans. Consider the possible advantages—such as intellectual stimulation, establishing another mentoring relationship with a judge, and trying out a new city—and disadvantages—deferring other career goals, potentially incurring additional debt, smaller marginal improvement of skills.

Federal judges can hire more than one year in advance. Accordingly, if you are interested in clerking at both the trial and appellate levels, one possible strategy would be to apply to trial and appellate judges concurrently. If you were able to obtain two offers, you could ask one of the judges to defer your clerkship until the following year. Judges are often amenable to this arrangement, since it gives them the advantage of an experienced clerk. It is particularly common in New York City. There is no guarantee, however, that a particular judge will accede to your request.

If you are committed to completing your clerkships in a particular order, such as trial court before appellate, consider applying to each court separately in consecutive years. Choosing one type of court could simplify your research burden. The consecutive application strategy also offers the advantage of listing a clerkship on your resume when you apply the following year. Moreover, your current judge may be able to make positive, substantive comments about you if another judge calls. Certainly some students have successfully obtained clerkships in the order they wish by applying simultaneously and working it out with the judges; however, it is worth considering whether there may be advantages to consecutive applications even beyond fixing the order.

Finally, it is useful to note that very few state courts do not hire clerks multiple years in advance. State judges have constraints on tenure and budget that do not affect their federal colleagues. Candidates

3 In particular, given their popularity among YLS students and law students generally, positions regarded as the most “competitive” are with the D.C., Second, and Ninth Circuits, and the district courts in Manhattan, Brooklyn, Washington, San Francisco, and Los Angeles. These judges may be more apt to rely on traditional measures of achievement, such as Honors grades, to cull their applicant pool.
interested in multiple clerkships, or focused on clerking immediately after graduation, may wish to consider how state courts could factor into their plans.

9. Financial Considerations

**Federal Court Salaries**

The judiciary adheres to a pay grade scale known as the JSP scale, which is the same as the GS scale for other federal employees. Most federal court clerks are paid at the JSP-11/step 1 level, which averages a bit over $64,000 in many localities for 2021. “Locality rates” (additional compensation for areas with higher cost of living) create significant variations from the average: as examples, the JSP11/1 salary in Boston is just under $72,000 and in San Francisco is nearly $79,000.

Bar membership and at least one year of legal experience can mean a jump of one grade level, generally to JSP-12, for additional compensation of approximately $14,000. Some judges expect clerks to take a bar exam; however, without the requisite work experience, bar admission will not result in a pay grade increase. To be appointed at or promoted to JSP-13 for another $14,000 or more, you must have bar membership, plus two years of experience.

Law clerks are required to list the date of graduation from law school on a standard government form completed under oath. If you have not completed and passed all of your requirements for graduation from law school, you will be paid as an administrative assistant/secretary, generally at the JSP-7 level which is in the $43,000 range, depending on locality.

**State Court Salaries**

Annual salary information for all 50 states, the District of Columbia, Guam, and Puerto Rico is listed in Vermont Law School’s *Guide to State Judicial Clerkship Procedures*. Most jurisdictions pay more than $50,000. Some offer annual salaries greater than $60,000, and a few pay more than $70,000.

**Clerkships and COAP (Career Options Assistance Program)**

Graduates working as judicial clerks may participate in COAP, but program benefits for clerkships will be in the form of a loan rather than a grant. The amount of loan for which a graduate may qualify is calculated the same way that non-clerkship COAP eligibility is calculated. The maximum total amount of a clerkship loan is $10,000 per clerkship year, up to two years (or $20,000). The loan will carry an interest rate equal to the Yale Student Loan rate, and it will be payable in full within one year of leaving the clerkship. Extensions may be arranged for graduates who have multiple year or consecutive clerkships.

If, after the clerkship, the graduate takes a position that qualifies for the COAP Program, the loan will be treated as a qualifying educational loan covered by the Program, and the Program will make the necessary payments of principal and interest on the participant’s behalf for as long as the participant is in the Program. Clerkship loan recipients should consult with their tax advisors regarding the appropriate treatment of imputed interest. Upon leaving a qualifying position, any remaining balance due on the loan will be payable in full within one year. The one year repayment requirement is based on the assumption that a graduate in a high paying post-clerkship position will be able to refinance the loan through manageable commercial options and thereby free Program funds for others. Should this assumption be inaccurate, individual adjustments sensitive to the graduate’s circumstances may be made.

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4 For a brief description of salary and benefits, with a link to the 2021 Judiciary Salary Plan Locality Rate Pay Tables, click here. For a brief description of salary and benefits, click here.

5 Although judges previously had discretion to award incremental step increases within a pay grade, the Judicial Conference of the United States severely curtailed salary discretion in September 2007.

6 Additional information is available from the Financial Aid Office or in the Financial Aid section on the YLS website.
Here is a simplified example of how COAP works:

Assume you start a one-year clerkship on September 1 of the year you graduate, and have qualifying loans that require a $500 monthly payment. Typically, you get a six-month deferment before you actually have to make a payment, so you will make your first payment on December 1. That means you will have to make nine payments during your clerkship year, for a total of $4,500. COAP will make those payments by extending you a $4,500 loan.

Scenario 1: You join a large law firm in Philadelphia a second-year associate. By the end of your first year at the firm, you are expected to pay YLS the $4,500, plus interest.

Scenario 2: You become a staff attorney for the Montana Legal Services Association. The $4,500 is lumped together with your other qualifying student loans under COAP, and you do not have to repay it, unless and until you take a high-paying job.

10. Employment of Non-U.S. Citizens

There are two obstacles to overcome for non-U.S. citizens who wish to clerk for a federal judge, or work for any federal agency. First, you must be able to obtain authorization to work under U.S. immigration laws. One option is the F-1 Optional Practical Training (OPT) which allows you to stay in the U.S. for 12 months for additional practical training such as a clerkship. The latest that OPT can start is 60 days after you graduate; thus, it may not be available if you are unable to schedule your start date within that time period. Note also that if you used OPT to work during one or both of your summers, you will have less than one year left for OPT.7 Another visa option that can be used for a clerkship is the H1B visa. If the judge is willing to sponsor the candidate, the court will pay the fee. Before embarking on an H1B visa application, it is recommended that you obtain your own attorney to help you through the process.

Second, the federal Appropriations Act bans agencies, in most cases, from paying non-citizens with appropriated funds. In 2009, Congress amended the Appropriations Act to limit more strictly the categories of qualifying non-citizens. According to the Act, appropriated funds may not be used to pay compensation to non-citizen employees with duty stations in the continental United States, unless they qualify under a small group of exceptions. The federal judiciary’s website offers the following explanation:

“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;

7 To conserve your OPT, you can instead pursue Curricular Practical Training (CPT) for summer employment. The CPT application must be approved by the Associate Dean for Student Affairs and the University’s Office of International Students and Scholars (OISS); it is conditioned on enrollment in the Legal Practicum course during the fall term after the summer employment.
4. is a lawful permanent resident who is seeking citizenship as outlined in 8 U.S.C. 1324b(a)(3)(B).

To comply with requirement No. 4 above, an individual must be a lawful permanent resident (have a green card) and apply for citizenship within a short time of first becoming eligible to do so. An individual is not eligible to apply for citizenship until he or she has been a permanent resident for at least five years (three years if seeking naturalization as a spouse of a citizen). When that occurs, he or she must apply for citizenship within six months of becoming eligible and must complete the process within two years of applying (unless there is a delay caused by the processors of the application). NOTE: A lawful permanent resident who is not yet eligible to apply for citizenship at the start of judicial employment may lawfully be employed by the judiciary, provided that he or she submits an affidavit indicating the intent to apply for citizenship when eligible to do so. A sample form of this affidavit has been provided to the courts.

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.” (From Citizenship Requirements)

It is important to verify your eligibility for employment in a particular chambers under current law. If any person is hired in violation of these restrictions, the Administrative Office of the U.S. Courts is required, by statute, to remove such person from the payroll immediately and any appropriated funds paid may be recouped.

If you are not a U.S. citizen, you should notify the chambers in which you are seeking employment, to permit the judge to ascertain whether you are eligible for consideration. A good starting point to learn about your work and visa options is the OISS website. For detailed information on the employment restrictions under the Appropriations Act and other regulations and orders, click here. Although there is no “preclearance” for clerkship candidates, you can obtain further information by contacting Robert Deyling in the General Counsel’s Office of the Administrative Office of the U.S. Courts at 202-502-1100.

State court citizenship requirements depend on the individual state’s laws; a number of states require only work authorization, not U.S. citizenship. Non-U.S. citizens should check directly with the state court(s) in which they are interested.

11. Transfer Students

Historically, the percentage of YLS transfer students who clerk is similar to non-transfer students. Transfer students offer very strong credentials from their first law school to which they will add activities, coursework, and recommendations from YLS. While the commencement of federal hiring was moving earlier, in some cases even to the summer after first year, transfer students’ credentials and faculty relationships from their first law school played a larger role. The new federal law clerk hiring plan announced in February 2018, gives all students, especially transfer students, more of an opportunity to build relationships with Yale faculty and develop a more complete record of their interests and accomplishments. If you have questions about transfer students and clerkships, talk to other transfer students who are or will be clerking, as well as faculty, deans, and CDO counselors.
CHAPTER 2
CHOOSING JUDGES

The initial steps in the clerkship job search process are the same as in any other type of job search. Begin with self-assessment. Consider your needs, interests, and career goals. Assess your strengths and weaknesses. Analyze your academic record, activities, and work experiences. Self-assessment will help you decide what type of clerkship would be a good fit for you. In addition, it will enable you to articulate to particular judges the reasons you chose them, the relevant experience and abilities you offer, and the ways in which a clerkship fits into your future plans.

Second, research. Once you have determined what you are seeking through self-assessment, research judges to find clerkships that would be a good match for you. Try to focus your research on particular locations or types of clerkships. Start with written and online resources to obtain basic information. Then, build on that information in conversations with former clerks and others familiar with the judges. Use your research to prepare a list of judges to whom to apply.

Ultimately, you are looking for someone with whom you will be compatible, on a professional and personal level. One YLS clerk captured the sentiment of many:

“[C]lerking for any judge thrusts a law clerk into a very intimate and close-knit setting with that judge and his staff. This relationship will often make or break a clerkship experience. (Indeed, most people who do not enjoy their clerkships are those who felt uncomfortable around or simply did not like their judges.)”

1. Factors to Consider

Location
The geographic location of the court is a factor in the clerkship choice for a number of reasons. Some clerkship applicants want to be in a particular area for personal or family reasons. Others view a clerkship as a good opportunity to explore a different area for a year or two. If you have decided where you want to practice, it can be advantageous to clerk where you can get to know the judges, attorneys, and nature of practice.

Professional and Personal Background of the Judge
Often the interview is the best way to ascertain your compatibility with the judge. Nevertheless, looking into the judge’s background can also be valuable. A judge’s background shapes his or her approach to the bench and will influence what you learn in your clerkship. The judge’s prior work experience, publications, education, board memberships, and political affiliation offer some insight into the judge’s personality and philosophy.

Atmosphere in Chambers and Relationship with the Judge
The atmosphere in chambers takes its cues from the judge and contributes considerably to the quality of a clerkship. Judges differ in the way that they run their chambers and work with their clerks. There are also significant variations in camaraderie and warmth. No one atmosphere or style is suitable for everyone and you must choose one that will be comfortable for you. There are judges who have a great deal of interaction with their clerks and enjoy the give-and-take of discussing issues. Others prefer that their clerks communicate mainly by memoranda. Some judges are closely involved in their clerks’ professional
and personal lives. They also maintain an ongoing relationship with former clerks. In some chambers, judges eat lunch with their clerks every day; in others, once a week; and still others, not at all.

Judges also have many different communication styles. YLS clerks report that some judges are brusque and highly critical of clerks’ work, requiring “thick-skinned” clerks. Other judges are kinder and gentler. Some are combative, and others, relaxed. You must know what will best fit your personality and allow you to get the most benefit out of your clerkship.

In evaluating this aspect of the clerkship, one clerk stated:

“Simply because a judge is “well-respected” or “brilliant” does not necessarily mean that it will be a great clerkship. In fact, if anything, there is a direct correlation between judges who write great opinions (or articles, who do tons of community work, etc.) and judges who have very little time for their clerks. Part of this is a function of time and part of this is a function of interest.

Many judges, both circuit and district, run a very hierarchical system in which the clerks’ role is to read briefs and prepare bench memos—if the judge has any questions, he or she will get back to you. Moreover, and perhaps most importantly, these chambers are not characterized by informal discussions. . . . Ultimately, much of what makes a clerkship a unique experience centers on what you learn from your judge, not what you learn from reading briefs and writing orders/opinions. The more you talk with your judge—and the more willing your judge is to talk—the more you will learn.

. . . Students need to ask how much clerks talk about issues outside the law, how much they joke around with their judge, and what generally leads them to talk with their judge on any given day (i.e., there is a huge difference between talking about politics after talking about a case and just going in to talk politics). Another clue is the camaraderie within chambers: if everyone talks a lot, the judge probably does too—chambers tend to mimic the judge.”

A good working relationship with the office staff and other clerks is also important. Aside from the judge, they are the only people with whom you will have significant professional contact during your clerkship. You must get along well with them.

**Ideologies**

The judge’s opinions, publications, or speeches are the best evidence of his or her ideological leanings. Further insight may be gained through conversations with former clerks. Political affiliation and appointing president may also offer clues, but it is important to remember that many factors are involved in the selection of a nominee, including, most significantly, the views of the U.S. Senators from the state in which the nominee will serve.

There is no optimal level of ideological compatibility, and you must decide how much compatibility is important for you. Some judges prefer like-minded clerks. Other judges look for clerks with a different outlook because they enjoy spirited intellectual debate and use it to strengthen the reasoning in their opinions. If you are a liberal and your judge is a conservative, or vice versa, your clerkship may be filled with spirited debate or constant tension, and you should consider how you will react. The same may be true if you have strong feelings about certain issues, such as the death penalty or privacy, and your judge holds an opposite view.
As you weigh the importance of how closely a judge’s ideology must mirror yours, remember that unless you are clerking at a supreme court, your judge is bound by precedent. No matter how ideologically compatible you and the judge are, you probably cannot avoid writing opinions with which you personally disagree.

**Special Types of Judges**

- **Chief Judge.** Chief judges are selected based on seniority, and serve for seven years or until attaining the age of 70, whichever occurs first. The chief judge shoulders significant responsibility in the administration of the circuit or district, and may have a lesser caseload as a result. The chief judge is also entitled to an additional law clerk or administrative position, which some elect in order to maintain more of a full caseload. Sometimes clerks assist in administrative duties; sometimes another employee handles these duties.

- **Senior Status Judge.** A district or circuit judge may elect senior status upon reaching age 65, provided he or she meets certain time-in-service requirements. Electing senior status is completely within the judge’s discretion, and the judge may choose to remain in active status until death. The court may benefit because when a judge takes senior status, it creates a vacancy; not only does the newly senior judge continue with at least a partial caseload, a new judge is available to share the court's work. The principal advantage to senior status for the individual judge is much greater control over workload.

  Senior district judges can exercise some control over the types of cases they hear. For example, some senior district judges elect to have no routine criminal cases assigned to them. In the circuit courts, senior judges do not participate in rehearings en banc. Specific courts may also have additional local rules; for example, senior judges on the Eleventh Circuit do not hear death penalty appeals.

  Senior judges can travel more, sitting by designation in trial and appellate courts in various parts of the country, and a clerk usually accompanies them. Clerks can have the opportunity to work on trials and appeals in the same term.

  The workload dictates the number of clerks for which a senior status judge is eligible. A judge who elects to take half the normal caseload, for example, could only hire half as many clerks as an active status judge. As a result, the workload for a senior judge’s clerk is roughly equivalent to the workload for an active judge’s clerk.

  For an enlightening and entertaining explanation of the role of senior judges, see the essay by Senior Judge Frederic Block (EDNY): Block, *Senior Status: An “Active” Senior Judge Corrects Some Common Misunderstandings*, 92 CORNELL L. REV. 533 (2007). For convenient reference, it is posted on the Clerkship Resources SharePoint site.

- **New Judge.** Clerking for a new judge presents unique challenges and opportunities. There are advantages and disadvantages in breaking new ground with the judge. You must determine whether it is the type of situation in which you will thrive or wilt. One YLS graduate who clerked for a new judge described the experience as follows:

  “On the “down side,” we probably spend more time on certain kinds of issues than do the chambers of the more experienced judges; things are not entirely routine here yet, and I occasionally come up with a question that I can’t get answered simply by bringing
it to the Judge’s attention, or by looking in a file to see how it was handled in the past by clerks ten years my senior.

On the other hand, the lack of set-in-stone routines makes chambers a more democratic and, in some ways, friendlier place than it might otherwise be; almost everyone, including the Judge, is open to suggestions, and the law clerks probably have more input into office workings than they do in chambers where the judge and staff have been in place for decades. Also on the “up side,” I gather that my co-clerk and I have more to do with criminal cases than is typical—whereas many judges do all their own writing in criminal cases, [our] Judge...will occasionally assign a Memorandum and Order on an issue that arises in the context of a criminal trial, and he is very open about discussing the kinds of questions that sometimes come up in the criminal procedure area, where his experience as a litigator has been less directly transferable than in the civil context.”

Other Criteria
YLS students and graduates report using a number of other criteria in deciding where to apply including:

- the judge’s reputation as a person, mentor, judge, teacher, scholar, and boss
- the judge’s approach to cases (e.g., practical vs. scholarly)
- the prestige of the court or judge
- the amount of work and number of hours

The amount of time clerks spend in chambers differs markedly among judges, and former clerks can offer some insight into the preferences of particular judges. Although all federal employees receive the ten specified paid federal holidays, such as Labor Day, judges otherwise have discretion in deciding whether to allow additional vacation time to their law clerks. Some judges give their clerks two weeks, while others provide none. If you are counting on vacation days to take the bar exam, or just take a break, consider checking with former clerks regarding their judges’ policies.

2. How Many Judges?

First, consider that you may receive an interview and offer from any judge to whom you apply, which makes it risky to apply to judges with whom you do not want to spend a year. There is no set formula for determining the number of applications, and there is no standard correlation between the number of applications and the number of interviews or offers. Because each judge has her or his own particular hiring criteria and scheduling preferences, it is very difficult to predict how many interviews you might be offered or in what order they might come.

As you might expect, the number of clerkship applications sent by YLS students varies. Anecdotally, it is common for students to report sending around 30 applications. Some submit over 40. A small number of students send fewer than 10 or more than 60. Before you can decide on your number, you must have a sense of your tolerance for risk and the strength of your interest in clerking. More specifically, consider at least the following questions:

- **Is a clerkship one of an array of appealing options for you, or are you determined to clerk early in your career?** If you view a clerkship as an interesting prospect, but not a paramount objective, or a path that you are willing to pursue a year or more later, you can comfortably apply to a small number of judges. If securing a clerkship is your top priority, you could improve your chances by diversifying your geographic choices and applying to more judges. It still pays to be judicious,
however, since too many far-flung locations could complicate your ability to pursue your interviews in a timely fashion.

- *Do you have geographical constraints?* If you want to be in a particular city for personal or family reasons, for example, you have already limited your pool of judges. Applying to more judges in that area would ameliorate that geographic constraint.

- *Are you most interested in areas that attract a large number of YLS applicants?* YLS applications are heavily concentrated in federal courts in the New York City area (the Second Circuit and the district courts in Manhattan and Brooklyn); the District of Columbia, and California (the Ninth Circuit and district courts in San Francisco and Los Angeles). Again, you would probably apply to more judges if you were focusing on one or more of those courts. In particular, to improve the odds, consider nearby areas that see fewer YLS applicants. If you want to clerk in a Ninth Circuit city, for example, consider Phoenix or Portland (or, for that matter, Billings or Reno or a half dozen others). If you want to be in the New York area, think about cities such as Philadelphia or Newark, which have some excellent Third Circuit and district judges. Similarly, Baltimore, Maryland, and Alexandria, Virginia, have federal appellate and district judges that DC applicants could consider. If you can widen your circle to include places with lower numbers of YLS applicants, you can more readily distinguish yourself.

Regardless of the number, the best approach is to research judges in advance and be able to articulate a reason for placing each judge on your list. Again, send applications only to judges with whom you have a sincere desire to clerk.

### 3. Researching Judges

#### The Importance of Early Research

Research is an essential element in the clerkship application process. Conduct your research during second year, when you are deciding on the judges to whom you will apply. You can more easily take advantage of resources at YLS. Your research will help you identify judges who may accept applications early and define your priorities. Conducting your research early in the process can save you from applying to judges in whom you have little or no interest. Be sure to save your research, to enable you to refer to it later as you prepare for your interviews.

Early research can also help as you work with your recommenders. Some of your recommenders may want to know which judges are on your list so that they can see whether you have included anyone with whom they have a connection, such as a YLS graduate who is currently in the judiciary (see Appendix D for YLS graduates who are judges). They may be willing to write more personalized letters to those judges or make telephone calls on your behalf. Some recommenders may be willing to write only a certain number of letters. If you want those recommenders to write to judges who are your preferred choices, you must do the research to determine who is at the top of your list.

When a judge calls to invite you for an interview, you will have little, if any, time to research. If you have not done sufficient research in advance, you may schedule an interview that can have a negative impact on your overall interview process. For example, if you are not interested in the judge and schedule an interview very early, you may foreclose other options. On the other hand, if you schedule a later interview with a judge who turns out to be of greater interest, that judge may fill her positions from earlier interviews. Determining your preferences, then gathering information about a judge’s timing for extending offers and expecting an answer can help you determine the best way to schedule your interviews.
Finally, early research can save you money. By applying to only those judges with whom you would like to clerk, you could save money on materials, mailing, and travel.

4. Resources Provided by CDO

- **CDO Counseling and Programs.** Marilyn Drees, our clerkship director, is available to talk with students about the decision to clerk, the clerkship application and selection process, and other career issues. CDO also sponsors a variety of informational programs, which are an essential way for students to obtain clerkship information.

- **Confidential Judicial Clerkship Surveys** from former and current Yale clerks about their clerkships. Students find this to be an extremely helpful resource. The responses often give useful information on a specific judge and that judge’s clerk selection process. The confidential Judicial Clerkship Comment Surveys from clerks since 2014 are searchable online and can be accessed in CMS (Career Management System) via the CDO website. To maintain confidentiality, online surveys may be read but not downloaded or printed.

- **Clerkship Resources SharePoint Site:** Students are automatically enrolled in the fall. CDO uses this site to communicate critical updates, exchange other information, answer questions about clerkships and applications, and provide links to clerkship online resources. It is a good idea to check it on a regular basis.

- **CDO Website:** The CDO Events link lists all clerkship programs. State judges can list their clerkship vacancies in the CMS job posting system. There is a list of clerkship publications, under “Career Pathways,” then “Judicial Clerkships,” and the “CDO Videos” section includes recorded clerkship programs.

- **Judges Address Database.** The Judges Address Database is found in the “Clerkships” section of CMS. This searchable database contains the names, addresses and telephone numbers of all permanent federal judges and state Supreme Court justices. It is used to create mail merge cover letters and letters of recommendation for judges who accept paper applications.

- **Information on Judges Not Participating in OSCAR.** Many federal judges provide hiring information via OSCAR (Online System for Clerkship Application and Review), a system maintained by the federal judiciary. Some choose not to participate, and CDO collects clerkship hiring information regarding nonparticipating judges in circuit and popular district courts from current YLS clerks, and student reports, as well as reaching out to chambers directly. The aggregated information is posted on spreadsheets in the Clerkship Resources SharePoint.

5. People Resources

**People To Consult**

After you have reviewed written and online resources to determine a preliminary list of judges, you can obtain valuable information from a variety of people. They may be able to give you the inside scoop on what it is like to work with a particular judge or in a particular court or city. As with any subjective resource, you must evaluate what you hear with reference to your own interests, work values, and career goals. The following resources have often proven useful:
• **Alumni** who have clerked or who are clerking now. They can often offer useful information on the other judges in their court, as well as their own. Recent graduates can give you the most current information. Former clerks may provide a different perspective than clerks who have not yet completed their time in chambers. You can find alumni by searching The Courtyard, the online community for YLS alumni and students; the Judicial Clerkship Comment Surveys; and the historical lists of clerks (serving in the past 10 years) included in Appendix B of the guide, *Judicial Clerkships in the US*. In addition, the Clerkship Resources SharePoint site includes a list of YLS clerks currently in chambers, the reported upcoming clerkships of the graduating class, and the historical lists of clerks that comprise Appendix B.

• **Attorneys** from the areas where you would like to clerk. They may have clerked for or practiced before local judges. They may also be able to put you in touch with others who are familiar with those judges.

• **Faculty and Deans.** Talk to them about your career plans and ask them for advice on clerking and on judges. Faculty members who have clerked are listed in Appendix E.

• **Members of the Class of 2021** who will be clerking. They have finished the process that you are beginning and can offer advice on application strategies, interviewing, and the selection process. The list of Class of 2021 clerks is posted in the Clerkship Resources SharePoint site, and is updated throughout the spring as new clerkships are reported.

**What To Ask**

Before speaking with current or former clerks or attorneys, think about issues that are important to you and focus your questions on those points. When you are talking with a current or former clerk, it is worth remembering that you need not confine your questions to that clerk’s judge; the clerk may well have some insight into other judges in the same courthouse or on the same court. Bear in mind also when talking with current clerks that they may be interviewing you, and consider saving your more pointed questions for those no longer in chambers. The questions below offer a starting point for your list. The answers to these questions can be valuable in helping you decide on whether to apply to particular judges and, at the interview stage, whether to accept an offer.

- What is the judge’s personality like?
- How interested is the judge in clerks’ personal and professional lives? How close is the judge with former clerks? How much will the judge help with finding the next job?
- How is the judge viewed in the legal community?
- Does the judge prefer clerks who agree with him/her, or who take a position to react against?
- Does the judge have any personal or political beliefs that affect his/her judging?
- What are the best and worst things about working for the judge? What things should an applicant know that might help in making up his/her mind?
- How extensively does the judge edit clerks’ drafts?
- What is it like living in [the particular town]? Is it easy to make friends? How feasible is living in the town on a clerk’s salary?
• What are typical hours in chambers? How flexible are the hours?

• Does the judge permit vacation days beyond the federal holidays?

• What is the judge’s policy regarding taking the bar exam during the clerkship?

• Does the judge have a strong preference for clerks with legal work experience, or is it realistic to clerk straight from law school? Is there any particular experience or area of expertise the judge values?

• What is the judge’s policy on clerks having a post-clerkship job in place or an outstanding offer for a post-clerkship job? What is the policy on seeking, interviewing for, and accepting a post-clerkship job during the course of the clerkship?

6. Online Resources

There are many online and print resources that you can consult to learn more about federal and state judges and courts, as well as clerking. This is a list of some of the more frequently used online resources, some of which are also available in print.

• **OSCAR (Online System for Clerkship Application and Review):** OSCAR is a single, centralized resource for federal clerkship information. It includes a searchable database of federal law clerk hiring information, including the length of the clerkship term, the application period, the preferred method of application, and the required application materials. Judges can also post that their positions are filled or indicate that they are not hiring clerks. There is also general information about clerkship duties, salary, and benefits under the “Resources” tab. In addition, your OSCAR account allows you to save your searches, receive email updates, and apply to participating judges online. *(Please note: OSCAR will release applications to judges in accordance with the federal law clerk hiring plan schedule. OSCAR also determines when students can gain access, in the past two years, they were given access in early February of second year, to permit them to research judges and become familiar with the platform well in advance of the June application opening date.)*

OSCAR also includes federal circuit staff attorney positions, which are located under a separate tab. The staff attorney module contains the same features and search capability found in the judge module. In 2013, OSCAR added other specialized law clerk positions, such as bankruptcy appellate panel clerks and pro se clerks. These positions, like staff attorney positions, are within the court, not assigned to a particular judge. Unlike staff attorney positions, however, these will be listed with other clerkships under the chief judge of the appropriate court.

• **Almanac of the Federal Judiciary (part of WoltersKluwer Cheetah database):** YLS Library Database List. The database is currently only available to users of YLS computers or Yale VPN. The first time you access the site, you will be prompted to create a userID (your yale email address) and password. Once logged in, select "Litigation" from the Practice Areas section, then select "Almanac of the Federal Judiciary" under Practice Tools. This online directory contains the full text of the *Almanac of the Federal Judiciary*, which includes biographical data, descriptions of noteworthy rulings, and anonymous lawyers’ evaluations. It also includes Senate Biographical Questionnaires and Financial Disclosure Reports for federal judges.
• **Federal Judicial Center:** You can find biographical information on all past and present federal judges, court histories, educational materials, and links to other legal resources. Select “Biographical Directory of Federal Judges, 1789-present,” then use the advanced search criteria to search for judges on a variety of criteria including gender or race/ethnicity. (If you select the Diversity on the Bench link, you will find a set of lists of current and past judges in different demographic groups.)

• **Federal Judiciary:** The federal judiciary’s official website offers a wealth of information, from court composition, jurisdiction, and caseloads, to current and upcoming judicial vacancies and other status changes, to news and initiatives in the judiciary. The “Pathways to the Bench” video series offers insights from a diverse array of federal judges on their careers and their time on the bench.

• **Senate Nominations:** You can find the most up-to-date listings of recent nominations and confirmations, judicial and others.

• **Senate Judiciary Committee:** You can find the hearing schedule for nominees, check committee votes, and find information on nominees, including the required biographical questionnaires.

• **LeadershipConnect:** This is the online version of the Judicial Yellow Book. It contains biographical profiles and contact information for more than 3,500 federal and state judges, including education and previous experience. Staff information, when provided by chambers, includes the names of law clerks and the law schools they attended. Judge information is updated daily and staff information is updated semiannually. LeadershipConnect is a database to which the Yale Law Library has subscribed which means you access it without a password on a Yale computer or Yale VPN; simply click on the "Sign In" button at the top of the page.

You can use the “quick search” box at the top of the page to find a particular judge or court. You can choose “Advanced Search” to conduct a search based a variety of individual and organization criteria such as education. If you click on a judge's name in the search results, you will see the judge's bio page. If you click on the “Chambers of (judge name)” in the search results, you will see the judge's staff, with contact information (phone number and often an email address); it is up to the chambers how much information they are willing to report.

• **The Guide to State Judicial Clerkship Procedures:** Produced by the Vermont Law School Career Services Office, this Guide provides information on clerkship opportunities in all 50 states, the District of Columbia, Guam, and Puerto Rico. You can access pdf printable versions of individual state information or the entire Guide from the website. When a login box appears, type “yellow” as the username and “birch” as the password.

• **National Center for State Courts:** This website links to numerous state and international court sites. A variety of statistical information on state courts is also available under the Information & Resources tab.

• **LEXIS®-NEXIS® and WESTLAW®:** Reading a judge’s opinions and news articles can give you insight into the judge’s thinking and can provide valuable background for the interview. Lexis also has Courtlink, a feature for researching the caseload of the circuit and district courts, several state courts, and individual district court judges. The Almanac of the Federal Judiciary (AFJ) database in WestLaw also reports on caseloads for the federal judges.
CHAPTER 3
THE APPLICATION PROCESS

1. Application Timing

Federal Judges
At this juncture, it can be helpful to have some historical context. From 2002 until 2013, there was a
hiring plan, established and monitored by a committee of federal judges, to govern the timing of the
federal clerkship application process. Under that hiring plan, the first opportunity for law students to
apply was the fall of the third year. Confronted with significant increases in noncompliance in 2012 and
2013, unfortunately, that committee announced in January 2014 that the hiring plan would be
discontinued. The demise of that hiring plan was marked by rounds of ever-earlier hiring, culminating
with some highly competitive judges selecting clerks as early as June and July after the first year of law
school. A new group of judges formed a new ad hoc committee and, with the support of many law school
deans, including Dean Gerken, announced a new federal law clerk hiring plan in February 2018. The
basic premise of the hiring plan is that students should have completed two years of law school before
they are considered for clerkships.

- For those students who started law school in fall 2019, judges will not solicit or entertain formal
  or informal applications or recommendations for clerkships until noon (EDT) on June 14, 2021.
  Judges will not interview candidates or extend offers before noon (EDT) on June 15, 2022.

- A judge who makes a clerkship offer will keep it open for at least 48 hours, during which time the
  applicant will be free to interview with other judges.

- The plan places no restrictions on the consideration of candidates after they have completed two
  years of law school, meaning law school graduates (and students later in the third-year) could
  apply and be considered at any time.

YLS supports the new law clerk hiring plan. CDO maintains a password-protected page on its website
with information on the new hiring plan, including links to court announcements and relevant articles. It
is updated as new information is received.

State Courts
State courts have always operated separate and apart from any federal schemes, and the new federal law
clerk hiring plan does not apply to them. There is no uniform schedule and no online source listing
clerkship vacancies, analogous to OSCAR, in the state courts. Judges in some state courts require students
to apply in the spring of their second year (e.g., Maryland) or during the summer between second and
third year (e.g., Connecticut). Others seek applicants during the fall of third year (e.g., Alaska).

To get some idea of a court’s hiring preference, look at The Guide to State Judicial Clerkship Procedures
(see the Online Resources section in Chapter 2 for directions to access this guide). It would then be best to
check with the courts in which you are particularly interested. State courts often post clerkship
information on the court website, either in its own section or under a jobs/employment/careers tab. Some
state courts, or individual state judges, post clerkship openings in the CDO Job Postings in CMS.
Application Strategies
There is no fixed date by which the judges must complete their hiring. The new federal law clerk hiring plan specifies a uniform starting point, but not ending point. Based on past experience with a hiring plan, many of the highly competitive federal judges will probably review applications and make decisions quickly after applications open, while other judges will take a more relaxed approach. Some judges have confined their consideration to alumni and third-year students nearing graduation, and that is likely to continue. State courts, of course, set their own schedules, which adds another set of variations.

There is no single best strategy for clerkship applications, and you will have more options as you get to graduation and beyond. For second-year students in a hiring plan regime, the prudent strategy would be to submit your applications on the opening day, to be sure not to miss anyone who wishes to start reviewing applications right away. Even in that situation, you have some flexibility. Some candidates are willing to view the initial application period as a "first round." Those candidates apply to a relatively small number of judges who are their top choices and, if unsuccessful in securing a clerkship, apply for a clerkship a year or more later (choose a different career direction). Alternatively, other candidates develop a broader list of preferred judges and apply to all of them on the opening date, in hopes of completing the clerkship process in a single cycle.

For alumni or those students choosing to apply during their third year, there can be some additional variations in strategy. Keep in mind your goals and risk tolerance as you determine the best approach:

- The "think small" or "go big" strategies noted above could still be used, of course.
- Some applicants attempt to divide judges into groups based on a combination of personal preference and hiring schedule, then apply in “waves.” This strategy does initially permit some control, at least over the receipt of applications. There is an extra element of risk, since there is no way to guarantee when a judge might call or how quickly a judge might finish hiring.
- A variation on the “waves” strategy would be to develop a list of preferred judges and apply as each one posts a position in OSCAR or otherwise commences hiring. This approach obviously places a premium on timely, accurate information (and vigilance).
- Those applying later in the cycle should also bear in mind that there will be openings for the upcoming year. In addition to judges who simply hire on a slower schedule, newly-confirmed judges will have openings immediately and for the upcoming year. In addition, unexpected openings arise in chambers for a variety of reasons; it is impossible to predict when or where they might arise, but they certainly come up every year.

Regardless of the strategy that you choose, apply only to judges from whom you believe you would accept an offer. Applying to many judges does not assure that you will secure a clerkship that is a good fit. You do not have to accept the first offer, but it is a much greater challenge to evaluate the suitability of the clerkship under time pressure. Use your research to determine with which judges you are likely to be compatible and learn about their selection process.

2. Your Application Materials

The basic rule regarding what materials to submit is to do whatever the judge wants. Sources of information about judges’ application requirements and preferences include OSCAR, CDO’s Judicial Clerkship Comment Surveys, Vermont Law School’s Guide to State Judicial Clerkship Procedures, and the listings that judges place on the CDO job posting system. If you cannot obtain specific information
about a judge’s application requirements, submit the following materials, which are requested by the vast majority of judges:

- **Cover Letter** *(printed on résumé-quality paper)*
- **Résumé** *(printed on résumé-quality paper)*
- **List of Recommenders** *(printed on résumé-quality paper)*
- **Unofficial Law School Transcript or Gradesheet**
- **Writing Sample**

**Cover Letter** *(printed on résumé-quality paper)*

Your cover letter is the first example of your writing that the judge will see. It should be clear, concise, error-free, printed on resume-quality paper, and, in general, not longer than one page. Be sure always to include your law school and graduation status (i.e., student or graduate), the contents of your application packet, and the names of individuals who will be providing recommendation letters.

That basic information may be all that is needed. The primary additions that can be beneficial are described below.

- If relevant and not immediately apparent from your résumé, you may state any special factors that caused you to apply to that particular judge (including former YLS clerks with whom you spoke), that particular court, that type of court, or that location; any connections you have to the area; or any unique qualifications you may possess.

- If your résumé does not reflect the depth of your legal research and writing expertise, you may wish to emphasize it (e.g., you may not have served on a journal or as a research assistant, but may have written numerous class papers or pursued your own research)

- If you are applying to a specialized court, like the U.S. Court of Appeals for the Federal Circuit, you should mention any relevant experience, such as patent or technical background, and any directly relevant courses that you are taking.

The choice to add more material depends on whether you believe that there is a compelling reason to include more information, or the judge has expressed a preference regarding the contents of the letter. If you want to write more, keep in mind that lengthy self-descriptions with information readily gleaned from your résumé are unlikely to be useful. Generalities applicable to many or all clerkships—such as the desire for a good learning experience or an opportunity to see the judicial system from a unique perspective—may sound trite.

Appendix E contains sample cover letters and forms of address for judges. See CDO’s *Introduction to Career Development* for more examples of cover letters in general.

When preparing your cover letters, use the Judges Address Database in CMS. It is a searchable database which is maintained by CDO and contains names, titles, addresses, and telephone numbers of all full-time staff judges.

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8 Résumé-quality paper is slightly thicker than the regular paper that you would use in a printer or copier. It is sold in a variety of colors or styles, but CDO recommends only white or ivory because those offer the best contrast when printing or copying. It can be purchased at the Yale Bookstore or from any office supply store or website, such as Staples or Office Depot. It is typically sold in boxes of 50 or 100 sheets, labeled "résumé paper." Alternatively, if you only wish to use what you need, you can print out your cover letter, résumé and recommender list on regular printer paper and take it to a copy/print shop to be photocopied on résumé-quality paper (charged by the page). Tyco (on Broadway) is the closest print shop to YLS. Office supply stores usually offer copy/print services, and there are other copy/print shops in different parts of the country.

9 Id.
federal judges and state supreme court justices. The database is available to students through the end of their graduation year. It is available to alumni upon request to CDO.

The database enables you to create an Excel spreadsheet to be used in preparing mail merge letters (for paper applications or email PDF packets). Instead of manually entering the names, titles, and addresses for each of your judges, you can use the spreadsheet to insert all that information into your letters through the mail merge function in Word. In addition to cover letters, the spreadsheet can be used to create mailing labels and withdrawal letters. You will also be expected to provide the spreadsheet to your recommenders, who will use it to prepare their recommendation letters. *Please note that YLS faculty assistants will not accept data in any other format for clerkship recommendation letters.*

You can reach the Judges Address Database through CMS, accessible via the CDO website and the Clerkship Resources SharePoint site. Log in to CMS and select Clerkships on the tool bar. A detailed instruction guide for conducting searches and creating mail merge documents is also available in CMS and the Clerkship Resources SharePoint site.

**Résumé (printed on résumé-quality paper)**

The general résumé guidelines apply to clerkship applications; see CDO’s *Introduction to Career Development*. It is not crucial to confine your résumé to one page for clerkships, though it remains a good goal. Many applicants, such as students with other advanced degrees or with extensive previous work experience, can legitimately extend their résumés to a second page. When printing it, use the same résumé-quality paper as your cover letter.

Emphasize your writing experience, legal and non-legal. With respect to your legal employment, describe documents that you prepared and issues that you researched. If you wish to include a job you have not yet started (e.g., a second-half summer split), list the job(s) without description; include the upcoming date (e.g., Summer 2021) add “prospective” to your job title (e.g., Prospective Summer Intern). In addition, include titles of any significant pre-law school papers (e.g., honors thesis, senior essay), publications, or works-in-progress (e.g., a note or article that has been accepted for publication). To help a judge get to know you as a person, list your community service or extracurricular activities; experiences such as an unusual job; skills, such as foreign languages; and interests.

**List of Recommenders (printed on résumé-quality paper)**

Create a list of the individuals who will be sending letters of recommendation or serving as references, and print it on high-quality résumé paper. Include each person’s name, full title, place of employment, telephone number, and email address, if available. Conclude each entry with a brief description of the recommender’s connection to you (e.g., supervising attorney during summer internship at the Georgia Legal Services Program). Although you mention your recommenders in your cover letter, the list can be helpful. The contact information makes it easy for the judge to get in touch with your recommenders. In addition, the list can serve as a checklist in chambers, offering a convenient way to monitor whether your file is complete. A sample list of recommenders is included in CDO’s *Resume Advice and Samples* webpage.

If you have a multi-page résumé with sufficient space on the last page, you can list the recommenders there. Otherwise, create the list on a separate page. *(Note: if you need to create a PDF résumé, for OSCAR applications or for email, you can combine the list of recommenders with the résumé to create a single document – the list becomes the back page of your résumé.)*

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10 Id.
11 Id.
Transcripts
An unofficial law school transcript is sufficient at the application stage. The Registrar's Office accepts transcript requests online; instructions and forms are posted on the website. The Registrar’s Office will provide only one unofficial transcript to a student, which can be used for photocopying for paper application packets. Another alternative available to students is the unofficial gradesheet generated in WebSIS; keep in mind that this web version only includes the student ID number, no name, which means the student name should be added.

Occasionally, a judge may ask you to bring an official transcript to your interview. No more than ten official transcripts may be ordered at one time. After you graduate, you can obtain only official transcripts from the Registrar’s Office. You can continue to use your NetID and password to obtain an online transcript via the Parchment service.

Your transcript should include your current and past courses, as well as courses for which you are registered for the upcoming term, assuming they are available. If your transcript is missing a grade because the professor has not turned it in, attach a note to your transcript indicating that your work in the course is complete and you are awaiting the grade. Include an explanation sheet regarding Yale Law School’s grading system; it is posted in PDF format on the Registrar's Office website, or you can download a Word version with a gradesheet template from the Clerkship Resources SharePoint site (Application Links section). Plan to update your transcript as additional grades and other information become available.

If you believe a judge is unfamiliar with YLS, you may wish to include information regarding lack of class rank, journals, or journal selection procedures. You can obtain much of this information from the YLS Bulletin.

The timing can be tight for obtaining paper transcripts, especially during the summer when students are generally away from New Haven. Anticipate that it will take a week for the Registrar’s Office to process your transcript request, and for you to receive the transcript for inclusion in your application packages. Check the Registrar’s Office section of the YLS website or contact the Registrar’s Office for policies on transcript requests.

If you have strong transcripts for other graduate degrees, it may be helpful to include them. A few judges request undergraduate transcripts; this information is typically noted in OSCAR. Keep in mind that you will only be able to order official transcripts for degrees you have completed, which typically takes some time. Be sure to ascertain the processing time and any charges for transcripts from each institution. It may be possible to photocopy an official transcript, but the security paper often makes copies difficult to read.

OSCAR allows you to upload a PDF transcript to be attached to your applications, but it must be unencrypted. All electronic transcript platforms, such as Parchment, provide encrypted PDF transcripts. Although you may be able to upload your Parchment transcript to OSCAR, if it is encrypted, the judges will not be able to read it. There are a variety of ways to break the encryption. Two simple options are (1) print out the transcript and scan it into PDF or (2) open the encrypted transcript in your browser, select "Print" and choose PDF as the "Destination." Additional suggestions for breaking encryption are collected in the Clerkship Resources SharePoint site (Application Links section/Application Components folder).

Writing Sample and Cover Sheet
Judges’ preferences in writing samples vary, and you should certainly comply with any specific instructions from current or former clerks, a judge’s OSCAR posting, or other reliable source. In the absence of specific guidance, consider these general guidelines. Generally, your writing sample should
showcase your ability to analyze and explain legal issues and to defend your conclusions. Although some judges indicate interest in longer, more academic writing samples, judges commonly express a preference for short samples: 7 to 10 pages, perhaps up to 15 pages, but once you start talking 20 or more, that is pushing the reader's tolerance. Bear in mind that you can send an excerpt from a longer document, as long as the excerpt is easily comprehensible standing alone. Legal memoranda or legal documents, such as briefs, can serve well as writing samples. Research papers and published pieces can also be appropriate, but length or, especially in the case of published pieces, extensive outside editing may lessen their appeal. If you are contemplating sending a publication, you may wish to consider sending the draft that was accepted for publication, which would be more clearly your own work. If you send a writing sample that was prepared for an employer, first contact the employer to obtain permission and discuss any necessary redaction. Confidentiality is of utmost importance to judges, as well as employers.

Creating a cover sheet for your writing sample can be more effective than including a brief description in your cover letter. Unlike a sentence or two in a cover letter, the cover sheet can serve as an introduction, with the pages of your writing sample immediately following. You can use the cover sheet to give some brief background information (e.g., memorandum prepared for summer employer, or brief assigned as first semester writing project); explain any excerpts or redactions; summarize any facts or arguments that would be helpful in understanding the piece; and note that it is used with your employer’s permission, if applicable. See examples of writing sample cover sheets in Appendix E.

**Letters of Recommendation**

As a general rule, most appellate judges request three letters of recommendation and most trial judges request two. Often, candidates send three letters to all of their judges. At least one letter should be from a Yale Law School faculty member (over 80 percent of the YLS faculty serve as recommenders, based on previous application cycles). A letter from a past legal employer can also be a good option. Based on information gleaned from previous application cycles, almost as many non-YLS faculty (e.g., legal employers, adjunct instructors) recommend YLS applicants as YLS faculty members. Nonlegal employers or professors can be used, but are not preferred because they may not be able to comment on your talent for legal reasoning and writing.

Many students ask for references from professors for whom they have written a paper or been a research assistant, professors from whom they have taken a clinical course or small seminar, small group professors, or professors from whom they have received high marks. A common observation from clerks in CDO’s Judicial Clerkship Comment Surveys is that a detailed, personal recommendation from someone who knows you and your work well is more effective than a generic recommendation from a well-known professor.

Ideally, your recommenders would be able to comment positively, in some detail, about your skill in legal analysis, research, and writing. It can also be helpful if they can comment on other qualities relevant to clerking, such as your ability to articulate and defend your positions, especially when they are contrary to the judge’s position; to parse complex facts and legal doctrines; to work well with others (e.g., assistants, staff, other clerks); to juggle a variety of projects at the same time; to meet deadlines; and to keep confidences. If any of your recommenders are not YLS professors, be sure that they understand the importance of providing letters in timely fashion.

As you begin thinking about your potential recommenders, feel free to ask them for a brief meeting to discuss your clerkship search, career plans, and background and experience. It is acceptable to ask potential recommenders whether they would be comfortable in providing a strong, positive recommendation.
Keep in mind that your recommenders can set any deadlines and limits they wish; as a somewhat conservative guide, assume at least three weeks to produce and send a recommendation. This lead time makes it all the more important that you confer with your recommenders early to make sure that you know their schedules and can timely provide them with any materials they request. All your recommenders will need a list of judges for whom you are requesting recommendations, and most will want a copy of your resume and transcript. You can also provide them with a written summary of your clerkship goals and career interests. The more your recommenders know about you, your skills and abilities, and your career goals, the more informed their recommendation can be.

For creation of letters of recommendation, the assistants for your faculty recommenders will expect you to provide separate Excel spreadsheets, created from the Judges Address Database in CMS, for each type of recommendation. All judges receiving paper applications would be on one spreadsheet. Any judges accepting email applications would be on another spreadsheet; please note that the database in CMS does not include email addresses, which means you would need to add that information (typically found in the judge’s OSCAR posting or other clerkship notice). Any judges accepting electronic applications via OSCAR would be on a third. If you add or subtract judges from your spreadsheets, you must promptly notify your recommenders and their assistants, and plan to provide revised spreadsheets.

In OSCAR, your recommenders will upload their letters, and OSCAR allows you to check on the status of your recommendation letters. Faculty and faculty assistants are familiar with the OSCAR upload process, but you should also be sure that your outside recommenders understand the process.

In some cases, judges and faculty prefer to use the telephone for references. If you have additional recommenders who are willing to receive or make telephone calls on your behalf, you can indicate that information on your list of recommenders.

3. OSCAR and Federal Court Applications

Federal judges can ask for applications in a variety of formats. Many accept electronic applications via OSCAR, some ask for PDF applications via email, and some still require paper applications sent to chambers. OSCAR is a voluntary system for judges, but about 78 percent of all federal judges (almost 1,800) have an OSCAR account. Some judges use OSCAR primarily or exclusively to post information about their clerkship hiring requirements and preferences, but a large percentage accept electronic applications via OSCAR. OSCAR is overseen by a committee of federal judges known as the OSCAR Working Group. Members of the Class of 2022 have access to OSCAR as of February 3, 2021.

To summarize OSCAR briefly: you must a) create a profile; b) upload a résumé (a draft is appropriate initially and can be replaced later), along with other application materials; c) designate your pool of recommenders; d) select your judges and place them in one or more folders; and e) create an application for each, one by one, by attaching documents and designating from your pool the recommenders that you wish to write letters to that judge. OSCAR has a detailed Applicant User Guide, as well as Tip Sheets and video tutorials for specific tasks, posted on the OSCAR website under Resources. Links to instructional webinars, are posted on the Clerkship Resources SharePoint site. As noted above, your recommenders will upload their letters into OSCAR directly.

4. Sending Your Paper Applications

Mailing Applications
Mail your application package in a standard brown 9” x 12” envelope, to avoid folding your materials. On the front of the envelope, you must type “Clerkship Application for [Applicant Name].” You can easily
add that line to your mail merge document when you create your mailing labels. It is unlikely that your
recommenders will release recommendation letters to you to mail, but if a judge specifically requests that
recommendation letters accompany your application materials, you can ask your recommenders whether
they would be willing to provide you with letters to those judges. If your recommender prefers to send
letters separately, indicate in your cover letter that letters of recommendation from [list names of
recommenders] will be arriving under separate cover. Recommenders should type “Clerkship
Recommendation for [Applicant Name]” on the front of the envelope for each recommendation that
they will send to judges directly.

In most cases, first-class U.S. Mail is perfectly adequate; unless a judge indicates to the contrary, there is
no need to spend the extra money for FedEx or other expedited delivery. For your own peace of mind,
however, you may wish to purchase delivery confirmation or use a service that allows you to track your
packages, since most judges do not acknowledge receipt of applications.

5. A Note on Telephone Calls and Emails

It is not unusual for recommenders to contact judges directly in addition to submitting a letter. You can
talk with your recommenders about their preferences, limits, or requirements for calling judges. Since
your first objective is to get your application from the “submitted” pile to the “review (and get an
interview)” pile, it can be helpful to hear from a professor once your application reaches chambers, as a
way of prompting chambers to pull it out and review it. The other point at which additional support may
be useful would be once you have an interview scheduled, perhaps shortly before the interview, or, if you
know the judge will take time in extending offers, perhaps shortly after. The spreadsheets that you
download from the Judges Address Database in CMS include the chambers telephone numbers, to
facilitate telephone calls for recommenders.

Recommender phone calls are valuable capital and should be used with discretion. Typically, a
recommender would call a few judges on an applicant’s behalf, and would not necessarily make multiple
calls to the same judge. It is important to have a clear understanding with your recommenders about what
they are comfortable doing, to permit you to plan and make appropriate requests of them.

Recommenders sometimes ask for email addresses for judges, which poses more of a challenge. There is
no official collection of email addresses for federal judges, and courts generally do not publish them—
because the judges do not want them to. Some courts have webpages where individual judges can detail
their clerkship hiring criteria, which might include an email address. The one resource that regularly
includes email addresses for judges and court staff is the LeadershipConnect online database, described in
more detail with the online resources in Chapter 2. Not all judges have email addresses listed—though it
seems that more of the junior judges are including it—and not all judges list their staff, but it is generally
the best option. To find any staff information provided for a judge's chambers, select the "Chambers of
(judge name)" from your search results. The source of the information is not disclosed, which means
there is no guarantee that the listed addresses will work, but addresses for the Judicial Assistant or
Courtroom Deputy have pretty regularly worked. It would not hurt to CC a staff member (e.g., the
Judicial Assistant, Career Law Clerk, Courtroom Deputy, or a law clerk) on an email to a judge, just to
improve the odds that it gets to the right person.
CHAPTER 4
INTERVIEWS AND OFFERS

Judges generally do not interview a large number of applicants, and most will view your acceptance of an interview as an indication of your willingness to accept the clerkship if offered. Although you do not have to accept a clerkship offer, it is wise to avoid unnecessary effort and stress by accepting an interview only if you genuinely believe you would accept an offer. If you decide based on the interview that you do not wish to clerk for that judge, withdraw your application immediately as a courtesy to others.

1. Scheduling Interviews

Keep in mind that the interview schedule is entirely up to the individual judges. Some may call right away. Others may call a few days or weeks later – or even a few months.

If you are concerned that you have not heard from particular judges and are interested only in checking on the status of your application, wait at least 7-10 days after sending the application. The judge’s staff will be dealing with a pile of applications and will be more likely to be annoyed than cooperative with dozens of anxious applicants on the telephone.

On the other hand, when you have scheduled your first interview, it is appropriate to call other chambers to try to schedule interviews. Because travel to interviews is conducted at your expense and the judge’s convenience, this practice of “parlaying” interviews is designed to make your interviewing more efficient and cost-effective. The practice is quite common and often results in additional interviews.

[Note that because of the pandemic public health restrictions in 2020, nearly all judges shifted to video interviewing via Teams or another similar platform. Early indications are that video interviews will continue to predominate in 2021, but the possibility that a few judges might request in-person interviews cannot be ruled out entirely. Though much of the following description is premised on the need to travel for interviews, parlaying interviews can also be done with chambers that would not require travel, as noted below.]

Parlaying interviews works like this: If you have an offer to interview with Judge A in City X, and have not yet heard from Judges B and C in that same location, call the chambers of Judges B and C as soon as you set up your first interview. Inform them that you will be in City X for another interview, and ask whether it would be possible for them to interview you on the same trip. If Judges B and C have not yet made up their minds about your application, the fact that another judge wants to see you may tip the scales in your favor. In addition, many judges are aware of the financial burden of traveling to clerkship interviews and are willing to make some effort to help candidates lower their expenses by consolidating interviews on a single trip. If you are on financial aid and cannot afford the travel, reach out to Jackie Outlaw, Director of Financial Aid, to obtain a loan.

Interview parleys are not confined to judges in a single city. Given the availability of lower cost regional airlines, it may make sense for you to expand your parlay list to call other judges in the same region. For example, if you have an interview in San Francisco, it could be cheaper and faster for you to get to Los Angeles or Seattle or Las Vegas once you were in San Francisco.

It is also possible to parlay interviews with judges who tend to compete against each other for clerkship candidates, even if they use video interviewing or their chambers are nearby. In such cases, your rationale
is a bit different. You are letting judges know that another judge is interested in you, you remain very interested in a clerkship with them, and you would like the opportunity to interview with those judges before you might be called upon to make a decision. It may not be as compelling as an expensive plane ticket, but it can work.

Parlay promptly. Because many popular judges tend to move quickly, you can maximize your opportunities if you make your parlay calls as soon as you have an interview scheduled. (Note: do not contact other chambers until you have scheduled the first interview; if the initial judge gets the impression that you are only interested in the invitation as leverage with other judges, it could be withdrawn.) Decide in advance which judges you will want to call. You would not plan to call everyone on your list, so choose the ones in whom you are most interested. Do not wait until you know that a judge has started scheduling interviews before you start making calls. You can call to parlay with any judge after you have scheduled your first interview. You may be told that a judge is not yet ready to schedule, but that is useful information as well.

Some students report attempting to schedule interviews with their top choices early and their lower choices later, even if one of their lower choices calls them first. Students believe that this will eliminate the need to make a prompt decision on a clerkship offer before having heard from or interviewed with their top choices. Although this strategy has logical appeal and it may help, it may not be entirely successful because students 1) cannot know when or if their top choices will select them for interviews or offers and, 2) cannot know when their top choices are available for interviews. Careful research—first in choosing judges and then in learning about a judge’s interview practices—is the best way to develop an effective interview plan. When trying to set up an interview schedule, it is helpful to gather as much information as you can from the judge’s staff or other sources. If you hope to schedule more than one interview in a single day, find out how long the interview is expected to last. You can also learn how the interview will be structured (whether you will see the judge first, for example, or speak with the clerks). It can also be helpful in preparation and in scheduling if you can determine the number of openings for which the judge is interviewing (whether for the immediately upcoming term or subsequent terms).

If the judge’s assistant or clerk offers you a range of times or dates for your interview, it is appropriate to ask whether there is an advantage or disadvantage to interviewing earlier or later. Find out the judge’s method for extending offers. Many judges make offers on a “rolling” basis as they interview, which makes the choice of an early interview slot more critical. If the first few candidates accept an offer, the judge will have no more openings and you will receive a call to cancel your interview. Other judges wait to extend offers after they have completed a series of interviews, which reduces the pressure on you to interview with them right away.

Even under the new hiring plan, where judges are expected to hold offers open for 48 hours, sometimes students are faced with difficult and uncomfortable choices. Consider the most challenging example: a clerk or assistant for one of your lower choices may call promptly, with instructions from the judge to insist on scheduling your interview at the earliest possible time, and indicate that the judge may extend an offer at the end of the interview. At this point, you have to assess your tolerance for risk. You have several choices to consider: 1) forego this interview in the hope that a higher choice judge may interview and hire you; 2) accept this interview invitation, schedule interviews with other judges for later times, and know that you will accept an offer with this judge because you are unwilling to risk losing out on a clerkship if you were to be unsuccessful in your later interviews; or 3) accept this interview invitation, along with others, and know that you are willing to turn down an offer from this judge if it is not the right fit, taking your chances that subsequent interviews will be successful.
2. Preparing for the Interview

As with all job interviews, preparation is essential for a clerkship interview. It can make the difference between success and disappointment. Prepare for the interview by knowing yourself and researching the judge. Past, present, and future clerks are an excellent source of information about the interview and selection process, the judge, and the relationship the judge has with clerks.

Know Yourself
You must know your application materials inside-out. At the interview you may be asked in detail about any portion of your resume, transcript, and writing sample. Reread them carefully before the interview. Most judges will not ask you substantive legal questions. If they do, their questions may well be about issues raised in your writing sample. Expect judges to ask about law school, specific courses you have taken, papers or publications you have written, projects on which you have worked, and your activities. Be able to articulate why you want to clerk, why you applied to that judge, and what your career plans are after clerking. Practice specific, concise answers to questions that you can anticipate being asked.

Equally important, be sure that you have a mental list of points that you would like to convey to the judge, such as your research and writing ability, analytical skills, or ability to work well on a team. Use those points in answering questions. For example, if the judge asks a general question about law school, you can take that opportunity to talk about one of your research and writing projects. Similarly, when answering specific questions about a work experience, you can discuss the substance, as well as your participation on and contribution to a team effort.

Research the Judge
Review and update your research on the judge. At a minimum, reread the judge’s biographical information. Read recent opinions (within the past year or two, if you have time); for appellate judges, concurrences and dissents are particularly edifying, since they represent the judge’s individual style and perspective. These will prepare you to discuss the judge’s opinions and explain why you are comfortable with her or his approach to deciding cases. It is also helpful to read articles and publications by or about the judge.

Because one purpose of the interview is to allow the judge to get to know you, you may discuss a variety of non-legal issues, such as a book that you have recently read or perhaps an item in the news. With that in mind, read the local paper the morning before the interview, especially if you are in a new city.

Each judge conducts interviews as he or she prefers. To obtain information about the judge’s interview style, check CDO’s Judicial Clerkship Comment Surveys in CMS. Talk to former clerks, past interviewees, and professors who might be familiar with the judge. Former clerks for other judges on the same court may also have useful information. They may have interviewed with the judge, gotten to know the judge’s clerks, or seen the judge in action. If you speak with the judge’s current clerks, exercise discretion with your questions; they will probably interview you for the clerkship.

3. The Interview

Clerkship interviews are designed primarily to determine whether you and the judge would get along. Clerkships are intense working relationships and compatibility is crucial. The interview invitation indicates the judge's preliminary conclusion that you have the skills for the job. You may get some substantive legal questions, to confirm that initial assessment of your qualifications, but more of them will be aimed at discerning whether you would be a good colleague in chambers.
Your application demonstrates your achievements and writing skills. In your interview with the judge, be prepared to emphasize your writing experience, demonstrate your ability to articulate your thoughts, and discuss ideas and issues with the judge. Clerks often constitute a judge’s main working and intellectual company, so you should not be afraid to volunteer your thoughts and interests. In addition, feel free to ask about the clerks’ work and the division of responsibility.

Interviews vary widely from court to court, and from judge to judge. The interviews can range from a half-hour to a half-day. Typically, you will spend some time with the judge and with the current clerks, although the order in which you meet people and the amount of time that you spend with them will differ. Sometimes district judges will invite candidates to observe them in court and conduct the interview afterward. Some judges, particularly those outside major urban centers, will have lunch with an applicant, often accompanied by the current clerks.

A judge will often rely on his or her clerks to find out what you are “really” like by talking with you informally. You may also spend some time with other staff members, such as the judge’s assistant. Treat every interaction with everyone in chambers as part of your interview. Stay on your best behavior at all times. Be gracious whenever you speak with the judge’s clerks, assistant, and staff. They often have a great deal of input into the hiring process, and you will be working closely with the assistant and staff if you are hired. More than one promising clerkship candidate has been derailed by a careless remark.

**Interview Questions to Ask the Judge or Clerks**

You may wish to ask many of these questions during your interview. There is no magic checklist of winning questions, and you certainly need not ask each of the listed questions. Ask about matters that are important to you, and find areas about which you would like to have a conversation. As you can see, some questions are more appropriate for trial court interviews, others for appellate court interviews. Similarly, some may be better directed to the clerks.

**Clerk’s Responsibilities**

- How is a typical case handled from start to finish?
- How involved are clerks in preparing drafts of the judge’s opinions? What other documents do clerks draft?
- Do clerks assist in administrative work or other projects for the judge (e.g., Judicial Conference committee work, writing speeches or articles, preparing materials for classes taught by the judge)?
- Does the judge hold hearings on motions? How do the clerks participate in motions?
- Do clerks go into the courtroom with the judge for criminal or civil trials? For other matters? Do they stay in the courtroom all the time?
- Are clerks involved with the “screening” docket (appellate cases screened to determine whether or not to be placed on oral argument calendar)? Do clerks attend oral arguments?
- Does the judge sit in other cities? Do clerks travel with the judge?
- Do clerks interact with lawyers? To what extent?
**Working in Chambers and the Courthouse**

- How much interaction does the judge have with clerks? How much opportunity is there for the judge to discuss the cases and the law with clerks?
- What do you find to be the most difficult kinds of cases?
- What is the size of the docket? What types of cases are on the docket? Do certain types of cases predominate? How is work divided among the clerks?
- What is a typical day like?
- How many other clerks are in the building? What interaction is there with them?

**The Application Process**

- What is the timing for extending offers?
- How much time do you provide to consider an offer?

**Interview Questions a Judge or Clerk Might Ask**

To prepare for your interview, consider how you will answer questions like these.

- Why do you wish to clerk, and why are you interested in this particular court?
- Why do you wish to clerk for me, and why do you believe that you are the best candidate for this position?
- Why do you wish to clerk in this city [state, region]?
- What aspect of law interests you the most?
- What are your short- and long-range career goals?
- What do you hope to learn during this clerkship, and how do you anticipate this experience will influence your future goals?
- Where do you hope to practice after your clerkship?
- What do you consider to be your greatest strengths and weaknesses?
- What qualities do you have which will make you a valuable law clerk?
- What interests do you have outside of the law?
- Describe your previous work experience.
- Describe your experience with [courses/professors/clinic/journal/or other activities] in law school.
- You may find yourself juggling competing deadlines and priorities. Can you describe a situation in which you have done that and how you handled it?
- How would you approach this [issue/case/problem]?
- Would you be able to draft an opinion incorporating my viewpoint if you and I disagree about a certain issue?
- Do you prefer to work independently or with others?
- To which other judges/courts have you applied? Why did you choose them?
- Do you have any questions to ask me?

4. Offers and Decisions

During your interview, ask about the judge’s timetable for making a final decision, even though you may have inquired about it when you scheduled your interview. Some judges extend offers at the end of the interview. Others notify candidates by telephone. Still other judges may ask you to call them before accepting another clerkship. Do not ignore this request, but understand that it does not necessarily lead to an offer.

Timing

There is real variation in judges' offer timing. It still seems to be true in most cases that a judge will make offers pretty quickly after interviews, on the same day or within a few days. There have been instances of judges taking some weeks before making offers, however. Be aware that some judges make offers as they interview. In that case, your interview invitation may be withdrawn if other applicants accept offers prior to your interview time. It is important to note at the outset that you do not have to accept an offer from a judge; however, you will likely need to make a yes/no decision in a relatively short time.

The new federal law clerk hiring plan provides: "A judge who makes a clerkship offer will keep it open for at least 48 hours, during which time the applicant will be free to interview with other judges." For many judges, 48 hours is a fairly long time, strange as that may seem. Many seek a quick response simply to enable them to move on to other candidates before they are hired by other judges. A few believe that applicants should not waste their time interviewing if they are not going to accept an offer. Still others, however, do offer a more extended period, even a week or more.

A clerkship offer is not a trivial decision and may not be a quick one. If you need time, ask for the amount of time that you need and be prepared to explain the reasons for your request, such as the need to speak with your significant other. If your request seems reasonable, and does not appear to be an attempt simply to string along the judge until you receive a better offer, some judges will cooperate.

The pressure to decide means that you cannot necessarily compare offers or postpone a decision until you hear from all of the judges to whom you have applied. Remember, you are absolutely not required to accept the first offer that you receive, or any other offer, for that matter. Nevertheless, many students accept their first offer rather than run the risk that another, possibly preferable, offer might never come.

Acceptance of a clerkship is a significant commitment, professionally and personally. Do not make it if you are at all hesitant about seeing it through. If you have qualms, trust your gut. As difficult as it may be, in some circumstances it is better to turn down an offer—getting through a short, uncomfortable conversation is better than finding yourself in an unhappy work environment.
Unfortunately, the time constraints make it all the more important that you choose interviews with care, and that you think about your interviews immediately upon completion to decide whether you would accept an offer. If, after the interview, you decide that you would not accept an offer, withdraw immediately by telephone or email. If you decline an offer (or withdraw after an interview), you should not feel obligated to provide a detailed rationale; it is entirely up to you how much of your thinking you choose to share.

Please feel free to connect with Clerkships Director Marilyn Drees or another CDO counselor before or after an interview if you have any concerns or want to talk through potential responses. You can also talk with a CDO counselor or the Title IX coordinator, Dean Ellen Cosgrove, if you are concerned about inappropriate conduct or harassment in an interview.

Do Not Parlay Offers
Attempting to maximize your options by parlaying offers is dangerous, absent an explicit request from a judge to call if you receive an offer elsewhere. If you have an offer from Judge A and call Judge B to inform her of that offer in an attempt to secure an offer from her, you run the risk of alienating one or both judges, or possibly having Judge A withdraw the offer. If the judges are on the same court and know that you were parlaying, your clerkship can get off to an uncomfortable start because your attempt to use Judge A’s offer as leverage communicated that you preferred another judge. Moreover, judges are not likely to “poach” clerks from each other.

Accepting an Offer
After you accept, immediately telephone any other judge who has extended you an offer to decline or, if you are interested, to request to be considered for a different term. If you have other interviews scheduled, call chambers right away to cancel them – again, you can ask a judge if she would be willing to go ahead and interview you for a different term, but do not be surprised if she prefers to focus time and energy on the upcoming term. As a courtesy, send withdrawal letters to chambers in which your applications are still pending. If you have finalized OSCAR applications, you can withdraw those individually or as a batch. Be sure to follow up an oral acceptance with a confirming letter or email. Inform your recommenders promptly. They will be pleased to know of your success. In addition, please notify CDO as soon as possible; you can email clerkship@yale.edu.

OSCAR also gives you the option to list yourself as “Unavailable” in your profile. If you choose this option, all of your electronic applications will be withdrawn and cannot be reinstated. You should only consider the Unavailable listing if you do not want any of your applications considered, even for future years, during the current application cycle.

Questions You Can Ask After Accepting an Offer
It is probably most useful to gather this information during your preliminary research; however, if you did not, you may wish to save these questions until after you have accepted an offer. If you ask them during the interview, you may give the impression that these matters are more important than the work.

- What are typical hours in chambers? How flexible are the hours?
- What is the judge’s policy regarding taking the bar exam during the clerkship?
- What is the judge’s policy regarding vacation and holidays?
• What is the judge’s policy on clerks having a post-clerkship job in place or an outstanding offer for a post-clerkship job? What is the policy on seeking, interviewing for, and accepting a post-clerkship job during the course of the clerkship?

If You Receive No Offers
If you do not obtain a clerkship on your first attempt, you are not alone, though it may sometimes seem that way. If you are interested in clerking, do not give up. There are several steps that you can take:

• Check OSCAR or, if necessary, contact each chambers where you have outstanding applications to see if the judges have completed hiring. If they have not, reiterate your interest. Some judges do not complete their hiring until later in the year.

• Tell everyone (family, friends, classmates, professors, deans, current clerks, CDO, and practicing attorneys) that you are seeking a clerkship. They may know or hear of openings, as well as give you advice and support in your quest.

• Check regularly for new clerkship opportunities on the CDO online job postings and Announcements in the Clerkship Resources SharePoint site. Update your OSCAR profile to receive daily or weekly notices of new position postings. Judges move rapidly to fill unexpected clerkship openings, so have your basic application ready to send on a moment’s notice.

• Apply to newly confirmed judges.

• Consider applying again closer to or after graduation. Your application is likely to be stronger, with more work experience or academic information. You will also likely have more references who know you better.

5. Bars and Jobs

Taking the Bar Exam
The bar exam is typically given in late July and February in every U.S. jurisdiction. For general information on the bar exam see the CDO brochure Bar Admission. Most commonly, clerkships begin in August or September and graduates use the summer before the clerkship to take the bar. Some judges prefer that their clerks take a bar exam before beginning the clerkship. Other judges have no preference. If you are uncertain where you will be practicing at the end of your clerkship, you may want to wait until your plans become clearer, to avoid the time and expense of multiple bar exams.

If your clerkship begins in early summer, before the bar exam is offered, you may need or want to wait until the completion of your clerkship. It may be possible to take the bar exam during a clerkship, but because this entails time away from the job, you must ask your judge about her or his policy regarding time off for the bar. Even if the judge permits it, you may not wish to take the exam while you are meeting the demands of your clerkship.

Delaying the bar until after your clerkship has some disadvantages.\(^\text{12}\) Some, albeit few, legal employers require bar passage before employment. Even without a requirement, it can be disruptive to your post-clerkship employment to delay the bar. The exam would typically be delayed to the February of the year

\(^{12}\) If you need financial support for expenses associated with the bar exam and bar exam preparation, and you are not receiving a law firm bar stipend, you may submit a bar loan application to the Financial Aid Office. This loan is COAP-eligible, but you must apply while you are still a YLS student. If you take the bar exam right after graduation, that may seem self-evident, but even if you are not taking the bar exam until after your clerkship, you still need to apply before you graduate. Contact the Financial Aid Office for more details.
after you clerk. The time to study for the bar and take the exam is often added to an already-crowded work schedule or can require you to take leave early in your tenure with your new employer.

Finally, if you will be working for a law firm after your clerkship, the firm will likely reimburse you for bar expenses and may provide a stipend for the summer you spend studying for the bar. Some judges do not allow clerks to receive any financial remuneration from an employer until the end of the clerkship, other judges allow clerks to accept certain types of reimbursement. The best approach is to speak with your judge about her or his policy on this issue.

**Post-Clerkship Employment: Think Ahead**

Some clerks enter their clerkship knowing the next step on their career path. In other cases, the clerks may use their clerkship year to find their next employment. Remember that law clerks may not be able to take as much time off for interviewing as law students could.

If you plan to conduct a search for a position with a major law firm during your clerkship year, your search should correspond roughly to the law firm recruiting schedule for new hires, which means starting in the fall or early winter of your clerkship year. As a well-credentialed candidate, you can easily conduct the search on your own, without the assistance of a headhunter. Although search firms are typically free to the candidate, they charge hefty fees to the employers. Some firms refuse to consider judicial clerks referred through headhunters, and most law firms will not be enthusiastic to pay for a very junior, if not technically entry-level, candidate.

Most firms will credit your clerkship year as a year of experience and provide the same compensation as given to others in your class year. Firms vary in the number of years of credit they are willing to grant for two or more years of clerkship experience. In this situation, before you bargain for more than one credited year, consider whether you are prepared to meet the firm’s expectations for associates at that higher level of experience. In addition to crediting the years of clerkship experience, most major firms provide a clerkship bonus (often $50,000 or more, depending on the firm size and location).

If you plan to pursue public interest work you should formulate a plan during the summer before or early in the fall of your clerkship year. If you pursue a project-based fellowship, such as Skadden or Equal Justice Works, work with a large nonprofit via an organization-based fellowship or an entry-level staff position, or pursue a fellowship with a public interest law firm, you will most likely face deadlines in early and mid-fall. For most public interest organizations, some fellowships, and a number of public interest law firms, the search can be undertaken after the start of the New Year.

Many federal government entities and some state government offices have honors programs for entry-level attorneys which are open to law clerks. The deadlines for these programs are typically in early or mid-fall. In the absence of an honors program at the federal or state level, you would be hired as a “lateral” attorney for a specific opening, which could occur at any time.

If you are interested in another clerkship, you could apply at any time for federal clerkships. If you wish to clerk in consecutive years, however, you may wish to apply in the year before your clerkship starts. If you wait until you are in your clerkship to apply, you may be able to find an opening for the next term, but you are more likely to have a gap between the two clerkships.

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13 The Judicial Conference Committee on Codes of Conduct Published Advisory Opinion No.83 (Payments to Law Clerks from Future Law Firm Employers) notes that payments to law clerks made before they commence their employment in the judiciary can be accepted, but a judge can impose a stricter standard. The Codes of Conduct and the Published Advisory Opinions are available here.
The application process for state courts varies; consult Vermont Law School’s *Guide to State Judicial Clerkship Procedures* for guidance on schedules. If you are considering a clerkship at the U.S. Supreme Court, review the CDO guide *U.S. Supreme Court Clerkships*. 
Appendix A

Overview of Federal and State Court Structure
Appendix B

Yale Law School Judicial Clerkships

- This list includes clerks in the federal district, circuit, state, and international courts known to CDO who served in the past 10 years (start dates 2010-2010); for historical reference, the list of U.S. Supreme Court clerks extends to 1988.

- The “Start Year” of the clerkship is included when known.

To view these lists, please click the links below:

- [YLS Clerks at US District Courts, 2010-2019](#)
- [YLS Clerks at US Courts of Appeals, 2010-2019](#)
- [YLS Clerks at State Supreme and Lower Courts, 2010-2019](#)
- [YLS Clerks Outside the US, 2010-2019](#)
- [YLS Clerks at the Supreme Court](#)
Appendix D

YLS Faculty Who Have Held Judicial Clerkships

Faculty list for the 2020-2021 academic year, including Lecturers, Fellows, Affiliated Members of the Faculty, and Faculty Emeriti in Residence. See the Yale Law School Facebook for more information.
Appendix E

Forms of Addresses for Judges

Sample Cover and Withdrawal Letters

Sample Cover Pages for Writing Samples
Career Development Office

Norma D'Apolito  Director
Marilyn Drees  Director
Naomi Erwich  Director, Recruitment Programs and Administration
Karen Franchi  Student Services Coordinator
Amanda Hilton  Administrative Assistant
Alison Hornstein  Director
Haley Kirkland  Technology Coordinator
Sahar Mirsepassi  Assistant Director of Public Interest and Administration
Kelly Voight  Assistant Dean

Telephone:  (203) 432-1676
Fax:  (203) 432-8423
E-mail:  cdo.law@yale.edu
Website:  www.law.yale.edu/cdo

Mailing Address:  Career Development Office, Yale Law School, 127 Wall Street, New Haven, CT 06511

Physical Address:  Ruttenberg Hall, Room 184, 133 Wall Street, New Haven, CT 06511

Office Hours:  8:30 a.m. – 5:00 p.m.

CDO Publications:  Criminal Defense
Criminal Prosecution
Entering the Law Teaching Market
Environmental Law
International LL.M. Career Planning Guide
International Public Interest Law
Introduction to Career Development
Judicial Clerkships in the U.S.
Law Firm Practice
Lawyers in Business
Opportunities with International Tribunals and Foreign Courts
Public Interest Careers
Public Interest Fellowships Vol. I
Public Interest Fellowships: Sample Applications Vol. II
The Fall Interview Program
U.S. Supreme Court Clerkships
Working on Capitol Hill

Yale Law School Nondiscrimination Policy
Yale Law School is committed to a policy against discrimination based upon age, color, handicap or disability, ethnic or national origin, race, religion, religious creed, gender (including discrimination taking the form of sexual harassment), marital, parental or veteran status, sexual orientation, gender identity, gender expression, or the prejudice of clients. All employers using the school’s placement services are required to abide by this policy.

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