



Kim Reynolds  
GOVERNOR

**OFFICE OF THE GOVERNOR**

Adam Gregg  
LT. GOVERNOR

November 9, 2023

**VIA ELECTRONIC MAIL**

Members of the Judicial District 2B Judicial Nominating Commission:

The Iowa Constitution vests the governor with the authority to fill judicial vacancies. Iowa Const. art. 5, § 16. The judicial nominating commission’s district court nominees “shall be of such age that they will be able to serve an initial term and one regular term of office to which they are nominated *before* reaching the age of seventy-two years.” Iowa Code § 46.14(1) (Emphasis added). Both the Iowa Constitution and the Iowa Code provide the governor with thirty days to review the nominees and make an appointment. *See* Iowa Constitution art. 5, § 16; *see also* Iowa Code § 46.15(2); *State ex rel. Dickey v. Besler*, 954 N.W.2d 425, 434 (Iowa 2021) (“In a broad sense, the same principle applies here. Article V, section 15 and Iowa Code section 46.15(2) confer appointment authority jointly on the Governor (who has primary authority) and the chief justice (whose authority is secondary).”).

Those thirty days to make an appointment are not meaningless. Indeed, a judicial nominating commission has a duty to appoint only eligible nominees under Iowa Code section 46.14(1). That section should be read together with related statutes and Constitutional provisions. That principle of statutory interpretation is generally known as *in pari materia*, which explains that legal provisions on the same subject or matter must be construed together. For example, one would read Iowa Code section 46.15—which is devoid of any qualifications—together with Article 5, Section 18 of the Iowa Constitution (“Judges of the . . . district court shall . . . be a member of the bar of the state and shall have such other qualifications as may be prescribed by law”) and Iowa Code section 46.14(1) (“shall be members of the bar of Iowa, shall be residents of the state or district of the court or a county contiguous with the district to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years.”). *See also American Asbestos Training Center, Ltd. v. Eastern Iowa Community College*, 463 N.W.2d 56, 58 (Iowa 1990) (“We seek a

reasonable interpretation that will best effect the purpose of the statute and avoid an absurd result. We consider all portions of the statute together, without attributing undue importance to any single or isolated portion. When more than one statute is pertinent to the inquiry, we consider the statutes together in an attempt to harmonize them.”) (internal citation omitted).

The Judicial District 2B Judicial Nominating Commission (“Commission”) notified me at 6:22 p.m. on November 1, 2023, that the Commission had nominated Bridget Chambers and Ashley Sparks, despite the constitutional and statutory requirement that allows a governor to have thirty days to act. The only way that nominee Chambers could be appointed and serve an initial term and regular term before reaching the age of seventy-two is if Governor Reynolds appoints nominee Chambers by November 5, 2023, which is unreasonable under any circumstance. In effect, the Commission is not giving Governor Reynolds a meaningful opportunity to select between two eligible candidates as contemplated in the Iowa Constitution and the Iowa Code.

This letter should be of no surprise to the Commission. It is my understanding that Chief Judge Adria Kester contacted a Commission member (Aaron Ahrendsen) expressing concern regarding whether nominee Chambers was eligible based on her age. Furthermore, District Administrator Scott Hand provided Commission Chair (Garrett Piklapp) with an Attorney General Opinion related to this issue that had been provided by the State Court Administrator’s Office. Unfortunately, both communications occurred *after* the nominations.

Nominee Chambers’ inability to hold office after November 5 is based on a plain reading of the law. Two relevant requirements must be met to be eligible for appointment. First, an appointee must be able to serve an initial term and second, an appointee must be able to serve a full regular term before reaching the age of seventy-two.

As to the initial term, district court judges “shall serve for *one year after appointment and until* the first day of January following the next judicial election after the expiration of such year.” Iowa Const. art. 5, § 17 (emphases added). Judicial elections are held at the time of the general election. Iowa Code § 46.17. Appointment is the event which marks the commencement of an individual’s initial term to the court, and for such purpose it means the act of the governor in designating, choosing, or selecting an individual to fill a vacancy from among those nominated. That can occur before investiture or taking the oath of office and before the vacancy exists. Iowa Atty. Gen. Op. (Oct. 21, 1969).

The next general election is November 5, 2024. So to serve an initial term of one year before the next general election, an appointment would need to be made by November 5, 2023—less than four days after the nominations. An initial term following an appointment after November 5, 2023, would be for “one year after appointment and until the first day of January following the next judicial election after expiration of such year.” Iowa Code § 46.14(1); *see also* Iowa Atty. Gen. Op. (Oct. 21, 1969). By the time interviews, vetting, and an appointment can occur—as set forth in the Iowa Constitution—the next general election after one year would be November 3, 2026. If retained in the 2026 election, then the regular term would commence on January 1, 2027.

The regular “terms of district court judges shall not be less than six years.” Iowa Const. art. 5, § 17. And so the regular term for an appointee after November 5, 2023, if retained in the general election in 2026, would be from January 1, 2027, until January 1, 2033. Thus, a valid appointee cannot turn seventy-two before January 1, 2033. And so anyone born after December 30, 1960, is eligible. But anyone born before December 30, 1960 is ineligible. Nominee Chambers was born on December 20, 1959. That means that she cannot complete the initial term and regular term before reaching the age of seventy-two. She will turn seventy-two on December 20, 2031 (more than one year before the regular term ends).

The Commission has either prevented Governor Reynolds from making a meaningful selection by giving her two eligible names or divested her of her constitutional authority to have thirty days to choose a judge. That is extraordinary and unconscionable. Furthermore, any suggestion that a governor is free to ignore the judicial qualifications established in the Iowa Constitution and the Iowa Code and make an appointment of an otherwise ineligible nominee is meritless.

I am writing on behalf of Governor Reynolds who will not be proceeding with a judicial appointment at this time. The nomination of nominee Chambers is returned to the Commission. The Commission is instructed to reconvene as soon as possible and nominate another candidate that is eligible for appointment under Iowa Code § 46.14(1) and that violates no other provisions of law. Governor Reynolds has a constitutional duty to ensure that all laws are faithfully executed. This is an extraordinary step that rarely occurs but it is necessary.

It is important to protect the integrity of the nomination process. To allow a commission to prevent a governor from having thirty days to act or forcing a governor’s hand to pick one candidate over another based-on ineligibility or even suggesting that the eligibility requirements in law do not apply to the appointment statute would be improper. In this instance, I suspect that the flawed—but foreseeable—nomination was inadvertent but, irrespective of the reason, it cannot stand.

This vacancy replaces Judge James C. Ellefson whose retirement is effective December 26, 2023. It is the Governor’s desire that this process occur expeditiously so that an appointment may be made, and an appointee take office without having any lapse in office between judicial officeholders.

Sincerely,



Steven E. Blankinship  
Senior Legal Counsel

Cc: Chief Justice Susan Christensen, Iowa Supreme Court  
Chief Judge Adria Kester, Second Judicial District  
Bob Gast, State Court Administrator  
Scott Hand, District Court Administrator