

**Responses of David C. Guaderrama
Nominee to be United States District Judge for the Western District of Texas
to the Written Questions of Senator Chuck Grassley**

1. What is the most important attribute of a judge, and do you possess it?

Response: The most important attribute of a judge is humility. Humility will draw out the other important attributes such as respect for the time and opinion of others, courtesy to all who come before the court, patience, and the ability to hold the scales of justice on a level beam while deciding cases narrowly and promptly. I believe I possess these attributes.

2. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?

Response: My view of the appropriate temperament of a judge is that a judge must at all times demonstrate humility, respect for others, patience, courtesy, and restraint. I believe I meet this standard.

3. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?

Response: Unequivocally, yes. I am committed to following the precedents of the higher courts and to faithfully giving such precedents their full force and effect.

4. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?

Response: The sources I would turn to for persuasive authority and the guiding principles and methodology I would employ would be to first consult the text involved and apply its plain meaning, if the text is unambiguous. If the text is ambiguous, I would look to any precedent of the United States Supreme Court, the Fifth Circuit Court of Appeals, and then the other United States circuit courts in the interpretation of similar text.

5. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?

Response: I would apply the decision of the higher court, regardless of my opinion about their decision or my judgment of the merits.

6. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?

Response: A federal court may appropriately declare a statute enacted by Congress unconstitutional only when it is contrary to the text of the United States Constitution or any United States Supreme Court precedential interpretation.

7. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I would seek to manage my caseload by setting and enforcing firm deadlines for pretrial discovery, motions, and trial while encouraging mediation. I would utilize magistrate judges when available to hear referred pretrial matters. I would endeavor to decide all matters before the court as quickly as would be consistent with the ends of justice. Finally, I would make full use of all the business hours of the courthouse to conduct the court's business.

8. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?

Response: Yes, I do believe that judges have a role in controlling the pace and conduct of litigation. I would employ scheduling orders in all cases and require adherence to the schedule except in exceptional circumstances for good cause.

9. Please describe with particularity the process by which these questions were answered.

Response: I received the questions on Wednesday, November 9, 2011. I prepared my responses overnight and the following day I reviewed my responses with representatives of the Department of Justice. I then finalized my responses and authorized their transmittal to the Committee.

10. Do these answers reflect your true and personal views?

Response: Yes