

Senator Flake
Questions for the Record

Susan Paradise Baxter
Nominee, United States District Judge for the Western District of Pennsylvania

- 1. What is your approach to statutory interpretation? Under what circumstances, if any, should a judge look to legislative history in construing a statute?**

Response: Statutory interpretation begins with the actual words of the statute and the effect given them by the United States Supreme Court and, in my case, the Third Circuit Court of Appeals. If the statute has not been interpreted previously by either court, and the text of the statute is ambiguous, reference to other circuit or district court interpretations may be made in conjunction with a review of the statute in its entirety to determine if its meaning may be understood by the words used by Congress in the whole of the legislation. If none of these approaches provides instruction, legislative history may be carefully reviewed in its entirety to assist the court in its decision. This is the approach I have taken as a magistrate judge and would continue to take if confirmed as a district judge.

- 2. What is the proper scope of the 10th Amendment to the Constitution? In what circumstances should a judge apply it?**

Response: The Tenth Amendment provides that powers “not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The proper scope of the Tenth Amendment is as construed by the United States Supreme Court in *New York v. United States*, 505 U.S. 144 (1992) and *Printz v. United States*, 521 U.S. 898 (1997), which decisions reinforce that the federal government has only the powers enumerated under the United States Constitution. If I am confirmed as a district judge and this issue arises in a case before me, I will follow this and any other precedent set by the United States Supreme Court and the Third Circuit Court of Appeals to the case before me.

- 3. Does current standing doctrine foster or impede the ability of litigants to obtain relief in our legal system?**

Response: Only cases or controversies may be reviewed by the federal courts under the United States Constitution. To this end, courts are bound by Supreme Court precedent, which instructs that a plaintiff must satisfy both Constitutional standing and prudential standing requirements, as this latter requirement was refined and explained in *Lexmark International, Inc. v. Static Control Components, Inc.*, 134 S. Ct. 1377 (2014). I have formed no opinion during my service as a magistrate judge as to whether the standing doctrine fosters or impedes the ability of a litigant to obtain relief. If confirmed as a district judge, I will continue to follow the precedent to determine whether there is a case or controversy before me, as required by the United States Constitution.