

1. **How do cases get on the Nebraska Supreme Court's docket?**

- a. **Original jurisdiction:** The Nebraska Supreme Court has original jurisdiction over certain cases, including revenue, civil cases where the state is a party, mandamus, quo warranto, habeas corpus, and election contests involving state officers other than members of the Legislature. See Neb. Const. Art. V sec. 2 and Neb. Rev. Stat. § 24-204 (Reissue 2016)
- As a practical matter original jurisdiction is rarely accepted. However, each matter is reviewed by counsel and a formal report is prepared on the issues presented. The report is discussed at consultation and the court votes on whether to accept or deny original jurisdiction.
 - ***In 2017, the court did not accept any original actions.***
- b. **Direct appeal:** Certain appeals are docketed directly in the Supreme Court:
- criminal cases involving the death penalty (Neb. Const. Art. V sec. 2 and Neb. Rev. Stat. § 29-2525);
 - criminal cases involving a sentence of life imprisonment (Neb. Rev. Stat. § 24-1106(1); and
 - any case involving the constitutionality of a state statute (Neb. Const. Art. V sec. 2 and Neb. Rev. Stat. § 24-1106(1)).
 - ***In 2017, 74 cases were directly docketed in the Supreme Court.***
- c. **Petition for Bypass:** Neb. Rev. Stat. § 24-1106(2) permits any party to an appeal before the Court of Appeals to petition for bypass if the case involves issues of first impression, constitutional interpretation, validity of a statute, conflicting precedent, or significant public interest.
- When a petition to bypass is filed it is assigned to one of the 7 justices, who reviews the case and prepares a report recommending whether bypass should be granted or denied. The report is then submitted to the entire court for electronic voting, with the understanding that any justice may request that the report be placed on the court's next consultation agenda.
 - Majority vote (4/7) required to grant bypass.
 - ***In 2017, 46 petitions to bypass were filed and 30 were granted.***
- d. **Petition for Further Review:** Within 30 days after the Court of Appeals issues its decision any party may petition the Supreme Court for further review. (See Neb. Rev. Stat. § 24-1107).
- When a petition for further review is filed it is assigned to one of the 7 justices, who reviews the case and prepares a formal report recommending whether further review should be granted or denied. The report is submitted to the entire court for electronic voting, with the understanding that any justice may request that the report be placed on the court's next consultation agenda.

- Majority vote (4/7) required to grant PFR.
 - ***In 2017, 211 Petitions for Further Review were filed and 14 were granted.***
- e. **Removal on our own motion:** Twice each week, Supreme Court staff attorneys and law clerks review the briefing in cases appealed to the Court of Appeals and prepare summaries recommending whether the case should remain in the court of Appeals or be removed on our own motion to the Supreme Court docket. On occasion, a judge of the Court of Appeals will contact the Chief Justice and indicate that a case is appropriate for removal.
- If all justices vote to remove a case onto our docket, it is moved
 - If one or more justices vote not to move a case, the issue is placed on the consultation agenda for discussion and further vote.
 - ***In 2017, 203 cases were removed from the Court of Appeals to the Supreme Court.***
- f. **Attorney discipline cases**
- In 2017, 23 attorney discipline cases were docketed in the Supreme Court

2. How many cases are placed on the Supreme Court's docket?

In 2017, there were 325 cases docketed in the Nebraska Supreme Court, excluding attorney discipline cases.

3. Which cases are scheduled for oral argument and which are submitted without argument?

Under court rule, the Nebraska Court of Appeals and Supreme Court may order any case submitted without oral argument once the briefing is complete. (Neb. R. App. P. § 2-111(B)(1)(a)). But as a practical matter nearly every cases before the Nebraska Supreme Court is set for oral argument unless:

- The parties elect to waive oral argument. (Neb. R. App. P. § 2-111(E)(6)).
- The appeal is based on guilty or no contest plea in a criminal case and the sole assignment of error is excessive sentence. (Neb. R. App. P. § 2-111(E)(5)).
- ***In 2017, there were only 3 excessive sentence cases submitted without oral argument***

4. How is opinion-writing assigned?

Once the briefing is complete and the case is ready to be placed on the call for oral argument, the clerk's office assigns the case to one of the 7 justices. Each justice is assigned as the author judge to 3 cases each month, and learns of the assignment approximately 1 month before oral argument.

5. Does the Nebraska Supreme Court follow a term system?

Yes. The Nebraska Constitution requires that “At least two terms of the supreme court shall be held each year, at the seat of government.” (Neb. Const. Article V, sec. 3) Currently, the court holds oral argument for one week each month from January through June, and September through December. Historically reference was made to the “January Term” and “September Term” but this vernacular was discontinued in the 1980s.

6. How is an opinion adopted?

Once a proposed opinion is ready to be voted on it is circulated to the other justices electronically and placed on the court’s consultation agenda. At consultation the author judge presents the opinion, it is discussed by the court, and an oral roll-call vote is taken.

- Generally a majority of judges sitting on a case can render a decision (Neb. Const. Art. V sec. 2)
- But for an act of the Legislature to be held unconstitutional, 5 justices must agree. (Neb. Const. Art. V sec. 2)

If an opinion is adopted it is forwarded to the Reporter of Decisions for editing--a process which includes checking the opinion against the record, reviewing citations, and editing propositions of law.

Sometimes a hold is placed on an opinion to prepare a concurrence or dissent. Until the hold is released, the opinion will not be edited by the Reporters.

7. Why are some opinions per curium?

Most often, an opinion is designated as per curium because more than one justice has contributed significantly to the authorship. Occasionally, an author judge does not have the votes for the outcome or analysis he or she prefers, and so writes the majority opinion for the court and then either concurs or dissents.

8. Is there a deadline for the author judge to circulate a proposed opinion?

We do not have a formal deadline to circulate opinions, but absent unusual circumstances we typically circulate a proposed opinion within 4-6 weeks after oral argument.