

STATE OF NEW HAMPSHIRE
SUPREME COURT

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June 27, 2013

Her Excellency, Maggie Hassan
Governor, State of New Hampshire
State House, Rooms 208-214
Concord, N.H. 03301

Senator Peter Bragdon, President
N.H. Senate
State House, Room 302
Concord, N.H. 03301

Hon. Terie Norelli, Speaker
N.H. House
State House, Room 312
Concord, N.H. 03301

Senator Sharon Carson, Chair
Senate Judiciary Committee
LOB, Room 101-A
Concord N.H. 03301

Hon. Marjorie Smith, Chair
House Judiciary Committee
LOB, Room 208
Concord, N.H. 03301

Dear Governor Hassan, President Bragdon, Speaker Norelli, Senator Carson
and Representative Smith:

We are pleased to submit our 2013 report on judicial performance evaluations of New Hampshire Superior Court justices and Circuit Court judges and marital masters evaluated in 2012 in accordance with the timetable established by RSA 490:32 and Supreme Court Rule 56 (at least once every three years). The Supreme Court distributes judicial performance evaluation questionnaires every three years. The next distribution is scheduled for 2014; those results will be included in the 2015 report to the Governor and legislative leadership.

Commitment to Improvement and Accountability

New Hampshire began planning a judicial performance evaluation (JPE) program in 1987, involving self-assessment and peer review; a formal evaluation process which included a survey of lawyers and others began in the trial courts in the early 1990s. In March 2001, following legislation first introduced in 1999, the Supreme Court formally established a program for judicial performance evaluation by its adoption of Supreme Court Rule 56. A standardized evaluation form for use in all the trial courts was approved and the Supreme Court adopted uniform Trial Court Performance Standards in categories such as temperament, demeanor and legal knowledge. At the same time, the Supreme Court adopted judicial performance and time standards to be used as benchmarks for evaluations of the Supreme Court. Since 2001, judicial performance evaluation reports have been prepared and submitted to the Governor and legislative leadership. Copies of all reports are available to the public on the Judicial Branch website.

In an effort to evaluate and enhance the JPE program, the judicial branch has for several years participated along with JPE administrators and scholars from other states, in a JPE working group facilitated by the Institute for the Advancement of the American Legal System (IAALS) in Denver, Colorado. The Institute is one of the nation's leading organizations for research and development of programs to enhance judicial performance, with a particular focus on evaluation procedures, transparency and accountability. Recently, representatives from the New Hampshire Judicial Branch JPE program met with judges and administrators from Massachusetts and Connecticut to discuss existing JPE programs in all three states as well as ideas for changing and improving the programs.

In 2012, following amendments to RSA 490:32, the Supreme Court established a Judicial Performance Advisory Committee that we believe will strengthen our judicial performance evaluation program. The Committee, which meets in public at the Administrative Office of the Courts, is composed of judges, lawmakers and representatives of the state's legal community. It was established to advise the Supreme Court about the design and implementation of the judicial performance evaluation program. The committee consists of the Chief Justice of the Superior Court, the Administrative Judge of the Circuit Court, the chairs of the Senate and House Judiciary Committees, the executive director of the New Hampshire Public Defender, the executive director of the Judicial Council (or designee), the deputy attorney general and the chair of the New Hampshire Bar's Committee on Cooperation with the Courts (or designee).

Associate Supreme Court Justice Carol Ann Conboy serves as the Supreme Court's representative to the Committee; Judicial Branch Communications Director, Laura Kiernan, who has assisted with the administration of our JPE program, serves as the Committee's executive secretary.

The Committee held an organizational meeting on March 11, 2013. Its first work session was held on May 13, 2013. Minutes of past meetings, the date and location of upcoming meetings, as well as background information about New Hampshire's JPE program, are available on the Judicial Branch website at <http://www.courts.state.nh.us/sitewidelinks/evaluations.htm>.

2012 JUDICIAL PERFORMANCE EVALUATION RESULTS

SUPREME COURT

Components of Evaluation Program

Supreme Court Rule 56, III, which governs the performance evaluation of Supreme Court justices, describes the components of the evaluation process for the Supreme Court and its justices: an annual assessment of whether the court has met objective performance standards; the completion of a self-evaluation form by each justice; and a meeting of the justices to evaluate each justice's performance. Every three years, a sample of attorneys and parties who have appeared before the court are surveyed electronically to assess the court's performance. That survey was last conducted during 2011 and a report was filed in 2012; the next survey will be conducted in 2014 for the 2015 report.

Statistical Analysis

The Supreme Court clerk's office undertook a statistical analysis of the court's performance in 2012 in relation to the performance standards adopted in 2001. The 2001 performance standards include time standards for completing different phases of the appellate process, such as screening, briefing, and decision-making. In setting the time standards, the court decided upon the average length of time that one could reasonably expect the court to complete that phase of the appellate process. Although the standards do not require that every case be processed within the time periods identified, the

standards serve as goals for both court and staff to process cases as promptly and efficiently as possible.

For this analysis, the clerk’s office reviewed the 928 cases disposed of in 2012, some of which were filed prior to 2012, and calculated the average length of time that it took to complete each phase of the appellate process. The court’s performance was then compared to the judicial performance standards. As the chart below reflects, the court met all of the time standards, except one, in its handling of cases disposed of in 2012.

CASES DISPOSED OF IN 2012

Phase	Time Standard	Average for All Cases
Screening	90 days	42 days
Filing of appellant’s brief	60 days after record filed	63 days
Filing of appellee’s brief	50 days after appellant’s brief	46 days
Oral argument	180 days after appellee’s brief	103 days
Decision	180 days after oral argument or submission	Opinion 86 days Order 9 days
Ruling on motions for reconsideration/rehearing	60 days	26 days

As the chart indicates, the Supreme Court’s performance surpassed the performance standards in five of six categories. New cases were screened in half the time allowed by the standards, oral argument was held much earlier and decisions were issued well in advance of the recommended time frame. The court did fall short in one category by three days—time for filing of the appellant’s brief after the record has been filed. The court believes that this was due primarily to the granting of requests for extensions of time for briefing filed by the parties. We do not regard this slight variance as significant especially since the court far exceeded standards in all other categories. For example, oral argument was held, on average, 103 days after the appellee’s brief was filed, and opinions were issued, on average, 86 days after oral argument, both far in advance of the 180 day time standard in both categories. Nevertheless, we have taken steps to improve the court’s performance in this area. During the past year, the court has monitored requests for extensions of time more carefully, and as a result, the length of time from filing of the record to the

filing of the appellant's brief decreased from 69 days, on average, in 2011, to 63 days, on average, in 2012. The court will continue to monitor such requests.

The average length of time from the filing of an appeal to disposition of a case was 217 days.

In addition to the time standards analysis, each justice completed a self-evaluation form and the justices met to evaluate each other's performance. Their evaluations focused on continuing efforts to promptly handle and dispose of cases filed with the court.

TRIAL COURT EVALUATION PROCEDURES

Evaluations are conducted for the Superior Court and the Circuit Court in accordance with RSA 490:32 and Supreme Court Rule 56. Each Superior Court justice and Circuit Court judge being evaluated is furnished a Self-Evaluation Form which is returned to the Chief Justice (Superior Court) or the Administrative Judge (Circuit Court). Court staff supply the Chief Justice or Administrative Judge with names of lawyers, litigants, witnesses, jurors, court officers and staff members who have had interaction with the justice or judge being evaluated during the prior three years. The offices of the Chief Justice and the Administrative Judge then send letters to the individuals requesting that they complete a Judicial Performance Evaluation Questionnaire for the justice or judge. The Judicial Branch uses SurveyMonkey, an electronic survey tool. The questionnaire for each justice and judge being evaluated is posted on the Judicial Branch website where it can be completed by persons contacted by the court by mail or by any other person interested in the evaluation process. The names of the justices and judges being evaluated are publicly posted in clerks' offices and published in the *New Hampshire Bar News*, as is a notice of the availability of the questionnaires for those without access to the Internet.

Upon the expiration of the deadline imposed for the completion of questionnaires, "SurveyMonkey" is used to compile the results. The Chief Justice or the Administrative Judge (as necessary) then meets with each justice or judge at which time the results are discussed and a redacted version of the comments (to preserve the respondents' confidentiality) is shared with the justice or judge. The evaluation process also includes review of other information relating to the justice or judge received by the Chief Justice or the Administrative Judge, including letters of complaint and unsolicited letters of

commendation, as well as information received from the Judicial Conduct Committee regarding grievances or complaints filed against the justice or judge.

The same performance evaluation procedure is followed for marital masters.

The Performance Evaluation Questionnaire, the Self-Evaluation Form and the Evaluation Summary for the trial courts identify seven areas considered in the evaluation of a judge or marital master:

1. Performance (including ability to identify and analyze issues, judgment and application of the law) - 11 questions
2. Temperament & Demeanor - 8 questions
3. Judicial Management Skills - 7 questions
4. Legal Knowledge - 3 questions
5. Attentiveness - 2 questions
6. Bias & Objectivity - 3 questions
7. Degree of Preparedness - 2 questions

The scale utilized is as follows:

- 5 = Excellent
- 4 = Very Good
- 3 = Satisfactory
- 2 = Fair
- 1 = Unsatisfactory

SUPERIOR COURT
2012

Currently there are 18 Superior Court justices. During calendar year 2012, performance evaluations of seven Superior Court justices were conducted by Chief Justice Tina L. Nadeau of the Superior Court.

For each justice evaluated, letters were sent to lawyers and others in accordance with the procedure described above and the questionnaire was posted on the Judicial Branch website. A total of 244 questionnaires were returned for the justices evaluated in 2012.

The overall mean for the seven Superior Court justices evaluated in 2012 was 4.2. A mean overall score of 4.2 puts these justices above the “very good” level. By category, the mean score for all seven justices were as follows:

1. Performance	4.2
2. Temperament & Demeanor	4.1
3. Judicial Management Skills	4.0
4. Legal Knowledge	4.3
5. Attentiveness	4.3
6. Bias & Objectivity	4.2
7. Degree of Preparedness	4.2

CIRCUIT COURT
2012

Currently, within the three divisions (family, district and probate) of the Circuit Court (formally the district and probate courts and the family division), there are 27 full-time and 21 part-time judges. At this time, there are a total of six family division marital masters in the Circuit Court. During calendar year 2012, a total of 12 performance evaluations were conducted for judges and marital masters within these three divisions.

Pursuant to RSA 490-F:6, judges may be certified to sit solely in the district or probate division, in both district and family or probate and family, or in all three divisions. All judicial appointments made after July 1, 2011 are Circuit Court judges, who are automatically certified in all three divisions.

Judges

The information in this section covers all judges within the Circuit Court no matter their certification.

For each judge, letters were sent to lawyers and others in accordance with the procedure described above and the questionnaire was posted on the court website. A total of 810 Performance Evaluation Questionnaires were distributed for nine judges, an average of 90 per judge. A total of 281 completed surveys were returned.

The mean overall score for the judges evaluated in 2012 was 4.2, a rating above “very good.” By category, the mean score for these judges were as follows:

1. Performance	4.1
2. Temperament & Demeanor	4.3
3. Judicial Management Skills	4.1
4. Legal Knowledge	4.3
5. Attentiveness	4.3
6. Bias & Objectivity	4.3
7. Degree of Preparedness	4.1

Family Division Marital Masters

Judicial Performance Evaluations were conducted for three marital masters in 2012.

A total of 270 Performance Evaluation Questionnaires were distributed for the three marital masters, an average of 90 per marital master. A total of 92 completed surveys were returned.

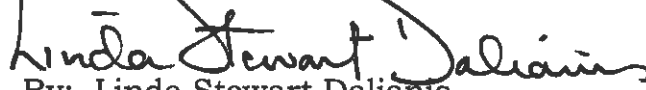
The mean overall score for the marital masters evaluated in 2012 was 4.1, a rating above “very good.” By category, the mean scores for the three marital masters were as follows:

1. Performance	4.0
2. Temperament & Demeanor	4.2
3. Judicial Management Skills	4.0
4. Legal Knowledge	4.1
5. Attentiveness	4.3
6. Bias & Objectivity	4.2
7. Degree of Preparedness	4.1

CONCLUSION

All of us in the Judicial Branch believe that the judicial performance evaluation process is an important tool for insuring public confidence in our court system through accountability and transparency. We look forward to working with the Judicial Performance Advisory Committee in an ongoing effort to further improve our current program.

Respectfully submitted,
NEW HAMPSHIRE SUPREME COURT

A handwritten signature in black ink that reads "Linda Stewart Dalianis". The signature is written in a cursive style with a large, sweeping initial "L".

By: Linda Stewart Dalianis
Chief Justice