

June 21, 2016

Her Excellency, Governor Maggie Hassan
State House, Room 208
Concord, NH 03301

Senator Charles Morse, President
New Hampshire Senate
State House, Room 302
Concord, NH 03301

Hon. Shawn Jasper, Speaker
New Hampshire House
State House, Room 312
Concord, NH 03301

Senator Sharon Carson, Chair
Senate Judiciary Committee
State House, Room 100
Concord, NH 03301

Representative Robert Rowe, Chair
House Judiciary Committee
LOB, Room 208
Concord, NH 03301

Dear Governor Hassan, President Morse, Speaker Jasper, Senator Carson and Representative Rowe:

It is our pleasure to submit a report on judicial performance evaluations of New Hampshire judges and marital masters evaluated in 2015, as required by RSA 490:32. The 2016 evaluation results will be included in the 2017 report to the governor and legislative leadership.

Background

For the past 27 years, the New Hampshire Judicial Branch has conducted a judicial performance evaluation (JPE) program in all of its trial courts. In 2000, following the adoption of Supreme Court Rule 56, the program was expanded to include evaluation of the Supreme Court, the chief justice of the superior court and the administrative judges of the circuit court. The Supreme Court evaluation results for 2015 are included in this report.

Under the current JPE program, all trial court judges and marital masters are evaluated at least once every three years in accordance with 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.

Since 2001, JPE 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.

Commitment to Improvement, Accountability and Transparency

In 2012, following amendments to RSA 490:32, the Supreme Court established a Judicial Performance Advisory Committee for the purpose of strengthening our judicial performance evaluation program. The committee is charged with making recommendations to Supreme Court about the design and implementation of the 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.

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 currently serves as the Supreme Court's representative to the committee. Judicial Branch Public Information Officer Carole Alfano, who assists with the administration of our JPE program, serves as the committee's executive secretary.

The committee held its first work session on May 13, 2013. Since then, the committee has met ten times. Minutes of all meetings, the date and location of

upcoming meetings, and 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>.

During 2015:

- The committee continued its work on modifying judicial performance evaluation forms for trial court judges and the juror feedback survey. Significant improvements were made in reducing the length of the forms and improving the wording of the questions with the goal of improving the quality and usefulness of the responses. The new forms were utilized in the 2015 evaluations.
- The committee recognized Supreme Court Clerk Eileen Fox for the work of her sub-committee in updating the forms used for Supreme Court performance evaluations. Two forms address the court as a body and not individual justices. One form is for use by attorneys and self-represented litigants, and the other is for use by trial court judges and masters.
- The committee appreciates that essential to the evaluation process is the training of newly appointed judges and on-going education of more experienced judges. Currently, new judges participate in month-long orientation and training programs. Other current training and evaluation tools include: mentoring, use of bench books, attendance by veteran judges at court proceedings to evaluate new judges, review by administrative judges of randomly selected CD recordings of proceedings, and case flow management meetings. Training program summaries for both superior and circuit court judges are attached to this report.

SUPREME COURT EVALUATION PROCEDURES

Supreme Court Rule 56, which governs the performance evaluation of Supreme Court justices, describes the components of the evaluation process for the Supreme Court: an annual assessment of whether the court has met objective performance standards; annual completion of a self-evaluation form by each justice; an annual meeting of the justices to evaluate each justice's performance; and, every three years, the distribution of questionnaires designed to assess the court's performance to a representative sample of attorneys and parties who appeared before the court.

Objective Performance Standards

The Supreme Court clerk's office performed a statistical analysis of the court's 2015 performance in relation to the performance standards adopted by the Supreme Court in 2001. The performance standards represent the court's judgment as to the length of time that it should take, on average, to complete each phase of the appellate process, such as screening, briefing, and decision-making. The standards do not require that every case be processed within the time periods identified; rather, they serve as goals for the justices and staff to process cases promptly and efficiently.

For the 2015 analysis, the clerk's office reviewed the 834 cases disposed of in 2015 (many of which were filed prior to 2015), 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 in its handling of cases disposed of in 2015.

Cases Disposed of in 2015

<u>Phase</u>	<u>Time Standard</u>	<u>Average for All Cases</u>
Screening	90 days	46 days
Filing of appellant's brief	60 days after record filed	58 days
Filing of appellee's brief	50 days after appellant's brief	47 days
Oral argument	180 days after appellee's brief	90 days
Decision	180 days after oral argument or submission	Opinion 95 days Order 9 days
Ruling on motions for reconsideration/ rehearing	60 days	28 days

The length of time from the filing of an appeal to the closing of the case averaged 216 days.

Self-Evaluation and Evaluation Meeting

As required by Rule 56, each justice completed a self-evaluation questionnaire in 2015. The justices met to evaluate each other's performance. The justices reviewed the court's overall performance and discussed ideas for improving the appellate process.

Distribution of Questionnaires to Parties and Counsel

Supreme Court Rule 56(III) requires that questionnaires be distributed every three years to parties and counsel to evaluate the performance of the Supreme Court and the Supreme Court justices. These evaluations were conducted in 2014 and will next be conducted in 2017.

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 Office of the Chief Justice of the Superior Court or the Administrative Judge of the 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 those individuals requesting completion of a Judicial Performance Evaluation Questionnaire for the justice or judge.

The Judicial Branch uses *SurveyMonkey* as its 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 or by any other person who desires to complete an evaluation form. The names of the justices and judges being evaluated are publicly posted in clerks' offices and published in the New Hampshire Bar News; thus, notice of the availability of the questionnaires is given so that individuals without access to the Internet may participate in the evaluation process.

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:

- Performance
(Including ability to identify and analyze issues, judgment, and application of the law)
- Temperament & Demeanor
- Judicial Management Skills
- Legal Knowledge
- Attentiveness
- Bias & Objectivity
- Degree of Preparedness

Superior Court

Each justice being evaluated is furnished a Self-Evaluation Form which is returned to the Chief Justice for comparison with the results of the evaluation by others. Each clerk of court where the justice being evaluated customarily presides is required to supply the Chief Justice with names of 50 lawyers, litigants, witnesses, jurors, court officers and staff members who have had interaction with the specific justice being evaluated over the last three years. The Superior Court Center then generates letters to these various individuals requesting that they complete a Judicial Performance Evaluation Questionnaire, along with instructions on how to access the questionnaires on our website. The names of the justices being evaluated are publicly posted in clerks' offices and published in the *New Hampshire Bar News*, as is a notice relative to the availability of the questionnaires.

During the calendar year 2015, performance evaluations of seven superior court justices were conducted by Chief Justice Tina L. Nadeau of the New Hampshire Superior Court. The evaluations were conducted in accordance with RSA 490:32 (Supp. 2007) and Supreme Court Rule 56.

A total of 222 questionnaires were returned for the seven justices evaluated in 2015, representing a response rate of 63%. Evaluators are asked to answer a series of questions using one of four responses as follows; 1 "Strongly Disagree", 2 "Disagree", 3 "Agree" and 4 "Strongly Agree". A rating of less than 3 would be considered less than satisfactory.

By category, the mean scores of the justices who were evaluated are as follows:

1. The judge starts court on time.	3.3
2. The judge is prepared to hear a case when taking the bench.	3.5
3. The judge treats people fairly and with respect.	3.3
4. The judge pays attention during hearings and trials.	3.6
5. The judge asserts appropriate control over the proceedings.	3.5
6. The judge allowed a fair opportunity for parties to be heard.	3.4
7. The judge clearly explains to jurors their role in the trial process.	3.6
8. The judge uses common sense in handling cases.	3.3
9. The judge knows the law.	3.4
10. The judge follows the law.	3.3
11. The judge issues decisions in a timely manner.	3.4
12. The judge's decisions are thorough.	3.4
13. The judge's decisions are easy to understand.	3.4

The overall mean for the seven judicial officers evaluated in 2015 was 3.4, a rating within the range of “Agree to Strongly Agree”. The Superior Court is very proud of these results and believes that the citizens of New Hampshire should be proud of them also.

There will be no justices evaluated in the calendar year 2016 as there are none who are due for an evaluation.

Circuit Court

During calendar year 2015, a total of 13 performance evaluations were conducted for judges and marital masters presiding within the three divisions of the circuit court (family, district and probate).

Currently there are 45 judicial officers in the circuit court, 29 full time judges, 13 part time judges, and 3 family division marital masters. Pursuant to RSA 490-F:6 judges who were on the bench on July 1, 2011, when the circuit court was created, have been certified in one or more divisions. All judges appointed to the circuit court after July 1, 2011, are automatically certified to sit in all three divisions of the court.

A total of 1,263 Performance Evaluation Questionnaires were distributed for the 13 judicial officers being evaluated for an average of 97 per judge or marital master. A total of 547 completed surveys were returned which represents a 43% total return rate. The evaluator is asked to answer a series of questions using one of four weighted responses, as follows, 1 “strongly disagree”, 2 “disagree”, 3 “Agree”, and 4 “Strongly Agree”. A rating of less than 3 would be considered less than satisfactory. The mean overall score for those evaluated in 2015 was 3.4, a rating within the range of “Agree to Strongly Agree”.

By category, the mean scores of the judges and marital masters who were evaluated are as follows:

1. The judge starts court on time.	3.3
2. The judge is prepared to hear a case when taking the bench.	3.5
3. The judge treats people fairly and with respect.	3.5
4. The judge pays attention during hearings and trials.	3.6
5. The judge asserts appropriate control over the proceedings.	3.5
6. The judge allowed a fair opportunity for parties to be heard.	3.4
7. The judge uses common sense in handling cases.	3.3
8. The judge knows the law.	3.4
9. The judge follows the law.	3.3
10. The judge issues decisions in a timely matter.	3.3
11. The judge's decisions are thorough.	3.3
12. The judge's decisions are easy to understand.	3.4

One of the judicial officers evaluated during the 2015 calendar year failed to meet a satisfactory judicial performance standard and will be reevaluated within 18 months. A correction plan has been put into place to make sure that future performance is monitored and improved.

Of the 10 judges and marital masters scheduled to be evaluated in calendar year 2016, 1 judge has retired and 1 judge will be retiring during calendar year 2016. Deputy Administrative Judge David D. King has begun the process of evaluating 8 judges and marital masters for calendar year 2016.

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

By: Linda Stewart Dalianis
Chief Justice