

June 29, 2001

Her Excellency, Governor Jeanne Shaheen
State House
Concord, NH 03301

Arthur P. Klemm, Jr., President of the Senate
NH Senate, Room 302
Concord, NH 03301

Gene G. Chandler, Speaker of the House
State House, Room 308
Concord, NH

Senator Edward M. Gordon, Chairman
Senate Judiciary Committee
LOB Room 103
Concord, NH 03301

Hon. Henry P. Mock, Chairman
House Judiciary Committee
LOB, Room 205
Concord, NH 03301

Re: Judicial Performance Evaluation Program

Dear Governor Shaheen, President Klemm, Speaker Chandler, Chairman
Gordon, and Chairman Mock:

On behalf of the judicial branch, we are pleased to report on the
implementation and operation of the judicial performance evaluation program,

which was originally established in 1987 and recently revised by the Supreme Court.

Development and Enhancement of Judicial Performance Evaluation Program

Last year, the Supreme Court and the Administrative Council for the Judicial Branch ("Council") reexamined the judicial performance evaluation program, which had been in place in the trial courts for many years. The goal of this program has always been to improve the performance of individual judges by providing them with feedback from people involved in the judicial process. In reviewing the process, it was the goal of the Supreme Court and the Council to expand the sources of information about the performances of individual judges.

During the evaluation process, information is sought about the performance of individual judges from a variety of sources, including parties, lawyers, witnesses, jurors, and court staff. The Council reviewed the questionnaires used by the three trial courts to obtain this information, and redesigned them so that a uniform form is now used by all state courts.

The Council also proposed uniform Trial Court Performance Standards, which establish benchmarks for the performance of state trial judges in categories such as temperament and demeanor, legal knowledge, etc. These standards were recently approved by the Supreme Court. The Trial Court Performance Standards are attached to this report.

The Supreme Court instituted an evaluation process for itself. Because the justices of the Supreme Court generally act together as a court, rather than individually, the court designed a questionnaire to evaluate the court's performance at key stages of the appellate process. The court also adopted performance standards to evaluate the performance of individual justices and time standards to measure the performance of the Supreme Court as a body. The Supreme Court Judicial Performance Standards are attached to this report.

On March 27, 2001, the Supreme Court adopted Supreme Court Rule 56, which formally established the judicial performance evaluation program in all state courts. A copy of the rule is attached to this report. Under this rule, the administrative judges of the superior, district and probate courts will evaluate the performance of the judges on those courts at least once every three years. The administrative judges will also be evaluated by a panel of Supreme Court justices at least once every three years. The Supreme Court and the individual justices on the court will evaluate themselves annually.

The Supreme Court has approved forms to be used in the evaluation process. The forms include a Supreme Court Performance Evaluation Questionnaire, a Supreme Court Self-Evaluation form, a Trial Court Judicial

Performance Evaluation Questionnaire, a Trial Court Judge's Self-Evaluation form, and a Trial Court Evaluation Summary. Copies of the forms used in the program are also attached to this report. The court expects that the evaluation forms may be revised in the future based on suggestions from respondents.

Implementation of Performance Evaluation Program

During the last year, the efforts of the Supreme Court and the Council have focused on formalizing the structure and standardizing the forms used in the Judicial Performance Evaluation program. With the main elements of the program in place, the state courts have begun to implement the program. The following is a report on the status of implementation in each court.

Supreme Court

The Supreme Court designed a questionnaire to be distributed to a sampling of attorneys and unrepresented parties who file notices of appeal and who participate in oral argument. The court has developed a plan to distribute in excess of 200 questionnaires annually. It expects to begin distributing the forms in September 2001.

The court has adopted time standards to measure the court's performance at key stages of the appellate process, e.g. screening, oral argument, disposition. At the close of each calendar year, it will review its performance in relation to the standards.

Each year, every justice will complete a self-evaluation form.

The results of the questionnaires, the self-evaluation forms, and the court's compliance with the time standards will be reviewed at a meeting each fall. At the same time, the justices will evaluate the individual performance of each justice.

Superior Court

There are currently 25 sitting justices on the superior court. Chief Justice Walter Murphy is in the process of evaluating nine of the justices.

The evaluation process for each justice includes several components. Chief Justice Murphy reviews any complaints about the justice that he has received and any complaints received by the Committee on Judicial Conduct that have been made public. Questionnaires are sent to a random sampling of attorneys, jurors, parties, witnesses, court staff and court officers, who have had contact with the justice being evaluated. Questionnaires are also available in public areas of the courthouse, and notice of the evaluation process is posted in

the public area of the clerk's office. In addition, the justice being evaluated completes a self-evaluation form.

The questionnaires relating to the nine justices being evaluated are due on July 31, 2001. After the results of the questionnaires are compiled, and the other information is reviewed, Chief Justice Murphy or his designee, a senior retired justice, will meet with each of the justices being evaluated. He expects to complete the evaluations of the nine justices by the end of October 2001.

District Court

There are currently 70 sitting justices, associate justices and special justices of the District Court. The Administrative Judge of the District Court, Edwin Kelly, plans to evaluate approximately 23 judges per year, so that each judge is evaluated at least once every three years.

The evaluation process for each judge includes several components. Judge Kelly reviews any complaints about the judge that he has received and any complaints received by the Committee on Judicial Conduct that have been made public. Questionnaires are sent to a consistent group of constituencies who regularly use district court services around the State, as well as to attorneys and unrepresented parties who appeared before the judge, and the results of the questionnaires are compiled. The judge being evaluated completes a self-evaluation form.

After all of this information has been compiled and reviewed, Judge Kelly or his designee meets with the judge being evaluated to discuss the results of the evaluation and to advise the judge being evaluated whether he or she has met the performance standards. If the judge has not met performance standards, the Administrative Judge will advise the judge being evaluated what steps the judge must take to improve his or her performance.

To date, Judge Kelly has begun evaluations of 26 district court judges. The District Court Administrative Office has mailed questionnaires about those judges to respondents. The results of the questionnaires have been compiled for 20 judges. Judge Kelly has completed evaluation conferences with 7 of these judges. He expects to complete his meetings with the other 19 judges by September 1, 2001.

The District Court Administrative Office distributed 1017 questionnaires on the first 21 judges who have been evaluated or are in the process of being evaluated. 626, or 62%, of the questionnaires were returned.

Overall, the average rating for the judges who have been evaluated was "very good."

In reviewing individual evaluation results, corrective action has focused on initiating scheduling practice changes to decrease waiting time for litigants, monitoring courts' start and end time to assure punctuality, implementation of tracking capability to ensure timely rendering of decisions, implementation of time and caseload management procedures to assist in a more even flow of cases through the court, and administrative counseling on issues related to demeanor.

Judge Kelly anticipates that some judges may be referred to classes on time management, caseload management, judicial demeanor, evidence, etc., as appropriate. These programs are not generally available within the State and may require the expenditure of education funds. In addition, the district court will attempt to structure its annual and single-day conferences to include issues raised in the evaluation process.

Probate Court

There are currently 10 sitting probate court judges. Because the Administrative Judge of the Probate Court, John Maher, completed a three-year cycle of evaluations in 2000, one probate court judge was evaluated this year.

The evaluation process for a probate court judge is similar to that of the other courts. Judge Maher reviews any complaints about the judge that he has received and any complaints received by the Committee on Judicial Conduct that have been made public. Questionnaires are sent to a consistent group of constituencies who regularly use probate court services around the State, as well as to attorneys who appeared before the judge, and the results of the questionnaires are compiled. The judge being evaluated completes a self-evaluation form.

After all of this information has been compiled and reviewed, Judge Maher meets with the judge being evaluated to discuss the results of the evaluation and to advise the judge being evaluated whether he or she has met the performance standards. If the judge has not met performance standards, the Administrative Judge will advise the judge being evaluated what steps the judge must take to improve his or her performance.

A total of 27 questionnaires were distributed and 17 (63%) questionnaires were returned. Overall, the average rating for the judges was "excellent."

No corrective action was determined to be necessary.

CONCLUSION

During the past year, the Administrative Council and the Supreme Court, after seeking input from numerous sources, have developed the structure for a Judicial Performance Evaluation Program, which solicits information from a

broader cross-section of persons who interact with the judicial system. It is our hope that the more formalized evaluation process will prove useful and constructive and will enable the court system to provide the best possible service to the citizens of our State.

Respectfully submitted,
New Hampshire Supreme Court

By: David A. Brock
Chief Justice

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