

THE STATE OF NEW HAMPSHIRE SUPREME COURT



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July 6, 2007

His Excellency, Governor John Lynch
State House, Rooms 208-214
Concord, NH 03301

President Sylvia B. Larsen
N.H. Senate
State House, Room 302
Concord, NH 03301

Speaker Terie Norelli
N.H. House of Representatives
State House, Room 312
Concord, NH 03301

Senator Joseph A. Foster, Chair
Senate Judiciary Committee
State House, Room 302
Concord, NH 03301

Hon. David E. Cote, Chair
House Judiciary Committee
LOB, Room 208
Concord, NH 03301

Re: Judicial Performance Evaluation Program

Dear Governor Lynch, President Larsen, Speaker Norelli, Senator Foster,
and Representative Cote:

This is our seventh annual report of the revised judicial performance evaluation program instituted by New Hampshire Supreme Court rule for the entire judicial branch in March 2001. Judicial performance evaluation began in New Hampshire in the trial courts twenty years ago, in 1987. During 2000 and early 2001, the then-existing judicial performance evaluation program was examined and revised. For the trial courts, uniform forms were developed for use by the public (Performance Evaluation Questionnaire), the judge being evaluated (Self-Evaluation Form), and the administrative judge conducting the evaluation (Evaluation Summary). The program was extended to include the supreme court and the administrative judges. For the supreme court, a different Performance Evaluation Questionnaire and Self-Evaluation Form were developed. A more detailed description of the enhanced judicial performance evaluation program is contained in our first annual report, dated June 29, 2001.

Under the enhanced judicial performance evaluation program, each trial court judge is to be evaluated at least once every three years. This year's report covers our activities under this program for 2006, the final year of the second three-year cycle under the revised judicial performance evaluation program.

Changes to the judicial performance evaluation program for the future are now under consideration. The Judicial Branch Strategic Plan makes review and further development of the judicial evaluation process a priority. To that end, Supreme Court Associate Justice Gary Hicks is leading the Administrative Council and General Counsel in a process of revising and updating our judicial evaluations. This group is using two recent publications of The Institute for the Advancement of the American Legal System of the University of Denver. The first document, "Shared Expectations – Judicial Accountability in Context," surveys the current landscape of judicial performance evaluations and makes recommendations. The second document, "Transparent Courthouse – a Blueprint for Judicial Performance Evaluation," is intended to assist in the design of a program of judicial accountability through enhanced judicial performance evaluations. When their review is completed, Justice Hicks and his committee will make recommendations to the supreme court, which may include legislative action, to make the judicial evaluation process more useful to the judges being evaluated, the judges responsible for the different court jurisdictions, the other branches of government, and the public.

SUPREME COURT

In 2006, 953 new cases were filed with the court and 673 cases were accepted for appellate review. During 2006, the court disposed of 879 cases. At the end of 2006, there were 745 pending cases.

In 2006, the supreme court's performance evaluation included the justices' self evaluations and their performance evaluation of the court as a whole. Their evaluations focused upon continuing efforts to assess and improve the appeal process, and to promptly handle and dispose of all cases.

The supreme court clerk's office performed a statistical analysis of the court's performance during 2006. It analyzed the court's performance in all cases disposed of during 2006 and calculated the average time to complete each stage of the appellate process. The court's performance was then compared to its established time standard. The 2001 performance measures consist of time standards for performing various aspects of the appellate process, such as screening, briefing, and decision-making. In setting each time standard, the court decided upon the average length of time that one could reasonably expect the court to complete that stage of the appellate process. The time that it takes to complete a stage in any particular case may be, for many reasons, greater or less than the standard. While the standards do not require that every case be processed within the time periods identified, the standards serve as goals for both the court and staff to process all cases as promptly and efficiently as possible.

As the chart shown below reflects, the court met all of the time standards.

CASES DISPOSED OF IN 2006

<u>Stage</u>	<u>Time Standard</u>	<u>Average for All Cases</u>
Screening	90 days	48 days
Filing of appellant's brief	60 days after record filed	53 days
Filing of appellee's brief	50 days after appellant's brief	42 days
Oral argument	180 days after appellant's brief	133 days
Opinion/Decision	180 days after oral argument or submission	80 days
Ruling on motions for reconsideration/rehearing	60 days	32 days

Supreme Court Rule 56(III) requires that questionnaires be distributed every three years to evaluate the performance of the Supreme Court justices. Because questionnaires were distributed in 2005, they were not distributed in 2006.

SUPERIOR COURT

During the calendar year 2006, performance evaluations of seven (7) superior court justices and one (1) marital master were conducted by Robert J. Lynn, Chief Justice of the New Hampshire Superior Court. The evaluations were conducted in accordance with RSA 490:32 (Supp. 2005) and Supreme Court Rule 56.

Each justice or master 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 or master being evaluated customarily presides randomly distributed seventy-five Performance Evaluation Questionnaires for each justice or master to lawyers, litigants, staff, court officers, witnesses, and jurors and provided additional questionnaires to other members of the public who made inquiry in the clerk's office. The names of the justices and masters being evaluated are publicly posted in the clerks' offices and published in the New Hampshire Bar News, as is a notice relative to the availability of the questionnaires. All the recipients of questionnaires were furnished a postage pre-paid envelope pre-addressed to the Superior Court Center and marked "Confidential." For the justices and masters evaluated in 2006, a total of 283 questionnaires were returned.

Upon the expiration of the deadline imposed for the return of the completed questionnaires, the evaluations are forwarded to the Administrative Office of the Courts for scanning and compilation. When the results are furnished to the Superior Court Center, the chief justice schedules an individual appointment with each justice at which the results are discussed and a redacted version of the comments (to preserve the respondents' confidentiality) is shared with the justice or master. The interview includes non-questionnaire information relating to the justice or master received by the chief justice, including letters of complaint and unsolicited letters of commendation, as well as information received from judicial conduct authorities regarding grievances or complaints filed against the justice or master.

The Performance Evaluation Questionnaire, the Self-Evaluation Form, and the Evaluation Summary for the trial courts identify seven areas considered in the evaluations:

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

The overall mean for the eight (8) judicial officers evaluated was 4.2, with four (4) scoring equal to or above the mean, and four (4) scoring below. A mean overall score of 4.2 puts these justices and masters, like their counterparts evaluated in previous years, at above the “very good” level. By category, the mean scores for all eight judicial officers were as follows:

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

Chief Justice Lynn will be evaluating six (6) justices and two (2) marital masters in 2007.

The evaluations conducted since 2001 reflect that, as a group, the justices and marital masters of the superior court achieve an overall rating of above “very good.” The superior court is very proud of these results and believes that the citizens of New Hampshire should be proud of them also.

DISTRICT COURT

During 2006, the Administrative Judge of the District Court, Edwin W. Kelly, or his designee, completed the performance evaluations of sixteen judges. Currently, there are sixty-six judges in the district court. One judge that was to be evaluated in 2006 resigned. There were no judges re-evaluated in 2006.

The evaluation process is the same in the district court as that described above for the superior court. A total of 1,139 Performance Evaluation Questionnaires were

distributed for sixteen judges, for an average of seventy-one per judge. The return of 454 made for a response rate of 40%.

The mean overall score for the judges evaluated in 2006 was 4.2, a rating of “very good.”

By category, the mean scores for all sixteen judges were as follows:

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

The Administrative Judge of the District Court will be evaluating twenty-one judges for 2007, which will include three newly hired judges.

Based upon their evaluation results, two judges will be reevaluated during 2008, ahead of the normal schedule. Both judges will be required to take corrective action addressing several deficiencies noted in the reviews.

PROBATE COURT

During 2006, the then Administrative Judge of the Probate Courts, John Maher, completed three judicial performance evaluations.

Names and addresses of practitioners and agencies were provided to the Office of the Administrative Judge by the register and mailings were generated directly from this office. Also, notices were printed in the Bar News inviting practitioners to request a form and the notice also appeared on the Bar’s e-Bulletin. There was a noticeable increase in requests via e-mail this year, and the form was mailed electronically to those requesting.

The overall scores for the three judges evaluated were 4.2, 4.6, and 4.6 with 5 being the best score. The actual overall scores were by category. The mean scores for the judges are as follows:

1. Performance	4.2, 4.4, and 4.6
2. Temperament and Demeanor	4.2, 4.7, and 4.7
3. Judicial Management Skills	4.2, 4.4, and 4.6

4.	Legal Knowledge	4.2, 4.5, and 4.5
5.	Attentiveness	4.6, 4.8, and 4.7
6.	Bias & Objectivity	4.2, 4.8, and 4.7
7.	Degree of preparedness	4.1, 4.5, and 4.4

FAMILY DIVISION

During 2006, the Administrative Judge of the Family Division, Edwin W. Kelly or his designee, completed the performance evaluations of three marital masters. Currently, there are six masters in the family division. A marital master that was evaluated in 2006 is now assigned to the superior court. There were no masters re-evaluated in 2006.

The evaluation process is the same in the family division as it is described above in the superior courts. A total of 258 Performance Evaluation Questionnaires were distributed for three masters, for an average of eighty-six per marital master. The return of 131 made for a response rate of 50%.

The mean overall score for the masters evaluated in 2006 was 3.9, a rating of “very good.”

By category, the mean scores for the three masters were as follows:

1.	Performance.....	3.8
2.	Temperament & Demeanor.....	3.9
3.	Judicial Management Skills.....	3.8
4.	Legal Knowledge	4.2
5.	Attentiveness.....	4.1
6.	Bias & Objectivity.....	3.9
7.	Degree of Preparedness.....	3.8

The Administrative Judge of the Family Division will be evaluating three masters in 2007, which includes one newly hired master, and based upon evaluation results, one master will be re-evaluated during 2007, ahead of the normal schedule.

CONCLUSION

Last year, I concluded this report by referring to a recommendation of the New Hampshire Citizens Commission on the State Courts that the judicial branch create a customer-service-based court environment. We have taken steps in that direction, and I take this opportunity to thank the Legislature and the Governor for their foresight in

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the just-completed budget process in appropriating funds for the addition of nine new case managers in our courts to help provide enhanced customer service. Still, at the center of the judicial branch's interaction with the public are our judges and marital masters. It is with great pride that I am able to report to you again that the public continues to rate the performance of our judges and marital masters at a very high level.

Respectfully submitted,
NEW HAMPSHIRE SUPREME COURT

By: John T. Broderick, Jr.
Chief Justice

JTB/pah
cc: Supreme Court Justices
Administrative Justices
Donald D. Goodnow, Esq.