

**State of New Hampshire Judicial Branch  
Judicial Performance Evaluation (JPE) Advisory Committee  
Minutes of May 13, 2013 Meeting**

Attendees: Associate Supreme Court Justice Carol Ann Conboy; State Senator Sharon M. Carson; State Representative Marjorie Smith; Deputy Attorney General Ann Rice; Attorney Daniel Will (NHBA Committee on Cooperation with the Courts); Attorney Christopher Keating (Judicial Council); Attorney Randy Hawkes (Public Defender); Superior Court Chief Justice Tina Nadeau; Circuit Court Administrative Judge Edwin Kelly; Circuit Court Deputy Administrative Judge David King; and Supreme Court Clerk Eileen Fox.

Laura Kiernan, Executive Secretary to the Committee, was unable to attend.

**Minutes of the Meeting:**

On Monday, May 13, 2013, the JPE Advisory Committee met at the Administrative Office of the Courts (AOC). The meeting began at 10:00 a.m.

Justice Conboy reported on input she received from General Counsel Howard Zibel, Supreme Court Chief Justice Linda Dalianis, and the administrative judges, about the 2012 amendments to RSA 490:32. All agreed that the amendments to RSA 490:32 were intended to require the judicial branch to identify the judges evaluated and provide a summary of the evaluation results in the annual report on judicial performance evaluations. The amendment does not define the information to be included in the summary or the format to be used. Justice Conboy suggested that these questions be considered by the committee.

Chief Justice Nadeau and Administrative Judge Kelly described the current evaluation process in the Superior and Circuit Courts and their concerns about it. Chief Justice Nadeau said that the process of selecting the individuals to be surveyed should be consistent. Judge Kelly suggested that questionnaires be shortened so that they take less time to complete. He also suggested that consideration be given to evaluating new judges more frequently than experienced judges who have received a number of good evaluations.

Eileen Fox reported on a meeting of the Massachusetts Judicial Performance Evaluation Committee that she and Laura Kiernan attended. Representatives of the Connecticut Judicial Evaluation Program also attended. In Massachusetts, judges are evaluated every three years by lawyers who appeared before them and by court staff. In Connecticut, questionnaires are sent to lawyers after trials and significant hearings before a judge. Connecticut has a separate office overseeing judicial performance evaluations. Neither program surveys self-represented litigants. Representatives of both states

expressed concern about potential bias in the judicial performance evaluation process and about the need to validate questionnaires. (These issues were discussed in the September/October 2012 Judicature article entitled, "Judicial Performance Evaluation, Steps to Improve Survey Process and Measurement.")

The committee then discussed the focus of its work. It agreed that the first task should be to consider how the results of individual judges' evaluations should be reported. Chief Justice Nadeau and Judge Kelly agreed to prepare examples of options for reporting the results prior to the next meeting.

The committee discussed a timeline for this work. All 2012 judicial performance evaluations were conducted prior to the amendment of the statute. As a result, the June 2013 report will not include the results of individual judges' evaluations. The 2014 annual report, which will report on evaluations conducted in 2013, will include summaries of the results of individual judges evaluated. A decision about how evaluation results will be presented in the annual report should be made well before that. Justice Conboy suggested that the committee decide how it believes evaluation results should be reported within the next two meetings.

Justice Conboy explained that the committee is an advisory committee to the Supreme Court. Its recommendations will be presented to the court for approval. Justice Conboy assured the committee that the court will consider and act on the committee's recommendations promptly.

The committee agreed that the current JPE questionnaires should be reviewed, but that this is a longer-range effort. Eileen Fox suggested that the committee may be able to ask Jordan Singer, who is now a professor at New England School of Law, to assist with review and redesign of the questionnaires. The committee could also contact the University of New Hampshire Survey Center to determine whether it could provide assistance with design and validation of the questionnaires. Prior to the next meeting, Eileen Fox or Laura Kiernan will contact Professor Singer and the UNH Survey Center to determine whether they are willing to assist the committee.

The committee agreed to recommend two changes to Supreme Court Rule 59. The committee believes that the rule should be amended to include marital masters since the remaining marital master positions will not be eliminated. The committee also agreed that the chair of the N.H. Bar Association's Committee on Cooperation with the Courts should be permitted to designate someone to attend in his/her place since the chairmanship of that committee will regularly change and continuity of membership of the JPE Advisory Committee is important.

The committee members agreed on the desirability of members attending meetings on a consistent basis. If a regular member is unable to attend a

meeting, however, the member may send a representative to provide input and report to the regular member, but the representative would not be authorized to vote.

The next meeting is scheduled for Monday, June 24, 2013, at 10:00 a.m., at the AOC, 2 Charles Doe Drive, in Training Room B. Materials for the committee's meetings will be distributed one week in advance, if possible.

The meeting adjourned at 11:00 a.m.

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Submitted by Eileen Fox, Clerk, Supreme Court of New Hampshire