

**State of New Hampshire
Judicial Branch
Judicial Performance Evaluation (JPE) Advisory Committee
March 26, 2018
9:00am
NH Supreme Court**

Attendees

Supreme Court Associate Justice Robert J. Lynn, retired Associate Justice Carol Ann Conboy, Superior Court Chief Justice, Tina L. Nadeau, Circuit Court Deputy Administrative Judge David D. King, Deputy Attorney General Ann Rice, General Counsel for the Judicial Branch, Mary Ann Dempsey, Chief Information Officer for the Judicial Branch, Matthew Seaton, Executive Director, NH Judicial Council, Sarah Blodgett, Attorney Randy Hawkes, Office of the NH Public Defender, NH Supreme Court Clerk Eileen Fox, Dr. Andrew Smith, UNH Survey Center and Judicial Branch Communications Manager, Carole Alfano.

Absent due to scheduling conflicts

Attorney Dan Will (NH Bar Association), Sen. Sharon Carson, and Rep. Robert Rowe.

Minutes of the Meeting

On Monday, March 26, the Judicial Performance Evaluation (JPE) Committee met at the NH Supreme Court.

Justice Lynn began by stating that he called the meeting in light of the recent issues regarding Circuit Court Judge Paul C. Moore who has admitted to submitting multiple on-line JPE surveys on his own behalf. Judge Moore is currently on leave without pay, as the Judicial Conduct Committee and the NH Attorney General's Office are investigating his conduct.

Justice Lynn noted that although Judge Moore's actions were truly shocking, it was the Judicial Branch itself that discovered the conduct when Supervisory Judges Kelly and King learned of anomalies regarding Judge Moore's evaluations. They acted upon the situation as soon as the evaluation process was complete and, soon afterward, sent a report of their investigation to the NH Supreme Court, detailing their findings.

Retired Justice Carole Ann Conboy, who previously chaired the JPE Committee, gave the committee a brief review of the history of the Committee, including recent work done to improve the JPE survey itself. She reported that Dr. Andrew Smith, from the UNH Survey Center, regularly attended committee meetings and provided invaluable assistance with the enhancement of the quality of the questions and the reduction of the length of the survey.

Justice Conboy also noted that judicial evaluations are not based upon surveys alone. Administrative judges use a "portfolio" approach that can also include listening to recordings of hearings/trials, in-person observation of a judge in court, consideration of input received outside the survey process, and directing particular judges to educational programs specifically designed to improve their work. Additionally, judges are required to fill out self-evaluations. The purpose of the entire process is to improve judicial performance.

The committee addressed the issue of anonymity, which everyone agreed was an important element of the survey that is conducted through “Survey Monkey”. Judge Nadeau noted that the new form has generated a higher response rate and that the responses are more useful. Thus, although the new form itself has greatly improved the process, the committee agreed that an effort must be made to decrease the risk of cheating, while still protecting the identity of the persons filing out the surveys.

Judge King stated that, because New Hampshire is a small state with less than 100 total judges, administrative judges are generally aware of how their judges are performing so that a negative response on a survey rarely comes as a surprise. He and the other administrative judges continually work to assess the performance of judges, and assist with strategies to improve performance

The committee discussed the technical aspects of IP (Internet Protocol) addresses associated with the surveys. Those “addresses” identify only particular internet connections, and not the names and physical addresses of individuals using that connection. Matt Seaton, of the Administrative Office of the Courts, explained that several individuals could submit evaluations from the same IP address. Judge King added that it could mean, for example, that several Manchester Police officers could submit separate surveys from different computers that would all have the same IP address.

Dr. Smith shared the process that the University of New Hampshire survey center uses to insure that an individual is limited to submitting only one on-line survey. Its practice is to send to responders a link to a survey with an imbedded identification number. If a responder attempts to file a second survey, the responder receives a notice stating that the responder has already filled out the survey. This can be done without compromising the anonymity of the sender.

Committee members agreed this type of survey process should be pursued. Dr. Smith stated UNH would be pleased to work with the Judicial Branch to design a new system, using existing software, to create an on-line survey that would reduce the risk of fraudulent judicial evaluations. He stated that such improvements could be done relatively quickly and at a reasonable cost.

A sub-committee comprised of Mary Ann Dempsey, Matt Seaton, Dr. Smith and Carole Alfano will meet at a time and location to be determined in April to begin discussions regarding potential affiliation with the UNH Survey Center for the purpose of improving the JPE process.

The next meeting of the full committee is scheduled for May 24, 2018 at 9:00am at the NH Supreme Court.

The meeting adjourned at 10:15am.

Minutes submitted by Carole Alfano