

**State of New Hampshire  
Judicial Branch  
Judicial Performance Evaluation (JPE) Advisory Committee  
March 6, 2017  
3:00pm**

***Attendees***

Supreme Court Associate Justice Carol Ann Conboy; Supreme Court Associate Justice Robert J. Lynn; Circuit Court Deputy Administrative Judge David King; Deputy Attorney General Ann Rice; Christopher Keating-Director of the Administrative Office of the Courts; Mary Ann Dempsey-Judicial Branch General Counsel; Attorney Randy Hawkes (Office of the Public Defender), Attorney Daniel Will (NH Bar Association) and Tammy Jackson, assistant to Carole Alfano, Judicial Branch Public Information Officer.

***Absent due to scheduling conflicts***

Superior Court Chief Justice Tina Nadeau; Sen. Sharon Carson, and Rep. Joseph Hagan, the new chairman of the House Judiciary Committee replacing Rep. Robert Rowe. Dr. Andrew Smith of the UNH Survey Center will attend committee meetings going forward on an “as needed” basis.

***Minutes of the Meeting***

On Monday, March 6, 2017 the JPE Committee met at the Administrative Office of the Courts in Concord. Justice Conboy began the meeting by introducing Justice Lynn as the incoming JPE Chairman due to Justice Conboy’s retirement in July of 2017.

The minutes of the June 13, 2016 meeting were approved without any corrections. Justice Conboy noted from the minutes that:

- 1) The annual JPE reports have been changed to cover the calendar year as opposed to the fiscal year.
- 2) The 2016 JPE report shall include information about the success of the Family Court’s High Conflict Resolution Docket and include a notation that 33 states do not conduct any judicial evaluations.

- 3) All of the annual reports are posted and available for the public to read on the Judicial Branch website.

Justice Conboy stated that the Court received no feedback regarding the 2015 annual report from either the governor or the legislature.

Justice Conboy noted that there has been an uptick in the evaluation response rate with the Superior Court reporting at 63% and the Circuit Courts reporting at 43%. Judge King added that, with the implementation of online surveys via Survey Monkey and an advertisement in the Bar News, there was a significant increase in the number of evaluations submitted per judge in the Circuit Court. Justice Conboy added that, according to Professor Smith, a response rate of 40% is considered good. Professor Smith played an important role in helping the committee create the new evaluation forms.

Justice Conboy noted that on page 5 of the 2015 annual report, the Supreme Court reported that the average time from when a case is filed until it is closed is 216 days. She indicated that it will be important to break this number down in the 2016 annual report because a significant amount of time is spent waiting for transcripts from the lower court to be prepared. Dan Will noted that, in any event, a 216 day turnaround is a remarkably good number. Justice Conboy noted that the average time between oral arguments and release of an opinion should also be included in the report, with a notation that the majority of opinions are being issued in three to six months.

Justice Conboy stated that it should also be noted in the report that, in 2016, the Court received a *Reporting Excellence Award* from the National Center for State Courts for making its case processing statistics available as “100-percent publishable data”. This is particularly noteworthy due to the fact that only seven states met the 100-percent threshold for that same year.

Each year the Court Statistics Project (CSP) recognizes states that have applied the leadership and resources necessary to improve the quantity and quality of their reported caseload data.

Justice Conboy reported that, in 2015, seven Superior Court judges were evaluated. None were evaluated in 2016. This is due to the rotating basis of the evaluations along with the date a judge is appointed.

Judge King reported that, in 2015, there was one Circuit Court judge who failed to meet a satisfactory standard. He was reevaluated 18 months later and again failed to meet a satisfactory standard (2.9 out of 1-4 standard with 3.0 being satisfactory). This is the first time that a judge has received two consecutive unsatisfactory performance evaluations under **RSA 490:32** (Judicial Performance Evaluations) which triggers **Supreme Court Rule 56 IV:B(3)**.

A lengthy discussion followed regarding the issue of waiver of confidentiality as to this judge's evaluations, and the requirements of **Supreme Court Rule 56 IV:B (3)**, which states: If a judge or marital master fails to achieve an overall satisfactory level of performance on two consecutive performance evaluations, or if a judge or marital master purposely fails to complete the steps for improving his or her performance specified in the evaluation summary, the judge or marital master shall be deemed to have waived any right to confidentiality provided for by this rule, and the results of the judge's or marital master's evaluations shall become public, with the exception of the identity of persons furnishing information about the judge or marital master.

Judge King advised that he will meet with the judge in question and then prepare a memo on the matter for Justice Lynn, who will then report to the Supreme Court.

Time did not allow for the committee to decide whether any changes need to be made to the evaluation forms.

Justice Conboy set a deadline for the first draft of the 2016 JPE Annual Report to be submitted by Carole Alfano and distributed to the committee on Friday May 12, 2017.

The next meeting of the full JPE Committee was set for Wednesday, May 17, 2017 at 1:30 pm at the AOC, Training Room B, in Concord.

The meeting adjourned at 4:07 pm.

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*Submitted by Carole Alfano  
Executive Secretary to the Committee*