



OFFICE OF JUDICIAL PERFORMANCE EVALUATION

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JUDICIAL PERFORMANCE FACT SHEET

PURPOSE

- Commissions on Judicial Performance were created in 1988 by the Colorado General Assembly for the purpose of providing voters with fair, responsible and constructive evaluations of judges and justices seeking retention. The results also provide judges with information to help improve their professional skills as judicial officers.

AUTHORITY

- Article VI, Colorado Constitution
- C.R.S. 13-5.5-101 *et seq.*
- Supreme Court Rules Governing the Commissions on Judicial Performance (Volume 12, Chapter 37, C.R.S.)

COMMISSIONS

- There is one commission in each of the 22 judicial districts and one state commission. Each commission consists of 10 volunteer citizen members: six non-attorneys and four attorneys. Appointments to the commission are made by the Chief Justice, Governor, Speaker of the House and President of the Senate as follows:

Chief Justice:	1 attorney & 2 non-attorneys
Governor:	1 attorney & 2 non-attorneys
Speaker of the House:	1 attorney & 1 non-attorney
President of the Senate:	1 attorney & 1 non-attorney

- Commissioners serve a four-year term with a maximum of two terms served. If the initial appointment is to fill a vacancy, the commissioner is eligible to serve the balance of that term plus two full terms.
- The State Commission promulgates the Rules Governing Commissions on Judicial Performance and evaluates the Supreme Court justices and Court of Appeals judges.
- District Commissions evaluate the performance of county and district court judges in their judicial district during the judge's current term of office – which is the past two years for new (provisional) judges, the past four years for county court judges, and the past six years for district court judges.

PROCESS

- **Trial Judge Performance Criteria**

- Integrity – including but not limited to whether the judge:
 - Avoids impropriety or the appearance of impropriety
 - Displays fairness and impartiality toward all participants; and
 - Avoids ex parte communications
- Legal Knowledge – including but not limited to whether the judge:
 - Demonstrates an understanding of substantive law and the relevant rules of procedure and evidence
 - Demonstrates awareness of and attentiveness to factual and legal issues before the court; and
 - Appropriately applies statutes, judicial precedent, and other sources of legal authority
- Communication Skills – including but not limited to whether:
 - The judge’s finding of fact, conclusions of law, and orders are clearly written and understandable;
 - The judge’s oral presentations are clearly stated and understandable and the judge clearly explains all oral decisions; and
 - The judge clearly presents information to the jury
- Judicial Temperament – Including but not limited to whether the judge:
 - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom
 - Maintains and requires order, punctuality, and decorum in the courtroom; and
 - Demonstrates appropriate demeanor on the bench
- Administrative Performance – Including but not limited to whether the judge:
 - Demonstrates preparation for all hearings and trials
 - Uses court time efficiently
 - Issues findings of fact, conclusions of law, and orders without unnecessary delay
 - Effectively manages cases
 - Takes responsibility for more than his or her own caseload and is willing to assist other judges; and
 - Understands and complies with the directives of the Colorado Supreme Court
- Service to the Legal Profession and the public
 - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system

- **Appellate Judge Performance Criteria**

- Integrity – including but not limited to whether the justice or judge:
 - Avoids impropriety or the appearance of impropriety
 - Displays fairness and impartiality toward all participants; and
 - Avoids *ex parte* communications
- Legal Knowledge – including, but not limited to whether the justice’s or judge’s opinions:
 - Are well-reasoned and demonstrate an understanding of substantive law and the relevant rules of procedure and evidence
 - Demonstrate attentiveness to factual and legal issues before the court; and
 - Adhere to precedent or clearly explain the legal basis for departure from precedent
- Communication Skills – including, but not limited to whether the justice’s or judge’s:
 - Opinions are clearly written and understandable; and
 - Questions or statements during oral arguments are clearly stated and understandable
- Judicial Temperament – including but not limited to whether the justice or judge:
 - Demonstrates courtesy toward attorneys, litigants, court staff, and others in the courtroom; and
 - Maintains appropriate decorum in the courtroom
- Administrative Performance – including but not limited to whether the justice or judge:
 - Demonstrates preparation for oral argument, attentiveness, and appropriate control over judicial proceedings
 - Manages workload effectively
 - Issues opinions in a timely manner and without unnecessary delay; and
 - Participates in a proportionate share of the court’s workload
- Service to the Legal Profession and the Public
 - By participating in service-oriented efforts designed to educate the public about the legal system and to improve the legal system

- Commissions must use the following information in order to make recommendations to the voters regarding the retention of an individual judge:
 - Questionnaire results
 - Trial Judge
 - ❖ Questionnaires are sent to: attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, employees of the court (including law clerks), court interpreters, employees of probation offices, employees of local departments of social services, victims of crime, and appellate judges
 - Appellate Judge
 - ❖ Questionnaires are sent to attorneys (including prosecutors, public defenders, and private attorneys), employees of the court (including law clerks and staff attorneys), other appellate judges, and district judges
 - Information from observing the judge in the courtroom
 - Information furnished by the judge in a self-evaluation
 - Review of decisions/opinions
 - Review of individual judge statistics, including caseload information, open case reports, case aging reports, and sentence modifications (18-1.3-406 C.R.S.)
 - Interview with the judge

- In addition, commissions may use the following information in order to make recommendations to the voters regarding the retention of an individual judge:
 - Information and documentation from interested persons
 - Information from interviews with justices and appellate judges and other persons
 - Information from public hearings

Any information the commission uses must be made available to the judge being evaluated.

All commission interviews and deliberations concerning the retention of the judge are confidential.

- Commissions must meet with the chief justice or judge prior to initiating the evaluation process for an informational briefing and overview of the court.
 - If a commission identifies one or more areas of significantly poor performance of a judge, it may recommend that the judge be placed on any improvement plan.

- Commissions complete a written narrative for each judge standing for retention, which must include a retention recommendation of “Retain”, “Do Not Retain”, or “No Opinion”, and the number of commissioners who voted for and against retention.

PUBLICATION

- Narratives, recommendations, and survey reports are released to the public on the first day following the deadline for judges to declare their intent to stand for retention at www.coloradojudicialperformance.gov and www.courts.state.co.us.
- Results are linked to www.coloradobluebook.com, www.leg.state.co.us, and www.cobar.org/.
- Results are published in the Legislative Council's Blue Book (Voter Guide).

STATISTICS

- From 1988 through 2010, there have been 11 evaluations of judges (one in each general election years since 1988) and approximately 1270 citizens have participated on the various judicial performance evaluation commissions. One thousand eighty-six names of judges have been on the ballot. There have been:
 - 16 recommendation to not retain
 - 11 no opinions
 - 10 judges have not been retained by the voters
- Nationally, no other state has a judicial performance evaluation program that provides for local citizens sitting as commissions to evaluate the judges in their own community or judicial district.

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