



EVALUATING JUDGES' JOB PERFORMANCE: JUDICIAL PERFORMANCE REVIEW PROCESS

WHAT IS JUDICIAL PERFORMANCE REVIEW?

1974 – Arizona voters amended the state constitution to provide for a judicial merit selection and retention process. This amendment requires the governor to appoint appellate court judges statewide and trial court judges in Maricopa and Pima counties from lists of nominees submitted by judicial nominating commissions. Although the constitution allows counties other than Maricopa and Pima the option of merit selection, judges in Arizona's other 13 counties continue to run in contested elections. Once a county reaches a population of 250,000, superior court judges will fall under the merit selection process. The process is administered by three judicial nominating commissions, one on appellate court appointments, and two local commissions on trial court appointments in Maricopa and Pima counties. Each of the commissions is composed of ten public and five attorney members, and each is chaired by the Chief Justice of the Supreme Court or designee.

1988 – The Commission on the Courts, appointed by the Arizona Supreme Court ("Court"), recommended the Court create a commission on judicial performance evaluation. The commission's report to the Court stated, "There is no system by which reliable and uniform information and observations from a variety of sources are collected on all judges statewide, disseminated to the public in a meaningful way, and used by judges for self-improvement and development." *The Future of Arizona Courts*, Report of the Commission on the Courts, 1989.

1989 – The Court appointed the Committee on Court Reform to address these concerns and to develop an action plan for implementing the commission's recommendations. The resulting action plan called for a pilot project to determine if a permanent program of judicial performance review was workable.

1991 – The Court established the Committee on Judicial Performance Review to develop a pilot project. The committee was charged with advising and making recommendations to the Court on a system of judicial evaluation. The goal of the pilot project was to assess the feasibility of a judicial performance review program and to determine the relevance of the information compiled during the pilot project.

1992 – Proposition 109 was passed by Arizona voters. It amended the state constitution to require a process for evaluating the performance of judges and justices subject to the merit selection process. The amendment mandates that the performance evaluation process include input from the public and requires that judicial evaluation reports be disseminated to the public prior to the state's general election.

1993 – The Court created the Commission on Judicial Performance Review ("JPR") to administer the constitutional mandate. Standards for judicial performance and rules of procedure were developed by the Commission and adopted by the Court. The Commission is composed of 18 public, six attorney, and six judge members.

1994 – The Commission completed Arizona's first judicial performance review process and reported the results to the public.

HOW ARE REVIEWS CONDUCTED?

Judicial performance reviews are conducted twice during a judge's or justice's term—once at midterm and once at the end of the term just before the general election. The review is a two-part process: (1) Data Collection and Reporting, and (2) Self-Evaluation and Improvement:

Data Collection and Reporting – Survey forms are distributed to people having contact with the judges or justices during a prescribed period of time. Survey recipients include attorneys, jurors, litigants, witnesses, court staff, staff attorneys, other judges, and parties who have contacts with presiding judges. Additionally, the Commission holds transcribed public hearings and accepts written comments from the public.

Self-Evaluation and Improvement – Judges and justices complete self-evaluations to rate their own performances. The categories on the self-evaluation form are identical to the categories on the various survey forms to allow the judges and justices the opportunity to compare their perspectives of their performances with the survey respondents' perspectives of their performances. Additionally, each judge and justice is assigned a Conference Team composed of one public volunteer, one attorney volunteer, and one judge volunteer. The Conference Team meets with the judge or justice to review the Data Report, survey comments, and public comments, and assists the judge or justice in setting performance goals. The Conference Team reports its work with a judge or justice in a Conference Team Report. The report is confidential and is not distributed to the Commission for use in its findings. A copy of the Conference Team report, with the judge information removed, is used by the Committee on Judicial Education and Training (COJET) and the Judicial College of Arizona to assist in developing more effective judicial education programs.

WHO RECEIVES THE SURVEYS?

To maintain the integrity of the performance review process and ensure confidentiality, the Commission contracts with an independent entity ("Data Center") to collect survey responses and compile the data. Respondents mail completed surveys directly to the Data Center. Survey forms are never collected by judicial or Commission staff. Only data from surveys returned directly to the Data Center is used.

The Data Center assigns each judge a code number. All survey responses are entered into a database under the code number. Upon completion of the survey period a compiled Data Report is generated for each code number.

When reviewing Data Reports and public input to make its findings, the Commission works only with code numbers, not the names of the judges and justices. This system is intended to reduce potential bias on the part of Commission members when formulating findings and voting on whether a judge or justice "Meets" or "Does Not Meet" judicial performance standards.

HOW ARE SURVEY COMMENTS HANDLED?

Confidential comments on survey forms are retyped at the Data Center to omit names or other identifying information. The retyped comments are grouped and reported by respondent type in a separate document. Neither the Commission nor the public has access to the survey comments. They are used only to assist in preparing the judge's or justice's self-improvement plan.

COMMISSION REPORTS AND FINDINGS

Data Reports – In April of each election year the compiled Data Reports (including the retyped confidential comments), together with any public comments, are distributed to the judge or justice, his or her presiding judge or chief judge, the Chief Justice, and the Conference Team, on judges and justices undergoing retention or midterm reviews.

Encoded data reports (excluding the confidential comments), together with any public comments encoded by judge number, are distributed to the Commission members for those judges and justices who are undergoing retention reviews.

Written Notice – The Commission sends written notice to any judge or justice who has a score in any category of judicial standard that falls below the Threshold Standards adopted by the Commission. The judge or justice may respond to the finding in writing or by personally appearing before the Commission at a date and time prior to the public vote.

Public Vote Meeting – In July of each election year the Commission votes in a public meeting on whether a judge or justice who is standing for retention “Meets” or “Does Not Meet” judicial performance standards. The vote is recorded as the “finding” of the Commission.

Report of the Commission – After the Public Vote Meeting, the Commission makes its findings available to the public in the Secretary of State Voter Information Pamphlet and on the Commission’s website.

FOR MORE INFORMATION CONTACT:

Commission on Judicial Performance Review
1501 West Washington, Suite 227
Phoenix, Arizona 85007-3231
Telephone: (602) 364-0098
Fax: (602) 542-9652
E-mail: jpr@courts.az.gov
Website: <http://www.azjudges.info>