



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 to provide 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.*
- Rules Governing the Commissions on Judicial Performance

COMMISSIONS

- Colorado has 230 volunteer citizen commissioners providing judicial performance evaluations for State Judges. 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:	one attorney and two non-attorneys
Governor:	one attorney and two non-attorneys
Speaker of the House:	one attorney and one non-attorney
President of the Senate:	one attorney and one non-attorney

- Commissioners serve a four-year term with a maximum of two terms served within the judicial district.
- The State Commission evaluates the performance of Supreme Court justices and Court of Appeals judges. They also provide oversight to the Office of Judicial Performance Evaluation and adopt rules, guidelines, or procedures that provide guidance to

commissioners during the evaluation process and the evaluation criteria in section 13-5.5-107 C.R.S. 2017.

- District Commissions evaluate the performance of county and district court judges in their local judicial districts.

RETENTION EVALUATION 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;
 - Avoids ex parte communications; and
 - Promotes public confidence in his/her integrity
- 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 attentiveness to factual and legal issues before the court;
 - Adheres to precedent or clearly explains the legal basis for departing from precedent; and
 - Appropriately applies statutes, and other sources of legal authority in their decisions
- 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 asks understandable, relevant and pertinent questions during oral argument or presentations; decisions;
 - The judge clearly explains the legal and factual basis for all oral decisions;
 - During sentencing the judge listens to all sides, clearly state the sentence and reason for the sentence, and clearly advises the defendant what is to occur next (criminal cases only);
 - In a jury trial the judge explains the process to the jury; and
 - The judge asks if the parties understand, have questions, of need clarification about any matter
- 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 control over the courtroom
- Administrative Performance – Including but not limited to whether the judge:
 - Is timely in attendance and prepared for for all hearings and trials;

- Explains the reason for any delays for proceedings that begin after a scheduled time;
 - Issues opinions and orders in a timely manner;
 - Manages court time effectively and efficiently;
 - Assist other judges with their workload; 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 and requires order, punctuality, and 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 and efficiently;
 - Issues opinions in a timely manner and without unnecessary delay;
 - Participates in a proportionate share of the court’s workload; and
 - Understands and complies, as necessary, with directive 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

- Commissions must use the following information to make recommendations to the voters regarding the performance of an individual judge standing for retention:
 - Survey results
 - Trial Judge

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, court employees, court interpreters, probation office employees, social services employees, crime victims, and appellate judges
 - Appellate Judge

Surveys are sent to attorneys (including prosecutors, public defenders, and private attorneys), other appellate judges, appellate staff attorneys, self-represented litigants, 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, and open case reports.
 - Information from meetings held with a representative of the District Attorney's Office and/or a representative of the Public Defender's Office, when requested
 - Interview with the judge
 - Completion of a Performance Standards Matrix

- Commissions may also use the following information to make recommendations to the voters regarding the performance 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 evaluation of the judge are confidential.

- Commissions must meet with the chief justice or chief judge prior to initiating the evaluation process for an overview of the court.
- Commissions complete a written narrative for each judge standing for retention, which must include a retention recommendation of “Meets Performance Standards,” or “Does Not Meet Performance Standards,” and the number of commissioners who voted for each.

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.
- Results are published in the Legislative Council’s Blue Book (Voter Guide).

STATISTICS

Dating back to the first retention election with commission input held in 1990, 1,431 judicial officers have stood for retention in 14 election cycles. During this time, Commissions recommended to retain 1,396 judicial officers (97.6%), while recommending 22 (1.5%) not be retained. Commissions offered no opinion on 13 judicial officers (0.9%) during this period.

Colorado voters elected to retain 1,419 of the 1,431 (99.2%) judicial officers standing for retention since 1990. As shown in Table B, Colorado voters retained 99.7% of the judges receiving retain recommendations, 63.6% of those receiving do not retain recommendations, and retained all judicial officers where commissions offered no opinion.

Table B					
Commission Recommendations and Election Results: 1990 - 2016					
Commission Recommendation	Total # of Recommendations	Election Results			
		Total Retained	Retained %	Total Not Retained	Not Retained %
To Retain	1,396	1,392	99.7%	4	0.3%
Do Not Retain	22	14	63.6%	8	36.4%
No Opinion	13	13	100.0%	0	0.0%
TOTALS	1,431	1,419	99.2%	12	0.8%

Revised: 12/28/2017