

Illinois Judicial Performance Evaluation (JPE) Program

Frequently Asked Questions

About the Process:

Q1. How are judges selected for evaluation?

Judges are randomly selected for evaluation by the AOIC. The random selection will program the randomized selection to account for geographic location and circuit so as not to oversample from any single location.

Q2. What happens after the surveys are completed and returned?

After a period of three weeks for the initial notification of evaluators, the survey link will be closed for evaluation. Approximately two to three months following the link closure, individual JPE reports will be developed. The reports will be provided to the facilitator 2 weeks prior to the scheduled facilitation meeting. After the meeting, the 2 copies of the evaluation report will be left with the judge who was the subject of the evaluation.

Q3. Will the judge see all completed surveys?

The judge will not see any of the individually completed surveys. Rather, the report will include the aggregate responses of the evaluators who have completed the survey.

Q4. Are the overall results of the judicial performance surveys available to the public?

No. The information contained in the evaluation report will only be available to the judge and the judge's facilitator. In fact, in compliance with Illinois Supreme Court Rule 58, it is prohibited for anyone to share the results of an individual judge's evaluation report.

Q5. Can a judge who has been evaluated choose to be re-evaluated?

Yes. If a judge was selected for the mandatory evaluation process but would like to be evaluated again, he or she can contact Todd Schroeder at the AOIC (by phone at 217-785-2125 or by email at tschroeder@illinoiscourts.gov) and request their name be put back into the pool for selection in future years.

Q6. Can a judge who has not been selected volunteer to be evaluated?

Yes. If a judge would like to be evaluated in a particular year, he or she can contact Todd Schroeder at the AOIC (by phone at 217-785-2125 or by email at tschroeder@illinoiscourts.gov) and request their name be included in the pool for the current year. Also, Regardless of whether judges participated in the voluntary evaluation process in the past, all judge names will be included in the pool for random selection.

Q7. How was the facilitator assigned to the evaluated judge?

Peer judge facilitators are assigned randomly, within geographic regions to eliminate the need for excessive travel whenever possible. Facilitators will not be matched with judges within their own circuit.

Q8. Can I, as a facilitator, observe the judge to whom I am providing feedback?

No, your role as a facilitator is to provide the results of the evaluation from the report in a constructive manner. As a facilitator you are not also playing the role of evaluator, so you should not observe the judge to whom you are assigned as facilitator.

Q9. Can the evaluated judge use the results of the survey and the facilitated meeting for other purposes?

No. The evaluation results are for professional growth purposes only and may not be shared with anyone other than the judge and his or her peer mentor. Using the evaluation results for any other purpose is in violation of Illinois Supreme Court Rule 58.

About the Survey Instrument:

Q10. How was the survey developed?

A team led by the NCSC Research Division developed the survey used in the Illinois Judicial Performance Evaluation (JPE) program in Winter 2010-2011. The JPE survey emerged from a review of existing state and model JPE survey instruments and criteria, best practices in survey design, consultation with experts on performance evaluation, and the professional expertise of Illinois judges and attorneys. The Illinois Supreme Court Judicial Performance Evaluation

Committee reviewed drafts of the JPE survey at multiple stages in this process and provided feedback to help tailor the instrument to the needs of the Illinois Judiciary.

In Spring 2011, NCSC pilot tested the new JPE survey instrument and online methodology and refine it for official statewide use. Five Illinois judges volunteered to participate in this pilot test of the respondent nomination and surveying process. Two additional steps were taken to obtain feedback from participating respondents: First, a brief, voluntary follow-up survey provided all participating respondents with a forum to voice their comments about the survey content, process, and overall experience. Second, intensive, one-on-one interviews were conducted with attorneys as they completed the survey online to help better understand their experience with the survey. Feedback from respondents as a result of these two methods helped NCSC staff identify possible problem areas in the online survey that could interfere with participant comprehension or otherwise prohibit respondents from completing the survey to the best of their ability. The survey instrument and process were refined into its current form based on the pilot test, follow-up survey, and cognitive interview results.

Q11. What is reverse coding?

Some survey questions describe positive or desirable judicial behaviors (i.e., positively keyed items), and others describe negative or undesirable judicial behaviors (i.e., negatively keyed items). The rating scale for the negatively keyed items is reversed in the scoring process so that for all items, higher numeric scores indicate better performance.

Q12. Why might survey results not be reported for an evaluated judge?

Evaluated judges were asked, at the beginning of the JPE process, to nominate at least 50 (and ideally as many as 125, if possible) eligible attorney respondents and at least 10 eligible court personnel respondents. For the purpose of this survey, eligible respondents are those attorneys and court personnel who have direct experience working with the judge in his or her courtroom within the past 12 months. In addition, a valid, unique email address must be provided for the respondent to receive an invitation to participate in the survey.

Results would not be reported if fewer than 10 respondents completed the judge's JPE survey. As indicated above, a small sample may result in unwarranted conclusions about the judge's overall performance. Importantly, restricting reported results to only those instances in which participation met a minimum threshold was one of several measures taken in this JPE process to help preserve respondent confidentiality. Because judges know who they nominate to participate in the JPE process, small samples could make it easier for the judge to identify specific responses and attribute them (accurately or inaccurately) to specific individuals, thereby jeopardizing respondent confidentiality.

Q13. What was the response rate?

The judge's evaluation report includes information on the number of eligible participants the judge nominated for participation in his or her evaluation and on the number of participants who completed the judge's entire JPE survey. The response rate is the number of people who completed the survey divided by the total number of people who were eligible to complete the survey.

Response rates give us insight into how representative the survey results may be of the eligible population. An extremely low response rate of, say, 15% would be cause for caution against interpreting average scores as consensus information as those few responders may be systematically different from the individuals who chose not to complete the survey (the majority). Generally, a 50% response rate for this type of survey is considered appropriate (Brody, 2008). In the first year of the Illinois JPE program, response rates exceeded this mark, with the attorney survey achieving an overall response rate of 54% and the court personnel survey achieving an overall response rate of 63%.

Sample size, however, is also an important consideration when reading the results. For example, if the judge nominates a convenience sample of only 3 individuals, even a response rate of 100% will not ensure that the results adequately represent the views of the overall population of possible respondents. This is why judges are encouraged to nominate a large number of individuals to complete their JPE survey: Sample size has a direct bearing on the quality of the results they receive and, therefore, the utility of those results in guiding self-improvement. Although all feedback is informative, the conclusions one can draw from such results is limited.

Q14. What is the self-evaluation survey and what is its purpose?

The judge's self-evaluation survey is an online survey that mirrors the survey issued to attorney respondents. With this survey, the judges are afforded the opportunity to experience the online survey and reflect on their own performance along the same dimensions on which they are being evaluated. This optional survey is offered to help judges better understand the nature of this JPE and also to help them better prepare for their facilitation meeting.

Q15. How is the confidentiality of the survey and the survey results protected?

The reports are produced by the National Center for State Courts. Two copies of the reports are printed; one is sent to the facilitator and one is sent to the evaluated judge two weeks prior to the scheduled facilitation meeting. At the completion of the meeting, the facilitator's copy of the report should be provided to the evaluated judge. No other copies of the evaluation report will be produced.

About the Meeting:

Q16. How much time should I schedule for the meeting?

Set aside appropriate time in your schedule and the judges schedule to meet – you do not want the meeting to be rushed or interrupted. The meeting should last between 60 and 90 minutes. Scheduling extra time will ensure that meetings are not rushed and all material is discussed.

Q17. Where should we conduct the meeting? In the judge's chambers, the courthouse or somewhere away from the courthouse?

Privacy and confidentiality are extremely important when dealing with performance evaluations. Ensure that you have a private area available to meet where others will not overhear your conversation (meeting room, judicial chambers, etc.). The meeting location should be free from interruptions such as phone calls, office visitors, general conversations and similar common office activities.

Q18. What should I do if the judge becomes angry and/or defensive?

Conflict / angry situations become negative and destructive when they are not dealt with promptly and effectively. When the situations are dealt with properly, there is a greater tendency for an individual to grow and for positive collegial relations to develop.

First, a useful distinction should be made between the emotional and the substantive aspects of the issue. Drawing upon successful strategies learned from the field of conflict resolution, when feelings are strong it is usually a sound strategy to deal with the emotional aspects of the conflict or issue first. Recognize that defensiveness is a major factor in every person's life. Treat the judge with respect, and demonstrate empathy by listening for understanding. Reflective listening in moments like these frequently diminishes the other person's defensiveness.

Sometimes when people are extremely angry in the performance evaluation process it is due to an underlying problem that has not been brought into the open. This problem constitutes a large emotional barrier towards accepting feedback and addressing real issues. When this seems to be the case, you may wish to offer a door opener like, "Seems like something is troubling you. Is there something else that you'd like to talk about first?" Sometimes the other person will say "No, there's nothing wrong" – and then gradually share some other issues.

If a judge refuses to talk about what's bothering them AND they cannot seem to get past the anger or defensiveness, consider adjourning and rescheduling the meeting by saying: "I can

understand that you are hesitant to talk about this, but we would probably be better off if we got it out in the open. Let's consider rescheduling this meeting and leave it for a few days and come back to it.”

Q19. What should I do with admissions/disclosures (drinking, gambling, etc.)?

Try not to interrupt him or her or ask lots of questions. Being asked a lot of questions can feel like being interrogated. Let them tell you at their own pace. Don't worry if s/he stops talking for a while - silences are O.K. Do ACKNOWLEDGE their trust in disclosing to you and highlight their courage and strength in taking positive action in dealing with the issue.

Finally, offer them appropriate referrals for support, treatment and/or counseling. Several valuable resources are:

- American Bar Association Judicial Division:
www.americanbar.org/groups/judicial.html
- Illinois Lawyers' Assistance Program: 20 South Clark Street, Suite 1820 · Chicago, Illinois 60603 Tel: 312-726-6607) · 800-LAP-1233. <http://illinoislap.org>
- Judicial Family Institute: www.jfi.ncsconline.org
- Lukas, D. Judges and Depression.
www.lawyerswithdepression.wordpress.com/2011/01/23/judges-and-depression
- Zimmerman, I. Helping Judges in Distress, in *Judicature*, Vol. 90, number 1, July-August 2006.