



# NATIONAL PERSPECTIVES ON JUDICIAL PERFORMANCE EVALUATION

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# APPENDIX A: PREVIOUS RESEARCH ON JPE

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This study is part of a greater body of research on JPE over the past two decades, much of which focuses on critiques and potential improvements of evaluation programs. This study offers the much-needed perspective of judges, who the subject of and therefore greatly impacted by JPE, and underscores many of the themes highlighted next that appear elsewhere in existing research.

## The Goals and Effectiveness of JPE

Much of the existing literature centers around the impact and effectiveness of JPE. In order to understand its effectiveness, it is important to first understand the goals of JPE, specifically supporting professional development of judges, informing the public about the judiciary's performance, and accountability. Although JPE programs vary in their stated goals, existing literature argues for the importance of a clear purpose. In *Judicial Performance Evaluation in the States: A Re-Examination*, Jennifer K. Elek, David B. Rottman, and Brian L. Cutler argue that “[i]nstituting a performance evaluation program to address multiple purposes can compromise the quality of performance ratings and feedback.”<sup>1</sup>

### PROFESSIONAL DEVELOPMENT

When it comes to professional development, these same authors make the case that “merely providing evaluation results to judges” is not sufficient to support their improvement. They advocate for “clear policies on confidentiality and efforts to create a new court culture around professional development,” as well as better support for judges in processing their feedback.<sup>2</sup>

### PUBLIC EDUCATION

As for the public education goal of JPE, existing literature shows “[t]here is currently a wide variation in the amount of information that state JPE programs provide to the public, both with respect to the JPE process and with respect to the final evaluation results.”<sup>3</sup> Many JPE stakeholders—judges, attorneys, and members of the public—have expressed concern about the lack of transparency in the JPE process and the lack of awareness of evaluation results, or even of the existence of JPE programs in their states.<sup>4</sup> Existing literature recognizes the potential of JPE programs “to be extremely valuable both to a state’s judiciary and to its citizenry,”<sup>5</sup> as well as the apparent paradox that people want to be able to hold judges accountable through elections but do not participate in those elections.<sup>6</sup> Research shows that low voter turnout in judicial elections are largely because voters have very little information about the candidates, a problem JPE often seeks to remedy.<sup>7</sup>

### JUDICIAL ACCOUNTABILITY

Another goal of JPE identified in the literature is to increase judicial accountability. In *Using Judicial Performance Evaluations to Promote Judicial Accountability*, Rebecca Love Kourlis and Jordan M. Singer identify three ways in which JPE is likely to promote judicial accountability: 1) providing valuable information

to voters about judges, 2) building “shared expectations about the judiciary by educating the public about the specific qualities that make a good judge,” and 3) offering judges the benefit of formal feedback.<sup>8</sup> However, there are different views about how effectively JPE programs accomplish these goals. For example, in *The Use of Judicial Performance Evaluation to Enhance Judicial Accountability, Judicial Independence, and Public Trust*, David C. Brody argues that “JPE of judges standing for retention or reelection may increase the effectiveness of judicial elections in holding judges accountable,” but also acknowledges that whether they are doing so in reality is difficult to assess.<sup>9</sup> He highlights some data points that seem to indicate—albeit not conclusively—that JPE programs do improve judicial accountability.<sup>10</sup>

## Methodological Challenges and Limitations

### EVALUATION CRITERIA

Much of the existing body of research on JPE centers around critiques of the methods used. For example, in *Judicial Performance Evaluation in the States: A Re-Examination*, Jennifer K. Elek, David B. Rottman, and Brian L. Cutler take issue with the “trait-oriented approach” of JPE evaluation criteria because traits are not only very difficult to measure but are also “relatively stable aspects of an individual that are unlikely to change much, even if the person is motivated to do so.”<sup>11</sup> Instead, they (and others) advocate for focusing on “process-oriented aspects of an individual’s behavior and decision making or the outcomes related to judicial performance” as well as measures “designed to capture more specific behavior,” which is “more directive about what may be changed and harder to personally discount.”<sup>12</sup> In *Using Judicial Performance Evaluations to Promote Judicial Accountability*, Rebecca Love Kourlis and Jordan M. Singer underscore this sentiment, promoting the importance of choosing neutral and apolitical metrics to evaluate judges that are “based primarily on performance against predetermined benchmarks.”<sup>13</sup>

In *Judicial Temperament Explained*, Terry Maroney highlights the importance of this approach to evaluation criteria using the example of judicial temperament, a criterion that many agree is important but that has remained ill-defined.<sup>14</sup> She argues that while the behaviors we associate with good judicial temperament tend to “advance procedural justice,” how we assess this criteria cannot remain “indeterminate.”<sup>15</sup> Like all criteria, it needs to be clear and measurable, and she argues that it should be based on available psychological research about temperament.<sup>16</sup>

### SURVEYS

A common critique in the literature relates to the limitations of surveys, which most states rely on heavily (or exclusively) in their evaluations.<sup>17</sup> In *Judicial Performance Evaluation in the States: The IAALS JPE 2.0 Pre-Convening White Paper*, Jordan M. Singer hones in on a few of these concerns: 1) survey statements do not speak to specific qualities of a judge’s performance but instead address “the general quality of what might be called ‘judginess,’” 2) surveys are inherently subjective, which “may unintentionally invite responses that reflect racial or gender bias,” 3) some of the feedback provided on surveys is inappropriate, and 4) survey respondents have expressed concerns about retribution for providing honest feedback.<sup>18</sup> At the same time, Singer notes that the subjective nature of surveys is valuable because more objective measures “cannot fully capture the parties’ feeling that they have been treated fairly and with dignity, and have been afforded the opportunity to tell their respective stories,” factors that are crucial to procedural fairness and, consequently, judicial legitimacy.<sup>19</sup>

To address these concerns, scholars advocate for casting a wider net when collecting performance data, such as including more objective data rather than relying solely or primarily on surveys.<sup>20</sup> Judges, concerned that survey data may be unreliable, likewise “support the collection of a wide range of data to evaluate their job performance.”<sup>21</sup>

## BIAS

Much attention is paid in existing research—as in the present study—to challenges related to mitigating bias in evaluations. Specifically, existing empirical evidence suggests that JPE surveys are “systematically biased against minority and women judges.”<sup>22</sup> In *Implicit Bias in Judicial Performance Evaluations*, Rebecca D. Gill identifies a few reasons for this: 1) stereotypical characteristics for the job of a judge are “at odds with the gender or race stereotype” of women and minorities, 2) JPE uses “subjective, vague, or abstract evaluation criteria,” 3) the anonymity of surveys as well as the speed with which they are completed can exacerbate the effects of implicit bias, and 4) evaluations of performance that happen “after the fact” may also encourage bias.<sup>23</sup> Scholars have identified many ways to address and mitigate this bias, including by revising survey content, procedures, and format;<sup>24</sup> by creating “appropriate safeguards” for commissions, such as partisan balance, training, and oversight;<sup>25</sup> and by raising awareness of implicit bias among survey respondents.<sup>26</sup>

## Judicial Perspectives on JPE

Perhaps most salient to the present study is literature on judicial perspectives of JPE. Although empirical data on judicial perspectives is limited, existing research shows that judges are generally supportive of JPE, find it beneficial to their professional development, and do not feel JPE decreases their judicial independence.<sup>27</sup>

At the same time, they have concerns about the fairness of the process and methods used.<sup>28</sup> In *The Relationship Between Judicial Performance Evaluations and Judicial Elections*, David C. Brody references a JPE pilot project in Washington, after which judges shared the following suggestions for improvement: 1) “more specific information about negative perceptions” should be shared with judges, and 2) space should be provided for comments after each section “to encourage more written feedback.”<sup>29</sup> In *Judicial Performance Evaluation in the States: The IAALS JPE 2.0 Pre-Convening White Paper*, Jordan M. Singer argues that judicial concerns about the legitimacy and fairness of the JPE process have, at least in part, driven a “seeming drop in enthusiasm for JPE.”<sup>30</sup>

# APPENDIX B: PARTICIPATING STATE JPE PROGRAM CHARACTERISTICS

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## Alaska

In Alaska, JPE was first authorized by the legislature in 1976 and is a critical component of its retention elections.<sup>31</sup> All sitting state court judges participate in the JPE process.<sup>32</sup> All judges are subject to an initial retention election that occurs on the first general election at least two years after appointment for district court judges, and at least three years after appointment for other state judges. Following this initial retention election, judges stand for retention election at the conclusion of their term—which varies from four to 10 years, depending on the court—with the evaluation process beginning about a year prior to the election taking place.<sup>33</sup> Performance evaluation results are posted on the Alaska Judicial Council’s (the Council) website.<sup>34</sup>

The Council consists of seven members, three of whom must be attorneys appointed by the Alaska Bar Association, three of whom are not attorneys, and the chief justice of the supreme court serves as chair.

In addition to conducting Alaska’s JPE program, the Council screens and nominates applicants for judicial vacancies and conducts research to improve the administration of justice in Alaska. The Council evaluates judges on five broad performance standards: legal ability, impartiality/fairness, integrity, judicial temperament, and diligence and administrative skills.<sup>35</sup>

There are several components of Alaska’s JPE process. Judges complete a self-evaluation questionnaire, and surveys are distributed to the following groups:

- Attorneys, including all active and in-state inactive and retired attorneys
  - Counsel “who have in-depth experience with the judge on a particular case”<sup>36</sup> receive more detailed questionnaires.
- Law enforcement, including peace and probation officers who handle state and municipal criminal cases
- Social services professionals who “participate in helping Alaska’s children (protective service specialists at the Office of Children’s Services and Tribal social workers, Guardians ad Litem, and Court Appointed Special Advocate volunteers)”<sup>37</sup>
  - These professionals only rate judges who preside over child welfare matters.
- Jurors who served in cases in district and superior court with judges who are up for retention election
- Court employees who are not members of the Alaska Bar Association

In addition to surveys, the Council also reviews public hearings, written comments from the public, and a number of records: financial disclosures and conflict of interest forms, cases the judge is involved in as a party or witness, public files from the Commission on Judicial Conduct to determine if the judge was subject to disciplinary proceedings, peremptory challenge filings “to determine how often the parties disqualified the judge from presiding over a case,”<sup>38</sup> recusal filings, appeal affirmations, and whether a judge’s pay was withheld for any untimely decisions.

Before the Council members vote on retention recommendations, judges may request an interview with the Council. Additionally, the Council may request interviews with the judge, other presiding judges, attorneys, court staff, and others.

## Colorado

In Colorado, the JPE process aims to improve judicial performance and to provide information to voters for retention elections. All sitting state court judges participate in the JPE process, which occurs midway through a judge's term and prior to retention elections. Interim evaluations are kept confidential. However, retention evaluations are posted on the Colorado Office of Judicial Performance Evaluation (OJPE) website.

The Colorado State Commission on Judicial Performance oversees the JPE evaluation process and is made up of 11 members—five lawyers and six members of the public.<sup>39</sup> State commission members are selected from nominations by the governor, president of the senate, speaker of the house, senate minority leader, and house minority leader. Judicial Performance Evaluation Commissions evaluate judges on six broad performance areas: integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and public.<sup>40</sup> The components of the JPE process in Colorado include:<sup>41</sup> confidential surveys to individuals and professionals who have sufficient experience with a judge, courtroom observations, information provided by the judge in a self-evaluation, review of individual judge statistics, review of submitted decisions and orders, personal interviews with the judge being evaluated, and completion of a standards matrix. Commissions may also use information and documentation from interested persons, information from interviews with justices and judges and other persons, and information from public hearings.

For retention evaluations, OJPE commissions draft recommendations for retention, and share the draft evaluation with the judge being evaluated. The judge then has an opportunity to review and comment on the information in the narrative, and may request an additional interview. Once finalized, the evaluation report is disseminated on the OJPE website and to voters as in the Voter Information Guide.

## Hawaii

In Hawaii, the JPE process aims to improve judicial performance, increase the efficiency of judicial management, provide information for retention and promotion decisions, improve judicial education, and promote public trust and confidence.<sup>42</sup> All full-time judges and justices, as well as a limited number of per diem judges, are evaluated regularly. Appellate justices and judges are evaluated three times in their ten-year terms. Circuit Court judges, including those assigned to the Family Court of the First Circuit, are evaluated every three years. Full-time District Family Court judges and District Court judges are evaluated every two years. A portion of the per diem judge pool is evaluated every three years. The Hawaii Supreme Court Chief Justice and Judicial Evaluation Review Panel discuss the evaluation results with the judge. While individual results are kept confidential, summary evaluation results are reported to the public.

The Hawaii Judicial Evaluation Review Panel oversees the evaluation process and consists of nine members organized into groups of three. Panel members are former judges, members of the public knowledgeable in the law, and retired practitioners.<sup>43</sup> Hawaii's JPE process consists of a survey of attorneys who have appeared before the judge.<sup>44</sup> The survey is comprised of multiple-choice five-point Likert scales and open-ended questions, as

well as questions about demographics. Survey responses are summarized in an evaluation report where the judge has received at least 18 responses. The chief justice and Judicial Evaluation Review Panel then meet with the evaluated judge to discuss the results.

## Idaho

In Idaho, the JPE process is overseen by the office of the Administrative Director of the Courts. The JPE process aims to improve judicial performance, and no disciplinary actions are taken as a result of the performance evaluation.<sup>45</sup> All state trial court judges participate in the JPE process,<sup>46</sup> which evaluates a third of the judiciary every year. New judges are evaluated at approximately nine and 18 months after beginning their first term on the bench, then every three years following.

The evaluation process consists of a feedback survey, courtroom observations, and a discussion of the evaluation results with a facilitator judge.<sup>47</sup> The feedback survey is distributed to attorneys who have appeared before the judge in the past twelve months, as well as court professionals who have worked for or with a judge. Attorneys are asked to evaluate judges on their legal skills, fairness and impartial decision-making, listening and communication skills, and case management skills. Court professionals are asked to evaluate judges in similar areas, though they are asked about teamwork and leadership skills instead of legal skills.

## Massachusetts

In Massachusetts, where judges are appointed rather than elected, the program is administered by the Supreme Judicial Court and aims to improve “performance of individual judges and the judiciary as a whole.”<sup>48</sup> Trial court judges are evaluated approximately every three years.<sup>49</sup>

To solicit feedback, surveys are distributed to attorneys, court staff, and jurors who have interacted with the judges during the review period.<sup>50</sup> The surveys ask respondents to assess the judge’s performance, demeanor, judicial management skills, legal ability, attentiveness, bias, and degree of preparedness. All responses are anonymous. At least 25 attorney responses are required before a judge can be evaluated. Evaluations are shared and discussed with the evaluated judge. These evaluations are not available to the public.

## New Mexico

In New Mexico, the JPE process aims to improve judicial performance and to provide information to voters for retention elections. All sitting judges, except those running in partisan elections and magistrate judges, participate in the JPE process, which occurs midway through a judge’s term and prior to retention elections. Midterm evaluations are kept confidential, shared only with the judge/justice, and used for the purpose of performance improvement. However, retention evaluations are posted on the New Mexico Judicial Performance Evaluation Commission (JPEC) website, published in newspapers, and promoted through paid and social media.

The New Mexico JPEC oversees the JPE process and is made up of 15 members—seven lawyers and eight members of the public. JPEC members are selected from nominations by the governor, chief justice, legislative leaders, and the president of the state bar. JPEC evaluates judges on four performance areas: legal ability; fairness; communication skills; and preparation, attentiveness, temperament, and control over proceedings.<sup>51</sup> The components of the JPE process in New Mexico include:<sup>52</sup> confidential surveys to individuals and

professionals who have come into contact with the judge, limited courtroom observations, personal interviews with the judge being evaluated, statistics obtained from the Administrative Office of the Courts, and the judge's self-assessment.

For retention evaluations, JPEC reviews all of the data collected, drafts a recommendation for retention, and shares the draft evaluation with the judge being evaluated. The judge then has an opportunity to review and comment on the biographical information in the narrative. Once finalized, the evaluation report is disseminated.

## Utah

In Utah, the JPE process aims both to help judges improve their own performance and to inform decisions about the retention of judges. All sitting state court judges participate in the JPE process,<sup>53</sup> which is part of a broader merit selection process.

Merit selection in Utah includes five steps.<sup>54</sup> First, when a vacancy occurs, nominating commissions made up of lawyers and nonlawyers review applications, conduct interviews, and assess candidates' qualifications. The nominating commission then identifies the five candidates they believe are best qualified (seven for the supreme court) and sends those names to the governor. The governor interviews each nominee and selects one. The Utah State Senate must approve of the candidate before they take office.<sup>55</sup> Second, midterm evaluations occur in the third year of the term of office for judges. These confidential evaluations are for the purpose of self-improvement for the judges and are only available to the Judicial Performance Evaluation Commission (JPEC), the evaluated judge, and the presiding judge. Third, retention evaluations occur in the fifth year of a judge's term of office (in the ninth year for supreme court justices) and are tools for the public to decide whether a judge should be retained for another term. JPEC gathers performance data and prepares a report for each judge. Fourth, JPEC receives retention evaluation results and assesses the results. Commissioners may also meet with the judge. Judges are subject to minimum performance standards and, if they receive a passing score on those standards, they earn a presumption that they meet or exceed the minimum expectations. Fifth, judges who wish to run for retention have their retention evaluation report made public.<sup>56</sup> Voters then decide, based upon those reports and the recommendations of JPEC, whether to retain the judge for another term.

Judges receive one of three evaluation types—basic, mid-level, or full—based on their jurisdiction, weighted caseload, and the number of attorneys who have appeared in front of them over the evaluation period. At all levels, evaluation includes public comment and a comparison against minimum performance standards related to continuing legal education, case management statistics, and judicial discipline.<sup>57</sup> Basic evaluations consist of courtroom observations. Mid-level evaluations also include an intercept survey distributed to any individual present in the judge's court.<sup>58</sup> Full evaluations do not include an intercept survey but include an electronic survey sent to attorneys, court staff, jurors, and licensed paralegal professionals (LLPs). Full evaluations also include courtroom observations and additional minimum performance standards (legal ability, judicial temperament, administrative performance).<sup>59</sup>



# Virginia

In Virginia, the JPE process is administered by staff in the Office of the Executive Secretary and is overseen by the Virginia Supreme Court Chief Justice. The JPE process exists to “provide a self-improvement mechanism for judges and a source of information for the reelection process.”<sup>60</sup>

All active judges are evaluated three times in their first term at a particular level of court: after the first year of the term, during the middle of the term, and during the last year of their term. In subsequent terms, judges are evaluated during the middle and last year of their term. Judges are evaluated based on the Canons of Judicial Conduct for the Commonwealth of Virginia. These Canons include:

1. A judge must be impartial
2. A judge must uphold the public trust
3. A judge must promote efficient and effective delivery of justice

To evaluate trial court judges on these principles, Virginia Commonwealth University’s Survey and Evaluation Research Laboratory (VCU-SERL) distributes a survey to attorneys, bailiffs, and court reporters. For circuit court judges, surveys are also distributed to jurors and in-courtroom clerk’s office staff. The VCU-SERL then prepares and distributes evaluation reports for the evaluated judge as well as a facilitator judge, a retired judge assigned to the evaluated judge.<sup>61</sup> Additionally, the evaluated judge completes a self-evaluation, is observed in the court by the facilitator judge, and meets with the facilitator judge.

To evaluate appellate justices and judges, VCU-SERL distributes a survey to attorneys and circuit court judges. Four opinions, written by the evaluated justice or judge in the past three years, are selected by the justice or judge for review by the Appellate Opinion Review Committee. A consensus report is created for each opinion reviewed. These consensus opinion reports are combined with the survey results into an evaluation report, which VCU-SERL prepares and distributes to the evaluated justice or judge.

The JPE process aims to improve judicial performance, and no disciplinary actions are taken as a result of the performance evaluation. The initial and mid-term reports are confidential and are provided to the evaluated judge and, for trial court judges, the facilitator judge only. The end-of-term report is provided to the General Assembly, and these reports are available on the Reports to the General Assembly website.<sup>62</sup>

All state trial and appellate court judges participate in the JPE process, which evaluates a third of the judiciary every year. District court judges with six-year terms, and who are in their first term, are evaluated after their first year and then about every two years. Circuit court judges serve eight-year terms; circuit court judges who are in their first term are evaluated in their second year, again two years later, and again in the year before their term ends. District and circuit court judges in subsequent terms are evaluated twice, once in the middle of their term and then in the year before their term ends. Appellate justices and judges are evaluated twice during a term, once in the middle of the term and then in the year before their term ends.

# APPENDIX C: SURVEY INSTRUMENT

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## Introductory questions

In which state court system do you work? \_\_\_\_\_

In what type of court do you work?

- Appellate court
- General jurisdiction trial court
- Limited jurisdiction trial court
- Other (please describe) \_\_\_\_\_

What type of community does your court primarily serve?

- Urban
- Suburban/exurban
- Rural
- Entire state

What would you say are the three most important skills, abilities, or qualities that make a good judge? List in order of importance, with the most important at the top.

First \_\_\_\_\_

Second \_\_\_\_\_

Third \_\_\_\_\_

## Evaluation Experience

How many times have you been evaluated under your state's JPE/JPR program (at any level of court)?

- Never
- Once
- Twice
- Three times
- Four or more times
- Unsure

How frequently are you currently evaluated under your JPE/JPR program?

- More than once a year
- Once a year
- Every two years
- Every three years
- Every four years
- Less than once every four years
- Other (please describe) \_\_\_\_\_
- Not sure

## Perceptions of the Evaluation Process

For each of the following statements, please choose the option that best reflects how strongly you agree or disagree with each statement about the JPE/JPR process in your state. [NOTE: All statements but the first are displayed in random order]

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NOT APPLICABLE
Overall, I am satisfied with the JPE/JPR process.					
The summary of my evaluation(s) in my state's voter guide does not accurately reflect my evaluation results.					
I feel adequately informed about the JPE/JPR process.					
The JPE/JPR process does not assess my professional strengths and weaknesses in a fair manner.					
The JPE/JPR program does not increase my accountability to the public.					
The JPE/JPR program helps the public understand the work that I do.					
The JPE/JPR program increases my judicial independence.					
Going through the JPE/JPR process has been beneficial to my professional development.					

Comments: \_\_\_\_\_

Is there someone specific who will work with you to improve your performance after each evaluation?

- Always
- Sometimes
- Never
- Not sure

Which of the following best reflects how you feel about the frequency of your JPE/JPR program?

- Occurs too frequently
- Occurs with just the right frequency
- Does not occur frequently enough

When you think about JPE/JPR in your state as a whole, do you have specific concerns about the evaluation process?

- Yes
- No

Please explain: \_\_\_\_\_

## Perceptions of the Evaluation Tools

How helpful is information from the each of the following sources for understanding and improving your judicial performance? If your evaluation process does not utilize a source listed below, please select “Not Applicable.” [NOTE: The statements are displayed in random order]

	VERY HELPFUL	HELPFUL	UNHELPFUL	VERY UNHELPFUL	NOT APPLICABLE
Surveys of witnesses who have appeared in your court					
Surveys of jurors who have appeared in your court					
Reports from courtroom observers					
Review of your written orders and opinions					
Case management data					
Surveys of court staff					
Surveys of litigants who have appeared in your court					
Surveys of attorneys who have appeared before you in court					
Public hearings conducted as part of the evaluation process					
Interviews with JPE/JPR commission as part of the evaluation process					

Comments: \_\_\_\_\_

## Perceptions of Evaluation Results

For each of the following statements, please choose the option that best reflects your current perspective on your state’s JPE/JPR process. [NOTE: The statements are displayed in random order]

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	NOT APPLICABLE
In general, the positive results I have received in my report(s) were expected.					
The JPE/JPR process did not provide me with information that allowed me to improve my job performance.					
In general, the critical results or constructive suggestions I have received in my report(s) were expected.					
The final evaluation report provided an accurate assessment of my judicial performance.					
My final evaluation report(s) were not easy to understand.					
My final evaluation report(s) did not provide information to me in a useful format.					

Comments: \_\_\_\_\_

What types of performance feedback would you find most helpful?  
You may include feedback that is currently not part of your state's JPE/JPR program.

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If you had the power to improve your state's JPE/JPR program, what changes would you make (if any), and why?

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If you would like to provide any other comments on your experience with your state's JPE/JPR program, please do so here:

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## Demographic Information

What is your gender?

- Male
- Female
- Other
- Prefer not to say

What is your race/ethnicity? Please select all that apply.

- American Indian or Alaskan Native
- Asian
- Black or African-American
- Hispanic/Latinx/Spanish origin
- Native Hawaiian or other Pacific Islander
- White
- Other (please specify) \_\_\_\_\_
- Prefer not to answer

# APPENDIX D: SUPPLEMENTAL FIGURES AND ANALYSES

## Demographics of Participants

Figure D-1: All responses – Race/ethnicity (n = 521)

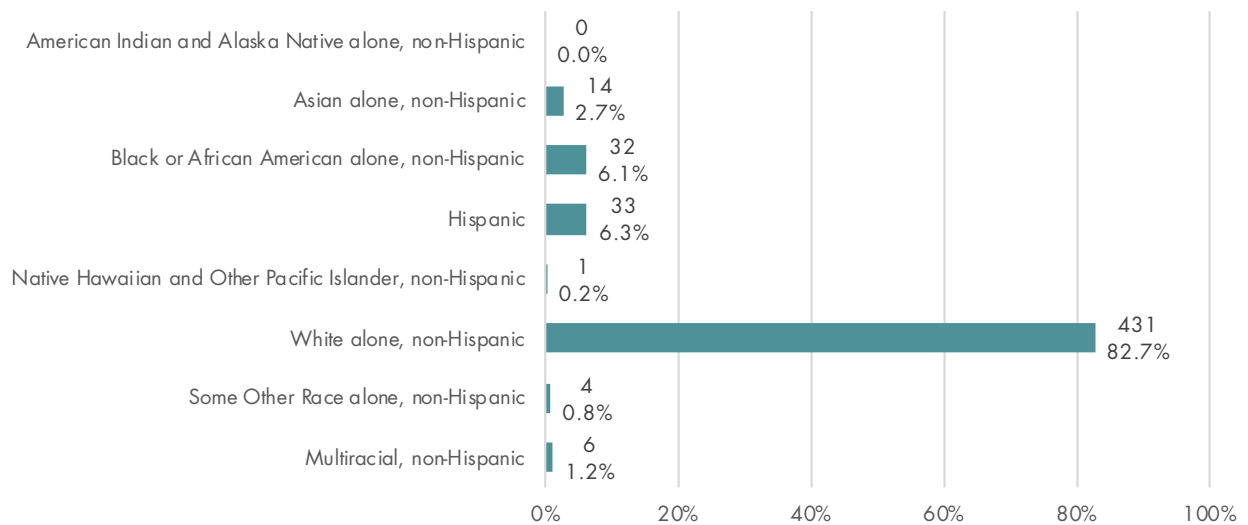
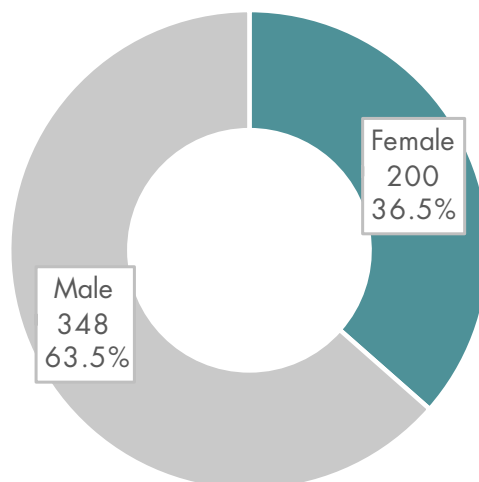


Figure D-2: All responses – Respondent sex



## Court Characteristics of Participants

Figure D-3: All responses – In what type of court do you work? (n = 658)

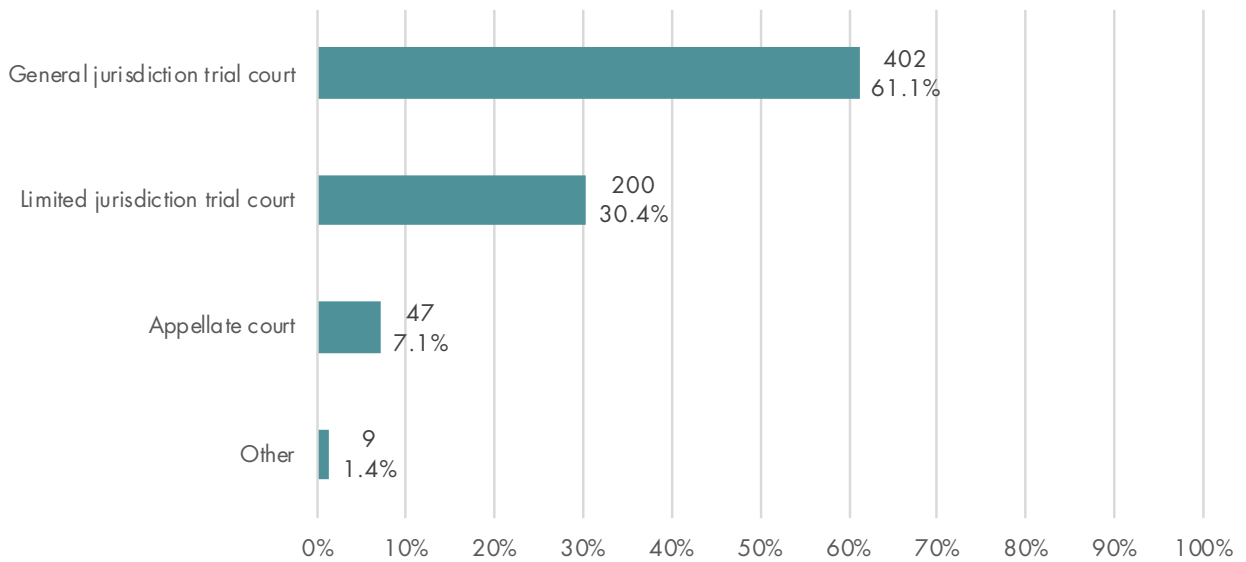
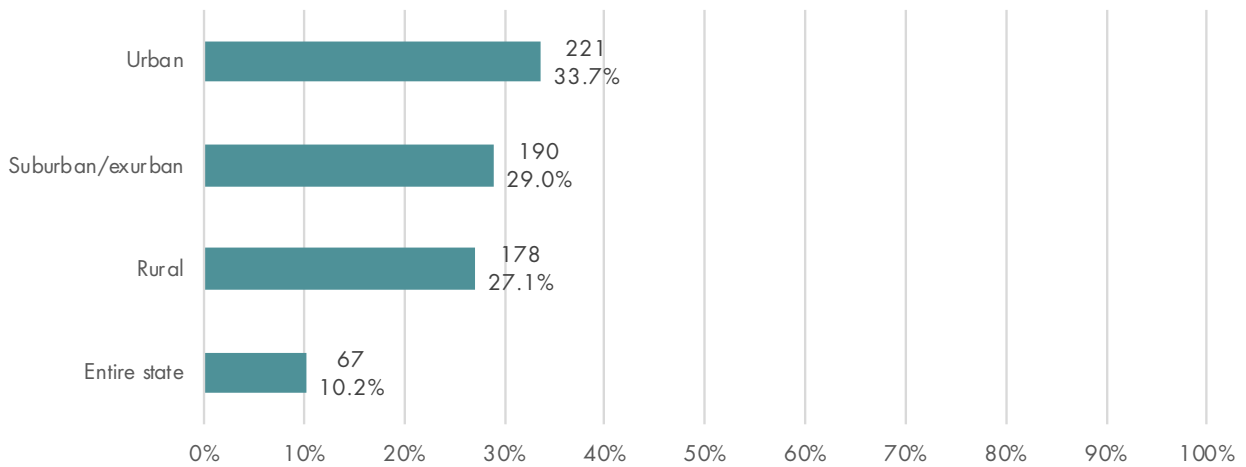


Figure D-4: All responses – What type of community does your court primarily serve? (n = 656)



## Experience with the JPE Process

Figure D-5: All responses – How many times have you been evaluated under your state’s judicial performance evaluation (JPE) or judicial performance review (JPR) program (at any level of court)? (n = 655)

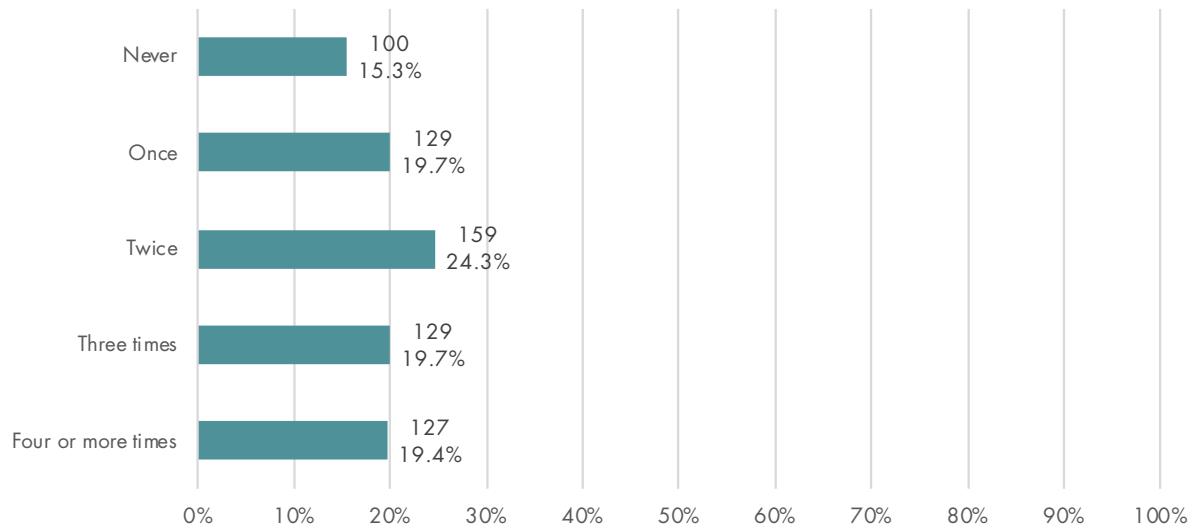


Figure D-6: All responses – How frequently are you currently evaluated under your JPE/JPR program? (n = 451)

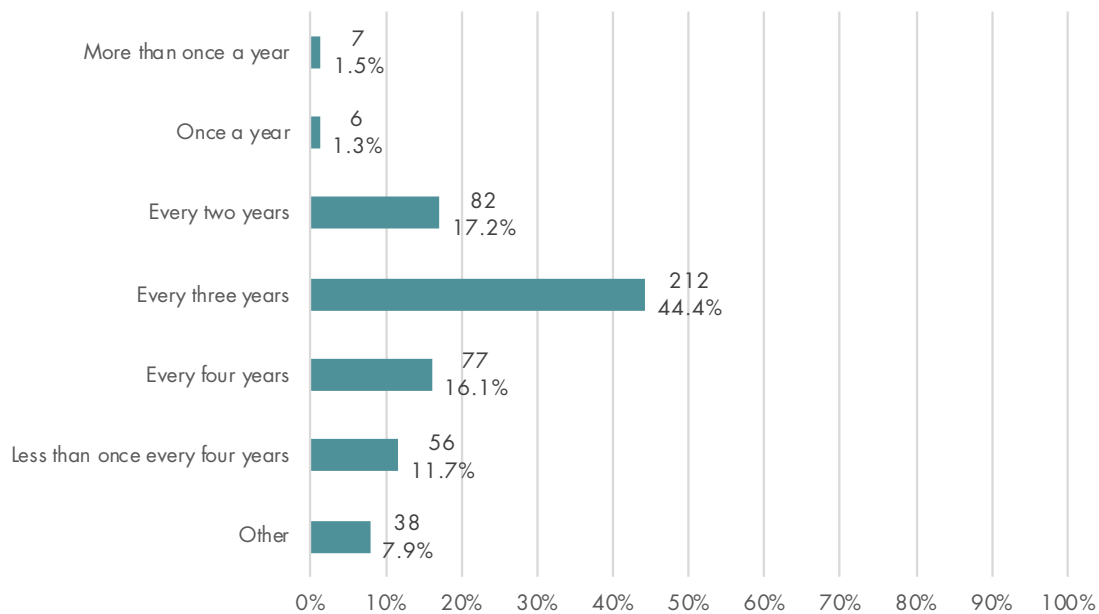
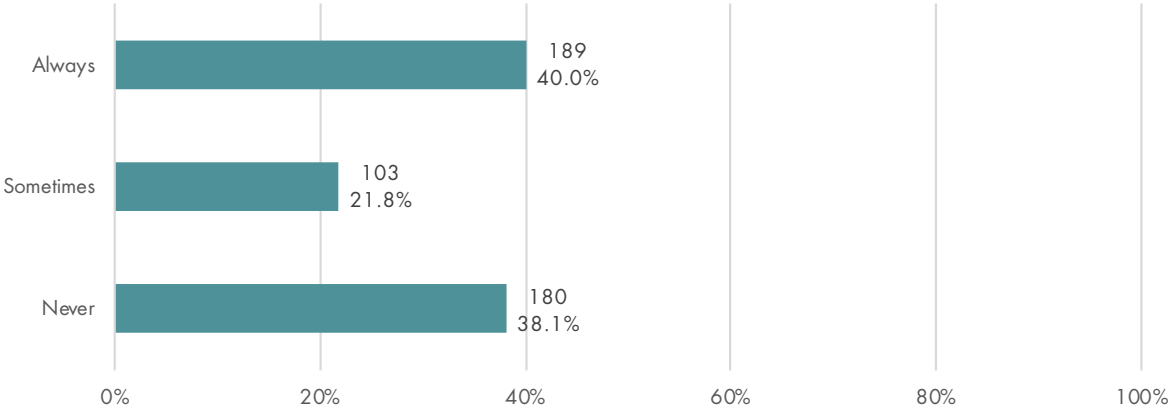


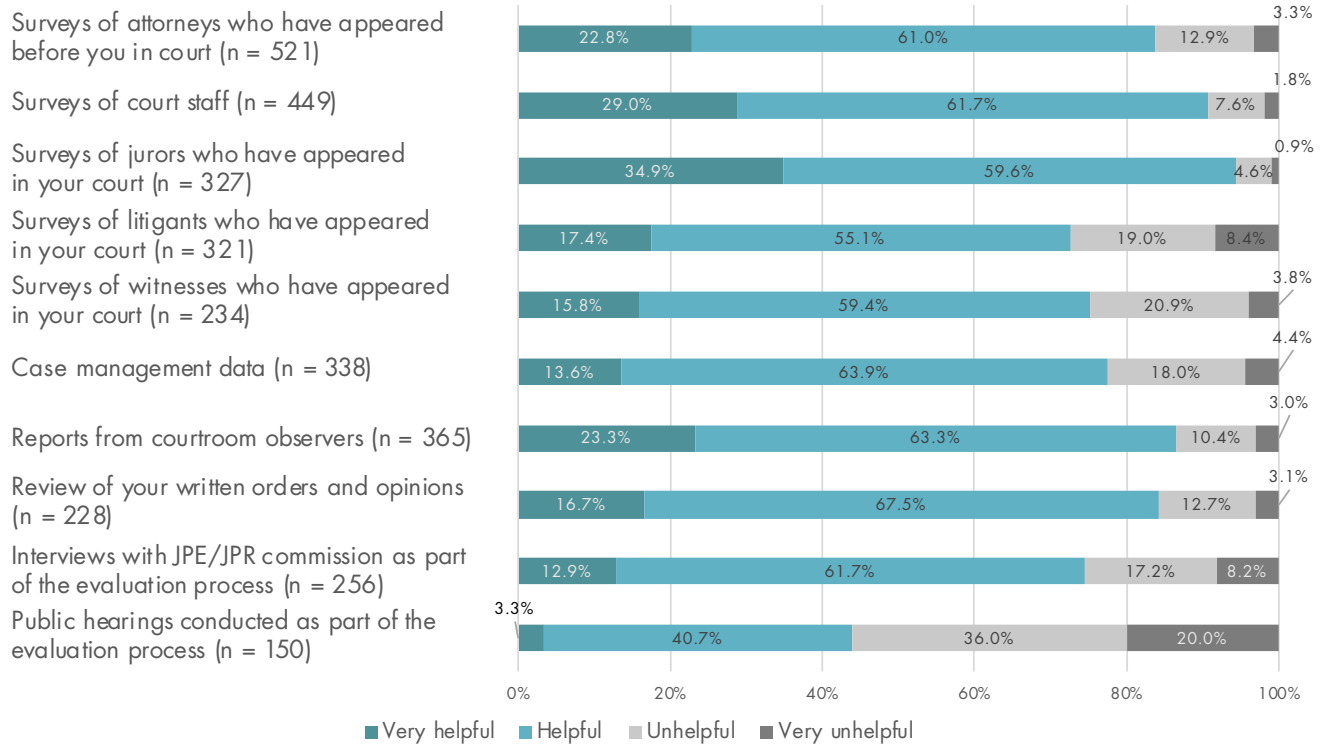


Figure D-7: All responses – Is there someone specific who works with you to improve your performance after each evaluation? (n = 622)



# APPENDIX E: HELPFULNESS OF EVALUATION TOOLS

Figure E-1: How helpful is information from each of the following sources for understanding and improving your judicial performance?



# ENDNOTES

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- 1 Jennifer K. Elek, David B. Rottman, and Brian L. Cutler, *Judicial Performance Evaluation in the States: A Re-Examination*, 98 JUDICATURE 1, 14 (2014).
- 2 *Id.* at 14-15.
- 3 JORDAN M. SINGER, JUDICIAL PERFORMANCE EVALUATION IN THE STATES: THE IAALS JPE 2.0 PRE-CONVENING WHITE PAPER 23-24 (2022) [hereinafter PRE-CONVENING WHITE PAPER].
- 4 INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., THE BENCH SPEAKS ON JUDICIAL PERFORMANCE EVALUATION: A SURVEY OF COLORADO JUDGES ii (2008) [hereinafter THE BENCH SPEAKS], [https://iaals.du.edu/sites/default/files/documents/publications/bench\\_speaks\\_on\\_jpe2008.pdf](https://iaals.du.edu/sites/default/files/documents/publications/bench_speaks_on_jpe2008.pdf). PRE-CONVENING WHITE PAPER, *supra* note 3, at 23-24; Rebecca Love Kourlis & Jordan M. Singer, *Using Judicial Performance Evaluations to Promote Judicial Accountability*, 90 JUDICATURE 200, 207 (2007).
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- 7 *Id.* at 121-127.
- 8 Kourlis & Singer, *supra* note 4, at 202-03.
- 9 Brody, *supra* note 6, at 129.
- 10 *Id.* at 132-45 (finding, for example, that judges with better evaluations tend to receive more positive votes in retention elections, and poor JPE evaluations often prompt judges to retire).
- 11 Elek et al., *supra* note 1, at 16.
- 12 *Id.* at 16-17.
- 13 Kourlis & Singer, *supra* note 4, at 207.
- 14 Terry Maroney, *Judicial Temperament Explained*, 105 JUDICATURE 2, 49-50 (2021).
- 15 *Id.*
- 16 *Id.*
- 17 Rebecca D. Gill, Sylvia R. Lazos, Mallory M. Waters, *Are Judicial Performance Evaluations Fair to Women and Minorities? A Cautionary Tale from Clark County, Nevada*, Law & Society Review 734 (2011).
- 18 PRE-CONVENING WHITE PAPER, *supra* note 3, at 9-10.
- 19 *Id.*
- 20 Kourlis & Singer, *supra* note 4, at 207.
- 21 THE BENCH SPEAKS, *supra* note 4, at ii.
- 22 Elek et al., *supra* note 1, at 65; Rebecca D. Gill, *Implicit Bias in Judicial Performance Evaluations*, 35 The Justice System Journal 301, 311 (2014); Gill et al., *supra* note 17, at 754.
- 23 Gill, *supra* note 22, at 306-07.
- 24 Elek et al., *supra* note 1, at 65; Gill et al., *supra* note 17, at 754.
- 25 Kourlis & Singer, *supra* note 4, at 203.
- 26 PRE-CONVENING WHITE PAPER, *supra* note 3, at 27.
- 27 Kourlis & Singer, *supra* note 4, at 203; IAALS, THE BENCH SPEAKS, *supra* note 4, at i; David C. Brody, *The Relationship Between Judicial Performance Evaluations and Judicial Elections*, 87 JUDICATURE 4, 177 (2004); David C. Brody, *The Use of Judicial Performance Evaluation to Enhance Judicial Accountability, Judicial Independence, and Public Trust*, 86 DENV. U. L. REV. 115, 141-42 (2008).
- 28 Gill et al., *supra* note 17, at 734.
- 29 Brody, *supra* note 27, at 177.
- 30 PRE-CONVENING WHITE PAPER, *supra* note 3, at 22.
- 31 *See generally* Alaska Judicial Council Retention Evaluation Procedures, <https://ajc.alaska.gov/retention/retproced.html> (last visited May 6, 2024). *See also* Alaska Stat. §§ 15.58.050, 22.05.100, 22.07.060, 22.10.150, 22.15.195.
- 32 This includes all District Court judges, Superior Court judges, Court of Appeals judges, and Alaska Supreme Court justices. *See id.*
- 33 District court judges are evaluated every fourth year, Superior Court judges are evaluated every sixth year, Court of Appeals judges are evaluated every eighth year, and Supreme Court justices are evaluated every tenth year.

- 34 See Alaska Judicial Council Judicial Evaluations, <https://ajc.alaska.gov/retention/rethist.html> (last visited May 6, 2024).
- 35 See generally Alaska Judicial Council Retention Evaluation Procedures, <https://ajc.alaska.gov/retention/retproced.html> (last visited May 6, 2024).
- 36 *Id.*
- 37 *Id.*
- 38 *Id.*
- 39 Colorado Office of Judicial Performance Evaluation, State Commission of Judicial Performance, <https://judicialperformance.colorado.gov/about-us/state-commission-of-judicial-performance> (last visited Oct. 6, 2022).
- 40 Commissions on Judicial Performance, Colo. Rev. Stat. Ann. §§ 13-5.5-101 to -116 (2019), <https://judicialperformance.colorado.gov/sites/judicialperformance/files/documents/statute.pdf>.
- 41 Colorado Office of Judicial Performance Evaluation, Frequently Asked Questions, <https://judicialperformance.colorado.gov/frequently-asked-questions> (last visited Oct. 6, 2022).
- 42 Hawaii State Judiciary Judicial Performance Review, [https://www.courts.state.hi.us/courts/performance\\_program/judicial\\_performance\\_program](https://www.courts.state.hi.us/courts/performance_program/judicial_performance_program) (last visited May 6, 2024).
- 43 Hawaii State Judiciary Judicial Performance Review Panel, [https://www.courts.state.hi.us/courts/performance\\_program/judicial\\_evaluation\\_review\\_panel](https://www.courts.state.hi.us/courts/performance_program/judicial_evaluation_review_panel) (last visited May 6, 2024).
- 44 Respondent attorneys self-identify on the survey as having appeared before the relevant judge.
- 45 See generally State of Idaho Judicial Evaluation Program, [https://isc.idaho.gov/main/judicial\\_performance\\_evaluation\\_program](https://isc.idaho.gov/main/judicial_performance_evaluation_program) (last visited May 6, 2024).
- 46 This includes all Idaho District Court judges and magistrate judges.
- 47 Judicial Excellence Bulletin, [https://isc.idaho.gov/annuals/2022/Inserts\\_JudicialExcellence\\_digital.pdf](https://isc.idaho.gov/annuals/2022/Inserts_JudicialExcellence_digital.pdf) (last visited May 6, 2024).
- 48 Mass. Gen. Laws ch. 211, § 26, <https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleI/Chapter211/Section26>.
- 49 Supreme Judicial Court's Judicial Evaluation Program of Trial Court Judges, <https://www.mass.gov/service-details/supreme-judicial-courts-judicial-evaluation-program-of-trial-court-judges> (last visited May 6, 2024). The evaluation program was temporarily suspended as a result of the COVID-19 pandemic.
- 50 *Id.*
- 51 Supreme Court of New Mexico Judicial Performance Evaluation Commission, Overall Factors, <https://nmjpec.org/en/how-we-evaluate/overall-factors> (last visited May 6, 2024).
- 52 Supreme Court of New Mexico Judicial Performance Evaluation Commission, Evaluation Process, <https://nmjpec.org/en/how-we-evaluate/evaluation-process> (last visited May 6, 2024); Supreme Court of New Mexico Judicial Performance Evaluation Commission, FAQ, <https://nmjpec.org/en/faq> (last visited May 6, 2024).
- 53 This includes all Supreme Court justices, Utah Court of Appeals judges, district court judges, juvenile court judges, and municipal and county justice court judges. Utah Judicial Performance Evaluation Commission, Evaluation Process, <https://judges.utah.gov/process/> (last visited May 6, 2024).
- 54 *Id.*
- 55 Note that justice court judges in Utah undergo a similar, but somewhat different, merit selection process. *Id.*
- 56 Reports for judges who do not wish to run for retention are not made public.
- 57 Utah Judicial Performance Evaluation Commission, Basic Evaluation Details, <https://judges.utah.gov/process/basic-evaluation-details/> (last visited May 6, 2024).
- 58 Utah Judicial Performance Evaluation Commission, Mid Level Evaluation Details, <https://judges.utah.gov/process/mid-level-evaluation-details/> (last visited May 6, 2024).
- 59 Utah Judicial Performance Evaluation Commission, Full Evaluation Details, <https://judges.utah.gov/process/full-time-evaluation-details/> (last visited May 6, 2024).
- 60 Va. Code Ann. § 17.1-100, <https://law.lis.virginia.gov/vacode/17.1-100/>.
- 61 Judicial Performance Evaluation Program, Questions and Answers for Attorneys, <https://www.vacourts.gov/programs/jpe/faqs.pdf>.
- 62 See generally <https://rga.lis.virginia.gov/>.



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