



RECOMMENDATIONS FOR MODERNIZING JUDICIAL PERFORMANCE EVALUATION...and what comes next

Judicial performance evaluation (JPE) plays a crucial role in promoting a fair and effective judicial system. JPE programs assess the job performance of state judges not based on case outcomes but based on ideologically neutral qualities of judicial competence, impartiality, clarity of communication, judicial temperament, administrative capacity, and efforts to advance the justice system.

These recommendations should guide the future of JPE in the United States. They are the culmination of extensive research, collaboration with JPE administrators and judges across the country, and consideration of evidence-based best practices to modernize JPE. And, the recommendations outlined here also provide a roadmap to support the judiciary's position as a trusted institution with lessons even for states without formal JPE programs.



Read the
full report

RECOMMENDATION 1

Foster trust and confidence
in the JPE process.

- 1.1 Design and operate JPE programs in a way that promotes public trust.
- 1.2 Employ a diverse range of methods to engage the public, increase awareness, and improve buy-in.
- 1.3 Collaborate with judicial discipline programs to ensure the credibility of information disseminated to the public.

RECOMMENDATION 2

Modernize the evaluation
criteria to account for
the changing roles and
responsibilities of the
judiciary.

- 2.1 Use fair and measurable criteria reflective of the modern role and responsibilities of a judge.
- 2.2 Evaluate judicial competence broadly, to include more than legal knowledge.
- 2.3 Evaluate a judge's ability to be impartial, both with respect to personal beliefs and with respect to the treatment of litigants, lawyers, and other court participants.
- 2.4 Evaluate a judge's clarity of communication, including all communication from the judge's chambers.
- 2.5 Evaluate judicial temperament in a way that focuses on specific and observable behavior.
- 2.6 Evaluate administrative capacity in a way that is aligned with the judge's actual roles and responsibilities and assesses factors within the judge's control.
- 2.7 Evaluate a judge's efforts to advance and improve the justice system.

RECOMMENDATION 3

Implement measures to improve information and reduce errors in evaluations.

- 3.1 Use evidence-based practices to ensure surveys are fair and generate reliable data.
- 3.2 Gather a broad range of data using new and diverse evaluation tools.
- 3.3 Take steps to increase response rates to surveys to improve reliability of data.
- 3.4 Assess performance regularly, and allow judges to respond to inaccuracies.

RECOMMENDATION 4

Build a culture of and embrace judicial performance improvement as a key aspect of JPE.

- 4.1 Incorporate professional development into messaging about the objectives of JPE.
- 4.2 Engage judges and the judicial branch throughout the evaluation process, promoting the use of resources, training, and support to enhance judicial performance.
- 4.3 Educate judges about the value of JPE for their own professional development.

RECOMMENDATION 5

Display institutional commitment to JPE.

- 5.1 Establish JPE programs that are enduring.
- 5.2 Provide programs with the resources needed to effectuate the goals of JPE.
- 5.3 Seek buy-in and cooperation from all stakeholders.

RECOMMENDATION 6

Ensure and improve transparency for intended audiences.

- 6.1 Be clear with the public about how JPE works and what the evaluations mean.
- 6.2 Ensure judges have access to accurate information about the JPE process, including reasons for the commission's findings.

CALL TO ACTION

The value of these recommendations lies in their application. States must take concrete action to translate the recommendations into tangible improvements, and IAALS provides this framework of next steps for embracing modernization and implementation, both for states with existing JPE programs and those without.

NEXT STEPS FOR STATES WITH JPE PROGRAMS

- ▶ **Review and Share the Recommendations.** Review these recommendations and the principles they are built on. Share them with relevant stakeholders, leaders, and decision-makers in your state to help them understand the importance of modernizing JPE and the benefits of implementing these practices.
- ▶ **Assess Your Program.** Conduct a review of your JPE program, comparing it to the best practices outlined in this report. Identify your program's areas of strength as well as opportunities for improvement.
- ▶ **Define Challenges and Needs.** Each state has unique features, needs, and circumstances and should adapt these recommendations accordingly. Identify your program's challenges and barriers, understand their impact, and assess potential opportunities for improvement.
- ▶ **Identify a Core Team.** Strong leadership is necessary to bring about reform. Identify a core team or working group of stakeholders, including JPE leaders, who can lead implementation efforts. This team will determine the scope and parameters of program changes at the outset of the process. In creating this team, consider balance and diversity and ensure key perspectives are represented.
- ▶ **Engage Stakeholders.** Effective JPE programs require buy-in from all stakeholders, including anyone with decision-making authority over JPE in your jurisdiction. Possible stakeholders include judges, JPE commissioners, legislators, court administrators, clerks, lawyers, court users, and members of the public. States should work with stakeholders to seek feedback, discuss these recommendations, build internal and external support, and assess next steps.
- ▶ **Create a Vision and Goals.** Based on your assessment and stakeholder input, create a clear vision for the future of your JPE program. Establish specific, measurable, and achievable goals for bringing about this vision, as well as clear timelines for implementation.
- ▶ **Develop Tailored Recommendations.** Tailor the recommendations in this report to the needs of your program, prioritizing those that will have the greatest impact. Develop a plan for implementation of tailored recommendations, considering what resources you need to address challenges and align your program with best practices.
- ▶ **Take Action.** Coordinate with relevant stakeholders to execute the plan for implementation. Invest in communication and education about improvements and changes to your program. Once recommendations have been implemented, be prepared to continually iterate and adjust your approach based on experience and feedback.
- ▶ **Share and Collaborate.** Share your experiences and lessons learned with other states to foster a dialogue on JPE best practices and opportunities.

NEXT STEPS FOR STATES *WITHOUT* JPE PROGRAMS

- ▶ **Embrace the Principles.** While a formal JPE program may not be immediately possible, embrace the core principles of fairness, transparency, and continuous improvement in all aspects of your court system.
- ▶ **Define Clear Performance Metrics.** Develop clear, objective, and measurable criteria for judicial performance that reflect the role of a judge and focus on the process of judging (not on the outcomes of specific cases). Such criteria set clear expectations for judges and court users and create a foundation for accountability, even absent a structured evaluation process. They can be used for judicial selection, retention, and professional development.
- ▶ **Invest in Professional Development for Judges.** Create opportunities for professional development to support judges in enhancing their skills and addressing areas for growth. Professional development opportunities can include, for example, feedback, self-reflection, mentorship programs, and training. By promoting a culture of continuous improvement, states can bolster public trust in courts.
- ▶ **Foster Open Communication and Transparency.** Promote open communication between the courts and the public. This is important for building trust and can include, for example, proactively sharing information about court operations and seeking feedback from court users.
- ▶ **Engage with Stakeholders.** Engage in conversations with relevant stakeholders about the need to embrace core JPE principles, the potential benefits of a JPE program, and opportunities for future development. Possible stakeholders can include judges, court administrators, bar associations, legislators, and the public.
- ▶ **Explore Resources.** Use resources like this report and other IAALS tools on JPE to guide your efforts in building a more accountable and transparent judicial system.

ABOUT JPE 2.0

JPE processes were first developed in the 1980s and provide a foundation for states to assess the job performance of judges. Today, JPE programs continue to focus on the right goals, but updating evaluation methods is essential to keeping JPE relevant and useful. Current JPE processes no longer fully capture the experience of modern court users, the needs of modern judges, or the expectations of modern voters. IAALS' JPE 2.0 project is helping JPE programs update their approaches to reflect modern realities, while remaining accurate, trusted, and relevant.

Learn more at iaals.du.edu/jpe.

How can we help? Consulting Inquiries: iaals@du.edu



INSTITUTE FOR THE ADVANCEMENT
OF THE AMERICAN LEGAL SYSTEM



UNIVERSITY OF
DENVER