

LAWYER FEEDBACK GUIDES JUDICIAL EDUCATION AND IMPROVEMENT

I always thought that judicial evaluations fell into a black hole somewhere. Maybe end up on a Chief Justice's desk. Eventually find their way onto a chart or graph as some insignificant exhibit to the court's annual report. A waste of my time to fill out. Or so I thought. Until I heard Justice Fabricant, Chief Justice of the Superior Court, explain at a recent MBA open forum how these evaluations are used by the judiciary to tailor educational programs to the needs of each judge. I told her that if I knew that, I wouldn't hit the "delete" button on my laptop when judicial evaluation forms were sent to me. And perhaps other lawyers wouldn't, either. She suggested I follow up with Justice Paula Carey, Chief Justice of the Trial Court. I recently sat down and spoke with Chief Justice Carey in her office at the SJC.



Chief Justice of the Trial Court Paula Carey.

Q. I'll start by confessing that I seldom fill out judicial evaluations.

A. It is important to lawyers as well as judges that you submit them. All of our judges are given a performance review at least once every three years by their chief. The review is based on the information provided by lawyers in the judicial evaluations. So if you do not fill them out and submit them, it limits our ability to give a complete and accurate assessment of each judge's performance.

Q. What happens if a judge gets bad reviews?

A. We work with that judge to develop a plan to improve performance, and provide resources to make that happen. These may include assigning a retired or more experienced judge to work with the judge on the areas that need improvement.

Q. Can you give me any examples?

A. On one occasion, a judge received several comments indicating that she did not seem to be in control of the courtroom. We assigned a mentor to observe her on the bench. He noticed that she was speaking in a soft voice. The mentor made the simple suggestion that she speak louder, and project her voice. This solved the problem. Another judge received criticisms that it was taking him too long to get decisions written. We worked with him, and noticed that he was writing full decisions on every motion; many times a margin note is all that is necessary.

Q. Is there any follow-up to see if the judge is following the performance plan?

A. This is written into the performance plan and follow up is done by the chief justices. Remember, too, that the judge will be reviewed again in three years. At that time, those areas will be looked at again to make sure there has been improvement.

Q. Who evaluates the evaluators? At the risk of appearing impertinent, are the chief justices reviewed, too?

A. Yes, we are. All chief justices are assigned a mentor as well, and are specifically trained in how to give feedback. I have a mentor. Chief Justice Gants has a mentor. And even our court administrator, Harry Spence, has a mentor.

Q. What happens to the judicial evaluations after they are sent in?

A. There are seventeen questions, with five possible responses: always; usually; sometimes; rarely; and, never. For each of these questions, the results are tallied and placed on a chart, which contains the aggregate data submitted by all attorneys. It shows how the judge compares to other

judges in her department, as well as how she compares to all judges. Before the report is given to the judge, the judge is asked to do a self-evaluation.

Q. Is there any chance we could take a look at a judicial evaluation chart?

A. I'll show you an excerpt from a chart:

The judge shows respect to all courtroom participants.

	Always	Usually	Sometimes	Rarely	Never
This Judge	55 responses 65%	24 responses 29%	3 responses 4%	2 responses 2%	0
Dept. Judges	356 responses 67%	125 responses 23.5%	35 responses 6.6%	13 responses 2.4%	3 responses .5%
All Judges	1610 responses 67%	571 responses 23.7%	161 responses 6.7%	48 responses 2%	13 responses .6%

For example, the data in the chart above shows the judge being evaluated to have received responses in percentages very similar to the other judges being evaluated. When the judge and the departmental chief justice meet to discuss the judge's evaluation, they review every question to determine how the judge scores. The goal is to see the great majority of responses fall into the "always" and "usually" categories. If this is not the case, they will discuss strategies to improve the judge's performance in the area.

Q. Do the judges take these evaluations seriously?

A. You have to understand that many judges have "Type A" personalities. They take pride in what they do, and anxiously await their scores.

Q. What can lawyers do to help this evaluation process?

A. Keep your comments constructive. If an evaluation contains inappropriate comments pertaining to gender, race or politics we simply do not consider the responses in the aggregate data.

Q. I have also been reluctant to submit evaluations for fear that an evaluation could be traced back to me. Or maybe I've just seen too many episodes of CSI?

A. The evaluating attorney's identity remains confidential. Each evaluation is randomly assigned a number by the evaluation software, and it is literally impossible to track backward to your name once you have responded. Unless you put information in the evaluation that discusses the details of a specific case.

Q. In the past, I have received requests to evaluate judges whom I have never appeared before. Anything done to address this?

A. Through the MassCourts program we are matching the lawyer's B.B.O. numbers to the judges they have cases with, so in the future you should only be asked to evaluate a judge you have actually appeared before. The system is not yet perfected but it will be much more accurate in matching than in the past.

Q. Any final thoughts or comments, Chief Justice Carey?

A. We take lawyer's comments and criticisms seriously, and use them as a guide to improve the quality of judging in the Commonwealth. Lawyers have a vested interest in filling these out carefully and giving constructive and helpful feedback. So please fill them out.

The Hon. Paula M. Carey is Chief Justice of the Trial Court. She was appointed to the position in July of 2013.



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