

**JUDICIAL PERFORMANCE
PROGRAM
2019 REPORT**

THE JUDICIARY
STATE OF HAWAI'I
December 10, 2019

JUDICIAL PERFORMANCE PROGRAM 2019 REPORT

INTRODUCTION

The Judicial Performance Program 2019 Report summarizes the results of evaluations involving nine Circuit Court judges and four District Court and Per Diem judges. The results of a juror evaluation of eight Circuit Court judges are also included. The attorney evaluations were conducted over the Internet.

To ensure the security, anonymity, and confidentiality of the evaluation process, it was administered by Hawai'i Information Consortium. Hawai'i Information Consortium maintains and manages the eHawaii.gov web portal. It is a company that is completely independent of the Judiciary.

The Judicial Performance Program was created by Supreme Court Rule 19 as a method of promoting judicial competence and excellence. The members of the Judicial Performance Committee are listed in Appendix A.

JUDGES' RATINGS

Judges are rated on Legal Ability, Judicial Management Skills, Comportment, and Settlement and/or Plea Agreement Ability. All yearly reports on the Judicial Performance Program are available to the public. Scores and comments received for individual judges are available to the Judicial Selection Commission, upon its request.

Pictographs displaying frequency distributions of the judges' ratings are included in this evaluation report. Comparative rankings are provided in each area of assessment.

EVALUATION CYCLES

Appellate justices and judges and Circuit Court judges are scheduled for evaluation three times in their ten-year terms. Full time District Family Court judges and District Court judges are scheduled for evaluation twice in their six-year terms. For purposes of this program, Circuit Court judges assigned to the Family Court of the First Circuit are considered Family Court judges but are evaluated three times during their ten-year terms. A portion of the Per Diem judge pool is scheduled for evaluation every three years.

The full time Family Court and District Court evaluations are phased to result in these courts being included in the evaluation process two out of every three years. About one-half or approximately ten judges from each group are evaluated per cycle. Evaluations of both Family Court and District Court judges were conducted in 2018. Evaluation of full time District Court,

but not of full time Family Court, judges was conducted in 2019. Evaluation of Family Court, but not of District Court, judges is scheduled for 2020.

JUDICIAL EVALUATION REVIEW PANEL

The Judicial Evaluation Review Panel assists Chief Justice Mark E. Recktenwald in the review and evaluation process. The Review Panel interviews the judges and consists of nine members: Robert Alm, Momi Cazimero, Virginia Crandall, Kenneth Hipp, Danna Holck, Douglas McNish, Willson Moore Jr., Shackley Raffetto, and Ruthann Yamanaka. The Review Panels are organized into groups of three; every effort is made for each panel to consist of one former judge, one nonpracticing attorney, and one member of the public knowledgeable in the law. Their purpose is to interview and counsel the evaluated judges and to help the judges improve their performance.

CIRCUIT COURT RESULTS

Nine Circuit Court judges received the results of their evaluations under cover of memoranda dated September 26, 2019. A link to the questionnaire was provided to attorneys by email on May 29, 2019, and the surveys were collected from May 29 to June 14, 2019.

The email to attorneys from Chief Justice Recktenwald is printed in Appendix B. A copy of the questionnaire is attached as Appendix C.

Possible scores for the multiple-choice format range from one to five. One indicates a Poor rating. Five stands for Excellent. Table 1 provides the averages for the nine Circuit Court judges.

The mean score for the Legal Ability Section was 4.1, with a standard deviation of 0.4. The standard deviation gives an indication of the variation in the scores of the judges. (A small standard deviation means that scores generally were clustered about the mean; a large standard deviation means that there was less clustering of the scores.) Most of the Circuit Court judges received marks between 3.7 and 4.5 in the Legal Ability section.

For the Judicial Management Skills Section, the judges had a mean score of 4.1. The standard deviation for this section was 0.3. The mean score for the Comportment Section was 4.2, with a standard deviation of 0.5. The mean score for the Settlement and/or Plea Agreement Ability Section was 4.0, with a standard deviation of 0.4. The frequencies of the Circuit Court judges' ratings, by category, are shown in Graphs 1 to 4.

There were 416 responses from attorneys out of 4,603 emails sent out. The number of responses did not equal the number of questionnaires received. Some of the 416 attorneys said that they had not appeared before any judges. Other attorneys sent in responses with evaluations for more than one judge. The number of questionnaires received for the nine judges totaled 482, with between 24 and 91 questionnaires received for each judge. A copy of the reminder email sent to attorneys is provided in Appendix D.

TABLE 1
 JUDICIAL PERFORMANCE PROGRAM – CIRCUIT COURT
 EVALUATION RESULTS FOR NINE JUDGES
 MAY 29, 2019 – JUNE 14, 2019

| QUESTIONNAIRE SECTION | N | Mean Score | S.D. |
|---|---|------------|------|
| LEGAL ABILITY SECTION | | | |
| 1. Knowledge of Relevant Substantive Law | 9 | 4.2 | 0.4 |
| 2. Knowledge of Rules of Procedure | 9 | 4.3 | 0.3 |
| 3. Knowledge of Rules of Evidence | 9 | 4.3 | 0.3 |
| 4. Ability to Identify and Analyze | 9 | 4.2 | 0.5 |
| 5. Judgment in Application of Relevant Laws | 9 | 4.0 | 0.5 |
| 6. Giving Reasons for Rulings when Needed | 9 | 4.1 | 0.4 |
| 7. Clarity of Explanation of Rulings | 9 | 4.1 | 0.4 |
| 8. Adequacy of Findings of Fact | 9 | 4.0 | 0.5 |
| 9. Clarity of Judge's Decision(s) | 9 | 4.1 | 0.4 |
| 10. Completeness of Judge's Decision(s) | 9 | 4.0 | 0.4 |
| 11. Judge's Charge to the Jury/Juries | 7 | 4.1 | 0.3 |
| Average Score for the Legal Ability Section | 9 | 4.1 | 0.4 |
| JUDICIAL MANAGEMENT SKILLS SECTION | | | |
| 1. Moving the Proceeding(s) | 9 | 4.2 | 0.2 |
| 2. Maintaining Proper Control | 9 | 4.3 | 0.2 |
| 3. Doing the Necessary Homework on the Case(s) | 9 | 4.1 | 0.5 |
| 4. Rendering Rulings and Decisions w/o Delay | 9 | 4.2 | 0.3 |
| 5. Allowing Adequate Time | 9 | 4.3 | 0.3 |
| 6. Resourcefulness and Common Sense | 9 | 4.1 | 0.4 |
| 7. Skills in Effecting Compromise | 9 | 3.9 | 0.5 |
| 8. Industriousness | 9 | 4.2 | 0.4 |
| Average Score for the Judicial Management Skills Section | 9 | 4.1 | 0.3 |
| COMPORTEMNT SECTION | | | |
| 1. Attentiveness | 9 | 4.3 | 0.4 |
| 2. Courtesy to Participants | 9 | 4.2 | 0.6 |
| 3. Compassion | 9 | 4.1 | 0.5 |
| 4. Patience | 9 | 4.1 | 0.6 |
| 5. Absence of Arrogance | 9 | 4.1 | 0.7 |
| 6. Absence of Bias and Prejudice | 9 | 4.3 | 0.4 |
| 7. Evenhanded Treatment of Litigants | 9 | 4.1 | 0.4 |
| 8. Evenhanded Treatment of Attorneys | 9 | 4.1 | 0.5 |

| | | | |
|---|---|-----|-----|
| Average Score for the Comportment Section | 9 | 4.2 | 0.5 |
|---|---|-----|-----|

SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION

| | | | |
|--|---|-----|-----|
| 1. Knowing the Case(s) and/or the Law | 9 | 4.1 | 0.4 |
| 2. Reasonableness of Opinions | 9 | 4.0 | 0.4 |
| 3. Ability to Enhance the Settlement Process | 9 | 3.8 | 0.4 |
| 4. Impartiality | 9 | 4.0 | 0.4 |
| 5. Absence of Coercion or Threat | 9 | 4.2 | 0.4 |
| 6. Effectiveness in Narrowing the Issues | 9 | 4.0 | 0.4 |
| 7. Appropriateness of Judge's Initiatives | 9 | 3.9 | 0.4 |
| 8. Facilitation in Development of Options | 9 | 3.8 | 0.5 |
| Average Score for the Settlement Section | 9 | 4.0 | 0.4 |

N = Number of Judges with More Than Five Responses for the Item

Legend for Mean Score: 5 = Excellent

4 = Good

3 = Adequate

2 = Less Than Adequate

1 = Poor

S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values

Circuit Court

Graph 1. Legal Ability Scale

Frequency of Judges' Ratings, By Category

May 29, 2019 – June 14, 2019

| | | | |
|-------------------------|------------|------------|------------|
| No of Judges | 1 | 6 | 2 |
| Scale Interval Category | 2.5 to 3.4 | 3.5 to 4.4 | 4.5 to 5.0 |
| | Adequate | Good | Excellent |

Circuit Court

Graph 2. Judicial Management Skills Scale

Frequency of Judges' Ratings, By Category

May 29, 2019 – June 14, 2019

| | | |
|-------------------------|------------|------------|
| No of Judges | 7 | 2 |
| Scale Interval Category | 3.5 to 4.4 | 4.5 to 5.0 |
| | Good | Excellent |

Circuit Court

Graph 3. Comportment Scale

Frequency of Judges' Ratings, By Category

May 29, 2019 – June 14, 2019

| | | |
|-------------------------|------------|------------|
| No of Judges | 6 | 3 |
| Scale Interval Category | 3.5 to 4.4 | 4.5 to 5.0 |
| | Good | Excellent |

Circuit Court

Graph 4. Settlement/Plea Agreement Ability Scale

Frequency of Judges' Ratings, By Category

May 29, 2019 – June 14, 2019

| | | | |
|-------------------------|------------|------------|------------|
| No of Judges | 1 | 7 | 1 |
| Scale Interval Category | 2.5 to 3.4 | 3.5 to 4.4 | 4.5 to 5.0 |
| | Adequate | Good | Excellent |

DISTRICT COURT AND PER DIEM RESULTS

Evaluation results were transmitted to four District Court and Per Diem judges by Chief Justice Recktenwald under cover of memoranda dated April 22, 2019. Surveys could be completed over the Internet from March 12 to April 5, 2019.

Although eleven judges were selected for the evaluation, only four judges received at least the eighteen responses required to be included. The other judges did not receive evaluation reports.

A copy of the District Court and Per Diem questionnaire is provided in Appendix E. Table 2 provides the averages for the four judges.

The mean score for the Legal Ability section was 3.9, and the standard deviation was 0.3. The mean score for the Judicial Management Skills Section was 4.0, and the standard deviation was 0.3. The mean scores for the Comportment Section and for the Settlement and/or Plea Agreement Ability Section were also 4.0, and the standard deviations were 0.3. The frequencies of the judges' ratings, by category, are shown in Graphs 5 to 8.

Of the 4,315 attorneys who were sent emails, 267 returned evaluations. The 267 evaluations were for eleven judges, but the responses for the judges who had fewer than eighteen questionnaires were not used. Also, some attorneys did not appear before any judges at all.

The four judges who were evaluated had 108 evaluations returned. The judges received between 18 and 39 questionnaires each.

TABLE 2
 JUDICIAL PERFORMANCE PROGRAM
 EVALUATION RESULTS FOR FOUR JUDGES
 MARCH 12, 2019 – APRIL 5, 2019

| QUESTIONNAIRE SECTION | N | Mean Score | S.D. |
|---|---|------------|------|
| LEGAL ABILITY SECTION | | | |
| 1. Knowledge of Relevant Substantive Law | 4 | 4.1 | 0.3 |
| 2. Knowledge of Rules of Procedure | 4 | 4.1 | 0.4 |
| 3. Knowledge of Rules of Evidence | 4 | 4.1 | 0.3 |
| 4. Ability to Identify and Analyze | 4 | 4.1 | 0.3 |
| 5. Judgment in Application of Relevant Laws | 4 | 3.9 | 0.3 |
| 6. Giving Reasons for Rulings when Needed | 4 | 3.8 | 0.2 |
| 7. Clarity of Explanation of Rulings | 4 | 3.7 | 0.4 |
| 8. Adequacy of Findings of Fact | 4 | 3.7 | 0.3 |
| 9. Clarity of Judge's Decision(s) | 4 | 3.9 | 0.3 |
| 10. Completeness of Judge's Decision(s) | 4 | 3.9 | 0.3 |
| Average Score for the Legal Ability Section | 4 | 3.9 | 0.3 |
| JUDICIAL MANAGEMENT SKILLS SECTION | | | |
| 1. Moving the Proceeding(s) | 4 | 4.0 | 0.2 |
| 2. Maintaining Proper Control | 4 | 4.1 | 0.1 |
| 3. Doing the Necessary Homework on the Case(s) | 4 | 4.0 | 0.3 |
| 4. Rendering Rulings and Decisions w/o Delay | 4 | 4.0 | 0.4 |
| 5. Allowing Adequate Time | 4 | 4.1 | 0.2 |
| 6. Resourcefulness and Common Sense | 4 | 4.0 | 0.2 |
| 7. Skills in Effecting Compromise | 4 | 3.9 | 0.2 |
| 8. Industriousness | 4 | 4.1 | 0.3 |
| Average Score for the Judicial Management Skills Section | 4 | 4.0 | 0.3 |
| COMPORIMENT SECTION | | | |
| 1. Attentiveness | 4 | 4.1 | 0.2 |
| 2. Courtesy to Participants | 4 | 4.0 | 0.3 |
| 3. Compassion | 4 | 3.9 | 0.1 |
| 4. Patience | 4 | 3.9 | 0.4 |
| 5. Absence of Arrogance | 4 | 3.9 | 0.3 |
| 6. Absence of Bias and Prejudice | 4 | 4.2 | 0.3 |
| 7. Evenhanded Treatment of Litigants | 4 | 3.9 | 0.4 |
| 8. Evenhanded Treatment of Attorneys | 4 | 3.9 | 0.4 |
| Average Score for the Compartment Section | 4 | 4.0 | 0.3 |

SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION

| | | | |
|--|---|-----|-----|
| 1. Knowing the Case(s) and/or the Law | 4 | 4.1 | 0.3 |
| 2. Reasonableness of Opinions | 4 | 4.0 | 0.3 |
| 3. Ability to Enhance the Settlement Process | 4 | 3.9 | 0.3 |
| 4. Impartiality | 4 | 3.9 | 0.3 |
| 5. Absence of Coercion or Threat | 4 | 4.1 | 0.4 |
| 6. Effectiveness in Narrowing the Issues | 4 | 4.0 | 0.3 |
| 7. Appropriateness of Judge's Initiatives | 4 | 4.0 | 0.4 |
| 8. Facilitation in Development of Options | 4 | 3.9 | 0.3 |
| Average Score for the Settlement Section | 4 | 4.0 | 0.3 |

N = Number of Judges with More Than Five Responses for the Item

Legend for Mean Score: 5 = Excellent

4 = Good

3 = Adequate

2 = Less Than Adequate

1 = Poor

S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values

Judicial Evaluation

Graph 5. Legal Ability Scale

Frequency of Judges' Ratings, By Category

March 12, 2019 – April 5, 2019

| | |
|-------------------------|------------|
| No. of Judges | 4 |
| Scale Interval Category | 3.5 to 4.4 |
| | Good |

Judicial Evaluation

Graph 6. Judicial Management Skills Scale

Frequency of Judges' Ratings, By Category

March 12, 2019 – April 5, 2019

| | |
|-------------------------|------------|
| No. of Judges | 4 |
| Scale Interval Category | 3.5 to 4.4 |
| | Good |

Judicial Evaluation

Graph 7. Comportment Scale

Frequency of Judges' Ratings, By Category

March 12, 2019 – April 5, 2019

| | |
|-------------------------|------------|
| No. of Judges | 4 |
| Scale Interval Category | 3.5 to 4.4 |
| | Good |

Judicial Evaluation

Graph 8. Settlement/Plea Agreement Ability Scale

Frequency of Judges' Ratings, By Category

March 12, 2019 – April 5, 2019

| | |
|-------------------------|------------|
| No. of Judges | 4 |
| Scale Interval Category | 3.5 to 4.4 |
| | Good |

CIRCUIT COURT JUROR EVALUATION RESULTS

Juror evaluation results were transmitted to eight Circuit Court judges by Chief Justice Recktenwald under cover of memoranda dated March 13, 2019. Surveys were sent out by marketing mail on January 8, 2019, and were collected until February 7, 2019. Table 3 on the next page provides the averages for the eight judges.

The mean score for Overall Performance was 4.7, with a standard deviation of 0.1. The judges generally received scores between 4.6 and 4.8. The mean score for the other ten evaluation categories combined was 4.7, and the standard deviation was 0.1. The frequencies of the judges' ratings, by category, are printed on pages 17 and 18. The juror evaluation questionnaire can be found in Appendix F.

Jurors were selected from the pools of jurors who were chosen or sworn, including alternates. Even if a juror did not sit through an entire trial because of settlement or other reasons, it was felt that the juror would have enough contact with the judge to fill out the evaluation. Between 129 and 150 jurors were selected per judge.

The number of survey forms distributed for the eight judges was 1161. Of this total, 499 questionnaires were returned. Between 51 and 72 questionnaires were received for each judge.

TABLE 3
 JUDICIAL PERFORMANCE PROGRAM – JUROR EVALUATION
 EVALUATION RESULTS FOR EIGHT JUDGES
 JANUARY 8, 2019 – FEBRUARY 7, 2019

| | N | Mean Score | S.D. |
|--|---|------------|------|
| Please indicate your assessment of this judge's Overall Performance. | 8 | 4.7 | 0.1 |
| Please indicate your assessment of this judge's performance as to all parties with respect to the following: | | | |
| 1. Patience | 8 | 4.7 | 0.1 |
| 2. Dignity | 8 | 4.8 | 0.1 |
| 3. Courtesy | 8 | 4.7 | 0.1 |
| 4. Attentiveness | 8 | 4.7 | 0.1 |
| 5. Fairness | 8 | 4.7 | 0.1 |
| 6. Absence of arrogance | 8 | 4.7 | 0.1 |
| 7. Absence of bias | 8 | 4.7 | 0.1 |
| 8. Absence of prejudice | 8 | 4.7 | 0.1 |
| 9. Clear communication of court procedures | 8 | 4.7 | 0.1 |
| 10. Efficient use of court time | 8 | 4.6 | 0.1 |
| Average Score for Items 1 Through 10 | 8 | 4.7 | 0.1 |

N = Number of Judges with More Than Five Responses for the Item

Legend for Mean Score: 5 = Excellent

4 = Good

3 = Adequate

2 = Less Than Adequate

1 = Poor

S.D. = Standard Deviation Quantifies the Amount of Variation in a Set of Values

Juror Evaluation

Graph 9. Overall Performance

Frequency of Judges' Ratings, By Category

January 8, 2019 – February 7, 2019

| | |
|-------------------------|-------------------------|
| No. of Judges | 8 |
| Scale Interval Category | 4.5 to 5.0 Excellent |

Juror Evaluation

Graph 10. Average For Items 1 Through 10

Frequency of Judges' Ratings, By Category

January 8, 2019 – February 7, 2019

| | | |
|-------------------------|------------|------------|
| No. of Judges | 1 | 7 |
| Scale Interval Category | 3.5 to 4.4 | 4.5 to 5.0 |
| | Good | Excellent |

APPENDIX A

MEMBERS OF THE JUDICIAL PERFORMANCE COMMITTEE

Judge R. Mark Browning, Chair

Judge Rhonda I. L. Loo

Judge Clarence A. Pacarro

Claire K. S. Cooper

Rosemary T. Fazio, Esq.

Jeen H. Kwak, Esq.

Rodney A. Maile, Esq., Administrative Director of the Courts

Clarissa Y. Malinao, Esq.

R. Patrick McPherson, Esq.

John S. Nishimoto, Esq.

Alan Van Etten, Esq.

Janice Wakatsuki

APPENDIX B

**EMAIL FROM CHIEF JUSTICE RECKTENWALD RE
JUDICIAL EVALUATIONS**

To:

From: Michael.A.Oki@courts.hawaii.gov

Sent: May 29, 2019

Subject: Email From Chief Justice Recktenwald Re Judicial Evaluations

Dear Attorney:

The Judiciary is conducting an online evaluation of Circuit Court Judges _____, _____, _____, _____, _____, _____, and _____. The purpose of the evaluation is to help the judges improve their judicial performance. The Judiciary encourages all active members of the Hawaii State Bar Association to participate in the evaluation process.

The judicial evaluation program is designed to give you an opportunity to provide input concerning these individuals. Judges are receptive to receiving your comments, suggestions, and feedback. Your evaluations serve to enhance judicial performance and improve the skills and techniques of Hawai'i's judges. If an insufficient number of evaluations for a particular judge are received, then that judge will not be evaluated.

Please click on the Begin Evaluation button below to commence your judicial evaluations. The link is unique to your email address, so please do not forward this email. You may exit and later return to the evaluations simply by clicking this button. The judicial evaluations will remain accessible to you until June 14, 2019.

To ensure security and confidentiality, the evaluation process is conducted by SurveyMonkey. It is administered by the eHawaii.gov web portal, which is independent of the Judiciary. Only composite results are transmitted to the Judiciary. Please reference http://www.courts.state.hi.us/courts/performance_review/judge_evaluations_faqs for a list of Frequently Asked Questions. To read the judicial evaluation reports, follow the link to the Judicial Performance Program.

The evaluation is designed to obtain fair assessments from attorneys who actually had any cases or served in any other capacity with the evaluated judge. Please ensure that your evaluation is based solely on your direct experience and not obtained through hearsay or through other means.

Thank you for your consideration. If you have any questions, please contact Michael Oki at (808)539-4870.

Sincerely,

/s/

Mark E. Recktenwald

Chief Justice

Supreme Court of Hawai'i

APPENDIX C

CIRCUIT COURT QUESTIONNAIRE

Judicial Circuit Court Evaluation – May 2019
Sample – Basic Evaluation Questions

Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.

*1. Did you have any cases or serve in any other capacity with this judge during the period from May 1, 2017 to April 30, 2019? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).

Yes

No

2. How many times have you appeared before this judge during the referenced period?

1-2

3-5

6-10

More than 10

3. For what types of matters have you appeared before this Judge during the referenced period ? (Please select all that apply.)

Jury trial(s)

Nonjury trial(s)

Contested motion(s) with significant legal issues

Settlement or pretrial plea agreement conference(s)

Evidentiary hearing(s)

Sentencing(s)

Other substantive matter(s) (describe)

Judicial Circuit Court Evaluation – May 2019
Sample – Legal Ability

This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.

1. Knowledge of relevant substantive law

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

2. Knowledge of rules of procedure

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

3. Knowledge of rules of evidence

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

4. Ability to identify and analyze relevant issues

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

5. Judgment in application of relevant laws and rules

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

6. Giving reasons for rulings when needed

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

7. Clarity of explanation of rulings

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

8. Adequacy of findings of fact

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

9. Clarity of judge's decision(s) (oral/written)

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

10. Completeness of judge's decision(s) (oral/written)

Excellent Good Adequate Less than Adequate Poor Not Applicable

11. Judge's charge to the jury/juries

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial Circuit Court Evaluation – May 2019
Sample – Judicial Management Skills

This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.

1. Moving the proceeding(s) in an appropriately expeditious manner

Excellent Good Adequate Less than Adequate Poor Not Applicable

2. Maintaining proper control over the proceeding(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

3. Doing the necessary homework on the case(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

4. Rendering rulings and decisions without unnecessary delay

Excellent Good Adequate Less than Adequate Poor Not Applicable

5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints

Excellent Good Adequate Less than Adequate Poor Not Applicable

6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

7. Skills in effecting compromise

Excellent Good Adequate Less than Adequate Poor Not Applicable

8. Industriousness

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial Circuit Court Evaluation – May 2019
Sample – Comportment

This section deals with various aspects of judicial personality and behavior in the court proceedings, such as temperament, attitude, and manner.

1. Attentiveness

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

2. Courtesy to participants

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

3. Compassion

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

4. Patience

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

5. Absence of arrogance

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

7. Evenhanded treatment of litigants

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

8. Evenhanded treatment of attorneys

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

Judicial Circuit Court Evaluation – May 2019
Sample – Settlement and/or plea agreement ability

This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, circuit court rules, and pretrial conferences involving rule 11, rules of penal procedure.

1. Knowing the case(s) and/or the law well enough to address key issues

Excellent Good Adequate Less than Adequate Poor Not Applicable

2. Reasonableness of opinions on how key issues might be resolved at trial

Excellent Good Adequate Less than Adequate Poor Not Applicable

3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process

Excellent Good Adequate Less than Adequate Poor Not Applicable

4. Impartiality as to how/in whose favor agreement was reached

Excellent Good Adequate Less than Adequate Poor Not Applicable

5. Absence of coercion or threat

Excellent Good Adequate Less than Adequate Poor Not Applicable

6. Effectiveness in narrowing the issues in dispute

Excellent Good Adequate Less than Adequate Poor Not Applicable

7. Appropriateness of judge's settlement/plea initiatives

Excellent Good Adequate Less than Adequate Poor Not Applicable

8. Facilitation in development of options for settlement/plea

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial Circuit Court Evaluation – May 2019
Sample – Comment Page

We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

Judicial Circuit Court Evaluation – May 2019
Sample – Evaluation Complete

1. Thank you for completing the evaluation for Judge _____.

I would like to fill out an evaluation for another judge.

I have completed evaluations for all judges.

Judicial Circuit Court Evaluation – May 2019
Sample – Background Characteristics

This information will be used for statistical purposes only.

1. How long have you practiced law ? (years)

0 to 3

4 to 7

8 to 11

12 to 15

16 to 19

20 to 23

24 to 27

28 or more

Decline to answer

2. Which of the following describes your practice of law ?

Solo (including office sharing)

Law firm with 2-15 attorneys

Law firm with more than 15 attorneys

Corporate or house counsel

Pro se (Representing self)

Government

Decline to answer

Other (please specify)

Judicial Circuit Court Evaluation – May 2019
Sample – Submit Evaluations

Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.

Thank you for taking the time to provide feedback. Your opinion is very important.

If you have any questions about this evaluation, please call the Planning and Program Evaluation Division at (808)539-4870. Mahalo!

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?

APPENDIX D

REMINDER EMAIL TO ATTORNEYS

Bcc:

From: Michael.A.Oki@courts.hawaii.gov

Date: June 3, 2019

Subject: Circuit Court Judicial Evaluation

Dear Attorney:

The Judiciary recently sent you an email regarding the evaluation of Circuit Court judges. We are asking you to fill out a form if you had any cases or served in any other capacity with one or more of the judges identified in the evaluation.

If you did not receive the Circuit Court evaluation or if you would like to receive it again, please reply to this email. If you are not in a position to evaluate a judge but another attorney in your office is, please ask that attorney to contact me. Please do not forward your evaluation email because the link is unique for each attorney. (This is intended to prevent multiple responses from the same attorney.)

The Judicial Performance Program is an important part of our ongoing effort to improve the judicial system. If an insufficient number of evaluations for a particular judge are received, then that judge will not be evaluated.

Thank you for your assistance. We appreciate your participation if you did complete the evaluation.

Michael Oki
The Judiciary
State of Hawai'i

APPENDIX E

DISTRICT COURT AND PER DIEM QUESTIONNAIRE

Judicial District Court Evaluation – March 2019
Sample – Basic Evaluation Questions

Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.

*1. Did you have any cases or serve in any other capacity with this judge during the period from March 1, 2017 to February 28, 2019? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).

Yes

No

2. How many times have you appeared before this judge during the referenced period?

1-2

3-5

6-10

More than 10

3. For what types of matters have you appeared before this judge during the referenced period? (Please select all that apply.)

Nonjury trial(s)

Contested motion(s) with significant legal issues

Settlement or pretrial plea agreement conference(s)

Evidentiary hearing(s)

Sentencing(s)

Other substantive matter(s) (describe)

Judicial District Court Evaluation – March 2019
Sample – Legal Ability

This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.

1. Knowledge of relevant substantive law

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

2. Knowledge of rules of procedure

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

3. Knowledge of rules of evidence

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

4. Ability to identify and analyze relevant issues

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

5. Judgment in application of relevant laws and rules

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

6. Giving reasons for rulings when needed

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

7. Clarity of explanation of rulings

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

8. Adequacy of findings of fact

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

9. Clarity of judge's decision(s) (oral/written)

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

10. Completeness of judge's decision(s) (oral/written)

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial District Court Evaluation – March 2019
Sample – Judicial Management Skills

This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.

1. Moving the proceeding(s) in an appropriately expeditious manner

Excellent Good Adequate Less than Adequate Poor Not Applicable

2. Maintaining proper control over the proceeding(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

3. Doing the necessary homework on the case(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

4. Rendering rulings and decisions without unnecessary delay

Excellent Good Adequate Less than Adequate Poor Not Applicable

5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints

Excellent Good Adequate Less than Adequate Poor Not Applicable

6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)

Excellent Good Adequate Less than Adequate Poor Not Applicable

7. Skills in effecting compromise

Excellent Good Adequate Less than Adequate Poor Not Applicable

8. Industriousness

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial District Court Evaluation – March 2019
Sample – Comportment

This section deals with various aspects of judicial personality and behavior in the court proceedings, such as temperament, attitude, and manner.

1. Attentiveness

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

2. Courtesy to participants

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

3. Compassion

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

4. Patience

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

5. Absence of arrogance

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

7. Evenhanded treatment of litigants

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

8. Evenhanded treatment of attorneys

| | | | | | |
|-----------|------|----------|--------------------|------|----------------|
| Excellent | Good | Adequate | Less than Adequate | Poor | Not Applicable |
|-----------|------|----------|--------------------|------|----------------|

Judicial District Court Evaluation – March 2019
Sample – Settlement and/or Plea Agreement ability

This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, district court rules, and pretrial conferences involving rule 11, rules of penal procedure.

1. Knowing the case(s) and/or the law well enough to address key issues

Excellent Good Adequate Less than Adequate Poor Not Applicable

2. Reasonableness of opinions on how key issues might be resolved at trial

Excellent Good Adequate Less than Adequate Poor Not Applicable

3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process

Excellent Good Adequate Less than Adequate Poor Not Applicable

4. Impartiality as to how/in whose favor agreement was reached

Excellent Good Adequate Less than Adequate Poor Not Applicable

5. Absence of coercion or threat

Excellent Good Adequate Less than Adequate Poor Not Applicable

6. Effectiveness in narrowing the issues in dispute

Excellent Good Adequate Less than Adequate Poor Not Applicable

7. Appropriateness of judge's settlement/plea initiatives

Excellent Good Adequate Less than Adequate Poor Not Applicable

8. Facilitation in development of options for settlement/plea

Excellent Good Adequate Less than Adequate Poor Not Applicable

Judicial District Court Evaluation – March 2019
Sample – Comment Page

We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.

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2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

Judicial District Court Evaluation – March 2019
Sample – Evaluation Complete

1. Thank you for completing the evaluation for Judge _____.

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I have completed evaluations for all judges.

Judicial District Court Evaluation – March 2019
Sample – Background Characteristics

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2. Which of the following describes your practice of law?

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Pro se (Representing self)

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Other (please specify)

Judicial District Court Evaluation – March 2019
Sample – Submit Evaluations

Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.

Thank you for taking the time to provide feedback. Your opinion is very important.

If you have any questions about this evaluation, please call the Planning and Program Evaluation Division at (808)539-4870. Mahalo!

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?

APPENDIX F

JUROR QUESTIONNAIRE

SAMPLE

DO NOT DUPLICATE

CONFIDENTIAL
Judicial Performance Program - Circuit Court
Juror Evaluation of Judge _____

Please complete the following evaluation based on your personal knowledge and experience with the above-named Judge. If you wish to offer additional comments about the Judge's performance, please elaborate in the comments section below.

Please indicate your assessment of this judge's **Overall Performance** Excellent Good Adequate Less Than Adequate Poor

Please indicate your assessment of this judge's performance as to all parties with respect to the following:

- | | | | | | | |
|----|---|-----------|------|----------|--------------------|------|
| 1 | Patience | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 2 | Dignity | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 3 | Courtesy | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 4 | Attentiveness | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 5 | Fairness | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 6 | Absence of arrogance | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 7 | Absence of bias | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 8 | Absence of prejudice | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 9 | Clear communication of court procedures | Excellent | Good | Adequate | Less Than Adequate | Poor |
| 10 | Efficient use of court time | Excellent | Good | Adequate | Less Than Adequate | Poor |

Please check the type of trial in which you served on a jury in this judge's courtroom.
(Please check one only.) Civil Trial Criminal Trial

Comments:
