New language is underlined. Deleted language is ~~strikethrough~~.

Alaska Judicial Council
Retention Evaluation Procedures

Summary of Procedures[1]

Alaska's constitution and statutes require judges to periodically appear on the ballot to allow the voters to decide whether the judges should continue in office. Judges' terms vary from 4 to 10 years depending on the court on which the judge serves. When judges appear on the ballot, they are said to "stand for retention," and the election is referred to as a "retention election" or a "judicial retention election."

The legislature first authorized evaluations of judges standing for retention in 1976. This page explains the information collected and the procedures used by the Alaska Judicial Council to evaluate judges' performance.

About a year before the retention election, the Council's staff begins collecting extensive information and feedback about each judge's performance during their most recent term in office. About six months before the retention election, the Council meets to review the information and determine whether the judge met or did not meet specific performance standards outlined in the Council's bylaws. The Council tries to balance all the information it receives from all sources. At the conclusion of the meeting, the Council takes a public vote on whether to recommend another term in office for each judge, based on whether the judge met performance standards. The Council's recommendation to retain or not retain each judge, along with a summary of the information collected, is reported to the public starting about three months before the retention election.

Information Collected

Judge's Questionnaire - About a year before the retention election, each judge is asked to fill out a short questionnaire about the types of cases they handled during the previous term, legal or disciplinary matters the judge may have been involved in, and health matters that could be related to the judge's ability to perform their duties, among other things. The questionnaire also asks the judge to describe how satisfied they are with their work during the previous term and to make any comments that would help the Council in its evaluations. The Council uses the information in the questionnaires in its evaluation, and posts the completed questionnaires on its website.

Attorney and Law Enforcement Surveys - About eight months before the retention election, the Council surveys all active and all in-state inactive and retired attorneys who are members of the Alaska Bar Association, and all peace and probation officers in the state who handle state criminal cases. The survey asks about the judges' fairness, integrity, temperament, diligence, and

[1] Please review the Council's website at www.ajc.state.ak.us for updates to the procedures.

administrative skills. Attorneys are also asked to assess the judges' legal abilities. An independent contractor carries out the surveys for the Council, to assure objectivity in the findings. The survey results are incorporated into the Council's evaluation, and the survey ratings are shared with the public via the Council's website and in the Lieutenant Governor's Official Election Pamphlet.

Social Services Professionals Surveys - The Council also surveys social services professionals who participate in helping Alaska's children (protective service specialists at the Office of Children's Services, Guardians ad Litem, Indian Child Welfare Act Workers, and Court Appointed Special Advocate volunteers). Social services professionals rate only the judges whose caseloads include child welfare matters. The survey asks about the judges' fairness, integrity, temperament, diligence, and administrative skills. An independent contractor also carries out this survey for the Council. The survey ratings from social services professionals are incorporated into the Council's evaluation and shared with the public via the Council's website and in the Lieutenant Governor's Official Election Pamphlet.

Juror and Court Employee Surveys - The Council surveys all court employees who are not members of the Alaska Bar Association. Additionally, the Council sends survey cards to all district court and superior court judges eligible to stand for retention, to pass out to jurors who serve in trials before them. The Council members use these surveys to gain varied perspectives on the judges' performances. The survey ratings from jurors and court employees also are shared with the public via the Council's website and in the Lieutenant Governor's Official Election Pamphlet.

Counsel Questionnaires - In addition to the general survey of attorneys, the Council sends detailed questionnaires to attorneys who have in-depth experience with the judge on a particular case. The Council uses this information to gain a more detailed understanding of the judge's performance, including whether the judge was attentive, familiar with the case, timely with motions and decisions, and respectful. The questionnaire also asks about the judge's case management skills, legal analysis, thoroughness, and the quality of the judge's written decisions.

Other Records - Council staff review a series of other public records to investigate all aspects of a judge's performance in office:

- financial disclosure statements from the Alaska Public Offices Commission, and separate conflict-of-interest forms filed with the court system, to evaluate whether a judge's financial interests may present a conflict of interest;
- any court cases involving the judge as a party or witness;
- public files from the Commission on Judicial Conduct, to determine whether the judge was the subject of any disciplinary proceedings;
- peremptory challenge filings, to determine how often the parties disqualified the judge from presiding over a case;
- recusal filings, to determine how often a judge disqualified him or herself from a case because of a conflict of interest or if his or her impartiality might reasonably have been questioned;
- how often a trial judge's decisions were affirmed on appeal; and,
- whether a judge's pay was withheld for any untimely decisions.

The Council carefully analyzes this data, because the type of caseload and the judge's location may play a major part in the number of peremptory challenges, recusals, or appeals and reversals. For example, a domestic relations judge assigned 6,000 cases in one year may have more challenges (and possibly more appellate reversals) than a judge handling 1,000 criminal and civil cases. These challenges may arise more from the nature of the cases than from the judge's decisions. The Council performs detailed follow-up investigations of any potential problem areas.

Public Hearings - The Council holds a statewide public hearing for all judges standing for retention using technology that provides access via phone or internet. Subject to available funding, the Council advertises these public hearings in statewide newspapers and online to encourage public participation. Public hearings give citizens a valuable opportunity to speak out about their experiences with judges. They also provide a forum in which citizens can hear the opinions of others.

Other Publicity and Input - The Council widely publicizes the evaluation process through frequent media releases, radio and television segments, speeches to public groups such as community councils, and ads and articles in newspapers. The Council accepts written comments from the public at any time.

Deliberations and Public Vote - About six months before the retention election, the Council meets to discuss the information gathered for these judicial evaluations, and to decide whether each judge met performance standards during his or her most recent term in office. These performance standards, which are defined in the Council's Bylaws, are:

- **Legal Ability**. The judge demonstrates knowledge of substantive law, evidence, and procedure, and clarity and precision in their work.
- **Impartiality/Fairness**. The judge demonstrates a sense of fairness and justice and treats all parties equally.
- **Integrity**. The judge's conduct is free from impropriety or the appearance of impropriety, and the judge makes decisions without regard to possible public criticism.
- **Judicial Temperament**. The judge is courteous and free from arrogance, and the judge manifests human understanding and compassion.
- **Diligence and Administrative Skills**. The judge is prepared for court proceedings, works diligently, and is reasonably prompt in making decisions.

~~Any judge may~~ Judges are encouraged to request an interview with the Council before the Council members vote on the retention recommendations. The Council, in turn, may ask judges to speak with the Council members during the final stages of the evaluation process. Judges may respond to concerns raised during the evaluation process. The Council will invite to an interview any judge for whom significant concerns are raised such that a Council member or members is considering a "no" recommendation. The Council may conduct personal interviews with presiding judges, attorneys, court staff, and others about the judge's performance.

At the conclusion of the meeting, the Council publicly votes whether to recommend that each judge be retained in office, based on its determination that each judge either met or did not meet performance standards. Four votes by Council members are necessary for the Council to recommend for or against the retention of a judge. The chair of the Council, the Chief Justice of

the Alaska Supreme Court, does not vote except when a fourth vote is required for Council action (for example, in the event of a 3-3 tie).

Dissemination of Results

By law, the Council must publicize the results of its evaluations at least sixty days prior to the election, as well as provide them to the Lieutenant Governor for publication in the Official Election Pamphlet. Each Alaska voter household receives the Official Election Pamphlet, which includes a page summarizing the Council's performance evaluation of each judge. The Council also posts non-confidential materials compiled during the evaluations on its web site. The Council endeavors to use a wide variety of methods to share information about its recommendations and the judges' performance evaluations, to include social media, paid media, and community presentations.

Last Updated December 2022; _____ 2027.

Attachment A

Sample Judicial Council retention survey form for attorneys

[Court Location and Level] | [Justice/Judge Name]

****REQUIRED** Basis for Evaluation**

1. Which of the following best describes the basis for your evaluation of this judge? Direct professional experience is limited to direct contact with the judge's work as a judge. (Check one.)

☐ Direct professional experience ☐ Professional reputation ☐ Other personal contacts ☐ Insufficient knowledge to evaluate this judge (**Go to next judge**)

2. If you checked direct professional experience:
   a. Does your experience with this judge include experience within the last five years?
   ☐ Yes ☐ No
   b. Please describe the amount of your experience with this judge.
   ☐ Substantial ☐ Moderate ☐ Limited

To rate this judge, circle one number for each criterion. If you lack sufficient knowledge to rate the judge for any one of the criteria, **leave it blank**. (See Page ii for definitions of the rating criteria and rating scale.)

		Poor	Deficient	Acceptable	Good	Excellent
1	Legal Ability	1	2	3	4	5
2	Impartiality/Fairness	1	2	3	4	5
3	Integrity	1	2	3	4	5
4	Judicial Temperament	1	2	3	4	5
5	Diligence	1	2	3	4	5
6	Overall evaluation of judge	1	2	3	4	5

Comments: See Introduction, and Page i, about the types of comments sought.

Please use the pages at the end or another sheet of paper for additional comments. **Print Name** (Optional)

Anonymity

To promote a candid response, your comments remain anonymous to the judge whether or not you sign your name. Providing your name is optional but does give your comments added credibility with Council members. The Council does not consider unsigned comments unless they are corroborated, independently substantiated, or acknowledged by the judge. Your name will not be given to the judge. Survey comments will be shared with a judge only after the comments have been edited to remove information that might identify the respondent. Survey comments are not released publicly.