

# NORTH CAROLINA BAR ASSOCIATION

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## **Introduction**

The 2018 North Carolina Judicial Performance Evaluation (JPE) was conducted by the JPE Committee of the North Carolina Bar Association and funded by the North Carolina Bar Foundation. The 2018 JPE evaluated Superior and District Court judicial candidates in addition to sitting Special Superior Court judges. A total of 3,450 North Carolina attorneys completed the 2018 JPE, in which they assessed the legal ability, integrity, and professionalism of judges and judicial candidates about whom they had sufficient professional contact. The opinions expressed reflect those attorneys who chose to respond and do not reflect the opinion of the North Carolina Bar Association or the opinion of all North Carolina attorneys.

## **Background**

In 2006, the NCBA's Administration of Justice Committee produced a report noting the lack of information available to members of the public to enable them to cast an informed vote in judicial elections. The report recommended the creation of the Judicial Performance Evaluation (JPE) Committee. The NCBA's Board of Governors followed that recommendation and the JPE Committee was formed in 2008. The committee is charged with creating and administering a JPE survey. The JPE Committee is currently chaired by Judge Joseph Turner. For questions about the JPE, please contact the committee chair at [jpe@ncbar.org](mailto:jpe@ncbar.org).

## **Methodology**

The 2018 JPE data collection was implemented online by the Duke Initiative on Survey Methodology (DISM), using Qualtrics Survey Software. Qualtrics uses the same data security and protection standards of banks and eCommerce websites, encrypting all information sent to the website. A copy of the Qualtrics white paper that details the privacy, compliance, and operational policies and procedures is available upon request. The survey software prevents individuals from taking the survey multiple times, keeps track of which attorneys have and have not responded, and sends reminder notices only to individuals who have not responded. No identifying information was asked in the questionnaire and the NCBA does not know who submitted an evaluation.

Attorneys with an active North Carolina law license were invited to participate in the JPE. An advance email notification was sent from the NCBA president to NCBA members on August 21, 2018. DISM emailed invitations on August 24<sup>th</sup> and follow-up reminders were sent on August 28<sup>th</sup> and September 6<sup>th</sup>, with a final reminder on the deadline of September 12<sup>th</sup>. The NCBA also sent reminders on August 31<sup>st</sup> and September 11<sup>th</sup> and included a notice of the survey deadline in their September newsletter. The survey closed at midnight on September 12, 2018. The NCBA decided to re-open the survey from September 24-28, 2018 after learning some attorneys may have had outdated email addresses on file with the NCBA.

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A total of 3,450 (3,370 from the initial data collection period and 80 from the re-open period) individuals completed the survey, 583 (40 from the re-open period) partially completed the survey, 67 accessed the survey but did not complete any item, and 255 opted out of participating in the survey by clicking the opt out link included at the bottom of all email communications from DISM. The American Association for Public Opinion Research (AAPOR) response rate 1 (RR1) is 14.3 percent and the AAPOR response rate 2 (RR2) is 16.7 percent.<sup>1</sup>

## **Questionnaire**

In 2017, the JPE survey questionnaire was redesigned with the assistance of Prof. D. S. Hillygus, director of the Duke Initiative on Survey Methodology, in order to improve data quality, reduce potential bias, and keep up-to-date with judicial performance evaluation guidelines and best-practices in survey methodology. The redesign process included a review of the judicial performance evaluation (JPE) programs in other states and relevant research and guidelines, including the American Bar Association (ABA) guidelines, Institute for the Advancement of the American Legal System (IAALS) Blueprint, and academic research on judicial performance evaluations and survey methodology.

An important component of a judicial evaluation program is obtaining information from those attorneys who have had direct professional contact with the judicial candidate (IAALS 2016; Brody 2008). Thus, respondents were first asked to identify judicial candidates for whom they had direct, professional interactions. Professional interaction is not restricted to courtroom appearances and may be through professional out-of-court experience with the judicial candidate, such as service on a board or commission. Candidates were listed in alphabetical order (using name as it would appear on the ballot), grouped chronologically by district. The survey did not list the seat in which the candidate was running, did not group the candidates by seat, and did not list the partisanship of the candidate.

After identifying the District Court judicial candidates with whom they have had direct, professional contact, respondents were encouraged to give some thought to evaluating these individuals before making the assessment (IAALS 2016):

Research has shown that people make better and more accurate performance evaluations when they take a few minutes to think about specific behaviors and actions rather than relying on general impressions of the person. Please take a moment to recall some positive and negative

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<sup>1</sup> For more information about the AAPOR response rate formulas, see <https://www.aapor.org/Education-Resources/For-Researchers/Poll-Survey-FAQ/Response-Rates-An-Overview.aspx>.

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behaviors about each of the candidates before evaluating them. When you are ready to complete the evaluation, please select "Next" to continue.

Responses then proceeded to evaluating each of the identified candidates on nine different criteria using a five-point scale (poor, below average, average, good, excellent). These criteria were based on recommended JPE evaluation criteria (ABA 2005; IAALS 2016), adapted for evaluation of both sitting judges and judicial candidates. The criteria were designed to capture observable behaviors, rather than generic characteristics (IAALS 2012). The specific evaluation criteria were:

1. Has appropriate courtroom and trial experience
2. Demonstrates knowledge of law, procedure, and evidence
3. Capably analyzes legal and factual issues
4. Is able to serve in a fair and impartial manner
5. Treats all in courtroom with courtesy and respect
6. Shows patience and self-control
7. Communicates clearly and concisely
8. Is prepared and attentive in the courtroom
9. Is respectful of court time

## **Reporting**

To ensure the confidentiality of participants, survey responses were compiled by DISM. DISM also provided methodological and statistical consultation to the JPE Committee, including the preparation of this report. The NCBA has received only aggregate responses. The total number of responses per candidate varied, reflecting differences in the total number of attorneys who practice in the particular judicial district and how well known the candidate is in the legal community. Results have not been reported for any questions receiving fewer than 25 valid responses.

When tabulating survey results, results are presented for each response option on each criterion, in addition to the combined "good" and "excellent" responses. No attempt has been made to calculate an "overall score." The JPE Committee believes it would be inappropriate to calculate a single mathematical average across the different criteria. While all of the criteria are considered relevant to evaluating a judicial candidate, they are not necessarily equal in importance; we leave it to voters to determine the relative importance of each criterion.

The North Carolina Bar Association provides this information as a public service for NC voters. The evaluations are not intended as a recommendation or endorsement of any candidate; the NCBA does not endorse candidates for any office.