

**Effective 5/10/2016**

**67-19e-106 Performance surveys.**

- (1) For administrative law judges contracted or employed before July 1, 2013, performance surveys shall be conducted initially at either the two-, three-, or four-year mark beginning January 1, 2014. By July 1, 2018, all administrative law judges shall be on a four-year staggered cycle for performance evaluations.
- (2) The performance survey shall include as respondents a sample of each of the following groups as applicable:
  - (a) attorneys who have appeared before the administrative law judge as counsel; and
  - (b) staff who have worked with the administrative law judge.
- (3) The department may include an additional classification of respondents if the department:
  - (a) considers a survey of that classification of respondents helpful to the department; and
  - (b) establishes the additional classification of respondents by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) A survey response is anonymous, including any comment included with a survey response.
- (5) If the department provides any information to an administrative law judge or the committee, the information shall be provided in such a way as to protect the confidentiality of a survey respondent.
- (6) If the department establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.
- (7) The performance survey shall include questions relating to whether the administrative law judge's behavior furthers the following elements of procedural fairness:
  - (a) neutrality, including:
    - (i) consistent and equal treatment of the individuals who appear before the administrative law judge;
    - (ii) concern for the individual needs of the individuals who appear before the administrative law judge; and
    - (iii) careful deliberation;
  - (b) respectful treatment of others; and
  - (c) providing individuals a voice and opportunity to be heard.
- (8) The performance survey may include questions concerning an administrative law judge's:
  - (a) legal ability, including the following:
    - (i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;
    - (ii) attentiveness to factual and legal issues before the administrative law judge;
    - (iii) adherence to precedent and ability to clearly explain departures from precedent;
    - (iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;
    - (v) ability to write clear opinions and decisions; and
    - (vi) ability to clearly explain the legal basis for opinions;
  - (b) temperament and integrity, including the following:
    - (i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;
    - (ii) maintenance of decorum in the courtroom;
    - (iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;

- (iv) preparedness for oral argument;
  - (v) avoidance of impropriety or the appearance of impropriety;
  - (vi) display of fairness and impartiality toward all parties; and
  - (vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and
- (c) administrative performance, including the following:
- (i) management of workload;
  - (ii) sharing proportionally the workload within the department; and
  - (iii) issuance of opinions and orders without unnecessary delay.
- (9) If the department determines that a certain survey question or category of questions is not appropriate for a respondent group, the department may omit that question or category of questions from the survey provided to that respondent group.
- (10)
- (a) The survey shall allow respondents to indicate responses in a manner determined by the department, which shall be:
- (i) on a numerical scale from one to five; or
  - (ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.
- (b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the department may allow respondents to provide written comments.
- (11) The department shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Amended by Chapter 237, 2016 General Session