

RULE CHANGE 2008 (11)

CHAPTER 37

RULES GOVERNING THE COMMISSIONS ON JUDICIAL PERFORMANCE

**Rule 12. Recommendations.**

(a) Following the evaluation based upon the survey data, courtroom observations, case information, self-evaluations, review of decisions, interviews, and any other written or oral information received, a commission shall prepare a recommendation regarding the retention of each justice, judge, or magistrate. The recommendation shall be "retain," "do not retain," or "no opinion." The recommendation of "no opinion" shall be given only when the commission is equally divided, and as such shall not be counted for or against retention. Individual commissioners may not vote "no opinion," but shall vote to retain, or to not retain, or shall recuse themselves.

(b) A commission shall ~~adopt~~ strongly consider a recommendation of "retain" for any justice, judge, or magistrate who receives an average of at least 3.0 on a 4.0 scale for the questionnaire responses, and issued no decision or opinion more than 180 days after a matter was briefed, argued, or otherwise submitted to the court for decision, whichever is latest, unless the other evaluation information indicates a significant performance problem, such as poor judicial temperament.

(c) A commission shall ~~adopt~~ strongly consider a recommendation of "do not retain" for any justice, judge, or magistrate who receives less than an average of 3.0 on a 4.0 scale for the questionnaire responses, unless:

(i) The nature or high number of cases of a justice, judge, or magistrate's docket or caseload is such that it cannot appropriately be managed in a timely manner. This may be particularly true for a provisional justice or judge, who when appointed may inherit a significantly high number of cases that cannot be managed quickly; or

(ii) The commission believes that with additional experience on the bench and a commitment to improve his or her judicial skills, the justice, judge, or magistrate should be given more time to develop his or her judicial skills. The justice, judge, or magistrate must agree to

the recommendations contained in a performance plan that identifies areas of significantly poor performance and makes specific recommendations for improvement.

Amended and Adopted by the Court, En Banc May 15, 2008, effective immediately.

BY THE COURT:

Nancy E. Rice  
Justice, Colorado Supreme Court