

Corrective Order to Rule Change #2004(3)

CHAPTER 37. RULES GOVERNING THE COMMISSIONS
ON JUDICIAL PERFORMANCE

Pursuant to section 13-5.5-103(1)(k), C.R.S., the State Commission on Judicial Performance (state commission) establishes the following rules. These rules have been approved by the Supreme Court and shall be applicable to the state and district commissions.

RULE 1. (NO CHANGE)

RULE 2. SOURCES OF INFORMATION

(a) Through (h) (NO CHANGE)

(i) Review of opinions. In the case of Justices of the Supreme Court or Judges of the Court of Appeals, each justice or judge shall submit to the state commission three opinions he or she authored along with a list of all opinions authored in the past two years. At least one of the opinions submitted shall be either a separate concurrence or dissent. The members of the state commission shall review the three opinions, in addition to three other opinions selected at the members' discretion, prior to the interview with the justice or judge. The opinions should be reviewed for clarity of expression, logical reasoning, and adherence to controlling precedent.

(j) Additional information. Information resulting from the justice's, judge's or magistrate's interview may be considered and included in the evaluation if deemed appropriate by the majority of the commission members. Summaries of this new information shall be sent to the judge no later than ten (10) days following the scheduled interview.

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RULE 3 Through Rule 12 (No Changes)

RULE 13. RECOMMENDATION

(a) (No Change)

(b) In order to concentrate its resources on the determination of which trial judges are not performing their jobs as they should, the commission shall strongly consider a

recommendation of "Retain" for any judge who receives an average of 2.0 or more in response to questions 1 through 5 of both the attorney and non-attorney survey questionnaires. If a judge receives less than an average of 2.0 in response to the questions 1 through 5 in either the attorney or non-attorney survey questionnaires, the Commission shall strongly consider a "Do Not Retain", unless one or more of the following applies:

- (I) (No Change)
- (II) (No Change)
- (III) (No Change)
- (IV) (No Change)

(c) In order to concentrate its resources on the determination of which appellate judges are not performing their jobs as they should, the commission shall strongly consider a recommendation of "Retain" for any judge who receives an average of 2.0 or more in response to questions 1 through 12 of the Attorney Appellate Questionnaire or 1 through 14 in the trial judge appellate questionnaires, the Commission shall strongly consider a "Do Not Retain", unless one or more of the factors set forth in Rule 13 (b) (1), (II), (III) or (IV) apply

(d) A recommendation of "No Opinion" shall be given only when the commission concludes that the results of information gathered are not sufficiently clear to make a firm recommendation, and as such shall be accompanied by a detailed explanation.

(ed) A commission member who did not participate in the judge's scheduled interview or perform the minimum required courtroom observation, may not vote on the commission's recommendation for retention unless authorized to do so by a majority vote of the commission members who were present at the scheduled interview and performed the required minimum courtroom observation.

RULE 14 Through Rule 24 (No Changes)

This Corrective Order is Adopted on March 4, 2004 nunc pro tunc
February 5, 2004, effective immediately.

Justice Coats would not adopt the rule.

BY THE COURT

Mary J. Mullarkey
Chief Justice, Colorado Supreme Court