

Honorable Ryan M. Harris – District Court Judge

Serving Salt Lake, Summit and Tooele Counties

Commission Recommendation: **RETAIN**

(vote count: 11-0 for retention)

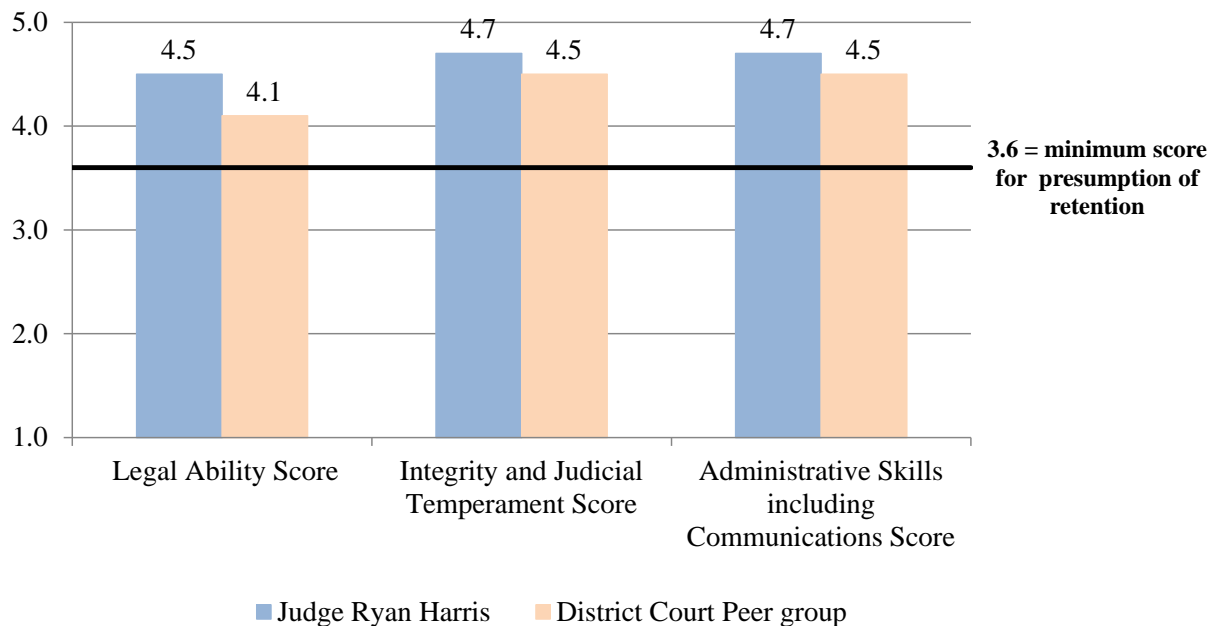


Appointed in August 2011, Judge Ryan Harris scored higher than the average of his district court peers in all survey categories. Respondents described him as intelligent, attentive, and polite; in fact, 97% of adjectives they selected from a list to describe Judge Harris were positive. Several survey respondents complimented Judge Harris' courtroom management and cited with approval his preparation, thoughtful demeanor, and legal knowledge. All courtroom observers agreed they would feel comfortable appearing before him. Of survey respondents who answered the retention question, 97% recommended that Judge Harris be retained.

The commission reviewed surveys and courtroom observation reports in addition to verifying that Judge Harris has met all time standards, judicial education requirements, and discipline standards established by the judicial branch.

Judge Ryan M. Harris was appointed to the Third District Court in 2011 by Governor Gary Herbert. Judge Harris received an undergraduate degree from Brigham Young University, and a law degree from Stanford Law School. After law school, Judge Harris served as a judicial clerk to Judge Stephen H. Anderson of the United States Court of Appeals for the Tenth Circuit. Following his clerkship, Judge Harris practiced law in Salt Lake City at the firm of Jones, Waldo, Holbrook & McDonough. Judge Harris also worked as an Adjunct Professor of Law at the University of Utah College of Law and is a past chair of the Utah State Bar's Litigation Section.

This judge has met all minimum performance standards established by law.



The Honorable Ryan Harris

Judicial Performance Evaluation Commission Report

Retention 2014

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Ryan Harris, 60% of qualified survey respondents submitted surveys. Of those who responded, 135 agreed they had worked with Judge Ryan Harris enough to evaluate his performance. This report reflects the 135 responses. The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

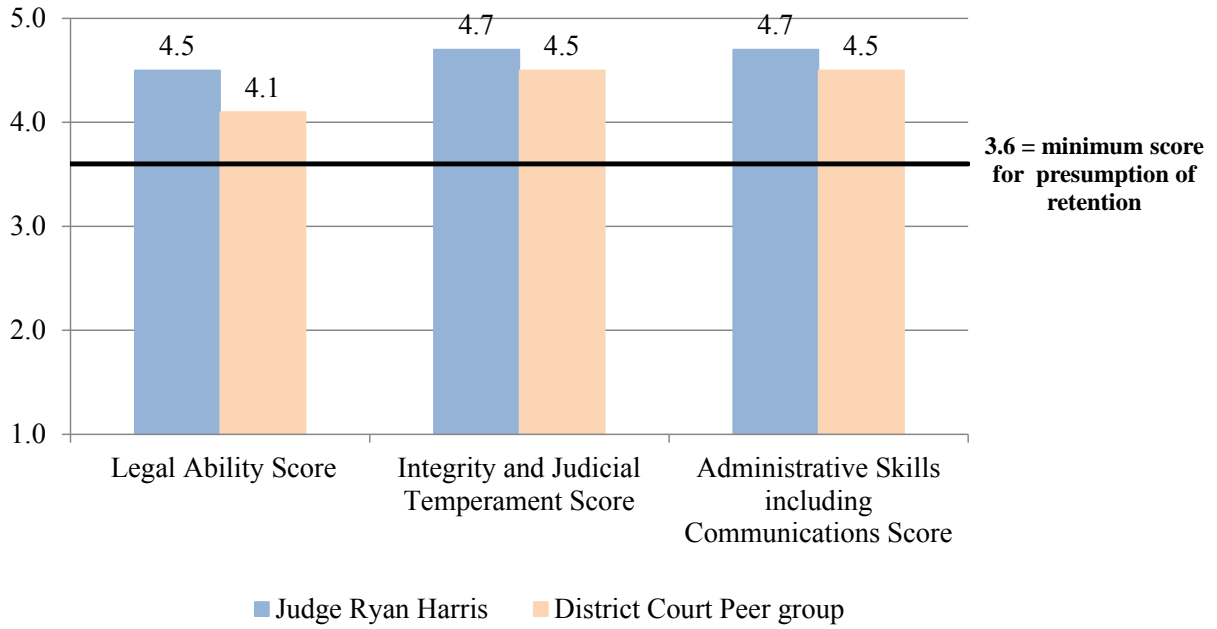
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (inadequate) to 5 (outstanding). Responses from all survey respondent groups contribute to the average score shown for each category, with the exception of Legal Ability. Only attorneys answer these questions.

What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to recommend retention unless it can articulate a substantial reason for overcoming the presumption in favor of retention. Similarly, if a judge fails to get a 3.6 in a category, the commission will vote against retention unless it can articulate a substantial reason for overcoming the presumption against retention.

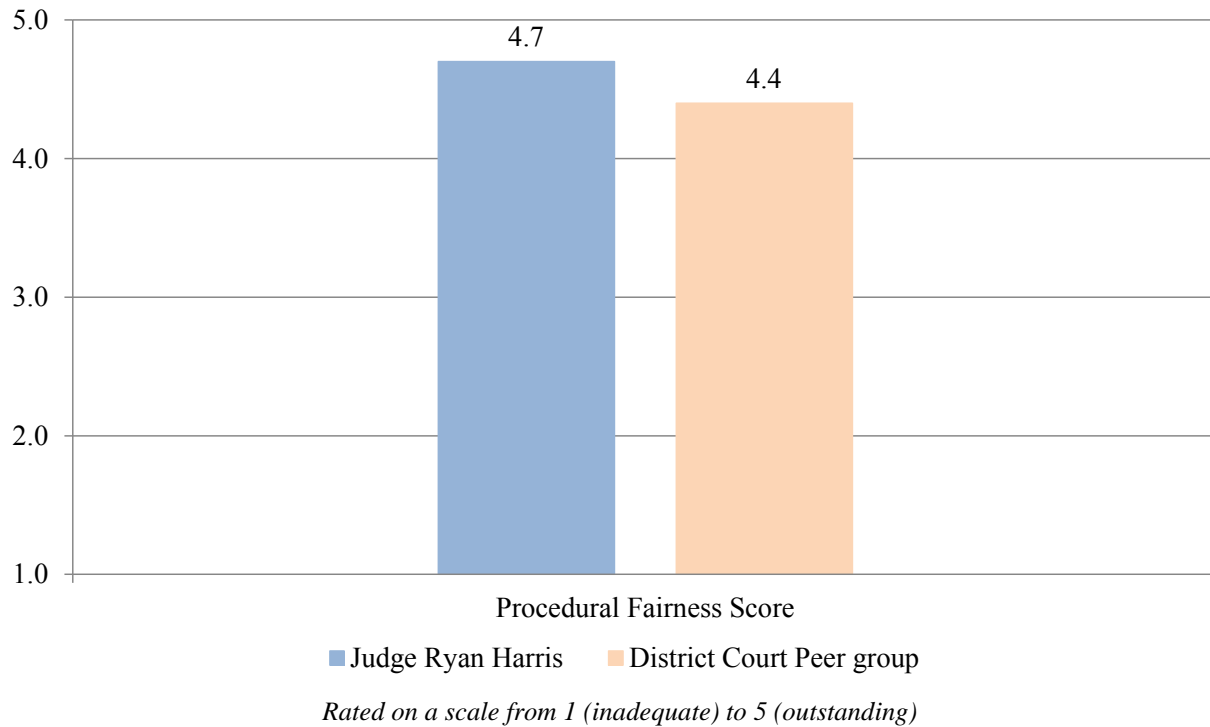
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, and this determination will be made by the commission only during the retention cycle.

B. Statutory Category Scores



Rated on a scale from 1 (inadequate) to 5 (outstanding)

C. Procedural Fairness Survey Score



For procedural fairness, the judge must demonstrate by a preponderance of the evidence that the judge’s conduct in court promotes procedural fairness for court participants. This determination is based on courtroom observations and relevant survey responses.

Overall Procedural Fairness Determination

Category	Judge Ryan Harris
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Ryan Harris	District Court
Legal Ability	The judge follows the applicable legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.5	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.5	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.5	4.1
Legal Ability	The judge only considers evidence in the record.	4.5	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.5	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.8	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.6	4.3
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.7	4.6

Rated on a scale from 1 (inadequate) to 5 (outstanding)

Category	Question	Judge Ryan Harris	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.5
Administrative Skills	The judge is an effective manager.	4.5	4.3
Administrative Skills	The judge convenes court without undue delay.	4.7	4.5
Administrative Skills	The judge rules in a timely fashion.	4.7	4.4
Administrative Skills	The judge maintains diligent work habits.	4.8	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.6	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.8	4.5
Procedural Fairness	The judge is fair and impartial.	4.7	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.7	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.7	4.4

Rated on a scale from 1 (inadequate) to 5 (outstanding)

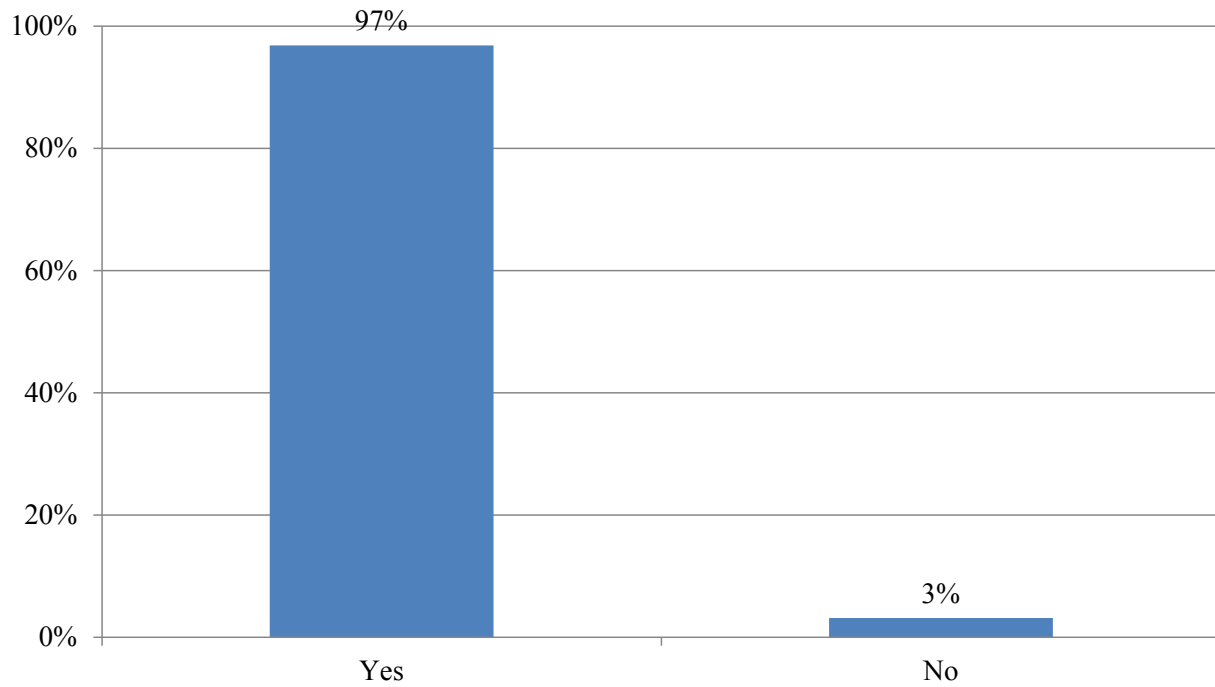
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	57
Calm	30
Confident	27
Considerate	33
Consistent	18
Intelligent	78
Knowledgeable	49
Patient	26
Polite	41
Receptive	25
Arrogant	3
Cantankerous	1
Defensive	1
Dismissive	3
Disrespectful	1
Flippant	1
Impatient	1
Indecisive	0
Rude	0
Total Positive Adjectives	384
Total Negative Adjectives	11
Percent of Positive Adjectives	97%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Ryan Harris be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	1%
Domestic	14%
Criminal	27%
Civil	74%
Other	6%

How many trials or hearings have you had with this judge over the past year?

5 or fewer	64%
6 - 10	25%
11 - 15	6%
16 - 20	4%
More than 20	1%

Survey Background and Methods

This report presents the results from the 2013 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated two-year period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups; those with one or more trial appearances, those with 3 or more non-trial appearances, and those with 1-2 non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, the survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

B. Evaluation Period

The retention evaluation period for judges standing for election in 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE RYAN HARRIS

Four observers wrote 79 codable units that were relevant to 15 of the 17 criteria. Two observers reported that the judge was aware that JPEC observers were present, one reported that the judge was not aware, and one did not know if the judge was aware.

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"> All observers were positive about Judge Harris, with Observer A also expressing reservations in some areas. All observers variously reported that Judge Harris listened carefully with undivided attention and was well prepared and knowledgeable about the cases. He started on time, greeted participants and showed interest in their well being, and complimented attorneys. He was polite and courteous, and he showed his caring and goodwill. His demeanor was calm, open, non-judgmental, and professional, and participations trusted and respected his authority and knowledge. He smiled and made eye contact, and while his voice was calm and pleasant, without a mic his soft voice was at times difficult to hear. He considered each side equally in his decisions, was truly engaged and interested in all speakers, and cared about and wanted to do the best for each individual’s situation in an unhurried and careful manner. He invited and allowed ample time for attorneys to speak and express their concerns, remaining interested and asking many questions. Judge Harris thoroughly and clearly explained charges, procedures, and the reasoning and rationale for his decisions, and he took pains to ensure he was understood. All observers reported that they would feel comfortable appearing before Judge Harris, with Observer A expressing some reservations (see “Anomalous comments”).
MINORITY OBSERVATIONS	<ul style="list-style-type: none"> None
ANOMALOUS COMMENTS	<ul style="list-style-type: none"> Observer A reported instances of less respectful treatment of inmates (see “Respectful behavior generally”). In contrast to other observers, Observer A felt the judge needed to show he had heard and considered defendants’ comments. This observer also felt he was not always transparent about his decisions or interested in defendants’ comprehension (see “Considered voice,” “Ensures information understood,” and “Provides adequate explanations”).

Summary and *exemplar language* of four observers’ comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	Three observers reported that Judge Harris <i>listened carefully</i> with <i>undivided attention</i> , asking <i>pointed questions to clarify their positions</i> .
Well-prepared & efficient	Two observers reported that Judge Harris was <i>well organized, obviously very well prepared, knowledgeable about the cases</i> and <i>familiar with all the arguments</i> , and had <i>reviewed the statutes pertinent</i> to the cases.
Respect for others’ time	Two observers reported that Judge Harris <i>started on time</i> . He <i>agreed</i> that a defendant from another town would <i>not need to be present just for setting dates</i> .

Respectful behavior generally	<p>Three observers reported that Judge Harris <i>greeted everyone with “Good morning”</i> and always ended with <i>“Thank you”</i> or <i>“Good luck.”</i> He showed interest in participants’ <i>well being</i>, asking <i>“How was [a class], I hope you’ve learned some things that will help you,”</i> and he <i>complimented attorneys</i>, saying, <i>“I appreciate the arguments you both made, they’ve been very helpful.”</i></p> <p>Two observers noted some interactions with attorneys. While the judge <i>gracefully entered conversations</i> by saying, <i>“Let me interrupt you, if you don’t mind,”</i> on occasion he just <i>interrupted and talked over</i> an attorney. One the other hand, one observer was <i>a little shocked</i> by an attorney’s statement, <i>“You are completely off the rails now,”</i> but it <i>seemed to indicate that the attorney was confident he could speak frankly and openly</i>. Judge Harris <i>did not take offense but took it in stride</i>, treating the attorney with <i>continued interest, respect, patience and understanding</i>.</p> <p>Observer A reported less respectful treatment of inmates. First, some indigent prisoners who had not been assigned attorneys due to the court’s error were sent back to jail to wait for a further week. One inmate asked for and was refused a bail reduction, implying the court should have responsibility for her additional incarceration due to not being assigned an attorney, but the judge did not <i>act dismayed</i> or assuage her or her family, who were <i>infuriated</i>, saying, <i>“It is his mistake and she has to spend another week in jail? That’s chicken (excrement).”</i></p> <p>Second, Judge Harris often spoke only to an inmate’s attorney, as if the inmate were invisible or not in the room. While this may have been to look out for the inmate’s interest and <i>not intentionally rude</i>, nevertheless seeing each inmate <i>as a real human being who deserves to be seen and acknowledged</i> with a quick <i>nod or smile or eye contact is the low hanging fruit of treating participants with courtesy and dignity and would make any judge a better judge</i>.</p>
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RESPECTFUL TONE

Courtesy, politeness and patience	Three observers reported that Judge Harris treated all participants <i>politely and courteously</i> , and they seemed comfortable as his <i>good will and caring showed through</i> .
Courtroom tone & atmosphere	Two observers reported that Judge Harris was <i>open, approachable, receptive, non-judgmental, calm, caring, and direct, and professional yet inviting</i> . His <i>quick mind</i> combined with a <i>gentle nature</i> made it <i>easy to trust his thinking process</i> , and participants <i>seemed to respect his authority and his knowledge</i> . The court <i>atmosphere was open, professional, efficient and even friendly</i> .
Body language	Two observers reported that Judge Harris <i>often smiled and made eye contact</i> with and <i>listened to</i> those addressing him.
Voice quality	Two observers reported that Judge Harris’ voice was <i>calm and pleasant</i> , but <i>very soft</i> , and <i>without a mic at his bench it was at times difficult to hear clearly everything he said over the other quiet talk going on</i> .

NEUTRALITY

Consistent and equal treatment	Two observers reported that Judge Harris was <i>equally cordial and professional with all individuals</i> . He made sure to <i>include every side’s viewpoint</i> and then <i>considered each side equally before making a decision</i> .
Acts with concern for individual needs	<p>Three observers reported that Judge Harris <i>remained truly engaged</i> with and <i>very interested</i> in anyone speaking, <i>facing and watching each person and focusing on their words</i>.</p> <p>One observer noted that the judge <i>comes across well when speaking to participants as his voice conveyed respect</i>, but he did <i>not speak directly to many participants</i>, and the observer <i>wondered why he did not</i>.</p>
Expresses concern for the individual	One observer reported that Judge Harris <i>cared about people’s situations and wanted to do the best he could for them</i> . In one case he <i>asked if an offer had been made</i> , saying, <i>“I just wanted to check and make sure that had been explored,”</i> and in a non-appearance case he noted, <i>“I’d love to give her another chance if she were here,” and then did set it over for another two weeks</i> .

Unhurried and careful	Two observers reported that Judge Harris never <i>hurried or interrupted</i> defendants. He was very <i>careful and precise in clarifying and checking everything</i> .
<i>VOICE</i>	
Considered voice	<p>Three observers reported that Judge Harris <i>invited attorneys to speak</i> with a <i>welcoming invitation</i>, such as, “<i>I’ve read your stuff. Go ahead and tell me why you’re here.</i>” He gave a <i>guideline</i> about the <i>amount of time he would like each side to take</i>, he also allowed <i>ample time and opportunity</i> for attorneys and AP&P representatives to <i>express their concerns</i>, and he <i>remained focused and interested in every point made</i>. He asked each attorney <i>many questions</i>, gave <i>appropriate responses</i>, and <i>ended each case by asking everyone</i>, “<i>Any questions or clarifications?</i>”</p> <p>One observer reported that the judge <i>occasionally</i> seemed ready to <i>cut off comment</i>, such as when saying, “<i>Well, we could just cut to the chase,</i>” and the observer wondered if this was <i>deflating or a damper on what the attorney might have wanted to say</i>, but in this case a <i>vigorous debate then ensued between both attorneys</i>, with the judge entering as well.</p> <p>Observer A felt that at times an <i>explanation was needed to show a speaker that the judge had heard and considered their comments</i>, and this observer <i>doubted</i> if she would feel heard as a defendant or <i>her situation considered</i>, as she would in other courts.</p>
<i>COMMUNICATION</i>	
Ensures information understood	<p>Two observers reported that Judge Harris <i>thoroughly and clearly worked through the charges</i> so everyone <i>knew exactly what was happening at each point</i>. He <i>took pains to ensure his rulings were understood, explaining his reasoning</i>, and asking, “<i>Does that make sense?</i>” He made sure a <i>confused</i> defendant understand how to hire an attorney, saying, “<i>All he [attorney] needs to do is show up and we can talk to him about what he needs. Is that all right?</i>” No one ever seemed to <i>go away confused about what needed to be done or what would happen next</i>.</p> <p>In marked contrast, Observer A did not feel that Judge Harris was as <i>interested in defendant comprehension as other judges</i>, and that if she were a <i>confused</i> defendant she <i>was not sure the judge would be concerned about her comprehension</i>.</p>
Provides adequate explanations	<p>Two observers reported that Judge Harris <i>carefully explained court processes</i> and the <i>meaning of terms</i>, such as to “<i>dismiss without prejudice.</i>” He <i>took the time to explain his reasoning and rationale</i> for decisions, in one case when denying a motion to dismiss, saying, “<i>I understand this matters to folks. I understand you have put a lot of efforts into this. I am sorry I cannot come to a conclusion that one party’s arguments are more reasonable than the other at this point.</i>” He gave <i>clear, detailed and precise directions</i>, including times, saying, “<i>We’ll start with the jury at 9:00, but the attorneys and defendant have to be here at 8:30.</i>”</p> <p>In marked contrast, Observer A reported that Judge Harris <i>was not always clear and transparent about how his decisions were made or about the rules of law</i>.</p>