Retention Evaluation Report 2018



The Honorable L. Douglas Hogan

About the report

In making its recommendation to voters about whether a judge should be retained, JPEC considers the judge's legal ability, integrity and judicial temperament, administrative skills, procedural fairness, public comment, and judicial discipline records as well as compliance with judicial education, fitness for office, and case-under-advisement time standards. If a judge meets minimum standards, there is a legal presumption that commissioners will vote to recommend the judge be retained. If a judge fails to meet minimum standards, there is a legal presumption that commissioners will vote not to recommend the judge for retention. Included below are the Survey and Courtroom Observation Reports. The Survey Report summarizes information collected from attorneys, court employees, jurors (district and some justice court judges only) and juvenile court professionals (juvenile court judges only). Surveys are anonymous and inclusion in the survey is based on court-appearance records. The Courtroom Observation Report summarizes information reported by at least four trained, volunteer court observers per judge.

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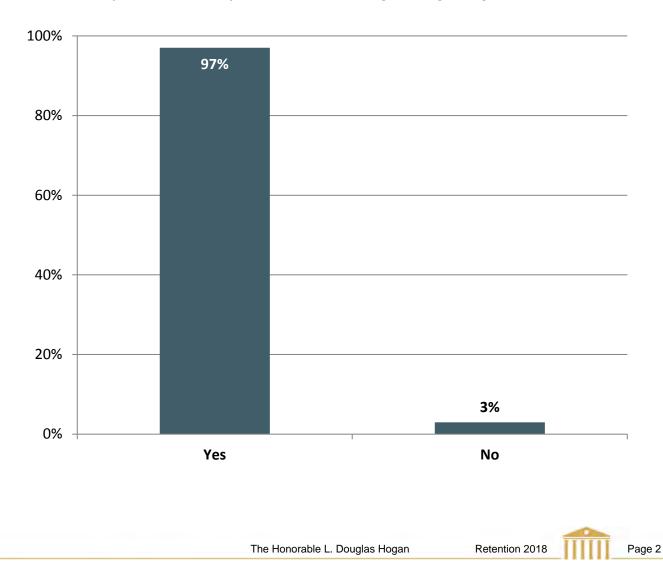
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Survey Results

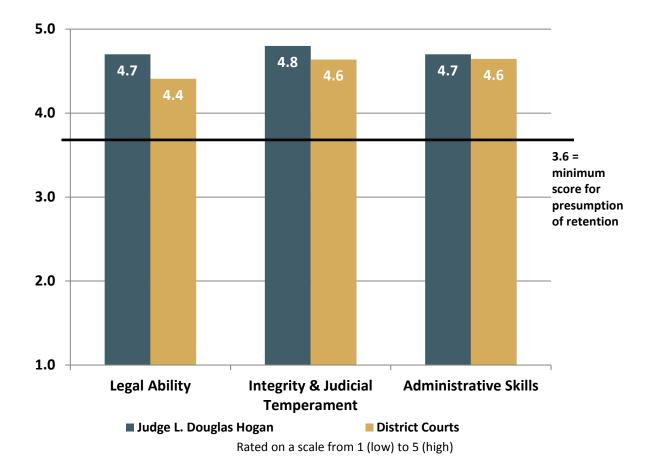
For Judge L. Douglas Hogan, 42% of qualified survey respondents submitted surveys. Of those who responded, 80 agreed they had worked with Judge L. Douglas Hogan enough to evaluate the judge's performance. This report reflects these 80 responses. For more information on the survey, please see Survey Information. For more information about the evaluation process, please see How to Read the Results.

Retention Question



Survey Question: Would you recommend that Judge L. Douglas Hogan be retained?

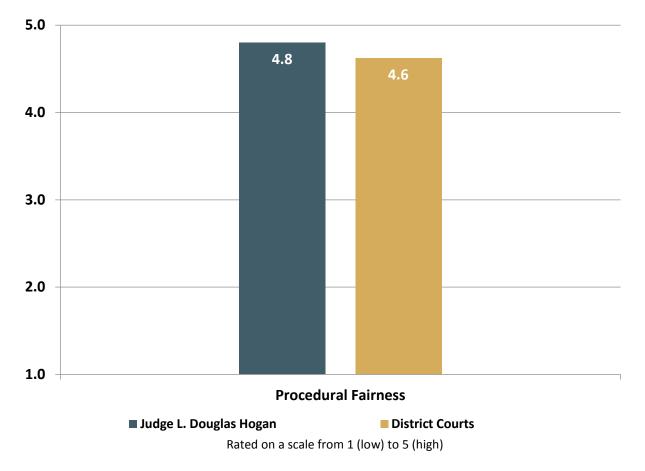
Statutory Category Scores





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Procedural Fairness 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.

Table A. Overall Procedural Fairness Determination (for Retention Only)

Category	Judge L. Douglas Hogan	
Procedural Fairness	Pass	

Responses to Survey Questions

Category	Question	Judge L. Douglas Hogan	District Courts
Legal Ability	The judge followed the legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that applied to the case at issue.	4.7	4.4
Legal Ability	The judge made adequate findings of fact and applied the law to those facts.	4.7	4.4
Legal Ability	The judge followed legal precedent or explained departures from precedent.	4.8	4.4
Legal Ability	The judge only considered evidence in the record.	4.6	4.5
Legal Ability	The judge based opinions/decisions on applicable legal principles and controlling law.	4.6	4.4
Legal Ability	The judge's opinions contained a readily understandable ruling.	4.7	4.5

Rated on a scale from 1 (low) to 5 (high)

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Responses to Survey Questions (continued)

Category	Question	Judge L. Douglas Hogan	District Courts
Integrity & Judicial Temperament	The judge made sure that everyone's behavior in the courtroom was proper.	4.8	4.7
Integrity & Judicial Temperament	The judge paid attention to what went on in court.	4.8	4.7
Integrity & Judicial Temperament	The judge's personal life or beliefs did not impair his or her judicial performance.	4.7	4.5
Integrity & Judicial Temperament	The judge demonstrated respect for the time and expense of those attending court.	4.7	4.6
Integrity & Judicial Temperament	The judge worked to ensure that the participants understood the court proceedings.	4.9	4.7
Integrity & Judicial Temperament	The judge conducted proceedings without favoritism.	4.7	4.6
Integrity & Judicial Temperament	The judge considered arguments from all sides before ruling.	4.8	4.6
Integrity & Judicial Temperament			4.6
Integrity & Judicial Temperament	The judge maintained a professional demeanor in the courtroom.	4.8	4.7

Rated on a scale from 1 (low) to 5 (high)



Responses to Survey Questions (continued)

Category	Question	Judge L. Douglas Hogan	District Courts
Administrative Skills	The judge was prepared for court proceedings.	4.7	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff were professional and constructive.	4.8	4.7
Administrative Skills	The judge managed the court calendar effectively.	4.5	4.5
Administrative Skills	The judge convened court without undue delay.	4.7	4.7
Administrative Skills	The judge ruled in a timely fashion.	4.7	4.6
Administrative Skills	The judge communicated clearly.	4.8	4.7
Category	Question	Judge L. Douglas Hogan	District Courts
Procedural Fairness	The judge treated all courtroom participants with equal respect.	4.8	4.6
Procedural Fairness	The judge performed his or her duties fairly and impartially.	4.8	4.6
Procedural Fairness	The judge promoted public trust and confidence in the courts through his or her conduct.	4.8	4.6
Procedural Fairness	The judge provided the court participants with a meaningful opportunity to be heard.	4.9	4.7

Rated on a scale from 1 (low) to 5 (high)

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Adjective Question Summary

Survey respondents rated how well a list of adjectives describes the judge. A rating of 1 indicates the adjective *does not describe the judge at all*, and a rating of 5 indicates the adjective *describes the judge very well*. For the positive adjectives, a higher average score is better. For the negative adjectives, a lower average score is better.

Descriptor	Judge L. Douglas Hogan	District Courts		
Attentive	4.8	4.6		
Capable	4.8	4.5		
Ethical	4.8	4.7	Positive Adjectives	
Knowledgeable	4.7	4.4	HIGHER average score is better	
Impartial	4.6	4.3		
Open-minded	4.5	4.3		
Disrespectful	1.2	1.4		
Impatient	1.3	1.6	Negative Adjectives	
Indecisive	1.4	1.6	LOWER average score is better	
Unprepared	1.3	1.4	13 better	

Survey Information

This report presents the results from the 2017 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

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), and
- 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 the 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 time 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 three or more non-trial appearances, and those with one to two 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).

Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Chief Justice and JPEC Chairperson. Next, an email invitation, signed by JPEC's Executive Director and the Utah State Bar President, contains links to all the individual surveys each respondent is invited to complete. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by at least two 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, that survey is locked and cannot be accessed again.

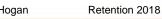


The number of questions included in the survey varies, ranging from 9 (jurors) to 35 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

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 average score in Procedural Fairness.

Evaluation Period

The retention evaluation period for judges standing for election in 2018 began on January 1, 2016 and ended on September 30, 2017.





Evaluative Criteria

CRITERIA	DESCRIPTION
RESPECT	
Listening & focus	Listening refers to all indications of attention and engagement through active listening. Giving voice to those in court is included below under "Considered voice".
Well-prepared & efficient	Efficiency refers to the judge's behaviors. The court's efficiency appears below under "Courtroom tone & atmosphere".
Respect for other's time	This includes the starting time of sessions as well as all interactions with those in court that take into consideration the value of their time.
Courtesy, politeness, and general demeanor	This refers to respectful behaviors generally, as well as behaviors directed at specific individuals that indicate respect for a person's value or status.
Body language	This refers to eye contact and facial expressions, general body language, and engaged behavior.
Voice quality	This refers to both mechanical qualities such as pitch and volume, and emotional qualities such as inexpressive, sarcastic or exasperated tone.
Courtroom tone & atmosphere	This refers more generally to the tone and atmosphere of the courtroom.
NEUTRALITY	
Consistent and equal treatment	This refers to listening to all sides, and treating individuals in similar situations similarly.
Demonstrates concern for individual needs	This refers to concern for individual differences and giving due regard to the individual's specific situation. Expressing concern that individuals understand the proceedings is included below under "Ensures information understood".
Unhurried and careful	This refers to allowing sufficient time for the judge and those in court to conduct themselves in a thorough manner.
VOICE	
Considered voice	This refers both to allowing those in court to express themselves and to the judge's consideration of what was expressed in his/her statements or decision.
Formal voice	This refers to giving voice based on required procedure without apparent consideration by the judge of what was expressed.
COMMUNICATION	
Communicates clearly	This refers both to clarity of speech and to the use of language appropriate to the listener.
Ensures information understood	This refers to active attention by the judge in ensuring those in court understand all information relevant to them, and includes translation and comprehension for non native English speakers.
Provides adequate explanations	This refers to providing sufficient explanation of the basis of decisions and of legal procedure and terminology to ensure that those in court understand proceedings relevant to them.

FOUR OVERVIEW SECTIONS

Overall assessment	The first statement in this section is an overall summary of the entire set of observer comments.
	The second statement indicates the number of observers indicating that they would feel comfortable appearing before the judge.
Widely agreed- upon themes	Behaviors reported by all (or almost all) observers and thus well established. Deficits mentioned here were widely reported and therefore merit attention.
	The subsequent statements are not intended to be a complete summary of the observers comments, but rather highlight the most frequently noted and forcefully expressed themes in the way that the observers expressed them, with the goal of evoking an overall sense of the entire set of observer comments.
Minority observations	Behaviors noted by two (or possibly three) observers that would be worth building on (if desirable) or otherwise thinking about avoiding.
	Not every behavior reported by a minority of observers is summarized here, only those that reflect a notable or somewhat discrepant perspective that was not widely agreed upon.
Anomalous comments	Comments of one (or in rare cases two) observers that reflect a markedly different or decidedly contradictory perspective from all other observers are included here. They are intended to stimulate reflection, such as: why were these observers affected by this behavior, or does this particular situation tend to lead to this uncharacteristic behavior?
	Not every anomalous comment in the report is included in this summary section. While all have been included in the report, some are not included in this summary section because they are too minor, or appear to reflect something about the observer rather than the judge.

Italicized text

Throughout the report, italicized text refers to actual words or phrases used by the observers.

Terminology

In all three overview sections, paragraphs are introduced with the following terminology.

If the number of observers is specified, e.g. "All observers reported..." or "Three observers reported...", then every statement in the paragraph was mentioned or implied or alluded to by that number of observers.

If the word "variously" is added, e.g. "All observers variously reported..." or "Three observers variously reported...", then not every statement in the paragraph was directly mentioned or implied or alluded to by every one of those observers, but rather the sense of all the statements in the paragraph taken together was.

To avoid repetition, the word "variously" is not used to open every paragraph in every detail box of the report, even though it generally applies.

Content Analysis

Overview

OVERALL ASSESSMENT	All observers were strongly positive about Judge Hogan.All observers reported confidence that if appearing before Judge Hogan they would be treated fairly.
	• All observers variously reported that Judge Hogan listened intently while maintaining eye contact. He began on time and kept things moving with little wasted time, but he did not rush and always gave thoughtful and considered decisions. He was extremely prepared with detailed knowledge about each case and the application of law, and he treated all defendants consistently. His speech was clear and articulate, and he was consistently generous in explaining court procedures, the consequence of his decisions, and what dependents should do after leaving the courtroom. He ensured that participants understood what was happening and the consequences of his orders, adding more explanation if necessary.
WIDELY AGREED-UPON THEMES	• All observers particularly emphasized how comfortable and at ease Judge Hogan made participants feel and how well he handled difficult defendants. He was sincere, friendly, kind, approachable, polite and extremely patient, and at the same time competent, professional, business-like and stern when necessary. His appropriate humor and levity made the courtroom atmosphere lighter and easier. Judge Hogan took the advice of the state but made his own judgements about what was best for each individual, focusing on changing defendants' behaviors by giving second chances with strict conditions and consequences. Observers also particularly emphasized that Judge Hogan genuinely cared about what had happened to each participant, and he gave ample opportunity for each person to present their version of events, spending as much time as he could hearing all sides of every story from every party involved. He carefully considered what each person said and asked many questions.
MINORITY OBSERVATIONS	• None
ANOMALOUS COMMENTS	• None

Summary and exemplar language of four observers' comments

	RESPECT		
Listening & focus	Two observers reported that Judge Hogan <i>listened intently to what everyone had to say</i> and <i>asked questions which showed that he was paying attention</i> .		
Well-prepared & efficient	All observers particularly emphasized that Judge Hogan was <i>extremely prepared</i> with <i>detailed knowledge of individual cases</i> and <i>information provided to him previously, ready to go forward</i> on each case. He was <i>very clear about the law, knew what he was doing,</i> and he was <i>definitely up on things.</i> He <i>tried to waste as little time as he could,</i> and <i>his excellent management style kept things fast moving.</i>		
Respect for others' time	Two observers reported that Judge Hogan <i>walked in on schedule at 8:30 a.m. ready to conduct business</i> . He always gave defendants the <i>benefit of the doubt when they had scheduling conflicts with other cases</i> and <i>did not show up</i> .		

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Courtesy, politeness, and general demeanor	All observers particularly emphasized that Judge Hogan <i>commanded</i> the courtroom <i>by making everyone feel comfortable and at ease from the moment that he walked in.</i> He was <i>very easy to speak to, easily bonded with everyone,</i> and <i>knew how to handle participants who were a little difficult.</i> He was <i>incredibly competent and caring while still providing humor and levity, laughing with the participants and asking about their life</i> and <i>making them feel that they were important and deserved his time.</i> While he was <i>willing to make many jokes with everyone which made his courtroom much lighter and easier,</i> he also <i>knew when to be serious.</i> His demeanor was <i>sincere, open, approachable, friendly, kind, flexible,</i> and he was <i>polite</i> and <i>extremely patient,</i> but at the same time he was <i>very professional</i> with a <i>business-like manner in every case</i> and <i>stern when ultimately letting defendants know what they had done wrong.</i>
	Judge Hogan <i>thanked</i> participants after depositions, and when a woman who had <i>recently been</i> diagnosed with schizophrenia had her charges dropped, he respectfully thanked her for coming. When a woman looked confused when asked to take a seat until the prosecutor was in the room, Judge Hogan kindly explained that she didn't do anything wrong, and they would get back to her shortly. He was generous with praise when someone had shown progress in their requirements, in one case quoting a book he'd been reading on giving advice and wishing the man well.
Body language	One observer reported that Judge Hogan <i>maintained eye contact when he was spoken to</i> and didn't <i>fumble around with papers when he was talking to people.</i>
	NEUTRALITY
Consistent and equal treatment	Two observers reported that Judge Hogan was <i>consistent</i> in his <i>respectful</i> , <i>non-discriminatory</i> treatment of all defendants, <i>whether from jail or outside</i> , <i>male or female</i> , <i>or first time or multiple time offenders</i> . He was very <i>sensitive in dealing with women and minorities</i> but without any hint of <i>favoritism</i> .
Demonstrates concern for individual needs	All observers particularly emphasized with numerous examples that Judge Hogan <i>cared about the lives of the people appearing before him.</i> He was <i>incredibly respectful and kind</i> when he <i>took time out of his own busy schedule to draft a report</i> for a <i>very confused</i> and <i>distraught</i> mother <i>acting as her own lawyer</i> , to make sure <i>she filed all the correct paperwork for her child.</i> He <i>consistently reminded defendants to let their attorney know if they changed their phone number and address. More than any other judge</i> that one observer had witnessed, he <i>made a real effort to do the best he could with the information he was given. On almost every occasion</i> the judge <i>did not end up taking the state's recommendations</i> but made his own judgement about the <i>best decision for defendants after listening to them</i> , while also <i>taking the advice of the state</i> .
	Judge Hogan was focused on changing behaviors and giving defendants another chance to improve their situation. After listening to a defendant explain what had transpired in violating probation terms, and after consulting with the prosecutor and the counsel, Judge Hogan decided to give the defendant a second chance provided it was based upon a legitimate rehabilitation plan that was strictly monitored, and in the event of non-compliance the result would be severe punitive measures. In one case he was sensitive to the impact on a defendant when the attorney had dropped the ball in following through on some necessary steps to get his client released. The judge asked that the incarcerated man be given an immediate court date so he would not have to wait in jail for a long time due to the attorney's mistake. He was very stern and serious with a young man who was in drug court seeking to go to an outpatient drug treatment center in California with his parents paying for it, trying to impress upon him the gravity of the situation so the man would hopefully take his treatment seriously.
Unhurried and careful	Two observers reported that Judge Hogan <i>never rushed</i> participants <i>in any way</i> , and his decisions <i>were thoughtful and considered</i> . However, one observer reported that <i>a few times</i> when Judge Hogan was racing the clock and wanted to get through everything as fast as possible, he rushed through the statements and questions that every judge needs to cover when sentencing.

	VOICE
Considered voice	All observers particularly emphasized that Judge Hogan was very open to listening to everyone and gave ample opportunity for them to present their version of events. He genuinely cared about what had happened and was curious to hear what they had to say, spending as much time as he could listening to every party involved and going above and beyond to hear all sides of every story, giving all lawyers ample opportunity to argue their positions, and asking victims or people in the audience related to defendants if they would like to speak or offer their opinion.
	He heard and carefully considered what each person said, and it never felt as if he had already made his decision and was listening only because he had to. He asked questions to learn more, even asking, "Why?" and never wanting any detail left out. If the participant thought it was important enough to mention, the judge thought it was important enough to consider. In a child custody case where the father was being sent to prison but wanted the mother to pay for him to see his child, Judge Hogan listened intently as the man explained his reasoning even though this was a ridiculous thing to ask the judge, before denying what he was asking for.
	COMMUNICATION
Communicates clearly	One observer reported that Judge Hogan was very articulate, clear and precise.
Ensures information understood	Three observers reported that Judge Hogan ensured that people understood what was happening, asking, "Have you read this document that details charges against you? Do you have any questions?" He also took the time to issue stern warnings about what would happen if a defendant did not follow through, in a couple of cases adding more explanation of the consequences of violations as the defendants were walking out of the room, to ensure that they understood their responsibilities. In contrast one observer reported that while Judge Hogan ended his cases with a "Thank you," he did not ask defendants if they had any questions unless it was a sentencing.
Provides adequate explanations	Two observers reported that Judge Hogan was <i>consistently generous in explaining court procedure</i> , in explaining the <i>consequences</i> of his decisions, and in <i>giving clear instructions</i> to defendants about <i>what the participants needed to do after they left the courtroom</i> . He <i>went into detail about why getting a pre-trial report done is so important, explaining how he uses what is in it to help make his decision</i> . He <i>took the time to explain to a lawyer that it was the position of the court that transfers to other judges were always OK, and so she didn't need to ask.</i>

How to Read the Results

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 Courts" 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 the Legal Ability 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.

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.

Respondents are asked whether or not they think the judge should be recommended for retention only during the retention cycle.

3RD JUDICIAL DISTRICT COURT

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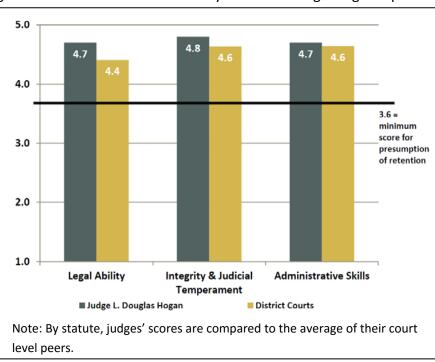
Honorable L. Douglas Hogan

- Serving Salt Lake, Summit & Tooele Counties
- Commission Recommendation: RETAIN
- Commission Vote Count: 12-0 (for retention)
- Performance Standards: Passed 8 of 8

Appointed in 2014, Judge L. Douglas Hogan's scores are statistically above the average of his district court peers on legal ability, integrity and judicial temperament, and procedural fairness. In administrative skills, Judge Hogan's scores are consistent with his peers. Ninety-seven percent of survey respondents recommend Judge Hogan for retention. Respondents and courtroom observers broadly agree that Judge Hogan's temperament and judicial demeanor are excellent. In addition, they remark on how respectfully and consistently he listens to all participants, giving each ample opportunity to be heard and demonstrating genuine interest in their lives. When rating attributes that describe Judge Hogan, respondents identify several as particularly descriptive: attentive, capable, impartial, and knowledgeable. They also characterize him as notably patient and decisive. Courtroom observers are solidly confident they would be treated fairly if appearing before Judge Hogan. This judge meets discipline standards set by statute and has been certified by the Judicial Council as meeting all time standards, education requirements, and mental and physical competence standards.

Judge L. Douglas Hogan was appointed to the Third District Court by Governor Gary Herbert in 2014. Judge Hogan received a juris doctorate with distinction from the McGeorge School of Law at the University of the Pacific in 1999. He completed his undergraduate studies at the University of Utah. Judge Hogan's private

practice included serving as a public defender for Tooele County from 2001 to 2006, where his duties included representing indigent participants in drug court. He has also worked as conflict counsel for the Salt Lake Legal Defenders Association. In 2006, Judge Hogan was elected as Tooele County Attorney where he served for eight years. He currently presides over a criminal calendar and Felony Drug Court in West Jordan.



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