



The Honorable Derek P. Pullan

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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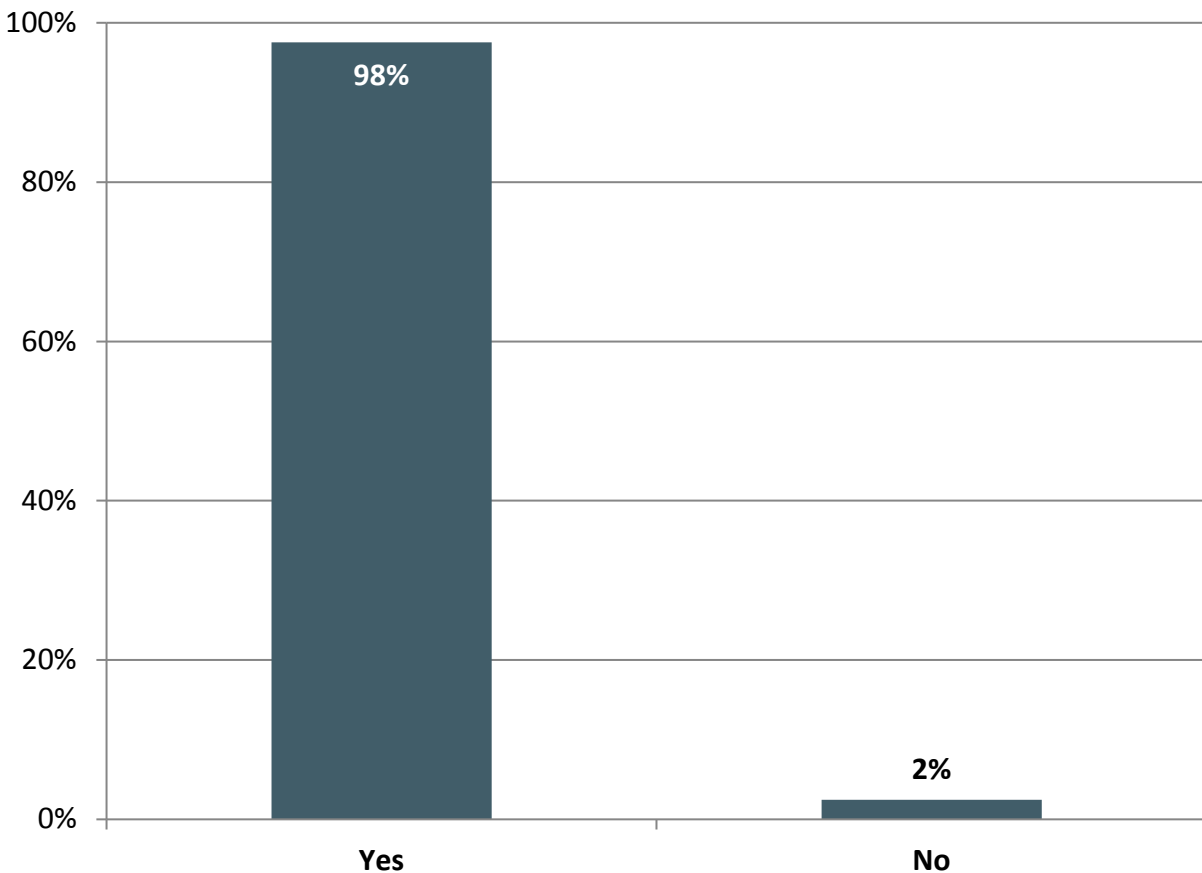
Survey Report

Survey Results

For Judge Derek P. Pullan, 49% of qualified survey respondents submitted surveys. Of those who responded, 130 agreed they had worked with Judge Derek P. Pullan enough to evaluate the judge's performance. This report reflects these 130 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.

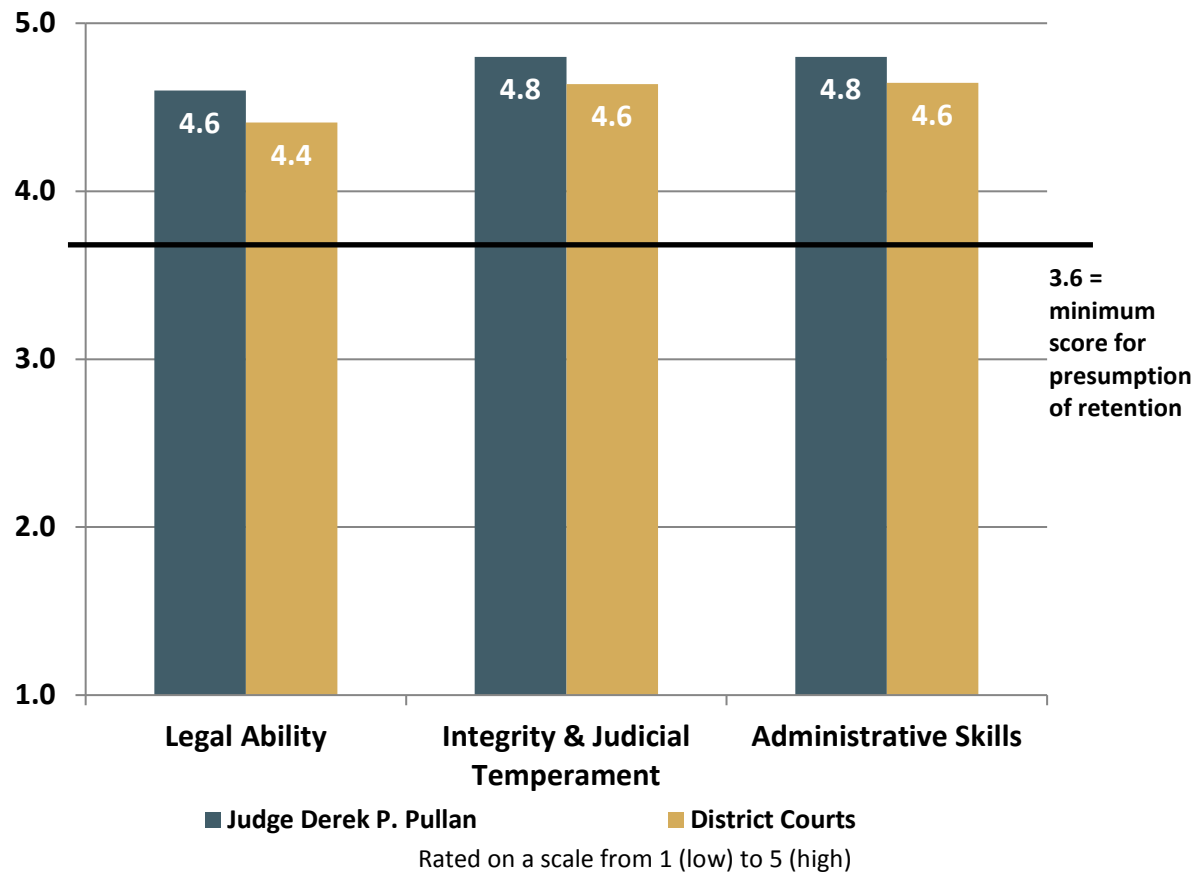
Retention Question

Survey Question: Would you recommend that Judge Derek P. Pullan be retained?

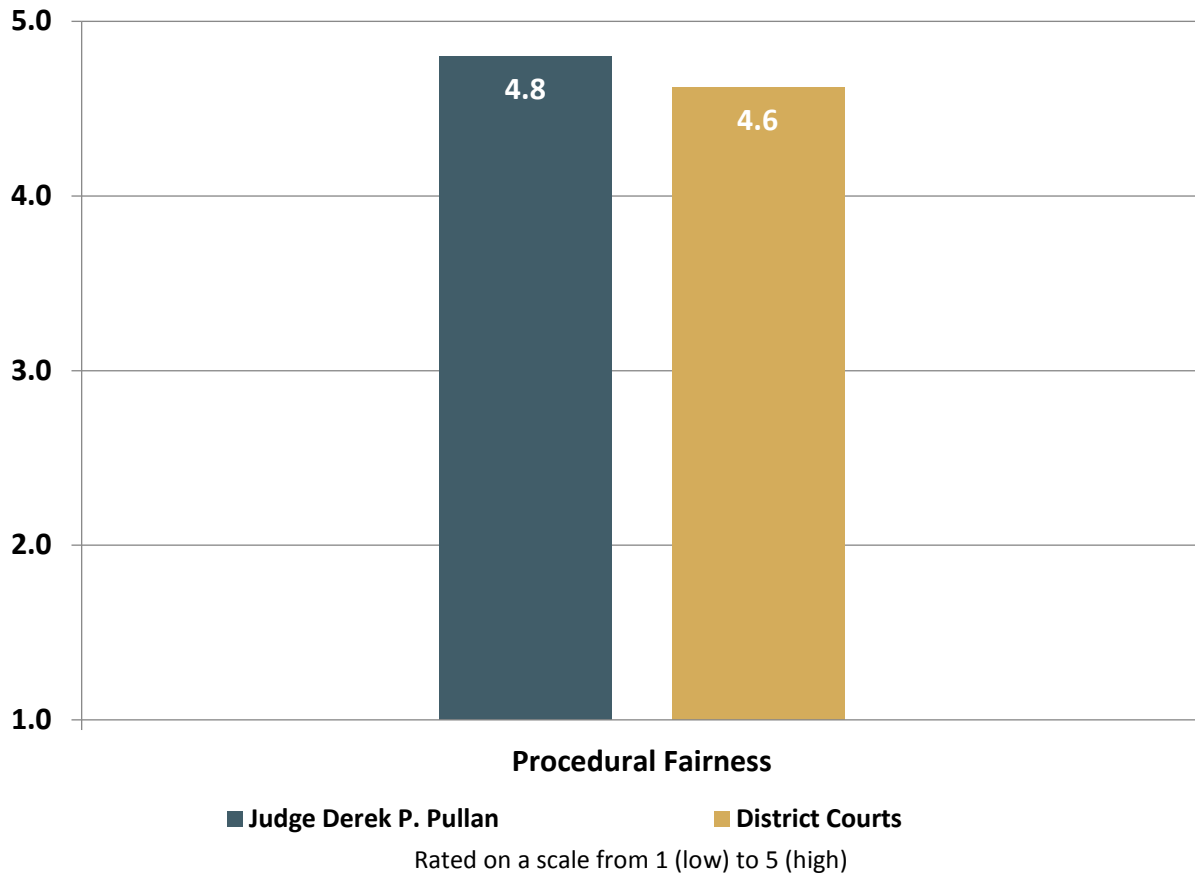


Survey Report

Statutory Category Scores



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 Derek P. Pullan
Procedural Fairness	Pass



Survey Report

Responses to Survey Questions

Category	Question	Judge Derek P. Pullan	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.	4.6	4.4
Legal Ability	The judge followed legal precedent or explained departures from precedent.	4.6	4.4
Legal Ability	The judge only considered evidence in the record.	4.5	4.5
Legal Ability	The judge based opinions/decisions on applicable legal principles and controlling law.	4.5	4.4
Legal Ability	The judge's opinions contained a readily understandable ruling.	4.6	4.5

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



Survey Report

Responses to Survey Questions (continued)

Category	Question	Judge Derek P. Pullan	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.	4.8	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.	4.7	4.6
Integrity & Judicial Temperament	The judge demonstrated diligent work habits.	4.9	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)



Survey Report

Responses to Survey Questions (continued)

Category	Question	Judge Derek P. Pullan	District Courts
Administrative Skills	The judge was prepared for court proceedings.	4.8	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.	4.6	4.5
Administrative Skills	The judge convened court without undue delay.	4.7	4.7
Administrative Skills	The judge ruled in a timely fashion.	4.8	4.6
Administrative Skills	The judge communicated clearly.	4.9	4.7
Category	Question	Judge Derek P. Pullan	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.	4.7	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.	4.8	4.7

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



Survey Report

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 Derek P. Pullan	District Courts	
Attentive	4.7	4.6	Positive Adjectives HIGHER average score is better
Capable	4.7	4.5	
Ethical	4.8	4.7	
Knowledgeable	4.6	4.4	
Impartial	4.3	4.3	
Open-minded	4.2	4.3	
Disrespectful	1.5	1.4	Negative Adjectives LOWER average score is better
Impatient	1.8	1.6	
Indecisive	1.5	1.6	
Unprepared	1.3	1.4	



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.



Courtroom Observation Report

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	<p>The first statement in this section is an overall summary of the entire set of observer comments.</p> <p>The second statement indicates the number of observers indicating that they would feel comfortable appearing before the judge.</p>
Widely agreed-upon themes	<p>Behaviors reported by all (or almost all) observers and thus well established. Deficits mentioned here were widely reported and therefore merit attention.</p> <p>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.</p>
Minority observations	<p>Behaviors noted by two (or possibly three) observers that would be worth building on (if desirable) or otherwise thinking about avoiding.</p> <p>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.</p>
Anomalous comments	<p>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?</p> <p>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.</p>

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	<ul style="list-style-type: none">• All observers were positive about Judge Pullan, while expressing some suggestions and additional comments in some areas.• All observers reported confidence that if appearing before Judge Pullan they would be treated fairly.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers variously reported that Judge Pullan listened attentively at all times, asking clarifying and insightful questions. He was highly efficient and organized despite an overfull calendar, and he was completely familiar with the law and the details of the cases and defendants' backgrounds. He was unfailingly respectful, patient, and courteous, and also business-like and professional. He treated all participants equally regardless of their circumstances, carefully took their individual needs and situations into consideration when imposing sentences, and he was thoughtful and careful before ruling. He gave adequate time to all speakers and repeatedly asked defendants if they had more for him to hear, and he listened carefully to all parties, acknowledging and appropriately considering all input. He used clear language when imposing sentences and giving instructions, and he provided clear and detailed explanations of his reasoning.• All observers variously reported that while Judge Pullan was well prepared, most of the time he looked down at his desk when listening and when imposing sentences, giving a mistaken impression that he was disinterested or not focused entirely on the speakers. All observers variously suggested that Judge Pullan make eye contact, smile more, and express more courtesy, to enhance his connection with participants and to complement his business-like manner and somewhat rote approach in the kind of cases he has done over and over.
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• Two observers noted Judge Pullan's clear, thoughtful, and careful explanations, but they also reported that he did not always ask if defendants understood his instructions, and one observer reported that a defendant had no idea what had happened in her proceeding (see "Ensures information understood").
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• In stark contrast to the other three observers, one observer reported that Judge Pullan could have more expansively explained his reasoning ("Provides adequate explanations").

Summary and *exemplar language* of four observers' comments

RESPECT

Listening & focus	Three observers reported that Judge Pullan <i>listened attentively at all times, focusing on each case and asking clarifying, insightful, and probing questions that demonstrated he understood not just what was said but what was meant.</i>
Well-prepared & efficient	Three observers reported that Judge Pullan was <i>highly efficient, very well organized and detailed. He studied the cases ahead of time and was completely familiar with the details of documents that had been submitted to him previously, in one case showing he was clearly aware of the defendant's educational and work history when imposing sentence by referencing the defendant's background that had not been discussed during this session. He had a detailed understanding of the law and respectfully questioned attorneys on their interpretations of the law and why they felt it applied.</i>



Respect for others' time	Two observers reported that Judge Pullan <i>tried to be respectful</i> of people's time despite having an <i>overfull calendar</i> . He <i>promptly rescheduled</i> hearings, and an observer was <i>impressed</i> that he <i>took the prosecutor's office to task</i> for not having the lawyer who would try a case present when they were trying to set a date for trial.
Courtesy, politeness, and general demeanor	All observers reported that Judge Pullan was <i>unfailingly respectful, patient, and courteous, business-like and professional, and a model of decorum</i> . He was <i>appropriately encouraging to defendants</i> when saying, "Thank you and good luck." However, one observer noted Judge Pullan's <i>business-like manner</i> and suggested he <i>express more courtesy</i> and say "Thank you" <i>more consistently</i> . Another observer felt that his <i>approach was somewhat rote</i> in the kind of cases he has done over and over.
Body language	All observers reported that even though Judge Pullan was <i>well prepared, most of the time he looked down at his desk</i> with his nose in his papers, computer and law books when people were talking to him, when imposing sentences, or when providing summaries, which gave a <i>mistaken impression</i> that he was <i>disinterested or not focused entirely on the statements that were made</i> . Observers suggested that Judge Pullan <i>make eye contact and smile more to enhance his connection with the participants</i> .
Courtroom tone & atmosphere	One observer reported that the court was <i>calm and professional</i> and <i>attorneys' side bar conversations were held quietly and off to the side</i> , but another observer reported that the <i>attorneys' whispering and light-hearted talk about subjects other than the cases while blocking the view of the bench was distracting</i> and suggested that the judge <i>should not have allowed this level of distraction to persist for as long as it did</i> .
<i>NEUTRALITY</i>	
Consistent and equal treatment	Two observers reported that Judge Pullan <i>treated all participants equally</i> and his <i>behavior toward defendants did not vary according to their physical characteristics or gender or whether they were in custody or not</i> .
Demonstrates concern for individual needs	All observers reported that Judge Pullan <i>carefully considered individual circumstances</i> by taking into consideration defendants' <i>ability to repay when considering fines or community service, reducing bail when appropriate, and working to get cases consolidated into one court to accommodate defendants' needs</i> . He <i>took into account</i> all of a 19 years old defendant's <i>circumstances who had not yet been admitted to an in-patient treatment center and actively participated in finding a solution other than prison</i> . He <i>encouraged a defendant to profit from a drug treatment program, learn from his mistakes, and to go on to lead a meaningful and healthy life</i> . When sentencing to prison a defendant with <i>several serious drugs charges</i> , he told her, "I <i>hope the day will come when you will thank me for what I am about to do to you because I believe it will save your life,</i> " and after talking about it with her she was quite appreciative.
Unhurried and careful	Two observers reported that Judge Pullan was <i>thoughtful and careful, frequently taking whatever time was needed to painstakingly review materials and think</i> as he made rulings. He <i>processed a large number of cases without rushing or doing anything hastily</i> .



VOICE

Considered voice All observers reported that Judge Pullan *listened carefully to all parties*. He *routinely asked for and appropriately considered their comments and acknowledged the input of both sides before rendering a decision*. He ensured that *both attorneys and defendants had adequate time for any matters they wished to speak to*, asked *detailed and specific questions to clarify each party's positions and the points of law they were citing*, and *especially asked defendants more than once if they had anything more they wished him to hear*. When the prosecutor indicated that victims in a *complex case felt that the law was too lenient* but were not present, the judge *re-scheduled the sentencing and instructed the prosecutor to invite the victims to the next hearing*. In another case he *looked carefully at an email confirming a job offer letter that the prosecution thought looked "a little homemade," and after taking time to read it allowed the man to leave the state to take the job, setting requirements for continued monitoring upon his return*.

COMMUNICATION

Communicates clearly One observer reported that Judge Pullan *used clear language when imposing sentences*.

Ensures information understood One observer noted that while Judge Pullan *gave clear instructions during sentencing to a defendant being treated for mental health, he did not ask her if she understood the instructions*. Another reported that *people were confused in court even with Judge Pullan's thoughtful and careful explanations*, and the *woman sitting next to the observer had no idea of what had happened in the proceeding and what to do next*.

Provides adequate explanations Three observers reported that Judge Pullan *explained terms and procedures*. He *gave clear and direct instruction regarding court orders and took time to explain the consequences of failing to appear as required*. He *clearly stated his reasoning and why his decision might not accommodate the recommendations that he had heard*. In one case after giving a *long and detailed summary of both sides and the areas where they contrasted*, he gave a *detailed summary of the legal reasoning that led to his decision*.

In stark contrast, one observer felt that Judge Pullan *could have more expansively explained his reasoning on rulings*.



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 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.

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



4TH JUDICIAL DISTRICT COURT

Visit JUDGES.UTAH.GOV for more information about this judge



Honorable Derek P. Pullan

- Serving **Juab, Millard, Utah & Wasatch** Counties
- Commission Recommendation: **RETAIN**
- Commission Vote Count: 12-0 (for retention)
- Performance Standards: Passed 8 of 8

On his legal ability and administrative skills, Judge Derek P. Pullan, appointed in 2003, scores statistically above the average of his district court peers. Indeed, respondents appreciate Judge Pullan's steadfast adherence to the law and excellent courtroom management skills. Judge Pullan scores consistently with his peers on other scored performance standards, and 98% of survey respondents recommend him for retention. Respondents identify several judicial attributes as particularly descriptive of Judge Pullan: capable, ethical, and knowledgeable. Survey respondents and courtroom observers agree that Judge Pullan is respectful and well prepared. Courtroom observers note that he gives participants adequate time to make their case and provides clear explanations of rulings. They also expect that if appearing in his court, Judge Pullan would treat them fairly. 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 Derek P. Pullan was appointed in September 2003 by Gov. Michael O. Leavitt. He is a member of the Utah Judicial Council and chairs the Council's Policy and Planning Committee. He has served on the Utah Supreme Court's advisory committee on the civil rules of procedure and the advisory committee on indigent defense. He served as chairman of the Board of District Court Judges and presiding judge of the Fourth District Court. He is a frequent presenter on evidence law at judicial conferences and has taught evidence at the J. Reuben Clark Law School. Judge Pullan graduated cum laude from the J. Reuben Clark Law School in 1993 and was a law clerk at the Utah Supreme Court.

