

Honorable Keith - Eddington – Juvenile Court Judge

Serving Daggett, Duchesne, and Uintah counties



Commission Recommendation: **RETAIN**

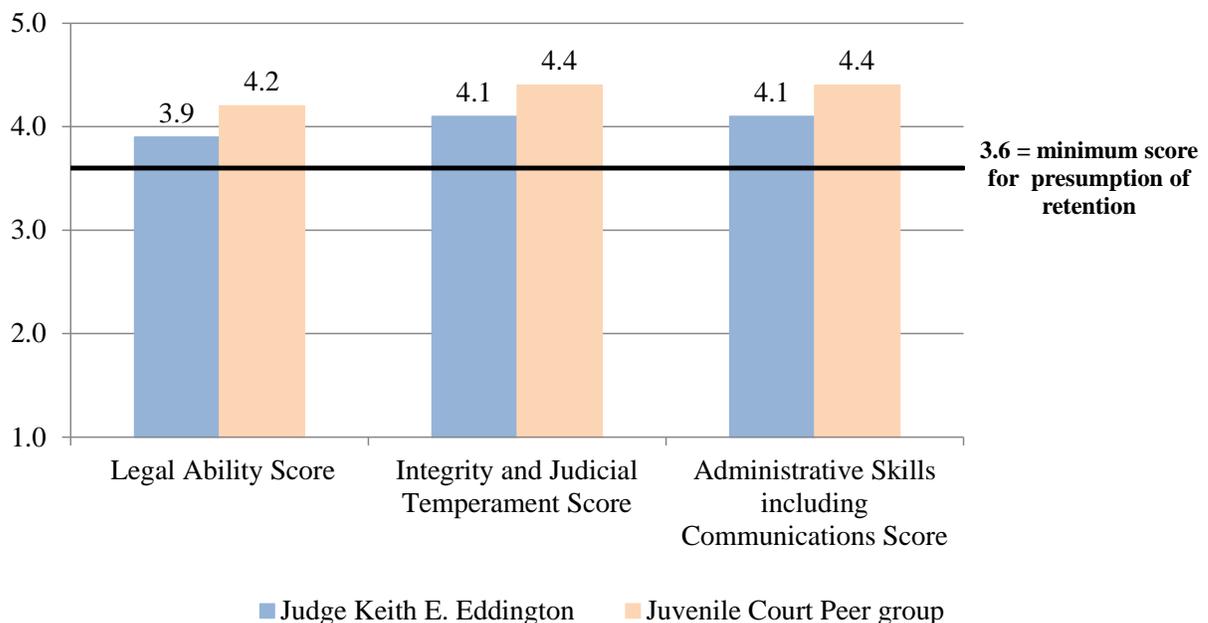
(vote count: 12-0 for retention)

Appointed to the juvenile court bench in 2013, Judge Keith Eddington scores consistent with the average of his peers in all survey categories, including procedural fairness. Survey respondents recognize his calm demeanor and fair approach, although some suggest he should be more assertive in controlling his courtroom. Both survey respondents and courtroom observers note his courteous manner but are divided on whether he is appropriately firm and decisive in court. Most courtroom observers agree that they would be treated fairly if they appeared before Judge Eddington. They consistently acknowledge his attentiveness, patience, and even-handed nature. Of 38 survey respondents answering the retention question, 32 (84%) recommend that Judge Eddington be retained.

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

Appointed to the Eighth District Juvenile Court in 2013 by Gov. Gary R. Herbert, Judge Keith Eddington earned a law degree from the BYU J. Reuben Clark Law School in 1988, and then engaged in private practice until 2001. After serving as an Assistant Attorney General in child protection for five years, he returned to private practice until his appointment to the bench. Judge Eddington has served on the Advisory Board of the Children's Justice Center in Uintah and Duchesne counties and prosecuted child welfare cases for the Ute Indian Tribe. He has also served as an adjunct professor of Business Law at USU and currently sits on the Utah Court Improvement Project Committee on Indian Affairs and serves as presiding judge for his district.

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



The Honorable Keith E. Eddington

Judicial Performance Evaluation Commission Report

Retention 2016

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Keith E. Eddington, 50% of qualified survey respondents submitted surveys. Of those who responded, 38 agreed they had worked with Judge Keith E. Eddington enough to evaluate his performance. This report reflects these 38 responses. The survey results are divided into five sections:

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

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 "Juvenile 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 the Legal Ability questions.

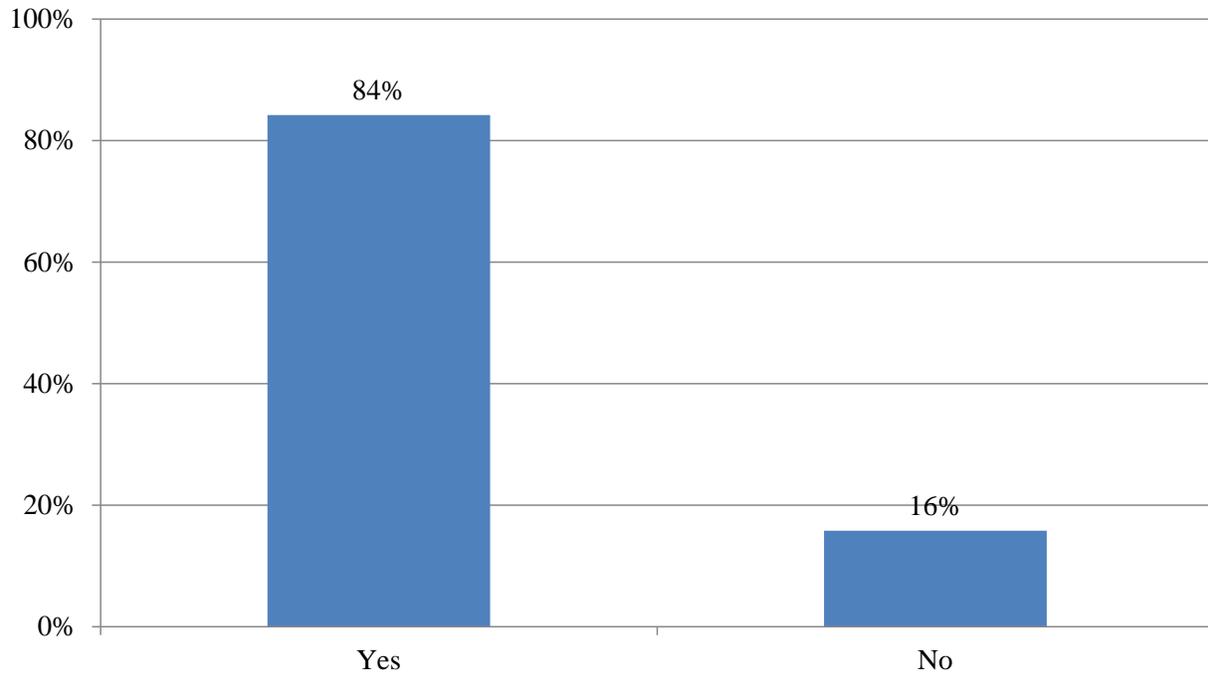
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to 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.

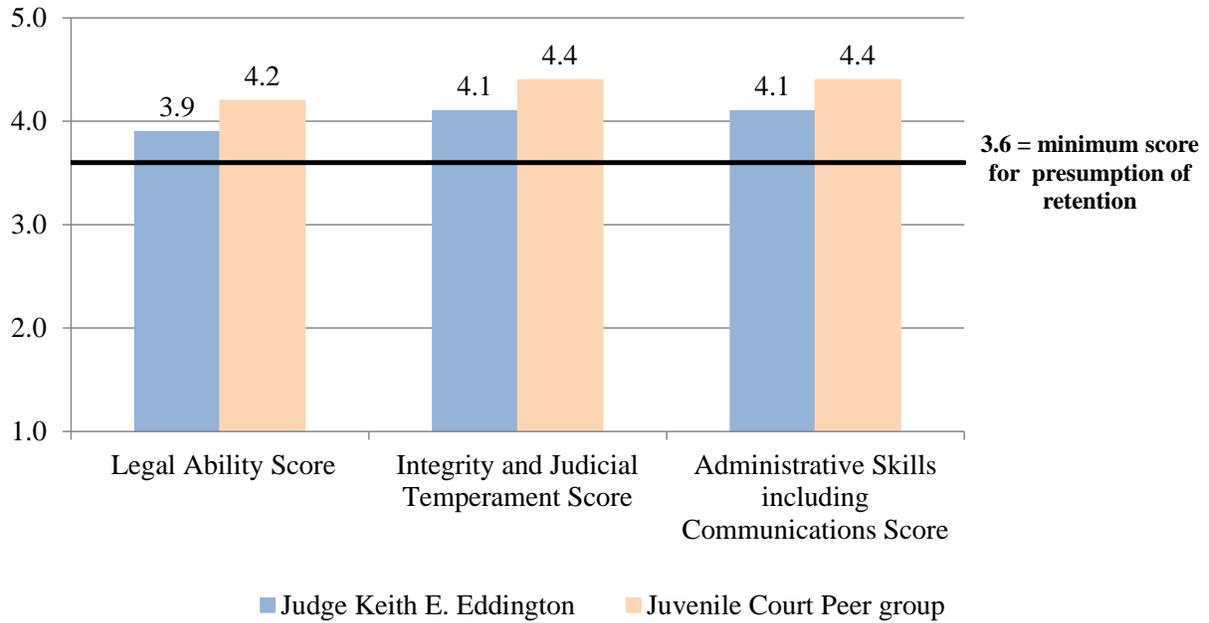
B. Retention Question

Figure A. Would you recommend that Judge Keith E. Eddington be retained?



C. Statutory Category Scores

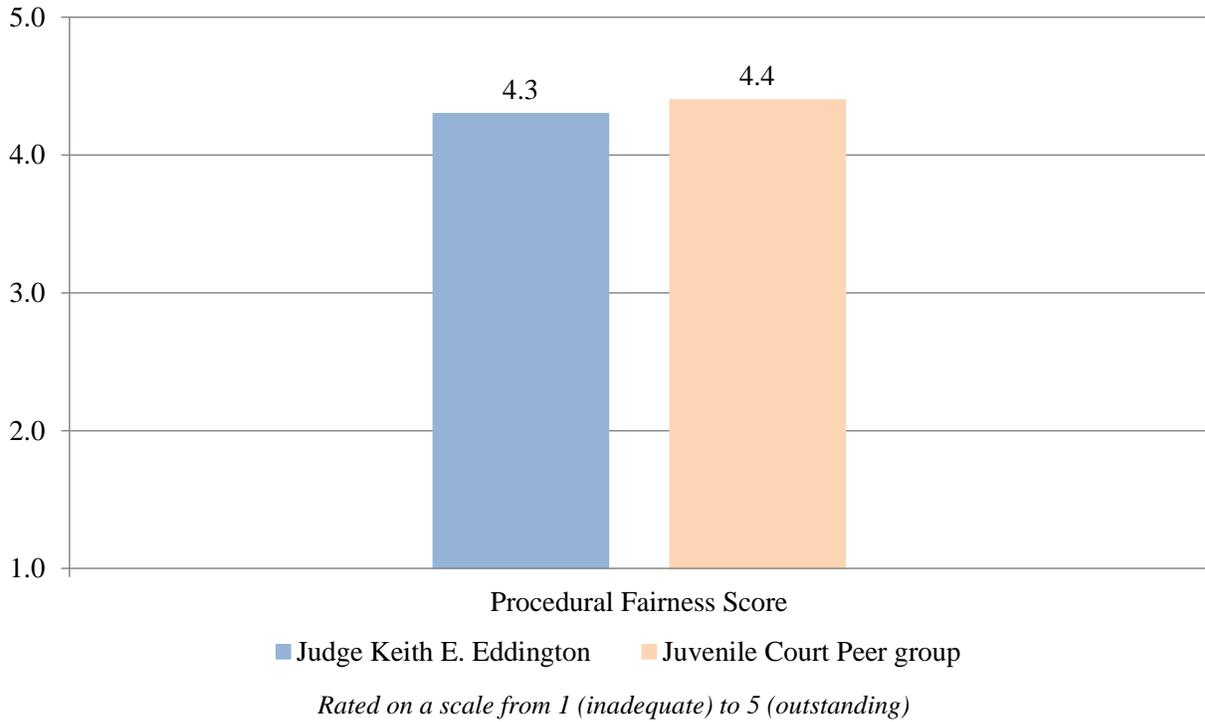
Figure B. Statutory Category Scores



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

D. Procedural Fairness Score

Figure C. 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. This determination is based on courtroom observations and relevant survey responses.

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

Category	Judge Keith E. Eddington
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

Category	Question	Judge Keith E. Eddington	Juvenile 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.	4.0	4.3
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	3.9	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	3.9	4.2
Legal Ability	The judge only considers evidence in the record.	3.9	4.1
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	3.5	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	3.6	4.3
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.0	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.2	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.0	4.4
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.2	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.	4.3	4.7

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

Table C. Responses to Survey Questions (continued)

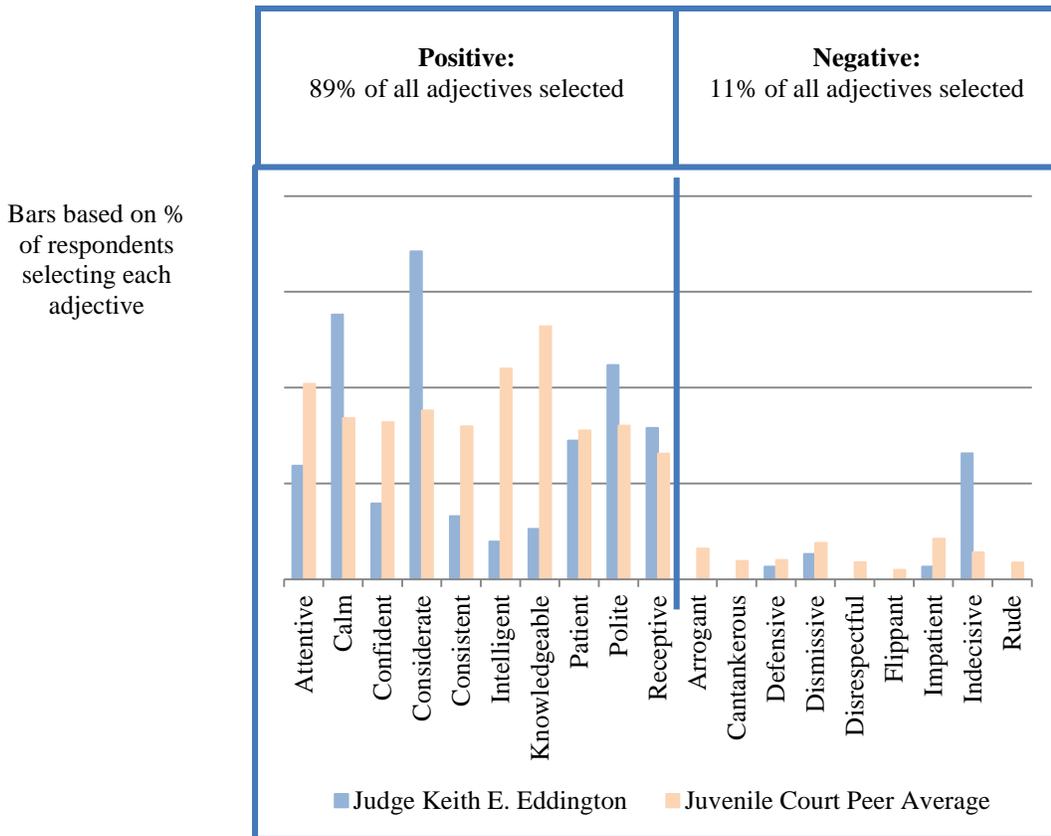
Category	Question	Judge Keith E. Eddington	Juvenile Court
Administrative Skills	The judge is prepared for court proceedings.	4.1	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.3	4.5
Administrative Skills	The judge is an effective manager.	3.8	4.4
Administrative Skills	The judge convenes court without undue delay.	4.3	4.3
Administrative Skills	The judge rules in a timely fashion.	4.4	4.6
Administrative Skills	The judge maintains diligent work habits.	4.0	4.6
Administrative Skills	The judge's oral communications are clear.	4.1	4.6
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.0	4.6
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.5	4.5
Procedural Fairness	The judge is fair and impartial.	4.2	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.3	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.4	4.6

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

F. Adjective Question Summary

From a provided list, survey respondents selected multiple adjectives to best describe the judge. The “positive” and “negative” labels at the top of the graph refer to the percent of all adjectives selected by all respondents that were either positive or negative. Each bar is based on the percent of respondents who selected that adjective. The adjacent bar shows a comparison to the other evaluated judges who serve on the same court level.

Figure D. Adjective Responses



G. Attorney Demographics

Table D: What are your primary areas of practice?

Collections	-
Domestic	60%
Criminal	50%
Civil	40%
Other	20%

Because many attorneys practice in multiple areas, totals may not equal 100%

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

5 or fewer	40%
6 - 10	-
11 - 15	30%
16 - 20	-
More than 20	30%

Survey Background and Methods

This report presents the results from the 2015 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 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).

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Governor, Chief Justice, President of the Senate, and Speaker of the House, requesting participation in the survey. 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 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 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 2016 began on January 1, 2014 and ended on June 30, 2015.

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE KEITH EDDINGTON

Four observers wrote 64 codable units that were relevant to 12 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, and three did not know if the judge was aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none">• Two observers were positive about Judge Eddington. Observers A and B were positive in many areas, but critical in some areas.• Three observers reported that they would feel comfortable appearing before Judge Eddington. Observer A felt that Judge Eddington would try to treat her fairly, but doubted if he had the focus and strength to do so, and would therefore not like to appear before him.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers variously reported that Judge Eddington listened attentively, maintaining good eye contact and posture, and nodded with acknowledgment of his understanding. He introduced himself to each participant and concluded cases with kind words and a smile. He was calm, patient, and gracious, showing special empathy and skill with young juveniles, earning their respect as both authoritative and nonthreatening. He was even-handed and applied the law consistently to defendants in the same situation, and observers emphasized Judge Eddington’s concern and sensitivity for the juveniles who were at a crossroads in their lives. He moved at a moderate pace with an attention to detail and no sense of rushing, asking all participants for their contributions and allowing them as much time as needed. He included the juveniles in all facets of their cases, first conversing with the juvenile and then engaging the family and staff. He took extra time to explain the procedures to juveniles, and he ensured that all defendants understood their rights.• Three observers commented on the uncomfortable and unexplained periods of silence between cases when defendants were unsure what to do. Observers eventually realized this was a waiting period while orders were typed (see “Courtroom tone & atmosphere”).
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• Observer A, in addition to many positive comments, was bothered by Judge Eddington’s casual, and in one case inappropriate, remarks between cases (see “Courtroom tone & atmosphere”). She also commented that the judge asked many questions, but they included superficial questions that lent themselves to one word answers (see “Considered voice”).• Observer B, in addition to many positive comments, reported that Judge Eddington’s sound advice was expressed in a passive manner, and he wished the judge were a stronger presence who brought a sense of respect, accountability, and even fear for his position (see “Courtesy, politeness, and general demeanor,” “Consistent and equal treatment,” and “Demonstrates concern for individual needs”).• One observer suggested that Judge Eddington could speak louder, and all participants would benefit from speaking directly into the microphone (see “Voice quality”).

Summary and *exemplar language* of four observers’ comments

RESPECT

Listening & focus	Three observers reported that Judge Eddington was <i>calm and patient</i> while he <i>listened carefully, nodding acknowledgments of understanding and approval.</i>
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Respect for others' time	Two observers reported that Judge Eddington used time <i>wisely</i> , excusing a case until <i>all were ready and moving on to the next</i> . He requested that a defendant <i>reporting to three different courts for different parts of the same charges to only have to answer in one court for all charges</i> .
Courtesy, politeness, and general demeanor	<p>Three observers reported that Judge Eddington <i>introduced himself</i> to each participant. He was <i>calm, patient, gracious, and frequently encouraging</i> with the juveniles, and his <i>empathy</i> for young juveniles' <i>nervousness and awkwardness was exemplary</i>. He made the experience <i>a little less concerning by representing the situation as a conversation about infractions, earning juveniles' respect as an authoritative but kindly and nonthreatening figure who represents the law that must be respected</i>. He <i>carefully explained that the purpose was not to punish juveniles but give tools to be successful</i>. His <i>calmness with a grandmother's frustration about having to deal with her granddaughter's nonresponsive behavior definitely helped resolve the situation to everyone's acceptance</i>. He concluded cases with <i>kind words and a smile</i>, for example, "<i>We all do foolish things, though not drugs, but we all learn from it,</i>" and, "<i>We all do dumb things; hopefully this is the last big one.</i>" The juveniles appeared to <i>really appreciate his positive words</i>.</p> <p>However, Observer B felt that despite Judge Eddington's <i>strong attributes as a good judge</i>, the observer did <i>not sense the weight of his office</i> and wished the judge were <i>a stronger presence</i>, as at times he was <i>not a factor in the courtroom</i> (see "Demonstrates concern for individual needs").</p>
Body language	Two observers reported that Judge Eddington <i>maintained good eye contact</i> , and his <i>forward-leaning body posture indicated that he was concerned</i> with what speakers had to say.
Voice quality	One observer suggested that Judge Eddington <i>could have spoken a little more loudly</i> , as both he and the defendants <i>did not speak directly into the microphone</i> , and their audible words were <i>followed by mere whispers, thus disrupting the continuity</i> .
Courtroom tone & atmosphere	<p>Observer B and another observer commented on the <i>uneasy quietness</i> between one case and the next, when Judge Eddington <i>would say nothing</i> and the <i>parties would sit in silence wondering what was next and if they should leave</i>. The observers eventually realized this quiet time was for the <i>clerk to type up an order</i> and wondered if the <i>process could be improved with a second clerk</i>, or if the judge could explain the silence and <i>make the atmosphere more comfortable</i>.</p> <p>Additionally, Observer A became <i>irritated</i> by the <i>waste</i> of the judge's time between cases, as instead of calling a recess and returning to his office, the judge engaged in <i>casual, inconsequential remarks that drew attention to himself</i> and were <i>less than professional</i>, for example, "<i>I don't think I have had a pizza from Pizaros,</i>" or, "<i>Are you still a hay farmer? I'm trying to decide whether to get some cows or sell the place.</i>" The observer was <i>bothered</i> after one case when the judge <i>revealed his feelings in court behind a family's back</i>, saying, "<i>Maybe she can't do it. She was a mess. I know that Dad's not happy with me. We've just gone as far as we could with her.</i>"</p>

NEUTRALITY

Consistent and equal treatment	<p>Two observers reported that Judge Eddington was <i>even-handed with both sides of the issue</i> and his behavior <i>conveyed a real sense of neutrality by working for inclusion of all participants</i>. His behavior was <i>equally courteous and respectful</i> and <i>without bias</i> with those families he <i>personally knew and those he did not know</i>. The judge <i>applied rules and sentencing consistently</i>, and he gave the same <i>additional opportunities</i> to two juveniles with <i>the same situation</i>.</p> <p>However, Observer B felt that Judge Eddington <i>overextended his neutrality and consistency</i> and should have given <i>specific attention</i> to a <i>belligerent and disrespectful juvenile who threatened his father in the courtroom</i>. The judge <i>did not pursue the alleged threat and maintained the same course he had with juveniles who displayed no condescending nor combative attitudes</i>.</p>
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Demonstrates concern for individual needs	<p>Three observers emphasized the <i>extra care</i> Judge Eddington exhibited in dealing with juveniles, and indicated that he was <i>sensitive to their needs</i>. He <i>understood they were at a crossroads in their lives and tried hard to help move [them] toward a better life</i>. When an <i>angry father serving a sentence in a Louisiana prison demanded to see his daughter</i>, Judge Eddington <i>reminded him with enough authority so that order was restored that he was there to protect the rights of the child and not to agree to any particular demand by the father</i>. In another case the judge agreed to a mother's request and <i>extended the due date of the juvenile's community service in order to let her coordinate with the probation officer and obtain documentation for the court</i>.</p> <p>Observer B also offered examples of Judge Eddington's concern for participants. For example, when he <i>sensed a mother's frustration that her son was not going to school</i>, he said, "<i>That is not acceptable,</i>" and <i>taking an interest in the son's future</i> described his <i>own story of postponing law school for ten years</i>, telling the young man to <i>better prioritize his life and put school before his job</i>, concluding, "<i>I have never ordered someone not to work, but if I have to, I will.</i>" However, Observer B also reported that while Judge Eddington was effective in many situations, in many cases his <i>sound direction and advice</i> were expressed in a <i>passive</i> manner, and he needed to be <i>firmer and create more of "an event" for these struggling teens</i>, displaying a <i>stronger presence and a sharper portrayal of the seriousness of wrongdoing</i>. The observer wished that the judge brought more of a <i>healthy dose of respect, a sense of accountability, and even some fear</i> of his position, as in these cases the observer <i>did not feel like he was involved in a courtroom setting</i>.</p>
Unhurried and careful	<p>Two observers reported that Judge Eddington <i>moved at a moderate pace and took a lot of time when he framed his questions and made comments</i>. There was <i>never a sense of rushing</i>, and his <i>attention to detail before issuing rulings was reassuring</i>.</p>

VOICE

Considered voice	<p>All observers reported that Judge Eddington asked all participants for <i>their contributions</i> and gave them the <i>opportunity to express themselves</i>. He <i>patiently allowed the time and listened to a young woman who was very descriptive and consumed at least six or seven minutes in explanation</i>.</p> <p>Judge Eddington always <i>began with conversations with the juveniles</i> and then asked the parent or guardian <i>what had happened to bring them to court</i>. He was <i>dedicated to including the juveniles in all facets of their cases</i>. In one case he engaged all staff in <i>penetrating conversations</i> regarding a course of action, and once <i>convinced that he was taking the correct approach</i> he then <i>discussed it with the juveniles until they indicated they fully understood what was going to happen and why</i>.</p> <p>While Observer A reported that Judge Eddington asked a lot of questions to <i>better understand the juvenile's circumstances</i>, for example, "<i>How is school going for you?</i>" or, "<i>Tell me, is there anything new? Anything you want to add,</i>" she also commented that many of the questions <i>seemed to be superficial and lent themselves to one word answers</i>.</p>
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COMMUNICATION

Ensures information understood	<p>Two observers reported that Judge Eddington <i>ensured that defendants understood their rights and what they would be giving up with a guilty plea</i>, explaining them in <i>simple terms and asking if they understood</i>. He <i>took extra time to explain procedures and legal terms to the juveniles without any appearance of condescension</i>. When there were <i>several family members at the defendant's table</i>, he <i>took the time to ask each person if they fully understood what was being litigated</i>.</p>
Provides adequate explanations	<p>One observer reported that Judge Eddington gave <i>juveniles thorough explanations of what they were experiencing</i> in his courtroom. However, Observer A agreed with the judge when he said, "<i>I think we did talk about your rights the last time. Today we just sort of slopped through it. Any questions?</i>" as she felt he did review the rights in a <i>casual and less than all-inclusive manner</i>.</p>