JPEC
UTAH JUDICIAL PERFORMANCE EVALUATION COMMISSION

Retention Evaluation Report 2020

The Honorable Douglas Nielsen

About the Report

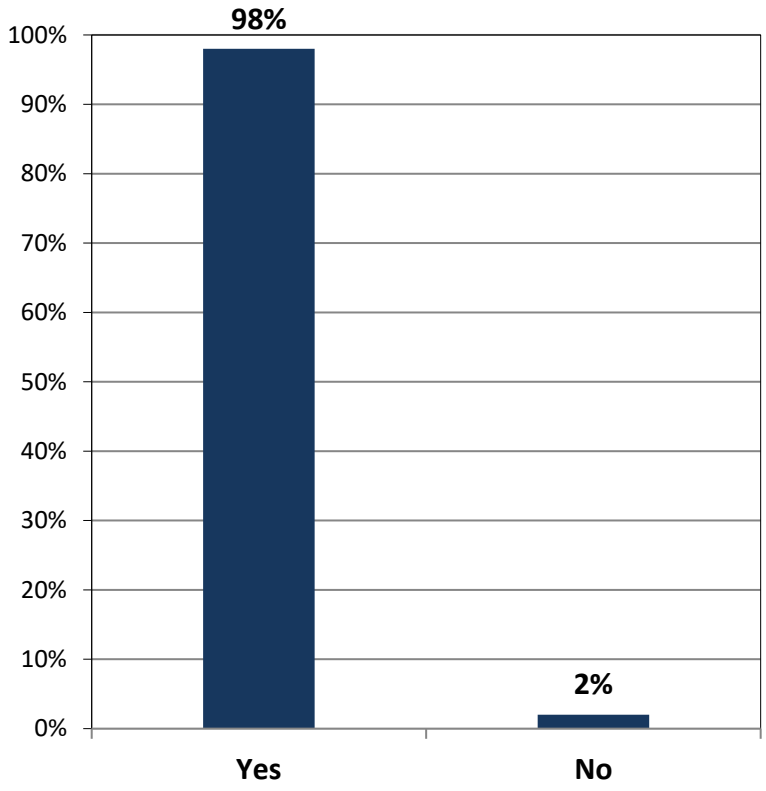
In making its recommendation to voters about whether a judge should be retained, JPEC considers the judge's legal ability, integrity and judicial temperament, administrative skills, procedural fairness, public comment, and judicial discipline records as well as compliance with judicial education, fitness 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 Report and Report of Courtroom Observation. 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 Report of Courtroom Observation summarizes information reported by at least four trained, volunteer court observers per judge.

Content Links

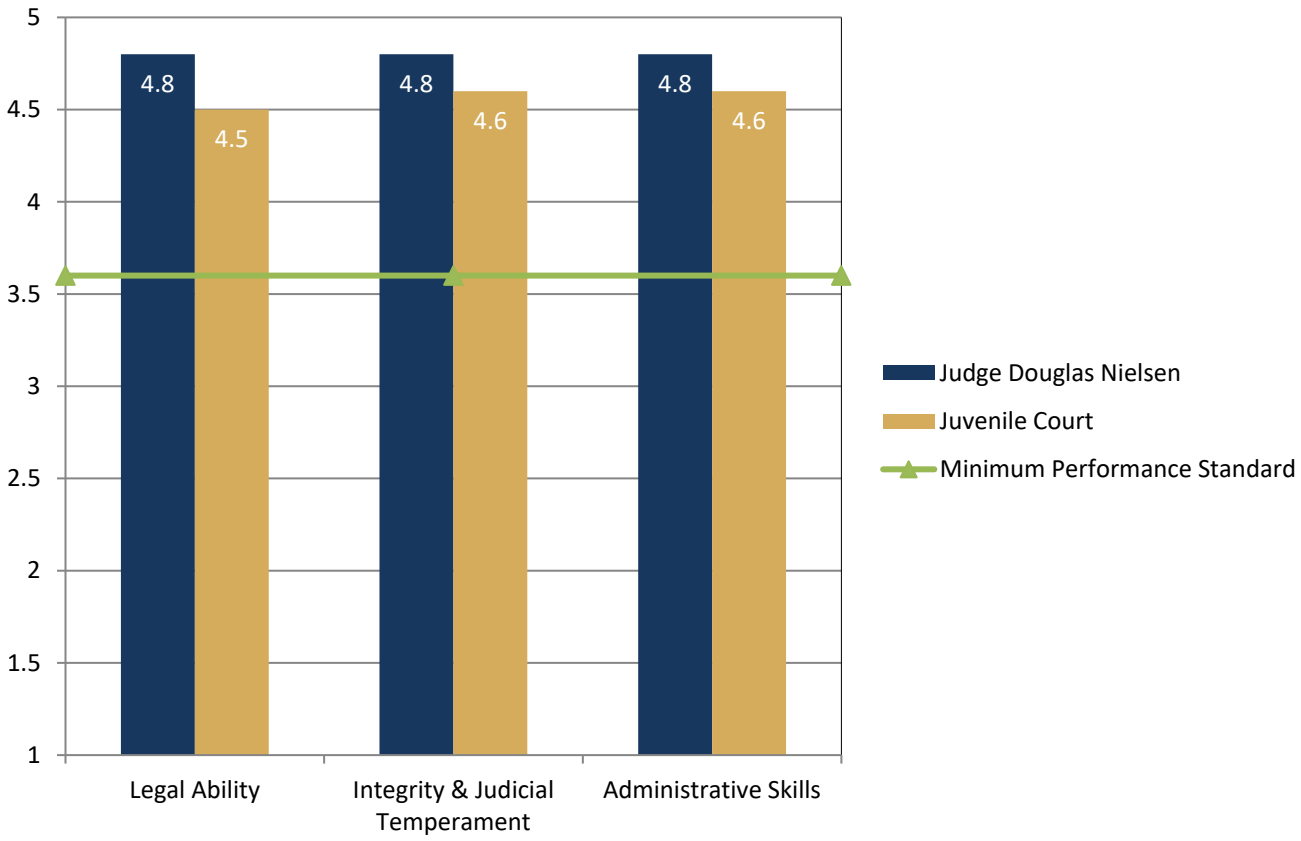
Survey Results

For Judge Douglas Nielsen, 66 qualified survey respondents agreed they had worked with Judge Nielsen enough to evaluate the judge's performance. This report reflects these 66 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



Statutory Category Scores



Procedural Fairness Results

The judge must demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants at a level commensurate with the other scored standards.

Table A. Overall Procedural Fairness Determination

Category	Judge Nielsen
Procedural Fairness	Pass

To determine whether the judge passes the procedural fairness standard, the Commission considers only data collected as part of the performance evaluation, which includes, but is not limited to:

- Courtroom Observation results
- The judge's disciplinary record
- Survey results (below):

Category	Judge Nielsen	Juvenile Court
Procedural Fairness	4.8	4.7

Responses to Survey Questions

Category	Question	Judge Nielsen	Juvenile Court
Legal Ability	The judge follows the legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.8	4.5
Legal Ability	The judge made adequate findings of fact and applied the law to those facts.	4.8	4.5
Legal Ability	The judge followed legal precedent or explained departures from precedent.	4.8	4.5
Legal Ability	The judge only considered evidence in the record.	4.7	4.4
Legal Ability	The judge based opinions/decisions on applicable legal principles and controlling law.	4.8	4.5
Legal Ability	The judge's opinions contained a readily understandable ruling.	4.9	4.5

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

Responses to Survey Questions (continued)

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

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

Responses to Survey Questions (continued)

Category	Question	Judge Nielsen	Juvenile Court
Administrative Skills	The judge was prepared for court proceedings.	4.9	4.7
Administrative Skills	The judge's interactions with courtroom participants and staff were professional and constructive.	4.9	4.7
Administrative Skills	The judge ruled in a timely fashion.	4.8	4.7
Administrative Skills	The judge communicated clearly.	4.8	4.7
Administrative Skills	The judge managed the court calendar effectively.	4.8	4.5
Administrative Skills	The judge convened court without undue delay.	4.8	4.5
Category	**Question**	**Judge Nielsen**	**Juvenile Court**
Procedural Fairness	The judge treated all courtroom participants with equal respect.	4.9	4.7
Procedural Fairness	The judge performed his or her duties fairly and impartially.	4.8	4.7
Procedural Fairness	The judge promoted public trust and confidence in the courts through his or her conduct.	4.7	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)

Attribute Question Summary

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

Descriptor	Judge Nielsen	Juvenile Court	
Attentive	**4.8**	**4.6**	**Positive Attributes HIGHER average score is better**
Capable	**4.7**	**4.6**	
Ethical	**4.8**	**4.7**	
Knowledgeable	**4.6**	**4.6**	
Impartial	**4.5**	**4.3**	
Open-minded	**4.5**	**4.4**	
Disrespectful	**1.1**	**1.4**	**Negative Attributes LOWER average score is better**
Impatient	**1.3**	**1.6**	
Indecisive	**1.3**	**1.7**	
Unprepared	**1.2**	**1.4**	

Survey Information

This report presents the results from the 2019 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 five or more non-trial appearances, and those with fewer than five 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, the Utah State Bar President, and JPEC Chairperson. Next, an email invitation, signed by JPEC's Executive Director contains a link to access 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.

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 (low) to 5 (high).

Survey Information

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 2020 began on October 1, 2017 and ended on September 30, 2019.

Explanation of Courtroom Observation Summary

SECTION	DESCRIPTION
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 also 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, presented 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. 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 observers' comments are included in this section, typically if they are too minor, or appear to reflect something about the observer rather than the judge.

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.

Evaluative Criteria for Courtroom Observation

CRITERIA	DESCRIPTION
RESPECT	
Listening & Focus	Listening refers to all indications of attention and engagement through active listening.
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.
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 to participants based only on required procedure without apparent consideration by the judge of what was expressed.

Report of Courtroom Observations

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.

Content Analysis

Overall Assessment
• All observers were enthusiastically positive about Judge Nielsen, commenting in laudatory terms about his favorable demeanor and abilities. • All observers reported confidence that if appearing before Judge Nielsen they would be treated fairly.
Widely Agreed-Upon Themes
• All observers variously reported that Judge Nielsen was well-organized and informed of the details of each case and its nuances. Court started and ended on time and he kept things on pace. He was always prepared for the next hearing, having set aside the appropriate time for each case, and the courtroom assistants had a bell in case the judge was talking too much and needed a reminder about time. He greeted everyone by their first name, and he was very straightforward, polite, friendly, and courteous. He was also professional, and stern when the circumstances warranted, and he was very open and clear about the expectations of each hearing. He recognized and commended the parents on the difficulty of their decision making and praised the children while encouraging them to do their best. When speaking to people in a calm tone and steady voice he looked right at them, sitting forward in his chair with an "in charge" but respectful posture and treating everyone in a consistent way. He never rushed anyone or cut them off but was patient and careful in handling the cases, in one case preferring to wait for a delayed interpreter even though the participant was happy to start without the translator. He ensured that all parties knew the purpose of their hearing, and he asked if they needed anything or had any questions. Explaining things was Judge Nielson's forte, and he made sure that everyone understood what was transpiring by explaining in great detail what was happening, including the factors he relied on in making his decision. • Judge Nielsen interacted successfully with juveniles of all ages and mental capacities, showing his interest in their needs and concerns and his intention to do what is right for everyone and treating them with dignity and respect. Two observers particularly emphasized Judge Nielsen's skills in managing stressful situations and participants without getting stressed or overwhelmed himself. For example, in a challenging case of a young woman estranged from her parents that was stressful for the observer to watch, Judge Nielsen handled the situation masterfully and displayed a high degree of empathy and wisdom. • Observers also emphasized Judge Nielson's open and approachable demeanor that made participants feel at ease and encouraged their input. He granted participants plenty of time to speak, and he listened to what was being said without interrupting, frequently asking if he had "missed anything?" and asking the children if there was anything that he should know, and he took all their opinions into consideration before he finalized his decision.
Minority Observations: None
Anomalous Comments: None

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 "Juvenile Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (low) to 5 (high). 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.

To determine whether the judge passes the Procedural Fairness standard, the Commission considers only data collected as part of the performance evaluation. 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. For midterm evaluations, respondents are asked whether they think the judge would benefit from added training or education.

4th Judicial District Juvenile Court

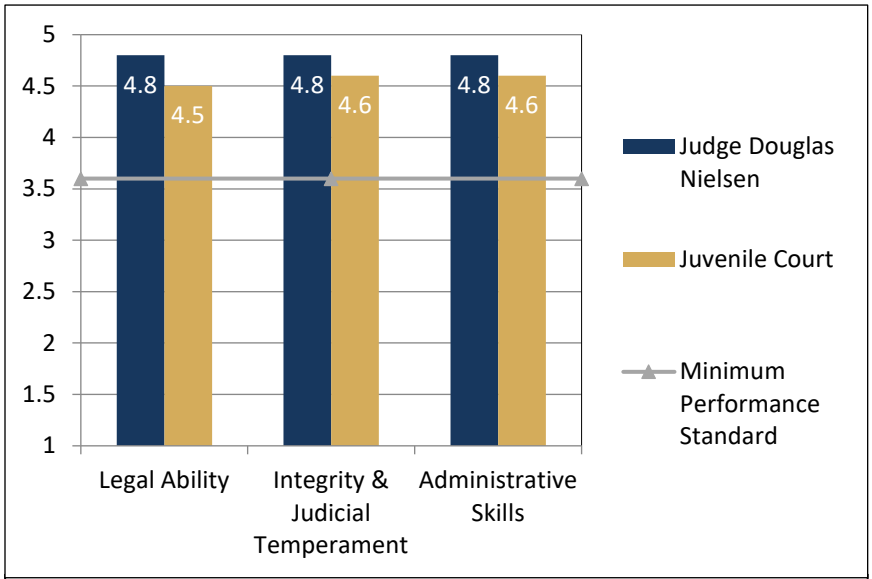
Visit JUDGES.UTAH.GOV for more information about this judge

Honorable Douglas Nielsen

- Serving Juab, Millard, Utah & Wasatch counties
- Commission Recommendation: **Retain**
- Commission Vote Count: 13 - 0 (for retention)
- Performance Standards: Passed 8 of 8

Appointed to the juvenile court bench in 2016, Judge Douglas Nielsen's scores are statistically above the average of his juvenile court peers on legal ability and administrative skills and consistent with his peers on all other scored minimum performance standards. Ninety-eight percent of survey respondents recommend him for retention. Survey ratings of judicial attributes indicate Judge Nielsen is notably respectful, patient, decisive, and prepared. Several respondents laud the judge's legal knowledge and skills. Respondents and courtroom observers enthusiastically agree that he displays a courteous demeanor and excels at treating everyone in court fairly. Furthermore, they appreciate the judge's timeliness and value that he listens and gives all court participants an opportunity to be heard. All court observers report confidence that they would be treated fairly if they were to appear in Judge Nielsen's court. 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 Douglas Nielsen was appointed to the bench in January 2013, first serving in the Lehi City Justice Court and Alpine/Highland City Justice Court until being appointed by Governor Herbert to the Fourth Judicial District Juvenile Court Bench in September 2016. He earned a bachelor's degree from Utah State University in 2004 and graduated from Oklahoma City University Law School in 2007. During law school, Judge Nielsen interned for the Oklahoma County Public Defenders Association and the Utah County Public Defenders Association. In 2007, he became an associate at Young, Kester & Petro and in 2010, formed the law firm of Petro & Nielsen, where he served until his appointment to the bench. During his time in the judiciary, Judge Nielsen has served on various boards and committees including the Board of Justice Court Judges, Board of Juvenile Court Judges and as chair of the Fourth District Child Welfare Interagency Committee.



Note: By statute, judges' scores are compared to the average of their court level peers