

# The Honorable Robert J. Dale

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### 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 Report
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  - Survey Information
- Report of Courtroom Observation
  - Evaluative Criteria
  - Content Analysis
- How to Read the Results
- Voter Information Pamphlet

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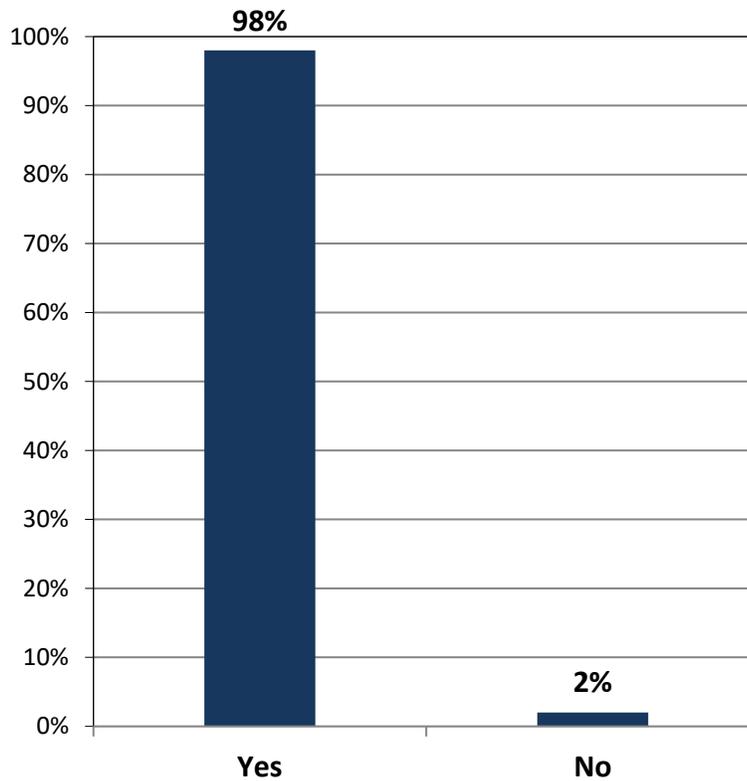
## Survey Report

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### Survey Results

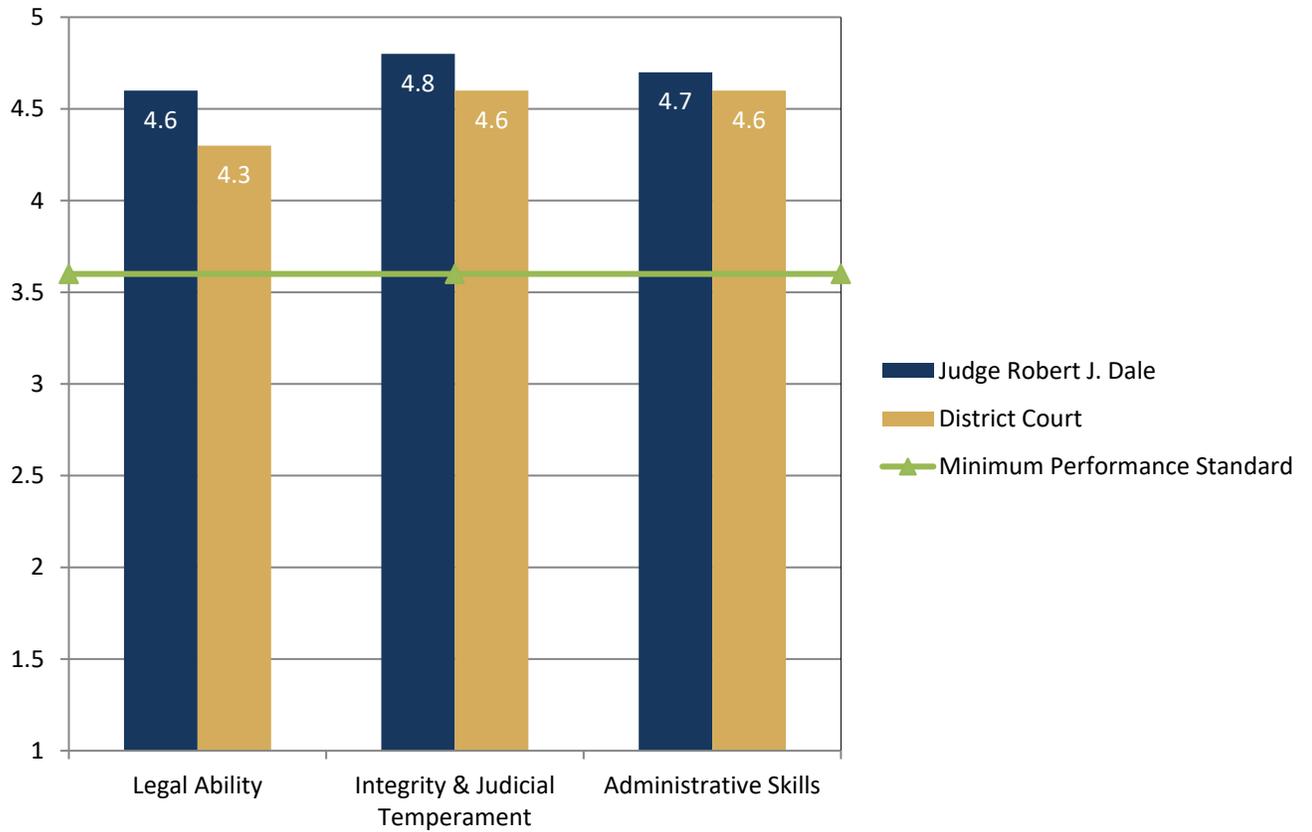
For Judge Robert J. Dale, 52 qualified survey respondents agreed they had worked with Judge Dale enough to evaluate the judge's performance. This report reflects these 52 responses. For more information on the survey, please see Survey Information. For more information about the evaluation process, please see How to Read the Results.

### Retention Question



# Survey Report

## Statutory Category Scores



## Survey Report

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### 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 Dale
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 Dale	District Court
Procedural Fairness	4.8	4.6



## Survey Report

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### Responses to Survey Questions

Category	Question	Judge Dale	District 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.	4.6	4.4
Legal Ability	The judge made adequate findings of fact and applied the law to those facts.	4.5	4.3
Legal Ability	The judge followed legal precedent or explained departures from precedent.	4.6	4.2
Legal Ability	The judge only considered evidence in the record.	4.6	4.4
Legal Ability	The judge based opinions/decisions on applicable legal principles and controlling law.	4.6	4.3
Legal Ability	The judge's opinions contained a readily understandable ruling.	4.5	4.3

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



## Survey Report

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### Responses to Survey Questions (continued)

Category	Question	Judge Dale	District Court
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.	4.8	4.5
Integrity & Judicial Temperament	The judge conducted proceedings without favoritism.	4.7	4.5
Integrity & Judicial Temperament	The judge considered arguments from all sides before ruling.	4.7	4.5
Integrity & Judicial Temperament	The judge demonstrated diligent work habits.	4.7	4.6
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.	4.8	4.6
Integrity & Judicial Temperament	The judge demonstrated respect for the time and expense of those attending court.	4.6	4.6
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)



## Survey Report

### Responses to Survey Questions (continued)

Category	Question	Judge Dale	District Court
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 ruled in a timely fashion.	4.7	4.6
Administrative Skills	The judge communicated clearly.	4.7	4.6
Administrative Skills	The judge managed the court calendar effectively.	4.6	4.5
Administrative Skills	The judge convened court without undue delay.	4.6	4.7
Category	Question	Judge Dale	District Court
Procedural Fairness	The judge treated all courtroom participants with equal respect.	4.9	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	4.5
Procedural Fairness	The judge provided the court participants with a meaningful opportunity to be heard.	4.8	4.6

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



## Survey Report

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### 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 Dale	District Court	
Attentive	4.6	4.5	<b>Positive Attributes HIGHER average score is better</b>
Capable	4.6	4.4	
Ethical	4.8	4.7	
Knowledgeable	4.5	4.4	
Impartial	4.6	4.3	
Open-minded	4.5	4.2	
Disrespectful	1.2	1.5	<b>Negative Attributes LOWER average score is better</b>
Impatient	1.6	1.8	
Indecisive	1.6	1.8	
Unprepared	1.4	1.6	



## Survey Information

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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

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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.



## Report of Courtroom Observations

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### Explanation of Courtroom Observation Summary

SECTION	DESCRIPTION
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 also 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, presented 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. 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 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.</p>

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.



## Report of Courtroom Observations

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### Evaluative Criteria for Courtroom Observation

CRITERIA	DESCRIPTION
<b>RESPECT</b>	
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.
<b>NEUTRALITY</b>	
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.
<b>VOICE</b>	
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

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### **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.

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## Report of Courtroom Observations

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### Content Analysis

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#### Overall Assessment

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- All observers were strongly positive about Judge Dale.
  - All observers reported confidence that if appearing before Judge Dale they would be treated fairly.
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#### Widely Agreed-Upon Themes

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- All observers variously reported that Judge Dale gave each case his full attention. He was clearly well-prepared for every case, and he was thorough when consistently asking if there had been any changes to pre-sentence reports and when waiting for missing reports before proceeding. He displayed a unique ability to dispatch the calendar with decorum while not seeming hurried. The court was very organized, and he took the time before each hearing to review his original instructions to be sure there was no ambiguity. He greeted participants with a friendly “Hello” and wished defendants “Good luck,” and he willingly accommodated future court dates that were agreeable to others. He was calm and polite, he maintained his composure, and his demeanor was consistent, courteous, respectful and appropriate, including with those who were incensed, frustrated, and upset. He accommodated people in wheelchairs, and he invited elderly people with canes to testify seated rather than forcing them to stand at the podium. When participants seemed confused as to how to express themselves, the judge coached them very nicely.
  - Judge Dale spoke in an authoritative but cordial voice, and he made good eye contact. His body language and facial expressions showed his rapt attention, for example when nodding and placing his hand on his chin. One observer was particularly impressed by Judge Dale’s professional behavior towards a participant with major physical disabilities and appearance. The judge maintained eye contact without avoiding looking at the participant, spoke clearly but not slowly which would have been insulting, listened patiently while giving the participant ample time to talk, and clearly explained his decision and rationale without “reducing” his decision out of pity, but rather treating the participant equally and with respect.
  - Judge Dale applied rules consistently across people and cases, but he also considered cases individually and imposed sentences that he felt appropriate for the situation, and he showed his concern for the rehabilitation of uncooperative defendants. He allowed all participants to share their stories, and he asked multiple questions for clarification, listening patiently and attentively to their responses. He showed that he was interested in a participant’s information when he politely stopped a participant who had started to say something to the court, telling him, “Please keep that thought” until the judge could come back to the participant after he had heard from the state. He allowed a participant to read in full a letter the participant had written that was not short about his feelings and the charges against him.
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Minority Observations: None

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Anomalous Comments: None

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## How to Read the Results

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

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (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.



# 2<sup>nd</sup> Judicial District Court

Visit [JUDGES.UTAH.GOV](http://JUDGES.UTAH.GOV) for more information about this judge

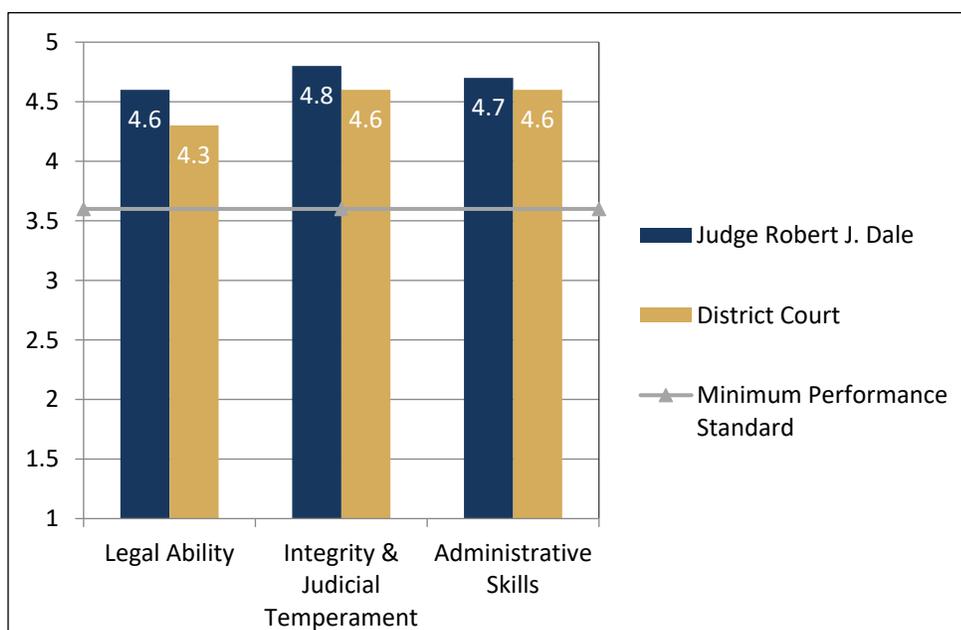


## Honorable Robert J. Dale

- Serving Davis, Morgan & Weber counties
- Commission Recommendation: **Retain**
- Commission Vote Count: 13 - 0 (for retention)
- Performance Standards: Passed 8 of 8

Appointed in 2010, Judge Robert Dale's scores are statistically above the average of his district court peers on legal ability and procedural fairness, and consistent with his peers on all other scored minimum performance standards. Ninety-eight percent of survey respondents recommend him for retention. They praise the judge for his calm demeanor, thoughtful decisions, and his skillful explanations. Survey ratings of judicial attributes indicate Judge Dale is particularly open-minded as well as characterize him as notably respectful. Court observers compliment the judge for his consistent application of procedures and sensitivity to people's needs, and all report confidence that they would be treated fairly if they were to appear in Judge Dale'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 Robert J. Dale was appointed to the Second District Court by Governor Herbert in 2010. Judge Dale earned his Bachelor of Arts degree in 1972 from the University of Utah, graduating *magna cum laude* and Phi Beta Kappa, and his law degree in 1976, having served on the Law Review and graduating Order of the Coif (top 10%). He litigated in private practice law firms, serving on their boards, for over thirty years. He also served on, among others, the Layton City Planning Commission, the Utah Real Estate Division Committee for drafting state-approved real estate forms, and the Utah Wildlife Federation Board of Directors.



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

