

A Performance Audit of the Judicial Performance Evaluation Commission

Addressing Shortcomings in
Efforts to Promote Judicial
Accountability and Improvement

Office of the Legislative
Auditor General

Report to the UTAH LEGISLATURE







THE MISSION OF THE LEGISLATIVE AUDITOR GENERAL IS TO

AUDIT · LEAD · ACHIEVE

WE HELP ORGANIZATIONS IMPROVE

Audit Subcommittee

President J. Stuart Adams, Co-Chair
President of the Senate

Senator Kirk Cullimore
Senate Majority Leader

Senator Luz Escamilla
Senate Minority Leader

Speaker Mike Schultz, Co-Chair
Speaker of the House

Representative Casey Snider House
Majority Leader

Representative Angela Romero
House Minority Leader

Audit Staff

Kade R. Minchey, Auditor General, CIA,
CFE

Ryan Thelin, Senior Audit and
Operations Supervisor, CIA

Erick Bravo, Audit Supervisor

Brendon Ressler, Lead Auditor

Jordan Green, Audit Methodologist

Alyssa Minor, Audit Staff

Office of the Legislative Auditor General

olag.utah.gov





Office of the Legislative Auditor General

Kade R. Minchey, Legislative Auditor General

W315 House Building State Capitol Complex | Salt Lake City, UT 84114 | Phone: 801.538.1033

Audit Subcommittee of the Legislative Management Committee

President J. Stuart Adams, Co-Chair | Speaker Mike Schultz, Co-Chair

Senator Kirk Cullimore | Representative Casey Snider

Senator Luz Escamilla | Representative Angela Romero

September 30, 2026

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report:

“A Performance Audit of the Judicial Performance Evaluation Commission: Addressing Shortcomings in Efforts to Promote Judicial Accountability and Improvement” [Report #2026-23].

An audit summary is found at the front of the report. The scope and objectives of the audit are included in the audit summary. In addition, each chapter has a corresponding chapter summary found at its beginning.

[Utah Code 36-12-15.3\(2\)](#) requires the Office of the Legislative Auditor General to designate an audited entity’s chief officer. Therefore, the designated chief officer for the Judicial Performance Evaluation Commission is Mary-Margaret Pingree. Mary-Margaret Pingree has been notified that they must comply with the audit response and reporting requirements as outlined in this section of *Utah Code*.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade R. Minchey, CIA, CFE

Auditor General

kminchey@le.utah.gov

AUDIT

Independent, objective, evidence-based reviews that identify opportunities to strengthen performance, accountability, efficiency, and outcomes.

LEAD

A high standard for audit excellence: continuously improving our methods, embracing innovation, and applying the most effective tools and techniques available.

ACHIEVE

Every engagement approached with determination, professionalism, and a commitment to overcoming challenges in pursuit of meaningful improvements.

***Audit. Lead. Achieve.** These principles reflect both what we do and how we do it. We believe every organization can improve, and we can help. Our goal is to provide decision-makers with actionable information that supports continuous improvement, informed governance, and long-term success. To meet this goal, our findings must be objective, independent, and grounded in evidence. We design recommendations to be constructive, practical, and focused on helping organizations build upon their strengths. Our audits are designed to help policymakers better serve the people of Utah.*

What the Judicial Performance Evaluation Commission Is Doing Well

The Judicial Performance Evaluation Commission (JPEC) has made changes in recent years, in collaboration with the Utah Legislature, to conform with national best practices. It is currently studying ways to include additional perspectives in its evaluations. From our observations, JPEC is committed to fulfilling its role and providing accurate and useful information to judges and voters.

How This Report Supports Improvement

This report is intended to support JPEC's efforts to promote accountability and improvement among the judiciary. We note that significant weaknesses exist in the evaluation process that should be addressed. Specifically, JPEC relies on limited information to evaluate judicial performance and does not consistently or transparently communicate evaluation results to the public. We make recommendations to address these deficiencies that include adopting an evaluation model that includes procedures for validating concerning information and quality assurance processes. We also identify ways for the Legislature to clarify its expectations for the evaluation process and a need for JPEC to collaborate with the judiciary to foster improvement among judges. These changes will support JPEC's efforts to provide meaningful accountability and improvement for the judiciary.

WE HELP ORGANIZATIONS IMPROVE

olag.utah.gov



PERFORMANCE AUDIT

AUDIT REQUEST

The Legislative Audit Subcommittee prioritized a performance audit of the efficiency and effectiveness of the Utah State Courts in May 2025. Because of the important role that the Judicial Performance Evaluation Commission (JPEC) plays in promoting accountability and improvement in the judiciary, we expanded the audit scope to include a review of the commission.

BACKGROUND

The Legislature created JPEC in 2008 to provide external accountability for judges. Its membership is made up of individuals appointed by the Legislature, Governor, and Supreme Court. The Commissioner of the Department of Criminal Justice also serves on the commission. JPEC evaluates judges standing for retention and presents voters with information on their performance. It also provides feedback to judges to promote judicial improvement. Both the judiciary and public rely on JPEC to promote judicial accountability.

A PERFORMANCE AUDIT OF THE JUDICIAL PERFORMANCE EVALUATION COMMISSION



KEY FINDINGS

- ✓ JPEC Evaluations Lack the Information Needed to Effectively Measure Judicial Performance
- ✓ Judicial Performance Evaluations Lack Consistency and Transparency, Limiting Accountability to Voters
- ✓ The Legislature Could Strengthen Judicial Accountability By Modifying JPEC Evaluation Requirements in Statute
- ✓ JPEC Evaluations Are Not Driving Improvements in Judges' Performance



RECOMMENDATIONS

- ✓ 1.1 The Judicial Performance Evaluation Commission should adopt and implement an evaluation model that establishes accountability for ensuring judicial evaluations are comprehensive, objective, and meaningful assessments of judicial performance.
- ✓ 1.3 The Judicial Performance Evaluation Commission should develop and implement formal policies, procedures, and quality assurance processes governing how survey results are analyzed and communicated to the public.
- ✓ 2.1 The Judicial Performance Evaluation Commission should review and revise its evaluation methodology to improve the reliability of information the commission uses in its evaluations.
- ✓ 2.2 The Judicial Performance Evaluation Commission should coordinate with the Judicial Council, presiding judges, and the Administrative Office of the Courts to establish a process for communicating, monitoring, and supporting judicial improvement to address needs that performance evaluations identify.

REPORT SUMMARY

Judicial Performance Evaluations Fall Short of Providing Meaningful Accountability

The Judicial Performance Evaluation Commission (JPEC) is Utah's primary tool for assessing judicial performance. Because the judiciary does not independently evaluate the performance of individual judges, it relies on JPEC as the primary method for judicial accountability.

Despite its importance, JPEC's evaluations have significant weaknesses, and the process falls short of providing complete and accurate information to voters. These weaknesses include how JPEC relies on insufficient information to evaluate judicial performance and does not consistently and transparently summarize evaluation results for the public.

To address these issues, JPEC should establish a more robust evaluation model and improve the consistency and transparency of its evaluations.

Evaluation Credibility Concerns and Limited Coordination Weaken Judicial Improvement

One of JPEC's goals is to help judges improve. However, we found little evidence that JPEC's evaluations are leading to meaningful performance improvement in judges, falling short of achieving its objective to promote judicial improvement.

JPEC should therefore strengthen the reliability of its evaluations and work more closely with the judiciary to ensure evaluation results promote improvement.

JPEC Survey Results Are Overwhelmingly Positive, Limiting the Commission's Ability to Differentiate Performance

The combined distribution of scores for JPEC survey categories is overwhelmingly positive for each evaluation period since 2013. These results demonstrate how unlikely it is for judges to receive a failing score. However, not all judges who met the minimum passing threshold appeared to be performing at an acceptable level.

Distribution of Scores for the Four JPEC Survey Categories

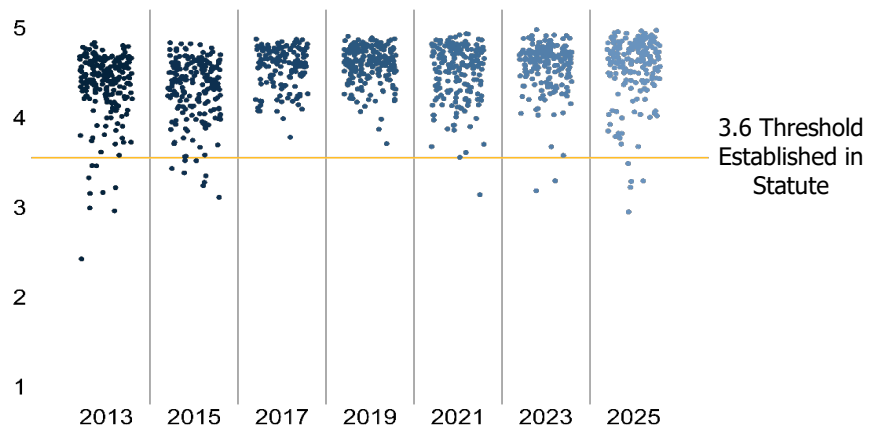


Table of Contents

Chapter 1 Judicial Performance Evaluations Fall

Short of Providing Meaningful Accountability 3

1.1 JPEC Evaluations Lack the Information Needed
to Effectively Measure Judicial Performance 3

1.2 Judicial Performance Evaluations Lack Consistency
and Transparency, Limiting Accountability to Voters12

1.3 The Legislature Could Strengthen Judicial Accountability
by Modifying JPEC Evaluation Requirements in Statute15

Chapter 2 Evaluation Credibility Concerns and

Limited Coordination Weaken Judicial Improvement 21

2.1 JPEC Evaluations Are Not Driving Improvements in Judge Performance.....21

Complete List of Audit Recommendations 29

Appendices33

A. JPEC Evaluation Standards..... 35

B. OLAG Categories of Negative JPEC Survey Comments 39

Agency Response Plan 43



Judicial Performance Evaluations Fall Short of Providing Meaningful Accountability



BACKGROUND

The Judicial Performance Evaluation Commission (JPEC) is Utah's primary tool for assessing judicial performance. Notably, the judiciary itself does not evaluate or publicly report the performance of individual judges. Both the judiciary and the citizens of Utah rely on JPEC to promote judicial accountability.

FINDING 1.1 **JPEC Evaluations Lack the Information Needed to Effectively Measure Judicial Performance**

RECOMMENDATION 1.1

The Judicial Performance Evaluation Commission should adopt and implement an evaluation model that establishes accountability for ensuring judicial evaluations are comprehensive, objective, and meaningful assessments of judicial performance.

RECOMMENDATION 1.2

The Judicial Performance Evaluation Commission should coordinate with applicable entities, such as the Administrative Office of the Courts and the Judicial Conduct Commission, as it develops a more comprehensive evaluation.

FINDING 1.2 **Judicial Performance Evaluations Lack Consistency and Transparency, Limiting Accountability to Voters**

RECOMMENDATION 1.3

The Judicial Performance Evaluation Commission should develop and implement formal policies, procedures, and quality assurance processes governing how survey results are analyzed and communicated to the public.

FINDING 1.3 **The Legislature Could Strengthen Judicial Accountability by Modifying JPEC Evaluation Requirements in Statute**

RECOMMENDATION 1.4

The Legislature should consider our options to improve the Judicial Performance Evaluation Commission's performance evaluations.



CONCLUSION

Despite its importance, JPEC's evaluations have significant weaknesses, and the process falls short of providing complete and accurate information to voters. These weaknesses include how JPEC relies on insufficient information to evaluate judicial performance and does not consistently and transparently summarize evaluation results for the public.



Chapter 1

Judicial Performance Evaluations Fall Short of Providing Meaningful Accountability

The Judicial Performance Evaluation Commission (JPEC) is Utah's primary tool for assessing judicial performance. It evaluates judges standing for retention and presents voters with information on their performance.¹ Despite its importance, JPEC's evaluations have significant weaknesses, and the process falls short of providing complete and accurate information to voters. Notably, the judiciary itself does not evaluate or publicly report the performance of individual judges.² As a result, both the judiciary and the citizens of Utah rely on JPEC to promote judicial accountability. This raises an important issue: if the judiciary doesn't evaluate judges and JPEC has significant weaknesses, it is unclear how poor judicial performance is identified and communicated to voters.

Voters typically have little to no direct interaction with judges prior to voting on their retention. Absent a reliable evaluation process, voters may remain unaware of poor judicial performance, increasing the risk that poor-performing judges remain on the bench without meaningful accountability. We acknowledge that JPEC is dedicated to providing voters with useful information and recognize that there are opportunities to improve the evaluation process. This chapter identifies weaknesses in JPEC's process and provides recommendations to address them. Specifically, JPEC relies on limited information to evaluate judicial performance and does not consistently or transparently communicate evaluation results to the public. This chapter also highlights areas where the Legislature could provide guidance to clarify its expectations for the judicial performance evaluation process.



Absent a reliable evaluation process, voters may remain unaware of poor judicial performance.

1.1 JPEC Evaluations Lack the Information Needed to Effectively Measure Judicial Performance

The Legislature created JPEC in 2008 to provide external accountability for judges. Statute requires JPEC, which is housed within the executive branch, to

¹ In Utah, district and appellate judges are initially appointed by the Governor and confirmed by the Utah Senate. Justice court judges are appointed by the municipality or county and approved by the Judicial Council. After appointment, judges periodically stand for retention election, where voters determine whether they will remain in office.

² This is discussed further in *A Performance Audit of the Utah State Courts: Improving Judicial Accountability and Efficiency by Strengthening Governance and Leadership* (#2026-21).

conduct judicial performance evaluations. According to JPEC, these evaluations are intended to achieve the following goals:

- Measure judicial performance and promote accountability (Finding 1.1 in this chapter)
- Provide voters with valid information on the performance of individual judges (Finding 1.2 in this chapter)
- Give judges useful feedback for personal improvement (Chapter 2 of this report)

Because the judiciary does not independently evaluate the performance of individual judges, it relies on JPEC as the primary method for judicial accountability. The Judicial Council claims that JPEC's evaluation process holds judges to one of the highest standards of public review in the state (see blue box below). Despite this claim, we identified several weaknesses in the process that raise concerns about the rigor, transparency, and accountability for judges envisioned by the Judicial Council.

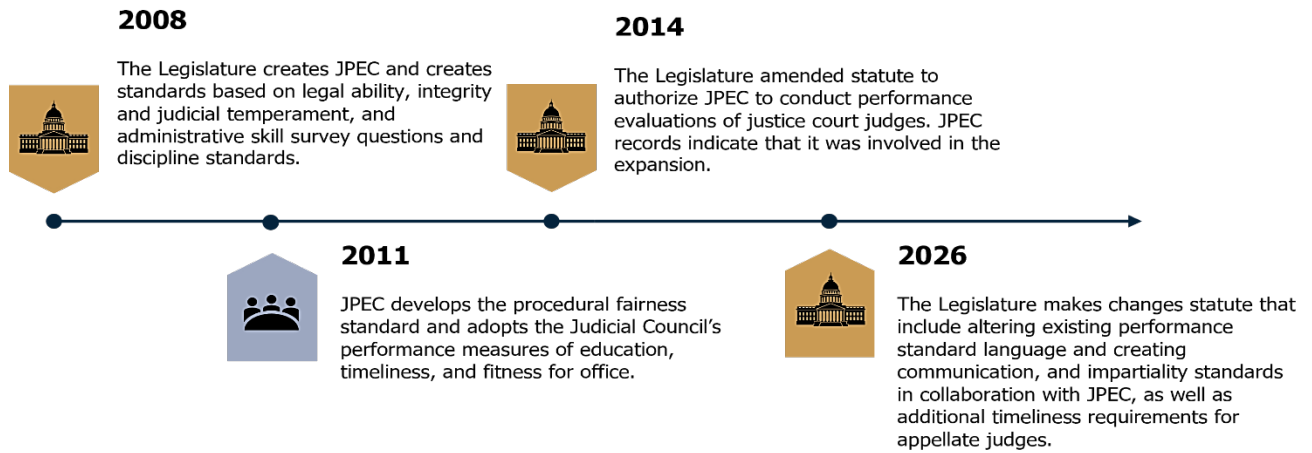


We identified several weaknesses in the JPEC evaluation process that raise concerns about the rigor, transparency, and accountability for judges envisioned by the Judicial Council.

Utah Judicial Council 2025 Annual Report

"Judicial independence does not mean that judges are free from accountability....the Judicial Performance Evaluation Commission...performs[s] comprehensive performance reviews of judges and...provide[s] results of those reviews to voters. There are no public officials in Utah subject to more thorough, public, and independent performance reviews than judges."

Utah Code grants JPEC rulemaking authority to consider additional information relevant to judges' performance beyond what is required in statute. However, over 18 years, JPEC has used this authority to make some improvements to the process but made limited effort to develop additional standards. As a result, much of the evaluation process remains the same.



Instead, JPEC relies heavily on existing subjective measures,³ and approaches evaluations from a position of deference toward judges rather than an objective independent review. As a result, evaluations may be ineffective at identifying meaningful concerns about judicial performance. The following sections outline these weaknesses in more detail.

JPEC's Evaluation Process Does Not Produce Adequate Information

Although JPEC plays a central role in judicial accountability, its current evaluation system contains several weaknesses that limit its effectiveness.

- First, JPEC evaluation results are overwhelmingly positive, limiting their ability to distinguish between strong and weak performance.
- Second, JPEC reports do not always accurately reflect judicial performance, as some judges with documented performance concerns still receive favorable recommendations to the public.
- Finally, the current evaluation process is not a comprehensive assessment of judicial performance. JPEC relies primarily on survey results, which may provide valuable information but are insufficient on their own to fully assess a judge's performance.

Together, these weaknesses raise concerns about whether JPEC's evaluation process provides a reliable basis for judicial accountability. JPEC reports that it is open to amending this process and would welcome legislative guidance. Even if

³ JPEC has established a procedural fairness standard in *Administrative Rule*. However, this standard incorporates information already required in statute such as survey data, courtroom observations, and public comments. It has also adopted timeliness, education, and fitness for office standards from the Judicial Council; however, these rarely affect evaluation outcomes.

the Legislature chooses not to act, JPEC should still make changes to improve the process within its existing authority.

JPEC's statutory mandate is to provide the public with independent information about the performance of judges. However, to be effective, judicial performance evaluations must be both fair and comprehensive. We recognize that judges vary in experience and that newly appointed judges may require time to develop their abilities. Additionally, circumstances outside a judge's control may affect performance. An effective judicial performance evaluation system should take these factors into consideration while applying clear standards, objective data, and comprehensive analysis. The Institute for the Advancement of the American Legal System (IAALS), a national research organization out of the University of Denver that studies best practices for judicial performance evaluations stated the following:

Institute for the Advancement of the American Legal System

"For [judicial performance evaluations] to work, the process must have legitimacy....It cannot be a mere doffing of the hat to accountability: it must be thorough, objective, and credible."

However, JPEC's current model does not produce adequate and sufficiently helpful information, diminishing the commission's impact on judicial accountability.

JPEC uses eight certification standards established in statute and *Administrative Rule* when voting on whether to recommend to the public that a judge meets performance expectations. Four of these standards are measured through survey



JPEC survey results are overwhelmingly positive, falling below the statutory threshold only 2% of the time.

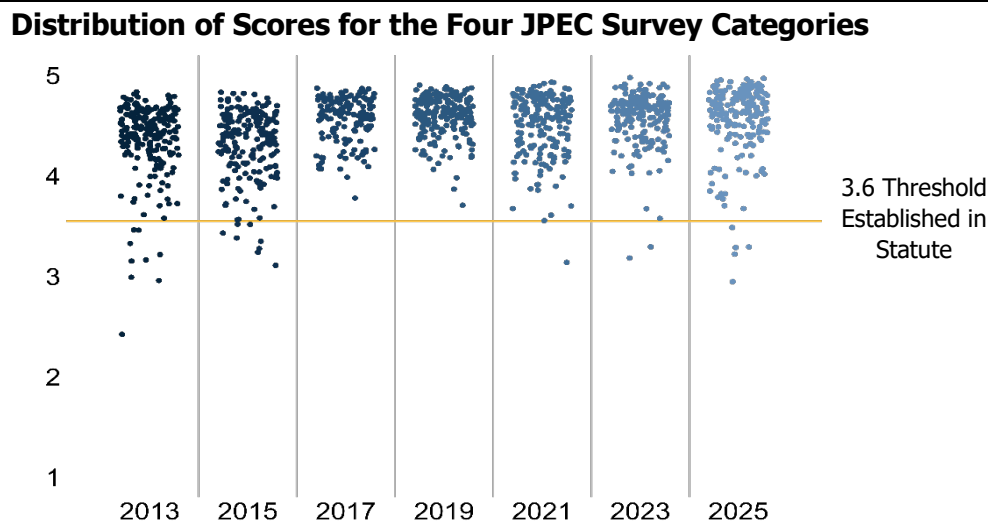
results, including procedural fairness which also relies on additional measures such as courtroom observation.⁴ Under statute, JPEC presumes a judge meets a performance standard if they score above the statutory threshold in legal ability, integrity and judicial temperament, and administrative skills survey categories.⁵ Our analysis shows that survey

⁴ Statute establishes a presumption that judges pass legal ability, integrity and judicial temperament, and administrative skills standards if they receive a survey score of at least 3.6. JPEC also assesses procedural fairness using survey results and other evaluation information. Appendix A summarizes the certification standards and their requirements.

⁵ In the 2026 Legislative General Session, the Legislature amended statute to include a judge's impartiality and ability to communicate clearly as survey categories in collaboration with JPEC.

results for each of the four standards are overwhelmingly positive, with scores falling below the statutory threshold only 2% of the time. However, we found evidence that the survey process can miss instances of poor judicial performance. As a result, survey results may present a more favorable picture of judicial performance than what actually exists.

Figure 1.1 JPEC Survey Results Are Overwhelmingly Positive, Limiting the Commission’s Ability to Differentiate Performance. The combined distribution of scores for legal ability, integrity and judicial temperament, administrative skills, and procedural fairness is overwhelmingly positive for each evaluation period since 2013. This limits JPEC’s ability to effectively distinguish judges’ performance.



Source: Auditor generated using respondent-level JPEC data from 2013 to 2025.

These results demonstrate how unlikely it is for judges to receive a failing score.⁶ However, not all judges who met the minimum passing threshold appeared to be performing at an acceptable level. Survey comments identified potentially significant performance issues for some judges who received passing scores. These raise concerns that JPEC’s standards are not effectively identifying performance deficiencies.

We also found examples where judges received passing evaluations even though the Utah Supreme Court later



Judges received passing recommendations from the commission who the Supreme Court later disciplined.

⁶ JPEC reported that judges often step down after receiving a negative evaluation. However, only 12 judges likely chose not to seek retention after receiving a failing survey score or the commission voted that they did not meet minimum performance standards. The commission also identified 10 judges who likely resigned following “mixed performance evaluations,” but this cannot be verified because the judges either received passing survey scores and the commission didn’t vote that they failed minimum performance standards or no commission vote occurred.

publicly disciplined them for conduct that JPEC’s survey was intended to measure. While JPEC evaluations may not capture all performance-related concerns, these issues demonstrate that JPEC has opportunities to develop a more robust evaluation process that reduces its reliance on surveys.



Both passing and failing survey results can lead to the same outcome, suggesting a deference to judges.

Judges With Failing Survey Scores Can Still

Receive a Recommendation to Retain. Additionally, of the 366 full retention evaluations⁷ JPEC has administered for judges, only 14 scored below the minimum survey threshold in one or more survey categories. Yet, according to JPEC data, the commission still voted to recommend two⁸ of those

judges for retention despite receiving failing survey scores.⁹ Consequently, failing survey scores do not necessarily result in the commission recommending against retention. Both passing and failing survey scores can lead to the same outcome, suggesting a deference to judges. This issue is especially concerning because the commission generally does not independently validate survey results or information provided by judges in response to their evaluations. As a result, the evaluations become less meaningful, and voters may not be able to distinguish between strong and poor judicial performance.

Other States Use a Variety of Tools to Assess Judicial Performance. In practice, the four survey-based standards have substantially more influence over evaluation outcomes than the other four standards. This is problematic, as the surveys are subjective and limited, making them insufficient to broadly assess judicial performance on their own.¹⁰ According to IAALS, commissions should consider additional information to account for limitations in survey data:

Institute for the Advancement of the American Legal System

“...survey results alone may not be a sufficient window into a judge’s performance on the bench. [Commissions] should collect and evaluate other information and exercise their own independent judgment to reach conclusions....”

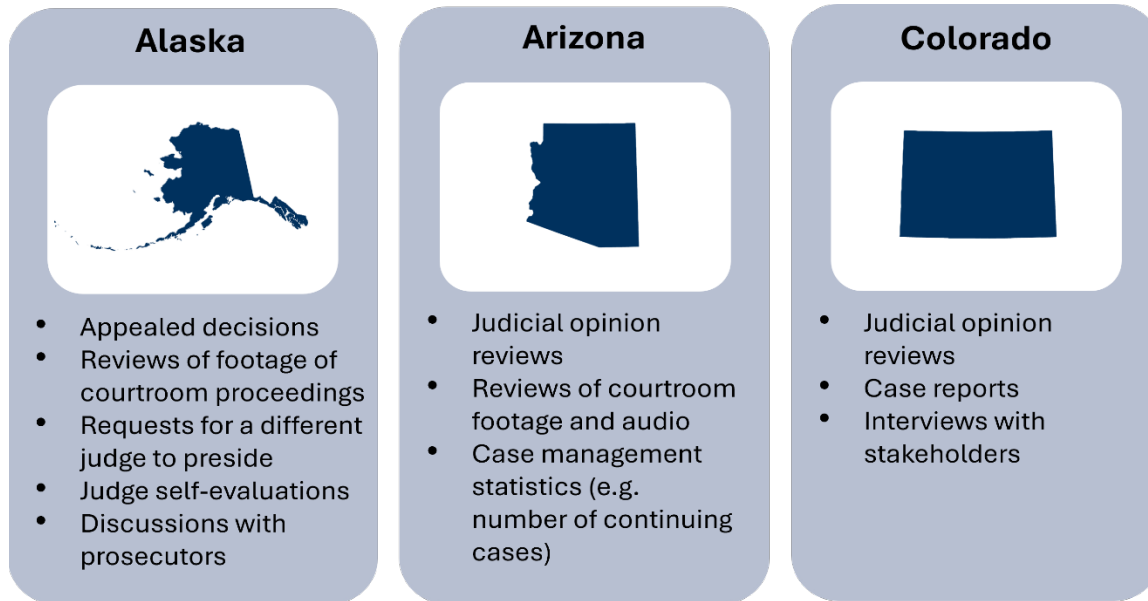
⁷ JPEC conducts surveys when at least 50 attorneys had one trial appearance or three non-trial appearances before the judge. This occurs in the year before the judge’s most recent election or appointment.

⁸ These two judge evaluations are from the 2014 and 2016 election cycles.

⁹ House Bill 40 (2022 Legislative General Session) changed JPEC’s role from recommending judicial retention to determining whether judges meet or exceed performance standards.

¹⁰ JPEC reports it is currently studying whether to expand survey pools for multiple court levels.

Other state entities use additional tools in their evaluations.¹¹ These include the following:



Source: Auditor generated based on information gathered from our office's review of other states.

Using additional tools such as these could result in a more robust evaluation process and promote greater accountability.

JPEC Rarely Independently Validates Concerns Identified in the Evaluation Process

JPEC also lacks procedures to independently verify potential concerns identified in the evaluations.¹² In addition to weaknesses in JPEC's evaluation process, we are concerned that information it collects is not given sufficient consideration. For instance, during our observations of JPEC meetings, commissioners frequently dismissed potentially concerning comments without fully examining whether they were valid. Some comments raised serious concerns about judicial performance, yet commissioners did not seek additional information to confirm or refute them.

In some cases, commissioners invited judges for interviews. However, JPEC did not independently verify the judges' claims or evidence presented during those

¹¹ We note that 13 of the 16 other states who conduct judicial performance evaluations are housed under the judiciary. This likely increases their ability to obtain information to use in performance evaluations.

¹² In practice, JPEC can conduct an analysis of trends in the survey data and interview judges when it has concerns; however, information is generally taken at face value and not verified using additional evidence.

interviews. For example, the commission interviewed one judge after a survey comment claimed he violated the law. In this instance, the commission relied on the judge's explanation of the court record rather than conducting its own independent examination. JPEC reports that it has historically not considered its role as being able to investigate or validate claims made in the evaluation process. However, we are concerned that without a process to validate concerning information, the evaluation may rely on the perspectives of survey respondents rather than an objective assessment of the underlying facts.



One judge that the commission interviewed potentially violated the law, but the commission did not independently examine the evidence.

JPEC's lack of procedures to independently validate information results in the commission overlooking important evidence. This limits its ability to objectively



JPEC's lack of procedures to independently validate information results in the commission overlooking important evidence.

evaluate judges' performance. JPEC should take a more proactive approach to ensuring that it adequately evaluates judicial performance by validating concerns.

Other states' judicial performance evaluation entities reported having processes to validate concerns and survey results. These methods vary, but representatives from other states reported having

flexibility to verify claims and follow up on potential issues. Survey responses can be used as a starting point for further review rather than the sole basis for evaluating performance. We identify examples of additional steps other states can take in the following infographic:



Alaska Judicial Council staff can review additional sources such as courtroom tapes or publicly available information to validate claims made in survey comments.



The Arizona Commission on Judicial Performance Review can consider case summaries to support other sources when making its final decision whether the judge meets performance standards.



Members of the **Colorado Commissions on Judicial Performance** can conduct courtroom observations until they feel they have adequate information to make a recommendation. This can be done more frequently if survey results indicate a concern.

Source: Auditor generated based on information gathered from our office's review of other states.

As noted, JPEC has rulemaking authority and should use it to establish a more robust evaluation model. This model could include additional performance measures, such as those identified above, along with procedures for investigating and validating concerns. Doing so would help reduce reliance on survey results and provide voters with more objective, comprehensive, and meaningful information regarding judicial performance.

In addition to these steps, the Legislature could decide to clarify JPEC's role to ensure that its evaluations are thorough and effective accountability tools. This may include specific expectations or broader authority to validate claims. We discuss this more in Finding 1.3 of this chapter.

We also recognize that improving the comprehensiveness of JPEC evaluations may require coordination with outside entities. For example, to review video recordings of courtroom proceedings, JPEC would rely on the Administrative Office of the Courts (AOC). Additionally, although the Judicial Conduct Commission (JCC) oversees the investigation of judicial misconduct, statute limits the information that the two entities may share. If the commission is unable to obtain information that is necessary to thoroughly evaluate judicial performance through coordination, it should work with the Legislature to determine if changes in statute are appropriate.



In addition to using its rulemaking authority to establish a more robust model, the Legislature could decide to clarify JPEC's role.

RECOMMENDATION 1.1

The Judicial Performance Evaluation Commission should adopt and implement an evaluation model that establishes accountability for ensuring judicial evaluations are comprehensive, objective, and meaningful assessments of judicial performance. The model should align evaluation activities and performance measures with the commission's purpose, establish procedures for validating concerning information, and assess and report on the effectiveness of these changes. This should help improve judicial evaluations and the quality of information provided to the public.

RECOMMENDATION 1.2

The Judicial Performance Evaluation Commission should coordinate with applicable entities, such as the Administrative Office of the Courts and the Judicial Conduct Commission, as it develops a more comprehensive evaluation. This coordination should enable it to develop additional performance measures and a more robust assessment. If additional barriers prohibit the commission from adopting measures it deems necessary to conduct a comprehensive assessment of judicial performance, it should work with the Legislature to determine if changes in statute are appropriate.

1.2 Judicial Performance Evaluations Lack Consistency and Transparency, Limiting Accountability to Voters

Voters depend on JPEC evaluations to hold judges accountable. However, inconsistencies in how JPEC develops and communicates narrative summaries can create a more favorable impression of actual judicial performance. JPEC lacks sufficient policies, procedures, and quality assurance processes to address these issues. As such, voters are not provided with sufficiently transparent and reliable information on judicial performance.

JPEC's Summaries Emphasize Positive Comments and Omit Many Negative Comments About Judges' Performance

JPEC does not have a formal quality assurance process to ensure consistency in its summaries, particularly in how survey results are described in narratives for voters. JPEC reviews survey comments and identifies themes to include in public summaries; however, this is done using handwritten notes and without an independent review. In our review of 51 public summaries,¹³ we identified a tendency to emphasize positive feedback while minimizing or omitting negative themes. Every summary we reviewed reflected positive respondent feedback, yet JPEC did not consistently report negative respondent themes. Additionally, we found 33 of the 51 summaries did not include any negative comment themes.



We identified a tendency to emphasize positive feedback while minimizing or omitting negative themes.

¹³ Judge retention elections occur every even-numbered year. Our sample included 60 evaluations of varying judge types for 2020, 2022, and 2024. Of these evaluations, 51 had public summaries.

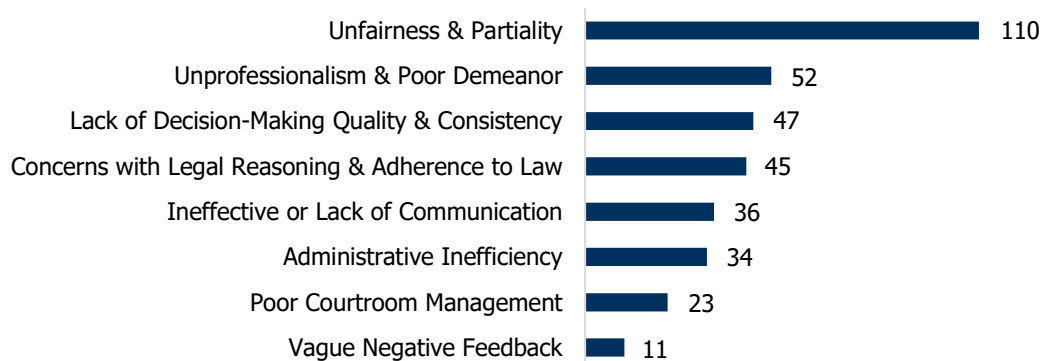
JPEC reported using a threshold of 20% of survey respondents who left comments for including positive or negative themes in public summaries. However, this standard is not documented in policy and appears to be an informal practice. We reviewed a sample of JPEC’s handwritten notes and found many examples when JPEC included positive comments that did not meet this threshold. We also identified multiple instances where negative themes were excluded from the narrative, despite appearing more frequently than positive themes.

For example, one public narrative described a judge as courteous based on feedback from only one JPEC survey respondent. On the other hand, three respondents raised concerns that the judge was biased. Although claims of bias appeared more frequently than the claim that the judge was courteous, JPEC’s public narrative described the judge as courteous while any mention of bias was omitted.

JPEC reported multiple reasons for excluding negative comments from public summaries. However, the rationale for these decisions lacked clear documentation in JPEC’s handwritten records. As a result, we were unable to determine why these comments were omitted or whether JPEC consistently followed its informal practice.

In total, we found 358 instances of negative feedback omitted from the 33 summaries with no negative themes. While many of these reflected isolated concerns, the frequency is concerning considering the other issues we identified. Figure 1.2 categorizes these into broad themes.

Figure 1.2 Negative Feedback from JPEC Survey Respondents Is Often Omitted. In 33 public summaries, JPEC staff omitted 358 instances of negative survey feedback from the information provided to voters. We categorized these into eight themes.



Note: This analysis reflects auditor judgment in identifying themes and negative feedback. See Appendix B for additional information.

Source: Auditor generated from our review of 51 evaluation survey responses and JPEC summaries.

We recognize that judges often deal with difficult situations and that these comments may not always accurately reflect performance. Even so, without consistency, JPEC summaries can give a more favorable impression of judicial performance than the full data suggests. JPEC should therefore adopt policies, procedures, and quality assurance processes to guide its review of comments for a more balanced approach.

JPEC Has Not Been Sufficiently Transparent in How It Summarizes and Messages Evaluation Results to Voters

JPEC’s summarizing and messaging of evaluations is not sufficiently transparent with voters. In our review of 51 public summaries, we found that evaluations do not include enough information about how results were analyzed. This significantly limits voters’ ability to determine whether information is reliable.

One example is how JPEC compares judges’ survey scores to their peers’. Public summaries place judges into categories such as “well above”, “above”, “consistent”, “below”, or “well below” peers. However, the way JPEC assigns these categories is based on a statistical method that is not intuitive to voters and can produce results that appear inconsistent. For example, one judge may be rated “well above” their peers, while another with the same score difference is rated only “consistent with” their peers. As a result, voters may have difficulty in understanding what these categories mean and how judges compare to one another. We illustrate an example of this in Figure 1.3.

Figure 1.3 JPEC Published Different Summary Language for Three Judges with the Same Score Differences. JPEC relies on a statistical method to compare judge scores that is not intuitive to voters without a statistical background.

Judge	Difference from Peer Average	JPEC Public Description
Judge A Supreme Court Justice	+0.2 points (above peer average)	 Well above peers
Judge B District Court Judge	+0.2 points (above peer average)	 Above peers
Judge C Justice Court Judge	+0.2 points (above peer average)	 Consistent with peers*

Same score difference, but three different descriptions communicated to voters.

Note: JPEC relies on a statistical test to categorize a judge’s scores relative to their peers. Although JPEC reports that it uses the term “well above” when score differences are statistically significant and at least 0.2 points, we found that this standard was not applied consistently.
Source: Auditor generated based on a comparison of 51 JPEC public evaluations from the 2020, 2022, and 2024 retention cycles.

These apparent inconsistencies reduce transparency and diminish the ability of voters to distinguish between low-, consistent-, and high-performing judges. Because JPEC relies on summaries to communicate evaluation results, transparency is essential for accountability.



Because JPEC relies on summaries to communicate evaluation results, transparency is essential for accountability.

We found that some other states provide written and detailed methodologies to voters. For example, Colorado's commissions include a methodology of how the results were obtained and analyzed in its reports. Alaska's evaluating body also includes similar descriptions in their reports. In contrast, JPEC has not clearly documented its methodology and conveyed this information to voters.

JPEC should develop formal policies and procedures that govern its process of conducting performance evaluations and conveying the results to voters. Additionally, it should include a detailed methodology that is understandable to voters in its reports.

RECOMMENDATION 1.3

The Judicial Performance Evaluation Commission should develop and implement formal policies, procedures, and quality assurance processes governing how survey results are analyzed and communicated to the public. This process should include producing a detailed methodology that is then communicated to voters. JPEC should assess the impact of this process by monitoring progress on its consistency, objectivity, and accuracy in evaluation results and public summaries.

1.3 The Legislature Could Strengthen Judicial Accountability by Modifying JPEC Evaluation Requirements in Statute

While JPEC has the authority to make changes to its evaluation process, the Legislature could also consider modifying JPEC's statutory requirements to strengthen judicial accountability. As we discussed throughout this chapter, several weaknesses limit JPEC's ability to provide voters with comprehensive, objective, and transparent information about judicial performance. The Legislature could also choose to clarify its expectations for judicial performance evaluations and ensure that JPEC addresses these concerns.



The Legislature could further strengthen judicial accountability by modifying JPEC's evaluation requirements in statute.



The Legislature could clarify its intent that judicial performance evaluations are comprehensive and objective assessments of judicial performance.

As previously mentioned, the Legislature has taken multiple steps to improve the JPEC process. For example, during the 2026 General Session, the Legislature required the commission to research and report on the feasibility of including instances a judge's decision is appealed on account of "abuse of discretion" as a performance standard. The Legislature could consider requiring JPEC to conduct similar studies on measures including those

mentioned in this chapter. This could result in a more robust evaluation. Additionally, in 2026, the Legislature enacted judicial reforms to address transparency and accountability concerns, including whether voters have sufficient information to make informed retention decisions. The Legislature could further strengthen accountability by clarifying JPEC's responsibilities to review and validate concerning information identified during the evaluation process. It could also define the commission's authority.

It could also require JPEC to report sentencing outcomes and judicial efficiency metrics already collected by the Utah State Courts as discussed in Chapter 2 of *A Performance Audit of the Utah State Courts: Improving Judicial Accountability and Efficiency by Strengthening Governance and Leadership* (#2026-21).¹⁴ Reporting this information would provide voters with valuable insight into judicial decision-making. Additionally, JPEC is currently not required to report on the methods it uses to collect, analyze, and communicate performance information. In response to the issues identified in Finding 1.2, the Legislature may consider requiring JPEC to periodically report on its efforts to ensure that its evaluations and public summaries are objective, consistent, and accurate. Such reporting could strengthen accountability and transparency in the evaluation process.

The Legislature could also clarify its intent that judicial performance evaluations are comprehensive and objective assessments of judicial performance. This was done in Colorado when the general assembly declared its intent to provide:

"...[a] comprehensive evaluation system of judicial performance...to provide [voters] with fair, responsible, and constructive information about individual judicial performance..."¹⁵

¹⁴ The Courts already collect data on time-to-disposition and case clearance rates. The Legislature could require these measurements be included in JPEC's evaluation process.

¹⁵ Colorado Revised Statute 13-5.5-101

A similar statutory change could clarify that JPEC's evaluations are intended to provide voters with a comprehensive assessment of judicial performance.

RECOMMENDATION 1.4

The Legislature should consider the following options to improve the Judicial Performance Evaluation Commission's performance evaluations:

- Require the Judicial Performance Evaluation Commission to conduct studies of the feasibility of additional performance measure mentioned in this chapter
- Clarify in statute JPEC's responsibilities for reviewing and validating concerning information identified during the evaluation process and define the scope of JPEC's authority
- Require the Judicial Performance Evaluation Commission to report to the Legislature on its progress in ensuring that its evaluations and public summaries are consistent, objective, and accurate
- Clarify in statute that judicial performance evaluations should be comprehensive and objective assessments of judicial performance



Without greater consistency and transparency, voters will lack information needed to independently assess judicial performance.

In conclusion, JPEC plays a critical role in Utah's system of judicial accountability. The judiciary and voters rely on its evaluations to assess judges standing for retention. However, the weaknesses described above significantly limit JPEC's ability to achieve its statutory purpose. Without greater consistency and transparency, voters will lack information needed to independently assess judicial performance.





BACKGROUND

In addition to informing voters on judicial performance, the other primary goal of the Judicial Performance Evaluation Commission (JPEC) is to help judges improve. The judiciary does not internally evaluate the performance of individual judges. Instead, it relies on JPEC evaluations to provide feedback to support judicial improvement.

FINDING 2.1

JPEC Evaluations Are Not Driving Improvements in Judge Performance

RECOMMENDATION 2.1

The Judicial Performance Evaluation Commission should review and revise its evaluation methodology to improve the reliability of information the commission uses in its evaluations. This should include improvements in survey sample sizes and the credibility of courtroom observations. It should also include supplementing evaluations with low survey sample sizes and a lack of courtroom observer expertise with additional tools. JPEC should measure the effectiveness of these improvements and ensure they enhance the quality of feedback and promote judicial improvement.

RECOMMENDATION 2.2

The Judicial Performance Evaluation Commission should coordinate with the Judicial Council, presiding judges, and the Administrative Office of the Courts to establish a process for communicating, monitoring, and supporting judicial improvement to address needs that performance evaluations identify. This process should enable the commission to provide additional insight into judge performance and how evaluation feedback is used. It should also support the Judicial Council's ability to hold judges accountable for poor performance.



CONCLUSION

We found little evidence that JPEC's evaluations are leading to meaningful performance improvement in judges. Concerns about the evaluation process and insufficient coordination with other entities have limited the usefulness of JPEC's evaluations. JPEC should therefore strengthen the reliability of its evaluations and work more closely with the judiciary to ensure evaluation results promote improvement.



Chapter 2

Evaluation Credibility Concerns and Limited Coordination Weaken Judicial Improvement

In addition to informing voters on judicial performance, the other primary goal of the Judicial Performance Evaluation Commission (JPEC) is to help judges improve. However, we found little evidence that JPEC's evaluations are leading to meaningful performance improvement in judges, falling short of achieving this objective. From our observations, most judges appear committed to diligently executing their duties. Judges serve as valuable public servants. Our mission is to help organizations improve and we recognize that every process and individual can improve. This audit aims to help judges effectively strengthen their performance and provide competent and reliable information to voters.

As noted in Chapter 1, the judiciary does not internally evaluate the performance of individual judges. Rather, it relies on JPEC evaluations to provide feedback to support judicial improvement. However, we found that concerns about the evaluation process and insufficient coordination with the judiciary have limited the usefulness of JPEC's evaluations. JPEC should strengthen the reliability of its evaluations and work more closely with the judiciary to ensure evaluation results promote improvement. This chapter identifies opportunities to strengthen JPEC's efforts to promote improvement in the judiciary, consistent with its goals.

2.1 JPEC Evaluations Are Not Driving Improvements in Judge Performance

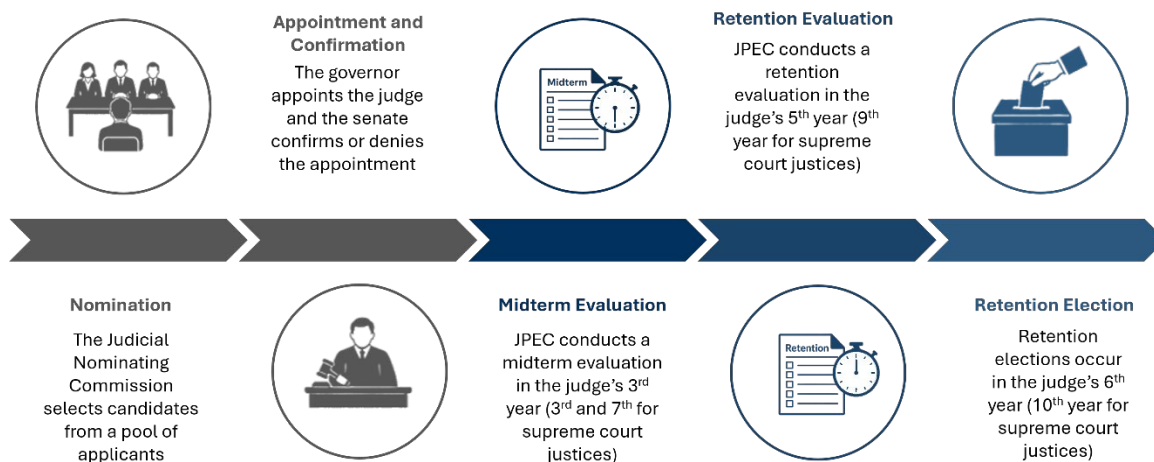
Judges receive two evaluations per retention cycle: a nonpublic evaluation midway through the cycle and a public evaluation during the year they stand for retention.¹⁶ The nonpublic evaluation is meant to help judges identify areas of improvement before their public retention evaluation. However, we found that judges are not making significant improvements in their evaluation results between these reviews, raising questions about their effectiveness for improving performance. The following infographic illustrates this cycle for a district court judge:¹⁷



Judges are not making significant improvements in their JPEC evaluation results.

¹⁶ Supreme Court justices receive two midterm evaluations during their terms.

¹⁷ Judges have an abbreviated first term, standing for retention at the first general election at least three years after appointment. JPEC provides midterm and retention evaluations prior to this election.



Source: Auditor generated based on JPEC evaluation process.

Judges Show Little Improvement Between Midterm and Retention Evaluations

As mentioned in Chapter 1, the threshold for receiving a retention recommendation is relatively easy to meet. Although most judges satisfy JPEC's minimum standards, performance still varies across the judiciary. To assess whether JPEC evaluations promote improvement rather than simply support retention, we analyzed midterm and retention evaluations from 2013 through 2025. We found that the average for all judges' scores improved slightly—by less than 2% on average across all categories.

However, when split between the different performance categories, we found that lower-performing judges showed some additional improvements. Even so, these changes were generally small and did not reflect meaningful improvement. For example, one low-performing judge remained near the minimum statutory threshold¹⁸ in the same category for 12 years. While scores showed modest increases between midterm and retention evaluations, the judge's overall performance remained largely unchanged over the 12 years.



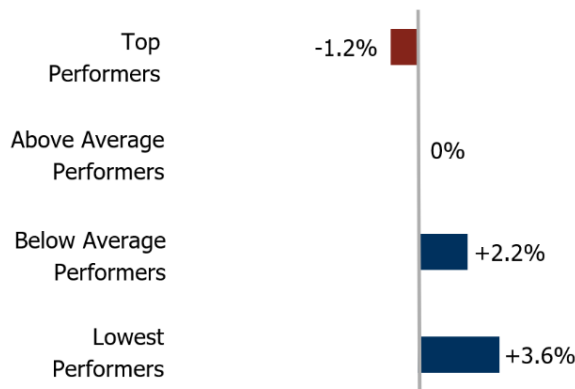
One judge remained near the statutory threshold in the same category for 12 years.

In contrast, higher-performing judges experienced slight declines in some areas. While no standard exists for expected score improvement between midterm to retention evaluations, this data suggests that judges in all categories show little to no improvement over time. This is shown in the figure on the following page.

¹⁸ The minimum score is 3.6 out of 5 for the commission to presume that the judge meets or exceeds the performance standard. More information is shown in Chapter 1.

Figure 2.1 Judge Scores Show Minimal Improvements from Midterm to Retention Evaluations Across All Performance Groups. Improvements were generally small from midterm to retention evaluations. This is concerning because it indicates that JPEC midterm evaluations are not effectively promoting improvement.

Average Change in Score Grouped by Midterm Performance



No performance group improved by more than 4%

Note: Judges were grouped into four performance categories based on their midterm survey scores.

Integrity and judicial temperament data from 2013 were excluded due to survey revisions.

Source: Auditor generated from results of regression analyses using 2013 to 2025 JPEC survey data.

In addition to our analysis, JPEC reports that the results of a similar study from the University of Utah were statistically significant¹⁹ and indicated some level of improvement. However, while statistically significant, the improvement in the University of Utah study was modest and may not represent meaningful, real-world improvements in judicial performance. In our study, even the lowest performing group improved by less than 4% on average and top performers saw a decline in scores overall.

The limited improvement among judges may stem, in part, from concerns about the reliability of JPEC evaluations. Some judges expressed concerns about the evaluation process, reducing their willingness to use them as feedback to improve their performance. At the same time, the judiciary does not track whether each judge acts on evaluation results. As such, performance issues may persist for years without being adequately addressed. In the following sections, we describe how more reliable evaluations and stronger coordination between JPEC and the judiciary can increase the trust and effectiveness of evaluations.

¹⁹ We conducted a linear regression separate from the University of Utah study and found that the results for legal ability, integrity and judicial temperament, and procedural fairness were not statistically significant for below average performers.

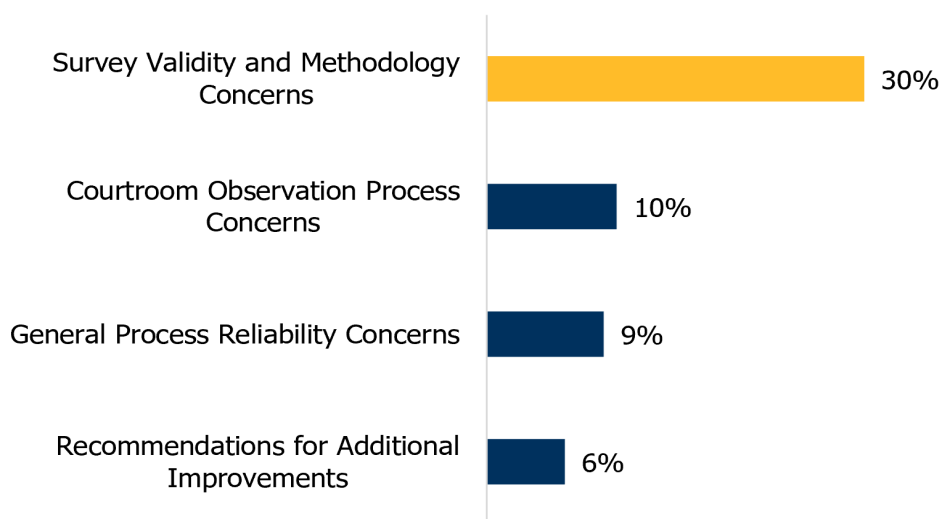
Judge's Concerns About Evaluation Reliability May Hinder Performance Improvement

In Chapter 1, we discuss how JPEC's evaluation process is not consistent or transparent. In interviews and survey results, many judges raised concerns about the reliability of JPEC's surveys, suggesting limited confidence in the evaluation process. Several judges reported that they are less likely to utilize JPEC feedback because of their concerns. While most judges appear to value JPEC evaluations overall, over half (49 of 97 respondents) expressed concern with one or more aspect of the process. Figure 2.2 shows the results of our analysis of themes from our survey.



Several judges reported that they are less likely to utilize JPEC feedback, perpetuating issues of poor performance.

Figure 2.2 Most Judges Expressed Concerns with Various Aspects of JPEC's Evaluation Process. The validity and methodology of JPEC's surveys were the issues most frequently cited (30% of respondents). This shows that most judges that responded to our survey lack trust in the process or feel that it could improve.



Note: Some judges expressed comments that reflected multiple themes.

Source: Auditor generated using OLAG survey results of Utah judges. Survey results were categorized by the audit team.

Judges also raised concerns about respondent bias and sample size²⁰ when questioning the validity of JPEC's surveys. Our review identified 43 midterm and 9 retention evaluations with fewer than 30 respondents, a sample size generally below survey best practices.²¹ JPEC reports that it has made efforts to increase sample sizes and verify that

²⁰ These are reflected in the "Survey Validity and Methodology Concerns" category in Figure 2.2.

²¹ JPEC reports that some instances of low sample size were the result of judges' lack of time on the bench and the impact of COVID-19.

low survey sample sizes are statistically significant. However, regardless of their statistical significance, our interviews and survey identified judges who do not trust JPEC survey results that they believe lack validity. As a result, they are unlikely to utilize JPEC survey feedback. JPEC should therefore work to maintain transparency in this area while also relying on additional sources.



Small respondent sample sizes increase the risk that results may not accurately reflect true judicial performance.

Further, some judges expressed skepticism that courtroom observers may not have sufficient background to assess judge performance. While JPEC conducts courtroom observations, the commission reports that most observers are volunteers without formal legal training. Multiple judges reported concerns that observers and survey respondents may misinterpret or misunderstand court proceedings and judicial actions. JPEC reports that lay observers provide the

perspective of an average citizen, but some judges questioned the accuracy of conclusions in observation reports. To strengthen credibility, JPEC should improve observer recruitment and training and seek out additional sources to validate observation findings.

The evaluation's credibility is vital if JPEC wishes to meet its goals of promoting judicial improvement. When judges question the reliability of evaluations, the evaluations are less effective at driving improvement. The Institute for the Advancement of the American Legal System (IAALS), a national research group focused on promoting best practices in judicial performance evaluation, stated the following:

Institute for the Advancement of the American Legal System

"The strongest judicial performance evaluation programs utilize...a variety of information to achieve a fair, accurate, and broad-based assessment of judges' on-the-job performance."

"...[commissions] should collect and evaluate [information from multiple sources] and exercise their own independent judgment to reach conclusions that will help both the judge and those who reselect judges."

IAALS also notes that low sample sizes and a lack of courtroom observer expertise are common issues for state judicial performance evaluation programs; however, addressing these concerns and improving the thoroughness of evaluations would give JPEC a stronger foundation to promote judicial improvement.

In addition to the recommendations in Chapter 1 of this report, JPEC should improve survey sample sizes and the credibility of courtroom observations. The commission

should rely on any other tools it establishes in response to our recommendations in Chapter 1 to supplement this information.

RECOMMENDATION 2.1

The Judicial Performance Evaluation Commission should review and revise its evaluation methodology to improve the reliability of information the commission uses in its evaluations. This should include improvements in survey sample sizes and the credibility of courtroom observations. It should also include supplementing evaluations with low survey sample sizes and a lack of courtroom observer expertise with additional tools. JPEC should measure the effectiveness of these improvements and ensure they enhance the quality of feedback and promote judicial improvement.

JPEC and the Judiciary Do Not Coordinate to Ensure Evaluations Lead to Judicial Improvement

The current practice, in which JPEC provides evaluations but individual judges decide whether to act on the feedback, is an ineffective system to promote improvement. JPEC feedback alone does not create accountability or improvement. It is ultimately the responsibility of the Judicial Council to promote judicial improvement throughout the judiciary.



It is ultimately the responsibility of the Judicial Council to promote judicial improvement throughout the judiciary.

The council receives the JPEC evaluation results for all judges in the system. However, outside of limited circumstances,²² it appears to do little to use them as a tool to improve judges' performance and promote systemwide improvement. While multiple judges report that they use the feedback to help their performance, we found little evidence of follow-up from judicial leadership to ensure identified concerns are addressed. As such, the judiciary may be missing opportunities to use JPEC evaluations to drive improvement and accountability within the broader system.

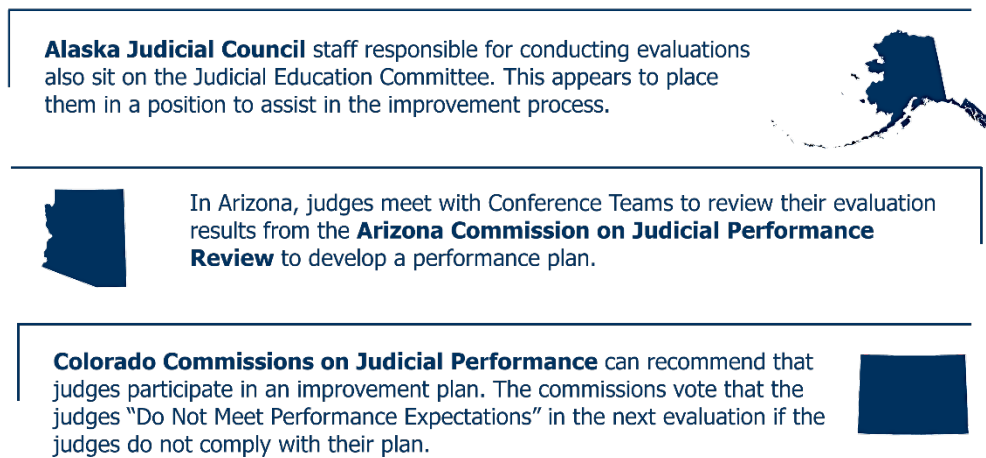
²² JPEC reports that evaluation results are given to the appropriate presiding judge. However, interviews with judges found inconsistent practices in addressing performance deficiencies. Some reported that presiding judges review JPEC evaluations with other judges in their district, while others reported little to no follow-up.



Greater coordination with the judiciary could enable JPEC to play a more significant role in judicial improvement.

As an external entity, JPEC has limited insight into how the judiciary uses its reports. However, better coordination between the two entities can ensure evaluation results are used to support judge improvement and development. Without such coordination, JPEC is restricted in its ability to effectively promote improvement.

Representatives from other states' JPEC equivalents described more structured methods of coordination to support judicial improvement. The figure below summarizes key practices they described:²³



Source: Auditor generated based on our review of judicial performance evaluation in other states.

While models in these other states differ, they each have mechanisms that allow the evaluation entity and judiciary to work together for judicial improvement.

Similarly, we believe that greater coordination between the Utah judiciary and JPEC can enhance judicial improvement. This creates a shared responsibility between the two entities. While JPEC is responsible for evaluating judges and promoting judicial improvement, the Judicial Council is equally responsible for ensuring that the identified improvement areas are addressed. To fulfill its role, JPEC should remain informed about judicial improvement efforts, including how judges use evaluation feedback to address identified weaknesses. Greater coordination would also provide JPEC with additional insight into judicial performance and strengthen accountability for improvement.

²³ Alaska, Arizona, and Colorado were selected as benchmark states because they use more comprehensive judicial performance evaluation processes than many other states, including the use of multiple sources of evidence to assess judicial performance.

RECOMMENDATION 2.2

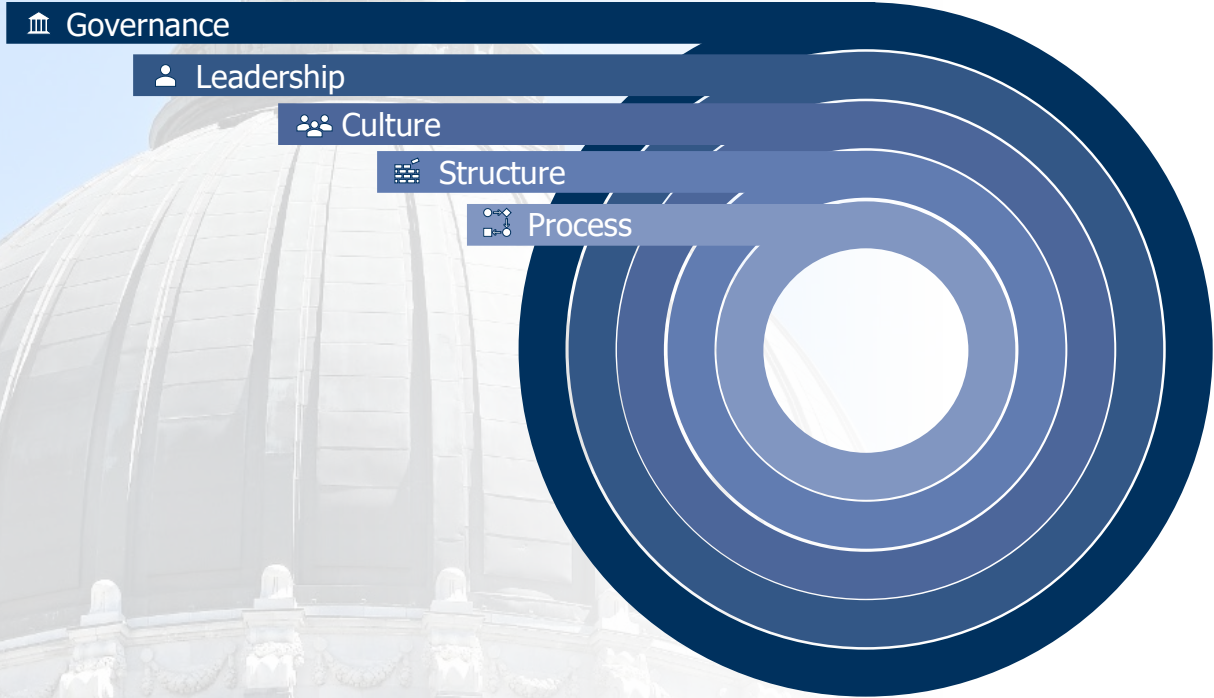
The Judicial Performance Evaluation Commission should coordinate with the Judicial Council, presiding judges, and the Administrative Office of the Courts to establish a process for communicating, monitoring, and supporting judicial improvement to address needs that performance evaluations identify. This process should enable the commission to provide additional insight into judge performance and how evaluation feedback is used. It should also support the Judicial Council's ability to hold judges accountable for poor performance.



Complete List of Audit Recommendations

THE FIVE LAYERS OF CAUSE

We developed the Five Layers of Cause Framework to assist leaders in identifying the causes of organizational success and failure. To truly improve as an organization, leaders must understand the causes of major risks. Only when leaders understand these causes and their roots can they make meaningful improvements. Root causes are deeper and more fundamental.



The five layers of cause are defined below. They are ranked from most impactful in organizational change to least. The next page identifies the layer of cause in each recommendation.



GOVERNANCE

The laws and rules that establish the organization's mission, accountability, and funding. Governance empowers the organization with the leadership and resources needed to achieve meaningful results.



LEADERSHIP

The competency and character of the leaders of the organization. Leadership is the decisive force that transforms vision into action and effort into results.



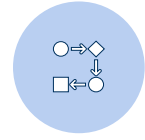
CULTURE

The collective beliefs, values, and behaviors of the organization. An organization's culture can determine employee engagement and morale, willingness to innovate, and quality of product.



STRUCTURE

The policies and standards that guide an organization's work. Structures direct the flow of work and establish what is and is not acceptable.



PROCESS

The steps taken to accomplish a task. Processes are the logistics—the capital, workflows, timing, and practices—that move work along.

Complete List of Audit Recommendations

This report made the following six recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

Recommendation 1.1 (Leadership)

The Judicial Performance Evaluation Commission should adopt and implement an evaluation model that establishes accountability for ensuring judicial evaluations are comprehensive, objective, and meaningful assessments of judicial performance. The model should align evaluation activities and performance measures with the commission's purpose, establish procedures for validating concerning information, and assess and report on the effectiveness of these changes. This should help improve judicial evaluations and the quality of information provided to the public.

Recommendation 1.2 (Leadership)

The Judicial Performance Evaluation Commission should coordinate with applicable entities, such as the Administrative Office of the Courts and the Judicial Conduct Commission, as it develops a more comprehensive evaluation. This coordination should enable it to develop additional performance measures and a more robust assessment. If additional barriers prohibit the commission from adopting measures it deems necessary to conduct a comprehensive assessment of judicial performance, it should work with the Legislature to determine if changes in statute are appropriate.

Recommendation 1.3 (Structure)

The Judicial Performance Evaluation Commission should develop and implement formal policies, procedures, and quality assurance processes governing how survey results are analyzed and communicated to the public. This process should include producing a detailed methodology that is then communicated to voters. JPEC should assess the impact of this process by monitoring progress on its consistency, objectivity, and accuracy in evaluation results and public summaries.

Recommendation 1.4 (Governance)

The Legislature should consider the following options to improve the Judicial Performance Evaluation Commission's performance evaluations:

- Require the Judicial Performance Evaluation Commission to conduct studies of the feasibility of additional performance measure mentioned in this chapter
- Clarify in statute JPEC's responsibilities for reviewing and validating concerning information identified during the evaluation process and define the scope of JPEC's authority
- Require the Judicial Performance Evaluation Commission to report to the Legislature on its progress in ensuring that its evaluations and public summaries are consistent, objective, and accurate
- Clarify in statute that judicial performance evaluations should be comprehensive and objective assessments of judicial performance

Recommendation 2.1 (Process)

The Judicial Performance Evaluation Commission should review and revise its evaluation methodology to improve the reliability of information the commission uses in its evaluations. This should include improvements in survey sample sizes and the credibility of courtroom observations. It should also include supplementing evaluations with low survey sample sizes and a lack of courtroom observer expertise with additional tools. JPEC should measure the effectiveness of these improvements and ensure they enhance the quality of feedback and promote judicial improvement.

Recommendation 2.2 (Leadership)

The Judicial Performance Evaluation Commission should coordinate with the Judicial Council, presiding judges, and the Administrative Office of the Courts to establish a process for communicating, monitoring, and supporting judicial improvement to address needs that performance evaluations identify. This process should enable the commission to provide additional insight into judge performance and how evaluation feedback is used. It should also support the Judicial Council's ability to hold judges accountable for poor performance.



Appendices



A. JPEC Evaluation Standards



The Judicial Performance Evaluation Commission (JPEC) evaluates judicial performance against eight standards established in statute and administrative rule. The following table summarizes each standard and identifies the methods used to determine whether a judge satisfies it.

The first four standards (blue) are primarily assessed through surveys of attorneys, court staff, and jurors. The fifth standard (red) is evaluated through a review of public reprimands issued by the Judicial Conduct Commission (JCC). The remaining standards (gray) are determined using information reported by the Administrative Office of the Courts (AOC).

Standard	Method
Legal Ability	 JPEC presumes that judges meet this standard if they score an average of 3.6 or higher from attorney respondents of JPEC survey on legal ability questions.
Integrity & Judicial Temperament	 JPEC presumes that judges meet this standard if they score an average of 3.6 or higher from respondents of JPEC survey on integrity & judicial temperament questions.
Administrative Skill	 JPEC presumes that judges meet this standard if they score an average of 3.6 or higher from respondents of JPEC survey on administrative skill questions.
Procedural Fairness	 The commission determines that the judge's conduct promotes procedural fairness based on survey results and all other information collected during the evaluation.
Discipline	 JPEC reviews the JCC website to determine if the judge has received two or more public reprimands from the Utah Supreme Court during the evaluation period.
Education	 JPEC receives a report from the AOC indicating the judge has participated in 30 hours of continuing education annually.
Time Standard	 JPEC receives a report from the AOC indicating the judge has met required case-under-advisement standards.
Fitness for Office	 JPEC receives a report from the AOC indicating the judge is physically and mentally competent to hold office.



B. OLAG Categories of Negative JPEC Survey Comments



We reviewed 51 Judicial Performance Evaluation Commission (JPEC) public summaries and compared them with underlying survey responses. We found that JPEC has a tendency to emphasize positive feedback while minimizing or omitting negative themes. As a result, voters did not receive this potentially relevant information when deciding whether judges should be retained to the bench. The audit team grouped the omitted feedback into eight categories which we outline in the table below:

Category	Guiding Question	Examples
Concerns with Legal Reasoning & Adherence to Law	Does the judge correctly understand, apply, and follow the law?	Lacks legal knowledge or ability; does not follow law or rules; makes decisions contrary to the law; considers evidence not on record
Lack of Decision-Making Quality & Consistency	Are decisions consistent and well-reasoned?	Lacks effective decision-making ability; is inconsistent or unpredictable; rushes decisions
Unfairness & Partiality	Does the judge appear neutral and unbiased?	Is biased; favors one side; is harsh or overly lenient; makes mind up before hearing evidence
Poor Courtroom Management	Does the judge effectively manage proceedings?	Is too permissive of poor behavior in the courtroom; is not attentive of courtroom dynamics; could handle self-representing litigants better
Unprofessionalism & Poor Demeanor	How does the judge conduct his or herself?	Acts unprofessionally; lacks emotional regulation; has a poor temperament; is impatient; has a disrespectful tone
Ineffective or Lack of Communication	Does the judge effectively communicate and engage with participants?	Has poor or ineffective communication; is inattentive; communicates too much or too little
Administrative Inefficiency	Does the judge manage time, preparation, and logistics effectively?	Causes unnecessary delays; comes unprepared; is disorganized; cancels or reschedules frequently; has a poor work ethic; manages calendar poorly





Agency Response Plan





Department of Criminal Justice
Judicial Performance Evaluation Commission

September 21, 2026

Kade R. Minchey, CIA, CFE, Auditor General
Office of the Legislative Auditor General
Utah State Capitol Complex
Rebecca Lockhart House Building, Suite W315
PO Box 145315
Salt Lake City, UT 84114-5315

Dear Mr. Minchey,

Thank you for the opportunity to respond to "A Performance Audit of the Judicial Performance Evaluation Commission: Addressing Shortcomings in Efforts to Promote Judicial Accountability and Improvement." We appreciate the audit team's professionalism, willingness to listen, and constructive discussions with the Judicial Performance Evaluation Commission (JPEC) throughout this process.

We recognize the vital importance of maintaining a robust evaluation system supported by both the legislature and the courts. We believe this report will be a valuable tool to support this effort. Our shared goal is to foster greater trust and collaboration among JPEC, the legislature, and the judiciary, ensuring our processes remain transparent, fair, and effective.

JPEC is steadfastly committed to continuous improvement. The perspectives shared in this report provide a framework to evaluate our existing practices and further strengthen judicial performance evaluation in our state. We look forward to ongoing dialogue as we work together toward these shared objectives.

Sincerely,

Mary-Margaret Pingree
Executive Director
Judicial Performance Evaluation Commission

Chapter 1

Recommendation 1.1: The Judicial Performance Evaluation Commission should adopt and implement an evaluation model that establishes accountability for ensuring judicial evaluations are comprehensive, objective, and meaningful assessments of judicial performance. The model should align evaluation activities and performance measures with the commission's purpose, establish procedures for validating concerning information, and assess and report on the effectiveness of these changes. This should help improve judicial evaluations and the quality of information provided to the public.

Department Response: JPEC agrees that judicial performance evaluations should be comprehensive and provide meaningful assessments of judicial performance. Balancing comprehensive assessments with practical constraints is indeed an ongoing challenge for judicial performance evaluation programs nationwide. JPEC appreciates the perspectives shared in this report that give us the opportunity to critically assess our existing evaluation methods and pursue continuous improvement.

A key challenge in evaluating performance within a merit-selection framework is that rigorous front-end screening ensures candidates are already highly qualified, naturally leading to predominantly positive evaluations. Clarifying this dynamic helps address the concern that overwhelmingly positive evaluations indicate bias toward judges, when in fact they can reflect the inherent rigor of the merit-selection process itself. This does not suggest that there are no performance concerns or that our current process identifies all performance issues, but it does provide important context.

JPEC is committed to refining our process to address the recommendations outlined in this report. In 2026, Utah was the first state to adopt recommendations from the Institute for the Advancement of the American Legal System (IAALS) aimed at modernizing judicial performance evaluation objectives. These new performance measures are intended to expand the evaluation of Utah judges and align them more closely with the modern job of judging.

Expanding beyond surveys

JPEC agrees that an evaluation process should not rely too heavily on surveys and has actively looked for additional measures to address this concern. Like other states, Utah includes case management statistics in the judicial evaluation process. Utah also is one of the few states to include courtroom observations for every judge and intercept interviews for judges in smaller courts. JPEC is currently studying several potential tools that could be added to our process and will expand this list based on the recommendations in this report.

Validating concerning information

JPEC appreciates the emphasis on ensuring evaluation feedback is accurate and reliable. Because JPEC's survey process relies on anonymous responses that do not include identifying information such as respondent name, case numbers or dates, it would be difficult to validate specific individual claims directly. As anonymity is an

attorney's top concern when providing judge feedback, JPEC is concerned about identifying survey respondents for this purpose. JPEC focuses on identifying overall performance patterns and a stronger partnership with the Judicial Conduct Commission could provide the ability to determine if concerning patterns raised in survey comments align with formal complaints filed with the JCC. In addition, depending on the type of complaint, additional courtroom observation or video review could be added to the evaluation process.

Who: Mary-Margaret Pingree, Executive Director, mmpingree@utah.gov.

What:

- Implement the expanded performance measures introduced in SB233
- Explore, evaluate and develop alternative assessment tools beyond surveys with an emphasis on measures that can provide objective data.
- Study ways to make the survey pool more comprehensive by including feedback from additional groups that are impacted by judicial performance.
- Develop a process and partnership with the Judicial Conduct Commission to help validate existing evaluation data.

How:

- Incorporate expanded new performance measures introduced in the 2026 legislative session into the evaluation tools and process.
- Contract with an expert in judicial performance evaluation to study and develop new objective measures. This study will require additional funding.
- Complete the study of abuse of discretion rulings required by SB233.
- Study opinion review as a potential tool for the evaluation of appellate court judges. This study will require additional funding.
- Complete two ongoing studies assessing the expansion of the survey pool to include self-represented litigants and judges.
- In collaboration with the JCC, develop a process for validating concerning patterns found in evaluation data.

Documentation: 2028 survey tool, abuse of discretion study report, opinion review test proposal, templates and rubrics, 2026 judge survey test results and recommendations, SRL survey and test results.

Timetable: Timetables for some activities in this section may require at least one evaluation cycle to test and study. Implementation would then take place in the following evaluation cycle and impact the timetable.

- Revised survey tool - Summer 2027
- New Objective Measures Study - target of Dec 2027, timeline to be established in coordination with outside resource
- Abuse of Discretion study - October 2026
- Opinion Review Study - targeted Dec 2028, timeline to be established in coordination with outside resource
- Judge Survey Test - Jan 2027
- Pro Se Litigant Study - Sept 2027
- JCC Collaboration - targeted May 2027 pending coordination with the JCC

Note: JPEC is fully committed to implementing this recommendation and the recommendations that follow. However, as a small team with limited capacity, we cannot execute all these efforts simultaneously with existing resources. Full implementation will require additional staffing (FTE), additional funding for outsourcing or a phased approach that allows us to prioritize recommendations over time. The timelines outlined in this report assume support in these areas.

When: December 2028

Recommendation 1.2:

The Judicial Performance Evaluation Commission should coordinate with applicable entities, such as the Administrative Office of the Courts and the Judicial Conduct Commission, as it develops a more comprehensive evaluation. This coordination should enable it to develop additional performance measures and a more robust assessment. If additional barriers prohibit the commission from adopting measures it deems necessary to conduct a comprehensive assessment of judicial performance, it should work with the Legislature to determine if changes in statute are appropriate.

Department Response: JPEC agrees that close coordination with the Administrative Office of the Courts and the Judicial Conduct Commission (JCC) is important for an evaluation process that fosters trust among both the public and evaluated judges. Such collaboration ensures the credibility of publicly disseminated information and provides broad support for performance metrics.

Who: Mary-Margaret Pingree, Executive Director, mmpingree@utah.gov.

What: Coordinate with the JCC to discuss information sharing, particularly when disciplinary actions are happening at the same time as a performance evaluation. Coordinate with the AOC to discuss the potential performance metrics outlined in Recommendation 1.1 and gather feedback about their ability to be measured successfully.

How:

- Establish a working group with representatives from JPEC, the Judicial Conduct Commission and the courts.
- Clarify statutory boundaries regarding protected JPEC and JCC data and identify changes needed to enable enhanced information sharing.
- Help develop guidelines on how and when information should be shared.
- Meet with the AOC to discuss study results and review potential measures.
- Form working groups to study new performance metrics. Include judges and/or AOC in working groups.

Documentation: Minutes from committee meetings, changes to statute and rule, recommendations and guidelines for information sharing, working group reports.

Timetable:

- Create working group with JCC - Dec 2026
- Complete information sharing recommendations - targeted May 2026 pending coordination with the JCC
- Collaboration with AOC about new performance metrics - ongoing

When: Targeted for mid-2026 for JCC Collaboration. Collaboration with the AOC will be ongoing.

Recommendation 1.3: The Judicial Performance Evaluation Commission should develop and implement formal policies, procedures, and quality assurance processes governing how survey results are analyzed and communicated to the public. This process should include producing a detailed methodology that is then communicated to voters. JPEC should assess the impact of this process by monitoring progress on its consistency, objectivity, and accuracy in evaluation results and public summaries.

Department Response: JPEC agrees that its current policies and procedures should be reviewed for effectiveness and expanded to include a more formal quality assurance process. JPEC also agrees that reviewing these processes following each evaluation cycle will help maintain consistency and accuracy. In response to these recommendations, JPEC has added a dedicated methodology page to judges.utah.gov to communicate survey analysis procedures directly to voters.

Currently, JPEC works diligently to ensure that themes are meaningful and representative before including them in a judge's public narrative. Comments represent a minority of those responding to a survey. As a result, JPEC looks for patterns of feedback in both the comments and overall survey data. Sometimes comments suggest a negative theme, but that theme is ultimately outweighed by data in another part of the survey. Each judge has a different combination of information making this process nuanced and difficult to capture.

To address this challenge, JPEC will document the process for identifying themes more thoroughly and review them for consistency. In reviewing its approach, JPEC will evaluate a variety of thresholds to determine their relative effectiveness. Crucially, JPEC recognizes the importance of ensuring that judges perceive the selected methodology as fair, thereby validating the data and encouraging its use for performance improvement (see Finding 2.1).

Who: Mary-Margaret Pingree, Executive Director, mmpingree@utah.gov, Chris Russell, Qualitative Analyst, crussell@utah.gov and Madison Klein, Senior Business Analyst, mklein@utah.gov.

What:

- Review and evaluate the approach for identifying themes in summaries, considering multiple thresholds to determine their relative effectiveness.
- Formalize a quality assurance step in the summary drafting process.
- Review the categorization of judge survey scores when compared to peers and make adjustments to improve consistency and accuracy.

- Include a written and detailed methodology page for voters at judges.utah.gov.

How:

- Evaluate multiple approaches for identifying themes in summaries to determine which most accurately represents the underlying data.
- Create a clear rubric to assist commissioners as they review draft summaries in order to ensure there is consistency across judges.
- Explore closed AI tools and additional staff time to determine the most effective quality assurance approach. Implementing this recommendation may require additional funding and resources.
- Review and evaluate how JPEC categorizes judges compared to their peers.
- Maintain a methodology page at judges.utah.edu and update it regularly.
- Review these processes at the end of each evaluation cycle to monitor consistency and accuracy.

Documentation: Meeting minutes, theme process documentation, summary rubric, categorization metrics, methodology page.

Timetable:

- Evaluate theme thresholds and make recommendations - April 2027
- Formalize quality assurance processes and procedures - July 2027
- Upload methodology page for voters - Complete

When: July 2027

Recommendation 1.4: The Legislature should consider the following options to improve the Judicial Performance Evaluation Commission's performance evaluations:

- Require the Judicial Performance Evaluation Commission to conduct studies of the feasibility of additional performance measure mentioned in this chapter
- Clarify in statute JPEC's responsibilities for reviewing and validating concerning information identified during the evaluation process and define the scope of JPEC's authority
- Require the Judicial Performance Evaluation Commission to report to the Legislature on its progress in ensuring that its evaluations and public summaries are consistent, objective, and accurate
- Clarify in statute that judicial performance evaluations should be comprehensive and objective assessments of judicial performance

Department Response: JPEC would welcome the opportunity to discuss potential improvements with the legislature and collaborate on specific initiatives.

Chapter 2

Recommendation 2.1: The Judicial Performance Evaluation Commission should review and revise its evaluation methodology to improve the reliability of information the

commission uses in its evaluations. This should include improvements in survey sample sizes and the credibility of courtroom observations. It should also include supplementing evaluations with low survey sample sizes and a lack of courtroom observer expertise with additional tools. JPEC should measure the effectiveness of these improvements and ensure they enhance the quality of feedback and promote judicial improvement.

Department Response: JPEC agrees that having reliable information and representative sample sizes is important for credibility when conducting a survey. JPEC also agrees that there is an opportunity for additional training to address the concerns judges have about the expertise of courtroom observers. Additional tools to supplement these processes are discussed in the response to Recommendation 1.1.

Sample Size Reliability:

Small courts generate small survey pools and JPEC has implemented processes to try to maximize the pool size and response rate in these specific courts. Although the minimum sample size of 30 mentioned in this report is a common rule of thumb for a representative sample size in statistics, it is not a strict cutoff. According to our survey team, a sample size under 30 can be representative if the data has low variability and the sample is chosen correctly. However, as this report rightly points out, just as important to a successful survey process is that those being evaluated feel confidence in their survey results.

JPEC is currently studying the expansion of the survey pool to increase the number of survey respondents available for all judges. The addition of two new respondent groups—trial court judges and self-represented litigants—will increase the number of survey respondents available for all judges.

Courtroom Observers:

As noted in the report, JPEC has intentionally developed its courtroom observation program to capture and represent the perspective of the average citizen. The perspective of attorneys is already weighted heavily in the survey process and requiring that observers be law trained would amplify their impact. A downside to the citizen observer approach is that sometimes citizens misunderstand courtroom procedures. JPEC recognizes that this can be a frustration for judges but believes the advantage of capturing the voice of the average citizen is critical to a comprehensive and balanced evaluation process.

While maintaining its core focus on the citizen perspective, JPEC can partner with the court education department to expand its training program for observers and develop targeted training sessions to address concerns raised by judges.

Who: Mary-Margaret Pingree, Executive Director, mmpingree@utah.gov and Julie Spilker, Courtroom Observation Coordinator, juliespilker@utah.gov.

What:

- Review Existing Surveys: Review survey validity and methodology, make needed updates, and share results. This may require additional funding.

- **Expand Survey Pools:** Test surveys with two new groups—trial court judges and litigants representing themselves in court—to increase judge survey pools.
- **Better Communication:** Improve how we share information with judges with smaller survey pools to increase confidence in the survey results.
- **Observer Training:** Create new training for our courtroom observers to address the concerns raised by judges.

How:

- Schedule a methodology review with an outside survey expert.
- Identify judges with small sample sizes and develop a targeted and individualized communication plan to increase trust in the survey process. This plan could include individual meetings with judges, the survey team and JPEC when reports are released as well as a detailed explanation in the report to address sample size concerns.
- Complete the analysis of the trial court judge survey tested during the 2026 evaluation cycle and present a recommendation to the Commission and Judicial Council.
- Work with the court data team to identify self-represented litigants who have spent time in court and test a new survey instrument designed for this group. The test will be a rolling monthly survey for a period of three months.
- Use internal judge survey data and IAALS research to identify specific concerns raised by Utah judges and collaborate with the court education department to develop a targeted training program to address these concerns.

Documentation: Survey Validity and Methodology Report, Trial Judges Test Results and Recommendation, Self-Represented Litigant Study materials, outlines of new training materials.

Timetable:

- Complete the trial court judge survey test - January 2027
- Begin test of a self-represented litigant survey by November 2026. This test will be completed by February 2027. If needed, additional tests and research will be conducted during 2027. If successful, a formal rollout of this survey would be timed for the beginning of the next evaluation cycle in January of 2028.
- Review of survey methodology and validity - Fall 2027
- Develop additional courtroom observer training - Summer 2027

When: January 2028

Recommendation 2.2: The Judicial Performance Evaluation Commission should coordinate with the Judicial Council, presiding judges, and the Administrative Office of the Courts to establish a process for communicating, monitoring, and supporting judicial improvement to address needs that performance evaluations identify. This process should enable the commission to provide additional insight into judge performance and how evaluation feedback is used. It should also support the Judicial Council's ability to hold judges accountable for poor performance.

Department Response: JPEC welcomes the opportunity to work with the courts to help judges improve.

Who: Mary-Margaret Pingree, Executive Director, mmpingree@utah.gov.

What: Work with the Judicial Council, presiding judges, and the AOC to establish policies and procedures that enable evaluation feedback (especially at midterm) to support professional development and enable court leadership to monitor progress and maintain accountability.

How:

- Establish a working group with representatives from JPEC, the Judicial Council, Presiding Judges, and the AOC.
- Clarify statutory boundaries regarding protected evaluation data and identify changes needed to enable enhanced information sharing.
- Help develop guidelines on how and when presiding judges should discuss evaluation feedback with evaluated judges
- Collaborate with the court education team to design training tools and programs that support judge improvement. Discuss data sharing needed to support these plans.
- Define metrics to track whether judges address midterm evaluation feedback prior to their retention evaluations.

Documentation: Joint committee meeting agendas and minutes, changes in administrative rule, new metrics and guidelines.

Timetable:

- Initiate formal outreach to the State Court Administrator and Judicial Council leadership - Nov 2026
- Present draft guidelines to the Judicial Council and JPEC Commission (anticipated mid-2026, specific timelines will be determined with the AOC)
- Coordinate with court education to align training offerings with new procedures (anticipated mid 2026).
- Full implementation for the 2028 evaluation cycle

When: December 2027







THE MISSION OF THE LEGISLATIVE AUDITOR GENERAL IS TO
AUDIT · LEAD · ACHIEVE
WE HELP ORGANIZATIONS IMPROVE
