



CO L O R A D O

**Office of Judicial
Performance Evaluation**

Judicial Branch

The Honorable Richard L. Gabriel
2018 Judicial Performance Survey Report
Supreme Court

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Summary of Results

For Justice Richard L. Gabriel, 171 qualified survey respondents submitted surveys. Of those who responded, 129 agreed they had worked with Justice Gabriel enough to evaluate his performance. This report reflects these 129 responses.

Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to the following numerical scores: A= 4, B=3, C=2, D=1 and Fail=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Overall Score

Figure 1

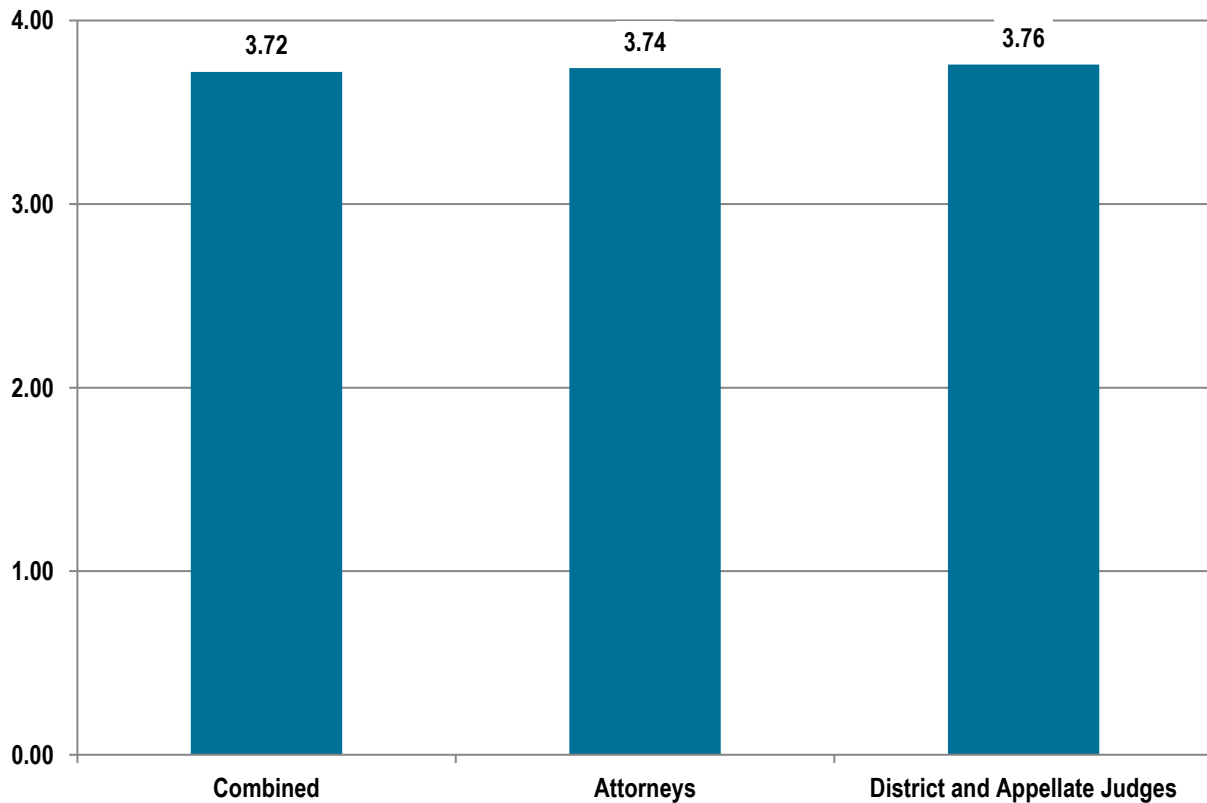


Table 1

Justice Richard L. Gabriel Overall Scores			
	Combined	Attorneys	District and Appellate Judges
Overall Grade	3.72	3.74	3.76

* The Non-Attorney Other category includes law enforcement personnel, defendants, litigants, and witnesses.

Performance Scores

Figure 2

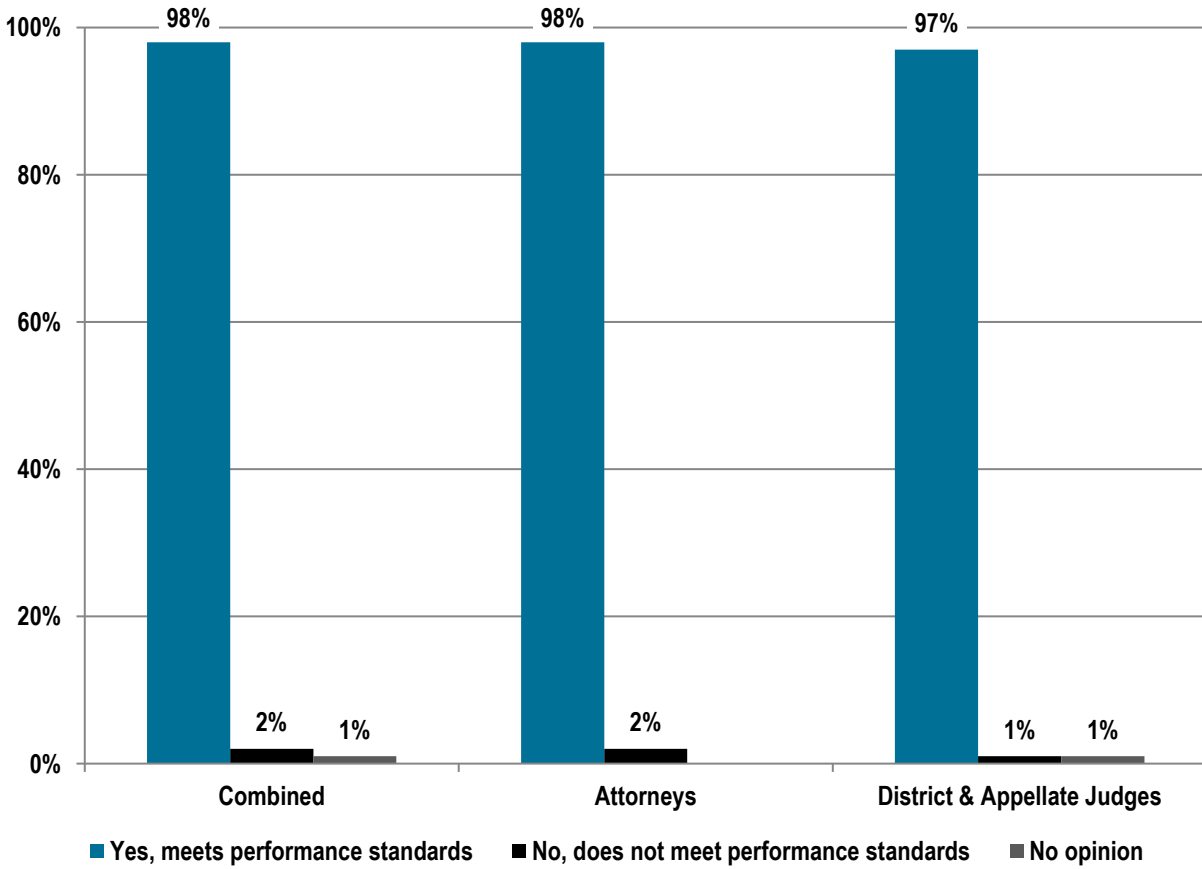


Table 2

Justice Richard L. Gabriel Overall Retention Scores			
	Combined	Attorneys	District & Appellate Judges
Yes, meets performance standards	98%	98%	97%
No, does not meet performance standards	2%	2%	1%
No opinion	1%	0%	1%

Individual Category Scores

Table 3

Justice Richard L. Gabriel Overall Category Scores		
Area	Attorneys	District and Appellate Judges
General	3.84	3.76
Writing	3.64	N/A

Summary of Responses

Table 4: Response Rates

Group	Total Sent	Undeliverable or Not Applicable*	Complete	Response Rate	% Without sufficient knowledge**
Attorneys	232	0	81	35%	23%
District and Appellate Judges	209	0	90	43%	26%

*Undeliverable or Not Applicable surveys are those that were returned as undeliverable, the person no longer works at the address provided, or the respondent is deceased.

**The percent without sufficient knowledge are those that said they had insufficient experience to evaluate the judge or justice.

Survey of Attorneys

Methodology and How to Read Results

For Justice Gabriel, 81 qualified survey respondents submitted surveys. Of those who responded, 62 agreed they had worked with Justice Gabriel enough to evaluate his performance. This report reflects these 62 responses. The survey results are divided into nine sections: Retention, Case Management, Application and Knowledge of Law, Communications, Demeanor, Diligence, Bias, Strengths, and Weaknesses. The results are shown in both graphs and tables.

a. Response rates

During the 2017 administration, a total of 20,283 survey invitations were sent to 6,391 attorneys inviting them to evaluate judges and justices standing for retention in 2018. On average, each attorney was asked to evaluate 3.2 judges. In total 3,983 surveys were completed with an additional 1,943 responses where the attorney indicated that they did not have enough experience with the judge to be comfortable evaluating him or her. The response rate for the survey was 29% and the survey completion rate (the number of those familiar enough to evaluate the judge divided by the total number of attorney responses including those indicating they did not have sufficient familiarity to evaluate the judge) was 67%.

b. Methodology

The 2017 attorney survey was conducted online beginning on August 8th, 2017. Attorneys with appearances in front of judges during the first and second quarters of 2017 were first mailed a pre-notification letter on August 8th, 2017 informing them about the survey and providing a link and login information to access the survey online. Next, a series of three email invitations were sent on August 10th, August 29th, and September 21st.

This process was repeated among attorneys with appearances in the third quarter of 2017 beginning with a pre-notification letter sent on November 10th, 2017. The letter was followed up by email invitations sent on November 20th, December 4th, and December 12th.

To further increase the amount of data collected, an additional cycle of data collection took place in February 2018. Invitations were emailed to attorneys with appearances during the 4th quarter of 2017. This cycle included a pre-notification letter sent on February 12th followed up by email invitations sent on February 15th and February 19th. Additional invitations and reminders were sent out on request throughout the data collection process.

Appellate staff attorneys received the same survey as other attorneys, but were invited separately with a series of email invitations starting with the initial invite on December 14th and followed by a reminder on January 10th, 2018.

c. Questions

In the core of the survey, attorneys evaluated district and county judges on 17 aspects of judicial performance and appellate judges on 12 aspects of judicial performance using a grade scale of A, B, C, D, or F. These aspects were grouped by topic into different categories, five for district and county judges and two for appellate judges. The district and county categories were: case management, application and knowledge of law, communications, demeanor, and diligence. Questions regarding appellate judges were divided into two categories, one for general questions and one specific to their writing (only asked of those who indicated they had experience with the judge or justice’s written opinions).

In a final question, respondents were asked if they thought whether the judge met judicial performance standards. This question was re-worded from previous survey administrations when respondents were asked how strongly they would or would not recommend a judge for retention.

The question wording for the core of the survey was carried over from the 2016 administration with only minor changes to make the survey gender neutral. The questions were originally developed in 1998 to meet the criteria outlined in statute 13-5.5-101 et seq.

Question Category Areas*

	Trial Judge: Attorney Survey	Appellate Judge/Justice Attorney Survey
Question Categories		
Appellate Judge General Questions		6
Application and Knowledge of Law	5	
Case Management	4	
Communications	2	
Demeanor	3	
Diligence	3	
Writing		6
Individual Questions		
Meets Performance Standards	1	1

**The numbers in the table refer to the number of questions asked in each category by survey group.*

d. Analysis and Reporting

Letter grades were converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0 for analysis. The results include an overall grade, a grade for each category, as well as a grade for each question. The overall score is calculated by averaging the responses to all questions answered by the attorneys. This score will have the same numerical range as the individual questions from zero to four.

Each category score is calculated by averaging the responses to all questions answered by the attorney within each category. This score will have the same zero to four numerical range as the individual questions. Similarly, an average score is calculated for each individual question with the exception of the final question on meeting performance standards.

The overall average and category scores will be reported for each judge along with the average scores for the judge's peers. The average score (with the exception noted above) will also be reported for each question along with the peer group score. In addition, the report will include the distribution of responses for each question, i.e. the percentage of attorneys that assigned a rating of A, B, C, D, and F. The distribution of responses is also reported for the questions on bias and retention.

e. Comments

At the end of each group of questions respondents had the option of leaving comments about the judge's performance in that area. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released.

General Evaluation

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Justice Gabriel on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

Figure 3

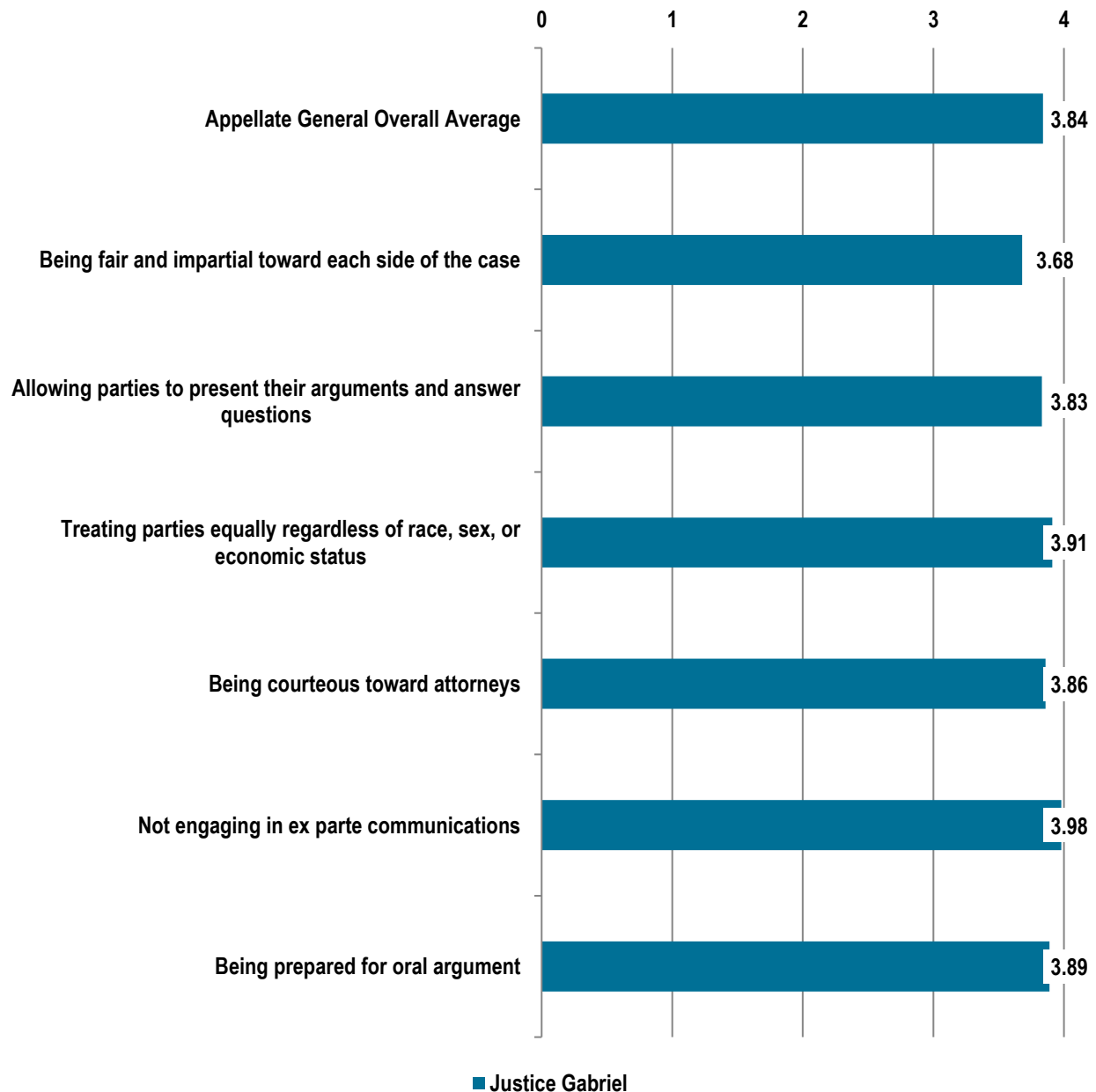


Table 5

Appellate General							
Justice Richard L. Gabriel	A	B	C	D	Fail	DK/NA	Total
Being fair and impartial toward each side of the case	51	11	3	--	1	--	66
Allowing parties to present their arguments and answer questions	54	7	2	--	--	3	66
Treating parties equally regardless of race, sex, or economic status	54	1	--	--	1	10	66
Being courteous toward attorneys	59	2	2	1	--	2	66
Not engaging in ex parte communications	47	1	--	--	--	18	66
Being prepared for oral argument	57	5	1	--	--	3	66

Writing

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Justice Gabriel on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

Figure 4

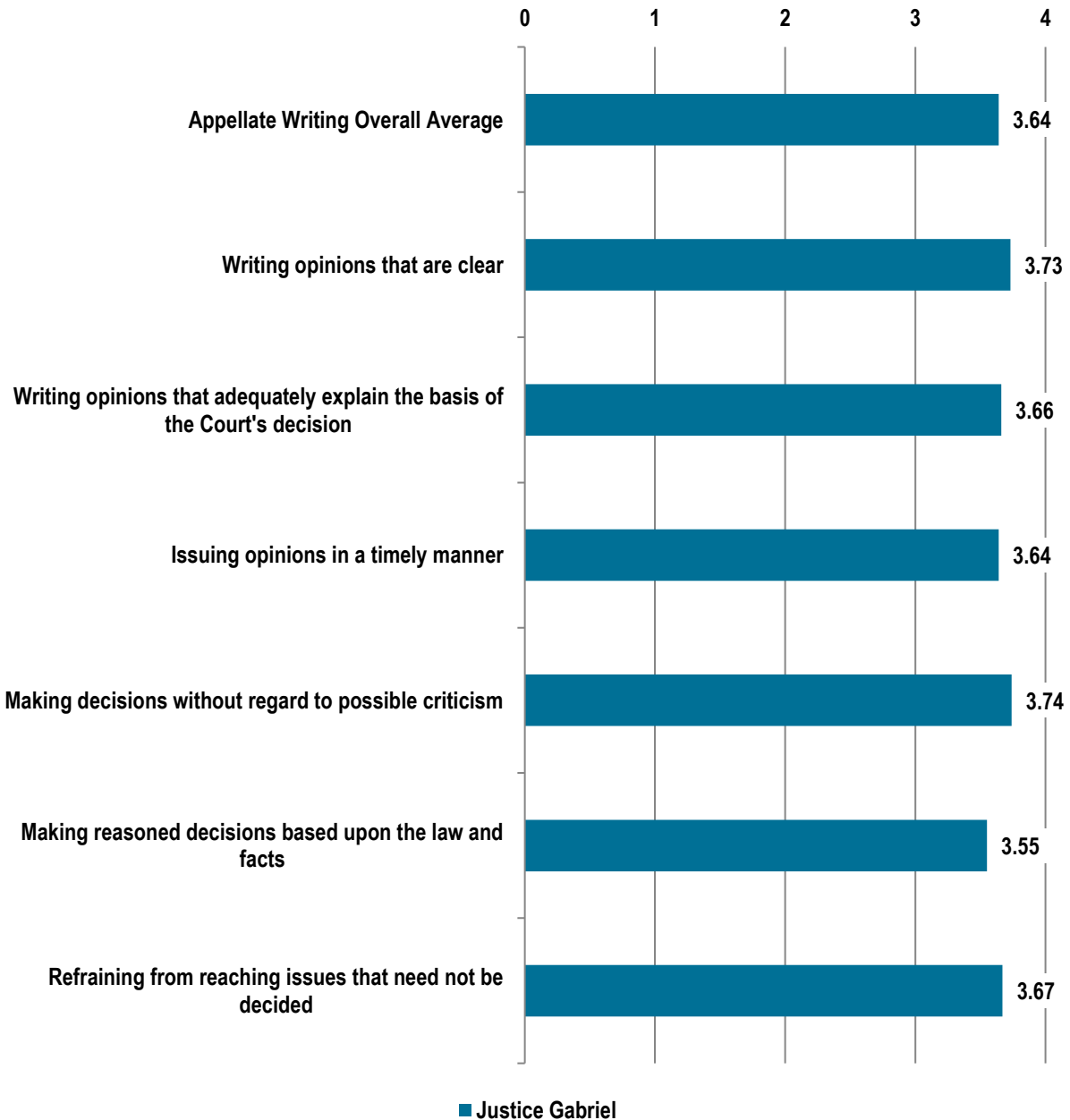


Table 6

Appellate Writing							
Justice Richard L. Gabriel	A	B	C	D	Fail	DK/NA	Total
Writing opinions that are clear	48	12	1	1	--	1	63
Writing opinions that adequately explain the basis of the Court's decision	47	10	4	1	--	1	63
Issuing opinions in a timely manner	42	12	3	1	--	5	63
Making decisions without regard to possible criticism	47	7	2	--	1	6	63
Making reasoned decisions based upon the law and facts	41	18	1	--	2	1	63
Refraining from reaching issues that need not be decided	43	6	4	--	1	9	63

Performance Score

Based on your responses to the previous questions related to the performance evaluation criteria, do you think Justice Gabriel meets judicial performance standards?

Table 7

Justice Richard L. Gabriel	
Yes, meets performance standards	98%
No, does not meet performance standards	2%
No opinion	0%

Survey of District and Appellate Judges

Methodology and How to Read Results

For Justice Gabriel, 90 qualified survey respondents submitted surveys. Of those who responded, 67 agreed they had worked with Justice Gabriel enough to evaluate his performance. This report reflects these 67 responses.

a. Response rates

For the inter-appellate evaluation, invitations were sent via email to 27 Supreme Court justices and Court of Appeals judges. Judges and justices not standing for retention in 2018 were invited to evaluate all their appellate peers standing for retention. Appellate Judges and Justices standing for retention in 2018 were invited to evaluate their fellow judges up for retention, but not themselves. Of these, 14 responded and completed the survey. The response rate was 52%.

District judges were invited to evaluate their peers standing for retention on the Court of Appeals or Supreme Court via email. For this survey all district judges were sent invitations to evaluate the 6 Court of Appeals judges or Supreme Court justices standing for retention. A total of 1,098 survey invitations were sent and 442 responded and completed the survey. The overall response rate was 40%.

b. Methodology

Both District Judges and fellow members of the Supreme Court or Court of Appeals were asked to evaluate the appellate judges and justices standing for retention in 2018.

The evaluation of appellate judges and justices standing for retention by their peers in the appellate courts began with an email invitation sent on January 26th, 2018.

The evaluation of appellate judges and justices by their peers in the district courts began with an email invitation sent on January 9th. A reminder email was sent on January 16th to those who had not yet responded.

c. Questions

Both groups of judges providing appellate evaluations answered the same questions. The survey consisted of a series of 9 questions where the respondent was asked to rate the judges performance with an A through F letter grade. They were then asked whether or not the judge met performance standards and given an opportunity to provide any written comments.

d. Analysis

Letter grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0 for analysis. The overall score is calculated by averaging the responses to all questions answered. This score will have the same numerical range as the individual questions from zero to four.

The overall average will be reported for each judge along with the average scores for the judge's peers. In addition, the report will include the distribution of responses for each question. That is, the percentage of attorneys that assigned a rating of A, B, C, D, and F.

e. Comments

Respondents were given the option to leave supporting comments in a box next to where they graded each judge. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released.

Individual Questions

Using a grade scale, where "A" is excellent along with B, C, D, or F for fail, please grade the following appellate judges on each aspect by selecting the appropriate letter grade. If you feel that you don't have enough information about a judge to mark a specific grade, please select "No Grade".

Figure 5

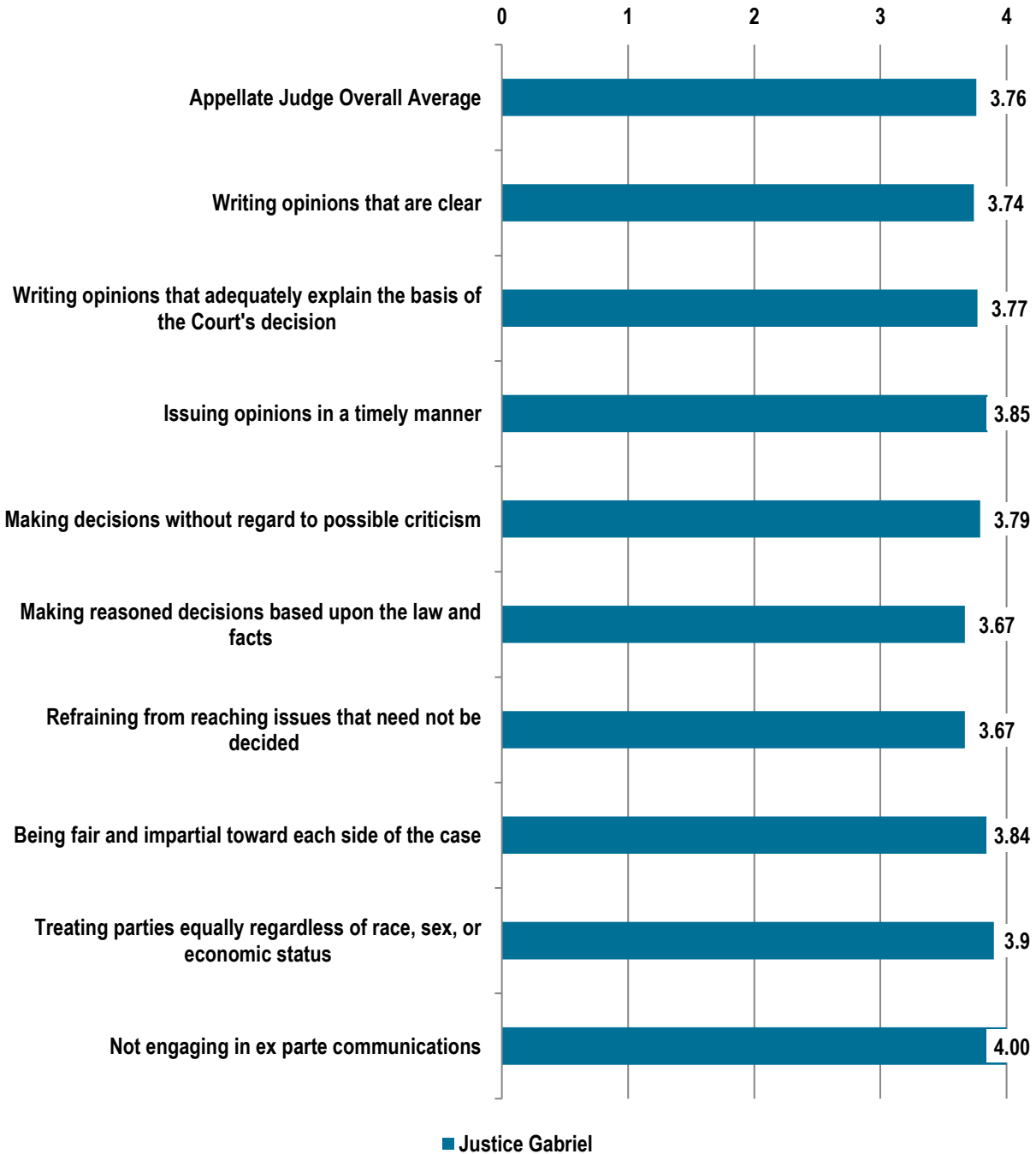


Table 8

Appellate Individual Questions							
Justice Richard L. Gabriel	A	B	C	D	Fail	DK/NA	Total
Writing opinions that are clear	50	15	1	--	--	1	67
Writing opinions that adequately explain the basis of the Court's decision	52	11	2	--	--	1	66
Issuing opinions in a timely manner	45	6	1	--	--	15	67
Making decisions without regard to possible criticism	51	10	--	1	--	5	67
Making reasoned decisions based upon the law and facts	47	17	1	1	--	1	67
Refraining from reaching issues that need not be decided	41	14	1	1	--	10	67
Being fair and impartial toward each side of the case	55	7	--	1	--	4	67
Treating parties equally regardless of race, sex, or economic status	59	3	--	1	--	4	67
Not engaging in ex parte communications	11	--	--	--	--	4	15

Performance Score

Based on your responses to the previous questions related to the performance evaluation criteria, do you think Justice Gabriel meets judicial performance standards?

Table 9

Justice Richard L. Gabriel	
Yes, meets performance standards	97%
No, does not meet performance standards	1%
No opinion	1%