

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Stephen Nash, Director, Finance Division, 415-865-7584
Pat Haggerty, Assistant Director, Office of Accounting and Business Services, 415-865-7922
Bob Fleshman, Supervisor, Finance Division, 415-865-7531

DATE: April 2, 2008

SUBJECT: Judicial Branch Travel Expense Reimbursement Policy (adopt rule 10.106 of the California Rules of Court) (Action Required)

Issue Statement

Assembly Bill 1248 (Stats. 2007, ch. 738), which amended Government Code section 68506.5, requires the Judicial Council to adopt fiscally responsible travel reimbursement policies, procedures, and rates for the judicial branch after receiving comment from the courts, court employee organizations, and other interested groups.

Historically, the judicial branch's travel policies and reimbursement rates were primarily under the jurisdiction of the California Victim Compensation and Government Claims Board. Because the policies and rates were not under the purview of the judicial branch, there were often delays in adjusting rates in response to changing economic conditions, which affected the courts' ability to function efficiently. AB 1248 provides the branch with the authority to establish policy based on the needs of the courts and the branch in general.

Recommendation

AOC Finance Division staff recommends that the Judicial Council adopt rule 10.106 of the California Rules of Court.

The text of the new rule is attached on page 4.

Rationale for Recommendation

Government Code section 68506.5¹ requires the Judicial Council to adopt fiscally responsible travel reimbursement policies, procedures, and rates for the judicial branch. The proposed rule serves two functions. First, it defines the applicability of such a policy. Second, it delegates to the Administrative Director of the Courts the authority to amend the policy.

Section 68506.5 does not specify the judicial branch entities to which the policy should apply. To avoid any ambiguity, the proposed rule specifically identifies all judicial branch entities to which the policy applies. In addition, the proposed rule clarifies that the policy will apply to a broad scope of judicial branch personnel—judicial officers, judicial officers sitting by assignment, officers, and employees, as well as members of the Judicial Council, task forces, working groups, commissions, and other similar bodies.

The proposed rule delegates to the Administrative Director of the Courts the authority to amend the policy to make technical changes and clarifications. Because the policy concerns administrative matters, it is appropriate for the Administrative Director to be given authority to amend the policy rather than requiring the Judicial Council to review and approve every change to the policy. The delegation of authority provides that amendments must be fiscally responsible, provide for appropriate accountability, and comply generally with the policy initially adopted by the Judicial Council.

Staff from the AOC Finance Division is currently drafting proposed travel reimbursement policies, procedures, and rates, which will collectively be known as the Judicial Branch Travel Expense Reimbursement Policy. A draft of this policy will be circulated for public comment before being submitted to the Judicial Council for consideration.

Alternative Actions Considered

No alternative actions were considered.

Comments From Interested Parties

This proposal was circulated for comment to presiding judges, court executives, individuals, and organizations with a general interest in court-related issues. Comments were received from courts and individuals from throughout the state indicating widespread support for the proposed rule. A single comment was received from an individual outside of the court system opposing the rule, though no specifics were provided to support this position.

¹ In its entirety, section 68506.5 states, “The Judicial Council shall, after receiving comment from the courts, court employee organizations, and other interested groups, adopt fiscally responsible travel reimbursement policies, procedures, and rates for the judicial branch that provide for appropriate accountability.”

Additionally, the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Working Group discussed this proposal and expressed concerns about the breadth of authority of the Administrative Director to make changes to the policy and that the authority could be exercised without seeking comments. The original proposal, as circulated, that caused concern stated:

The Judicial Council delegates to the Administrative Director of the Courts, pursuant to article VI, section 6(c) of the California Constitution and other applicable law, the authority to amend the Judicial Branch Travel Expense Reimbursement Policy. The amendments must be fiscally responsible, provide for appropriate accountability, and be consistent with the policy initially adopted by the Judicial Council.

Members of the Joint Rules Working Group commented that as previously written, the proposed rule would have given the Administrative Director broad discretion to amend the policy without seeking comment on the changes. The rule was modified in response to these concerns to provide that the Administrative Director has the authority to make only “technical changes and clarifications” to the policy. Examples of “technical changes and clarifications” include rate changes in response to federal mileage reimbursement rate adjustments and other changes that result from changes in federal, state, or local rules; regulations; or applicable law. The purpose of this delegation is to ensure that minor changes and clarifications may be made in a timely manner and to eliminate the need for the Judicial Council to review changes that merely reflect current reimbursement rates and other minor technical changes and corrections. Because of the nature of these changes and the need for them to be made in a timely manner, the rule does not require that the Administrative Director seek comment on these changes before implementation.

Staff modified the rule to address concerns of the Joint Rules Working Group and RUPRO approved of the modification.

Implementation Requirements and Costs

The proposal has no implementation costs.

Attachment

1 **Rule 10.106 Judicial branch travel expense reimbursement policy**

2
3 **(a) Adoption**

4
5 The Judicial Council must adopt a fiscally responsible judicial branch travel
6 expense reimbursement policy, under Government Code section 68506.5,
7 that provides appropriate accountability for the use of public resources.
8 Before adopting the initial policy, the Judicial Council must receive
9 comments from the courts, court employee organizations, and other
10 interested groups.

11
12 **(b) Applicability**

13
14 The judicial branch travel expense reimbursement policy applies to official
15 state business travel by:

- 16
17 (1) Judicial officers and judicial officers sitting by assignment;
18
19 (2) Officers, employees, retired annuitants, and members of the Supreme
20 Court, the Courts of Appeal, superior courts, the Judicial Council, the
21 Administrative Office of the Courts, the Habeas Corpus Resource
22 Center, and the Commission on Judicial Performance; and
23
24 (3) Members of task forces, working groups, commissions, or similar
25 bodies appointed by the Chief Justice, the Judicial Council, or the
26 Administrative Director of the Courts.

27
28 **(c) Amendments**

29
30 The Judicial Council delegates to the Administrative Director of the Courts,
31 under article VI, section 6(c) of the California Constitution and other
32 applicable law, the authority to make technical changes and clarifications to
33 the judicial branch travel expense reimbursement policy. The changes and
34 clarifications must be fiscally responsible, provide for appropriate
35 accountability, and be in general compliance with the policy initially adopted
36 by the Judicial Council.

	Commentator	Position	Comment on behalf of group?	Comment	Proposed Committee Response
1.	Hon. Joyce Allegro Judge Superior Court of Santa Clara County San Jose, CA	A	No	Agree with proposed changes	No response necessary.
2.	Hon. David W. Abbott Judge Superior Court of Sacramento County Sacramento, CA	A	No	Agree with proposed changes	No response necessary.
3.	Ms. Sharol Strickland Court Executive Officer Superior Court of Butte County Orville, CA	A	No	Agree with proposed changes	No response necessary.
4.	Mr. John V. Hager Private Attorney Santa Barbara, CA	D	No	Do not agree with proposed changes	Because no specifics were included in the comment, no response necessary.
5.	Mr. Michael M. Roddy Court Executive Officer Superior Court of San Diego County San Diego, CA	A	Yes	Agree with proposed changes	No response necessary.
6.	Ms. Inga McElyea Court Executive Officer Superior Court of Riverside County Riverside CA	A	Yes	Agree with proposed changes	No response necessary.
7.	Ms. Lorraine Dias Herbon Adm. Services Officer II Superior Court of Sacramento County Sacramento, CA	A	Yes	Agree with proposed changes	No response necessary.