

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

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Report

TO: Members of the Judicial Council

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SUBJECT: Subordinate Judicial Officers: Allocation of Conversions
(Action Required)

Issue Statement

At its October 26, 2007, meeting, the Judicial Council approved the conversion of 7 vacant subordinate judicial officer (SJO) positions to judgeships in four superior courts with positions eligible for conversion. Two of the 7 positions were vacant and therefore can be converted to judgeships on January 1, 2008, the effective date of the legislation authorizing the conversions. The remaining 5 positions were confirmed as coming vacant before the end of fiscal year 2007–2008. Between the time that the superior courts notified the Administrative Office of the Courts (AOC) of the vacant SJO positions and the council’s action on October 26, 2 of those positions that were approved for conversion—1 already vacant position and 1 anticipated vacancy—were filled with new subordinate judicial officers. These 2 positions are, therefore, no longer eligible to be converted to judgeships at this time.

To ensure that vacant SJO positions are converted to judgeships as expeditiously as possible and to provide the greatest possible clarity for the superior courts, this report proposes an allocation methodology for the remaining 11 positions eligible for conversion in FY 2007–2008. In addition, this report proposes an allocation methodology for the conversion of the remaining 146 SJO positions that are eligible for conversion in subsequent years under Assembly Bill 159 ([Jones] Stats. 2007, ch. 722).

Recommendation

Staff recommend that the Judicial Council take the following actions with regard to the conversion of SJO positions to judgeships:

1. Require each of the courts with SJO positions eligible for conversion to notify the Administrative Office of the Courts promptly on confirmation that an eligible SJO position is or will become vacant and the date of the anticipated vacancy. Require that each court with an SJO position that is or will become vacant not fill that position until the Executive and Planning Committee makes a decision as to conversion of the position.
2. Adopt the following allocation schedule for the remaining 11 positions eligible for conversion for FY 2007–2008:

Superior Courts (by County)	Number of Conversions Set Aside for Fiscal Year 2007–2008
Group 1: Los Angeles	2
Group 2: Orange	1
Group 3: Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4
Group 4: El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, Yolo	4

For courts in groups 3 and 4, the conversions shall be allocated in the order that courts notify the AOC of a confirmed vacancy before the end of FY 2007–2008. If the total number of vacancies reported to the AOC by any court or group of courts does not reach the number of positions set aside for that court or group of courts by April 1, 2008, the remaining positions set aside for conversion will be distributed to any other eligible court on a first-come, first-served basis.

3. Adopt the following allocation schedule for FY 2008–2009 and ongoing.

Superior Courts (by County)	Number of Conversions Set Aside for FY 2008–2009 and Ongoing
Group 1: Los Angeles	7
Group 2: Orange	1
Group 3: Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4
Group 4: El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus,	4

Tulare, Yolo	
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As with the allocation schedule for FY 2007–2008, for courts in groups 3 and 4, the conversions shall be allocated in the order that courts notify the AOC of a confirmed vacancy before the end of the fiscal year. If the total number of vacancies reported to the AOC by any court or group of courts does not reach the number of positions set aside for that court or group of courts by April 1, the remaining positions set aside for conversion will be distributed to any other eligible court on a first-come, first-served basis.

4. To provide certainty to the superior courts and enable the positions to be converted to judgeships as quickly as possible, delegate to the Executive and Planning Committee the authority and responsibility for approving the conversions. Staff shall present to the Executive and Planning Committee, as soon as practicable after notification by the courts of an existing or anticipated vacancy, information on the number of courts in which eligible positions will be allocated for conversion under the above methodology. To allow courts to use converted positions pending new appointments, delegate to the Executive and Planning Committee the authority to approve the filling of vacant converted positions with temporary SJOs.

Rationale for Recommendation

Background

At its February 23, 2007, meeting, the council identified 162 SJO positions eligible for conversion in 25 superior courts, broken down as follows:

Superior Courts (by County)	Number of SJO Positions Eligible for Conversion
Alameda	6
Contra Costa	6
El Dorado	2
Fresno	3
Imperial	1
Kern	2
Los Angeles	78
Marin	2
Merced	2
Napa	1
Orange	14
Placer	1
Riverside	6
Sacramento	5
San Diego	7
San Francisco	9
San Luis Obispo	2
San Mateo	2
Santa Barbara	2

Santa Cruz	1
Solano	3
Sonoma	2
Stanislaus	1
Tulare	2
Yolo	2
Total	162

At its October 26, 2007, meeting, the council approved the conversion of the first 7 SJO positions that superior courts had confirmed either were vacant or would become vacant by June 30, 2008. Staff were directed to return to the council no later than February 2008 with a recommendation for allocating the remaining 9 positions eligible for conversion in FY 2007–2008. Between the time that the superior courts notified the AOC of the vacant SJO positions and the Judicial Council’s action on October 26, 2 of the SJO positions that were approved for conversion to judgeships—1 already vacant position and 1 anticipated vacancy—were filled and only 5 positions can be converted, 3 in Contra Costa County, 1 in San Francisco County, and 1 in San Luis Obispo County. Thus, the council is authorized to convert 11 additional positions in FY 2007–2008.

As discussed in the report presented to the council in October, a methodology is needed to allocate positions only when there are more than 16 vacancies in eligible positions in a given year. That methodology must seek to balance the long-term goal of achieving a more appropriate balance between judgeship and SJO positions in the superior courts with the short-term, immediate needs of the courts to handle their workload. Waiting until late in the fiscal year to compile a full list of all the positions that come vacant in a year would create unnecessary uncertainty and place an added burden on courts with vacant positions by requiring that they hold open positions that may not be converted in the near term. Thus, this proposal seeks to satisfy the practical need of courts to have some certainty if their vacant SJO positions will be converted to judgeships, or, absent that, allow them to fill vacant positions with an SJO.

Rationale for notification of AOC staff of confirmed vacancies (Recommendation 1)

In order to expeditiously convert SJO positions to judgeships and allocate the positions among the several courts with vacancies, it is imperative that courts notify the AOC immediately of any confirmed vacancy that exists or will exist in an eligible subordinate judicial officer position. Prompt notification will also enable staff to communicate quickly with other courts that also have vacancies such important information as, for example, that the 16 vacancies authorized in a given fiscal year have been accounted for and that court can now choose to leave the position vacant or fill it with an SJO as needed.

Rationale for allocation methodologies (Recommendations 2 and 3)

Taking into account the total numbers of conversions for which each of the 25 courts are eligible, staff established the following four superior court groupings, by county:

1. Los Angeles;
2. Orange;
3. Alameda, Contra Costa, Riverside, Sacramento, San Diego, and San Francisco; and
4. El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, and Yolo.

Out of the entire pool of 162 SJO positions eligible for conversion, each of the courts in group 4 is eligible for 3 or fewer conversions and each of the courts in group 3 is eligible for 5 to 9 conversions. The Superior Courts of Orange and Los Angeles Counties are unique in that they are eligible for 14 and 78 conversions, respectively. The percentage of total SJO conversions for each grouping corresponds roughly to the proposed allocation identified for each group beginning in FY 2008–2009. For example, group number 3 is entitled to 24 percent of the total 162 conversions and 25 percent of the 16 conversions in each fiscal year.

For the allocation of the 11 positions that remain in FY 2007–2008, based on the best information available, staff do not believe that a strict adherence to this method will yield the best results. Staff have been told that the Superior Court of Los Angeles County anticipates only two SJO vacancies before June 30, 2008. The allocation methodology described above, however, would yield 5 conversions being allocated to that court. Staff therefore recommend allocating 2 of the remaining 11 positions to the Superior Court of Los Angeles County to address anticipated vacancies. With that reduction in the allotment to Los Angeles, although 4 of the first 5 conversions approved by the council at its October meeting were already allocated to group 3, staff recommends allotting the total number of conversions for which each of these groups would be eligible in any other fiscal year (1 to group 2; 4 to group 3; and 4 to group 4).

If any of these court groupings is unable to use its allocation, however, courts in the other groups must be given the opportunity to convert their additional existing or anticipated vacancies. Staff recommend, therefore, that if any one of the courts or court groupings does not, by April 1, confirm sufficient numbers of existing or anticipated vacancies to meet the number of conversions set aside for that court or group of courts before the end of the fiscal year, the remaining conversions associated with that court or group of courts be distributed to any other eligible court on a first-come, first-served basis.

Rationale for delegation of responsibility to the Executive and Planning Committee for approving conversions (Recommendation 4)

By approving the above methodology for allocating SJO conversions among the eligible courts, it will no longer be necessary for the full council to approve each of the individual conversions. Requiring full council action would delay the time before the final decision is made. Nonetheless, since this action is creating judgeships, it may not be appropriate

for staff to act alone. Staff therefore recommend that the council delegate to the Executive and Planning Committee the responsibility for approving the conversions.

Alternative Actions Considered

Staff considered allocating the conversions simply on a first-come, first-served basis in which the first 16 vacancies of which the AOC was notified would be converted to judgeships. From a staff perspective, there would be great simplicity in such an approach. However, this fails to take into consideration the total number of conversions for which a court is eligible, and it provides courts with less certainty about whether an anticipated vacancy will be converted. In the Superior Court of Los Angeles County, for example, under the recommended approach, there is no question that the first two vacancies in FY 2007–2008 will be converted to judgeships. Under the alternative model considered, no such certainty exists.

Comments From Interested Parties

None. The proposal was not circulated for comment.

Implementation Requirements and Costs

The methodology for allocating the conversions among the 25 eligible courts does not in and of itself pose any implementation requirements or costs. Previous reports to the council identified implementation requirements and costs associated with converting SJO positions to judgeships.