

JUDICIAL COUNCIL MEETINGS
Administrative Office of the Courts
Malcolm M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102-3688
Open to the Public (Except When Otherwise Noted)

AGENDA

December 1, 2005 The Complex Civil Litigation Program: History, Best Practices & Considerations for the Future (Educational meeting) (Closed)
1:30 p.m.–3:30 p.m.

Update on Negotiations with Legislative and Executive Branches (Closed)
3:30 p.m.–4:00 p.m.
Mr. William C. Vickrey, Administrative Director of the Courts

December 2, 2005 Business Meeting
8:30 a.m.– 12:00 p.m.

8:30–8:45 a.m. **Public Comment Related to Trial Court Budget Issues***
[Subject to requests]
*This time is reserved for public comment on discussion agenda items relating to trial court budgets.

8:45–8:50 a.m. **Approval of Minutes**
November 4, 2005, business meeting
[Minutes Tab]

8:50–9:10 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
Hon. Suzanne N. Kingsbury, Chair
[Council Reports Tab]

9:10–9:15 a.m. **Chief Justice's Report**

Chief Justice Ronald M. George will report on activities in which he has been involved since the last Judicial Council meeting.

Consent Agenda (Items 1A –1E, 2–11)

(A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.)

ITEM 1 JUDICIAL COUNCIL–SPONSORED LEGISLATION

Item 1A Judicial Council–sponsored Legislation: Change of Name: Improvement of Procedures and Clarification of Underlying Law (amend Code Civ. Proc., §§ 1276–1279.5) (Action Required)

The Policy Coordination and Liaison Committee and Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to amend Code of Civil Procedure sections 1276 through 1279.5 to clarify the law and improve the procedures for changing a person’s name.

Staff: Mr. Patrick O’Donnell
Office of the General Counsel

Item 1B Judicial Council–sponsored Legislation: Establish Consistent Times for Firearms Relinquishment in Civil Harassment and Workplace Violence Cases and for Service of Papers Before a Hearing in Elder and Dependent Adult Abuse Cases (amend Code Civ. Proc., § 527.9, and Welf. & Inst. Code, § 15657.03) (Action Required)

The Policy Coordination and Liaison Committee and Civil and Small Claims Advisory Committee recommends that the Judicial Council sponsor legislation to: (1) amend Code of Civil Procedure section 527.9 to provide the same time for relinquishment of firearms after service of orders in civil harassment, workplace violence, and elder and dependent adult abuse cases as presently provided under Family Code section 6389(c) after service of orders in domestic violence cases; and (2) amend Welfare and Institutions Code section 15657.03(g) to provide the same time for service of papers before the hearing in elder and dependent adult abuse prevention cases as provided under Code of Civil Procedure sections 527.6(g) and 527.8(h) for service of papers in civil harassment and workplace violence prevention cases.

Staff: Mr. Patrick O'Donnell
Office of the General Counsel

Item 1C **Judges' Retirement System II: Annuity Option for Early Retirement (Gov. Code, § 75521) (Action Required)**

The Policy Coordination and Liaison Committee and Judicial Service Advisory Committee recommend that the Judicial Council sponsor legislation to amend Government Code section 75521 so that CalPERS would be authorized to offer any vested JRS II judge who retires early the option of an annuity paid for life that is actuarially equivalent to the lump-sum payout that he or she would otherwise receive, in order to preserve the maximum value of the judge's defined contribution to the JRS II.

Staff: Ms. June Clark
Office of Governmental Affairs

Item 1D **Judicial Council–Sponsored Legislation: Traffic/Nontraffic Citations: Electronic Submission of Notice to Appear Forms (Pen. Code, § 959.1) (Action Required)**

The Policy Coordination and Liaison Committee and Traffic Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 959.1 to update and clarify the law regarding the standards for electronic submission of notice to appear (NTA) forms to expressly authorize electronic submission of NTA citations for nonparking Vehicle Code violations; require that electronic NTA citations include a digitized signature of the defendant; and exempt electronic NTA citations from existing subscription requirements that apply to the citing officer.

Staff: Mr. Courtney Tucker
Office of the General Counsel

Item 1E **Enhanced Collections of Court-Ordered Fines and Penalties (Pen. Code, § 1463.010) (Action Required)**

The Policy Coordination and Liaison Committee and the Collaborative Court-County Working Group on Enhanced Collections recommend that the Judicial Council sponsor legislation to, among other things, amend Penal Code 1463.007 to improve collection efforts across the state. and provide for a task force to undertake a complete review of the criminal fine structure.

Staff: Ms. Eraina Ortega

Item 2 **Traffic: 2006 Uniform Bail and Penalty Schedules (revise Schedules) (Action Required)**

The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2006, adopt revised 2006 Uniform Bail and Penalty Schedules. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Trial courts use the schedules, pursuant to rule 4.102 of the California Rules of Court, in performing their duty under Penal Code section 1269b, to revise and adopt annually a schedule of bail and penalties for misdemeanor and infraction offenses.

Staff: Mr. Courtney Tucker
 Office of the General Counsel

Item 3 **Equal Access Fund: Distribution of Funds for Partnership Grants (Action Required)**

AOC staff recommends that the Judicial Council approve the allocation of \$950,000 in Equal Access Fund partnership grants to the State Bar Legal Services Trust Fund Commission for distribution to legal services providers for programs conducted jointly with the courts providing legal assistance to self-represented litigants. The Budget Act authorizing the Equal Access Fund requires Judicial Council approval of the commission's recommendations if the council determines that the awards comply with statutory and other relevant guidelines. The report demonstrates that the commission has complied with those guidelines.

Staff: Ms. Bonnie Hough
 Center for Families, Children & the Courts

Item 4 **Jury Instructions: Approve Publication of Revisions and Additions to Civil Instructions (Cal. Rules of Court, rule 855(d)) (Action Required)**

The Advisory Committee on Civil Jury Instructions recommends approval of the publication of revisions to the Judicial Council of California Civil Jury Instructions that were first published in September 2003 and last amended in June 2005. The instructions would be added or revised to improve clarity and accuracy.

Staff: Ms. Lyn Hinegardner

Item 5 **Conflict of Interest Codes for Administrative Office of the Courts and Habeas Corpus Resource Center (Action Required)**

AOC staff recommends that the council amend the conflict of interest codes for the AOC and Habeas Corpus Resource Center by including certain new job classifications in the codes, deleting others, and updating the titles of other classifications. This will ensure compliance with the Political Reform Act by requiring employees whose financial interests could be materially affected by decisions they make to file statements of economic interests.

Staff: Mr. Mark Jacobson
 Office of the General Counsel

Item 6 **Family Law: Notice of Activation of Military Service and Deployment and Request to Modify Support (adopt form FL-398) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the council adopt a new mandatory form which would implement changes to the Family Code made by Senate Bill 1082 (Stats. 2005, ch. 154; Morrow), which is urgency legislation requiring the Judicial Council to develop forms within 90 days of its effective date (August 30, 2005) that permit military service members activated to duty and deployed out of state to file and serve a notice of activation and request modification of support.

Staff: Ms. Ruth McCreight
 Center for Families, Children & the Courts

Item 7 **Electronic Court Records: Remote Public Access in Extraordinary Criminal Cases: Procedure Manual to Implement Rule 2073(e) (Action Required)**

The Court Technology Advisory Committee recommends approval of a procedure manual to assist courts in implementing a rule on remote public access to electronic records in extraordinary criminal cases. The manual is based on court experience with three high-profile cases and offers best practices that other courts may adopt.

Staff: Ms. Jane Evans
 Information Services Division

Item 8 **Miscellaneous Technical Changes to California Rules of Court and Judicial Council Forms (amend Cal. Rules of Court, rules 4.300, 4.406, 4.411, 4.435, 4.534, 4.480, and 1522; revise form CR-120) (Action Required)**

AOC staff recommends miscellaneous technical changes to California Rules of Court and Judicial Council forms. These changes are needed because of errors in rules and forms that have resulted from prior rule amendments, renumbering, and inadvertent omissions.

Staff: Ms. Susan Goins
 Office of the General Counsel

Item 9 **Criminal Procedure: Rules Governing Jurisdiction in Habeas Corpus Petitions in Trial and Appellate Courts (amend Cal. Rules of Court, rules 60 and 4.552) (Action Required)**

The Criminal Law Advisory Committee, in consultation with the Appellate Advisory Committee, recommends that the Judicial Council, effective January 1, 2006, amend rules 60 and 4.552 of the California Rules of Court to clarify the appropriate court to hear a petition for writ of habeas corpus challenging the denial of parole. This proposal will conform trial and appellate rules of court to the recent Supreme Court decision, *In re Roberts* (2005) 36 Cal.4th 575.

Staff: Mr. Joshua Weinstein
 Office of the General Counsel

Item 10 **Court Interpreter Employee Classifications: Regional Court Interpreter Employment Relations Committees (amend Cal. Rules of Court, rule 6.661) (Action Required)**

AOC staff recommends these nonsubstantive, technical amendments so that the language of rule 6.661 of the California Rules of Court reflects the current classifications of court interpreter employees used in determining the membership and voting rights of each superior court representative on the four regional court interpreter employment relations committees established by this rule and statutes. These amendments conform the rule to the governing statutes.

Staff: Mr. Scott L. Gardner
 Human Resources Division

Item 14 Temporary Judges: Rules on Quality Assurance, Training, Ethics, and Administration (adopt Cal. Rules of Court, rules 243.10–243.17, 243.19–243.21, 243.30, 243.32–243.34, 6.740–6.746; amend rule 244 and renumber as rule 243.31; amend rules 1726 and 6.603; amend rule 1727 and renumber as rule 243.18; repeal rule 880; and amend Cal. Stds. Jud. Admin., § 16.5; and recommend disclosure and disqualification requirements for temporary judges to be included in the Code of Judicial Ethics) (Action Required)

The Civil and Small Claims Advisory Committee and the Traffic Advisory Committee recommend, after considering proposals developed by the Temporary Judges Working Group, a comprehensive set of rules governing the selection, training, appointment, and supervision of court-appointed temporary judges. The rules would be adopted effective July 1, 2006, but with an operative date of January 1, 2007, for attorneys to satisfy the qualification and training requirements, except in small claims cases. This delayed implementation will give courts sufficient time to implement the new rules. For small claims cases, rule 1726 would be amended effective January 1, 2006, to provide an interim rule to assist courts in implementing recent legislation that requires attorneys serving as temporary judges in small claims cases to complete certain training by July 1, 2006. The new rules are intended to ensure and improve the quality of court-appointed temporary judges serving in all types of cases.

Presentation (30 minutes)

Speaker: Hon. Robert B. Freedman
 Co-chair, Temporary Judges Working Group
 Hon. James R. Lambden
 Chair, Access and Fairness Advisory Committee
 Mr. James Otto Heiting
 President, State Bar of California
 Mr. Bob Lowney
 Education Division/CJER
 Mr. Patrick O'Donnell
 Office of the General Counsel

Discussion/Council Action (20 minutes)

10:45–11:00 a.m. **BREAK**

Item 15 **Trial Court Improvement Fund: Allocation of Revenue**
11:00–11:10 a.m. **in Accordance With Rule 6.105 of the California Rules of Court**
and Government Code Section 77205(a) (Action Required)

AOC staff recommends approval for the one-time allocation of 50/50 Excess Fines Split Revenue for distribution in January 2006.

Presentation (5 minutes)

Speakers: Mr. Ruben Gomez
 Finance Division

Discussion/Council Action (5 minutes)

Item 16 **Judicial Council–Sponsored Legislation: Proposal to Amend**
11:10 a.m.– **the Judicial Article of the California Constitution (Cal. Const.,**
12:00 p.m **article VI) (Action Required)**

The Policy Coordination and Liaison Committee recommends that the Judicial Council sponsor legislation to amend article VI, the judicial article of the state Constitution, to promote access to justice, ensure the neutrality and independence of the judicial branch, and create appropriate accountability within the branch for the fair and effective administration of justice. The Administrative Director recommends that the council adopt conditionally on passage of the proposed constitutional amendment, repeal and reenactment of rule 6.4 of the California Rules of Court to provide for nomination by the superior court presiding judges of four of the superior court members of the council. Staff will report on the recommendations of other bodies of judicial branch leaders at the Judicial Council meeting.

Presentation (30 minutes)

Speakers: Mr. William C. Vickrey
 Administrative Director of the Courts
 Mr. Michael Fischer
 Office of the General Counsel

Discussion/Council Action (20 minutes)

There have been no Circulating Orders since the last business meeting.

Judicial Council Appointment Orders Since the Last Business Meeting
[Appointment Orders Tab]