

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

455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Executive and Planning Committee
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SUBJECT: Judicial Administration Rules: Conforming to Policy and Practice (amend Cal. Rules of Court, rules 1.4, 10.1, 10.2, 10.10, 10.11, 10.12, 10.13, 10.14, 10.30, 10.34, 10.70, 10.80, 10.81, and 10.101; renumber rule 10.45 as rule 10.107) (Action Required)¹

Issue Statement

In June 2008, the Judicial Council revised its governance policies. These policies are the council's framework for how it engages in policymaking; how it is organized; what the roles and responsibilities are for its members, officers, and committees; what the council's relationship is with the Administrative Director of the Courts and the Administrative Office of the Courts, the staff agency that he directs; and the areas of accountability. The rules of court should be amended to be consistent with the revised Judicial Council governance policies.

Recommendation

The Executive and Planning Committee and the Administrative Office of the Courts recommend that the Judicial Council, effective August 14, 2009, amend rules 1.4, 10.1, 10.2, 10.10, 10.11, 10.12, 10.13, 10.14, 10.30, 10.34, 10.70, 10.80, 10.81, and 10.101 of the California Rules of Court and renumber rule 10.45 as rule 10.107, to be consistent with the revised Judicial Council governance policies.

The text of the proposed amended and renumbered rules is attached at pages 5–36.

¹ Rules that are unchanged in this series are rules 10.3, 10.4, 10.5, 10.6, 10.20, 10.21, 10.22, 10.31, 10.32, 10.33, and 10.40 through 10.59.

Rationale for Recommendation

The process of adoption of the 2008 Judicial Council governance policies

The purpose of these rule amendments is to make the California Rules of Court consistent with the most current Judicial Council governance policies, which the council adopted in June 2008. These reflect the council's most recent statement of the purpose and responsibilities of the council, council policymaking, judicial branch goals, the role of council members and officers, the role of council internal and advisory committees, and the relationship between the council and the Administrative Director of the Courts and staff of the Administrative Office of the Courts.

These 2008 updated governance policies are based on governance policies adopted by the council in 1998, which were incorporated into the rules of court soon thereafter. During 2007–2008, the Judicial Council reviewed and updated its governance policies. In April 2007, the council members engaged in a two-day workshop with a nationally recognized governance authority, Dr. John Carver. Following that workshop and during the next 12 months, council members discussed in several meetings what to include and what to restate, developing enhancements and improvements to the council's 1998 governance policies. The Executive and Planning Committee, which is responsible for the council's internal operating procedures under rule 10.11(b), oversaw this process.

Revisions to specific rules under the governance policies approved in 2008

Rule 1.4(d) adds the Judicial Council Governance Policies to the rules of court as Appendix D.

Rule 10.1(a) is updated with some minor language revisions. It refers to Appendix D, the Judicial Council Governance Policies. Rule 10.1(c) updates the description of the council's goal-setting process with its strategic and operational planning.

Rule 10.2 specifies the council's officers and duties and the leaders of its internal committees. It also elaborates on the role of council members acting in the best interest of the public and the California judicial system for the purposes of maintaining and enhancing public access to the courts, as well as preserving and enhancing impartial decision-making and an independent branch of government. It states that council members do not represent any particular constituency.

Rules 10.10 through 10.14 are updated with the purpose and functions of the council's four internal committees as approved in 2008. Rules 10.10(a) and 10.10(b), listing the internal committees and stating their purposes, are new. Rule 10.10(d) clarifies that the Administrative Director participates in the internal committee meetings as the secretary of the council. Rule 10.11(c) recognizes that the council's Executive and Planning Committee has assumed oversight responsibilities for judicial branch facilities matters that come before the Judicial Council as a result of the July 1, 2007, sunset of rule 10.15.

Rules 10.11(f), 10.11(j), 10.12(b) identify new responsibilities for specific internal committees. Rule 10.13(f) is new, clarifying the responsibility of the Administrative Director for compliance with the procedures and guidelines of the Rules and Projects Committee.

Rules 10.30, 10.34, and 10.70 reflect the council's updated policies on the functions and role of its advisory groups, specifically its standing advisory committees and task forces. Much of former rules 10.30 and 10.34 has been retained and restated in either revised rule 10.30 or 10.34, although the order of some subdivisions has changed, which requires that the former rules appear entirely stricken, followed by the revised rule. Rule 10.30 uses the term "advisory body" in recognition of the fact that the council can be advised by task forces as well as advisory committees. Rule 10.34(c) expands on and enhances the role of advisory committee chairs. Rule 10.34(f) provides the term "annual agenda" for what had been formerly named a "work plan" reflecting the enhancement of the responsibilities of the advisory committee chairs under rule 10.34(c) and the oversight by the council's internal committees of the work of the advisory committees under rules 10.11(i) and 10.13(e).

Rules 10.80, 10.81, and 10.101 reflect the council's updated policies as to the role of the Administrative Director of the Courts and his direction of the staff agency, the Administrative Office of the Courts. In alignment with the council's views on the role and accountability of the Administrative Director, the proposed amendment to rule 10.30(f) includes a provision that the Administrative Director sits as an ex officio member of each advisory body, which will allow the Administrative Director to fulfill the responsibilities specified in rules 10.34(d) and 10.80(d). Rule 10.80(c) is found in the council's 1998 governance policies and was retained in the council's 2008 update of its governance policies. Rule 10.101(c) now specifies the Administrative Office of the Courts, although that meaning has been implicitly included within the term, "Judicial Council," as the staff agency for the council.

Rule 10.45 is proposed to be renumbered as 10.107 so that the rule regarding the Trial Court Budget Working Group, appointed by and accountable to the Administrative Director of the Courts like other such working groups, is in division 2, chapter 1, "Budget and Fiscal Management," rather than in the list of council advisory committees.

Alternative Actions Considered

The rules could remain unchanged, but they would not reflect current Judicial Council governance policies and practices and could create confusion or doubt about how the council engages in policymaking, how it is organized, what the roles are for its officers and committees, what the council's relationship is with the Administrative Director of the Courts and the AOC, and areas of accountability. Providing clarity and making the council's governing documents consistent is preferable to leaving the outdated version unrevised.

Comments From Interested Parties

The Rules and Projects Committee determined at its July 14, 2009, meeting to recommend that this proposal be placed on the Judicial Council's consent agenda and that public comment need not be solicited for the following reasons. The council's own operating rules and principles are appropriate for the council to adopt without seeking public comment. In addition, the council previously adopted the governance policies and they already are being implemented. To ask for public comment would invite comment on decisions that the council already has made, which would erroneously imply that council decisions about its internal operating procedures, after having been made, are subject to public comment and revision. Finally, should the council become dissatisfied with any part of the governance policies, even if embodied in a rule, it can revise the policies and the rules.

Implementation Requirements and Costs

The rules are proposed to be effective on approval by the Judicial Council because the amendments reflect existing practice. Approval of the rules will result in no costs.

Attachments

1. Text of amended rules, at pages 5–31
2. Attachment A: Judicial Council Governance Policies, June 2008

1 Rules 1.4, 10.1, 10.2, 10.10, 10.11, 10.12, 10.13, 10.14, 10.30, 10.34, 10.70,
2 10.80, 10.81, and 10.101 of the California Rules of Court would be amended; and
3 rule 10.45 would be renumbered as rule 10.107, effective August 14, 2009, to
4 read:

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7 **Rule 1.4. Contents of the rules**

8
9 **(a)–(c) *******

10
11 **(d) The appendixes**

12
13 The California Rules of Court includes the following appendixes:

- 14
15 (1) Appendix A. Judicial Council Legal Forms List;
16
17 (2) Appendix B. Liability Limits of a Parent or Guardian Having Custody
18 and Control of a Minor for the Torts of a Minor; ~~and~~
19
20 (3) Appendix C. Guidelines for the Operation of Family Law Information
21 Centers and Family Law Facilitator Offices; and
22
23 (4) Appendix D. Judicial Council Governance Policies.

24
25
26 **Rule 10.1. Authority, duties, and goals of the Judicial Council**

27
28 **(a) The Judicial Council**

- 29
30 (1) The Judicial Council of California is a state entity established by the
31 California Constitution and chaired by the Chief Justice of California.
32 ~~The purpose of the Judicial Council is to set~~ the direction ~~and provide~~
33 ~~leadership~~ for improving the quality of justice and advancing ~~its~~ the
34 consistent, independent, impartial, and accessible administration of
35 justice by the judicial branch on behalf for the benefit of the public ~~and~~
36 ~~the court system as a whole.~~
37
38 (2) The council establishes policies and sets priorities for the judicial
39 branch of government. The council may seek advice and
40 recommendations from committees, task forces, and the public.
41
42 (3) The Judicial Council Governance Policies are located in Appendix D of
43 these rules of court. The policies describe the council's:

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- (A) Purposes;
- (B) Responsibilities;
- (C) Policymaking role;
- (D) Members and officers and their roles;
- (E) Internal organization;
- (F) Relationship with its advisory groups;
- (G) Relationship with the Administrative Director of the Courts and with the Administrative Office of the Courts, the staff agency that he or she directs; and
- (H) Internal policies and procedures.

(b) Constitutional authority and duties

Article VI, section 6 of the California Constitution requires the council to improve the administration of justice by doing the following:

- (1) Surveying judicial business;
- (2) Making recommendations to the courts;
- (3) Making annual recommendations to the Governor and the Legislature;
- (4) Adopting rules for court administration and rules of practice and procedure that are not inconsistent with statute; and
- (5) Performing other functions prescribed by statute.

(c) Judicial branch goals

~~The council develops policies to achieve the following goals:~~

- ~~(1) The improvement of access, fairness, and diversity in the judicial branch;~~

1 ~~(2) — The institutional independence of the judiciary as a separate branch of~~
2 ~~government with the resources necessary for its support and the~~
3 ~~independence and impartiality of judicial decision making;~~

4
5 ~~(3) — The modernization and improvement of judicial administration~~
6 ~~practices;~~

7
8 ~~(4) — Fair and responsive judicial service to the public in all courts; and~~

9
10 ~~(5) — The promotion of the goals of the Judicial Council through judicial~~
11 ~~branch education and professional development.~~

12
13 The Judicial Council develops judicial branch goals in its strategic and
14 operational plans. At six-year intervals, the council develops and approves a
15 long-range strategic plan. At three-year intervals, the council develops and
16 approves an operational plan for the implementation of the strategic plan.
17 Each plan is developed in consultation with branch stakeholders and justice
18 system partners.

19
20 ~~(d) — Long range strategic plan~~

21
22 ~~The council adopts and publishes a statement of goals and long term~~
23 ~~strategies to meet those goals. This publication is referred to as the “Long-~~
24 ~~Range Strategic Plan.”~~

25
26 ~~(e)(d)~~ **The Administrative Office of the Courts**

27
28 The Administrative Office of the Courts supports the council in performing
29 its functions. The Administrative Director is the Secretary of the Judicial
30 Council.

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32
33 **Rule 10.2. Judicial Council membership and terms**

34
35 **(a) Constitutional provision on membership and terms**

36
37 (1) Under article VI, section 6 of the California Constitution, the Judicial
38 Council consists of the Chief Justice and one other justice of the
39 Supreme Court, 3 justices of Courts of Appeal, 10 judges of superior
40 courts, 2 nonvoting court administrators, and such other nonvoting
41 members as determined by the voting membership of the council, each
42 appointed by the Chief Justice to three-year terms; 4 members of the
43 State Bar appointed by its governing body to three-year terms; and 1

1 member of each house of the Legislature appointed as provided by the
2 house.

3
4 (2) Council membership terminates if a member ceases to hold the position
5 that qualified the member for appointment. A vacancy is filled by the
6 appointing power for the remainder of the term.
7

8 (b) ~~Chair~~ **Council officers and duties**

9
10 (1) Chair and vice-chair

11
12 (A) The Chief Justice of California is the Chair of the Judicial Council
13 and performs those functions prescribed by the Constitution and
14 the laws of the State of California. The Chair is a voting member
15 of the council. A reference to the Chair of the Judicial Council in
16 the statutes or rules of this state means the Chief Justice of
17 California. ~~The Chair may designate a vice-chair to act in the~~
18 ~~Chair's absence.~~

19
20 (B) The Chief Justice appoints a vice-chair from among the judicial
21 members of the council. When the chair is absent, unable to serve,
22 or so directs, the vice-chair performs all of the duties of the chair.

23
24 (C) The Chief Justice appoints a Judicial Council member to serve as
25 chair of the council in the event that both the Chief Justice and the
26 council vice-chair are absent or unable to serve. The Chief Justice
27 determines individuals to serve as chair from among the internal
28 committee chairs and vice-chairs.

29
30 (2) Chairs and vice-chairs of the internal committees

31
32 The Judicial Council has four internal committees composed of Judicial
33 Council members, as specified in rule 10.10. The Chief Justice appoints
34 for a one-year term the chair and vice-chair of each of the council's
35 internal committees. Chairs call meetings, as necessary, and provide
36 reports to the council on the activities of the internal committees.

37
38 (3) Officers

39
40 The Judicial Council has seven officers: the chair, vice-chair, secretary,
41 and the chairs of the council's four internal committees.

42
43 (4) Administrative Director of the Courts

1
2 The Administrative Director of the Courts is the secretary to the
3 Judicial Council and performs administrative and policymaking
4 functions as provided by the Constitution and the laws of the State of
5 California and as delegated by the Judicial Council and the Chief
6 Justice. The secretary is not a voting member of the council.
7

8 **(c) Role of members**
9

10 (1) Council members are a governing body for California’s judicial branch
11 of government. In accepting appointment, they commit themselves to
12 act in the best interest of the public and the judicial system for the
13 purposes of maintaining and enhancing public access to the justice
14 system, as well as preserving and enhancing impartial judicial
15 decisionmaking and an independent judicial branch of government.
16

17 (2) Council members do not represent a specific any particular
18 constituency but shall act in the best interests of the public and the
19 entire court system notwithstanding any of their other affiliations or
20 roles.
21

22 (3) Council members communicate as representatives of the Judicial
23 Council with the public, the courts, judicial officers, Judicial Council
24 advisory bodies, other government entities, and justice system partners.
25 They communicate about the council’s processes, purposes,
26 responsibilities, and issues and reasons for policy decisions, including
27 those policy decisions where there is disagreement.
28

29 **(d) Terms**
30

31 Council members are appointed to terms beginning September 15 and ending
32 September 14. Terms for judge members are staggered. To the extent
33 feasible, the State Bar and the Legislature should create staggered terms for
34 their appointees.
35

36 **(e) Restrictions on advisory committee membership**
37

38 Unless the Chief Justice waives this provision, neither council members nor
39 nonvoting advisory council members may concurrently serve on a council
40 advisory committee. This provision does not apply to members of the
41 following advisory committees:
42

43 (1) Administrative Presiding Justices;

- 1
2 (2) Trial Court Presiding Judges; and
3
4 (3) Court Executives.
5
6

7 **Rule 10.10. Judicial Council internal committees**
8

9 **(a) Judicial Council internal committees**
10

11 The internal committees are:
12

- 13 (1) Executive and Planning Committee;
14
15 (2) Policy Coordination and Liaison Committee;
16
17 (3) Rules and Projects Committee; and
18
19 (4) Litigation Management Committee.
20

21 **(b) Purpose of the internal committees**
22

23 The internal committees of the Judicial Council assist the full membership of
24 the council in its responsibilities by providing recommendations in their
25 assigned areas, including rules for court administration, practice, and
26 procedure, and by performing duties delegated by the council. Internal
27 committees generally work at the same policy level as the council, focusing
28 on the establishment of policies that emphasize long-term strategic
29 leadership and that align with judicial branch goals.
30

31 **(a)(c) Membership and appointment**
32

33 The Chief Justice appoints each council member and advisory council
34 member to one or more internal committees for a one-year term.
35

36 **~~(b) Committee chairs~~**
37

38 ~~The Chief Justice may chair any internal committee or may appoint a~~
39 ~~committee member as chair or vice chair.~~
40

41 **(e)(d) Meetings**
42

1 Each internal committee meets as often as necessary to perform its
2 responsibilities. The Administrative Director of the Courts, as secretary of
3 the Judicial Council, may attend and participate in the meetings of each
4 internal committee. Internal committee meetings are closed to the public but
5 may be opened at the committee chair's discretion.

6
7 **~~(d)~~(e) Voting**

8
9 An advisory council member may vote on any internal committee matter
10 unless the committee is taking final action on behalf of the council.

11
12 **~~(e)~~(f) Council review**

13
14 The council may overrule or modify an action taken by an internal
15 committee.

16
17 **~~(f)~~(g) Reporting to the council**

18
19 As often as necessary, each internal committee must report to the council on
20 the committee's activities.

21
22
23 **Rule 10.11. Executive and Planning Committee**

24
25 **~~(a) Coordinating council meetings~~**

26
27 ~~The Executive and Planning Committee coordinates the annual schedule and~~
28 ~~establishes agendas for council meetings. The committee determines:~~

29
30 ~~(1) Whether each item submitted should be placed on the council's agenda~~
31 ~~and is presented in a form that gives the council the information it~~
32 ~~needs to make a well informed decision; and~~

33
34 ~~(2) Whether each item should be on the consent, discussion, or information~~
35 ~~agenda; how much time is to be allotted for discussion; what presenters~~
36 ~~should be invited to speak; and, when appropriate, which specific~~
37 ~~issues should be discussed.~~

38
39 **~~(b) Internal operating procedures~~**

40
41 ~~The committee develops and administers the internal operating procedures of~~
42 ~~the council.~~

1 ~~(e) — Nominations~~

2
3 ~~The committee coordinates nominations for the Chief Justice’s appointments~~
4 ~~to the council, advisory committees, and task forces.~~

5
6 ~~(d) — Actions on behalf of the council~~

7
8 ~~Between council meetings the committee may take action on behalf of the~~
9 ~~council except for:~~

10
11 ~~(1) — Adopting rules of court, standards of judicial administration, or council~~
12 ~~forms;~~

13
14 ~~(2) — Making statutory appointments; and~~

15
16 ~~(3) — Taking actions that are delegated to other internal committees.~~

17
18 ~~(e) — Planning~~

19
20 ~~The committee oversees the development and implementation of the~~
21 ~~council’s long-range strategic plan by:~~

22
23 ~~(1) — Recommending responses to forces and trends that are likely to affect~~
24 ~~the judiciary’s operations and resources;~~

25
26 ~~(2) — Planning and conducting the council’s annual strategic planning~~
27 ~~meeting and related efforts; and~~

28
29 ~~(3) — Collaborating with the Administrative Director of the Courts regarding~~
30 ~~proposed judicial branch budgets, proposed allocation schedules, and~~
31 ~~related budgetary issues.~~

32
33 ~~(f) — Budget~~

34
35 ~~The committee must ensure that proposed judicial branch budgets and related~~
36 ~~budgetary issues are brought to the Judicial Council in a timely manner and~~
37 ~~in a format that permits the council to establish funding priorities in the~~
38 ~~context of the council’s annual program objectives, statewide policies, and~~
39 ~~long-range strategic plan. The Administrative Director of the Courts assists~~
40 ~~the Executive and Planning Committee in carrying out this function, as~~
41 ~~directed by the Executive and Planning Committee and as otherwise~~
42 ~~provided in these rules.~~

1
2 ~~(g) Oversight of advisory committees and task forces~~

3
4 ~~The committee provides guidance and direction to advisory committees and~~
5 ~~task forces, as specified in rules 10.30, 10.34, and 10.70.~~

6
7 **(a) Actions on behalf of the Judicial Council**

8
9 The Executive and Planning Committee may take action on behalf of the
10 council between council meetings, except for:

11
12 (1) Adopting rules of court, standards of judicial administration, and forms;

13
14 (2) Making appointments that by statute must be made by the council; and

15
16 (3) Taking actions that are delegated to other council internal committees.

17
18 **(b) Planning**

19
20 The committee oversees the council's strategic planning process.

21
22 **(c) Court facilities**

23
24 The committee oversees the council's policies and procedures regarding
25 court facilities, including development of policies, procedures, and
26 guidelines for facilities; site selection; and capital appropriations.

27
28 **(d) Budgets**

29
30 The committee ensures that proposed judicial branch budgets, allocation
31 schedules, and related budgetary issues are brought to the Judicial Council in
32 a timely manner and in a format that permits the council to establish funding
33 priorities in the context of the council's annual program objectives, statewide
34 policies, and long-range strategic and operational plans.

35
36 **(e) Agendas for council meetings**

37
38 The committee establishes agendas for council meetings by determining:

39
40 (1) Whether items submitted for the council's agenda require the council's
41 action and are presented in a form that provides the council with the
42 information it needs to make well-informed decisions; and
43

1 (2) Whether each item should be on the consent, discussion, or information
2 agenda; how much time should be allotted for discussion; what
3 presenters should be invited to speak; and, when appropriate, which
4 specific issues should be discussed.
5

6 **(f) Topics for making policy and receiving updates**
7

8 The committee develops a schedule of topics that the council intends to
9 consider for making policy and receives updates from the Administrative
10 Director of the Courts or Administrative Office of the Courts staff.
11

12 **(g) Governance**
13

14 The committee makes recommendations to the council regarding governance
15 and oversees the council’s review of its governance policies and principles.
16

17 **(h) Nominations**
18

19 The committee recommends candidates to the Chief Justice for appointment
20 to the Judicial Council and its advisory bodies.
21

22 **(i) Oversight of advisory committees and task forces**
23

24 For those advisory committees and task forces over which it has been
25 assigned oversight by the Chief Justice, the committee ensures that activities
26 of each are consistent with the council’s goals and policies. To achieve these
27 outcomes, the committee:
28

29 (1) Communicates the council’s annual charge to each; and
30

31 (2) Reviews an annual agenda for each to determine whether the annual
32 agenda is consistent with its charge and with the priorities established
33 by the council.
34

35 **(j) Communications**
36

37 The committee promotes effective policies for communications between the
38 Judicial Council and the judicial branch.
39
40

41 **Rule 10.12. Policy Coordination and Liaison Committee**
42

1 ~~(a)~~ **Relations with other entities**

2
3 The Policy Coordination and Liaison Committee acts as the council's liaison
4 with other governmental entities, the bar, the media, the judiciary, and the
5 public.

6
7 ~~(b)~~(a) **Legislative activities**

8
9 ~~With the assistance of the Office of Governmental Affairs, The Policy~~
10 Coordination and Liaison Committee performs the following functions
11 regarding proposed legislation:

- 12
13 (1) Taking a position on behalf of the council on pending legislative bills,
14 after evaluating input from the council advisory bodies and the
15 Administrative Office of the Courts, and any other input received from
16 the courts, provided that the position is consistent with the council's
17 established policies and precedents;
18
19 (2) Making recommendations to the council on all proposals for council-
20 sponsored legislation. ~~The committee and on an annually proposes a~~
21 legislative agenda to the Judicial Council after evaluating input from
22 council advisory committees, staff, and the courts bodies and the
23 Administrative Office of the Courts, and any other input received from
24 the courts; and
25
26 (3) Representing the council's position before the Legislature and other
27 bodies or agencies; and acting as liaison with other governmental
28 entities, the bar, the media, the judiciary, and the public regarding
29 council-sponsored legislation, pending legislative bills, and the
30 council's legislative positions and agendas.

31
32 **(b) Building consensus**

33
34 The committee builds consensus on issues of importance to the judicial
35 branch consistent with the council's strategic plan with entities and
36 individuals outside of the branch.

37
38 **(c) Coordination**

39
40 The committee develops an annual plan for communication and interaction
41 with ~~the judiciary,~~ other branches and levels of government, components of
42 the justice system, the bar, the media, and the public.
43

1 **(d) Advisory committees**

2
3 The committee may direct any advisory committee to provide it with
4 analysis or recommendations on any pending or proposed legislation, and
5 reviews all recommendations from advisory committees regarding pending
6 or proposed legislation.
7
8

9 **Rule 10.13. Rules and Projects Committee**

10
11 ~~**(a) Oversight of advisory committees and task forces**~~

12
13 ~~The Rules and Projects Committee provides guidance and direction to~~
14 ~~advisory committees and task forces, as specified in rules 10.30, 10.34, and~~
15 ~~10.70.~~
16

17 ~~**(b) Recommendations**~~

18
19 ~~The committee recommends to the Executive and Planning Committee~~
20 ~~whether each proposal for new or amended rules, standards, or forms should~~
21 ~~be on the council's consent or discussion agenda and how much time should~~
22 ~~be allocated for discussion. It also recommends to the council whether such a~~
23 ~~proposal should be approved and, when appropriate, identifies issues for~~
24 ~~discussion. If the committee recommends against approval, it must state the~~
25 ~~reasons for doing so.~~
26

27 ~~**(c) Rules, standards, and forms**~~

28
29 ~~The committee must establish and maintain a rule-making process that is~~
30 ~~understandable and accessible to the public. It assists the council in making~~
31 ~~informed decisions about rules of court administration, practice, and~~
32 ~~procedure by:~~
33

34 ~~(1) Identifying the need for new rules, standards, and forms;~~

35
36 ~~(2) Reviewing proposals for rules, standards, and forms and circulating~~
37 ~~them for public comment in accordance with the committee's~~
38 ~~procedures and guidelines;~~
39

40 ~~(3) Establishing and publishing procedures that solicit and consider~~
41 ~~relevant input from the public for each proposal for the adoption of~~
42 ~~rules, standards, and forms;~~
43

1 (4) ~~Providing guidelines for the style and format of rules and ensuring that~~
2 ~~each proposal presented to the council is consistent with the guidelines;~~

3
4 (5) ~~Ensuring that proposals for new or amended rules, standards, and forms~~
5 ~~do not conflict with statutes or other rules;~~

6
7 (6) ~~Recommending whether the council should approve, modify, or reject~~
8 ~~each proposal; and~~

9
10 (7) ~~Initiating circulating orders to allow the council to adopt rules,~~
11 ~~standards, and forms between council meetings if necessary.~~

12
13 **~~(d) Jury instructions~~**

14
15 ~~The committee must establish and maintain a process for obtaining public~~
16 ~~comment on the jury instructions approved by the Judicial Council, and must~~
17 ~~assist the council in making informed decisions about jury instructions by~~
18 ~~making recommendations to the council on whether to approve proposed~~
19 ~~new or modified instructions submitted by the advisory committees on jury~~
20 ~~instructions.~~

21
22 **(a) Rules, standards, and forms**

23
24 The Rules and Projects Committee establishes and maintains a rule-making
25 process that is understandable and accessible to justice system partners and
26 the public. The committee:

27
28 (1) Identifies the need for new rules, standards, and forms;

29
30 (2) Establishes and publishes procedures for the proposal, adoption, and
31 approval of rules of court, forms, and standards of judicial
32 administration that ensure that relevant input from the public is
33 solicited and considered;

34
35 (3) Reviews proposed rules, standards, and forms and circulates those
36 proposals for public comment in accordance with its procedures and
37 guidelines.

38
39 (4) Provides guidelines for the style and format of rules, forms, and
40 standards and ensures that proposals are consistent with the guidelines;

41
42 (5) Ensures that proposals for new or amended rules, standards, and forms
43 do not conflict with statutes or other rules; and

1
2 (6) Determines whether proposals for new or amended rules, standards, or
3 forms have complied with its procedures.
4

5 **(b) Jury instructions**
6

7 The committee establishes and maintains a process for obtaining public
8 comment on the jury instructions and assists the council in making informed
9 decisions about jury instructions.
10

11 **(c) Recommendations**
12

13 The Rules and Projects Committee assists the council in making informed
14 decisions about rules of court, forms, standards of judicial administration,
15 and jury instructions. The committee:
16

17 (1) Recommends whether the council should approve, modify, or reject
18 each proposal;
19

20 (2) Recommends to the Executive and Planning Committee whether a
21 proposal should be on the council's consent or discussion agenda and
22 how much time should be allocated for discussion; and
23

24 (3) When appropriate, identifies issues for discussion.
25

26 If the Rules and Projects Committee recommends against approval, it states
27 the reasons for its recommendation.
28

29 **(d) Circulating orders**
30

31 The committee initiates circulating orders to allow the council to adopt rules,
32 standards, and forms between council meetings, if necessary.
33

34 **(e) Oversight of advisory committees and task forces**
35

36 For those advisory committees and task forces over which it has been
37 assigned oversight by the Chief Justice, the Rules and Projects Committee
38 ensures that the activities of each are consistent with the council's goals and
39 policies. To achieve these outcomes, the committee:
40

41 (1) Communicates the council's annual charge to each; and
42

1 (2) Reviews an annual agenda for each to determine whether the annual
2 agenda is consistent with its charge and with the priorities established
3 by the council.
4

5 **(f) Responsibility of the Administrative Director of the Courts**
6

7 The Administrative Director is responsible for ensuring that items submitted
8 to the committee for circulation for comment and the council’s agenda
9 comply with the committee’s procedures and its guidelines on format and
10 style.
11

12
13 **Rule 10.14. Litigation Management Committee**
14

15 **(a) Litigation oversight**
16

17 The Litigation Management Committee ~~must~~ oversees litigation and claims
18 against trial court judges, appellate court justices, the Judicial Council, the
19 Administrative Office of the Courts, the trial and appellate courts, and the
20 employees of those bodies in which the likely monetary exposure is
21 \$100,000 or more or that raise issues of significance to the judicial branch
22 by:
23

- 24 (1) Reviewing and approving any proposed settlement, stipulated
25 judgment, or offer of judgment; and
26
27 (2) Consulting with the Administrative Director or General Counsel, on
28 request, regarding important strategy issues.
29

30 **(b) Recommendations**
31

32 The committee ~~must~~ makes recommendations to the Judicial Council for
33 policies governing the management of litigation involving the courts.
34

35 **(c) Strategic decisions**
36

37 ~~On presentation by the Office of the General Counsel of the written objection~~
38 ~~described in rule 10.202(d), the committee must resolve the objection.~~
39 The committee resolves written objections described in rule 10.202(d)
40 presented by the Office of the General Counsel.
41
42

1 **Rule 10.30. Judicial Council advisory ~~committees~~ bodies**

2
3 **~~(a)~~—Creation**

4
5 ~~In addition to the advisory committees established by the rules in this~~
6 ~~division, the Chief Justice may create additional advisory committees by~~
7 ~~order.~~

8
9 **~~(b)~~—Functions**

10
11 ~~Working under the council's direction, advisory committees assist the~~
12 ~~council by using their collective experience, opinions, and wisdom to~~
13 ~~provide advice, options, and recommendations to the council on topics~~
14 ~~affecting the administration of justice.~~

15
16 **~~(c)~~—Committee charges**

17
18 ~~Each advisory committee's general charge is stated in the rules in this~~
19 ~~division. Each advisory committee is overseen by either the Executive and~~
20 ~~Planning Committee or the Rules and Projects Committee, as designated by~~
21 ~~the Chief Justice. The designated internal committee may give an annual~~
22 ~~charge to each advisory committee that specifies the work product the~~
23 ~~council expects during the year. The advisory committee may pursue matters~~
24 ~~in addition to those specified in its annual charge, as long as the matters are~~
25 ~~consistent with the committee's general charge and the committee operates~~
26 ~~within the limits of the resources available to the committee and within any~~
27 ~~other limitations specified by the council, the designated internal committee,~~
28 ~~or the Administrative Director of the Courts.~~

29
30 **~~(d)~~—Staff**

31
32 ~~Advisory committees are assisted by the staff of the Administrative Office of~~
33 ~~the Courts. The duties of staff members include drafting committee work~~
34 ~~plans, managing the committee's budget and resources, coordinating~~
35 ~~committee activities, providing legal and policy analysis to the committee,~~
36 ~~organizing and drafting reports, selecting and supervising consultants,~~
37 ~~providing technical assistance, and presenting the committee's~~
38 ~~recommendations to the Judicial Council. Staff may provide independent~~
39 ~~legal or policy analysis of issues that is different from the committee's~~
40 ~~position.~~

41
42 **~~(e)~~—Subcommittees**

1 ~~An advisory committee may form subcommittees, composed entirely of~~
2 ~~committee members, to carry out the committee's duties, subject to available~~
3 ~~resources.~~

4
5 ~~(f) **Preference for using advisory committees**~~

6
7 ~~Unless substantial reasons dictate otherwise, new projects requiring~~
8 ~~committee involvement must be assigned to existing advisory committees.~~

9
10 **(a) Types of bodies**

11
12 Judicial Council advisory bodies are typically advisory committees and task
13 forces.

14
15 **(b) Functions**

16
17 The advisory bodies:

18
19 (1) Use the individual and collective experience, opinions, and wisdom of
20 their members to provide policy recommendations and advice to the
21 council on topics the Chief Justice or the council specifies;

22
23 (2) Work at the same policy level as the council, developing
24 recommendations that focus on strategic goals and long-term impacts
25 that align with judicial branch goals;

26
27 (3) Generally do not implement policy. The council may, however, assign
28 policy-implementation and programmatic responsibilities to an
29 advisory body and may request it make recommendations to the
30 Administrative Office of the Courts on implementation of council
31 policy or programs;

32
33 (4) Do not speak or act for the council except when formally given such
34 authority for specific and time-limited purposes; and

35
36 (5) Are responsible, through the Administrative Office of the Courts, for
37 gathering stakeholder perspectives on policy recommendations they
38 plan to present to the council.

39
40 **(c) Subcommittees**

41
42 An advisory body may form subcommittees, composed entirely of members,
43 to carry out the body's duties, subject to available resources.

1
2 **(d) Oversight**

3
4 The Chief Justice assigns oversight of each council advisory body to an
5 internal committee. The council gives a general charge to each advisory body
6 specifying the body’s subject matter jurisdiction. The council and its internal
7 committees provide direction to the advisory bodies.
8

9 **(e) Preference for using existing advisory committees**

10
11 Unless substantial reasons dictate otherwise, new projects requiring
12 committee involvement must be assigned to existing advisory committees.
13

14 **(f) Role of the Administrative Director of the Courts**

15
16 The Administrative Director of the Courts sits as an ex officio member of
17 each advisory body.
18

19 **(g) Creation**

20
21 In addition to the advisory committees established by the rules in this
22 division, the Chief Justice may create additional advisory bodies by order.
23
24

25 **Rule 10.34. Duties and responsibilities of advisory committees**

26
27 **~~(a) In general~~**

28
29 ~~Advisory committees make recommendations and offer options to the~~
30 ~~Judicial Council for improving the administration of justice within their~~
31 ~~designated areas of focus by doing the following:~~
32

33 ~~(1) Identifying issues and concerns affecting court administration and~~
34 ~~recommending appropriate solutions to the council;~~
35

36 ~~(2) Proposing necessary changes to rules, standards, and forms on the~~
37 ~~following schedule:~~
38

39 ~~(A) As needed for selected provisions in response to legislative and~~
40 ~~ease law changes as well as to proposals from committee~~
41 ~~members and others; and~~
42

1 ~~(B) — At least every 10 years for all provisions within the committee’s~~
2 ~~area of focus;~~

3
4 ~~(3) — Reviewing pending legislation and making recommendations to the~~
5 ~~Policy Coordination and Liaison Committee on whether to support or~~
6 ~~oppose it;~~

7
8 ~~(4) — Recommending new legislation to the council;~~

9
10 ~~(5) — Recommending to the council pilot projects to evaluate new procedures~~
11 ~~or practices;~~

12
13 ~~(6) — Acting on assignments referred by the council or an internal committee;~~
14 ~~and~~

15
16 ~~(7) — Making other appropriate recommendations to the council.~~

17
18 ~~**(b) — Work plan**~~

19
20 ~~Each committee must submit an annual proposed work plan that is reviewed~~
21 ~~by the internal committee with oversight responsibility, as designated by the~~
22 ~~Chief Justice. This subdivision does not apply to the Administrative~~
23 ~~Presiding Justices Advisory Committee.~~

24
25 ~~**(e) — Contents of work plan**~~

26 ~~The work plan must contain the following items:~~

27
28
29 ~~(1) — A prioritized list and description of all current committee projects and~~
30 ~~activities and estimated dates of completion;~~

31
32 ~~(2) — A list of existing rules, standards, and forms that the committee will~~
33 ~~review and recommend for amendment, reorganization, or repeal;~~

34
35 ~~(3) — Proposals for new projects that the committee wishes to undertake; and~~

36
37 ~~(4) — Estimated cost and staff needed to complete each project or activity.~~

38
39 ~~**(d) — Review of work plans**~~

40
41 ~~The internal committee that is responsible for oversight of the advisory~~
42 ~~committee reviews the proposed work plan and provides the advisory~~

1 ~~committee with an annual charge to ensure that its activities are consistent~~
2 ~~with the council's goals and priorities. The annual charge may:~~

3
4 ~~(1) Approve or disapprove the work plan in whole or in part;~~

5
6 ~~(2) Direct the committee to pursue specific projects on the work plan;~~

7
8 ~~(3) Add or delete specific projects; and~~

9
10 ~~(4) Reassign priorities.~~

11
12 ~~An advisory committee may pursue matters in addition to those specified in~~
13 ~~its annual charge as long as the matters are consistent with the advisory~~
14 ~~committee's general charge, its approved work plan, and the council's long-~~
15 ~~range strategic plan. The additional matters must also be within the~~
16 ~~committee's authorized budget and available resources, as specified by the~~
17 ~~council or the Administrative Director of the Courts.~~

18
19 **~~(e) Reporting to internal committee~~**

20
21 ~~Each advisory committee must periodically report to the internal committee~~
22 ~~with oversight responsibility on its continuing work and must provide~~
23 ~~analysis of issues and make recommendations as requested by the internal~~
24 ~~committee.~~

25
26 **~~(f) Review of need for advisory committees~~**

27
28 ~~Every five years each advisory committee must report in writing to the~~
29 ~~internal committee with oversight responsibility about whether the advisory~~
30 ~~committee should continue to exist and whether it should maintain its current~~
31 ~~structure. The internal committee may make a recommendation to the~~
32 ~~council.~~

33
34 **(a) Role**

35
36 Advisory committees are standing committees created by rule of court or the
37 Chief Justice to make recommendations and offer policy alternatives to the
38 Judicial Council for improving the administration of justice within their
39 designated areas of focus by doing the following:

40
41 (1) Identifying issues and concerns affecting court administration and
42 recommending solutions to the council;
43

- 1 (2) Proposing necessary changes to rules, standards, forms, and jury
2 instructions;
- 3
- 4 (3) Reviewing pending legislation and making recommendations to the
5 Policy Coordination and Liaison Committee on whether to support or
6 oppose it;
- 7
- 8 (4) Recommending new legislation to the council;
- 9
- 10 (5) Recommending to the council pilot projects and other programs to
11 evaluate new procedures or practices;
- 12
- 13 (6) Acting on assignments referred by the council or an internal committee;
14 and
- 15
- 16 (7) Making other appropriate recommendations to the council.
- 17
- 18

19 **(b) Annual charges**

- 20
- 21 (1) Advisory committees are assigned annual charges by the council or an
22 internal committee specifying what should be achieved in a given year.
23 The council or an internal committee may amend an advisory
24 committee's annual charge at any time.
- 25
- 26 (2) Advisory committees have limited discretion to pursue matters in
27 addition to those specified in each committee's annual charge, as long
28 as the matters are consistent with a committee's general charge, within
29 the limits of resources available to the committee, and within any other
30 limits specified by the council, the designated internal committee, or
31 the Administrative Director of the Courts.
- 32

33 **(c) Responsibilities of the chair**

34 Advisory committee chairs are responsible, with the assistance of staff, to:

- 35
- 36
- 37 (1) Develop a realistic annual agenda for the advisory committee,
38 consistent with the committee's annual charge by the Judicial Council
39 or Judicial Council internal committee;
- 40
- 41 (2) Present the advisory committee's recommendations to the Judicial
42 Council;
- 43

1 (3) Discuss with the Administrative Director or the Administrative
2 Director's designee appropriate staffing and other resources for projects
3 within the advisory committee's agenda; and
4

5 (4) Submit recommendations with respect to advisory committee
6 membership.
7

8 **(d) Role of the Administrative Director of the Courts**
9

10 (1) The Administrative Director determines whether projects undertaken
11 by council advisory bodies in addition to those specified in the
12 council's or internal committee's annual charge to the advisory body
13 are consistent with the body's general charge, its approved annual
14 agenda, and the Judicial Council's strategic plan. The Administrative
15 Director also determines whether any additional matters are within the
16 body's authorized budget and available resources.
17

18 (2) The Administrative Director is not bound by the recommendations of
19 an advisory committee and may make alternative recommendations to
20 the Judicial Council or recommend that an advisory committee's annual
21 charge be amended.
22

23 **(e) Role of staff**
24

25 (1) Advisory committees are assisted by the staff of the Administrative
26 Office of the Courts. The duties of staff members include drafting
27 committee annual agendas, managing the committee's budget and
28 resources, coordinating committee activities, providing legal and policy
29 analysis to the committee, organizing and drafting reports, selecting
30 and supervising consultants, providing technical assistance, and
31 assisting committee chairs in presenting the committee's
32 recommendations to the Judicial Council. Staff may provide
33 independent legal or policy analysis of issues that is different from the
34 committee's position, if authorized to do so by the Administrative
35 Director of the Courts.
36

37 (2) Staff report to the Administrative Director of the Courts. The decisions
38 or instructions of an advisory body or its chair are not binding on the
39 staff except in instances when the council or the Administrative
40 Director has specifically authorized such exercise of authority.
41

42 **(f) Review of annual agendas**
43

- 1 (1) Each committee must submit a proposed annual agenda that is
2 reviewed by the internal committee with oversight responsibility, as
3 designated by the Chief Justice. This subdivision does not apply to the
4 Administrative Presiding Justices Advisory Committee.
5
6 (2) The internal committee that is responsible for oversight of the advisory
7 committee reviews the proposed annual agenda and provides the
8 advisory committee with an annual charge to ensure that its activities
9 are consistent with the council’s goals and priorities. The annual charge
10 may:
11
12 (A) Approve or disapprove the annual agenda in whole or in part;
13
14 (B) Direct the committee to pursue specific projects on the annual
15 agenda;
16
17 (C) Add or delete specific projects; and
18
19 (D) Reassign priorities.
20
21 (3) An advisory committee may pursue matters in addition to those
22 specified in its annual charge as long as the matters are consistent with
23 the advisory committee’s general charge, as set forth in the Rules of
24 Court, its approved annual agenda, and the council’s long-range
25 strategic plan. The additional matters must also be within the
26 committee’s authorized budget and available resources, as specified by
27 the council or the Administrative Director of the Courts.
28
29

30 **Rule 10.70. Task forces and other advisory bodies**
31

32 The Chief Justice, the Administrative Director of the Courts, or the council may
33 establish task forces and other advisory bodies to work on specific projects that
34 cannot be addressed by ~~existing~~ the council’s standing advisory committees. ~~Each~~
35 These task forces and other advisory bodies may be required to report to one of the
36 internal committees or the Administrative Director, as designated in ~~its~~ their
37 charges. ~~The Administrative Office of the Courts maintains a list of current task~~
38 forces.
39
40

41 **Rule 10.80. Administrative Director of the Courts**
42

1 **(a) Functions**

2
3 The Administrative Director of the Courts, appointed by the Judicial Council
4 under article VI, section 6 of the Constitution, performs those functions
5 prescribed by the Constitution and laws of the state, or delegated to the
6 director by the Judicial Council or ~~its chair~~ the Chief Justice.

7
8 **(b) Accountability**

9
10 The Administrative Director is accountable to the council and the Chief
11 Justice for the performance of the Administrative Office of the Courts. The
12 Administrative Director's charge is to accomplish the council's goals and
13 priorities.

14
15 **(c) Interpretation of policies**

16
17 The Administrative Director may use any reasonable interpretation of
18 Judicial Council policies to achieve the council's goals, consistent with the
19 limitations from the council and the Chief Justice.

20
21 **(d) Responsibilities**

22
23 In carrying out these duties, the Administrative Director is responsible for
24 allocating the financial and other resources of the Administrative Office of
25 the Courts (including, for example, funding the operation of advisory bodies
26 and other activities) to achieve the branch goals and policies adopted by the
27 Judicial Council of California.

28
29 **(e) Reports**

30
31 The Administrative Director reports to the Judicial Council at least once
32 annually on the progress made toward achieving the council's goals. When
33 the council sets the direction on projects or programs that require more than
34 one year to complete, the Administrative Director will report back to the
35 council at regular intervals on their status and significant developments.

36
37
38 **Rule 10.81. Administrative Office of the Courts**

39
40 **(a) Establishment**

1 The Administrative Director of the Courts, under the supervision of the ~~Chair~~
2 ~~of the Judicial Council~~ Chief Justice, employs, organizes, and directs a staff
3 agency, known as the Administrative Office of the Courts.
4

5 **(b) Duties**

6
7 The Administrative Office of the Courts assists the council and its chair in
8 carrying out their duties under the Constitution and laws of the state.
9

10 ~~(c) Reporting~~

11
12 ~~The Administrative Office of the Courts must annually submit to the Judicial~~
13 ~~Council a management report that describes its current activities and internal~~
14 ~~operations.~~
15
16

17 **Rule 10.101. Role of the Judicial Council and Administrative Office of the**
18 **Courts**

19
20 **(a) Purpose**

21
22 This rule specifies the responsibilities of the Judicial Council, the Chief
23 Justice, the Administrative Director of the Courts, and the Administrative
24 Office of the Courts with respect to the judiciary's judicial branch budget.
25

26 **(b) Duties of the Judicial Council**

27
28 The Judicial Council must:

- 29
- 30 (1) Establish responsible fiscal priorities that best enable the judiciary
31 judicial branch to achieve its goals and the Judicial Council to achieve
32 its mission;
 - 33
34 (2) Develop the budget of the judiciary judicial branch based on the
35 priorities established and the needs of the courts;
 - 36
37 (3) Communicate and advocate the budget of the judiciary-judicial branch
38 to the Governor and the Legislature;
 - 39
40 (4) Allocate funds in a manner that ensures equal access to justice for all
41 citizens of the state, ensures the ability of the courts to carry out their
42 functions effectively, promotes implementation of statewide policies as

1 established by statute and the Judicial Council, and promotes
2 implementation of efficiencies and cost-saving measures;

3
4 (5) Resolve appeals on budget and allocation issues; and

5
6 (6) Ensure that the budget of the ~~judiciary~~ judicial branch remains within
7 the limits of the appropriation set by the Legislature.
8

9 **(c) Authority of the Chief Justice and Administrative Director of the Courts**

10
11 (1) The Chief Justice and the Administrative Director of the Courts may
12 take the following actions, on behalf of the Judicial Council, with
13 regard to any of the Judicial Council's recommended budgets for the
14 Supreme Court, the Courts of Appeal, the trial courts, the Judicial
15 Council, ~~and~~ the Habeas Corpus Resource Center, and the
16 Administrative Office of the Courts;

17
18 (A) Make technical changes to the proposed budget; and

19
20 (B) Make changes during their negotiations with the legislative and
21 executive branches consistent with the goals and priorities
22 adopted by the Judicial Council. ~~The Chief Justice and the~~
23 ~~Administrative Director of the Courts must advise the council of~~
24 ~~the results of the negotiations.~~
25

26 (2) The Chief Justice and the Administrative Director of the Courts, on
27 behalf of the Judicial Council, may allocate funding appropriated in the
28 annual State Budget to the Supreme Court, the Courts of Appeal, the
29 Judicial Council, ~~and~~ the Habeas Corpus Resource Center, and the
30 Administrative Office of the Courts.

31
32 (3) After the end of each fiscal year, the Administrative Director of the
33 Courts must report to the Judicial Council on the actual expenditures
34 from the budgets for the Supreme Court, the Courts of Appeal, the trial
35 courts, the Judicial Council, ~~and~~ the Habeas Corpus Resource Center,
36 and the Administrative Office of the Courts.

37
38 **(d) Duties of the Administrative Director of the Courts**

39
40 The Administrative Director of the Courts implements the directives of the
41 Judicial Council and must:
42

- 1 (1) Develop policies and procedures for the creation and implementation of
- 2 a yearly budget for the judiciary-judicial branch;
- 3
- 4 (2) Present the judiciary's-judicial branch budget in negotiations with the
- 5 Governor and the Legislature; and
- 6
- 7 (3) Allocate to the trial courts, on behalf of the Judicial Council, a portion
- 8 of the prior fiscal year baseline allocation for the trial courts following
- 9 approval of the State Budget and before the allocation of state trial
- 10 court funding by the Judicial Council. The portion of the prior fiscal
- 11 year baseline allocation that may be so allocated is limited to the
- 12 amount estimated to be necessary for the operation of the courts
- 13 pending action by the Judicial Council, and may not exceed 25 percent
- 14 of the prior fiscal year baseline allocation for each trial court.
- 15

16 **(e) Duties of the director of the Finance Division**

17

18 The director of the Finance Division of the Administrative Office of the

19 Courts, under the direction of the Administrative Director of the Courts,

20 administers the budget policies and procedures developed by the

21 Administrative Director of the Courts and approved by the Judicial Council.

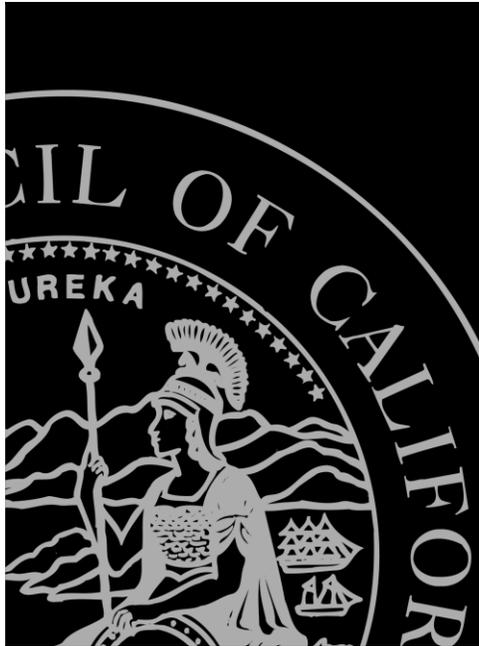
22 The director of the Finance Division must:

- 23
- 24 (1) Develop and administer a budget preparation process for the judiciary
- 25 judicial branch, and ensure the submission of a final budget
- 26 recommendation for the judiciary-judicial branch to the Department of
- 27 Finance by November 1 of each year;
- 28
- 29 (2) Develop, in consultation with the State Controller's Office and the
- 30 Department of Finance, a manual of procedures for the budget request
- 31 process, revenues, expenditures, allocations, and payments;
- 32
- 33 (3) Monitor all revenues and expenditures for the judiciary-judicial branch;
- 34
- 35 (4) Develop recommendations for fiscal priorities and the allocation and
- 36 reallocation of funds; and
- 37
- 38 (5) Assist all courts and the Administrative Director of the Courts in
- 39 preparing and managing budgets.
- 40

41 **Rule 10.10745. Trial Court Budget Working Group**

42 * * *

43



Judicial Council Governance Policies

JUNE 2008



JUDICIAL COUNCIL
OF CALIFORNIA

Judicial Council Governance Policies

I. Governance Process

A. The Judicial Council

1. Purpose

The Judicial Council of California provides leadership and sets the direction for improving the quality of justice and advancing the consistent, independent, impartial, and accessible administration of justice for the benefit of the public.

- a. The Judicial Council acts as a governing body for the judicial branch to ensure the statewide administration of justice by supporting the California courts and assisting them to provide equal and timely access to an independent and impartial justice system for all Californians.
- b. The Judicial Council ensures that justice on a statewide basis is properly administered, the work of the California courts is coordinated, and the judicial branch functions efficiently and effectively. The council supports the development and dissemination of innovations and best practices consistent with judicial branch goals.
- c. The Judicial Council provides the leadership for preserving and enhancing an independent and impartial justice system in California that maintains the status of the judicial branch as a separate, co-equal branch of government in accordance with the California Constitution and the law.
- d. The Judicial Council guides the judicial branch in advancing the highest standards of accountability to the executive branch, the legislative branch, and the people of California for administration and quality of justice, use of public resources, and adherence to statutory and constitutional mandates.
- e. The Judicial Council surveys judicial business and trends, and adopts rules of court administration, practice, and procedure, to improve and promote a high quality and consistent California justice system.

2. Responsibilities of the Council

The council establishes goals and policies for California's judicial branch of government. The council is directly responsible for the following:

- a. Establishing broad goals and policies that set the direction and priorities for the continuous improvement of California's system for the administration of justice. These goals and policies include fundamental goals such as promoting public access to the justice system, increasing responsiveness to the needs of

court users of diverse backgrounds, and upholding the rule of law and impartiality of judges as constitutional officers.

- b. Establishing standards for performance and accountability of the administrative operations and procedures of the branch. These standards address the diverse needs of court users, employ modern management practices that implement and sustain innovative ideas and effective practices, and report on judicial branch performance to the public, Legislature, Governor, and the courts.
- c. Developing and maintaining administrative, technological, and physical infrastructures, including court facilities, that enhance accessibility to the courts and support the needs of the people of California and the judicial branch.
- d. Taking all appropriate steps to develop and establish the judicial branch's fiscal priorities, secure appropriate funding for the judicial branch, establish fiscal and budget policies for the branch, allocate branch appropriations to the courts and the council, and ensure accountability through reporting on the use of its public resources to the legislative and executive branches of state government and to the public.
- e. Sponsoring and taking positions on pending legislation consistent with the council's established goals and priorities to support consistent, effective, statewide programs and policies that provide for the highest quality of administration of justice, and that promote an impartial judiciary.
- f. Developing high-quality education and professional development opportunities for all judicial branch personnel to meet public needs and to enhance public trust and confidence in the courts.
- g. Communicating with and reporting to the legislative and executive branches of state government to advance judicial branch goals and account for the use of public funds and resources.

3. Council Policymaking

The Judicial Council establishes judicial branch policy for the improvement of an independent and impartial justice system that meets public needs and enhances public trust and confidence in the courts. It develops policy in consultation with the people of California, court leadership, judicial officers, Judicial Council advisory bodies, employees in the judicial branch, the State Bar, advocacy groups, the Legislature, the Governor, and other government entities and justice system partners.

The principal focus of the Judicial Council is to establish policies that emphasize long-term strategic leadership and that align with judicial branch goals. Council policymaking

is focused on the beneficiaries of the policy, the results to be achieved, the cost to be incurred, and the corresponding judicial branch goals.

To enable the council to make well-informed strategic decisions, all policy proposals submitted for council consideration by internal committees, advisory bodies, the Administrative Director, and staff should address the following:

- Beneficiaries of the policy;
- Results to be achieved;
- Costs to be incurred;
- Each corresponding judicial branch goal, objective, and anticipated outcome;
- Previous council action on the issue or policy;
- Comments from interested parties;
- Analysis of the benefits and risks of the proposals; and
- Analysis of the strengths and weaknesses of alternative options and an explanation of their implications.

4. Judicial Branch Goals

The Judicial Council develops judicial branch goals in its strategic and operational plans. At six-year intervals, the council develops and approves a long-range strategic plan. At three-year intervals, the council develops and approves an operational plan for the implementation of the strategic plan. Each plan is developed in consultation with branch stakeholders and justice system partners. The goals and priorities of the council are set forth in the *Justice in Focus: The Strategic Plan for the California's Judicial Branch 2006–2012*:

- I. Access, fairness, and diversity.
- II. Independence and accountability.
- III. Modernization of management and administration.
- IV. Quality of justice and service to the public.
- V. Education for branchwide professional excellence.
- VI. Branchwide infrastructure for service excellence.

5. Role of Council Members

Council members are a governing body for California's judicial branch of government. In accepting appointment, they commit to act in the best interests of the public and the judicial system for the purposes of maintaining and enhancing public access to the justice system, as well as preserving and enhancing impartial judicial decision-making and an independent judicial branch of government.

Council members do not represent any particular constituency notwithstanding any of their other affiliations or roles.

Council members communicate as representatives of the Judicial Council with the public, the courts, judicial officers, Judicial Council advisory bodies, other government entities, and justice system partners. They communicate knowledgeably about the council's

processes, purposes, responsibilities, and issues and reasons for policy decisions, including those policy decisions where there is disagreement.

6. Council Officers and Duties

The Judicial Council has seven officers: the Chair, Vice-Chair, Secretary, and the chairs of the council's four internal committees: Executive and Planning, Litigation Management, Policy Coordination and Liaison, and Rules and Projects.

The Chief Justice serves as Chair of the council and performs those functions prescribed by the Constitution and the laws of the State of California. The Chair is a voting member of the council.

The Chief Justice appoints a Vice-Chair from among the judicial members of the council. When the Chair is absent, unable to serve, or so directs, the Vice-Chair performs all of the duties of the Chair.

The Chief Justice appoints a Judicial Council member to serve as chair of the council in the event that both the Chief Justice and the council's Vice-Chair are absent or unable to serve. The Chief Justice determines the individuals to serve as chair from among the internal committee chairs and vice-chairs.

The Chief Justice appoints the chairs and vice-chairs of the council's four internal committees from among the members of the council. Internal committee chairs are appointed for a one-year term. Committee chairs call meetings, as necessary, and provide reports to the council on the activities of the internal committees. Meetings of the internal committees are closed to the public but may be opened at the chair's discretion.

The Administrative Director of the Courts serves as Secretary to the council and performs administrative and policymaking functions as provided by the Constitution and the laws of the State of California and as delegated by the council and the Chief Justice (see II.B, *infra*, for duties of the Administrative Director). The Secretary is not a voting member of the council.

Together, the Chief Justice and the Administrative Director, on behalf of the Judicial Council and with regard to the budgets of the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts, may: (1) make technical changes to the proposed budget, and (2) participate in budget negotiations with the legislative and executive branches consistent with the goals and priorities of the council.

The Chief Justice and the Administrative Director, on behalf of the Judicial Council, also may allocate funding appropriated in the State Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts.

After the end of each fiscal year, the Administrative Director reports to the Judicial Council on actual expenditures in the budgets of the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts.

7. Maintenance of Governance Policies and Principles

On an annual basis, the Chair of the Executive and Planning Committee discusses the governance policies and principles at a council meeting to orient new members and review council governance with continuing members. Every three years, the Judicial Council conducts a review of its governance policies and principles and determines whether any revisions are needed. The Executive and Planning Committee monitors the regular implementation of the governance policies and principles and makes recommendations to the council about governance policies and practices.

In order to ensure that new council members have the knowledge and understanding needed to perform their duties effectively, they are oriented to the council's governance policies and principles as well as the council's history of policymaking on key topics, such as court facilities, fiscal appropriations, and infrastructure initiatives.

B. Council Internal Committees

The internal committees of the Judicial Council assist the full membership of the council in its responsibilities by providing recommendations in their assigned areas including rules for court administration, practice, and procedure, and by performing duties delegated by the council. Internal committees generally work at the same policy level as the council, focusing on the establishment of policies that emphasize long-term strategic leadership and that align with judicial branch goals.

1. Executive and Planning Committee

The Executive and Planning Committee has the following functions and makes regular reports to the full council on its actions:

- a. Taking action on behalf of the council between council meetings except for (1) adopting rules of court, standards of judicial administration, and forms; (2) making appointments that by statute must be made by the council; and (3) taking actions that are delegated to other council advisory bodies.
- b. Overseeing the council's strategic planning process.
- c. Overseeing the council's policies and procedures regarding court facilities, including development of policies, procedures, and guidelines for facilities; site selection; and capital appropriations.
- d. Ensuring that proposed judicial branch budgets, allocation schedules, and related budgetary issues are brought to the Judicial Council in a timely manner and in a format that permits the council to establish funding priorities in the

context of the council's annual program objectives, statewide policies, and long-range strategic and operational plans.

- e. Establishing agendas for council meetings by determining (1) whether items submitted for the council's agenda require the council's action and are presented in a form that provides the council with the information it needs to make well-informed decisions; and (2) whether each item should be on the consent, discussion, or information agenda; how much time should be allotted for discussion; what presenters should be invited to speak; and, when appropriate, which specific issues should be discussed.
- f. Developing a schedule of topics about which the council wishes to consider making policy or to receive updates from the Administrative Director or Administrative Office of the Courts staff.
- g. Making recommendations to the council regarding governance and overseeing the council's review of its governance policies and principles.
- h. Recommending candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies.
- i. For those advisory committees and task forces over which it has been assigned oversight by the Chief Justice, ensuring that activities of each are consistent with the council's goals and policies. To achieve these outcomes, the Executive and Planning Committee:
 - i. Communicates the council's annual charge to each (see I.C.1, *infra*).
 - ii. Reviews an annual agenda for each to determine whether the annual agenda is consistent with its charge and with the priorities established by the council.
- j. Promoting effective policies for communications between the Judicial Council and the judicial branch of government. The Executive and Planning Committee, together with the chairs of the other internal committees, is responsible for developing and implementing a branchwide plan for general communications between the council and the judicial branch. This responsibility may address such matters as reporting through judicial branch communication channels to the courts and branch stakeholders on Judicial Council meetings and policy actions; communications with the media; communications through Judicial Council members' participation in court site visits, regional meetings, and new judge meetings; and communications from the judicial branch to the Judicial Council through meetings, advisory bodies, public comment processes, and other communication methods.

2. Policy Coordination and Liaison Committee

The Policy Coordination and Liaison Committee has the following functions and makes regular reports to the full council on its actions:

- a. Taking a position on behalf of the council on pending legislative bills, after evaluating input from council advisory bodies, staff, and the courts, provided that the position is consistent with the council's established policies and precedents.
- b. Making recommendations to the council on all proposals for council-sponsored legislation and on an annual legislative agenda after evaluating input from council advisory bodies, staff, and the courts.
- c. Acting as liaison with other governmental entities, the bar, the media, the judiciary, and the public regarding council-sponsored legislation, pending legislative bills, and the council's legislative positions and agendas.
- d. Building consensus on issues of importance to the judicial branch with entities and individuals outside of the branch.

3. Rules and Projects Committee

The Rules and Projects Committee has the following functions and makes regular reports to the full council on its actions:

- a. Establishing and maintaining a rule-making process that is understandable and accessible to the legal-judicial community and the public. The Rules and Projects Committee:
 - i. Establishes and publishes procedures for the proposal and adoption of rules of court and jury instructions that ensure that relevant input from the public is solicited and considered.
 - ii. Provides guidelines for the style and format of rules, forms, and standards.
 - iii. Reviews proposed rules, standards, and forms and circulates those proposals for public comment in accordance with its procedures and guidelines.
- b. Assisting the council in making informed decisions about rules of court administration, practice, and procedure. The Rules and Projects Committee:
 - i. Determines whether any proposal for new or amended rules, standards, or forms has complied with its procedures and its guidelines on style and format. If the proposal does comply, the Rules and Projects Committee makes a recommendation to the Executive and Planning

Committee about whether the proposal should be on the consent or the discussion agenda and how much time should be allocated for discussion.

- ii. Recommends to the council whether the proposal should be approved and, when appropriate, identifies issues for discussion. If the Rules and Projects Committee recommends against approval, it states the reasons for its recommendation.
 - iii. The Administrative Director is responsible for ensuring that items submitted to the Rules and Projects Committee for circulation for comment and the council's agenda comply with the Rules and Projects Committee's procedures and its guidelines on format and style.
- c. For those advisory committees and task forces over which it has been assigned oversight by the Chief Justice, ensuring that the activities of each are consistent with the council's goals and policies. To achieve these outcomes, the Rules and Projects Committee:
- i. Communicates the council's annual charge to each (see *infra.*, I. C.1).
 - ii. Reviews an annual agenda for each to determine whether the annual agenda is consistent with its charge and with the priorities established by the council.

4. Litigation Management Committee

The Litigation Management Committee has the following functions and takes the following actions:

- a. Overseeing litigation and claims against trial court judges, appellate court justices, the Judicial Council, the Administrative Office of the Courts, the trial and appellate courts, and the employees of those bodies that seek recovery of \$100,000 or more, or raise important policy or court operations issues, by: (1) reviewing and approving any proposed settlement, stipulated judgment, or offer of judgment; and (2) consulting with the Administrative Director or General Counsel on important strategy issues. Important policy or court operations issues may include whether to initiate litigation on behalf of a court, when to defend a challenged court practice, or how to resolve disputes where the outcome might have statewide implications.
- b. Making recommendations to the Judicial Council for policies governing the management of litigation involving the courts.
- c. When necessary, resolving written objections to major strategic decisions, such as retention of counsel and proposed settlements, presented by the General Counsel.

C. Council Advisory Bodies

Council advisory bodies are typically advisory committees and task forces. They use the individual and collective experience, opinions, and wisdom of their members to provide policy recommendations and advice to the council on topics the Chief Justice or the council specifies. The council and its internal committees provide direction to the advisory bodies.

Council advisory bodies work at the same policy level as the council, developing recommendations that focus on strategic goals and long-term impacts that align with judicial branch goals.

Council advisory bodies generally do not implement policy. The council may, however, assign policy-implementation and programmatic responsibilities to an advisory body and may request it make recommendations to staff on implementation of council policy or programs.

Council advisory bodies do not speak or act for the council except when formally given such authority for specific and time-limited purposes.

Council advisory bodies, through staff, are responsible for gathering stakeholder perspectives on policy recommendations they plan to present to the council.

The Chief Justice assigns oversight of each council advisory body to an internal committee. The council gives a general charge to each advisory body specifying the body's subject matter jurisdiction.

1. Council Advisory Committees

- a. Advisory committees are standing committees created by rule of court or the Chief Justice to make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:
 - i. Identifying issues and concerns affecting court administration and recommending solutions to the council.
 - ii. Proposing necessary changes to rules, standards, and forms.
 - iii. Reviewing pending legislation and making recommendations to the Policy Coordination and Liaison Committee on whether to support or oppose it.
 - iv. Recommending new legislation to the council.

- v. Recommending to the council pilot projects and other programs to evaluate new procedures or practices.
 - vi. Acting on assignments referred by the council or an internal committee.
 - vii. Making other appropriate recommendations to the council.
- b. Advisory committees are assigned annual charges by the council or an internal committee specifying what should be achieved in a given year. The council or an internal committee may amend an advisory committee's annual charge at any time.
 - c. Advisory committees have limited discretion to pursue matters in addition to those specified by the council in each committee's annual charge, as long as the matters are consistent with a committee's general charge, within the limits of resources available to the committee, and within any other limits specified by the council, the designated internal committee, or the Administrative Director of the Courts.
 - d. Advisory committee chairs are responsible, with the assistance of staff, to:
 - i. Develop a realistic annual agenda for the advisory committee, consistent with the committee's annual charge by the Judicial Council or Judicial Council internal committee;
 - ii. Present the advisory committee's recommendations to the Judicial Council;
 - iii. Discuss with the Administrative Director or his/her designee appropriate staffing and other resources for projects within the advisory committee's agenda; and
 - iv. Submit recommendations with respect to advisory committee membership.
 - e. The Administrative Director is not bound by the recommendations of an advisory committee and may make alternative recommendations to the Judicial Council or recommend that an advisory committee's annual charge be amended.
 - f. Staff report to the Administrative Director of the Courts. Decisions or instructions of an advisory body or its leader are not binding on the staff except in instances when the council or the Administrative Director has specifically authorized such exercise of authority.

2. Council Task Forces and Other Advisory Bodies

The Chief Justice, Judicial Council, or the Administrative Director of the Courts may establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council's standing advisory committees. These task forces and other advisory bodies may be required to report to one of the council's internal committees or the Administrative Director, as designated in the charge.

II. Council-Staff Relationship

A. Unity of Control

1. The Judicial Council appoints an Administrative Director of the Courts who serves at the pleasure of the council and performs functions prescribed by the California Constitution and delegated by the council and the Chief Justice. Adopting rules of court administration, practice, and procedure is not delegated to the Administrative Director.
2. Officially passed motions of the council, and decisions and instructions of the Chief Justice, are binding on the Administrative Director. Decisions or instructions of individual council members or internal and advisory bodies are binding on the Administrative Director if the council or its Chair has specifically delegated such exercise of authority.
3. The Administrative Director, under the supervision of the Chief Justice, employs, organizes, and directs a staff agency, known as the Administrative Office of the Courts. The Administrative Office of the Courts assists the council and its Chair in carrying out their duties under the Constitution and laws of the State of California.
4. The Administrative Director is responsible for staff performance and has sole authority to assign, supervise, and direct staff. The Administrative Director is responsible for ensuring the completeness and quality of reports and other work product presented to the council. Council members may from time to time request information or assistance from staff, unless in the Director's opinion such requests require an unreasonable amount of staff time or become disruptive. Council members and advisory body members may individually provide information to the Administrative Director on the performance of staff and the Administrative Office of the Courts.

The Administrative Director is responsible for allocating financial and other resources of the Administrative Office of the Courts to achieve the goals of the Judicial Council and to implement the council's policies.

B. Relationship of the Administrative Director to the Council's Internal Committees and Advisory Bodies

The Administrative Director, as Secretary to the council, may attend and participate in the meetings of each internal committee.

The Administrative Director determines whether projects undertaken by council advisory bodies in addition to those specified in the council's annual charge to the advisory body are consistent with the body's general charge, its approved annual agenda, and the Judicial Council's strategic plan. The Administrative Director also determines whether any additional matters are within the body's authorized budget and available resources.

C. Accountability of the Administrative Director

The Administrative Director is accountable to the council and the Chair for the performance of the Administrative Office of the Courts. The Administrative Director's charge is to accomplish the council's goals and priorities, while avoiding the use of illegal, imprudent, or unethical means.

The Administrative Director reports to the Judicial Council at least once annually on the progress made toward achieving the council's goals. When the council sets the direction on projects or programs that require more than one year to complete, the Administrative Director will report back to the council at regular intervals on status and significant developments.

D. Delegation to the Administrative Director

The Administrative Director may use any reasonable interpretation of Judicial Council policies to achieve the council's goals, consistent with the limitations from the council and the Chief Justice.

In carrying out these duties, the Administrative Director is responsible for allocating the financial and other resources of the Administrative Office of the Courts (including, for example, funding the operation of advisory bodies and other activities) to achieve the branch goals and policies adopted by the Judicial Council of California.