

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

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**Report**

TO: Members of the Judicial Council

FROM: Trial Court Presiding Judges Advisory Committee  
Hon. Sharon J. Waters, Chair  
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DATE: August 21, 2006

SUBJECT: Judicial Administration Rules: Nominations for Chair of the Trial Court Presiding Judges Advisory Committee (amend Cal. Rules of Court, rule 10.46(f))<sup>1</sup> (Action Required)

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Issue Statement

Rule 10.46(f) of the California Rules of Court currently provides that the Trial Court Presiding Judges Advisory Committee (TCPJAC) must submit three nominations to the Chief Justice for chair of the committee “[f]ollowing its last scheduled committee meeting of the year,” which is usually convened in October or November. Historically, the TCPJAC chair has been appointed for a one-year term effective January 1 to coincide with the term for which most presiding judges are elected locally. Because rule 10.46(f) also provides that the TCPJAC chair is an advisory member of the Judicial Council, the January 1 effective date has not allowed the chair to participate during the full council cycle, as contrasted with other council members who begin their terms on September 15 under rule 6.2(d).<sup>2</sup>

Recommendation

The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council, effective January 1, 2007, amend rule 10.46(f) of the California Rules of Court, to modify the timing of nominations for chair of the TCPJAC to allow the TCPJAC to

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<sup>1</sup> At the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, rule 6.46 has been renumbered as rule 10.46, and new format conventions have been adopted. Hence, the proposed amendments to rule 6.46 are shown throughout this proposal as amendments to rule 10.46, which will become effective January 1, 2007.

<sup>2</sup> Effective January 1, 2007, this rule will be renumbered 10.2.

submit three nominees for chair annually, instead of “[f]ollowing its last scheduled committee meeting of the year.”

The text of the proposed amendment to rule 10.46 is attached at page 4.

#### Rationale for Recommendation

Rule 10.46(f) provides that the TCPJAC chair serves as an advisory member of the Judicial Council. Because of the current requirement that nominations for chair be submitted after the last committee meeting of the year, the incoming chair has not had an opportunity to participate in the council’s new member orientation program that is usually held in August of each year. The proposed amendment of rule 10.46(f) would allow the TCPJAC to submit nominations for chair at a time that would permit appointment to a term consistent with Judicial Council members’ terms as specified in rule 6.2(d).

As provided in rule 6.31(c),<sup>3</sup> the Chief Justice appoints the TCPJAC chair to a one-year term, and under current practice the term of the chair begins on January 1. This practice reflects the fact that most courts elect their presiding judges for a term starting on January 1. Under the proposed amendment, the TCPJAC would submit nominations for its chair before the last committee meeting. The goal is for the nominations to be submitted midyear, at a time when new presiding judges have served up to six months of their term and a six-month membership on the TCPJAC. This may encourage new presiding judges to seek nomination for chair and, if appointed, help them be more effective as an advisory member on the council.

The nominations process for chair as established in the committee bylaws requires the TCPJAC’s executive committee to select three nominees, which are then submitted to the full committee for ratification and potential nomination of additional candidates. Owing to the timing requirement in the current rule, the outgoing and continuing TCPJAC and executive committee members select nominees for the incoming chair. The proposed amendment would allow the current committee to conduct the nominations process and select nominees from current members of the committee. Finally, depending on the chair’s term as presiding judge, the outgoing chair would have time remaining on TCPJAC, which would help provide for a smooth transition and consistency of the committee’s projects and initiatives.

Based on a survey of all courts in 2005, 17 courts currently elect their presiding judges *after* the last scheduled TCPJAC meeting of the year, effectively precluding their presiding judges from being nominated for chair. By allowing for an earlier nominations

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<sup>3</sup> Effective January 1, 2007, this rule will be renumbered 10.31.

and appointment process, more new presiding judges—those elected the previous year—would be eligible to be nominated for TCPJAC chair.<sup>4</sup>

#### Alternative Actions Considered

The TCPJAC executive committee also considered amending rule 6.602(c)<sup>5</sup> to require all courts to elect their presiding judge by August 1, which would allow more newly elected presiding judges to be considered for chair. As the intent is to encourage courts to support their presiding judge's participation on the committee and in the nominations process, the committee decided that proposing a rule to require courts to change their local processes would not be the best course of action.

The TCPJAC executive committee also considered proposing an amendment to rule 10.46(f) specifying that the TCPJAC must submit nominations to the Chief Justice by or on June 30 of each year. This proposal was abandoned because the timing of TCPJAC meetings is affected by other statewide judicial branch events and may not always fall before June 30. To ensure that the TCPJAC can meet its obligation to submit nominations in time for the Chief Justice to appoint a chair before the start of the Judicial Council membership term, the committee decided not to specify a date in the rule.

#### Comments From Interested Parties

The proposed amendment has not circulated for comment, as the proposal would require a minor substantive change that is unlikely to create controversy. Under rule 6.22(d),<sup>6</sup> such proposals can be submitted to the council without circulating for comment. Those most directly affected by the proposal are the 58 presiding judges, all of whom are TCPJAC members. TCPJAC members had significant opportunity to review this proposal, and at its July 26, 2006, business meeting the TCPJAC unanimously voted to sponsor this proposal.

#### Implementation Requirements and Costs

There are no costs associated with this amendment.

#### Attachments

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<sup>4</sup> Rule 6.31(c) provides that the committee chair is appointed for a one-year term. Hence, anyone with only six months remaining of his or her term would be ineligible to serve as chair. This applies to six courts that currently elect their presiding judge for a one-year term starting January 1, as well as to presiding judges in their second year of a term starting on January 1.

<sup>5</sup> Effective January 1, 2007, this rule will be renumbered 10.602.

<sup>6</sup> Effective January 1, 2007, this rule will be renumbered 10.22.

Rule 10.46 of the California Rules of Court is amended, effective January 1, 2007, to read:<sup>7</sup>

1 **Rule 10.46. Trial Court Presiding Judges Advisory Committee**

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3 **(a)–(e) \* \* \***

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5 **(f) Chair**

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7 ~~Following its last scheduled committee meeting of the year,~~The advisory

8 committee must annually submit to the Chief Justice three nominations for the chair

9 of the advisory committee. The Chief Justice will select a chair from among the

10 names suggested. The chair of the advisory committee serves as chair of any

11 Executive Committee established under (d) and as an advisory member of the

12 Judicial Council.

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<sup>7</sup>These recommended amendments have been made to the version of this rule adopted by the Judicial Council at its June 30, 2006, business meeting and reflect the text that will be in effect on January 1, 2007. Any amendments adopted as part of this proposal will be incorporated into the text of the rule that goes into effect on January 1, 2007.