

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

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Report

TO: Members of the Judicial Council

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DATE: November 10, 2005

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

Issue Statement

Rule 6.661 of the California Rules of Court established the regional court interpreter employment relations committees (RCIERCs) mandated by Government Code sections 71807–71809, to address labor-management issues concerning the employment of court interpreters. Among other things, the rule allocates the membership of the committees and votes held by each trial court on a committee based on the number of court interpreter employees at each trial court, using the term court interpreter “pro tempore” (“as needed” employees who are not guaranteed work). Under the governing statutes (Gov. Code, § 71800 et seq.), courts could hire court interpreters only as “pro tempore” employees during a transition period between January 1, 2003, and July 1, 2005. With the end of the transition period established by statute and with the ratification of memoranda of understanding between the RCIERCs and the interpreter employee representatives in three of the four court interpreter regions, trial courts in those regions will now add new job classifications. The rule should be amended to reflect the employment structure for court interpreters as the trial courts add these new job classifications.

Recommendation

Administrative Office of the Courts staff recommend that the Judicial Council, effective January 1, 2006, amend rule 6.661 of the California Rules of Court to:

1. Delete existing subdivisions (b)(1) and (d)(1), which describe membership and voting rights, respectively, before September 15, 2003, in regional court

interpreter employment relations committees based on court interpreters “pro tempore,” due to the obsolescence of these subdivisions wording; and

2. Amend the description of membership and voting rights in the regional court interpreter employment relations committees in the existing subdivisions (b)(2), (d)(2), and (d)(3), respectively, to eliminate the outdated references to court interpreter “pro tempore” and to substitute court interpreters described in Government Code section 71806 and not excluded by Government Code section 71828(d).

The text of the amended rule is attached at page 5.

Rationale for Recommendation

Effective January 1, 2003, the Trial Court Interpreter Employment and Labor Relations Act (the act or TCIELRA; Gov. Code, § 71800 et seq.) mandated significant changes in the provision of interpreter services in the trial courts. The act requires the trial courts to make an orderly transition between January 1, 2003, and July 1, 2005, from the former practice of relying on independent contractors to perform interpreting services to the practice of relying mainly on interpreters hired by the courts as employees. During the transition period, courts could hire court interpreters as “pro tempore” employees. Now that the transition period is over, courts may continue to hire court interpreters as “pro tempore” employees or employ interpreters in new employee classifications established through memoranda of understanding (MOUs) with the court interpreters’ recognized exclusive employee representatives.¹ As stated in more detail below, these new employment classifications require a conforming amendment of rule 6.661 governing RCIERC operations.

Under Government Code section 71807(b), the council adopted rule 6.661, effective March 1, 2003, for the creation and operation of the four RCIERCs. Each committee has the authority to:

1. Set the terms and conditions of employment for court interpreters, subject to requirements to meet and confer in good faith;
2. Represent the superior courts within each region in bargaining with a recognized employee organization; and

¹ Some of the new employee classifications for court interpreters include: part-time, full-time, and intermittent part-time interpreters, as well as “pro tempore” employees. Unlike the “pro tempore” employees, full- and part-time employees may be entitled to health, pension, and other benefits, depending on the terms of the MOU.

3. Adopt reasonable rules and regulations concerning employer-employee relations with recognized employee organizations.²

Under the existing rule, the membership and voting rights for a superior court on a RCIERC depend on the number of interpreters the court employs as court interpreters “pro tempore.”³

Because the trial courts can now hire interpreters in new employee classifications, the rule no longer grants accurate membership and voting rights to a superior court on a RCIERC. The unintended results of the existing rule text are twofold: rule 6.661, as now written, would (1) exclude from RCIERC membership a court that only employs full- and part-time interpreters, and (2) exclude from the vote allotment all interpreter employee classifications except “pro tempores.” Rule 6.661 should be amended to update the prerequisites for membership and voting to include all interpreter employees covered by the act, in addition to the current classification of court interpreter “pro tempore” employee. The result of this action is that all court interpreter employees, whether “pro tempore” or regularly classified under an MOU, will be counted for the purpose of membership and voting rights of each trial court on the RCIERCs.

Subdivision (b)(2) of existing rule 6.661 refers to court interpreter “pro tempore” as defined by Government Code section 71805, which describes the employee classification as it existed before the end of the transition period. Subdivisions (d)(2) and (d)(3) of the existing rule refer to court interpreter “pro tempore” as defined by Government Code section 71804, which refers to mandatory offers of employment before the end of the transition period. As noted above, the transition period ended on July 1, 2005. Therefore, all of these subdivisions of rule 6.661 should instead refer to Government Code section 71806, which is the section of the act that describes the employee classification structure for interpreters after the regional transition period.

Additionally, if rule 6.661 is amended to refer solely to court interpreter employees without reference to “pro tempore,” another amendment is necessary. A small number of trial courts employed court interpreters in classifications other than “pro tempore” status before the passage of the act. The Legislature specifically excluded those previously hired court interpreter employees from the act’s coverage under Government Code section 71828(d). For this reason, if the rule is amended to include court interpreter employees without reference to “pro tempore” for the purpose of RCIERC membership and votes, that amendment must be qualified in existing subdivisions (b)(2) and (d)(2)

² See Gov. Code, §§ 71808, 71809, and 71823.

³ Under subdivision (b)(2) of existing rule 6.661, a superior court must have at least one interpreter employed as a court interpreter “pro tempore” to be eligible for membership on a RCIERC. Subdivisions (d)(2) and (d)(3) of the existing rule grant a number of votes to each representative of a superior court on a RCIERC equal to the number of court interpreter “pro tempore” employees in that court.

((b)(1) and (d)(1) in the amended rule) by a reference to Government Code section 71828(d).

Alternative Actions Considered

Because the act included alternative code sections that anticipated the creation of newly established employee classifications, the rule requires amendment to meet current conditions. As such, no alternative actions were considered. The proposal amends the rule so that it accurately reflects both current and future potential changes to employee classifications for court interpreters.

Comments From Interested Parties

No comments were solicited from the trial courts or the public on these recommendations as they are necessary to conform the rule to statutory provisions.

Implementation Requirements and Costs

No implementation requirement or costs are associated with the proposal.

Attachments

Rule 6.661 of the California Rules of Court is amended, effective January 1, 2006, to read:

1 **Rule 6.661. Regional Court Interpreter Employment Relations Committees**

2
3 (a) ***

4
5 (b) [Membership]

6
7 ~~(1) Before September 15, 2003, each Regional Court Interpreter~~
8 ~~Employment Relations Committee consists of one representative~~
9 ~~from each superior court that has at least one interpreter eligible to~~
10 ~~apply for a position as a court interpreter pro tempore under~~
11 ~~Government Code section 71802.~~

12
13 ~~(2) After September 15, 2003, (1) Each Regional Court Interpreter~~
14 ~~Employment Committee consists of one representative from each~~
15 ~~superior court that has at least one interpreter employed as a court~~
16 ~~interpreter pro tempore as defined by Government Code section~~
17 ~~71805 71806 and not excluded by section 71828(d).~~

18
19 ~~(3) (6) (2) (5) ***~~

20
21 (c) ***

22
23 (d) [Voting]

24
25 ~~(1) Before September 15, 2003, each representative of a superior court~~
26 ~~has a number of votes equal to the number of interpreters eligible~~
27 ~~to apply for positions as court interpreter pro tempore in that trial~~
28 ~~court as defined by Government Code section 71804.~~

29
30 ~~(2) After September 15, 2003, (1) Each representative of a superior~~
31 ~~court has a the number of votes equal to the number of court~~
32 ~~interpreter pro tempore employees in that trial court as defined by~~
33 ~~Government Code section 71804 71806 and not excluded by~~
34 ~~section 71828(d).~~

35
36 ~~(3) (2) On July 1, 2004, and annually thereafter each Regional Court~~
37 ~~Interpreter Employment Relations Committee must recalculate the~~
38 ~~number of votes of each representative of a superior court to equal~~
39 ~~the number of court interpreter pro tempore employees in that~~
40 ~~court.~~

41
42 (e) ***