

**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: December 3, 2004

SUBJECT: Revision of the Operating Guidelines and Directives for Budget Management in the Judicial Branch (Action Required)

Issue Statement

Government Code 77206 provides the Judicial Council with the authority to regulate the budget and fiscal management of the trial courts.

Following consecutive years of budget reductions, courts began seeking assistance from the Judicial Council to maintain open access to a system of uniform and equal justice for all Californians. With a deteriorating fiscal situation, courts throughout the state were forced to implement cost reduction measures and in extreme cases, reduce services, close courtrooms or court facilities, and layoff court personnel.

At its August 19, 2003 business meeting, the Judicial Council adopted the Operating Guidelines and Directives for Budget Management in the Judicial Branch (guidelines and directives.) This included guiding principles for the judicial branch as well as policy direction pertaining to access to court services, facilities utilization and closures, MOUs for county services and revenue sharing, cash management/accountability measures, labor relations, administration of filing fees, and expense restrictions.

At this time, the revised guidelines and directives are being recommended for approval to reflect the Judicial Council' continued commitment to open access to a system of uniform and equal justice and to reflect positive developments in the judicial branch since being initially approved. Additionally, minor technical amendments have been included in this revision in response to courts' needs.

Recommendation

1. AOC staff recommends that the Judicial Council approve the revised Operating Guidelines and Directives for Budget Management in the Judicial Branch.

2. AOC staff recommends that the Judicial Council delegate authority to the Administrative Director of the Courts to act upon provisions in the guidelines and directives that require council consultation and/or approval.

Rationale for Recommendation

Since 2001, the judicial branch has faced a series of significant budget reductions as well as increased operating costs due to a variety of factors that include court security, increased county-provided services, and unfunded increases in salary, benefits, and retirement. This fiscal situation has affected court operations at every level of the judicial branch.

Because of the impact on public access to justice and the lack of uniformity in policies affecting the California court system, court leaders requested assistance from the Administrative Office of the Courts in the fall of 2002. As a result of this, the Trial Court Executive Management Budget Working Group was established in December 2002 and began evaluating these issues. This group then submitted recommendations to the Judicial Branch Budget Advisory Committee (committee), which then began evaluating possible options to provide guidance and stability to the branch during times of fiscal uncertainty. The committee discussed a wide range of guidelines and policy issues relating to guiding principles, standard hours, reserve policies, and employee layoffs, among others.

At the Judicial Council business meeting on February 28, 2003, the committee presented its initial recommendation on guiding principles for the courts as well as other recommendations relating to cost reduction measures that required council action, rule of court, or legislative amendment. At the time, the council took action on items relating to enhanced collections, cost recovery areas, and a statewide process for software licenses and support agreements. The council did not approve the guiding principles as presented by the committee, but instead approved an interim resolution and directed that staff distribute the committee's recommended guiding principles to advisory committees representing court leadership for review and comment. Following an extensive review and comment period, a recommendation was submitted to and later approved by the council in August 2003.

Revision of these policies has been predicated by dynamic changes in the judicial branch budget process and in response to court requests for increased flexibility in meeting the requirements of the guidelines and directives. In addition, this action is being taken to recognize significant progress in critical areas covered by the guidelines and directives, such as the implementation of new and statewide fees and the establishment of an enhanced collections program.

The interim Trial Court Budget Working Group, established by the Executive and Planning Committee in August 2004 to address critical trial court budget-related matters,

has conceptually approved the revised guidelines and directives. The working group has designated a sub-working group to conduct a further review of the guidelines and directives for possible revision in fiscal year 2005–2006.

Alternative Actions Considered

None.

Comments From Interested Parties

Staff recommended changes to the guidelines and directives were initially discussed with the interim Trial Court Budget Working Group in October 2004. As a result of that discussion, significant changes were made to the guidelines and directives that were then distributed back to the working group members for review and comment. Eleven comments were received and included additional input on the areas related to operating hours for trial court clerk's office, utilization of court reserves, expense restrictions, professional development, as well as the council's authority to establish and ensure compliance with these policies.

One comment received questioned whether the authority of the Judicial Council to establish "directives" was in conflict with the intent of Article 6 Section 6 of the State Constitution. Government Code 77206 provides the Judicial Council with the authority to "regulate the budget and fiscal management of the trial courts." Based on a review of the Article 6 Section 6 of the State Constitution and Government Code 77206, staff does not feel that there is any conflict and that the Judicial Council does have the expressed authority to establish guidelines and directives relative to budget management.

Related comments were received pertaining to the ability to enforce compliance with these policies and that the current policy language was characterized as "draconian" and "harsh." The AOC's Office of the General Counsel has previously advised and approved of this language as a means to ensure compliance with the stated policies. Government Code 77206.1 provides the Judicial Council with similar authority to take action on budget-related matters.

A number of comments were received regarding the operating hours for trial court clerk's offices. A majority of respondents stated that courts needed additional flexibility in regulating the respective operating hours of trial court clerk's offices. Specifically, small trial court systems and those courts with offices in geographically remote areas were singled out as needing sufficient latitude to close branch offices as necessary while still taking the appropriate steps to maintain open and equal access to their respective constituents. As a result of comments received, the amended guidelines and directives includes a revision that changes the "minimum standard" operating hours for trial court clerk's offices to "recommended" operating hours as well as a provision requiring at least one clerk's office per trial court system to remain open a minimum of 6.5 hours per day. Previously, all clerk's offices were to remain open during this time frame. This change

will provide additional leeway to those courts with numerous branch offices, those in remote areas, and courts with limited resources.

Comments were also received relating to the courts' ability to utilize one-time funding reserves. The policy previously stated that courts must not commit one-time funding reserves for an ongoing court obligation. It was noted, however, that there are instances when situations arise (e.g., public safety, access) that may necessitate action not in line with the language in the previous policy statement. The policy has since been revised to reflect that the restriction applies only to "ongoing future obligations absent a substantial need."

Several comments were also received relating to expense restrictions, and particularly with regard to the restriction on travel-related lunch meal expenses reimbursement for those earning in excess of \$100,000 as well as to the references to non-represented employees. Many respondents felt that the lunch restriction was appropriate at the time it was adopted, but now feel that it is not reflective of the current funding environment and not equitable to all employees as it disproportionately impacted certain wage earners as well certain non-represented employees. In addition, the actual level of cost savings as a result of this implementation of this policy has been relatively negligible. Therefore, this policy has been stricken from the revised guidelines and directives.

Additionally, all references to non-represented employees have been removed from the "Expense Restrictions" section of the guidelines and directives.

Implementation Requirements and Costs

None.

Operating Guidelines and Directives for Budget Management in the Judicial Branch

In recognition of the Judicial Council's continued commitment to ensuring open access to a system of uniform and equal justice for all, the council sets forth the following guidelines and directives on how courts manage their budgets in response to funding conditions. Compliance with these policies is required.

I. Guiding Principles

Maintain Open Access to Courts

- Protect the federal and state constitutional values of the justice system;
- Provide equal access to a system of fair and uniform justice;
- Provide a safe, secure environment for the administration of justice;
- Provide justice in a timely manner;
- Protect resources dedicated to eliminating barriers to access for the most vulnerable (e.g., those unable to pay, persons with disabilities, children); and
- Maintain resources necessary for public safety.

II. Guidelines and Directives

Access to Court Services – to provide and maintain access for the public to court services

- Courts shall remain open to the public each business day.
 - Hours for Trial Court Clerk's Offices
 - The recommended operating hours for the trial court clerk's office are 8:30 a.m. to 4:00 p.m. (including the lunch hour) and courts are encouraged to remain open between 8:00 a.m. and 5:00 p.m., if circumstances allow;
 - Each trial court system shall keep at least one trial court clerk's office open a minimum of 6 ½ hours per day including the core hours of 10:00 a.m. to 2:00 p.m. (including the lunch hour). All exceptions require consultation with, and the review and approval of, the Judicial Council.
 - All trial courts shall provide drop boxes during periods of shortened hours. Use of a drop box is governed by rule 201.6, which requires a drop box whenever a clerk's office filing counter is closed between 8:30 a.m. and 4:00 p.m.

- Court departments shall remain open consistent with operating requirements, except for normal absences (business meetings, vacation, sick leave, educational training, etc.) or emergencies such as natural disasters, bomb threats, and power outages.

Facilities Utilization and Closures – to reduce costs for court operations and local sheriff departments

- Courts should continue to evaluate court space to ensure that facilities are utilized most efficiently and for the most appropriate purpose; and
- Because of issues with the transfer of trial court facilities to the State under Senate Bill 1732, courts shall notify and consult with the Administrative Office of the Court’s Office of Court Construction and Management prior to any potential closure or surrender of facilities.

MOUs for County Services and Revenue Sharing – to ensure that county services are formally negotiated and negotiated within court’s current resources. (This section does not apply to labor contracts, please reference the section on Fair Employment and Labor Relations Provisions.)

- Trial courts shall have MOUs in place for all county services, including security services, consistent with Government Code 77212, and for revenue sharing agreements with the county;
- All contracts for services shall be negotiated within the trial court’s available resources; and
- If a court reaches an impasse in negotiating any contract, they shall consult with the Judicial Council.

Cash Management/Accountability Measures – to ensure fiscal accountability and adequate resources to meet minimum financial obligations during periods of financial uncertainty and periods without a budget

- Courts shall properly account for all fees and fully remit fees with the appropriate accounting to the treasury as soon as practical; and
- Trial courts should implement procedures to ensure that all direct and indirect charges are in accordance with MOUs and Rule 810 allowable prior to authorizing payment.
- Trial Court Reserve Policy
 - Each trial court, where economically feasible, should maintain a minimum of a 30 day cash reserve to meet (1) salary and benefit payments for employees and those dependent on the court for

salaries when not funded by the State Controller's Office, and (2) other mandatory obligations that cannot be deferred at the beginning of each fiscal year in the event that the budget is not adopted on time;

- In addition, each trial court should maintain adequate cash reserves to meet cash flow needs throughout the year;
- One-time funding reserves must not be used to commit the trial court to an ongoing future obligation absent a substantial need; and
- Courts should take all reasonable steps to avoid court closures and regular employee layoffs, including utilization of all available reserves if such action would prevent court closures or employee layoffs. (Note: Reorganizations to gain operational efficiencies are an exception to this guideline.)

Fair Employment and Labor Relations Provisions – to facilitate the collective bargaining process

- Relationships with Local Bargaining Units & Structure of Labor Agreements

Each trial court should:

- Set a goal that employee union and other representatives should be kept informed of circumstances that affect employee working conditions and courts should promptly respond to the concerns of employees and their representatives.
 - Negotiate all employee bargaining contracts within the trial court's available resources.
- Policy on Layoffs of Regular Employees
 - Courts shall notify and consult with the Judicial Council prior to implementing any regular employee layoff plans that are required as a result of budget reductions.

Promote the Collection of Fines, Fees, Forfeitures, and Assessments - to ensure the enforcement of court orders

Consistent with the provisions of Senate Bill 940 (Chapter 275, Statutes of 2003), which became effective on January 1, 2004, and related provisions included in Government Code sections 68085 and 77205, all courts shall:

- Establish policies that are consistent with the standards and guidelines approved by the Judicial Council.

- Promote the enforcement of all court orders relating to fines, fees, forfeitures, and assessments; and uniform collection and remittance of required reports.
- Establish and/or enhance collections programs.

In addition, a fee waiver task force appointed by the Judicial Council will recommend fee waiver guidelines and procedures for judicial officers and court staff.

Expense Restrictions

- Appellate courts, trial courts, and the AOC shall continue implementing cost reduction measures in order to restrict expenditures to manage unallocated reductions and unfunded costs in a manner that ensures continued access to a system of uniform and equal justice within fiscal constraints.
- To protect the resources allocated to components of the judicial branch that support the basic constitutionally and statutorily required operations of the branch, all judges, subordinate judicial officers, and those trial court employees who are not represented by a recognized employee organization and who earn more than \$100,000 per year, shall not be reimbursed for professional association dues that are due or owing on or after January 1, 2004. This does not include those license fees, including State Bar dues, where the license is a requirement of the position.
- The AOC shall consult with appellate courts, trial courts, as well as professional legal and court associations in developing options for long-term solutions to fund professional development for all judges, subordinate judicial officers, and those trial court employees who are not represented by a recognized employee organization and who earn more than \$100,000 per year in a manner that does not rely on approved local courts' operating budgets and to provide a progress report to the Judicial Council no later than the fall of 2005.

AOC Assistance to the Courts

- Each court must ensure that any contract entered into by the court contains provisions that will permit the contract to be modified if resources become unavailable during the course of the contract year due to reductions in the budget that are beyond the control of the individual

court. The appropriate language setting forth this principle can be referenced in the Trial Court Financial Policies and Procedures Manual.

- The AOC is directed to be available and work with the courts to assist in negotiations of any kind that may affect the budget in the course of the year.

Meet and Confer

- These guidelines and directives must be applied consistent with a court's obligation to meet and confer with recognized employee organizations.