



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courtinfo.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 14, 2010

Title

Commission for Impartial Courts: Status
Report on Implementation of
Recommendations for Safeguarding Judicial
Quality, Impartiality, and Accountability in
California

Agenda Item Type

Information Only

Date of Report

November 4, 2010

Contact

Christine Patton, 415-865-4099
christine.patton@jud.ca.gov

Submitted by

Commission for Impartial Courts
Implementation Committee
Hon. Ming W. Chin, Chair

Executive Summary

This is an informational report on the first year of implementation efforts of the Commission for Impartial Courts, following submission of its final report and recommendations to the council in December 2009.¹

Previous Council Action

With its acceptance of the recommendations of the Commission for Impartial Courts (CIC) in December 2009, the Judicial Council directed the Administrative Director of the Courts to provide for consideration at the February 2010 council meeting an implementation plan for the 71 recommendations and a prioritization of those recommendations. At that time, Chief Justice Ronald M. George also appointed Associate Justice Ming W. Chin as chair of the Commission for Impartial Courts Implementation Committee (CICIC).²

¹ An annotated version of the 71 recommendations in the commission's final report is attached as Attachment A and reflects the current implementation status of each of the recommendations. The commission's final report is available at www.courtinfo.ca.gov/jc/tflists/commimpart.htm.

² The roster of the CICIC is attached as Attachment B.

The council further directed the Administrative Director of the Courts to report to the council by December 2010 on the progress of implementing the CIC's recommendations (see Implementation Efforts summarized below.)

Methodology and Process

The 11-member CICIC has held two in-person meetings since December 2009 and has had several planning conference calls with the committee, chairs, and staff throughout the year. Justice Chin appointed four subcommittees to examine in further detail the implementation requirements of many of the specific recommendations from each of the commission's four task forces (Judicial Candidate Campaign Conduct, Judicial Campaign Finance, Public Information and Education, and Judicial Selection and Retention).

In general, the CICIC has followed the implementation timeline and prioritization plan originally presented to the council in February 2010, considering the urgency of each recommendation and the time and resources required for implementation:

- Recommendations that needed to be referred to other entities, such as the California Supreme Court or the State Bar of California, were given earlier prioritization to allow those entities sufficient time to consider the issues.
- Recommendations already being implemented by other entities or internally at the Administrative Office of the Courts (AOC), such as some changes to the Code of Judicial Ethics or recommendations affecting the State Bar of California, were given higher prioritization so that actions could be coordinated.
- Recommendations that require introduction of new legislation or amendments to existing legislation will be considered in conjunction with other legislative matters within the context of budget and other relevant factors.
- Recommendations that will have a significant budget impact or entail a need for substantial staff resources of the AOC or other entities have been deferred for future consideration depending on state budget outlook.

Implementation Efforts

The CICIC has presented recommendations to the Judicial Council at five meetings in 2010. The majority of the commission's recommendations necessitate referral to other entities for further consideration and subsequent implementation:

AOC Executive Office Programs Division (EOP)

Recommendation 62, which suggests the judicial branch's public outreach programs should encourage all qualified members of the bar to consider applying for judicial office, has not yet been addressed by EOP's public outreach unit.

Administrative Presiding Justices Advisory Committee (APJAC) and Appellate Advisory Committee (AAC)

Recommendations 31 and 32 from the Judicial Campaign Finance Task Force have been referred to both APJAC and AAC for consideration and, ultimately, recommendation as to whether the substance of these recommendations should be codified in the Code of Judicial Ethics, the California Rules of Court, or statute. Both advisory committees anticipate reviewing these recommendations in 2011.

California Supreme Court's Advisory Committee on the Code of Judicial Ethics

To date, 16 recommendations (1–6, 10, 14, 15, 22, 24, 25, 27, 29, 30, and 33) have been referred to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics. The CICIC understands that the advisory committee has discussed most of the recommendations and will present them to the Supreme Court for review and possible amendments to the Code of Judicial Ethics sometime in 2011.

Leadership Group on Civics Education and Public Outreach

Five recommendations (37(a–h); 40; 43(a–c), (f), and (g); 47; and 54(a)) have been referred to this leadership group formed by the Administrative Director of the Courts pursuant to council direction in August 2010. The group's initial focus will be promotion and expansion of K–12 civics education opportunities in the state in conjunction with public outreach. This leadership group is comprised of members from the State Assembly, State Bar of California, appellate and superior courts, state university system, county superintendents of schools, parent-teacher associations, civics education researchers, and high school teachers. The involvement of influential leaders will be critical to developing effective public education programs relative to the independent role of the judicial branch. The group will review these five recommendations along with others that may be referred to it in the coming months.

Policy Coordination and Liaison Committee (PCLC)

Recommendations 18 and 19, two Judicial Campaign Conduct Task Force recommendations, have been referred to the PCLC for consideration as matters for council-sponsored legislation. It is anticipated that other recommendations requiring legislation will be referred to the PCLC in the future.

State Bar of California

Ten recommendations have been referred to the State Bar of California for consideration and further action. The bar leadership has reported the following progress on these recommendations:

- Recommendations 7–9:
 - Recommendation 8, encouraging the formation of unofficial local fair judicial election committees to educate candidates, the public, and the media about judicial elections, is presently being implemented by the State Bar. Every elected attorney member of the Board of Governors has been asked to contact his or her local county bar association to

encourage the formation of fair election committees. Most of the board members have reported back either that they have done so or that their county bar already has such a committee. The Alameda, Contra Costa, and San Mateo County Bar Associations have expressed interest in forming such committees.

- Because most judicial election controversies in California occur in superior court races, the State Bar chose to focus initially on the formation of local committees (recommendation 8) rather than a statewide committee (recommendation 7). Recommendation 7, along with recommendation 9 the proposal to form a model campaign code for use by state and local oversight committees, will be discussed by the Board of Governors at its January 2011 meeting.
- Recommendation 28:
 - Recommendation 28 states that the State Bar should be encouraged to discipline attorney candidates who engage in campaign misconduct.
 - This recommendation was discussed at the bar's May 2010 Board of Governors meeting and reviewed by the bar's California Rules Revision Commission. It was determined that the State Bar does have authority to discipline an attorney for misconduct during a judicial election campaign. The Board of Governors supports this recommendation but determined that no action needed to be taken.
- Recommendation 50:
 - Recommendation 50 states that in order to increase trust and confidence in the judicial selection process, the background and diversity of the members of the State Bar's Commission on Judicial Nominees Evaluation (JNE) should be given more publicity including by placing photographs of the members on the bar's website and making the JNE section of the site more accessible from the State Bar home page.
 - This recommendation was studied by the bar's JNE Review Committee and will be further discussed at the January 2011 Board of Governors meeting.
- Recommendations 16, 54(b), 55, 56, and 60 will also be discussed at the bar's January 2011 Board of Governors meeting.
- Recommendations 49 and 53, from the Judicial Selection and Retention Task Force, required no action as they recommended retaining the State Bar's current Judicial Nominees Evaluation (JNE) system.
- Recommendation 57, regarding JNE conflict of interest rules, was implemented (without referral) by the State Bar of California through amendments to its rules 7.23 and 7.24(c).

Other

The California Judges Association sponsored Assembly Bill 1335 (Lieu), which was essentially identical to the CIC's Recommendation 65 for revising the number of signatures required for placing an unopposed judicial write-in candidate on the ballot. AB 1335, which would have

amended sections 8203 and 8600 of the Elections Code, was passed by both the State Assembly and State Senate but vetoed by Governor Arnold Schwarzenegger on September 30, 2010.

Next Steps

The CICIC intends to follow the original charge of the Commission for Impartial Courts and continue its efforts to implement the commission's remaining recommendations to ensure judicial quality, impartiality, and accountability for the benefit of all Californians. The CICIC will review implementation efforts to date and plan for future implementation of the balance of recommendations as quickly as possible, reprioritizing as necessary to adapt to current needs and fiscal limitations. Attachment A lists the status of each of the 71 recommendations, including plans for future action.

Attachments

1. Attachment A: Implementation Status of Recommendations by the Commission for Impartial Courts
2. Attachment B: Commission for Impartial Courts Implementation Committee Roster

Implementation Status of Recommendations by the Commission for Impartial Courts

Judicial Candidate Campaign Conduct

1. The Code of Judicial Ethics should be amended to include the American Bar Association Model Code of Judicial Conduct definition of “impartiality.”
 - This recommendation was endorsed by the Judicial Council in April 2010 and referred to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics.
2. The commentary to canon 4B of the Code of Judicial Ethics should be amended to encourage judges to educate the public on the importance of an impartial judiciary.
 - This recommendation was endorsed by the Judicial Council in June 2010 and referred to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics.
3. The commentary to canon 5B of the Code of Judicial Ethics should be amended to encourage judicial candidates to discuss their qualifications for office and the importance of judicial impartiality.
 - See recommendation 2 above.
4. Canon 5 of the Code of Judicial Ethics should be reexamined for consistency in its use of the terms “judge” and “candidate.”
 - See recommendation 1 above.
5. The Code of Judicial Ethics should be amended by adding a new canon 3E(2), providing that a judge is disqualified if he or she, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that a person aware of the facts might reasonably believe commits the judge to reach a particular result or rule in a particular way in the proceeding or controversy.
 - See recommendation 2 above.
6. A definition of “commitment” that includes “pledges” and “promises” should be added to the Code of Judicial Ethics.
 - See recommendation 2 above.

7. An unofficial statewide fair judicial elections committee should be established to educate candidates, the public, and the media about judicial elections; to mediate conflicts; and to issue public statements regarding campaign conduct in statewide and regional elections and in local elections where there is no local committee.
 - This recommendation was endorsed by the Judicial Council in June 2010 and referred to the State Bar of California for consideration. This recommendation will be discussed by the State Bar's Board of Governors at their January 2011 meeting.
8. The formation of unofficial local fair judicial elections committees to educate candidates, the public, and the media about judicial elections; to mediate conflicts; and to issue public statements regarding campaign conduct in local elections should be encouraged.
 - This recommendation was endorsed by the Judicial Council in June 2010 and referred to the State Bar of California for consideration. At this time, every elected attorney member of the Board of Governors has been asked to contact his or her local county bar association to encourage the formation of fair election committees. Most of the board members have reported back that they have done so or that their local bar already has such a committee. The Alameda, Contra Costa, and San Mateo County Bar Associations have expressed interest in forming such committees.
9. A model campaign conduct code for use by the state and local oversight committees should be developed.
 - See recommendation 7 above.
10. The Code of Judicial Ethics should be amended to require all judicial candidates, including incumbent judges, to complete a mandatory training program on ethical campaign conduct.
 - The Judicial Council voted disapproval of this recommendation at its June 2010 meeting and referred the recommendation and the council's disapproval to the California Supreme Court's Advisory Committee on the Code of Judicial Ethics for further consideration.
11. Judicial candidate training on ethical campaign conduct should include:
 - (a) Identifying issues raised by judicial candidate questionnaires;
 - (b) Distributing a model letter and a model questionnaire that candidates can use in lieu of responding to an interest group questionnaire;

- (c) Using the advisory memorandum on responding to questionnaires prepared by the National Ad Hoc Advisory Committee on Judicial Campaign Oversight;
- (d) Encouraging candidates to give reasoned explanations for not responding to improper questionnaires rather than simply citing advisory opinions;
- (e) Using candidate Web sites; and
- (f) Explaining why partisan activity by candidates is disfavored.

➤ For future consideration.

12. Both the California Judges Association’s Judicial Ethics Hotline and the new Supreme Court Committee on Judicial Ethics Opinions should be publicized as resources that judicial candidates can use to obtain advice on ethical campaign conduct.

➤ For future consideration.

13. Collaboration among the Administrative Office of the Courts, State Bar, California Judges Association, and National Center for State Courts should be recommended to develop brochures to educate judicial candidates.

➤ For future consideration.

14. The sentence “This canon does not prohibit a judge from responding to allegations concerning the judge’s conduct in a proceeding that is not pending or impending in any court” should be added to the commentary following canon 3B(9) of the Code of Judicial Ethics, but the prohibition against public comment on pending cases should not be extended to attorney candidates for judicial office.

➤ See recommendation 2 above.

15. The commentary to canon 3B(9) of the Code of Judicial Ethics should be amended to provide guidance to judges on acceptable conduct in responding to attacks on rulings in pending cases.

➤ See recommendation 1 above.

16. Local county bar associations should consider creating independent standing committees that will respond to inaccurate or unfounded attacks on judges, judicial decisions, and the judicial system.

➤ This recommendation was endorsed by the Judicial Council in April 2010 and referred to the State Bar of California for consideration. This recommendation will be discussed at the State Bar’s January 2011 Board of Governors meeting.

17. The California Judges Association's Response to Criticism Team and its network of contacts should be publicized.
 - For future consideration.
18. The statutory slate mailer disclaimer should be strengthened by requiring mailers to cite canon 5 of the Code of Judicial Ethics and, when a candidate is placed on a mailer without his or her consent, to prominently disclose that fact.
 - This recommendation was endorsed by the Judicial Council in April 2010 and referred to the Policy Coordination and Liaison Committee for consideration as a matter for council-sponsored legislation.
19. An amendment to Government Code section 84305.5 should be sponsored to apply to organizations that support or oppose judicial candidates.
 - See recommendation 18 above.
20. Judicial campaign instructional materials providing best practices regarding the use of slate mailers should be developed.
 - For future consideration.
21. Judicial candidates should be advised to obtain written permission before using an endorsement and to clarify which election the endorsement is for, to honor any request by an endorser to withdraw an endorsement, and to request written confirmation of any oral request to withdraw an endorsement.
 - For future consideration.
22. Judicial candidates should be prohibited from seeking or using endorsements from political organizations," as defined in the terminology section of the Code of Judicial Ethics.
 - See recommendation 10 above.
23. Instructional materials about the importance of truth in advertising should be developed.
 - For future consideration.
24. Canon 5 of the Code of Judicial Ethics or its commentary should be amended to place an affirmative duty on judicial candidates to control the actions of their campaigns and the content of campaign statements, to encourage candidates to take reasonable measures to protect against oral or informal written misrepresentations

being made on their behalf by third parties, and to take appropriate corrective action if they learn of such misrepresentations.

- See recommendation 1 above.
25. The Code of Judicial Ethics should be amended to add a list of prohibited campaign conduct.
- The Judicial Council took no position on this recommendation at its June 2010 meeting and referred the recommendation to the Supreme Court Advisory Committee on the Code of Judicial Ethics for further consideration.
26. A letter—to be sent by the courts to county registrars before each election cycle—should be developed addressing permitted use of the title “temporary judge” or “judge pro tem” by candidates.
- For future consideration.
27. Canon 6 of the Code of Judicial Ethics should be amended to clarify how the title “temporary judge” or “judge pro tem” may be properly used.
- See recommendation 1 above.
28. The State Bar should be encouraged to discipline attorney candidates who engage in campaign misconduct.
- This recommendation was endorsed by the Judicial Council in June 2010 and referred to the State Bar of California for consideration. The State Bar’s Board of Governors supports this recommendation but determined that no action needed to be taken.

Judicial Campaign Finance

29. A system should be adopted under which each trial court judge is required to disclose to litigants, counsel, and other interested persons appearing in the judge’s courtroom all contributions of \$100 or more made to the judge’s campaign, directly or indirectly. Specifically:
- (a) The commentary to the disclosure provision in canon 3E(2) of the Code of Judicial Ethics should be amended to require a trial judge to maintain an updated list of campaign contributions of \$100 or more and to disclose to litigants appearing in court that the list is available for viewing in the courthouse and online;

- (b) The commentary to canon 3E(2) should be amended to state that the obligation to disclose campaign contributions continues for a minimum of two years after the judge assumes office; and
 - (c) The commentary to canon 5B should be amended to cross-reference the proposed new commentary to canon 3E(2).
- This recommendation was endorsed by the Judicial Council in February 2010 and referred to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics.
30. Each trial court judge should be subject to mandatory disqualification from hearing any matter involving a party, counsel, party affiliate, or other interested party who has made a monetary contribution of a certain amount to the judge’s campaign, directly or indirectly, subject to the following:
- (a) The contribution level at which disqualification shall be mandatory shall be the same as the level, specified in Code of Civil Procedure section 170.5(b), at which a judge is considered to have a “financial interest” in a party, requiring disqualification;
 - (b) Notwithstanding the above mandatory disqualification amount, trial court judges shall continue to disqualify themselves based on contributions of lesser amounts when doing so would be required by Code of Civil Procedure section 170.1(a)(6)(A);
 - (c) The Judicial Council should recommend that the amount specified in Code of Civil Procedure section 170.5(b)—which, as of the date of this recommendation, is \$1,500—be periodically reviewed and adjusted as appropriate;
 - (d) The mandatory disqualification described above shall be waivable by those parties to the matter who were not involved in making the contribution in question; and
 - (e) The obligation to disqualify shall begin immediately on receipt of the contribution in question and shall run for two years from the date that the candidate assumes office or from the date the contribution was received, whichever is later.
- See recommendation 29 above.
31. Appellate courts should be required to send to the parties—with both the first notice from the court and with the notice of oral argument—information on how they may learn of campaign contributions if there is an upcoming retention election or there was a recent election.

- This recommendation was endorsed by the Judicial Council in April 2010 and referred to the Administrative Presiding Justices Advisory Committee and the Appellate Advisory Committee for consideration, and ultimate recommendation as to whether it should be codified in the Code of Judicial Ethics, the California Rules of Court, or statute. Both Advisory Committees anticipate reviewing this recommendation in 2011.
32. Appellate justices' campaign finance disclosures should be maintained electronically and should be accessible via the Web and possibly through a link to the California Secretary of State Web site.
- See recommendation 31 above.
33. Each appellate justice should be subject to mandatory disqualification from hearing any matter involving a party, counsel, party affiliate, or other interested party who has made a monetary contribution of a certain amount to the justice's campaign, directly or indirectly, subject to the following:
- (a) For justices of the Courts of Appeal, the contribution level at which disqualification shall be mandatory shall be the same as the level, stated in canon 3E(5)(d) of the Code of Judicial Ethics, at which a justice is considered to have a "financial interest" in a party requiring disqualification;
 - (b) For justices of the Supreme Court, the contribution level at which disqualification shall be mandatory shall be the same as the contribution limit, stated in Government Code section 85301(c) and California Code of Regulations title 2, section 18545, in effect for candidates for Governor;
 - (c) Notwithstanding the above mandatory disqualification amounts, appellate justices shall continue to disqualify themselves based on contributions of lesser amounts when doing so would be required by canon 3E(4) of the Code of Judicial Ethics;
 - (d) The mandatory disqualification described above shall be waivable by those parties to the matter who were not involved in making the contribution in question; and
 - (e) The obligation to disqualify shall begin immediately on receipt of the contribution in question and shall run for two years from the date that the candidate assumes office or from the date the contribution was received, whichever is later.
- See recommendation 29 above.
34. Legislation should be sponsored prohibiting corporations and unions from expending treasury funds on contributions directly to judicial candidates or to

groups making independent expenditures in connection with campaigns for judicial office.

- This recommendation was made moot by the decision in *Citizens United v. Federal Election Commission*, where the U.S. Supreme Court ruled 5–4 that the government may not ban political spending by corporations in candidate elections. Though the decision does not specifically directly address them, this reasoning will also be applied to labor unions.

35. Legislation should be sponsored to require that all candidates for judicial office—regardless of their total dollar amount of contributions received and/or expenditures made—be required to file in some electronic format with the California Secretary of State’s office all campaign disclosure documents that they would also be required to file in paper form.

- For future consideration.

36. Spending in connection with judicial elections should be closely observed for developing trends that would indicate a need to reconsider whether to sponsor legislation to create a system of public financing at the trial court or appellate court level, but such legislation should not be sponsored at this time.

- For future consideration.

Public Information and Education

37. To improve transparency and better inform the public of the role and operations of the state court system and to enhance public outreach, the judicial branch should identify and disseminate essential information that would increase both the public’s access to justice and its opportunities for input. To that end, the following are recommended:

- (a) A leadership advisory group should be appointed to oversee, identify, and coordinate public outreach programs and opportunities for public input; to establish benchmarks of good practice; and to promote the assembly of local teams to assist courts with local outreach programs;
- (b) The AOC should collect, summarize, and evaluate public outreach resources and methods for public input that are currently available for judges and court administrators and should also collect, summarize, and evaluate educational materials for K–12 teachers and for judges and court administrators making classroom visits;

- (c) The AOC should maintain a list of resources for local courts that will reflect the diversity of the state and explore ethnic media outlets;
- (d) Web sites should be enhanced to include the role of the judicial branch and explain how judges are elected or appointed; information concerning how judges are selected or elected should be placed prominently on the California Courts Web site;
- (e) A compelling video on the role of the judicial branch should be created for use in various venues and should be posted on local court Web sites;
- (f) The judicial branch should view any public gathering place—such as jury rooms or nonjudicial settings—as an opportunity to inform the public about the role and importance of the judiciary in a democracy;
- (g) Courts should be identified to pilot programs dealing with community outreach and education; and
- (h) Information about how judges are elected or appointed should be incorporated into outreach efforts and communications with the media.

➤ Subparts (a) and (b) of recommendation 37 were endorsed by the Judicial Council at its August 2010 meeting. The Administrative Director of the Courts has appointed the Leadership Group on Civics Education and Public Outreach to implement these two items.

➤ Subparts (c) through (h) of recommendation 37 have been referred to the Leadership Group on Civics Education and Public Outreach.

38. To improve the quality of justice and the public's trust and confidence in the judiciary, solicitation of public feedback on issues such as judicial performance and satisfaction with the courts should be encouraged, facilitated, and enhanced at all times.

➤ For future consideration.

39. Training should be developed for judges and justices on how to present clearly the meaning or substance of court decisions in a way that can be easily understood by litigants, their attorneys, and the public.

➤ For future consideration.

40. Local and statewide elected officials should be educated on the importance of the judicial branch.

➤ This recommendation has been referred to the Leadership Group on Civics Education and Public Outreach.

41. Judges and court administrators should be better trained on how to interact with the media, and training for the media in reporting on legal issues should be supported and facilitated.
 - For future consideration.

42. In order to improve transparency and be responsive to public comments and constructive criticism of the judicial branch, the judicial branch should do the following:
 - (a) Adopt both a model method for responding to unwarranted criticism of the judicial branch and a tip sheet for judges to use when responding to press inquiries;
 - (b) Create an advisory group to provide ongoing direction and oversight of the recommended response plan and ensure that the services it proposes are provided; and
 - (c) Ensure that valid criticisms are referred to the appropriate bodies for response.
 - For future consideration.

43. Every child in the state should receive a quality civics education, and judges, courts, teachers, and school administrators should be supported in their efforts to educate students about the judiciary and its function in a democratic society. To that end, the following are specifically recommended:
 - (a) Strategies for meaningful changes to civics education in California should be supported, and a strategic plan for judicial branch support for civics education should be developed;
 - (b) Political support should be sought from leaders in the Legislature, the State Bar, the law enforcement community, and other interested entities to improve civics education;
 - (c) Teacher training programs, curriculum development, and education programs on civics should all be expanded to include the courts;
 - (d) Presiding justices and presiding judges should be encouraged to grant continuing education (CE) credits to judicial officers and court executive officers who conduct K–12 civics and law-related education;
 - (e) The State Bar Board of Governors should be asked to grant Minimum Continuing Legal Education (MCLE) credits to attorneys who conduct K–12 civics and law-related education programs;
 - (f) The AOC should be directed to help pilot extensive civics-related outreach in three jurisdictions; and

- (g) Recognition programs that bring attention to teachers, judges, and court administrators who advance civics education should be promoted.
 - Subparts (a), (b), (c), and (g) of recommendation 43 were endorsed by the Judicial Council at its August 2010 meeting. The Administrative Director of the Courts has appointed the Leadership Group on Civics Education and Public Outreach to implement these four items.
 - Subparts (d) and (e) are being deferred for future consideration.
 - Subpart (f) has been referred to the Leadership Group on Civics Education and Public Outreach.
44. To ensure that voters can make informed choices about candidates for judicial office, the following are recommended:
- (a) Voter focus groups should be conducted within California to determine what information to provide in education materials;
 - (b) Voter education materials should be developed to inform voters about the constitutional duties and responsibilities of judges and justices and the role of the state court system;
 - (c) Judicial candidates should participate in candidate forums and respond to appropriate questionnaires;
 - (d) Efforts should be undertaken to determine the most effective uses of multimedia tools to promote voter education;
 - (e) Collaboration should be established among the Judicial Council, the League of Women Voters, the California Channel, and other groups to inform and educate voters; and
 - (f) Politically neutral toolkits regarding voter information and best practices on public outreach should be developed for use by judicial candidates.
- For future consideration.
45. The State Bar should be asked to offer an educational course to potential judgeship applicants.
- For future consideration.
46. A model self-improvement program should be developed for voluntary use by courts and individual judges.
- For future consideration.

47. The public should be informed that systems are in place to deal with judicial performance issues in fair and effective ways, including elections, appellate review, media coverage, the Commission on Judicial Performance, the State Bar's Commission on Judicial Nominees Evaluation, and local bar association surveys.
 - See recommendation 40 above.
48. Courts should be encouraged to use CourTools or similar court performance measures.
 - For future consideration.

Judicial Selection and Retention

49. The State Bar's Commission on Judicial Nominees Evaluation process, a unique form of a merit-based screening and selection system that has served California well, should be retained.
 - No action required; recommend retaining present system.
50. In order to increase trust and confidence in the judicial selection process, the background and diversity of the commission members should be given more publicity, including by placing photographs of the members on the JNE Web site and making that site more accessible on the State Bar's home page.
 - This recommendation was endorsed by the Judicial Council at its October 2010 meeting and referred to the State Bar of California for consideration. It has been reviewed by the bar's JNE Review Committee and will be discussed at the January 2011 Board of Governors meeting.
51. Legislation should be sponsored to require that a JNE rating of "not qualified" (and thus, by the absence of announcement, a rating of at least "qualified" or better) for a trial court judge be made public automatically at the time of appointment of a person with that rating.
 - This recommendation is being presented to the Judicial Council at its December 14, 2010 meeting.
52. Legislation should be sponsored to make the current practice of releasing the JNE rating for a prospective appellate justice mandatory and permanent.
 - See recommendation 51 above.

53. The release of a rating by JNE should not be accompanied by a statement of reasons.
- No action required; recommend retaining present system.
54. The following Web sites should explain the judicial appointment process and link to each other:
- (a) The judicial branch's California Courts Web site; and
 - (b) The State Bar's JNE Web site and the Governor's Judicial Application Web site, both of which should be more user-friendly, contain appropriate information about JNE procedures and the rating system, and include videos explaining the judicial appointment process.
- Subpart (a) of this recommendation has been referred to the Leadership Group on Civics Education and Public Outreach.
 - Subpart (b) was endorsed by the Judicial Council at its October 2010 meeting and referred to the State Bar of California for consideration. It will be discussed at the January 2011 Board of Governors meeting.
55. Law schools should be encouraged to provide information about the judicial appointment process to law students by, for example, encouraging qualified JNE members, both past and present, to give presentations at law schools.
- This recommendation was endorsed by the Judicial Council at its October 2010 meeting and referred to the State Bar of California for consideration. It will be discussed at the January 2011 Board of Governors meeting.
56. To increase public knowledge of the judicial selection process, JNE should be encouraged to have its members speak to local and specialty bar associations, service organizations, and other civic groups.
- See recommendation 55 above.
57. The State Bar should amend the JNE rules to require that any member of the State Bar Board of Governors who attends a JNE meeting comply with the JNE conflict of interest rules.
- The State Bar has already made these changes through amendments to its rules 7.23 and 7.24(c) which apply the conflict of interest provisions for JNE commissioners also to members of the Board of Governors.

58. A study should be undertaken to develop effective methods of increasing public knowledge of judicial candidates and their qualifications, including development of a model of judicial candidate evaluation that can be used by county bar associations and others. The model should include the method of selecting appropriate members of the entity that conducts the judicial candidate evaluations, the timing of judicial candidate evaluations, and effective dissemination to the public.
 - For future consideration.
59. The courts should be directed to consider, when making appointments of subordinate judicial officers, both the diverse aspects of the applicants and the applicants' exposure to and experience with diverse populations and their related issues.
 - For future consideration.
60. The Commission on Judicial Nominees Evaluation should gather information regarding judicial applicants' exposure to and experience with diverse populations and issues related to those populations and should then communicate this information to the Governor.
 - See recommendation 55 above.
61. The Governor should consider an applicant's exposure to and experience with diverse populations and issues related to those populations and request this information on the judicial application form.
 - For future consideration.
62. The judicial branch's public outreach programs should encourage qualified members of the bar to consider applying for judicial office.
 - This recommendation was endorsed by the Judicial Council at its October 2010 meeting and referred to the Executive Office Programs Division of the Administrative Office of the Courts for implementation/action.
63. An amendment should be sponsored to change the constitutional provision for the recall of a judge—which currently requires a petition with signatures of 20 percent of those voting for a judge in the most recent election—to require a petition with signatures of 20 percent of those voting for district attorney, the only county official elected in every county.
 - For future consideration.

64. A constitutional amendment should be sponsored to provide that a trial court judge shall serve at least two years before his or her first election.
 - For future consideration.
65. Legislation should be sponsored to change the number of signatures needed for placing an unopposed judicial election on the ballot for a potential write-in contest from the current level of 100 signatures to 1 percent of the voters for district attorney in the last county election but not fewer than 100 signatures.
 - The California Judges Association sponsored Assembly Bill 1335 (Lieu) which would have revised the number of qualified registered voter signatures required for a write-in campaign to 1 percent, except that the petition must have no fewer than 100 and does not need more than 1,000 signatures. The bill was passed by both Senate and Assembly in August 2010 but was vetoed by Governor Arnold Schwarzenegger on September 30, 2010.
66. Legislation should be sponsored to amend current law—which provides that an unopposed judge may be challenged by write-ins at either or both the primary election and the general election—to permit only one challenge, which should be at the first (i.e., primary) election.
 - For future consideration.
67. An amendment should be sponsored to article VI, section 16 of the California Constitution to reorder the subdivisions therein and make minor wording changes for the sake of clarity.
 - For future consideration.
68. A constitutional amendment should be sponsored to provide that retention elections for appellate justices be held every two years (during both the gubernatorial and the presidential elections) rather than the present system of every four years (during the gubernatorial elections).
 - For future consideration.
69. A constitutional amendment should be sponsored to provide that following an appellate justice's initial retention election, that justice serves a full 12-year term, rather than the current system of a 4-, 8-, or 12-year term, depending on the length of term remaining for the previous justice holding that seat.
 - For future consideration

70. A constitutional amendment should be sponsored to provide that an appellate justice serve at least two years before the first retention election, paralleling recommendation 64 above concerning trial court judges.

➤ For future consideration.

71. Further study should be made of ways to help ensure that judicial vacancies are filled promptly.

➤ For future consideration.

Commission for Impartial Courts Implementation Committee

Revised January 5, 2010

Hon. Ming W. Chin, Chair

Associate Justice
California Supreme Court

Hon. Tani Cantil-Sakauye

Associate Justice of the Court of Appeal,
Third Appellate District
Sacramento, CA

Hon. Joseph Dunn

The Senators Law Firm
Santa Ana, CA

Hon. Brad R. Hill

Associate Justice of the Court of Appeal,
Fifth Appellate District
Fresno, CA

Hon. William A. MacLaughlin

Judge of the Superior Court of California,
County of Los Angeles

Hon. Judith D. McConnell

Administrative Presiding Justice of the
Court of Appeal, Fourth Appellate District
San Diego, CA

Hon. Douglas P. Miller

Associate Justice of the Court of Appeal,
Fourth Appellate District, Division Two
Riverside, CA

Hon. Dennis E. Murray

Presiding Judge of the
Superior Court of California,
County of Tehama

Mr. Christopher J. Plourd

The Law Offices of Christopher J. Plourd
San Diego, CA

Hon. Ronald B. Robie

Associate Justice of the Court of Appeal,
Third Appellate District
Sacramento, CA

Ms. Patricia P. White

Member, State Bar of California
Board of Governors
Attorney at Law
Littler and Mendelson, P.C.
San Jose, CA

AOC STAFF TO THE COMMITTEE

Ms. Christine Patton, Project Director

Regional Administrative Director
Bay Area/Northern Coastal Regional Office
Administrative Office of the Courts

Judicial Campaign Finance

Mr. Chad Finke

Managing Attorney
Office of the General Counsel
Administrative Office of the Courts

Judicial Candidate Campaign Conduct

Mr. Mark Jacobson

Senior Attorney
Office of the General Counsel
Administrative Office of the Courts

Judicial Selection and Retention

Mr. Michael A. Fischer

Senior Attorney
Office of the General Counsel
Administrative Office of the Courts

Public Information and Education

Mr. Peter Allen

Manager
Office of Communications
Executive Office Programs Division
Administrative Office of the Courts

Ms. Linda Theuriet

Special Assistant
Executive Office Programs Division
Administrative Office of the Courts

Commission for Impartial Courts Implementation Committee

Revised January 5, 2010

Office of Governmental Affairs

Ms. June Clark

Senior Attorney
Office of Governmental Affairs
Administrative Office of the Courts

Education Division

Ms. Karene Alvarado

Manager
Judicial Education
Education Division/Center for Judicial
Education and Research (CJER)
Administrative Office of the Courts

Ms. Kathryn Brooks

Manager
Manager, Supervisor, & Court Staff Education
Education Division/Center for Judicial
Education and Research (CJER)
Administrative Office of the Courts

Committee Administration and Support

Ms. Althea Lowe-Thomas

Assistant Division Director
Bay Area/Northern Coastal Regional Office
Administrative Office of the Courts

Ms. Susan Reeves

Court Services Analyst
Bay Area/Northern Coastal Regional Office
Administrative Office of the Courts

Ms. Barbara J. Whiteoak

Executive Secretary
Bay Area/Northern Coastal Regional Office
Administrative Office of the Courts