



NEWS RELEASE

Release Number: 28

Date: June 25, 2010

JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

Judicial Council Endorses Reforms for Judicial Campaign Conduct

San Francisco—At a public meeting today, the Judicial Council of California endorsed 9 recommendations to better regulate the conduct of judicial candidates in state elections and to ensure fairness and impartiality in the state judiciary.

The recommendations are part of a comprehensive report issued last December by the 88-member California Commission for Impartial Courts, appointed in 2007 by Chief Justice Ronald M. George.

The proposals respond to findings that many states are experiencing contentious judicial elections in which candidates and third-party special interest groups are spending large amounts of money and engaging in negative and unethical campaign conduct.

The Judicial Council endorsed 4 recommendations and referred them to State Bar of California for further action, including the following:

- Unofficial statewide and local fair judicial elections committees 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, regional, and local elections. (*Recommendations 7 and 8*)
- A model campaign conduct code for use by the state and local oversight committees should be developed. (*Recommendation 9*)

The council endorsed another 5 recommendations and referred them to the California Supreme Court for consideration by its Advisory Committee on the Code of Judicial Ethics, which is responsible for making recommendations to the court regarding amendments to the Code of Judicial Ethics. Those recommendations include:

- Amend the Code of Judicial Ethics to encourage judges to educate the public on the importance of an impartial judiciary, and to discuss their qualifications for office. (*Recommendations 2 and 3*)
- 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. (*Recommendation 5*)
- 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. (*Recommendation 14*)

The Judicial Council voted disapproval of two proposals that would amend the Code of Judicial Ethics to require all judicial candidates, including incumbent judges, to complete a mandatory training program on ethical campaign conduct, and that would prohibit judicial candidates from seeking or using endorsements from political organizations. Those proposals and the council’s vote of disapproval were referred to the Supreme Court for further action.

The council took no position on, and referred to the Supreme Court, a recommendation to add a list of prohibited campaign conduct to the Code of Judicial Ethics. The report on the judicial campaign recommendations is posted on the California Courts website at www.courtinfo.ca.gov/jc/documents/reports/20100625item.pdf.

Council Takes Other Actions Today

Voting Policy: Tabled consideration of a possible change in the council’s voting policy to an upcoming meeting. The Administrative Office of the Courts (AOC) has proposed that the council prospectively require a concurrence of a majority of its voting members to approve official actions at business meetings. Under the current policy, the council takes action with a concurrence of a majority of a quorum of voting members.

Firearms Relinquishment: Voted unanimously to reconsider and then approved rule 4.700 of the California Rules of Court, proposed by the Domestic Violence Practice and Procedure Task Force, that provides that a trial court will set a review hearing to determine compliance with its order only in those limited cases where the court, in its discretion, has “good cause to believe” that a defendant owns, possesses, or controls a firearm that must be relinquished under the terms of the court’s protective order. Effective July 1, 2010, the rule will fill a gap

in the underlying statute, Code of Civil Procedure section 527.9, and will establish a uniform statewide procedure, help protect victims, and ensure public safety. (The council previously approved the rule by an 8 to 5 vote at its April 23, 2010, public business meeting. The council reconfirmed the measure to reaffirm the certainty of its previous action.)

Juvenile Dependency Counsel: Approved a competitive solicitation policy for juvenile dependency court-appointed counsel services in the 20 courts in the Dependency Representation, Administration, Funding, and Training (DRAFT) program, and dependency counsel collections program guidelines for all courts. Implementation of a standard solicitation policy will maximize funding of the court-appointed counsel program and provide transparency and objectivity to the process. The collection program guidelines have been developed under legislative mandate; adoption of the guidelines ensures Judicial Council compliance with statutory requirements.

Adult Offender Supervision: Approved the appointment of Judge Ronald S. Coen, of the Superior Court of Los Angeles County, to the California Council for Interstate Adult Offender Supervision. The seven-member state council must include a superior court judge appointed by the Judicial Council. The state council is required by the Interstate Compact for Adult Offender Supervision, which supports the state administration of the transfer across state lines of the supervision of adult parolees and probationers.

Jury Instructions: Approved various additions and revisions to the *Judicial Council of California Civil Jury Instructions (CACI)* based on comments or suggestions from judges, attorneys, staff and committee members, and recent developments in the law.

Finally, the council received several information-only items, including a status report on the implementation of recommendations included in the 2008 *Juvenile Delinquency Court Assessment Final Report* and *Trial Court Quarterly Investment Reports* for the periods ending December 31, 2009, and March 31, 2010.

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The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts carries out the official actions of the council and ensures leadership and excellence in court administration.