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New Public Access Rules for Judicial Branch to Take Effect January 1, 2010

Judicial Council Takes Other Actions on Legislative Priorities, Judicial Benefits

San Francisco—The Judicial Council of California today approved new court rules that set forth comprehensive public access provisions applicable to judicial administrative records maintained by state trial and appellate courts, the Judicial Council, and the Administrative Office of the Courts (AOC).

Effective January 1, 2010, the rules implement Government Code section 68106.2(g), which was added by Senate Bill X4 13 as part of the State Budget Act.

“The rules adopted today acknowledge the judicial branch’s strong support of the public’s right of access to information about its activities,” stated Chief Justice Ronald M. George, chair of the Judicial Council. “They grant broad access to judicial administrative records, and at the same time recognize the unique role and function of the judicial branch of government.”

The rules are based on the California Public Records Act, applicable to state executive branch agencies, and also include concepts drawn from the Freedom of Information Act, applicable to federal executive branch agencies. New rule 10.500 of the California Rules of Court includes the following:

- Provides that judicial administrative records, as opposed to “adjudicative records,” are open to the public unless specifically exempt. The rule does not apply to “adjudicative” court records—such as those prepared for or filed or used in a court proceeding or

in the judicial deliberation process—which are already governed by a large body of case law.

- Exempts from disclosure the same information that is exempt from access under the California Public Records Act—such as personnel, medical, and similar records—and modifies these exemptions and includes others where appropriate to address the specific functions of the judicial branch.
- Clarifies the fees that a judicial branch entity may charge in responding to requests for copies of judicial administrative records. A judicial branch entity will be able to recover a fee representing its direct costs of duplication. In the case of requests for records for commercial use, a judicial branch entity will be able to recover a fee representing the costs of document search and review.
- Sets standards for response times to requests for administrative records that reflect the requirements of the California Public Records Act. A judicial branch entity will be required to respond to a request for administrative records within 10 calendar days from receipt of the request by providing a determination as to whether records will be available or the reason they will be withheld. Once a judicial branch entity has determined that it has records that are responsive to a request, that entity must make the records available promptly.

The rules were drafted in consultation with a judicial working group that included representatives from the appellate courts, trial courts, and California Judges Association. The rules also reflect input from legislative staff, trial court employee labor unions, and groups advocating open access to government information.

At its meeting today, the Judicial Council directed the Administrative Office of the Courts (AOC) to compile and present to the council by December 31, 2011, branchwide information about the impact of the new rules on the courts. The report on the new access rules is available on the California Courts Web site at this link:

www.courtinfo.ca.gov/jc/documents/reports/121509item14.pdf .

The complete agenda is available at this link:

<http://www.courtinfo.ca.gov/jc/documents/age121509.pdf> .

OTHER ACTIONS

Legislative Priorities: The council voted to seek sufficient funding from the Legislature to avoid statewide court closures. The council also decided to continue to seek legislative authorization for a third set of 50 judgeships due to the urgent need for new judgeships in the trial courts. In 2005, the council received funding for the first set of 50 judgeships, which were appointed by the Governor. The second set of judgeships was approved in 2007 but was not funded. The third set of judgeships, if approved, would be allocated based on the 2008 Judicial Needs Assessment.

Disparities in Judicial Benefits: The council accepted a report to the Legislature that analyzes the historical disparities in supplemental judicial benefits in state trial courts. About 90 percent of superior court judges serve in courts where some form of supplemental benefits is provided, the report concludes. The disparity among judges can be significant: some judges receive no supplemental benefits while others receive a supplemental benefits package worth approximately \$50,000 a year. The report responds to Senate Bill X2 11, which requires the Judicial Council to report to the Legislature on this issue by December 31, 2009. The report recommends that the council study this area further.

Court Management Compensation: The council accepted an interim report on the salaries and benefits of court executive officers in the state trial courts, in addition to recommendations that will ensure appropriate accountability. The council directed the AOC to prepare the report following the release of a special audit in 2008 to the Superior Court of Placer County. The report contains data collected from the courts and a model personnel policy that courts can use when setting, reviewing, and modifying court executive salaries and benefits. Proposed amendments to the California Rules of Court will be circulated for public comment in mid-December and submitted to the Judicial Council in April 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 promotes leadership and excellence in court administration.