



JUDICIAL COUNCIL MEETING

Open to the Public (Cal. Rules of Court, rule 10.6(a))
Ronald M. George State Office Complex • Malcolm M. Lucas Board Room
455 Golden Gate Avenue • San Francisco, California 94102-3688
April 29, 2011 • 8:30 a.m.–2:40 p.m.

AGENDA

- 8:30–8:35 a.m. Swearing-in of New Council Member**
The Chief Justice will administer the oath of office to a new council member.
- 8:35–8:45 a.m. Public Comment**
[See Cal. Rules of Court, rules 10.6(d) and 10.6(e).]
- 8:45–8:50 a.m. [Approval of Minutes](#)**
Minutes of the February 25, 2011, business meeting
- 8:50–8:55 a.m. Ratification of Establishment of Judicial Council CCMS Internal Committee**
- 8:55–9:10 a.m. [Judicial Council Committee Presentations](#)
[under Committee Reports Tab]**
Executive and Planning Committee
 Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
 Hon. Douglas P. Miller, Chair
CCMS Internal Committee
 Hon. James E. Herman, Chair
- 9:10–9:25 a.m. Chief Justice’s Report**
Chief Justice Tani Cantil-Sakauye will report.
- 9:25–9:40 a.m. [Administrative Director’s Report](#)**
Mr. William C. Vickrey, Administrative Director of the Courts, will report.

NOTE: Time is estimated. Actual start and end times may vary.

CONSENT AGENDA (ITEMS A1–A9, B–G)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

ITEMS A1–A9 RULES, FORMS, AND STANDARDS

Appellate

Item A1 [Trial and Appellate Procedure: Electronic Recordings Offered Into Evidence \(amend Cal. Rules of Court, rules 2.1040 and 8.122\) \(Action Required\)](#)

The Appellate Advisory Committee recommends amending the rule relating to electronic recordings offered into evidence in trial court proceedings to better ensure that, in the event of an appeal, there is an appropriate record of any recording offered into evidence or presented in the trial court proceedings. Currently, the California Rules of Court provide that, unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording must tender to the court a written transcript of the electronic recording. Among other things, the proposed amendments would add a requirement that a transcript of electronic recordings of deposition or other prior testimony be provided in all cases unless the court reporter takes down the content of all portions of the electronic recording that are presented or offered into evidence. These amendments are intended to improve court administration by reducing delay and costs in appellate proceedings that arise when there is no written record of electronic recordings presented or offered into evidence in the trial court, while minimizing delay and costs in the trial court associated with preparing transcripts of these electronic recordings.

Staff: Ms. Heather Anderson, Office of the General Counsel

Civil and Small Claims

Item A2 [Alternative Dispute Resolution \(ADR\): Mediator’s Statement of Agreement or Nonagreement and Statistical Reports \(adopt Cal. Rules of Court, rules 3.835 and 3.845; amend rule 3.895; repeal rule 3.897; and revise form ADR-100\) \(Action Required\)](#)

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the form that mediators are required to use to report the results of mediations conducted under the Civil Action Mediation Program (CAMP) and amend the California Rules of Court to, among other things, provide that mediators must use this form whenever they are required to report the status or result of the mediation of any general civil case to a superior court. These changes will promote uniformity and usefulness of mediator reports to courts in general civil cases and help ensure that the reports are consistent with California’s mediation confidentiality statutes.

Staff: Mr. Alan Wiener, Office of the General Counsel

Criminal

Item A3 [Criminal Law: Misdemeanor Domestic Violence Plea Form \(approve form CR-102\) \(Action Required\)](#)

The Criminal Law Advisory Committee recommends that the Judicial Council approve an optional form to facilitate the taking of guilty or no contest pleas in misdemeanor domestic violence cases. The form is designed to promote standardized pleas in misdemeanor domestic violence cases statewide by including all necessary and common advisements, waivers, and consequences of the plea.

Staff: Mr. Arturo Castro, Office of the General Counsel

Family and Juvenile Law

Item A4 [Juvenile Law: Sibling Visitation \(amend Cal. Rules of Court, rule 5.670; revise form JV-401\) \(Action Required\)](#)

The Family and Juvenile Law Advisory Committee recommends amending the rule regarding visitation between the child and the child's sibling or siblings pending the jurisdiction hearing and revising the sibling visitation findings and orders form. The amended rule and revised form would conform with a recent change to state law required by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949, 3962).

Staff: Ms. Aleta M. Beaupied, Center for Families, Children & the Courts

Item A5 [Child Support: Form Revisions to Implement Changes to the Family Code and Improve Administration of Title IV-D Cases \(revise forms FL-530, FL-615, FL-625, FL-630, FL-665, FL-676, FL-687, and FL-692; approve form FL-676-INFO\) \(Action Required\)](#)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise its governmental child support forms involving child support orders that are enforced by the local child support agencies to implement changes to the California Family Code made by Senate Bill 1355 (Wright; Stats. 2010, ch. 495). These statutory changes require (1) that every child support order and agreement made on or after July 1, 2011, that is enforced by a local child support agency include a provision regarding the effect of incarceration or involuntary institutionalization on child support orders and (2) that a means be provided to allow an obligor to petition the court for an adjustment of arrears after release from incarceration or involuntary institutionalization. The recommended revisions would also implement changes to 45 Code of Federal Regulations section 303.311 that require every child support order in the title IV-D program to provide for medical support, including the definition of the reasonable cost for medical insurance and an option for cash medical costs not covered by health insurance and for situations in which health insurance is unavailable. The proposed form changes would also increase cost efficiencies, increase uniformity between governmental child support forms, remove unnecessary provisions and better administer the title IV-D child support program.

Staff: Ms. Anna L. Maves, Center for Families, Children & the Courts

Item A6 [Family and Juvenile Rules: Live Testimony at Hearings and Declarations \(amend Cal. Rules of Court, rule 5.118 and adopt rule 5.119\) \(Action Required\)](#)

Assembly Bill 939 (Assem. Com. on Judiciary; Stats. 2010, ch. 352) added section 217 to the Family Code, which requires that at hearings on requests for orders brought under the Family Code, courts must receive competent live testimony that is relevant and within the scope of the hearing unless the parties have stipulated otherwise, or a finding of good cause is made to refuse to receive the live testimony. Family Code section 217 requires the Judicial Council to adopt a statewide rule of court setting out factors a court must consider in making a finding of good cause to refuse to receive live testimony at hearings on requests for orders filed under the Family Code. Proposed rule 5.119 sets out factors that courts must consider in deciding to refuse live testimony. In addition to new rule 5.119, the proposal would amend rule 5.118(f) to comply with the new legislation.

Staff: Ms. Deborah J. Chase, Center for Families, Children & the Courts

Probate

Item A7 [Probate Conservatorships: Determining the Conservatee's Appropriate Level of Care \(adopt form GC-355\) \(Action Required\)](#)

Recent legislation requires a newly-appointed conservator to determine the appropriate level of care the conservatee will require, including an evaluation of the care received by the conservatee before the conservator's appointment. The determination must be prepared in writing and filed with the court soon after the conservator's appointment. The Probate and Mental Health Advisory Committee proposes a new Judicial Council form for the writing required by the law.

Staff: Mr. Douglas C. Miller, Office of the General Counsel

Traffic

Item A8 [Traffic: Procedures and Eligibility Criteria for Attending Traffic Violator School \(amend Cal. Rules of Court, rule 4.104\) \(Action Required\)](#)

The Traffic Advisory Committee recommends amending rule 4.104 of the California Rules of Court regarding procedures and eligibility criteria for attending traffic violator school. The amendments bring the rule into conformance with recent legislation that amends Vehicle Code sections 41501 and 42005 effective July 1, 2011.

Staff: Mr. Courtney Tucker, Office of the General Counsel

Miscellaneous

Item A9 [Rules and Forms: Miscellaneous Technical Changes \(amend Cal. Rules of Court, rules 8.104 and 8.130; revise forms APP-001, AT-140, CR-110/JV-790, POS-040, POS-040\(P\), and SC-108\) \(Action Required\)](#)

Various Judicial Council advisory committee members, court personnel, members of the public, and Administrative Office of the Courts staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the

rules naming and numbering systems, or legislative changes. It is therefore necessary to make technical changes to the rules and forms noted above.

Staff: Ms. Susan R. McMullan, Office of the General Counsel

Item B **[Jury Instructions: Additions and Revisions to Criminal Jury Instructions Judicial Council of California Criminal Jury Instructions \(CALCRIM\) \(Action Required\)](#)**

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed additions and revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep *CALCRIM* current with statutory and case authority.

Staff: Ms. Robin Seeley, Office of the General Counsel

Item C **[Child Support Commissioner and Family Law Facilitator Program: Midyear Funding Reallocation for Fiscal Year 2010–2011 \(Action Required\)](#)**

The Family and Juvenile Law Advisory Committee recommends that the council approve the reallocation of funding for the child support commissioner and family law facilitator program for fiscal year 2010-2011. Under an established procedure described in the standard agreement with each superior court, the Judicial Council at midyear redistributes to courts that have a documented need for additional funds any unallocated funds and any available funds from courts that are projected not to spend their full grants. The courts are also being offered an option to use local court funds up to an approved amount to draw down federal matching funds.

Staff: Mr. Michael Wright, Center for Families, Children & the Courts

Item D **[Amendments to the Conflict of Interest Code for the Habeas Corpus Resource Center \(Action Required\)](#)**

After consultation with the Administrative Office of the Courts' (AOC) Office of the General Counsel, the Habeas Corpus Resource Center (HCRC) recommends that the Judicial Council approve amendments to the HCRC's Conflict of Interest Code. As required by law, these amendments adjust the code to conform to the HCRC's current classification structure and operations. In accordance with Government Code sections 87303 and 87306, the council must review proposed amendments to the code and approve the code as amended or direct that it be further revised and resubmitted for approval.

Staff: Ms. Jean Field, Habeas Corpus Resource Center

Item E **[Review of the Statewide Uniform Child Support Guideline: Legislative Report and Recommendations \(Action Required\)](#)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council receive and accept the report entitled "*Review of Statewide Uniform Child Support Guideline 2010*" and direct staff to forward it to the Legislature.

The review of California's statewide uniform child support guideline is legislatively mandated. Family Code section 4054 states that any recommendations for revision to the guideline must be made to ensure that the guideline results in appropriate child support orders, limit deviations

from the guideline, or otherwise help to ensure that the guideline is in compliance with federal law. The review provides a basis for the Legislature to periodically reassess California's child support guidelines and evaluate its impact on children and families. Staff: Mr. Michael Wright, Center for Families, Children & the Courts

Item F **[Criminal Fines and Fees: Judicial Council Establishment and Appointments to Court-Ordered Debt Task Force \(Action Required\)](#)**

The Executive and Planning Committee recommends that, as required by Penal Code section 1463.02, the Judicial Council establish a 21-member task force to evaluate criminal and traffic-related court-ordered debts imposed against adult and juvenile offenders and to appoint the chair, cochair, four members, and one nonvoting advisory member to the task force, with the remaining 15 members to be appointed by other government entities as specified in the legislation.

Staff: Mr. Curt Soderlund, Trial Court Administrative Services Division

Item G **[Subordinate Judicial Officers: Extension of Authorization for Temporary SJOs in Superior Court of Riverside County Through June 30, 2012 \(Action Required\) \(Action Required\)](#)**

The Administrative Office of the Courts recommends that the Judicial Council extend, in accordance with Government Code section 71622(a), through June 30, 2012, the authorization of the three positions for subordinate judicial officers at the Superior Court of California, County of Riverside. The court has and will pay for the cost of hiring retired commissioners for these positions. These positions commenced in 2007 following the creation of the Strike Force, at the request of the Chief Justice, for the purpose of reducing the criminal case backlog in the Riverside court. Without the extension of the authorization for these three positions, the delivery of justice in Riverside would be even more severely affected.

Staff: Ms. Nancy E. Spero, Executive Office Programs Division

DISCUSSION AGENDA (ITEMS H–Q)

Presentation 9:40–10:10 a.m.

Court Facilities: Court Construction Updates (No Action Required. There are no materials for this item.)

The Administrative Office of the Courts provides the council with information about several court construction projects around the state. The Judicial Council has set long term goals of providing safe, dignified, and fully functional facilities for conducting court business, which accommodate the needs of all court users.

Presentation (20 minutes) • Discussion/Council Action (10 minutes)

Speakers: Mr. Patrick J. Morris, Mayor, City of San Bernardino
 Mr. Douglas Emerson, Member, Hollister City Council,
 former Mayor, City of Hollister, and member of Project Advisory Group
 Mr. Marlin H. "Skip" Davies, Vice Mayor of the City of Woodland

NOTE: Time is estimated. Actual start and end times may vary.

Mr. Ronald G. Overholt, Chief Deputy Director
Mr. Eric S. Petersen, Hawkins Delafield & Wood LLP

Item H 10:10–10:55 a.m.

California Court Case Management System: Status Update (No Action Required. There are no materials for this item.)

This status report on California’s Court Case Management system (CCMS) is an update to the previous status report and demonstration presented at the February 25, 2011, Judicial Council meeting. The Judicial Council has directed the AOC to develop a single case management system to be deployed in all 58 superior courts and is the executive sponsor of CCMS. CCMS is managed by the CCMS Program Management Office. This report will discuss the CCMS governance structure and current project activities: product development and testing, the AOC’s anticipated acceptance of the core product on April 30, 2011, and completion of the external components by the end of July 2011. It will also present the status of deployment planning activities with early adopter courts and the AOC’s activities undertaken in response to the Bureau of State Audits’ recommendations.

Presentation (30 minutes) • Discussion/Council Action (15 minutes)

Speakers: Hon. Terence L. Bruiniers, Chair, CCMS Executive Committee
Mr. Ronald G. Overholt, Chief Deputy Director
Mr. Mark A. Moore, Executive Program Director
CCMS Program Management Office

Break 10:55–11:10 a.m.

Item I 11:10–11:35 a.m.

Court Facilities: Location of New Inyo County Courthouse (Action Required)

Determining the location of the New Inyo County Courthouse is controversial as defined by the Judicial Council’s *Site Selection and Acquisition Policy for Judicial Branch Facilities*. The Administrative Director of the Courts requests that the Judicial Council determine the location for the Inyo project in accordance with that policy. The Administrative Office of the Courts analyzed this matter in 2010, solicited public comment on that analysis, and recommends the location in the Bishop area because it improves access to justice for the majority of Inyo County residents.

Presentation (15 minutes) • Discussion (10 minutes)

Speakers: Hon. Brian J. Lamb, Presiding Judge, Superior Court of Inyo County
Mr. Lee Willoughby, Office of Court Construction and Management
Mr. Robert Emerson, Office of Court Construction and Management
Ms. Kelly Quinn, Office of Court Construction and Management

of the implementation of the education rules (Cal. Rules of Court, rules 10.451–10.491) during the first three-year period (2007–2009) for the council to accept and receive. This report will assist the council in assessing the achievement of the council’s strategic goal of providing education and professional development to enhance the ability of all individuals serving in the judicial branch to achieve high standards of professionalism, ethics, and performance, which are necessary to serve the public and to enhance trust and confidence in the courts. The committee strongly feels that the education rules have substantially accomplished what they were intended to accomplish.

Presentation (20 minutes) • Discussion/Council Action (10 minutes)

Speakers: Hon. Ronald B. Robie, Chair, Governing Committee of the CJER
Hon. Robert L. Dondero, Vice-Chair, Governing Committee of the CJER
Dr. Diane E. Cowdrey, AOC Education Division/CJER
Mr. James M. Vesper, AOC Education Division/CJER

Lunch Break 12:20–12:50 p.m.

Item L 12:50–1:00 p.m.

Judicial Branch Education: Education Plan for 2010–2011 and 2011–2012 (No Action Required)

The Governing Committee of the Center for Judicial Education and Research has developed, at the request of the Executive and Planning Committee, a new model for planning and delivering judicial branch education which revised the roles and operational structures involved in this effort. This new model provides for greater oversight and involvement by the Governing Committee in approving a two-year education plan for the judicial branch. A copy of the education plan and an overview of the new education development model are attached for the council’s information.

Presentation (5 minutes) • Discussion/Council Action (5 minutes)

Speakers: Hon. Ronald B. Robie, Chair, Governing Committee of the CJER
Hon. Robert L. Dondero, Vice-Chair, Governing Committee of the CJER
Dr. Diane E. Cowdrey, AOC Education Division/CJER
Mr. James M. Vesper, AOC Education Division/CJER

Item M 1:00–1:20 p.m.

Civil Motions: Lodging of Copies of Authorities (amend Cal. Rules of Court, rule 3.1113) (Action Required)

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 3.1113(i). That rule currently mandates that if any non-California authority or new California case not yet published in the Official Reports is cited in papers supporting or opposing a motion in a civil action, a copy of the authority must be provided to the

court along with the papers that cite it. The proposed amendment would eliminate this mandate except when a judicial officer has directed parties to provide paper copies.

Presentation (10 minutes) • Discussion (10 minutes)

Speakers: Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee
Hon. Frank Roesch, Chair, Rules and Forms Subcommittee
Ms. Anne M. Ronan, Office of the General Counsel

Item N 1:20–1:40 p.m.

Telephone Appearances: Statewide Uniform Fees (Action Required)

Please note: This item has been deferred for action at a future Judicial Council meeting.

~~The Office of the General Counsel and the Finance Division of the Administrative Office of the Courts recommend that the Judicial Council amend rule 3.670 of the California Rules of Court on telephone appearances to establish the fees to be charged by vendors and courts for parties to appear by telephone at court hearings and conferences. The fees established under amended rule 3.670 implement Senate Bill 857, the 2010 budget trailer bill that requires the Judicial Council to establish statewide, uniform telephone appearance fees by July 1, 2011. In addition, this report recommends that rule 5.324 on telephone appearances in Title IV-D child support proceedings be amended to be consistent with the amendments to rule 3.670.~~

~~*Presentation (10 minutes) • Discussion (10 minutes)*~~

~~Speakers: — Mr. Patrick O'Donnell, Office of the General Counsel
———— Mr. Steven Chang, Finance Division~~

Item O 1:40–2:00 p.m.

Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report (Action Required)

The Judicial Council's Task Force for Criminal Justice Collaboration on Mental Health Issues recommends that the Judicial Council receive its final report and recommendations and direct the Administrative Director of the Courts to prepare an implementation plan. When approved, the recommendations will provide a framework for improving practices and procedures in cases involving both adult and juvenile offenders with mental illness, for ensuring the fair and expeditious administration of justice for offenders with mental illness, and for promoting improved access to treatment for litigants with mental illness both in the community and in the criminal justice system.

Presentation (20 minutes) • Discussion (10 minutes)

Speakers: Hon. Brad R. Hill, Chair, Task Force for Criminal Justice Collaboration on Mental Health Issues
Hon. Suzanne N. Kingsbury, Presiding Judge of the Superior Court of El Dorado County (participating by phone)

Hon. Kurt E. Kumli, Judge of the Superior Court of Santa Clara County
Hon. Stephen V. Manley, Judge of the Superior Court of Santa Clara County
Hon. Mary Carolyn Morgan (Ret.) Judge of the Superior Court of San Francisco

Item P 1:50–2:10 p.m.

Sargent Shriver Civil Counsel Act: Selection of Pilot Projects (Action Required)

The Sargent Shriver Civil Counsel Act Implementation Committee recommends that the Judicial Council award \$9.5 million in grants to seven qualified legal service organizations and court partners for pilot projects to provide legal representation and improved court procedures for eligible low-income litigants in civil cases affecting basic human needs.

Presentation (10 minutes) • Discussion/Council Action (10 minutes)

Speakers: Hon. Laurie D. Zelon, Vice-Chair, Sargent Shriver Civil Counsel Act
Implementation Committee
Ms. Bonnie Hough, Center for Families, Children & the Courts

Item Q 2:10–2:40 p.m.

Ralph N. Kleps Awards: Recommendations for 2010-2011 Award Recipients (Action Required)

The Kleps Award Committee recommends that the Judicial Council approve the 2010–2011 Ralph N. Kleps Award recipients to recognize and honor the innovative contributions to the administration of justice made by individual courts in California.

Recommendations are developed by the Kleps Award Committee—a 19-member panel comprising justices, judges, and court administrators—which carefully evaluates all applicants based on the award criteria, including improvements that reflect innovation, fulfillment of the intent of at least one goal of the judicial branch’s strategic plan, and transferability to other courts.

By adopting the Kleps Award Committee’s recommendations, the Judicial Council supports the sharing of effective management practices branchwide, affirms these local court programs, and commends them to other courts in California as positive models for replication

Presentation (25 minutes) • Discussion (5 minutes)

Speakers: Hon. Ronald B. Robie, Chair, Ralph N. Kleps Award Committee
Ms. Deirdre Benedict, Executive Office Programs Division

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[Trial Courts: Quarterly Investment Report for Final Quarter of 2010](#)

This Trial Court Quarterly Investment Report provides the financial results for the funds invested by the AOC on behalf of the trial courts as part of the judicial branch treasury program. The period covered by this report is from October 1, 2010, through December 31, 2010.

[Annual Report of Special Funds' Expenditures for Fiscal Year 2009–2010 \(including Supplemental Information on Statewide Technology Infrastructure Funding and Expenditures\)](#)

In accordance with GC section 77209(j) and Supplemental Report of the 2000 Budget Act (Item 0450-101-0932, Trial Court Funding); the council is required to annually report to the Legislature on the expenditures from the Trial Court Improvement Fund and Judicial Administration Efficiency and Modernization Fund. Information was compiled from expenditure data reported and program information provided by AOC divisions for FY 2009–2010. In addition, as directed by the council though not required by statute, the report contains an addendum with supplemental information related to the amount of funding from the Trial Court Trust Fund and the Trial Court Improvement Fund allocated to the courts through the supplemental funding process, as well as any amounts paid directly out of the Trial Court Trust Fund in FY 2009–2010 for statewide administrative infrastructure costs.

[Liability Limits of a Parent or Guardian \(amend Appendix B of the Cal. Rules of Court\)](#)

Civil Code section 1714.1(c) requires the Judicial Council to compute, adjust, and publish every two years the liability limit of a parent or guardian for the willful misconduct of a minor.

[Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerks' Offices or Reducing Clerks' Office Hours \(Report #3\)](#)

In the 2010 Judiciary Budget Trailer Bill, Senate Bill 857, the Legislature provided fee increases and fund transfers for the courts and also added a new section 68106 to the Government Code. The latter directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' office hours on days that are not judicial holidays, and (2) the council to post on its website and relay to the Legislature all such court notices. This is the third report providing information about the implementation of these notice requirements. Since the first two reports, one more court, Tehama, has given such notice, which it issued on April 18, 2011.

[Written Comments Received](#)

There have been no Circulating Orders since the last business meeting.

[Appointment Orders Since the last business meeting](#)

[Appointment Orders Tab]