



Judicial Council Governance Policies

JUNE 2008



JUDICIAL COUNCIL
OF CALIFORNIA

Judicial Council Governance Policies

I. Governance Process

A. The Judicial Council

1. Purpose

The Judicial Council of California provides leadership and sets the direction for improving the quality of justice and advancing the consistent, independent, impartial, and accessible administration of justice for the benefit of the public.

- a. The Judicial Council acts as a governing body for the judicial branch to ensure the statewide administration of justice by supporting the California courts and assisting them to provide equal and timely access to an independent and impartial justice system for all Californians.
- b. The Judicial Council ensures that justice on a statewide basis is properly administered, the work of the California courts is coordinated, and the judicial branch functions efficiently and effectively. The council supports the development and dissemination of innovations and best practices consistent with judicial branch goals.
- c. The Judicial Council provides the leadership for preserving and enhancing an independent and impartial justice system in California that maintains the status of the judicial branch as a separate, co-equal branch of government in accordance with the California Constitution and the law.
- d. The Judicial Council guides the judicial branch in advancing the highest standards of accountability to the executive branch, the legislative branch, and the people of California for administration and quality of justice, use of public resources, and adherence to statutory and constitutional mandates.
- e. The Judicial Council surveys judicial business and trends, and adopts rules of court administration, practice, and procedure, to improve and promote a high quality and consistent California justice system.

2. Responsibilities of the Council

The council establishes goals and policies for California's judicial branch of government. The council is directly responsible for the following:

- a. Establishing broad goals and policies that set the direction and priorities for the continuous improvement of California's system for the administration of justice. These goals and policies include fundamental goals such as promoting public access to the justice system, increasing responsiveness to the needs of

court users of diverse backgrounds, and upholding the rule of law and impartiality of judges as constitutional officers.

- b. Establishing standards for performance and accountability of the administrative operations and procedures of the branch. These standards address the diverse needs of court users, employ modern management practices that implement and sustain innovative ideas and effective practices, and report on judicial branch performance to the public, Legislature, Governor, and the courts.
- c. Developing and maintaining administrative, technological, and physical infrastructures, including court facilities, that enhance accessibility to the courts and support the needs of the people of California and the judicial branch.
- d. Taking all appropriate steps to develop and establish the judicial branch's fiscal priorities, secure appropriate funding for the judicial branch, establish fiscal and budget policies for the branch, allocate branch appropriations to the courts and the council, and ensure accountability through reporting on the use of its public resources to the legislative and executive branches of state government and to the public.
- e. Sponsoring and taking positions on pending legislation consistent with the council's established goals and priorities to support consistent, effective, statewide programs and policies that provide for the highest quality of administration of justice, and that promote an impartial judiciary.
- f. Developing high-quality education and professional development opportunities for all judicial branch personnel to meet public needs and to enhance public trust and confidence in the courts.
- g. Communicating with and reporting to the legislative and executive branches of state government to advance judicial branch goals and account for the use of public funds and resources.

3. Council Policymaking

The Judicial Council establishes judicial branch policy for the improvement of an independent and impartial justice system that meets public needs and enhances public trust and confidence in the courts. It develops policy in consultation with the people of California, court leadership, judicial officers, Judicial Council advisory bodies, employees in the judicial branch, the State Bar, advocacy groups, the Legislature, the Governor, and other government entities and justice system partners.

The principal focus of the Judicial Council is to establish policies that emphasize long-term strategic leadership and that align with judicial branch goals. Council policymaking

is focused on the beneficiaries of the policy, the results to be achieved, the cost to be incurred, and the corresponding judicial branch goals.

To enable the council to make well-informed strategic decisions, all policy proposals submitted for council consideration by internal committees, advisory bodies, the Administrative Director, and staff should address the following:

- Beneficiaries of the policy;
- Results to be achieved;
- Costs to be incurred;
- Each corresponding judicial branch goal, objective, and anticipated outcome;
- Previous council action on the issue or policy;
- Comments from interested parties;
- Analysis of the benefits and risks of the proposals; and
- Analysis of the strengths and weaknesses of alternative options and an explanation of their implications.

4. Judicial Branch Goals

The Judicial Council develops judicial branch goals in its strategic and operational plans. At six-year intervals, the council develops and approves a long-range strategic plan. At three-year intervals, the council develops and approves an operational plan for the implementation of the strategic plan. Each plan is developed in consultation with branch stakeholders and justice system partners. The goals and priorities of the council are set forth in the *Justice in Focus: The Strategic Plan for the California's Judicial Branch 2006–2012*:

- I. Access, fairness, and diversity.
- II. Independence and accountability.
- III. Modernization of management and administration.
- IV. Quality of justice and service to the public.
- V. Education for branchwide professional excellence.
- VI. Branchwide infrastructure for service excellence.

5. Role of Council Members

Council members are a governing body for California's judicial branch of government. In accepting appointment, they commit to act in the best interests of the public and the judicial system for the purposes of maintaining and enhancing public access to the justice system, as well as preserving and enhancing impartial judicial decision-making and an independent judicial branch of government.

Council members do not represent any particular constituency notwithstanding any of their other affiliations or roles.

Council members communicate as representatives of the Judicial Council with the public, the courts, judicial officers, Judicial Council advisory bodies, other government entities, and justice system partners. They communicate knowledgeably about the council's

processes, purposes, responsibilities, and issues and reasons for policy decisions, including those policy decisions where there is disagreement.

6. Council Officers and Duties

The Judicial Council has seven officers: the Chair, Vice-Chair, Secretary, and the chairs of the council's four internal committees: Executive and Planning, Litigation Management, Policy Coordination and Liaison, and Rules and Projects.

The Chief Justice serves as Chair of the council and performs those functions prescribed by the Constitution and the laws of the State of California. The Chair is a voting member of the council.

The Chief Justice appoints a Vice-Chair from among the judicial members of the council. When the Chair is absent, unable to serve, or so directs, the Vice-Chair performs all of the duties of the Chair.

The Chief Justice appoints a Judicial Council member to serve as chair of the council in the event that both the Chief Justice and the council's Vice-Chair are absent or unable to serve. The Chief Justice determines the individuals to serve as chair from among the internal committee chairs and vice-chairs.

The Chief Justice appoints the chairs and vice-chairs of the council's four internal committees from among the members of the council. Internal committee chairs are appointed for a one-year term. Committee chairs call meetings, as necessary, and provide reports to the council on the activities of the internal committees. Meetings of the internal committees are closed to the public but may be opened at the chair's discretion.

The Administrative Director of the Courts serves as Secretary to the council and performs administrative and policymaking functions as provided by the Constitution and the laws of the State of California and as delegated by the council and the Chief Justice (see II.B, *infra*, for duties of the Administrative Director). The Secretary is not a voting member of the council.

Together, the Chief Justice and the Administrative Director, on behalf of the Judicial Council and with regard to the budgets of the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts, may: (1) make technical changes to the proposed budget, and (2) participate in budget negotiations with the legislative and executive branches consistent with the goals and priorities of the council.

The Chief Justice and the Administrative Director, on behalf of the Judicial Council, also may allocate funding appropriated in the State Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts.

After the end of each fiscal year, the Administrative Director reports to the Judicial Council on actual expenditures in the budgets of the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource Center, and the Administrative Office of the Courts.

7. Maintenance of Governance Policies and Principles

On an annual basis, the Chair of the Executive and Planning Committee discusses the governance policies and principles at a council meeting to orient new members and review council governance with continuing members. Every three years, the Judicial Council conducts a review of its governance policies and principles and determines whether any revisions are needed. The Executive and Planning Committee monitors the regular implementation of the governance policies and principles and makes recommendations to the council about governance policies and practices.

In order to ensure that new council members have the knowledge and understanding needed to perform their duties effectively, they are oriented to the council's governance policies and principles as well as the council's history of policymaking on key topics, such as court facilities, fiscal appropriations, and infrastructure initiatives.

B. Council Internal Committees

The internal committees of the Judicial Council assist the full membership of the council in its responsibilities by providing recommendations in their assigned areas including rules for court administration, practice, and procedure, and by performing duties delegated by the council. Internal committees generally work at the same policy level as the council, focusing on the establishment of policies that emphasize long-term strategic leadership and that align with judicial branch goals.

1. Executive and Planning Committee

The Executive and Planning Committee has the following functions and makes regular reports to the full council on its actions:

- a. Taking action on behalf of the council between council meetings except for (1) adopting rules of court, standards of judicial administration, and forms; (2) making appointments that by statute must be made by the council; and (3) taking actions that are delegated to other council advisory bodies.
- b. Overseeing the council's strategic planning process.
- c. Overseeing the council's policies and procedures regarding court facilities, including development of policies, procedures, and guidelines for facilities; site selection; and capital appropriations.
- d. Ensuring that proposed judicial branch budgets, allocation schedules, and related budgetary issues are brought to the Judicial Council in a timely manner and in a format that permits the council to establish funding priorities in the

context of the council's annual program objectives, statewide policies, and long-range strategic and operational plans.

- e. Establishing agendas for council meetings by determining (1) whether items submitted for the council's agenda require the council's action and are presented in a form that provides the council with the information it needs to make well-informed decisions; and (2) whether each item should be on the consent, discussion, or information agenda; how much time should be allotted for discussion; what presenters should be invited to speak; and, when appropriate, which specific issues should be discussed.
- f. Developing a schedule of topics about which the council wishes to consider making policy or to receive updates from the Administrative Director or Administrative Office of the Courts staff.
- g. Making recommendations to the council regarding governance and overseeing the council's review of its governance policies and principles.
- h. Recommending candidates to the Chief Justice for appointment to the Judicial Council and its advisory bodies.
- i. For those advisory committees and task forces over which it has been assigned oversight by the Chief Justice, ensuring that activities of each are consistent with the council's goals and policies. To achieve these outcomes, the Executive and Planning Committee:
 - i. Communicates the council's annual charge to each (see I.C.1, *infra*).
 - ii. Reviews an annual agenda for each to determine whether the annual agenda is consistent with its charge and with the priorities established by the council.
- j. Promoting effective policies for communications between the Judicial Council and the judicial branch of government. The Executive and Planning Committee, together with the chairs of the other internal committees, is responsible for developing and implementing a branchwide plan for general communications between the council and the judicial branch. This responsibility may address such matters as reporting through judicial branch communication channels to the courts and branch stakeholders on Judicial Council meetings and policy actions; communications with the media; communications through Judicial Council members' participation in court site visits, regional meetings, and new judge meetings; and communications from the judicial branch to the Judicial Council through meetings, advisory bodies, public comment processes, and other communication methods.

2. Policy Coordination and Liaison Committee

The Policy Coordination and Liaison Committee has the following functions and makes regular reports to the full council on its actions:

- a. Taking a position on behalf of the council on pending legislative bills, after evaluating input from council advisory bodies, staff, and the courts, provided that the position is consistent with the council's established policies and precedents.
- b. Making recommendations to the council on all proposals for council-sponsored legislation and on an annual legislative agenda after evaluating input from council advisory bodies, staff, and the courts.
- c. Acting as liaison with other governmental entities, the bar, the media, the judiciary, and the public regarding council-sponsored legislation, pending legislative bills, and the council's legislative positions and agendas.
- d. Building consensus on issues of importance to the judicial branch with entities and individuals outside of the branch.

3. Rules and Projects Committee

The Rules and Projects Committee has the following functions and makes regular reports to the full council on its actions:

- a. Establishing and maintaining a rule-making process that is understandable and accessible to the legal-judicial community and the public. The Rules and Projects Committee:
 - i. Establishes and publishes procedures for the proposal and adoption of rules of court and jury instructions that ensure that relevant input from the public is solicited and considered.
 - ii. Provides guidelines for the style and format of rules, forms, and standards.
 - iii. Reviews proposed rules, standards, and forms and circulates those proposals for public comment in accordance with its procedures and guidelines.
- b. Assisting the council in making informed decisions about rules of court administration, practice, and procedure. The Rules and Projects Committee:
 - i. Determines whether any proposal for new or amended rules, standards, or forms has complied with its procedures and its guidelines on style and format. If the proposal does comply, the Rules and Projects Committee makes a recommendation to the Executive and Planning

Committee about whether the proposal should be on the consent or the discussion agenda and how much time should be allocated for discussion.

- ii. Recommends to the council whether the proposal should be approved and, when appropriate, identifies issues for discussion. If the Rules and Projects Committee recommends against approval, it states the reasons for its recommendation.
 - iii. The Administrative Director is responsible for ensuring that items submitted to the Rules and Projects Committee for circulation for comment and the council's agenda comply with the Rules and Projects Committee's procedures and its guidelines on format and style.
- c. For those advisory committees and task forces over which it has been assigned oversight by the Chief Justice, ensuring that the activities of each are consistent with the council's goals and policies. To achieve these outcomes, the Rules and Projects Committee:
- i. Communicates the council's annual charge to each (see *infra.*, I. C.1).
 - ii. Reviews an annual agenda for each to determine whether the annual agenda is consistent with its charge and with the priorities established by the council.

4. Litigation Management Committee

The Litigation Management Committee has the following functions and takes the following actions:

- a. Overseeing litigation and claims against trial court judges, appellate court justices, the Judicial Council, the Administrative Office of the Courts, the trial and appellate courts, and the employees of those bodies that seek recovery of \$100,000 or more, or raise important policy or court operations issues, by: (1) reviewing and approving any proposed settlement, stipulated judgment, or offer of judgment; and (2) consulting with the Administrative Director or General Counsel on important strategy issues. Important policy or court operations issues may include whether to initiate litigation on behalf of a court, when to defend a challenged court practice, or how to resolve disputes where the outcome might have statewide implications.
- b. Making recommendations to the Judicial Council for policies governing the management of litigation involving the courts.
- c. When necessary, resolving written objections to major strategic decisions, such as retention of counsel and proposed settlements, presented by the General Counsel.

C. Council Advisory Bodies

Council advisory bodies are typically advisory committees and task forces. They use the individual and collective experience, opinions, and wisdom of their members to provide policy recommendations and advice to the council on topics the Chief Justice or the council specifies. The council and its internal committees provide direction to the advisory bodies.

Council advisory bodies work at the same policy level as the council, developing recommendations that focus on strategic goals and long-term impacts that align with judicial branch goals.

Council advisory bodies generally do not implement policy. The council may, however, assign policy-implementation and programmatic responsibilities to an advisory body and may request it make recommendations to staff on implementation of council policy or programs.

Council advisory bodies do not speak or act for the council except when formally given such authority for specific and time-limited purposes.

Council advisory bodies, through staff, are responsible for gathering stakeholder perspectives on policy recommendations they plan to present to the council.

The Chief Justice assigns oversight of each council advisory body to an internal committee. The council gives a general charge to each advisory body specifying the body's subject matter jurisdiction.

1. Council Advisory Committees

- a. Advisory committees are standing committees created by rule of court or the Chief Justice to make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:
 - i. Identifying issues and concerns affecting court administration and recommending solutions to the council.
 - ii. Proposing necessary changes to rules, standards, and forms.
 - iii. Reviewing pending legislation and making recommendations to the Policy Coordination and Liaison Committee on whether to support or oppose it.
 - iv. Recommending new legislation to the council.

- v. Recommending to the council pilot projects and other programs to evaluate new procedures or practices.
 - vi. Acting on assignments referred by the council or an internal committee.
 - vii. Making other appropriate recommendations to the council.
- b. Advisory committees are assigned annual charges by the council or an internal committee specifying what should be achieved in a given year. The council or an internal committee may amend an advisory committee's annual charge at any time.
- c. Advisory committees have limited discretion to pursue matters in addition to those specified by the council in each committee's annual charge, as long as the matters are consistent with a committee's general charge, within the limits of resources available to the committee, and within any other limits specified by the council, the designated internal committee, or the Administrative Director of the Courts.
- d. Advisory committee chairs are responsible, with the assistance of staff, to:
- i. Develop a realistic annual agenda for the advisory committee, consistent with the committee's annual charge by the Judicial Council or Judicial Council internal committee;
 - ii. Present the advisory committee's recommendations to the Judicial Council;
 - iii. Discuss with the Administrative Director or his/her designee appropriate staffing and other resources for projects within the advisory committee's agenda; and
 - iv. Submit recommendations with respect to advisory committee membership.
- e. The Administrative Director is not bound by the recommendations of an advisory committee and may make alternative recommendations to the Judicial Council or recommend that an advisory committee's annual charge be amended.
- f. Staff report to the Administrative Director of the Courts. Decisions or instructions of an advisory body or its leader are not binding on the staff except in instances when the council or the Administrative Director has specifically authorized such exercise of authority.

2. Council Task Forces and Other Advisory Bodies

The Chief Justice, Judicial Council, or the Administrative Director of the Courts may establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council's standing advisory committees. These task forces and other advisory bodies may be required to report to one of the council's internal committees or the Administrative Director, as designated in the charge.

II. Council-Staff Relationship

A. Unity of Control

1. The Judicial Council appoints an Administrative Director of the Courts who serves at the pleasure of the council and performs functions prescribed by the California Constitution and delegated by the council and the Chief Justice. Adopting rules of court administration, practice, and procedure is not delegated to the Administrative Director.
2. Officially passed motions of the council, and decisions and instructions of the Chief Justice, are binding on the Administrative Director. Decisions or instructions of individual council members or internal and advisory bodies are binding on the Administrative Director if the council or its Chair has specifically delegated such exercise of authority.
3. The Administrative Director, under the supervision of the Chief Justice, employs, organizes, and directs a staff agency, known as the Administrative Office of the Courts. The Administrative Office of the Courts assists the council and its Chair in carrying out their duties under the Constitution and laws of the State of California.
4. The Administrative Director is responsible for staff performance and has sole authority to assign, supervise, and direct staff. The Administrative Director is responsible for ensuring the completeness and quality of reports and other work product presented to the council. Council members may from time to time request information or assistance from staff, unless in the Director's opinion such requests require an unreasonable amount of staff time or become disruptive. Council members and advisory body members may individually provide information to the Administrative Director on the performance of staff and the Administrative Office of the Courts.

The Administrative Director is responsible for allocating financial and other resources of the Administrative Office of the Courts to achieve the goals of the Judicial Council and to implement the council's policies.

B. Relationship of the Administrative Director to the Council's Internal Committees and Advisory Bodies

The Administrative Director, as Secretary to the council, may attend and participate in the meetings of each internal committee.

The Administrative Director determines whether projects undertaken by council advisory bodies in addition to those specified in the council's annual charge to the advisory body are consistent with the body's general charge, its approved annual agenda, and the Judicial Council's strategic plan. The Administrative Director also determines whether any additional matters are within the body's authorized budget and available resources.

C. Accountability of the Administrative Director

The Administrative Director is accountable to the council and the Chair for the performance of the Administrative Office of the Courts. The Administrative Director's charge is to accomplish the council's goals and priorities, while avoiding the use of illegal, imprudent, or unethical means.

The Administrative Director reports to the Judicial Council at least once annually on the progress made toward achieving the council's goals. When the council sets the direction on projects or programs that require more than one year to complete, the Administrative Director will report back to the council at regular intervals on status and significant developments.

D. Delegation to the Administrative Director

The Administrative Director may use any reasonable interpretation of Judicial Council policies to achieve the council's goals, consistent with the limitations from the council and the Chief Justice.

In carrying out these duties, the Administrative Director is responsible for allocating the financial and other resources of the Administrative Office of the Courts (including, for example, funding the operation of advisory bodies and other activities) to achieve the branch goals and policies adopted by the Judicial Council of California.