



JUDICIAL COUNCIL OF CALIFORNIA MEETINGS

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.6(a))

Ronald M. George State Office Complex

William C. Vickrey Judicial Council Conference Center

Malcolm M. Lucas Board Room

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

Thursday, April 25, 2013 • 1:30 p.m.–4:50 p.m.

Friday, April 26, 2013 • 8:30 a.m.–2:15 p.m.

Meeting materials will be hyperlinked to agenda titles as soon as possible after receipt by Judicial Council Support Services. Please check the agenda at <http://www.courts.ca.gov/21552.htm> for recent postings of hyperlinked reports.

THURSDAY, APRIL 25, 2013 AGENDA

OPEN MEETING (RULE 10.6(A))—EDUCATIONAL AND BUSINESS MEETING AGENDA (ITEMS 1–4)

- 1:30–1:35 p.m.** [Approval of Minutes](#)
Approve minutes of the February 25-26, 2013, Judicial Council meetings.
- 1:35–1:45 p.m.** **Chief Justice’s Report**
Chief Justice Tani G. Cantil-Sakauye will report.
- 1:45–1:55 p.m.** [Administrative Director’s Report](#)
Hon. Steven Jahr, Administrative Director of the Courts, will report.
- 1:55–2:15 p.m.** [Judicial Council Committee Presentations](#)
[under Committee Reports Tab]
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Executive and Planning Committee
 Hon. Douglas P. Miller, Chair
Rules and Projects Committee
 Hon. Harry E. Hull, Jr., Chair
Technology Committee
 Hon. James E. Herman, Chair

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

2:15–2:30 p.m. Judicial Council Members’ Liaison Reports
Judicial Council members will report on their liaison work.

2:30–3:00 p.m. Public Comment
[See Cal. Rules of Court, rules 10.6(d) and 10.6(e).]

Note: The Chief Justice has waived certain requirements under Rule 10.6(d) for requests to speak at this meeting. If you are requesting the opportunity to comment at the meeting, please e-mail your request to judicialcouncil@jud.ca.gov or mail or deliver your request to the Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102-3688, Attention: Nancy Carlisle. A request must pertain to a matter affecting judicial administration or an item on the business agenda and be received by **4 p.m., Tuesday, April 23, 2013**. In the request, please state:

- The speaker’s name, occupation, and (if applicable) name of the entity that the speaker represents;
- The speaker’s e-mail address, telephone number, and mailing address; and
- The agenda item on which the speaker wishes to comment. If the requestor wants to speak on a matter generally affecting judicial administration, state the nature of the comment in a few sentences.

Time is reserved for public comment about consent agenda items or matters generally affecting the administration of justice at the beginning of the meeting. Time is reserved for public comment about discussion agenda items at the beginning of the presentation on each item. The amount of time allocated to each speaker will be no more than five minutes, the specific time allocation to be determined based on the number of speakers and available time.

The Judicial Council is the policy-making body for the judicial branch. Comments pertaining to a specific court case will not be received.

Written Comments Received

Written comments pertaining to a matter affecting judicial administration or an item on this agenda may be e-mailed to judicialcouncil@jud.ca.gov or mailed or delivered to the Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102-3688, Attention: Nancy Carlisle.

Only written comments received by **1 p.m. on Wednesday, April 24, 2013**, will be distributed to council members at the meeting.

Break 3:00–3:15 p.m. (approx.)

Item 1 3:15–3:35 p.m.

Judicial Branch Procurement: California State Auditor March 2013 Audit Report (No Action Required)

The California State Auditor (Auditor) published an audit report assessing the implementation of the California Judicial Branch Contract Law (Law) on March 19, 2013 entitled *Judicial Branch Procurement: Six Superior Courts Generally Complied With the Judicial Branch Contracting Law, but They Could Improve Some Policies and Practices*. The Auditor reviewed the extent to which the applicable Judicial Branch Contracting Manual (Manual) was consistent with the Public Contract Code and whether the Manual was substantially similar to the State Administrative Manual and the State Contracting Manual, as required by law. The Auditor also assessed compliance with statute by the Administrative Office of the Courts (AOC) in its semi-annual reporting. The report contained ten recommendations and concluded that the six pilot courts generally complied with the Law and that the semi-annual reporting could be improved.

Public Comment and Presentation (10 minutes) • Discussion (10 minutes)

Speakers: Mr. Curt Soderlund, AOC Chief Administrative Officer
Mr. John A. Judnick, Internal Audit Services

Item 2 3:35–3:55 p.m.

Judicial Branch Court Facilities Construction Procurement: Legislative Analyst's Office March 2013 Report (No Action Required)

As required in Senate Bill 78, the Legislative Analyst's Office (LAO) prepared a comparison of the costs and timeliness of construction projects delivered by the judicial branch to those of similar projects completed by the Department of General Services (DGS). The LAO comparison report finds that the judicial branch generally delivered projects in a more timely manner, exceeded its budget less often, and incurred lower project management costs than did DGS.

Public Comment and Presentation (10 minutes) • Discussion (10 minutes)

Speaker: Mr. Curt Child, Chief Operating Officer

Item 3 3:55–4:20 p.m.

Judicial Council–Sponsored Legislation: Court Operational Efficiencies, Cost Savings, and New Revenue Proposals (Action Required)

The Policy Coordination and Liaison Committee recommends Judicial Council sponsorship of legislation related to six proposals for operational efficiencies, cost savings, and new revenue.

Public Comment and Presentation (15 minutes) • Discussion (10 minutes)

Speakers: Mr. Cory T. Jasperson, Office of Governmental Affairs
Ms. Andi Liebenbaum, Office of Governmental Affairs

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

Item 4 4:20–4:50 p.m.

Judicial Branch Administration: Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups (Action Required)

The council’s Executive and Planning Committee (E&P), Rules and Projects Committee (RUPRO), and Technology Committee recommend that the council approve recommendations to improve the governance, structure, and organization of its advisory groups. Some recommendations assign oversight of advisory groups when previously unclear. Others recommend the merger of existing groups or functions, while others recommend that certain groups sunset. Others recommend that certain task forces and working groups become standing advisory committees, with explicit council oversight and rotating appointments, and with nominations solicited publicly. These three internal council committees also recommend the council clarify that advisory groups should solicit the approval of the assigned council oversight committee before creating subcommittees or subgroups and adding new projects and that the council, through its internal committees, regularly review the governance, structure, and organization of its advisory groups. Implementing these recommendations will set priorities and direction for the council’s advisory group function and will improve the council’s oversight of the advisory groups and the AOC.

Public Comment and Presentation (15 minutes) • Discussion (15 minutes)

Speakers: Hon. Douglas P. Miller, Chair, Executive and Planning Committee
 Hon. Harry E. Hull, Jr., Chair, Rules and Projects Committee
 Hon. James E. Herman, Chair, Technology Committee.

FRIDAY, APRIL 26, 2013 AGENDA—BUSINESS MEETING

CONSENT AGENDA (ITEMS A–N)

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 A–H RULES AND FORMS

Civil and Small Claims

Item A Civil Practice and Procedure: Change in Computation Method for Garnishing Wages (Action Required)

The Civil and Small Claims Advisory Committee recommends revising *Earnings Withholding Order* (Wage Garnishment) (form WG-002), to implement recent statutory changes to the method of computing the maximum amount of a judgment debtor's earnings that may be garnished under an earnings withholding order. Assembly Bill 1775 (Wieckowski; Stats., ch. 474, 2012) mandates that the Judicial Council revise the instructions to employer concerning these computation by July 1, 2013.

Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee

Staff: Ms. Anne Ronan, Legal Services Office

Item B Civil Practice and Procedure: Forms and Rules for Disability Access Litigation (Action Required)

The Civil and Small Claims Advisory Committee recommends adopting two new disability access litigation forms for use in construction-related accessibility claims and revising three of the disability access litigation forms adopted effective January 1, 2013. The revisions are to correct statutory cross-references and to revise the directions for serving the forms to reflect the longer service time in new rules that the committee is recommending at the same time. The new forms are for parties to apply for and the court to set mandatory evaluation conferences in such actions. The committee also recommends revising the advisory form that attorneys are required to send out regarding such claims. All the forms are mandated by Senate Bill 1186 (Steinberg and Dutton; stats. 2012, ch. 383), enacted in September 2012 to promote compliance with the state's disability access laws and deter unwarranted litigation in that area.

Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee

Staff: Ms. Anne Ronan, Legal Services Office

Item C Civil Practice and Procedures: Memorandum of Garnishee (Action Required)

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

The Civil and Small Claims Advisory Committee recommends revising the Memorandum of Garnishee (form AT-167/EJ-152) to comply with the requirements under recently enacted Assembly Bill 2364 (Wagner; Stats. 2012, ch. 484). AB 2364 amends the statutory requirements regarding what statements must be included in the memorandum of a garnishee served in response to a writ of attachment or a writ of execution. The current form will be inconsistent with law if it is not revised. The committee also recommends some additional revisions at the same time, changing the formatting of the caption and file-stamp boxes on the form to the current format for Judicial Council forms that are not recorded, and adding items to include the names of the garnishee and the judgment debtor.

Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee

Staff: Ms. Anne Ronan, Legal Services Office

Criminal Justice

Item D Criminal Justice Realignment: Minimum Contents of Parole Revocation Reports (Action Required)

The Criminal Law Advisory Committee recommends amendments to rule 4.541 of the California Rules of Court to apply its minimum content requirements to parole revocation reports as required by Penal Code section 3000.08(f).

Hon. Tricia Ann Bigelow, Chair, Criminal Law Advisory Committee

Staff: Mr. Arturo Castro, Criminal Justice Court Services Office

Family and Juvenile Law

Item E Family Law: Disclosure of Assets and Debts (Action Required)

The Family and Juvenile Law Advisory Committee and the Elkins Family Law Implementation Task Force recommend amending rule 5.77 and revising forms FL-140, FL-141, FL-107-INFO, FL-800, and FL-810 to reflect amendments to Family Code section 2104 (Assem. Bill 1406; Stats. 2011, ch. 107) that took effect on January 1, 2013, relating to service of a preliminary declaration of disclosure. The committee and task force also recommend revising forms FL-160 and FL-161 for parties to use to comply with the requirements to disclose assets and debts and to request a default judgment in an action for dissolution, legal separation, or nullity. In addition to revising forms FL-800 and FL-810 to comply with the new disclosure requirements of Family Code section 2104, the committee and task force recommend revising them to reflect an increase in the published limits for community and separate property assets based on a change in the California Consumer Price Index.

Hon. Kimberly J. Nystrom-Geist and Hon. Dean Stout, Cochairs, Family and Juvenile Law Advisory Committee

Hon. Laurie D. Zelon, Chair, Elkins Family Law Implementation Task Force

Staff: Ms. Gabrielle Selden, Center for Families, Children & the Courts

Item F Family Law: Rules and Forms for Domestic and Intercountry Adoptions (Action Required)

The Family and Juvenile Law Advisory Committee recommends adopting three rules of court and one Judicial Council form to clarify the requirements for courts conducting adoptions under the Hague Adoption Convention and revising two additional Judicial Council forms for use in all adoption proceedings. Revisions to the affected forms are also needed to conform to new legislation: Assembly Bill 687, which allows the court to issue orders of adoption *nunc pro tunc* in certain cases; and Assembly Bill 1757, which amends and adds sections relating to adoption in the Family Code. The committee also recommends revisions in response to many suggestions received from courts and other users to make the forms both easier to use and more comprehensive.

Hon. Kimberly J. Nystrom-Geist and Hon. Dean Stout, Cochairs, Family and Juvenile Law Advisory Committee

Staff: Ms. Christine Cleary, Center for Families, Children & the Courts

Item G Juvenile Law: Indian Child Welfare Act in Delinquency Cases (Action Required)

The Family and Juvenile Law Advisory Committee and the Tribal Court/State Court Forum recommend amending rules 5.480–5.482, 5.530, and 5.785 of the California Rules of Court following the California Supreme Court’s decision in *In re W.B.* (2012) 55 Cal.4th 30, issued August 6, 2012, which requires revisions to the California Rules of Court governing the application of the Indian Child Welfare Act (ICWA) and corresponding provisions of the Welfare and Institutions Code in juvenile wardship proceedings. As currently written, the rules mandate compliance with all of the substantive ICWA requirements in any juvenile wardship proceeding when the child is in foster care or at risk of entering foster care. This is inconsistent with the holding in the *W.B.* decision.

Hon. Kimberly J. Nystrom-Geist and Hon. Dean Stout, Cochairs, Family and Juvenile Law Advisory Committee

Hon. Richard C. Blake and Hon. Dennis M. Perluss, Cochairs, Tribal Court/State Court Forum

Staff: Ms. Ann Gilmour, Center for Families, Children & the Courts

Miscellaneous

Item H Rules and Forms: Miscellaneous Technical Changes (Action Required)

Various Judicial Council advisory committee members, court personnel, members of the public, and AOC staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the rules and forms name and numbering systems, as well as changes resulting from legislation. The AOC recommends making the necessary corrections to avoid confusion for court users, clerks, and judicial officers.

Staff: Ms. Deborah Brown and Ms. Susan R. McMullan, Legal Services Office

Item I Report to the Legislature: Findings From the SB 678 (California Community Corrections Performance Incentives Act of 2009) Program (Action Required)

The AOC recommends that the Judicial Council receive the Report on the California Community Corrections Performance Incentives Act of 2009: Findings From the SB 678 Program and direct the Administrative Director of the Courts to submit this report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the AOC is required to submit a comprehensive report on the implementation of the act—including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration—no later than 18 months after the initial receipt of funding under the act and annually thereafter. The report was developed in consultation with the Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California.

Hon. J. Richard Couzens (Ret.), Advisory Criminal Law Advisory Committee

Staff: Mr. Curtis L. Child, Chief Operating Officer

Ms. Shelley Curran, Criminal Justice Court Services Office

Item J Child Support: Midyear Funding Reallocation for Fiscal Year 2012–2013 and Base Funding Allocation for Fiscal Year 2013–2014 for the Child Support Commissioner and Family Law Facilitator Program (Action Required)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the reallocation of funding for the Child Support Commissioner and Family Law Facilitator Program for the remainder of fiscal year 2012–2013. Additionally, the committee recommends that the Judicial Council approve the allocation of funding for this same program for fiscal year 2013–2014, as required by Assembly Bill 1058 (Stats. 1996, ch. 957). The funds are provided through a cooperative agreement between the California Department of Child Support Services and the Judicial Council. At midyear, under an established procedure described in the standard agreement with each superior court, the Judicial Council 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 that year. The courts are also offered an option to use local court funds up to an approved amount to draw down, or qualify for, federal matching funds.

Hon. Kimberly J. Nystrom-Geist and Hon. Dean Stout, Cochairs, Family and Juvenile Law Advisory Committee

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

Item K Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and the Administrative Office of the Courts (AOC) recommend that the Judicial Council accept the audit report entitled *Performance Audit of the Superior Court of California, County of Los Angeles*. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Hon. Richard D. Huffman, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch

Staff: Mr. John A. Judnick, Internal Audit Services

Item L Judicial Branch Report to the Legislature: Annual Report of Fiscal Year 2011–2012 Court Facilities Trust Fund Expenditures (Action Required)

The AOC recommends approving the Annual Report of Fiscal Year 2011–2012 Court Facilities Trust Fund Expenditures. Government Code section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

Staff: Mr. Zlatko Theodorovic and Ms. Lisa Crownover, Fiscal Services Office

Item M Judicial Branch Report to the Legislature: Electronic Recording (Action Required)

The AOC recommends approving the Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (July 1–December 31, 2012). Government Code section 69958 requires that the Judicial Council report to the Legislature semiannually regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

Staff: Mr. Zlatko Theodorovic and Mr. Patrick Ballard, Fiscal Services Office

Item N Report to the Legislature and the Department of Finance: 2 Percent Set-Aside of the Trial Court Trust Fund (Action Required)

The AOC recommends that the Judicial Council approve the Report on the Allocation of the 2 Percent Set-Aside of the Trial Court Trust Fund for fiscal year (FY) 2012–2013. Government Code section 68502.5(c)(2)(C) requires that the Judicial Council report to the Legislature and the Department of Finance each fiscal year regarding all requests and allocations made from the 2 percent set-aside of the Trial Court Trust Fund to the superior courts.

Staff: Mr. Zlatko Theodorovic and Mr. Patrick Ballard, Fiscal Services Office

Mr. Jake Chatters, Executive Officer, Superior Court of Placer County
Mr. John Fitton, Executive Officer, Superior Court of San Mateo County
Ms. Linda Romero-Soles, Executive Officer, Superior Court of Merced County

Lunch 12:45–1:15 p.m. (approx.)

Item Q 1:15–2:00 p.m.

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

A&E and the AOC recommend that the Judicial Council accept the audit report entitled *Audit of the OCCM, Facilities Management Unit – Compliance Audit of Management and Maintenance Services Contracts (2006 through 2011)*. The Facilities Management Unit of the former Office of Court Construction and Management is now part of the Office of Real Estate & Facilities Management. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Public Comment and Presentation (15 minutes) • Discussion (30 minutes)

Speakers: Hon. Richard D. Huffman, Chair, Advisory Committee on Financial
Accountability and Efficiency for the Judicial Branch
Mr. John A. Judnick, Internal Audit Services

Item R 2:00–2:15 p.m.

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

A&E and the AOC recommend that the Judicial Council accept the audit report that pertains to Alameda Superior Court. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Public Comment and Presentation (5 minutes) • Discussion (10 minutes)

Speakers: Hon. Richard D. Huffman, Chair, Advisory Committee on Financial
Accountability and Efficiency for the Judicial Branch
Ms. Pat Sweeten, Executive Officer (ret.), Superior Court of Alameda County
Mr. John A. Judnick, Internal Audit Services

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

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

INFO 1 Judicial Council: Implementation of Judicial Council Directives on AOC Restructuring

The chair of E&P presents this informational report on the implementation of the AOC Restructuring Directives, as approved by the Judicial Council on August 31, 2012. The AOC Restructuring Directives specifically direct the Administrative Director of the Courts to report to E&P before each council meeting on every directive. This informational report provides an update on the progress of implementation efforts.

INFO 2 Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 18)

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 18th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, seven superior courts—those of Los Angeles, San Bernardino, Kings, Tehama, Orange, Imperial, and Kern Counties—have issued new notices.

INFO 3 Trial Courts: Enhancing Language Access Services for Limited-English-Proficiency Court Users

In September 2011, the State Justice Institute awarded the AOC a grant to study language access services in California courts. The goal of the study was to identify tools, resources, best practices, and strategies other courts may want to replicate. The AOC contracted with the University of California, Hastings College of the Law to conduct the study using the Public Law Research Institute, part of UC Hastings' Center for State and Local Government Law. The attached report, "Enhancing Language Access Services for Limited-English-Proficiency Court Users," describes the study's results.

Circulating Orders since the last business meeting
[Circulating Orders Tab]

Appointment Orders since the last business meeting
[Appointment Orders Tab]