

**JUDICIAL COUNCIL MEETING**  
**Minutes of January 31, 2001, Meeting**

The Judicial Council of California meeting began at 2:30 p.m. on Wednesday, January 31, 2001, at the Hyatt Regency, San Diego, California, on the call of Chief Justice Ronald M. George, Chair.

**Judicial Council members present:** Chief Justice Ronald M. George; Justices Richard D. Aldrich, Marvin R. Baxter, Carol A. Corrigan, and Richard D. Huffman; Judges Gail A. Andler, Aviva K. Bobb, Leonard P. Edwards, Brad R. Hill, Donna J. Hitchens, Steven E. Jahr, Ana Maria Luna, Ronald B. Robie, Ronald M. Sabraw, and Ronald L. Taylor; Mr. Michael Case, Ms. Pauline W. Gee, and Mr. Rex Heeseman; and **advisory members:** Judges William C. Harrison and Wayne L. Peterson, Commissioner Bobby R. Vincent, Mr. Frederick K. Ohlrich, Mr. Arthur Sims, and Mr. Alan Slater.

**Absent:** Mr. John J. Collins, Senator Martha Escutia, and Assembly Member Darrell Steinberg.

**Others present included:** Mr. William C. Vickrey; Judges Fernando Becerra, Jr., Frederick Paul Horn, Jerold A. Krieger, and Roberta McPeters; Ms. Tamara Beard, Ms. Beth Jay, Mr. Guido F. Pensicone, Mr. Mel Toomer; **staff:** Mr. Clifford Alumno, Ms. Deirdre Benedict, Mr. Michael Bergeisen, Mr. James Carroll, Ms. Roma Cheadle, Ms. Rita Finchum, Ms. Janet Grove, Mr. José Guillén, Ms. Tina Hansen, Ms. Whitnie Henderson, Ms. Susan Hough, Ms. Kate Howard, Ms. Melissa Johnson, Mr. Gavin Lane, Mr. Ray LeBov, Mr. Lee Morhar, Mr. Ronald Overholt, Ms. Dale Sipes, Ms. Marlene Smith, Ms. Marcia Taylor, Ms. Karen Thorson, and Ms. Arline Tyler; **media representative:** Ms. Donna Domino, *L.A. Daily Journal*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated January 31, 2001, which was sent to members in advance of the meeting.)

### **Council Committee Presentations**

#### *Executive and Planning Committee*

Justice Richard D. Huffman, chair, reported that the Executive and Planning Committee had met twice since the last council meeting to set the agenda for today's council meeting, review a proposal on refinements to the trial court budget development process, and certify Kings County's unification vote.

#### *Policy Coordination and Liaison Committee*

Justice Marvin R. Baxter, chair, reported that the Policy Coordination and Liaison Committee had not met since the last council meeting. Justice Baxter stated that Chief Justice Ronald M. George's State of the Judiciary address to the joint session of the Legislature is scheduled for March 20, 2001. As in the past, the Judicial Council will host

the seventh annual judicial-legislative-executive forum immediately following the address. The forum is an informational event for legislators, the Governor, and executive branch staff.

*Rules and Projects Committee*

Judge Steven E. Jahr, chair, reported that the Rules and Projects Committee had met once since the last council meeting to discuss the rule-making process. The committee also discussed the council's action at the October 27, 2000, meeting, changing the word *shall* to *must* in item 9. The committee interpreted the council's action as indicating its intent to make that change throughout the rules. Hence, the Rules and Projects Committee will develop a protocol for bringing about such a change.

**CONSENT AGENDA**

**ITEM 1 JUDICIAL COUNCIL-SPONSORED LEGISLATION**

**Item 1A Satisfaction of Judgment (Code Civ. Proc., § 685.030(e))**

Code of Civil Procedure section 685.030(e) permits a court clerk to enter a satisfaction of judgment in a limited civil case when the only amount left unsatisfied is an interest deficit of \$10 or less. This provision originally applied only in municipal courts and was recently amended consistent with trial court unification. It was initially enacted to alleviate an administrative problem related to the accumulation of small amounts of interest between the time the writ of execution was served and the receipt of proceeds.

On the recommendation of the Civil and Small Claims Advisory Committee, and as a result of a study by the committee in conjunction with the California Law Revision Commission, the Policy Coordination and Liaison Committee proposes sponsoring legislation to amend the relevant code to permit the clerk of the court to enter a satisfaction of judgment in unlimited cases as well as in limited cases.

*Council action:*

The Judicial Council approves sponsoring legislation in 2001 to amend Code of Civil Procedure section 685.030 to permit the clerk of the court to enter a satisfaction of judgment when the only amount left owing is interest of \$10 or less in unlimited cases as well as in limited cases.

**Item 1B Pleading Personal Injury and Wrongful Death Damages (Code Civ. Proc., §§ 425.10, 425.11)**

A complaint or cross-complaint for personal injury or wrongful death that demands money or damages may not state the amount of the demand except in a limited civil case. Prior to legislation implementing Proposition 220 (trial court unification) in 1998, this

provision applied only in superior courts, but it was amended to accommodate unification.

The exception for limited civil cases may be unnecessary and create confusion for practitioners, especially where the courts are unified. Eliminating the exception would unify procedures according to the type of case rather than jurisdictional classification.

The Civil and Small Claims Advisory Committee and the Policy Coordination and Liaison Committee propose that the council sponsor legislation to amend the Code of Civil Procedure to eliminate the exception for limited civil cases.

*Council action:*

The Judicial Council approves sponsoring legislation to amend Code of Civil Procedure sections 425.10 and 425.11, which would conform the pleading requirements in limited and unlimited civil cases for personal injury and wrongful death actions.

**Item 1C      Family Law and Domestic Violence Cleanup (Code Civ. Proc., §§ 527.6, 527.8; Fam. Code, § 3060; Welf. & Inst. Code, § 15657.03)**

The courts may issue restraining orders under various laws. Each of the laws now has slightly different notice requirements and other substantive provisions. The Policy Coordination and Liaison Committee proposes technical and substantive changes to sections of the Code of Civil Procedure, Family Code, and Welfare and Institutions Code to bring them into conformity with changes in child custody and domestic violence laws of the past several years.

*Council action:*

The Judicial Council approves sponsoring legislation in 2001 to amend Code of Civil Procedure sections 527.6 and 527.8, Family Code section 3060, and Welfare and Institutions Code section 136.57.03 to conform the notice requirements and other provisions in civil harassment, workplace violence, and elder abuse restraining orders to those set forth in the Domestic Violence Protection Act (DVPA) and to make other technical changes. The council directs the Policy Coordination and Liaison Committee to approve the specific language of the legislation.

**ITEM 2      STRATEGIC/LONG-RANGE PLAN FOR JUDICIAL BRANCH EDUCATION**

Under rule 6.50 of the California Rules of Court, The Governing Committee of the Center for Judicial Education and Research (CJER) is required to annually present to the Judicial Council for adoption a long-range plan that sets forth the development of

educational programs, publications, and other services based on the Governing Committee's assessment of the needs of judicial officers and court staff.

*Council action:*

The Judicial Council adopts the 2001 Strategic/Long-Range Plan for Judicial Branch Education as presented.

## **DISCUSSION AGENDA**

### **ITEM 3      SEXUAL ORIENTATION FAIRNESS IN THE CALIFORNIA COURTS**

Judge Frederick Paul Horn, Chair of the Access and Fairness Advisory Committee, Judge Jerold A. Krieger, Chair of the Subcommittee on Sexual Orientation Fairness, and Ms. Arline Tyler, committee counsel, presented the report. Judge Horn reported that the council directed the Subcommittee on Sexual Orientation Fairness of the Access and Fairness Advisory Committee to examine issues of bias related to sexual orientation in the courts and report back to the council.

Ms. Tyler pointed out that the work of the subcommittee is related to fairness efforts across the country and that these efforts are endorsed and encouraged by the Conference of Chief Justices.

Judge Horn referred council members to the subcommittee's report *Sexual Orientation Fairness in the California Courts*, which was based on the survey results and consultants' analysis. Using information obtained from five focus group meetings involving legal professionals, held from January to June 1996, two groundbreaking surveys about sexual orientation and the courts were conducted: one of gay and lesbian court users and the other of court employees, some of whom identified themselves as bisexual, lesbian, or gay.

Judge Krieger commented that the report is the most comprehensive document ever written on this sensitive issue. It is the first of its kind in the nation and unique in its approach and results. He reviewed the report's recommendations, which include:

- Disseminating the report widely;
- Suggesting that courts providing training for court managers and staff on sexual orientation fairness; and
- Directing CJER to consider developing training for judges and court staff on sexual orientation fairness.

*Council action:*

Justice Huffman moved that the Judicial Council:

1. Receive the report *Sexual Orientation Fairness in the California Courts* and approve its wide dissemination to the judiciary, court employees, and the public.
2. Recommend that the trial and appellate courts take the following actions with respect to the internal administration of the courts:
  - a. Include in personnel policies a prohibition against bias on the basis of sexual orientation and procedures to respond to allegations of such bias and prevent retaliation against those reporting such bias;
  - b. Provide training in sexual orientation fairness for court managers and staff;
  - c. Take reasonable steps, as permitted by law, to obtain a diverse pool of applicants, including gay men and lesbians, for court positions; and
  - d. Monitor progress made toward achieving sexual orientation fairness in the internal administration of the court, and provide means for court staff to communicate their views on these issues to court management.
3. Recommend that the trial and appellate courts take the following actions with respect to the administration of the dispute resolution process:
  - a. Provide training in sexual orientation fairness for judges, subordinate judicial officers, and alternative dispute resolution neutrals;
  - b. Provide training for court staff on sexual orientation fairness in their dealings with the public; and
  - c. Monitor progress made toward achieving sexual orientation fairness in the dispute resolution process, and provide the means for members of the public to communicate their views on these issues to court management.
4. Direct the Administrative Director of the Courts to assist the courts in these efforts by providing appropriate technical support.
5. Direct CJER to consider recommendations 1 through 10 of the report (page 40) and incorporate them into its programs or plans as appropriate.
6. Direct the Access and Fairness Advisory Committee to consider recommendations 11 through 21 of the report (pages 41–42) and incorporate them into future work plans, as appropriate, for review by the Rules and Projects Committee.

The motion passed.

**Circulating Order Approved**

**Circulating Order CO-00-12: Revise Uniform Bail and Penalty Schedules**

For information only; no action necessary.

## **Appointment Orders**

For information only; no action necessary.

The meeting was adjourned at 3:10 p.m.

Respectfully submitted,

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William C. Vickrey  
Secretary

## Strategic/Long-Range Plan for Judicial Branch Education

### Introduction

In October 1999, a team of seven individuals represented California at the National Symposium on the Future of Judicial Branch Education. This three-day conference focused on how judicial branch education can meet the changing needs of the courts in the next 10 to 20 years. Themes from the conference included the shortened useful life of current information, changing state and national demographics, the impact of science and technology, and the empowering of the individual due to technological access to information and services. The California team developed a five-part “futures plan” that was outlined in a report to the Chief Justice:

- **Court Employee University:** CJER might sponsor courses offered through the California university system, with degree programs and research opportunities.
- **24-Hour, 7-Day-per-Week Education on Demand:** Using all available technology and self-study methodology, court personnel will be able to access information and educational programs at their convenience.
- **Personal Education Plans:** CJER could encourage and facilitate the creation of individualized education and development plans that also measure the impact and success on the individual’s job performance.
- **Court-Community Collaboration:** Judicial Branch Education will include input from and about communities and will also serve in an outreach capacity to the public.
- **Integrated Technology Education:** The creative uses of technology in judicial and staff education will be continuously considered and implemented.

In preparation for an annual strategic planning meeting, the CJER Governing Committee conducted an in-state “Futures Conference” in June 2000. In addition to the CJER Governing Committee, the chairs of Judicial Council Advisory Committees and other identified stakeholders were invited to participate. Through plenary sessions and small work groups, conference participants identified several critical issues:

- Providing the same educational opportunities for all judicial branch employees.
- Coping with an abundance of information that can quickly become obsolete.
- Using technology to meet the educational needs of learners.
- Identifying and preserving the core values of the judiciary.
- Encouraging and ensuring participation in education by judges that goes beyond the compulsory.
- Effectively serving a population that is becoming more diverse.
- Attracting and retaining excellent judges and workforce.
- Ensuring better public understanding of the role and limitation of the judiciary.
- Addressing the educational needs of judges in new areas of responsibility, such as that of an employer.

Using information and results from the national and state conferences, the CJER Governing Committee devoted a full day to developing a strategic plan that takes a new approach. The new plan, based on the Judicial Council's strategic plan, takes into account changes that will be caused by future trends and issues.

This strategic/long-range plan will serve as the basis for a more detailed operational plan that includes obstacles and challenges for each desired outcome, actions to be taken to overcome those obstacles, target dates to achieve the desired outcomes, and responsible individuals. The operational plan will be available in January 2001.

The six major areas in which desired outcomes have been identified are:

1. Local Court Role in Education and Training
2. Enhancing Core Values and Subject Matter Competence of Judicial Officers
3. Partnering
4. Improved Service to the Public
5. Court as Employer
6. Education Technology

Desired outcomes identified during strategic planning that are beyond the scope of the CJER Governing Committee are included at the end of this document. They will be referred to the appropriate AOC Division for consideration.

## 1. Local Court Role in Education and Training

### Desired Outcomes

#### 1.1 Outreach to Increase Participation in Judicial Branch Education

##### A. Increased participation by judges

- Shared presiding judge philosophy and support for participation in education:
  - Participant
  - Faculty
  - Committee work
- Participation by every judicial officer:
  - Stronger participation standards
  - Shared “core value” of life-long learning

##### B. Increased participation by court personnel

- Continuous “bottom up” needs assessment
- Training and education tied to advancement and recognition:
  - Shared “core value” regarding career development
  - Curricula designed for local delivery

#### 1.2 Development and Delivery of Education Programs at the Local Level

##### A. Locally hosted programs involving multiple jurisdictions

##### B. Training coordinator in every county and court

- Training for all levels of personnel at the local level
- Innovative and individualized programs
- Mechanisms in place to provide for:
  - Sharing of best practices
  - Sharing of educational resources

#### 1.3 Development of CJER Resources to Support and Serve Local Court Training

##### A. Products developed to support local training

- Curriculum guides for local use
- Train-the-trainer programs
- Clearing house for resources

##### B. Staffing in place to support local training

*Judicial Council goals addressed:*

*Goal II – Independence and Accountability*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

## 2. Enhancing Core Values and Subject Matter Competence of Judicial Officers

Desired Outcomes

### **2.1 Complete Curriculum for Judicial Officers From Entry-Level to Career Mastery**

#### **A. Educational designs for each legal area:**

- Civil
- Criminal
- Family
- Juvenile
- Other

#### **B. Educational designs for each target audience:**

- Presiding judges
- Retired judges
- Others

#### **C. Curriculum designs for fairness, ethics, and technology considerations as both free-standing venues and incorporated into substantive areas**

### **2.2 Comprehensive Online Resources Available to Judges on Demand**

#### **A. Forums for timely access to information:**

- Current issues
- Changes in the law

#### **B. Reference and resource materials online (including benchguides)**

### **2.3 Judicial Participation in Education at Optimal Level (Supported by Policy and Practice)**

#### **A. Judges at all stages of career participate in programs designed for them**

#### **B. Education focused on complete role of the judicial officer:**

- Judicial competence, maintaining judicial independence, and promoting public trust and confidence
- Expanded view of the role of the judge in the court, community, and justice system

*Judicial Council goals addressed:*

*Goal I – Access and Fairness*

*Goal II – Independence and Accountability*

*Goal III – Modernization*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

*Goal VI – Technology*

### 3. Partnering

#### Desired Outcomes

#### **3.1 Partnering as Primary Strategy for All Projects to Leverage CJER Resources**

- A. Criteria adopted for establishing partnerships and evaluating success**
- B. Program for inviting outsiders to review programs and provide feedback**
- C. Shared space and resources with established partners**

#### **3.2 CJER Collaboration With External Partners**

- A. Ongoing relationships to leverage resources with:**
  - Businesses
  - Businesses or other organizations that can offer technological help
  - Academic institutions
  - In-state and out-of-state government agencies
  - National judicial education organizations
  - Other state judicial education organizations
- B. Exchange programs with other states for cross-pollination of ideas**
- C. Certification and degree programs with academic institutions for court staff**
- D. CJER as a repository and resource center for information available from potential partners**

#### **3.3 CJER Collaboration With Internal Partners**

- A. Partnerships with local courts for programs and resources**
  - Program allowing fellowships, internships, job trading, and sharing of job knowledge
  - Systems to provide networking among local courts:
    - Training coordinators
    - Conferences, bulletin boards, online communities, and other communication on the Web
- B. Partnerships with other divisions within AOC**
  - Share resources and knowledge
  - Cooperate on projects with educational impact and implications
  - Consult on educational processes

*Judicial Council goals addressed:*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

*Goal VI – Technology*

## 4. Improved Service to the Public

### Desired Outcomes

#### **4.1 Education of Judicial Officers and Court Staff on Better Service to the Public**

##### **A. Development and delivery of education programs on better service to the public**

- State-based
- Local court:
  - Train-the-trainer programs from CJER
  - Web-based and/or broadcast opportunities through CJER

#### **4.2 Comprehensive Treatment of Core Themes in Educational Venues**

##### **A. Access and fairness a primary focus**

- A comprehensive curriculum is in use (state and local)
- Issues integrated into all substantive courses
- Treated as a core value of judicial officers' and court staff's job skills
- Foreign language education for court staff

##### **B. Public trust and confidence a primary focus**

- Emphasis on improved court service through understanding the public's needs
- Enhanced judicial competence that results in reduced public criticism and increased public support:
  - Education on judge's role in staff training and education
  - Education on judge's role in community

*Judicial Council goals addressed:*

*Goal I – Access and Fairness*

*Goal II – Independence and Accountability*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

## 5. Court as Employer

### Desired Outcomes

#### **5.1 Executive and Management Development Regarding Leadership Roles**

##### **A. “Business track” curriculum**

- Training for presiding judges and executive officers in labor negotiations
- Curriculum for judicial administration and leadership

##### **B. Role of presiding judge seen as leader of change in courts**

- Judge’s role in strategic planning and related decision making
- Judge’s role regarding responsibility for court staff behavior

##### **C. Judicial executive and management program strongly recommended prerequisite before becoming presiding judge**

#### **5.2 Attracting and Retaining Judicial Officers and Staff**

##### **A. Education to highlight court roles**

- Morale building to attract and retain judges:
  - Role-enhancing programs
  - Programs for full judicial career
- Morale enhancement techniques effectively used:
  - Management and supervisory training
  - Programming on the worth of jobs in the court system

##### **B. Educational policies and practices that highlight respect for employees’ roles**

#### **5.3 Education for Court Staff**

##### **A. CJER facilitates statewide training efforts**

- CJER serves as model for internal staff development program
- Coordinated statewide effort in sharing education and training resources, such as staff and programs

##### **B. Education for court staff seen as professional development and employee incentive (progression management)**

- Court staff understand the big picture and the importance of their jobs in the overall court system
- Sensitivity training as employee discipline and opportunity

*Judicial Council goals addressed:*

*Goal II – Independence and Accountability*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

## 6. Education Technology

### Desired Outcomes

#### **6.1 Delivery of Education via Technology**

##### **A. Local courts share local training resources using technology**

- CJER as hub for Web-based network
- CJER as hub for training coordinator network to support local training and sharing of local resources among courts

##### **B. Technology the number one delivery mechanism for all education programs and services**

- Internal education for committees and staff regarding use of technology as delivery mechanism
- Entry-level and core training programs for staff delivered by distance learning technology
- Web-based program materials available on demand for all programs
- Broadcast studio and local downlink sites in regular use
- CJER as clearinghouse for local court technology innovation concerning education

#### **6.2 Competence in Use of Technology by Judicial Branch**

##### **A. Current standards in the use of technology part of best practice education**

##### **B. Focus on technology as a needed skill for judges and court staff**

- High level of proficiency using current technology by judicial officers and staff
- Technology woven into fabric of appropriate substantive education venues

*Judicial Council goals addressed:*

*Goal II – Independence and Accountability*

*Goal III – Modernization*

*Goal IV – Quality of Justice and Service to the Public*

*Goal V – Education*

***Goal VI – Technology***

## Desired Outcomes Beyond the Scope of CJER

### Partnering

#### ➤ **Educate Legislature**

- Take opportunities to inform Legislature of what is being done
- Use those opportunities to advocate for adequate funding stream

### Improved Service to the Public

#### ➤ **Public Education About the Court System**

- Participation in community outreach programs is seen as a legitimate and important function by judicial officers and court staff  
Increased involvement of judicial officers and court staff in community outreach activities
- Ongoing public education needs assessment is conducted
- Coordinated development of programs with other branches and agencies  
AOC and CJA partnership on public education
- Clearinghouse of effective public education programs created and maintained
- Independent decision making of the judiciary is strengthened

#### ➤ **Increase Public Understanding of Court Process by Addressing Demographic Changes**

- Courts have a mission statement that includes access and fairness
- Local court committees address access and fairness issues proactively
- Increased percentage of bilingual and multilingual court staff

### Court as Employer

- **Court employees' salaries and benefits comparable to county and other state employees' wages**
- **Technology that is current with private sector**
- **Statewide approach to recruitment of court staff; community college and high school outreach (with sensitivity to diversity issues)**
- **Standards to help presiding judge and assistant presiding judge interview and select chief executive officer**

## Education Technology

### ➤ **Comprehensive and Uniform Technical Services Available Statewide**

- Technology to reach learners at their location
- Information access with 24/7 availability and just in time (*i.e.*, current information available all the time)
- Uniform access to hardware and a statewide technology infrastructure
- Court information shared with other agencies
- Technology to educate public and provide access to court information