

Invitation to Comment

Title	Court-Appointed Temporary Judges: Recruitment, Selection, and Appointment of Temporary Judges (amend Cal. Rules of Court, rules 10.741 and 10.743)
Summary	To ensure and improve the quality of temporary judges in California, the Judicial Council previously adopted a comprehensive set of rules relating to court-appointed temporary judges. This proposal would amend rule 10.741 on the duties of the presiding judges. The new provisions are intended to ensure and promote equal access and nondiscrimination in the recruitment, selection, and appointment of temporary judges who serve the courts and the public. Rule 10.743 on the duties of the Temporary Judge Administrator would be amended to contain a cross-reference to the new provisions in rule 10.741.
Source	Staff of the Administrative Office of the Courts Office of the General Counsel
Staff	Patrick O’Donnell, Supervising Attorney, Office of the General Counsel, 415-865-7665, patrick.o’donnell@jud.ca.gov
Discussion	<p><u>The Proposals</u> This proposal would amend two rules relating to the administration of programs for court appointed temporary judges. The proposed amendments are intended to ensure and promote equal access and nondiscrimination in the recruitment, selection, and appointment of temporary judges.¹</p> <p><i>Rule 10.741. Duties and authority of the presiding judge</i> Currently, rule 10.741(a) provides that the presiding judge is responsible for the recruitment, selection, training, appointment, supervision, assignment, performance, and evaluation of court-appointed temporary judges. It further provides that the presiding</p>

¹ When the Judicial Council adopted the comprehensive rules on court-appointed temporary judges, it discussed the issue of diversity in the recruitment and selection of temporary judges. It directed the Working Group to look into this question. The idea for this proposal was developed by the Temporary Judges Working Group, along with the companion proposal relating to the application of the temporary judge rules to retired judicial officers. Staff has prepared and recommends the specific text for the proposal that is circulated in this Invitation to Comment.

judge, in carrying out these responsibilities, is assisted by the Temporary Judge Administrator.

This proposal would add two new subdivisions to rule 10.741. These new subdivisions concern nondiscrimination in the recruitment, application, and selection in the appointment of court-appointed temporary judges. They are based on standard 10.21 of the Standards of Judicial Administration. Subdivisions (b) and (c) of that standard concern nondiscrimination in the recruitment, application, and selection of court-appointed attorneys, arbitrators, mediators, referees, masters, and receivers. The standard, however, does not address court-appointed temporary judges. The proposal would adapt the provisions from standard 10.21(b)–(c) to court-appointed temporary judges and place the provisions in rule 10.741(b)–(c).

Specifically, new subdivision (b) would concern nondiscrimination in recruitment. It would provide that courts should conduct a recruitment procedure for temporary judges by publicizing the existence of its temporary judges program at least once annually through state and local bar associations, including specialty bar associations. This publicity should encourage and provide an opportunity for all eligible individuals, regardless of gender, race, ethnicity, disability, sexual orientation, or age, to seek positions as court-appointed temporary judges. Each trial court should also use such other methods of publicizing its program that maximize the opportunity for a diverse applicant pool.

Comments are invited in whether this provision on recruitment should be modified. For instance, should subdivision (b) provide a different timeframe for recruitment efforts than “at least once annually” or modify the list of bar groups (perhaps, eliminating the reference to state associations since most recruitment efforts will be local)? In other words, should some specific provisions be changed or others added? Or, alternatively, should the rule be revised to be more general and more flexible?

The proposal would also add a new subdivision (c) on nondiscrimination in the application and selection procedures for temporary judges. This provision would require the court to conduct an application procedure that ensures that the most qualified applicants for appointment are selected regardless of gender, race, ethnicity, disability, sexual orientation, and age. Comments are also invited on

this subdivision.

Rule 10.743. Administration of temporary judges program

Rule 10.743(b) includes a list of the duties of the Temporary Judge Administrator who is responsible for the management of the court's temporary judges program. A cross-reference in subpart (b)(3) would be amended to read: "(3) Assisting the presiding judge in the recruitment and selection of attorneys to serve as temporary judges, as provided in rule 10.741" (new text underlined). This cross-reference will clarify the duties of the Temporary Judge Administrator regarding the recruitment and selection of temporary judges under amended rule 10.741.

Attachment

Rules 10.741 and 10.743 of the California Rules of Court would be amended, effective January 1, 2009, to read as follows:

1 **Rule 10.741. Duties and authority of the presiding judge**

2
3 **(a) General duties**

4
5 The presiding judge is responsible for the recruitment, selection, training,
6 appointment, supervision, assignment, performance, and evaluation of court-
7 appointed temporary judges. In carrying out these responsibilities, the presiding
8 judge is assisted by the Temporary Judge Administrator as provided in rule 10.743.
9

10 **(b) Nondiscrimination in recruitment**

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12 Each trial court that uses court-appointed temporary judges should conduct a
13 recruitment procedure for temporary judges that publicizes the existence of its
14 temporary judge program at least once annually through state and local bar
15 associations, including specialty bar associations. This publicity should encourage
16 and provide an opportunity for all eligible individuals, regardless of gender, race,
17 ethnicity, disability, sexual orientation, or age, to seek positions as court-appointed
18 temporary judges. Each trial court also should use other methods to publicize its
19 program that maximize the opportunity for a diverse applicant pool.
20

21 **(c) Nondiscrimination in application and selection procedure**

22
23 Each trial court that uses court-appointed temporary judges should conduct an
24 application and selection procedure for temporary judges that ensures that the most
25 qualified applicants for an appointment are selected, regardless of gender, race,
26 ethnicity, disability, sexual orientation, or age.
27

28 ~~(b)~~**(d)** * * *

29
30
31 **Rule 10.743. Administrator of temporary judges program**

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33 **(a)** * * *

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35 **(b) Duties of administrator**

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37 Under the supervision of the presiding judge, the Temporary Judge Administrator is
38 responsible for the management of the temporary judges program in the court. The
39 administrator's duties include:
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(1)–(2) * * *

(3) Assisting the presiding judge in the recruitment and selection of attorneys to serve as temporary judges, as provided in rule 10.741;

(4)–(11) * * *

Item SPR08-28 Response Form

Title: Court-Appointed Temporary Judges: Recruitment, Selection, and Appointment of Temporary Judges (amend Cal. Rules of Court, rules 10.741 and 10.743)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*