

AMENDMENT TO THE CALIFORNIA RULES OF COURT
Adopted by the Judicial Council on November 19, 2021, effective January 1, 2022

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1 **Appendix I**

2 **Emergency Rules Related to COVID-19**

3
4 **Emergency rule 3. Use of technology for remote appearances**

5
6 **(a) Remote appearances**

7
8 Notwithstanding any other law, in order to protect the health and safety of the
9 public, including court users, both in custody and out of custody defendants,
10 witnesses, court personnel, judicial officers, and others, courts must conduct
11 ~~judicial~~ criminal proceedings and court operations as follows:

- 12
13 (1) Courts may require that ~~judicial~~ criminal proceedings and court operations be
14 conducted remotely.
15
16 (2) In criminal proceedings, courts must receive the consent of the defendant to
17 conduct the proceeding remotely and otherwise comply with emergency rule
18 5. Notwithstanding Penal Code sections 865 and 977 or any other law, the
19 court may conduct any criminal proceeding remotely. As used in this rule,
20 “consent of the defendant” means that the consent of the defendant is
21 required only for the waiver of the defendant’s appearance as provided in
22 emergency rule 5. For good cause shown, the court may require any witness
23 to personally appear in a particular proceeding.
24
25 (3) Conducting criminal proceedings remotely includes, but is not limited to, the
26 use of video, audio, and telephonic means for remote appearances; the
27 electronic exchange and authentication of documentary evidence; e-filing and
28 e-service; the use of remote interpreting; and the use of remote reporting and
29 electronic recording to make the official record of an action or proceeding.
30

31 *(Subd (a) amended effective January 1, 2022.)*

32
33 **(b) Sunset of rule**

34
35 This rule will remain in effect until 90 days after the Governor declares that the
36 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
37 repealed by the Judicial Council.
38

39 *Emergency Rule 3 amended effective January 1, 2022.*

40
41 *Appendix I amended effective November 13, 2020; adopted effective April 6, 2020; previously*
42 *amended effective April 17, 2020, April 20, 2020, June 20, 2020, and August 13, 2020.*

1 **Standard 10.20. Court’s duty to ~~prohibit~~ prevent bias**

2
3 (a) ~~General~~Statement of purpose

4 The California judicial branch is committed to ensuring the integrity and
5 impartiality of the judicial system and to court interactions free of bias and the
6 appearance of bias. Consistent with this commitment, each court should work
7 within its community to improve dialogue and engagement with members of
8 various cultures, backgrounds, and groups to learn, understand, and appreciate the
9 unique qualities and needs of each group.

10
11 *(Subd (a) amended effective January 1, 2022; previously amended effective January 1,*
12 *1994, January 1, 1998, and January 1, 2007.)*

13
14 **(b) Duty to ensure integrity and impartiality of the judicial system**

15
16 Each court, its judicial officers, and its employees have the duty to ~~preserve~~ ensure
17 the integrity and impartiality of the judicial system, ~~each judge should.~~

18
19 ~~(1)~~ Ensure fairness

20
21 ~~Ensure that courtroom proceedings are conducted in a manner that is fair and~~
22 ~~impartial to all of the participants.~~

23
24 ~~(2)~~(1) Refrain from and ~~prohibit~~ prevent biased conduct

25
26 In all ~~courtroom proceedings~~ court interactions, each court, its judicial
27 officers, and its employees should refrain from engaging in conduct and
28 ~~prohibit~~ should take action to prevent others from engaging in conduct that
29 exhibits bias, including but not limited to bias based on age, ancestry, color,
30 ~~ethnicity, disability,~~ gender, gender expression, gender identity, genetic
31 information, marital status, medical condition, military or veteran status,
32 national origin, physical or mental disability, political affiliation, race,
33 religion, sex, ethnicity, and sexual orientation, socioeconomic status, and any
34 other classification protected by federal or state law, including Government
35 Code section 12940(a) and Code of Judicial Ethics, canon 3(B)(5), whether
36 that bias is directed toward counsel, court ~~personnel~~ staff, witnesses, parties,
37 jurors, or any other ~~participants~~ person. The court, judicial officers, and court
38 employees may consider such classifications only if necessary or relevant to
39 the proper exercise of their adjudicatory or administrative functions.

40
41 ~~(2)~~ Ensure fairness

1 Each judicial officer should ensure that courtroom interactions are conducted
2 in a manner that is fair and impartial to all persons.

3
4 (3) *Ensure unbiased decisions*

5
6 Each judicial officer should ensure that all orders, rulings, and decisions are
7 based on the sound exercise of judicial discretion and the balancing of
8 competing rights and interests and are not influenced by stereotypes or
9 biases.

10
11 *(Subd (b) adopted effective January 1, 2022.)*

12
13 ~~(b)~~(c) Creation of local or regional committees on bias

14
15 ~~Each court should establish a local committee with local bar associations to assist~~
16 ~~in maintaining a courtroom environment free of bias or the appearance of bias.~~
17 ~~Courts within one or more counties may choose to form a single committee. To~~
18 ~~assist in providing court interactions free of bias and the appearance of bias, courts~~
19 ~~should collaborate with local bar associations to establish a local or regional~~
20 ~~committee. Trial courts may choose to form a regional committee. Appellate courts~~
21 ~~may choose to form separate or joint appellate court committees or join a trial court~~
22 ~~committee or regional committee formed by or composed of trial courts within the~~
23 ~~appellate courts' districts. The local~~ Each committee should:

24
25 (1) Be composed of representative members of the court community, including
26 but not limited to ~~judges~~ judicial officers, lawyers, court administrators, ~~and~~
27 ~~representative and individuals who interact with the court and reflect and~~
28 ~~represent the diverse and various needs and viewpoints of court users from~~
29 ~~minority, women's, and gay and lesbian bar associations and from~~
30 ~~organizations that represent persons with disabilities;~~

31
32 (2) Sponsor or support educational programs designed to eliminate unconscious
33 and explicit biases within the court and legal communities, ~~including but not~~
34 ~~limited to bias based on disability, gender, race, religion, ethnicity, and~~
35 ~~sexual orientation; and~~ Education is critical to developing an awareness of
36 the origins of bias and the impact of bias on individuals, culture, and society.
37 Education should include:

38
39 (A) Information as to bias based on the protected classifications listed in
40 (b)(1);

41
42 (B) Information regarding how unconscious and explicit biases based on
43 these classifications develop, how to recognize unconscious and

1 explicit biases, and how to address and eliminate unconscious and
2 explicit biases; and

3
4 (C) Other topics on bias relevant to the local community informed by the
5 committee's independent assessment of the unique educational needs in
6 that community.

7
8 (3) ~~Develop and maintain an informal procedure for receiving complaints~~
9 ~~relating to bias in the courtroom, including but not limited to bias based on~~
10 ~~disability, gender, race, religion, ethnicity, and sexual orientation. Engage in~~
11 ~~regular outreach to the local community to learn about issues of importance~~
12 ~~to court users. Specifically, committee members should be encouraged to:~~

13
14 (A) Inform local community groups regarding the committee's activities;
15 and

16
17 (B) Seek information from the local community regarding concerns as to
18 bias in court interactions and how the court can address those concerns.

19
20 *(Subd (c) amended and relettered effective January 1, 2022; adopted as Subd (b) effective*
21 *January 1, 1994; previously amended effective January 1, 1998, and January 1, 2007.)*

22
23
24 ~~(e)(d) Minimum components of a complaint procedure~~ Providing information regarding
25 complaint procedures

26
27 ~~An informal complaint procedure developed and maintained by a local committee~~
28 ~~on bias should:~~

29
30 (1) ~~Contain a provision specifying that the intent of the procedure is to educate~~
31 ~~with the purpose of ameliorating the problem rather than disciplining the~~
32 ~~person who is the subject of the complaint;~~

33
34 (2) ~~Accommodate local needs and allow for local flexibility;~~

35
36 (3) ~~Apply to all participants in courtroom proceedings;~~

37
38 (4) ~~Apply only to complaints as to which the identity of the complainant is~~
39 ~~known;~~

40
41 (5) ~~To the extent possible and unless disclosure is required by law, protect the~~
42 ~~confidentiality of the complainant, the person who is the subject of the~~
43 ~~complaint, and other interested persons;~~

- 1
2 ~~(6) Relate to incidents of behavior or conduct occurring in courtroom~~
3 ~~proceedings;~~
4
5 ~~(7) Apply to incidents of bias whether they relate to race, sex, religion, national~~
6 ~~origin, disability, age, sexual orientation, or socioeconomic status;~~
7
8 ~~(8) Contain a provision that exempts activities constituting legitimate advocacy~~
9 ~~when matters of race, sex, religion, national origin, disability, age, sexual~~
10 ~~orientation, or socioeconomic status are relevant to issues in the courtroom~~
11 ~~proceeding;~~
12
13 ~~(9) Focus on incidents that do not warrant discipline but that should be corrected;~~
14
15 ~~(10) With respect to those incidents that if substantiated would warrant discipline,~~
16 ~~advise the complaining party of the appropriate disciplinary authority;~~
17
18 ~~(11) Contain a provision specifying that nothing in the procedure in any way~~
19 ~~limits the ability of any person to submit a complaint of misconduct to the~~
20 ~~appropriate disciplinary body; and~~
21
22 ~~(12) To the extent possible and unless disclosure is required by law, prohibit~~
23 ~~retention of written records of complaints received but permit collection of~~
24 ~~data on types of complaints or underlying anecdotes that might be useful in~~
25 ~~educational programs.~~

26
27 Each court should effectively communicate to its court users regarding existing
28 procedures to submit complaints of bias in court interactions based on protected
29 classifications, as listed in (b)(1). This should include information regarding how to
30 submit complaints about court employees directly to the court and how to submit
31 complaints about judicial officers either directly to the court or to the Commission
32 on Judicial Performance. Possible methods of communication include providing
33 this information on the court website, including the information in the court’s local
34 rules, displaying the information in courthouses, or any other similar method to
35 ensure that courts are providing complaint procedure information to court users in a
36 meaningful and accessible manner.

37
38 *(Subd (d) amended and relettered effective January 1, 2022; adopted as Subd (c) effective*
39 *January 1, 1994; previously amended effective January 1, 2007.)*

40
41 ~~(d)~~(e) Application of local rules
42

1 The existence of the local committee, and its purpose, and the features of the
2 informal complaint procedure should be memorialized in the applicable local rules
3 of court.

4
5 *(Subd (e) amended and relettered effective January 1, 2022; adopted as Subd (d) effective*
6 *January 1, 1994; previously amended effective January 1, 2007.)*

7
8 **(f) Implementation**

9
10 All courts should implement the recommendations of this standard as soon as
11 possible.

12
13 *(Subd (f) adopted effective January 1, 2022.)*

14
15 *Standard 10.20 amended effective January 1, 2022; adopted as sec. 1 effective January 1, 1987;*
16 *previously amended effective January 1, 1994, and January 1, 1998; amended and renumbered*
17 *effective January 1, 2007.*

18
19 **Advisory Committee Comment**

20
21 **Subdivision (b).** An earlier version of this standard referred to the “court’s duty to prohibit bias.”
22 The word “prohibit” has been replaced with “prevent” in the title of the standard and in
23 subdivision (b), such that the standard now asks courts, judicial officers, and court employees to
24 take actions to prevent bias rather than prohibit bias. This change reflects a more comprehensive
25 approach in how courts are to combat bias, focusing on understanding the many forms, causes,
26 and impacts of bias rather than simply forbidding it. Preventing bias may include, for example,
27 prohibiting bias; encouraging judicial officers, employees, and court users to report bias; being
28 open to discussing and learning from real misunderstandings and instances of unconscious bias;
29 and focusing on robust education regarding how unconscious and explicit biases develop, how to
30 recognize them, and how to address and eliminate bias.

31 The judicial officer duties stated in this subdivision are consistent with the California Code of
32 Judicial Ethics, which addresses judicial officer responsibilities for performing judicial duties
33 without bias, prejudice, or harassment (canon 3(B)(5)); for requiring attorneys in proceedings
34 before the judicial officer to refrain from manifesting bias, prejudice, or harassment (canon
35 3(B)(6)); for discharging judicial administrative duties without bias or prejudice (canon 3(C)(1));
36 and for requiring staff and court personnel under the judicial officer’s control to refrain from
37 manifesting bias, prejudice, or harassment in the performance of their duties (canon 3(C)(3)).

38 An earlier version of this standard applied solely to judges and referred to “courtroom
39 proceedings.” “Judge” has been expanded to “judicial officers,” which includes all judges as
40 defined by California Rules of Court, rule 1.6, and all appellate and Supreme Court justices. The
41 expanded phrase broadly covers any judge, justice, subordinate judicial officer, or temporary
42 judge who might conduct a courtroom proceeding. Additionally, in subdivision (b)(1),

1 “courtroom proceedings” has been changed to “court interactions” to expand the scope of
2 proceedings and actions covered by this standard to include not only proceedings occurring in
3 courtrooms but also interactions in other areas of the court, including in the clerk’s office and at
4 public counters.

5 **Subdivision (d).** An earlier version of this standard encouraged local bias committees to create
6 informal complaint procedures for court users and members of the public to submit complaints
7 regarding bias in court proceedings. The recommendation that local bias committees create
8 informal complaint procedures has been eliminated in large part because of the many existing and
9 updated avenues for making complaints regarding bias in court interactions, and to avoid creating
10 conflicts between those procedures. For example, the authority and procedures for addressing
11 complaints concerning judicial officers and subordinate judicial officers are outlined in rules
12 10.603 and 10.703 of the California Rules of Court and canon 3(D) of the California Code of
13 Judicial Ethics. Similarly, rules 10.351 and 10.610 of the California Rules of Court, as well as
14 Government Code section 71650 et seq., include authority and complaint resolution processes for
15 addressing complaints against court employees. In practice, courts have developed robust
16 procedures for addressing such complaints against judicial officers, subordinate judicial officers,
17 and court employees, and the Commission on Judicial Performance provides detailed information
18 on its website at cjp.ca.gov about how to file complaints and the procedures it employs for
19 addressing such complaints.

20 In addition to the concerns regarding duplicative and conflicting complaint procedures, the
21 recommendation that local bias committees adopt informal complaint procedures created
22 additional concerns. For example, the earlier version of the standard envisioned using informal
23 complaint procedures to resolve incidents that do not warrant formal discipline; however, it is
24 often difficult to determine at the outset if a complaint is disciplinary in nature or can be
25 ameliorated by education. Other due process concerns were raised that local committees were not
26 necessarily resourced to make these determinations, and may not have had the expertise to
27 investigate and resolve these complaints. Additional concerns were raised that having local
28 committees oversee complaints against judicial officers and court employees created privacy and
29 confidentiality concerns for both complainants and respondents because any inquiry by a local
30 bias committee would be known and resolved by a group of local attorneys, judicial officers, and
31 other committee members who would necessarily need to know the particular facts of the
32 complaint, thereby significantly expanding the number of local individuals who were aware of the
33 existence or details of the complaint. Ethical concerns were also raised for judicial officers who
34 were members of the local bias committees because judicial officers who become aware of
35 complaints against other judicial officers may have ethical obligations that require them to take
36 appropriate corrective action, which may include reporting the information to the presiding judge
37 or justice or the Commission on Judicial Performance. Finally, there were concerns that local bias
38 committee complaint procedures would conflict with existing personnel policies and labor
39 relations agreements if the local committee attempted to resolve complaints against court
40 employees outside of the procedures outlined in these policy documents.

41 This standard does not prevent courts and local or regional bias committees from choosing to
42 create informal complaint resolution procedures. Some local bias committees have established

1 effective informal complaint resolution procedures for resolving complaints against judicial
2 officers, and each local court and local or regional bias committee should work to find solutions
3 that work best for that local community. If so, they should fully consider how best to address the
4 above concerns. Because of the specific labor and employment laws governing courts and court
5 employees, including the direction provided in rule 10.351 of the California Rules of Court, and
6 the fact that courts already have personnel policies and memorandums of understanding that
7 govern complaints against court employees, having local or regional bias committees resolve
8 complaints against court employees is not recommended.