



California Rules of Court

Rule 10.60. Tribal Court-State Court Forum

(a) Area of focus

The forum makes recommendations to the council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.

(b) Additional duties

In addition to the duties described in rule 10.34, the forum must:

- (1) Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;
- (2) Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions;
- (3) Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court-state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;
- (4) Recommend appropriate activities needed to support local tribal court-state court collaborations; and
- (5) Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.

(c) Membership

The forum must include the following members:

- (1) Tribal court judges or justices selected by tribes in California, as described in (d), but no more than one tribal court judge or justice from each tribe;
- (2) At least three trial court judges from counties in which a tribal court is located;
- (3) At least one appellate justice of the California Courts of Appeal;
- (4) At least one member from each of the following committees: the Access and Fairness Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Governing Committee of the Center for Judicial Education and Research, Probate and Mental Health Advisory Committee, and Traffic Advisory Committee; and
- (5) As ex officio members, the Director of the California Attorney General's Office of Native American Affairs and the Governor's Tribal Advisor.

The composition of the forum must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts.

(d) Member Selection

- (1) The Chief Justice appoints all forum members, except tribal court judges and tribal court justices, who are appointed as described in (2).
- (2) For each tribe in California with a tribal court, the tribal leadership will appoint the tribal court judge or justice member to the forum consistent with the following selection and appointment process.
 - (A) The forum cochaIRS will notify the tribal leadership of a vacancy for a tribal court judge or justice and request that they submit names of tribal court judges or justices to serve on the forum.
 - (B) A vacancy for a tribal court judge or justice will be filled as it occurs either on the expiration of a member's term or when the member has left the position that qualified the member for the forum.
 - (C) If there are more names of tribal court judges and justices submitted by the tribal leadership than vacancies, then the forum cochaIRS will confer and decide which tribal court judges or justices should be appointed. Their decision will be

based on the diverse background and experience, as well as the geographic location, of the current membership.

(e) Cochairs

The Chief Justice appoints a state appellate justice or trial court judge and a tribal court appellate justice or judge to serve as cochairs, consistent with rule 10.31(c).

Rule 10.60 adopted effective October 25, 2013.

Judicial Council Comment

Tribes are recognized as distinct, independent political nations (see *Worcester v. Georgia* (1832) 31 U.S. 515, 559, and *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 55, citing *Worcester*), which retain inherent authority to establish their own form of government, including tribal justice systems. (25 U.S.C.A. § 3601(4).) Tribal justice systems are an essential part of tribal governments and serve to ensure the public health and safety and the political integrity of tribal governments. (25 U.S.C.A. § 3601(5).) Traditional tribal justice practices are essential to the maintenance of the culture and identity of tribes. (25 U.S.C.A. § 3601(7).)

The constitutional recognition of tribes as sovereigns in a government-to-government relationship with all other sovereigns is a well-established principle of federal Indian law. (See *Cohen's Handbook of Federal Indian Law* (2005) p. 207.) In recognition of this sovereignty, the council's oversight of the forum, through an internal committee under rule 10.30(d), is limited to oversight of the forum's work and activities and does not include oversight of any tribe or tribal court.