

ACTIVITY REPORTING AND PROPOSAL FORM

JUDICIAL COUNCIL DIRECTIVES AOC RESTRUCTURING

DATE	3/27/2013
PREPARED BY	Chad Finke
OFFICE NAME	<u>Court Operations Special Services Office</u>
JUDICIAL COUNCIL DIRECTIVE NUMBER	74
JUDICIAL COUNCIL DIRECTIVE	E&P recommends that the Judicial Council direct the Administrative Director of the Courts that activities related to the education and training of Appellate Court Justices in the COSSO should be consolidated with the Education Division/CJER.
SEC RECOMMENDATION	Some COSSO staff are engaged in activities relating to the education and training of Appellate Court Justices. These functions should be consolidated with the Education Division/CJER.
RESPONSE (check applicable boxes)	
<input type="checkbox"/> This directive has been completed and implemented:	
<input type="checkbox"/> File Attachment	
<input checked="" type="checkbox"/> This directive is forwarded to the Judicial Council with options for consideration:	
As detailed in the attached memorandum, the Administrative Presiding Justices of the Courts of Appeal request that the Judicial Council reconsider and rescind directive 74.	
 Memo from APJs to JC re directive 74 (appellate education consolidation) - FINAL.docx Microsoft Office Word Document 93.3 KB	
<input type="checkbox"/> Other:	
<input type="checkbox"/> File Attachment	
TIMELINE AND RESOURCES FOR IMPLEMENTATION	

IMPLEMENTATION DATE OR PROJECTED IMPLEMENTATION DATE	Because the option proposed by the Administrative Presiding Justices proposes maintaining the status quo, it could be implemented at any time. As discussed in the attached memorandum, implementing the directive as written would require time to (a) move appellate court educational funds from the Court Operations Special Services Office (COSSO) to CJER, and (b) train CJER staff in the appropriate administration of those funds.
RESOURCES REQUIRED FOR IMPLEMENTATION	Fiscal Services Office staff time would be required to move the affected appellate court funds into the CJER budget. In addition, staff time for COSSO, the Courts of Appeal and Supreme Court, and CJER would be required in order to ensure that CJER staff understand the administration of those funds and to develop a fund administration coordination protocol as between COSSO and CJER.
ADDITIONAL IMPLEMENTATION INFORMATION (complete only applicable sections)	
<input checked="" type="checkbox"/> PROCEDURES/ POLICIES UPDATED OR DEVELOPED	The option proposed by the Administrative Presiding Justices would not require the development or updating of any procedures or policies. <input type="text" value="File Attachment"/>
<input type="checkbox"/> TRAINING UPDATED OR DEVELOPED	<input type="text"/> <input type="text" value="File Attachment"/>
<input type="checkbox"/> SAVINGS	<input type="text"/> <input type="text" value="File Attachment"/>
<input checked="" type="checkbox"/> COST	The option proposed by the Administrative Presiding Justices would not entail any additional costs, either in money or in staff resources. <input type="text" value="File Attachment"/>
<input checked="" type="checkbox"/> EFFICIENCIES	As detailed in the attached memorandum, the Administrative Presiding Justices believe that the option proposed in the attached memorandum is significantly more efficient than would be implementing directive 74 as currently written. <input type="text" value="File Attachment"/>
<input checked="" type="checkbox"/> SERVICE LEVEL IMPACT	The option proposed by the Administrative Presiding Justices would not impact service levels to either the appellate or the trial courts. <input type="text" value="File Attachment"/>
<input type="checkbox"/> OTHER	<input type="text"/> <input type="text" value="File Attachment"/>
ADMINISTRATIVE DIRECTOR OF THE COURTS (ADOC) REVIEW AND APPROVAL	
ADOC REVIEW	Administrative Director of the Courts Review Date: <input type="text" value="4/10/2013"/>

EXECUTIVE AND PLANNING (E&P) COMMITTEE REVIEW

E&P REVIEW

Executive and Planning Review Date: 4/17/2013



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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MEMORANDUM

Date	Action Requested
March 18, 2013	Modify Directive 74 from August 31, 2012
To	Deadline
Members of the Judicial Council	At your convenience
From	Contact
Administrative Presiding Justices of the California Courts of Appeal	Chad Finke, Director Court Operations Special Services Office 415-865-8925 phone chad.finke@jud.ca.gov
Subject	
Judicial Council Directive Re Possible Consolidation of AOC Services Pertaining to Appellate Court Continuing Education	

The purpose of this memorandum is to request that the Judicial Council reconsider and rescind its directive 74 regarding restructuring of the Administrative Office of the Courts (AOC), which was presented by the Executive and Planning Committee (E&P) and approved by the council at its meeting of August 31, 2012. Directive 74 concerns the AOC's provision of continuing education services to the appellate courts, and reads:

E&P recommends that the Judicial Council direct the Administrative Director of the Courts that activities related to the education and training of Appellate Court Justices should be consolidated with the Education Division/CJER.

Directive 74 arises from an earlier recommendation, number 7-15, of the Strategic Evaluation Committee (SEC), which reads:

Some COSSO [Court Operations Special Services Office] staff are engaged in activities relating to the education and training of Appellate Court Justices. These functions should be consolidated with the Education Division/CJER.

While the Administrative Presiding Justices of the California Courts of Appeal understand and support the goal of consolidating functions within the AOC where doing so will lead to greater efficiencies, the recommended consolidation regarding appellate court continuing education will not do so. As described below, the current division of functions between the Office of Appellate Court Services (OACS)¹ and the Center for Judiciary Education and Research (CJER) ensures that funds dedicated to various operational needs of the appellate courts (including continuing education) are managed by a single office, OACS. Rather than improving efficiency, moving the administration of appellate court funds dedicated to continuing education expenses out of OACS is likely instead to lead to inefficiencies in the overall management of the appellate courts' budgets and inconsistencies in how appellate court funds are spent. The Administrative Presiding Justices believe that once the council has been fully briefed on the current status quo and its historic development, it will understand that the current bifurcation of duties as between OACS and CJER is both logical and efficient.

Current status of AOC services re appellate court continuing education

Currently, both CJER and OACS play a role in ensuring that appellate court justices and staff receive the continuing education required under the California Rules of Court.

CJER. CJER staff, working with the CJER Governing Committee's Appellate Practice Curriculum Committee and its Trial and Appellate Court Operations Curriculum Committee, develops general curricula for appellate justices, appellate research attorneys, and appellate court staff. These two curriculum committees are responsible for making recommendations to the CJER Governing Committee about programs and education products for appellate justices, attorneys, and staff during a two year period. These recommendations are reviewed and approved by the Governing Committee. Once approved, CJER recruits faculty and delivers that education through many different venues, such as statewide programs, videoconferences, and webinars for appellate justices and research attorneys, as well as videoconferences and broadcasts for appellate court staff.² CJER develops and delivers this education in much the same manner as it does for CJER's many trial court audiences. Unlike those other audiences, however, CJER does not directly pay for the costs associated with these programs and products. Instead, OACS pays using funds specially set aside in its budget for that purpose, as discussed below.

OACS. OACS's role in appellate court continuing education is primarily fiscal in nature. Specifically, OACS manages approximately \$200,000 in funds which specifically set aside for use not only to fund statewide conferences for justices, appellate attorneys, and court staff in

¹ Please note that at the time the council issued Directive 74, the Court Operations Special Services Office (COSSO) contained an Appellate Court Services Unit (ACS), which was responsible for the functions now handled by OACS.

² As discussed below, CJER currently is not responsible for the curricula for statewide conferences for appellate court managers and staff, in years when those conferences are held.

years in which they occur, but also to reimburse appellate court justices and staff for attendance at other educational programs, i.e., programs not sponsored by the AOC. In addition to its overall fiscal administration role, OACS also develops curricula for, and provides staff support to, statewide conferences for appellate court managers, administrators, and staff, in years in which those programs are approved by the Administrative Presiding Justices. Development of those curricula used to be performed by CJER staff, similar to how the conferences for appellate justices and attorneys are currently handled. Due to staff limitations, however, CJER was unable to continue developing the curricula for the appellate managers and staff conferences; OACS's predecessor division took over those responsibilities in approximately 2005.

Historical development of the respective roles of CJER and OACS with respect to appellate court education³

Before trial court funding, one of the AOC's original primary functions was to serve as administrative support for the California Supreme Court and Courts of Appeal. This included providing core infrastructural support in the areas of human resources, finance, and information technology, for example. At that time, education and training for the appellate courts were also provided through the AOC's Human Resources and Information Services divisions. With trial court funding and the expansion in the AOC's role in supporting the superior courts, new funding sources were created for trial court support, including funding for trial court judicial and administrative education. The funding structure for appellate education was not merged into these other funding sources, however. Rather, appellate education continued to be funded with AOC General Fund monies or monies obtained either through approved Budget Change Proposals and/or re-direction of funds from the Courts of Appeal. Indeed, OACS or its predecessors have been responsible for managing redirected appellate court funds (and other funding) for those purposes for at least twenty years, i.e., since at least the early 1990s.⁴

Fortunately, as the AOC's education-related staffing increased, CJER was able to absorb the responsibility for developing and delivering more and enhanced education to appellate justices and attorneys, provided that these educational efforts continued to be funded from the existing funding sources managed by OACS and its predecessors. What has developed over time as a result is a collaborative relationship in which CJER has been primarily responsible for content development and delivery, while OACS remains responsible primarily for funding and budget management.

³ For ease of reading we have referred to each group by its current name. However, for purposes of historical discussion, both "CJER" and "OACS" should also be read as referring to the various predecessor offices/divisions/units of those two offices.

⁴ Readily available records go back only to 1993, at which time it was already established that OACS's predecessor was responsible for administering funds to cover the cost of appellate court continuing education.

The current status quo is efficient and preferable to the Courts of Appeal and Supreme Court

The SEC recommendation on which E&P's later recommendation and the council's ultimate directive were premised appears to presuppose that the current status quo is somehow inefficient, and that moving the fiscal management aspect of appellate court continuing education to CJER will improve efficiencies. The Administrative Presiding Justices of the Courts of Appeal do not agree.

Since the early 1990s, OACS and its predecessors have been responsible for monitoring and administering a significant amount of funds earmarked not only for appellate court continuing education, but for numerous appellate court-related services. Examples include both in- and out-of-state travel for appellate justices and staff; meetings of both the Administrative Presiding Justices Advisory Committee and the California Appellate Court Clerks Association; meetings and expenses of the Appellate Indigent Defense Oversight Advisory Committee (AIDOAC); and others. Further, in addition to the annual amount that OACS currently manages on behalf of the appellate courts for education- and travel-related expenses, the office also manages a substantial amount of appellate court funds—again, for the direct benefit of the appellate courts—that are earmarked for annual technology-related expenses. These include network server refreshes, maintenance renewals, and hosting the Appellate Court Case Management System (ACCMS). Staff in OACS are very familiar with the operations and, more importantly, the budgets of the six Courts of Appeal and the Supreme Court. Further, each fiscal year staff in OACS work directly with the courts and the AOC's Fiscal Services Office to identify possible year-end usages for any surplus in the court funds managed by OACS.

On the other hand, CJER staff have no current responsibility for managing appellate court funds, nor do they have staff with the requisite knowledge about the appellate courts' budgets that would allow for such management. Changing the status quo would, therefore, represent a significant change, in that it would require a new group of AOC staff members to learn the nuances of the appellate courts' budgets. These staff would also have to coordinate carefully with OACS staff to ensure accurate fiscal reporting to appellate court leadership. And mechanically, staff from the Fiscal Services Office would be required in advance to separate out an appropriate level of funds from the monies currently managed by OACS to allow CJER to pay for appellate educational events. In the event that all such funds were not utilized in a particular fiscal year—or if additional funds were needed—a mechanism and process would need to be developed for transferring those funds between CJER and OACS. All of the above would, in the view of the Administrative Presiding Justices, increase inefficiency and lead to greater uncertainty as to appellate court budgeting, which is contrary to the spirit of the SEC recommendation and the Judicial Council directive that followed.

Conclusion

The recent creation of OACS has, in and of itself, greatly improved the efficiency of interactions between that office and CJER. In connection with OACS's formation, CJER has identified two staff members to serve as the principal points of contact and OACS liaisons on appellate education-related issues. This will ensure that both offices—that is, the content-delivery team and the fiscal management team—are both well apprised as to what the other is working on vis-à-vis appellate education. The fact that OACS is also responsible for providing lead staff duties to the Administrative Presiding Justices and Clerk/Administrators will also ensure that education-related decisions from appellate court leadership and internal issues of concern to appellate court leadership are communicated back and forth in a timely and efficient manner.

Based on the above, the Administrative Presiding Justices of the six districts of the California Court of Appeal respectfully request that the Judicial Council reconsider and rescind directive 74.