

Judicial Council of California

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INVITATION TO COMMENT

SP14-06

Title	Action Requested
Judicial Administration: Rule for Trial Court Budget Advisory Committee	Review and submit comments by September 19, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.64	October 28, 2014
Proposed by	Contact
Executive and Planning Committee Hon. Douglas P. Miller, Chair	Susan R. McMullan, 415-865-7990 susan.mcmullan@jud.ca.gov

Executive Summary and Origin

This proposal would amend California Rules of Court, rule 10.64, the rule for the Trial Court Budget Advisory Committee, to make a change to the membership category for presiding judges. It would provide that “presiding judge,” as used in the rule, means a current presiding judge or an immediate past presiding judge.

Background

Effective February 20, 2014, the council adopted rule 10.64 setting out the area of focus, additional duties, and membership provisions for the Trial Court Budget Advisory Committee.

The Proposal

The primary amendment to rule 10.64

Rule 10.64(c) would be amended to allow an immediate past presiding judge to serve as a member. Membership on the advisory committee is limited to presiding judges and court executive officers. Under the current rule, a judicial officer member must be a current presiding judge, although the rule permits a presiding judge to complete his or her term on the advisory committee even if his or her term as presiding judge of a trial court ends. Thus, a presiding judge could be appointed to the advisory committee at the beginning of his or her first or second year as presiding judge and continue to serve the three-year advisory committee term after stepping down as presiding judge.¹ But the committee has found that a member’s experience as a presiding judge is invaluable and believes that allowing an immediate past presiding judge to be

¹ Most advisory committee terms are three years. “The Chief Justice appoints advisory committee members to three-year terms unless another term is specified in these rules.” (Cal. Rules of Court, rule 10.31(b).)

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

appointed would benefit the work of the committee and, ultimately, the Judicial Council, as it makes decisions about the allocation of funds to trial courts. Presiding judges and court executives, who lead and manage trial courts and are most familiar with and experienced in courts' needs and budgets, are essential to the committee's work and exclusively make up its membership. A court executive officer usually remains in that position for many years beyond the three-year membership term of the advisory committee and can therefore serve multiple terms, if appropriate. A presiding judge, by contrast, usually serves for two years in that capacity and can serve out only one advisory committee term before becoming ineligible under the current rule. The proposal would rectify this problem by allowing an immediate past presiding judge to serve. A judge who just completed a term as presiding judge would have recent experience in leading and managing a court and would be well aware of a court's current needs and challenges, while also being removed from the day-to-day leadership of a trial court. A judge in this position would benefit the committee.

Allowing an immediate past presiding judge to complete his or her term is important for continuity of committee membership and to avoid having three-year terms cut unexpectedly. The amendment is drafted to accomplish this goal. For example, an immediate past presiding judge could be appointed to the committee and be succeeded on the court by another presiding judge, who could be succeeded by another presiding judge, all during the initial judge's three-year membership term on the committee. In this example, the initial judge—who is serving on the committee—would no longer be an immediate past presiding judge. But because the proposal would define *presiding judge* as a “current presiding judge or an immediate past presiding judge,” and current rule 10.64 permits a presiding judge on the committee to complete his or her term even if his or her term as presiding judge of a trial court ends, a member in this circumstance could complete his or her committee term. That person would be within the rule's definition of presiding judge and could complete his or her term.

The motivation for this change is to increase the pool of presiding judge applications for upcoming nomination cycles. In the 2014–2015 cycle, the number of presiding judge applicants was insufficient for the number of available membership slots. The proposed change would address these recruitment issues as well as provide a mechanism, as noted above, for retaining critical budget knowledge acquired by presiding judges.

Other amendments to rule 10.64

Rule 10.64(c)(2) would also be amended to provide that no more than two members of the committee may be from the same court. Currently, the rule provides that a presiding judge and a court executive officer may not be from the same court. With the amendment that defines a presiding judge as a “current presiding judge or an immediate past presiding judge,” two presiding judges and a court executive officer from the same court could simultaneously serve on the committee unless subdivision (c)(2) is changed as proposed.

Subdivision (c)(5) would be amended to replace “Administrative Office of the Courts’ ” with “Judicial Council’s,” reflecting the recent retirement of the name Administrative Office of the

Courts and to replace “director of the fiscal services office” with “director of Finance” reflecting a change in the name of that office. Also, a change in the cochair structure would be made by deleting subdivision (d), which currently provides that “[t]he Chief Justice appoints a presiding judge and the Director of the Fiscal Services Office to serve as cochairs.” With this amendment, the director of Finance would no longer serve as cochair. The rule would not need a provision concerning the chair or cochairs of the committee because rule 10.31(c) addresses this issue for all advisory committees.

Alternatives Considered

The rule could remain unchanged but the committee would not gain the benefits of an immediate past presiding judge’s experience and knowledge.

Implementation Requirements, Costs, and Operational Impacts

Immediately after the rule is amended, a solicitation for nominations for membership would occur for a period of approximately two weeks. This would allow the appointment of members who are immediate past presiding judges, among other members. Members would likely be appointed by January 1, 2015, so that the Trial Court Budget Advisory Committee could begin meeting when the Governor releases the January budget proposal. This timeline would allow continuity in membership through the budget cycle so that the advisory committee could most effectively analyze the proposed trial court budget and assist in developing data necessary to support trial court budget advocacy efforts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the Executive and Planning Committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Cal. Rules of Court, rule 10.64, at page 4

Rule 10.64 of the California Rules of Court would be amended, effective December 12, 2014, to read:

1 **Rule 10.64. Trial Court Budget Advisory Committee**

2
3 **(a)–(b) * * ***

4
5 **(c) Membership**

- 6
7 (1) The advisory committee consists of an equal number of trial court presiding
8 judges and court executive officers reflecting diverse aspects of state trial
9 courts, including urban, suburban, and rural locales; the size and adequacy of
10 budgets; and the number of authorized judgeships. For purposes of this rule,
11 “presiding judge” means a current presiding judge or an immediate past
12 presiding judge.
13
14 (2) ~~A presiding judge and court executive officer~~ No more than two members
15 may be from the same court.
16
17 (3) The chairs of the Trial Court Presiding Judges Advisory Committee and the
18 Court Executives Advisory Committee serve as ex officio voting members.
19
20 (4) Notwithstanding rule 10.31(e), a presiding judge is qualified to complete his
21 or her term on the advisory committee even if his or her term as presiding
22 judge of a trial court ends.
23
24 (5) ~~The Administrative Office of the Courts’~~ Judicial Council’s chief of staff,
25 chief administrative officer, chief operating officer, and director of ~~the fiscal~~
26 ~~services office~~ Finance serve as non-voting members.

27
28 **(d) Cochairs**

29
30 ~~The Chief Justice appoints a presiding judge and the Director of the Fiscal Services~~
31 ~~Office to serve as cochairs.~~