

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SP15-03

Title	Action Requested
Judicial Administration: Rule for Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch	Review and submit comments by June 5, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.63	July 1, 2015
Proposed by	Contact
Executive and Planning Committee	Douglas P. Miller
Hon. Douglas P. Miller, Chair	douglasp.miller@jud.ca.gov

Executive Summary and Origin

The Executive and Planning Committee (E&P) recommends that rule 10.63 of the California Rules of Court, which concerns the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, be amended to expand the committee's charge by modifying the description of its duties, to provide more specificity to the membership criteria, to add a membership category, and to make technical changes.

Background

Rule 10.63 was adopted by the Judicial Council, effective February 21, 2014, to establish by rule the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E).

The Proposal

Subdivision (b)(1) of rule 1063 addresses A&E's role in making recommendations to the council on proposed budget change proposals. Although the Administrative Director is responsible for overseeing the expenditures of the council, this provision ensures that there is oversight by appropriate advisory bodies. Subdivision (b)(1) would be amended to add "planned" and "other budget concepts" to more accurately describe the work of A&E in recommending funding of the Judicial Council. The amendment would also delete "annually" because the recommendations are made at two different times each year. The same subdivision would also be amended to specify that the additional duty of making recommendations to the council concerning planned budget change proposals and other budget concepts concerns those that are outside the purview of any other advisory body. Other advisory bodies, such as the Trial Court Budget Advisory Committee, the Judicial Council Technology Committee (JTC), and E&P, are responsible for

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recommending certain budget concepts. For example, the JCTC recommends budget concepts related to technology, such as trial court telecommunications for local area network/wide area network architecture.

The rule would be amended to remove the additional duty of recommending any proposed changes to the annual compensation plan for council staff (formerly the AOC). The Judicial Council already is involved in review of Judicial Council staff compensation. In addition, salaries of council staff are subject to the approval of the Chair of the Judicial Council (Gov. Code, § 19825(b)). Maintaining this review as a responsibility of A&E would result in a duplication of efforts. Thus, E&P recommends removing it from the rule.

Subdivision (b)(2) would be amended to add that every odd year, A&E will review and report to the council on council expenditures for local assistance (benefitting one or more trial courts) and state operations. It would specify that for such expenditures for trial courts, the committee would determine whether the expenditures comply with allocations approved by the council and spending guidelines developed by the Trial Court Budget Advisory Committee (TCBAC), and approved by the council, on the appropriate uses of Trial Court Trust Fund and State Trial Court Improvement and Modernization Funds.

The review of such expenditures is consistent with the recommendation of the California State Auditor (CSA) (formerly, Bureau of State Audits) that this responsibility be given to an advisory body. Specifically, the CSA recommended, “The Judicial Council should create a separate advisory body, or amend a current committee’s responsibilities and composition, to review the AOC’s state operations and local assistance expenditures in detail to ensure that they are justified and prudent.” Though the TCBAC currently has a role in making recommendations to the council on trial court budgets and the allocation of trial court funding (Cal. Rules of Court, rule 10.64), E&P has determined that A&E should serve a different role in this process: it has the appropriate expertise to review expenditures—under guidelines developed by the TCBAC and approved by the council—after funds designated for state operations and local assistance have been used.

Subdivision (b)(3) would be amended to narrow the audit reports that A&E must review. The word “all” would be removed to reflect that A&E is not responsible for reviewing audit reports of the judicial branch conducted by outside entities such as the CSA. To expedite action relating to outside audits, the review and response will be done by either the council, council internal committees, or particular council members identified to assist with this duty. This will ensure timely action on audit reports from outside entities. A&E would retain responsibility for reviewing audits of the judicial branch performed by the council’s Audit Services.

Subdivision (b)(4) would be amended slightly to parallel new subdivision (b)(2) by adding “review and” before “report” and to provide that this duty occurs in even years. Other minor changes would be made to reflect the name change from “Administrative Office of the Courts” and “AOC” to “Judicial Council” and “Judicial Council staff,” as appropriate.

E&P also recommends that the membership provision in rule 10.63 be amended, consistent with the CSA recommendation, to specifically require that members have expertise in public and judicial branch finance. Thus, subdivision (c) would be amended to provide that members from all membership categories must have “experience in public or judicial branch finance.” In addition, it would be amended to provide for membership by the chair and two members of the TCBAAC. These members would serve only when the committee fulfills its duties to review and report to the council on council expenditures for local assistance and state operations under subdivision (b)(2). The amendment of this subdivision would also eliminate the provision that states, “The California Judges Association will recommend three nominees for a superior court judge position and submit its recommendations to the Executive and Planning Committee of the Judicial Council.” The California Judges Association may continue to submit recommendations for membership, but to so specify in the rule is unnecessary.

The comment period for this proposal is shorter than usual so that the council may consider it at the June 26, 2015 council meeting, for an effective date of July 1, 2015. This will allow E&P to solicit for nominations beginning in July for all positions on A&E under the new membership criteria that the CSA recommended. Members will be appointed effective September 15, 2015.

Alternatives Considered

The rule could remain unchanged, but E&P believes that the proposed amendments are necessary to align A&E’s additional duties and membership criteria to the needs of the council and to respond to the CSA recommendations that the council (1) charge a new or existing advisory committee with responsibility for reviewing state operations and local assistance expenditures in detail to ensure they are justified and prudent, and (2) provide that the advisory committee is composed of subject-matter experts with experience in public and judicial branch finance.

Implementation Requirements, Costs, and Operational Impacts

On amendment of the rule, E&P will solicit nominations for all positions on A&E under the new membership criteria. This effort will require a special solicitation apart from the general spring solicitation for advisory committee membership nominations. Current members of A&E will be asked to reapply for appointment to the committee.

Request for Specific Comments

In addition to comments on the proposal as a whole, E&P is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Cal. Rules of Court, rule 10.63, at pages 4–5

Rule 10.63 of the California Rules of Court would be amended, effective July 1, 2015, to read:

1 **Rule 10.63. Advisory Committee on Financial Accountability and Efficiency for the**
2 **Judicial Branch**

3
4 **(a) Area of focus**

5
6 The committee makes recommendations to the council on practices that will promote
7 financial accountability and efficiency in the judicial branch.
8

9 **(b) Additional duties**

10
11 In addition to the duties specified in rule 10.34, the committee must:

12
13 (1) Make recommendations ~~annually~~ to the council concerning any planned budget
14 change proposals and other budget concepts for funding of the ~~Administrative Office~~
15 ~~of the Courts (AOC) Judicial Council~~ that have not already been approved by a
16 Judicial Council advisory body ~~and any proposed changes to the annual~~
17 ~~compensation plan for the AOC Judicial Council staff;~~

18
19 (2) In every odd year, review and report to the council on council expenditures for local
20 assistance (benefiting one or more trial courts) and state operations. For local
21 assistance expenditures and state operations expenditures for trial courts only, the
22 committee must determine whether those expenditures comply with:

23
24 (A) Allocations approved by the council; and

25
26 (B) Spending guidelines approved by the council and developed by the Trial
27 Court Budget Advisory Committee for the Trial Court Trust Fund and State
28 Trial Court Improvement and Modernization Fund;

29
30 ~~(2)~~(3) Review all audit reports of the judicial branch, recommend council acceptance of
31 audit reports reviewed, and, where appropriate, make recommendations to the
32 council on individual or systemic issues;

33
34 ~~(3)~~(4) In every even year, review and report to the council on AOC Judicial Council
35 contracts that meet established criteria to ensure that the contracts are in support of
36 judicial branch policy; and

37
38 ~~(4)~~(5) Review proposed updates and revisions to the *Judicial Branch Contracting Manual*.
39

40 **(c) Membership**

41
42 The committee must include members ~~in~~ with experience in public or judicial branch
43 finance from the following categories:

44
45 (1) Appellate court justices;
46

- 1 (2) Superior court judges; ~~and~~
2
3 (3) Court executive officers; and
4
5 (4) For purposes of the review in (b)(2), the current chair and two other current members
6 of the Trial Court Budget Advisory Committee.
7

8 ~~The California Judges Association will recommend three nominees for a superior court~~
9 ~~judge position and submit its recommendations to the Executive and Planning Committee~~
10 ~~of the Judicial Council.~~

11
12 **Advisory Committee Comment**
13

14 The purpose of the Advisory Committee on Financial Accountability and Efficiency for the Judicial
15 Branch is to promote transparency, accountability, efficiency, and understanding of the AOE Judicial
16 Council and the judicial branch. The advisory committee fosters the best use of the work, information,
17 and recommendations provided by ~~the AOE Judicial Council staff~~, and it promotes increased
18 understanding of the AOE's mission, responsibilities, accomplishments, and challenges of Judicial
19 Council staff.
20