

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W15-07

Title	Action Requested
Judicial Administration: Changes to Delegations in Rules of Court	Review and submit comments by January 23, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 10.70, 10.101, and 10.804	July 1, 2015
Proposed by	Contact
Rules and Projects Committee	Susan R. McMullan, 415-865-7990
Hon. Harry E. Hull, Jr., Chair	susan.mcmullan@jud.ca.gov

Executive Summary and Origin

The Rules and Projects Committee recommends that rules 10.70, 10.101, and 10.804 of the California Rules of Court be amended to change the Judicial Council's delegations of authority to better align them with council governance policies. This need arises from the October 17, 2013 recommendations of the Executive and Planning Committee (E&P) to the council concerning delegations of authority that the council has issued to its Administrative Director¹.

Background

Among E&P's recommendations were recommendations to amend rules that address the authority of the Administrative Director concerning the establishment of advisory bodies, budget and financial matters, and the authority of council staff on financial policies and procedures. The delegations in the current rules represent the Judicial Council's authorization for the Administrative Director to act on the council's behalf. E&P reviewed all delegations in conjunction with the council's directive to provide greater oversight to ensure transparency, accountability, and efficiency in the operations and practices of the former Administrative Office of the Courts (AOC).² The directive included a statement reaffirming that the Administrative Director operates subject to oversight of the Judicial Council.³

¹ Judicial Council of Cal., *Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts* (October 17, 2013), www.courts.ca.gov/documents/jc-20131025-itemL.pdf.

² Judicial Council of Cal., *Judicial Branch Administration: Report and Recommendations from the Judicial Council's Executive Planning Committee Regarding the Strategic Evaluation Committee (SEC) Report* (August 27, 2012), Attachment 1, recommendation 2, www.courts.ca.gov/documents/jc-20120831-itemJ.pdf.

³ *Id.* at recommendation 1.

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.

The Proposal

This proposal would amend three rules to:

- Define the Administrative Director’s authority to establish working groups to work on specific projects;
- Provide for explicit council authority to develop and implement a budget for the judicial branch;
- Provide for exclusive authority of the Chief Justice, on behalf of the council, to allocate funding for the council and its staff, the Supreme Court, the Courts of Appeal, and the Habeas Corpus Resource Center;
- Give authority to the council, rather than the former AOC, to solicit comments on amendments to the *Trial Court Financial Policies and Procedures Manual*; and
- Make technical changes consistent with retirement of the name “Administrative Office of the Courts.”

Rule 10.70

This rule would be amended to remove the broad authority of the Administrative Director to establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council’s standing advisory committees. Instead it would provide authority for the Administrative Director to establish working groups to work on specific projects identified by the Administrative Director.

Rule 10.101

Several subdivisions of this rule would be amended to transfer authority to the council from the Administrative Director to “[d]evelop policies and procedures for the creation and implementation of a yearly budget for the judicial branch.” Currently this authority is listed in subdivision (d) under “Duties of the Administrative Director.” Consistent with the recommendation of E&P, this authority would be removed from (d) and placed in subdivision (a), which sets out the role of the council. Other changes would be made to these subdivisions consistent with retirement of the name “Administrative Office of the Courts.”

Similarly, subdivision (e) would be amended to eliminate the name “Administrative Office of the Courts” and a reference to the Administrative Director’s developing budget policies and procedures. An advisory committee comment would be added to provide examples of the technical changes to the budget, which the Administrative Director has authority to make.

Rule 10.804

This rule would be amended to provide that the council, rather than the former AOC (now council staff), must make the *Trial Court Financial Policies and Procedures Manual* available to superior courts, the State Department of Finance, and the State Controller’s Office for comment before amending it. Since the *Trial Court Financial Policies and Procedures Manual* has already been prepared and adopted, the enclosed amendment to this rule would eliminate the requirement that the manual be further prepared and adopted.

Alternatives Considered

Because of the council’s decision, based on E&P’s recommendation, to reaffirm that the Administrative Director operates subject to oversight of the council, no alternatives to this proposal were considered.

Implementation Requirements, Costs, and Operational Impacts

The effects of implementation would be minimal because this proposal seeks to align the rules with council governance policies.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- What would the implementation requirements be, if any, for courts?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

Cal. Rules of Court, rules 10.70, 10.101, and 10.804, at pages 4–7

Rules 10.70, 10.101, and 10.804 of the California Rules of Court would be amended, effective July 1, 2015, to read:

1 **Rule 10.70. Task forces, working groups, and other advisory bodies**

2
3 **(a) Established by Chief Justice or Judicial Council**

4
5 The Chief Justice, ~~the Administrative Director of the Courts,~~ or the council may
6 establish task forces and other advisory bodies to work on specific projects that
7 cannot be addressed by the council’s standing advisory committees. These task
8 forces and other advisory bodies may be required to report to one of the internal
9 committees ~~or the Administrative Director,~~ as designated in their charges.

10
11 **(b) Established by Administrative Director**

12
13 The Administrative Director may establish working groups to work on specific
14 projects identified by the Administrative Director.

15
16 **Rule 10.101. Role of the Judicial Council and ~~Administrative Office of the Courts~~**

17
18 **(a) Purpose**

19
20 This rule specifies the responsibilities of the Judicial Council, the Chief Justice, the
21 Administrative Director ~~of the Courts,~~ and ~~the Administrative Office of the Courts~~
22 council staff with respect to the judicial branch budget.

23
24 **(b) Duties of the Judicial Council**

25
26 The Judicial Council must:

- 27
28 (1) Establish responsible fiscal priorities that best enable the judicial branch to
29 achieve its goals and the Judicial Council to achieve its mission;
30
31 (2) Develop policies and procedures for the creation and implementation of a
32 yearly budget for the judicial branch;
33
34 ~~(2)~~(3) Develop the budget of the judicial branch based on the priorities established
35 and the needs of the courts;
36
37 ~~(3)~~(4) Communicate and advocate the budget of the judicial branch to the Governor
38 and the Legislature;
39
40 ~~(4)~~(5) Allocate funds in a manner that ensures equal access to justice for all citizens
41 of the state, ensures the ability of the courts to carry out their functions
42

1 effectively, promotes implementation of statewide policies as established by
2 statute and the Judicial Council, and promotes implementation of efficiencies
3 and cost-saving measures;

4
5 ~~(5)~~(6) Resolve appeals on budget and allocation issues; and

6
7 ~~(6)~~(7) Ensure that the budget of the judicial branch remains within the limits of the
8 appropriation set by the Legislature.

9
10 **(c) Authority of the Chief Justice and Administrative Director ~~of the Courts~~**

11
12 (1) The Chief Justice and the Administrative Director ~~of the Courts~~ may take the
13 following actions, on behalf of the Judicial Council, with regard to any of the
14 Judicial Council's recommended budgets for the Supreme Court, the Courts
15 of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource
16 Center, and ~~the Administrative Office of the Courts~~ council staff:

17
18 (A) Make technical changes to the proposed budget; and

19
20 (B) Make changes during their negotiations with the legislative and
21 executive branches consistent with the goals and priorities adopted by
22 the Judicial Council.

23
24 (2) The Chief Justice ~~and the Administrative Director of the Courts~~, on behalf of
25 the Judicial Council, may allocate funding appropriated in the annual State
26 Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, the
27 Habeas Corpus Resource Center, and ~~the Administrative Office of the Courts~~
28 council staff.

29
30 (3) After the end of each fiscal year, the Administrative Director ~~of the Courts~~
31 must report to the Judicial Council on the actual expenditures from the
32 budgets for the Supreme Court, the Courts of Appeal, the trial courts, the
33 Judicial Council, the Habeas Corpus Resource Center, and ~~the Administrative~~
34 ~~Office of the Courts~~ council staff.

35
36 **(d) Duties of the Administrative Director ~~of the Courts~~**

37
38 The Administrative Director ~~of the Courts~~ implements the directives of the Judicial
39 Council and must:

40
41 ~~(1) Develop policies and procedures for the creation and implementation of a~~
42 ~~yearly budget for the judicial branch;~~

1 **Rule 10.804. Superior court financial policies and procedures**

2
3 **(a) Adoption of financial policies and procedures by the Judicial Council**

4
5 ~~The Administrative Office of the Courts must prepare and adopt a financial policies~~
6 ~~and procedures manual for the superior courts (The “*Trial Court Financial Policies*~~
7 ~~*and Procedures Manual*”), must be consistent with the rules of court and policies~~
8 ~~adopted by the Judicial Council. The manual and must include accounting~~
9 ~~standards for superior courts and policies and procedures for procurement and~~
10 ~~contracting by superior courts. These policies and procedures must not modify~~
11 ~~superior courts’ existing authority to procure, contract for, or use goods or services~~
12 ~~or the requirement that a court have authorized funding available in order to~~
13 ~~procure or contract for any good or service.~~

14
15 **(b) Comment period for financial policies and procedures**

16
17 ~~Before issuing or amending the *Trial Court Financial Policies and Procedures*~~
18 ~~*Manual*, the Administrative Office of the Courts Judicial Council must make it~~
19 ~~available to the superior courts, the California Department of Finance, and the State~~
20 ~~Controller’s Office for 30 days for comment.~~

21
22 **(c) * * ***