

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
Malcolm M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102-3688
December 15, 2009
8:30 a.m.–1:40 p.m.
Open to the Public

AGENDA

- 8:30–8:40 a.m. **Public Comment Related to Trial Court Budget Issues***
[Subject to requests]
*This time is reserved for public comment on Discussion Agenda items relating to trial court budgets.
- 8:40–8:45 a.m. **Approval of Minutes**
Minutes of the **October 23, 2009**, business meeting.
- 8:45–9:00 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
 Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
 Hon. Dennis E. Murray, Chair
 [Committee Reports Tab]
- 9:00–9:10 a.m. **Chief Justice’s Report**
Chief Justice Ronald M. George will report on activities in which he has been involved since the last Judicial Council business meeting.
- 9:10–9:20 a.m. **Administrative Director’s Report**
Mr. William C. Vickrey, Administrative Director of the Courts, will make a report.

CONSENT AGENDA (Items 1–10)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

Item 1 **[Legislative Policy Guidelines \(Action Required\)](#)**

The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council adopt the update to the Judicial Council’s Legislative Policy Guidelines through the 2009 legislative year. This proposal provides concise policy guidance regarding council positions on court-related legislation, providing the framework and historical background for future council positions on legislation.

Staff: Ms. Donna S. Hershkowitz
 Office of Governmental Affairs

Item 2 **[Judicial Council–Sponsored Legislation: Modernizing Trial Court Records Management \(amend Gov. Code, §§ 68150 and 68151\) \(Action Required\)](#)**

The Policy Coordination and Liaison Committee, the Court Executives Advisory Committee, and the Court Technology Advisory Committee recommend that the Judicial Council sponsor legislation to modernize the statutes on the management of court records so that the courts will be able to operate in a more effective, cost-efficient manner using contemporary technology. This proposal would amend current law to authorize courts to create, maintain, and preserve records in any form or forms, including paper, optical, electronic magnetic, micrographic, or photographic media or other technology, provided that the form or forms satisfy standards or guidelines. The amended statute would require the Judicial Council to adopt rules to establish the guidelines or standards for the creation, maintenance, reproduction, and preservation of court records. By allowing courts to use current technology in managing court records, this proposal will enable courts to operate in a more effective, cost-efficient manner.

Staff: Mr. Patrick O’Donnell
 Office of the General Counsel
 Ms. Marlene Hagman-Smith
 Executive Office Programs Division

Item 3 **[Judicial Council–Sponsored Legislation: Disposition of Unclaimed Money Deposited With the Trial Courts \(amend Gov. Code, § 68084.1\) \(Action Required\)](#)**

The Policy Coordination and Liaison Committee recommends amending the Government Code to require courts to deposit any unclaimed victim restitution money that the court has been holding for three years or longer either into the state Restitution Fund or the county general fund to be used by a local agency for the purposes of victim services. This proposal would provide the courts with needed statutory direction and authority for

proper handling of unclaimed victim restitution money that the court has been holding for three years or longer and fill a gap in current law.

Staff: Ms. June Clark
Ms. Janus Norman
Office of Governmental Affairs

Item 4 **[Judicial Council–Sponsored Legislation: Electronic Filing and Service of Documents \(amend Code Civ. Proc., § 1010.6\) \(Action Required\)](#)**

The Policy Coordination and Liaison Committee and the Court Technology Advisory Committee recommend that the Judicial Council sponsor legislation to make the statute on electronic filing and service more flexible and effective. The statute currently authorizes service by the electronic transmission of documents but not by providing notice to other parties that a document is served and providing a hyperlink to the document. This proposal would authorize electronic service by providing notice and a hyperlink as well as by the electronic transmission of a document. The proposal would also clarify that all types of documents—not just notices and accompanying documents—may be served electronically. This proposal responds to changes in technology and the use of technology, filling a need not addressed by current law.

Staff: Mr. Patrick O’Donnell
Office of the General Counsel

Item 5 **[Judicial Council–Sponsored Legislation: Protective Orders \(amend Code Civ. Proc., Welf. & Inst. Code, and Fam. Code\) \(Action Required\)](#)**

The Policy Coordination and Liaison Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend sections of the Code of Civil Procedure, Welfare and Institutions Code, and Family Code that provide for protective orders relating to civil harassment, workplace violence, elder and dependent adult abuse, juvenile law, and domestic violence. The purpose of the legislation is to create greater consistency in procedures and practices, eliminate unnecessary statutory differences, fill in procedural gaps, clarify uncertain matters, and generally improve the statutes that relate to protective orders. The improvements in the statutes should also make it possible to have more consistent and usable statewide forms for protective orders.

Staff: Mr. Patrick O’Donnell
Office of the General Counsel

Item 6 **[Biennial Review of Organizations Authorized by the Judicial Council to Certify Interpreters for Deaf and Hard-of-Hearing Persons \(Action Required\)](#)**

The Court Interpreters Advisory Panel recommends that the Judicial Council reauthorize the Registry of Interpreters for the Deaf to test and certify court interpreters for individuals who are deaf or hard-of-hearing, that organizations authorized by the Judicial Council to test and certify court interpreters for individuals who are deaf or hard-of-hearing be required to submit compliance documentation every four years, and that authority be delegated to the Administrative Director of the Courts to authorize entities to test and certify court interpreters for individuals who are deaf or hard-of-hearing. The council should act on this matter because it has established guidelines that require authorization of entities to test and certify court interpreters for individuals who are deaf or hard-of-hearing.

Staff: Ms. Lucy Smallsreed
 Executive Office Programs Division

Item 7 **[Civil Jury Instructions: Approve Publication of Revisions to the California Civil Jury Instructions \(CACI\) \(Action Required\)](#)**

The Advisory Committee on Civil Jury Instructions recommends approval of the publication of revisions and additions to the *California Civil Jury Instructions*, which were first published in September 2003 and last revised in April 2009. This proposal includes 41 new and revised instructions and verdict forms.

Staff: Mr. Bruce Greenlee
 Office of the General Counsel

Item 8 **[Equal Access Fund: Distribution of Funds for Partnership Grants \(Action Required\)](#)**

The Legal Services Trust Fund Commission of the State Bar of California has prepared a report requesting approval of an allocation of \$1,625,000 in Equal Access Fund partnership grants for distribution to programs providing legal assistance to self-represented litigants. The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission's recommendations if the Judicial Council determines that the awards comply with statutory and other relevant guidelines. The report demonstrates that the commission has complied with those guidelines.

Staff: Ms. Bonnie Hough
 Center for Families, Children & the Courts

Item 9 **[Traffic: 2010 Uniform Bail and Penalty Schedules \(Action Required\)](#)**

The Traffic Advisory Committee has proposed revisions to the Uniform Bail and Penalty Schedules, to become effective January 1, 2010. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. According to rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must annually revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules approved by the Judicial Council. The proposed revisions would bring the schedules into conformance with recent legislation.

Staff: Mr. Courtney Tucker
 Office of the General Counsel

Item 10 **[Jury Service: Technical Amendment to Sanctions for Failure to Appear \(amend Cal. Rules of Court, rule 2.1010\) \(Action Required\)](#)**

Code of Civil Procedure section 209 allows courts to impose monetary sanctions for failure to appear in response to a jury summons. Rule 2.1010 of the California Rules of Court implements the statute by providing a procedure that prospective jurors must use to set aside sanctions imposed by default for failure to respond to a jury summons. Both section 209 and rule 2.1010 had sunset provisions of January 1, 2010. Senate Bill 319 eliminated the sunset provision in the statute. The proposed amendment would remove the sunset provision in rule 2.1010.

Staff: Ms. Susan McMullan
 Office of the General Counsel

DISCUSSION AGENDA (Items 11–15)

Item 11 **[2010 Judicial Council Legislative Priorities \(Action Required\)](#)**

9:20–9:40 a.m.

The Policy Coordination and Liaison Committee recommends that the Judicial Council advocate to secure sufficient funds to permit courts to be open and operating every court day. PCLC also recommends that the council confirm continuing sponsorship of legislation to enact the third set of 50 new trial court judgeships upon appropriation by the Legislature. These proposals are necessary to provide the judicial branch with critical resources to provide meaningful access to justice. Since the council may have a very short time frame in which to act on legislative and budget proposals, PCLC further recommends that the council delegate authority to the PCLC to sponsor proposals on behalf of the Judicial Council, with notice to the

chairs of the Executive and Planning and Rules and Projects Committees of meetings at which such actions may occur, and provide subsequent notification to the council of all such actions taken.

Presentation/Discussion (10 minutes)

Speaker: Mr. Curtis L. Child
Ms. Donna S. Hershkowitz
Office of Governmental Affairs

Discussion/Council Action (10 minutes)

Item 12 [Report to the Legislature: Historical Analysis of Disparities in Judicial Benefits \(Sen. Bill X2 11\) \(Action Required\)](#)
9:40–10:05 a.m.

The Administrative Office of the Courts recommends that the Judicial Council adopt the report to the Legislature titled the historical analysis of disparities in judicial benefits. The report is in response to Senate Bill X2 11, which requires the Judicial Council to report to the Legislature analyzing the statewide inconsistencies in judicial benefits on or before December 31, 2009.

Presentation/Discussion (15 minutes)

Speakers: Ms. Jody Patel
Regional Administrative Director
Ms. Mary M. Roberts
Office of the General Counsel
Mr. Dag MacLeod
Executive Office Programs Division

Discussion/Council Action (10 minutes)

Item 13 [Interim Report on Court Executive Officer Compensation Study \(No Action Required\)](#)
10:05–10:25 a.m.

The Judicial Council directed staff of the Administrative Office of the Courts to study executive management compensation in the trial courts and present recommendations on fiscal procedures or rules of court that will ensure appropriate accountability. This interim report summarizes the AOC's progress to date in responding to that directive, provides the findings of the study of court executive officer compensation in the trial courts, and provides information about the timeline for presenting recommendations to the council to ensure appropriate fiscal accountability in this area. A final report is expected to be presented to the council in April 2010.

Presentation/Discussion (10 minutes)

Speakers: Ms. Jody Patel
Regional Administrative Director
Mr. Kenneth Couch
Human Resources Division

Discussion/Council Action (10 minutes)

10:25–10:40 a.m. **BREAK**

Item 14 [Public Access to Judicial Administrative Records \(adopt Cal. Rules of Court, rules 10.500 and 10.501; repeal rule 10.802; and amend rule 10.803\) \(Action Required\)](#)
10:40–11:55 a.m.

The Administrative Office of the Courts recommends that the council adopt new rules of court establishing public access provisions applicable to judicial administrative records held by the trial and appellate courts, the Judicial Council, and the AOC. The proposed rules would replace the existing rule of court that provides access to a limited category of superior court and AOC records of budget and financial information. The proposed rules draw from and are based on state law regarding access to legislative and executive branch records and create a presumption that records reflecting the administrative functions of judicial branch entities are open to the public. The proposed rules include appropriate exemptions from access to address the role and functions of the judicial branch. The proposed rules are necessary to implement the requirements of Government Code section 68106.2.

Presentation/Discussion (30 minutes)

Speakers: Hon. Judith D. McConnell
Administrative Presiding Judge, Court of Appeal,
Fourth Appellate District
Hon. Mary Ann O’Malley
Chair, Trial Court Presiding Judges Advisory Committee
Hon. James E. Herman
Judge, Superior Court of California, County of Santa Barbara
Mr. Michael D. Planet
Chair, Court Executives Advisory Committee
Mr. Curtis L. Child
Office of Governmental Affairs
Ms. Mary M. Roberts
Ms. Ann Springgate
Ms. Linda Nguyen
Office of the General Counsel

Discussion/Council Action (45 minutes)

11:55–12:25 p.m. **LUNCH BREAK**

Item 15 **Commission for Impartial Courts: Final Report**
12:425–1:40 p.m. **(Action Required)**

The Commission for Impartial Courts presents its final recommendations for safeguarding judicial quality, impartiality, and accountability in California. It recommends that the council accept its final report and direct the Administrative Director of the Courts to provide, at the February 2010 council meeting, an implementation plan. The 71 recommendations promote ethical and professional conduct by judicial candidates; better regulate campaign financing practices; expand public information and education about the judiciary, both during judicial election campaigns and otherwise; and improve the methods and procedures of selecting and retaining judges.

Presentation/Discussion (45 minutes)

Speakers: Hon. Ming W. Chin
 Chair, Commission for Impartial Courts Steering Committee
 Hon. William A. MacLaughlin
 Chair, Task Force on Judicial Campaign Finance
 Hon. Judith D. McConnell
 Chair, Task Force on Public Information and Education
 Hon. Douglas P. Miller
 Chair, Task Force on Judicial Candidate Campaign Conduct
 Hon. Ronald B. Robie
 Chair, Task Force on Judicial Selection and Retention
 Ms. Christine Patton
 Regional Administrative Director

Discussion/Council Action (30 minutes)

Information Only Item

- **Trial Court Annual Investment Report as of June 30, 2009**

The Trial Court Annual Investment Report provides the financial results for the funds invested by the Administrative Office of the Courts (AOC) on behalf of the trial courts as part of the judicial branch treasury program. This report is submitted pursuant to the Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004 (Resolutions). The period covered by this report is from July 1, 2008 through June 30, 2009.

There have been no Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.

[Appointment Orders Tab]