



# Judicial Council Governance Policies

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APRIL 16, 2020



JUDICIAL COUNCIL  
OF CALIFORNIA



## Judicial Council Governance Policies

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Members of the council are appointed by the Chief Justice. Appointees by the State Bar Board of Trustees and both houses of the Legislature also serve as members of the council. Together the members serve to carry out judicial branch goals. Judicial Council staff implements the council's policies, and the goals and priorities of the council are set forth in *Justice in Focus: The Strategic Plan for California's Judicial Branch 2006–2016*:

- I. Access, Fairness, and Diversity
- II. Independence and Accountability
- III. Modernization of Management and Administration
- IV. Quality of Justice and Service to the Public
- V. Education for Branchwide Professional Excellence
- VI. Branchwide Infrastructure for Service Excellence
- VII. Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

### GOVERNANCE PROCESS

#### 1. Responsibilities of the Council

The council establishes goals and policies for California's judicial branch of government. The council is directly responsible for the following:

- a. Establishing broad goals and policies that set the direction and priorities for the continuous improvement of California's system for the administration of justice. These goals and policies include fundamental goals such as promoting public access to the justice system, increasing responsiveness to the needs of court users of diverse backgrounds, and upholding the rule of law and impartiality of judges as constitutional officers.
- b. Establishing standards for performance and accountability of the administrative operations and procedures of the branch. These standards address the diverse needs of court users, employ modern management practices that implement and sustain innovative ideas and effective practices, and report on judicial branch performance to the public, Legislature, Governor, and the courts.
- c. Developing and maintaining administrative, technological, and physical infrastructures, including court facilities, which enhance accessibility to the courts and support the needs of the people of California and the judicial branch.

- d. Taking all appropriate steps to develop and establish the judicial branch's fiscal priorities, secure appropriate funding for the judicial branch, establish fiscal and budget policies for the branch, allocate branch appropriations to the courts and the council, and ensure accountability through reporting on the use of its public resources to the legislative and executive branches of state government and to the public.
- e. Sponsoring and taking positions on pending legislation consistent with the council's established goals and priorities to support consistent, effective, statewide programs and policies that provide for the highest quality of administration of justice, and that promote an impartial judiciary.
- f. Developing high-quality education and professional development opportunities for all judicial branch personnel to meet public needs and to enhance public trust and confidence in the courts.
- g. Communicating with and reporting to the legislative and executive branches of state government to advance judicial branch goals, and account for the use of public funds and resources.

## **2. Council Policymaking**

The Judicial Council establishes judicial branch policy for the improvement of an independent and impartial justice system that meets public needs, and enhances public trust and confidence in the courts. It develops policy in consultation with the people of California, court leadership, judicial officers, Judicial Council advisory bodies, employees in the judicial branch, the State Bar, advocacy groups, the Legislature, the Governor, and other government entities and justice system partners.

The principal focus of the Judicial Council is to establish policies that emphasize long-term strategic leadership and that align with judicial branch goals. Council policymaking is focused on the beneficiaries of the policy, the results to be achieved, the costs to be incurred, and the corresponding judicial branch goals.

To enable the council to make well-informed strategic decisions, all policy proposals submitted for council consideration by internal committees, advisory bodies, the Administrative Director, and staff should address the following:

- Beneficiaries of the policy;
- Results to be achieved;
- Costs to be incurred;
- Each corresponding judicial branch goal, objective, and anticipated outcome;
- Previous council action on the issue or policy;
- Comments from interested parties;

- Analysis of the benefits and risks of the proposals; and
- Analysis of the strengths and weaknesses of alternative options and an explanation of their implications.

### **3. Maintenance of Governance Policies and Principles**

On an annual basis, the chair of the Executive and Planning Committee discusses the governance policies and principles at a council meeting to orient new members and review council governance with continuing members. Every three years, the Judicial Council conducts a review of its governance policies and principles and determines whether any revisions are needed. The Executive and Planning Committee monitors the regular implementation of the governance policies and principles.

In order to ensure that new council members have the knowledge and understanding needed to perform their duties effectively, they are oriented to the council's governance policies and principles as well as the council's history of policymaking on key topics, such as court facilities, fiscal appropriations, and infrastructure initiatives.

### **4. Council-Staff Relationship**

Officially passed motions of the council, and decisions and instructions of the Chief Justice, are binding on the Administrative Director. Decisions or instructions of individual council members or internal and advisory bodies are binding on the Administrative Director if the council or its chair has specifically delegated such exercise of authority.

The Administrative Director has sole authority to assign, supervise, and direct staff. The Administrative Director is responsible for ensuring the completeness and quality of reports and other work product presented to the council. Council members may from time to time request information or assistance from staff, unless in the Director's opinion such requests require an unreasonable amount of staff time or become disruptive. Council members and advisory body members may individually provide information to the Administrative Director on the performance of staff or staff agency to the council.

The Administrative Director, as secretary to the council, may attend and participate in the meetings of each internal committee.

### **5. Internal Committees**

#### **a. Executive and Planning Committee**

The Executive and Planning Committee under California Rules of Court, rule 10.11 makes regular reports to the full council on its actions. Its responsibilities include those described below.

Together with the chairs of the other internal committees, the Executive and Planning Committee is responsible for developing and implementing a branchwide plan for general communications between the council and the judicial branch. This responsibility may address such matters as reporting through judicial branch communication channels to the courts and branch stakeholders on Judicial Council meetings and policy actions; communications with the media; communications through Judicial Council members' participation in court site visits, regional meetings, and new judge meetings; and communications from the judicial branch to the Judicial Council through meetings, advisory bodies, public comment processes, and other communication methods.

**b. Rules Committee**

The Rules Committee under California Rules of Court, rule 10.13 makes regular reports to the full council on its actions. Its responsibilities are described below.

- i. Identifies the need for new rules, standards, and forms;
- ii. Establishes and publishes procedures for the proposal, adoption, and approval of rules of court, forms, and standards of judicial administration that ensure that relevant input from the public is solicited and considered;
- iii. Reviews proposed rules, standards, and forms, and circulates those proposals for public comment in accordance with its procedures and guidelines.
- iv. Provides guidelines for the style and format of rules, forms, and standards and ensures that proposals are consistent with the guidelines;
- v. Ensures that proposals for new or amended rules, standards, and forms do not conflict with statutes or other rules; and
- vi. Determines whether proposals for new or amended rules, standards, or forms have complied with its procedures.

**c. Legislation Committee**

The Legislation Committee under [California Rules of Court, rule 10.12](#) makes regular reports to the full council on its actions. Its responsibilities include those described below.

The committee represents the Judicial Council's position with other agencies and entities, such as the Legislature, the Governor's Office, the State Bar of California, local government, local bar associations, and other court-related professional associations; reviews and makes recommendations on proposals for Judicial Council-sponsored legislation; reviews pending bills; determines positions consistent with the council's previous policy decisions; and oversees advocacy for those positions.

**d. Judicial Council Technology Committee**

The Judicial Council Technology Committee under [California Rules of Court, rule 10.16](#) makes regular reports to the full council on its actions. Its responsibilities include those described below.

The committee oversees the council's policies concerning technology and is responsible in partnership with the courts for coordinating with the Administrative Director and all internal committees, advisory committees, commissions, working groups, task forces, justice partners, and stakeholders on technological issues relating to the branch and the courts. It is responsible for ensuring that council policies are complied with, and that specific projects proceed on schedule and within scope and budget. The committee seeks reports and recommendations from the Administrative Director, the courts, and stakeholders on technology issues. It ensures that technology reports to the council are clear, comprehensive, and provide relevant options so that the council can make effective final technology policy decisions. The committee reports on technology affecting the branch and courts at each Judicial Council meeting.

**e. Judicial Branch Budget Committee**

The Judicial Branch Budget Committee under [California Rules of Court, rule 10.101](#) makes regular reports to the full council on its actions. Its responsibilities include those described below.

- i. Reviewing budget change proposals for the judicial branch, coordinating these budget change proposals, and ensuring that they are submitted to the council in a timely manner;
- ii. Reviewing and making recommendations on the use of statewide emergency funding for the judicial branch;
- iii. Reviewing and making recommendations on court innovations grant funding;
- iv. Endeavoring to promote the efficient, fiscally prudent, effective, and fair allocation of branch resources so as to advance statewide judicial branch interests; and
- v. Performing such additional tasks as may be assigned to the committee.

**f. Litigation Management Committee**

The Litigation Management Committee under California [Rules of Court, rule 10.14](#) makes regular reports to the full council on its actions. Its responsibilities include those described below.

- i. The committee oversees litigation and claims against trial and appellate courts, the Judicial Council, and employees of those bodies that seek recovery of \$100,000 or more, or raise important policy issues.
- ii. Important policy or court operations issues may include whether to initiate litigation on behalf of a court, when to defend a challenged court practice, or how to resolve disputes where the outcome might have statewide implications.

## 6. Role of Advisory Committees

Advisory committees under [California Rules of Court, rule 10.34\(a\)](#) are standing committees created by rule of court or the Chief Justice to make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:

- i. Identifying issues and concerns affecting court administration and recommending solutions to the council;
- ii. Proposing necessary changes to rules, standards, forms, and jury instructions;
- iii. Reviewing pending legislation and making recommendations to the Legislation Committee on whether to support or oppose it;
- iv. Recommending new legislation to the council;
- v. Recommending to the council pilot projects and other programs to evaluate new procedures or practices;
- vi. Acting on assignments referred by the council or an internal committee; and
- vii. Making other appropriate recommendations to the council.

## APPENDIX

The *Operating Standards for Judicial Council Advisory Bodies* (operating standards) is appended to the *Judicial Council Governance Policies*. The operating standards support the general parameters within which Judicial Council advisory bodies operate under the direction and oversight of the Chief Justice and the Judicial Council. They guide the work of advisory body chairs and Judicial Council staff relative to annual agendas, staffing, committee membership, reporting to the council, and public access.

## **OPERATING STANDARDS FOR JUDICIAL COUNCIL ADVISORY BODIES**

California Rules of Court, rules 10.30–10.34, 10.70, and 10.75 specify the general parameters within which Judicial Council advisory bodies operate under the direction and oversight of the Chief Justice and the Judicial Council.

- Rule 10.30. Judicial Council advisory bodies
- Rule 10.31. Advisory Committee membership and terms
- Rule 10.32. Nominations and appointments to advisory committees
- Rule 10.33. Advisory committee meetings
- Rule 10.34. Duties and responsibilities of advisory committees
- Rule 10.70. Task forces, working groups, and other advisory bodies
- Rule 10.75. Meetings of advisory bodies

The parameters set forth in the rules of court are supported by the following operating standards for Judicial Council advisory bodies. The operating standards guide the work of advisory body chairs and Judicial Council staff relative to annual agendas, staffing, Judicial Council membership, reporting to the council, and public access.

### **I. Definitions**

The following definitions apply for purposes of these operating standards:

1. *Internal committee*
  - a. A committee comprised of Judicial Council members.
  - b. An “internal oversight committee” is an internal committee to which the Chief Justice has assigned oversight of a specific council advisory body.
2. *Advisory body*. Any multimember body created by the Judicial Council to review issues and report to the council, consistent with rule 10.75 of the California Rules of Court, other than a subcommittee or an internal committee as defined below.
3. *Subcommittee*
  - a. A subset of an advisory body.
  - b. Typically assists in completing a purpose or task for the parent body and may also advise the parent body.
  - c. Two or more advisory bodies may request approval from their internal oversight committee for the establishment of a joint subcommittee.

## II. Annual Agendas and Staffing

### 1. Annual agendas

- a. *Annual agenda template.* An annual agenda is the mechanism by which an advisory body clarifies and documents its plan for addressing an annual scope of work consistent with its charge. It is through this process that advisory bodies receive input, guidance, and delegation from the council in order to provide the necessary information and recommendations to the council to address judicial branch business. Unless otherwise provided for by the assigned internal oversight committee, advisory body annual agendas should be completed using the annual agenda template.
- b. *Agenda planning.* Before developing the proposed annual agenda, the assigned internal oversight committee chair, advisory body chair, office head, and lead staff discuss the work completed during the prior annual agenda period; the potential activities or projects, timelines, and priorities for the upcoming annual agenda period; and Judicial Council staff resource needs. Agendas should be developed based on existing resources.
- c. *Soliciting input from other advisory bodies.* To avoid duplication of effort and ensure the availability of resources, advisory body chairs, office heads, and lead staff should solicit input on activities or projects from affected advisory bodies before or as annual agendas are first drafted. This early collaboration ensures that relevant feedback is received before recommendations are completed and submitted to the council.
- d. *Executive and management review.* Before the proposed final annual agenda is submitted to the assigned internal oversight committee for approval, the heads of all offices that staff advisory bodies meet to review all annual agendas, discuss resource needs, and ensure that the appropriate offices are aware of projects that may impact them. In addition, each office head reviews the proposed final annual agenda with the executive office before internal committee review. The office head discusses any concerns about resource needs with the responsible division chief before the annual agenda meeting. Resource concerns that cannot be resolved by the division chief should be raised with the Chief of Staff and the Administrative Director for further reconciliation with the chair of the appropriate internal oversight committee and for discussion with the advisory body chair.
- e. *Annual agenda meeting.* After consultation with the assigned internal oversight committee chair, the advisory body chair presents the proposed annual agenda to the full internal oversight committee for approval. The lead staff member to the advisory body, the office head, and the division chief also attend this meeting.
- f. *Online posting of approved annual agendas.* Upon completion and the approval of any changes requested by the internal oversight committees, all annual agendas are posted on the [Advisory Bodies](#) page of the California Courts website

## OPERATING STANDARDS FOR JUDICIAL COUNCIL ADVISORY BODIES

([www.courts.ca.gov](http://www.courts.ca.gov)) under the relevant advisory body link. The advisory body chair should refer members to the approved agenda to guide the work of the group in the coming year.

2. Ongoing communications
3. *Council and advisory body chairs.* The internal oversight committee chair and the advisory body chair should strive to check in over the course of the year to review progress on annual agenda items, resource needs, and other relevant areas.
4. *Advisory body chair and staff.* The advisory body chair, office head, and lead staff member should be in contact at least twice a year to discuss progress on annual agenda items. In particular, any extraordinary changes in council priorities or additional resource needs that are identified after the internal oversight committee has approved an annual agenda should be discussed and communicated to the Chief of Staff for review with the chair of the assigned internal oversight committee.

### *Amending Annual Agendas*

In the event it is determined that an advisory body's Annual Agenda needs to be updated or changed in the course of the year (for example, to address changes in council priorities or newly enacted laws), the chair of the body may request that the oversight committee amend the advisory body's Annual agenda for this purpose. The oversight committees have approved a process and a form for amending agendas.

5. Staff responsibilities
  - a. *Staffing oversight.* The Administrative Director and Chief of Staff have oversight responsibility and authority for directing staff support to the advisory bodies.
  - b. *Lead staff.* Each advisory body has a lead staff member assigned to assist the body in meeting its charge and completing the activities and projects identified on the annual agenda. The lead staff member is responsible for keeping his or her office head apprised of the activities of the advisory body, including resource issues. In addition, he or she is responsible for maintaining the accuracy of the advisory body member roster, which should be kept current and consistent between internal and public postings. The lead staff member is also responsible for communicating all membership changes within the advisory body to Judicial Council Support and to the Contact and Position System (CAPS) administrator. The CAPS administrator will ensure that the appropriate judicial experience of each advisory body member is reflected within CAPS, along with the member's correct location, address, phone number, and e-mail address.
  - c. *Office heads.* Office heads are required to proactively support the advisory body chairs and lead staff, work with the chairs and lead staff on sensitive issues, and communicate those issues to the responsible division chief.

## OPERATING STANDARDS FOR JUDICIAL COUNCIL ADVISORY BODIES

- d. *General duties.* Judicial Council staff, under rule 10.34(e) of the California Rules of Court, support the planning, coordination, and ongoing implementation of the work of the council's advisory bodies by drafting annual agendas, managing budget and resources, providing legal and policy analysis, organizing and drafting reports, selecting and supervising consultants, providing technical assistance, and assisting chairs in presenting advisory body recommendations to the Judicial Council. Staff also organize meetings, provide information to members and to the public, ensure meeting notices are posted, facilitate advisory body nominations, and coordinate the work of the advisory body with related judicial branch work.
- e. *Alternative analysis/recommendations.* Under rule 10.34(e) of the California Rules of Court, staff may provide independent legal or policy analysis of issues that is different from the advisory body's position, if authorized to do so by the Administrative Director. The decisions or instructions of an advisory body or its chair are not binding on staff except in instances when the council or the Administrative Director has specifically authorized such exercise of authority.
- f. *Addressing resource needs.* Office heads are responsible for ensuring that resource needs are addressed, including discussing those needs with the advisory body chair and the responsible division chief before the annual agenda meeting. Ongoing resource issues brought to the office head's attention that are likely to impede progress or impact the outcome of approved activities or projects should be raised with the Chief of Staff and the Administrative Director for further reconciliation with the chair of the appropriate internal oversight committee and discussion with the advisory body chair. (See Cal. Rules of Court, rule 10.80(d).)

### **III. Membership and Duration**

1. *Composition.* An advisory body and its chair may make recommendations to the Judicial Council and the Executive and Planning Committee about the composition of the advisory body's membership, including nominating members. An advisory body typically has between 12 and 18 members (Cal. Rules of Court, rule 10.31(a)); however, this may vary depending on the charge and the scope of work.
2. *Subcommittees.* An advisory body may propose the establishment of a subcommittee. A proposal for the establishment of a subcommittee should specify:
  - The purpose of, or charge for, the new subcommittee;
  - Whether standing or ad hoc, and if ad hoc, specify an end date; and
  - The timeline for the activity or project.

The chair of a standing subcommittee may request the appointment of a non-committee member to the subcommittee by completing the form *Request for*

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*Appointment to a Subcommittee* and submitting it for consideration to the designated internal oversight committee.<sup>1</sup>

3. *Liaisons*. Standing advisory committees may have liaisons to other advisory bodies to facilitate the accomplishment of their common projects and programs. For example, the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee have liaisons to other advisory bodies to ensure that the trial court leadership perspective is received in a timely manner on matters under consideration. The liaison process helps to:
  - Facilitate an efficient and effective process for advisory bodies to seek and receive input from other advisory bodies that may have an interest in or be affected by its work; and
  - Provide an opportunity for liaisons to share input from their respective advisory bodies early in the process on matters being considered by other advisory bodies.

The advisory body chair may determine the selection process for naming a liaison from the advisory body that he or she chairs to another advisory body. Before confirming an appointment, the appointing chair should consult with the chair of the advisory body to which the liaison will be appointed. Where a member of the Trial Court Presiding Judges Advisory Committee or the Court Executives Advisory Committee is a member of another council advisory body, he or she should also serve as the liaison for his or her committee. The appointing advisory body is responsible for costs related to the liaison member fulfilling his or her liaison responsibilities.

4. *Duration*. Sunset dates are required for all advisory bodies other than standing advisory committees. Ad hoc advisory bodies typically are dissolved following the submission and/or consideration of their final reports. The Chief Justice may extend a sunset date.

### **IV. Meetings**

1. *Meeting notification*. Each advisory body's public web page must provide notification of upcoming meetings as well as any meeting materials, consistent with rule 10.75 of the California Rules of Court.
2. *Meeting frequency*. To conserve judicial branch resources, an advisory body may meet in person no more than one time each annual committee cycle unless an internal oversight committee approves otherwise. Consideration should be given to ways to schedule in-person meetings so that same-day travel can be accommodated and overnights avoided unless necessary. If an additional in-person meeting is needed, the responsible office head will review the request with his or her division chief. Final

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<sup>1</sup> The form and the accompanying instructions may be accessed on the Judicial Council staff intranet under Reference, Judicial Council & Advisory Bodies, Subcommittee Appointment Process and Request Form.

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approval of the request will be sought from the assigned internal oversight committee chair in consultation with the Chief of Staff.

3. *Coordination with internal committee schedules.* To ensure the timely submission and review of advisory body recommendations and materials to the council for its consideration, lead staff should coordinate advisory body meetings with the meeting schedule of the internal committee that receives the initial submission.
4. *Minutes.* Following the [open meeting guidelines](#), minutes should contain a brief description of the proposal or other matter considered (e.g., a recommendation that the Judicial Council adopt a rule) and the action taken (e.g., the advisory body recommended that the rule be adopted by the Judicial Council, effective on a particular date). An advisory body may provide more detailed minutes, if necessary.

### **V. Reports and Recommendations to the Judicial Council**

1. *Report writing.* The Judicial Council report writing manual, [The ABC's of 21st Century Judicial Council Report Writing](#), specifies the proper format and content standards for all council reports.
2. *Notification of Judicial Council agenda items.* In an effort to assist the Executive and Planning Committee with its agenda-setting responsibilities, Judicial Council staff should submit a draft *Judicial Council Agenda Request* form to Judicial Council Support as early in the process as possible.
3. *Report submission.* Reports to the Judicial Council from an advisory body are first submitted to the Executive and Planning Committee for agenda setting through the approved process and format. Lead staff and report authors should be familiar with and adhere to the chart [JC Report Deadlines and E&P Meeting Dates](#),<sup>2</sup> which details a process and timeline that allows the Executive and Planning Committee to consider the readiness and completeness of the report and, if necessary, to ask the advisory body for revisions.
4. *Recommendations.* Reports may reflect an advisory body's recommendations or provide options without a recommendation, allowing the council to weigh the policy considerations in making its decision. The advisory body should carefully consider the recommendations or options that it presents to the council to ensure that they are limited to a manageable number for implementation by the courts or by council staff within reasonable timeframes. This requires regular check-in on scope and expectations with the internal oversight committee chair and executive leadership throughout the process.
5. *Fiscal considerations.* Recommendations or options that may have a significant and unforeseen fiscal impact should be raised with the Administrative Director and the Chief of Staff. The Administrative Director and the Chief of Staff will consult the

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<sup>2</sup> Posted on the Judicial Council staff intranet under Calendars, JC Report Deadlines.

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assigned internal oversight committee chair on financial impacts of concern before the recommendations or options are finalized and the council report is developed. Depending on the outcome of that review, the advisory body may need to conduct additional analysis of the recommendations or options.

### **VI. Public Access**

1. *Rule 10.75.* Public access to advisory body meetings and meeting materials, and meeting minutes as official records, are addressed in rule 10.75 of the California Rules of Court and in the open meeting guidelines. The rule includes a list of advisory bodies that are exempt from the requirements.
2. *Web page content.* The lead staff to each advisory body is responsible for working with web content staff to maintain a public web page with information about the advisory body's charge and its membership and activities.
3. *Member rosters.* Rosters should be accurate and kept current and consistent between internal and public postings.