

PROPOSED CALIFORNIA RULE OF COURT, RULE 10.75

Judicial Council Advisory Body Meetings

1926

Governor's veto message

"I urge the Judicial Council to continue efforts to provide greater public access to Judicial Branch committee activities."

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Supplemental report language

“...The rule shall apply to any committee, subcommittee, advisory group, working group, task force, or similar multimember body that reviews issues and reports to the Judicial Council...”

Sources

- Legislative open meeting laws
- Bagley-Keene Open Meeting Act
- Ralph M. Brown Act
- California Rules of Court
- California Code of Judicial Ethics

Guiding factors

- Public access to meetings— understanding and input;
- Effective rule-making process;
- Judicial ethics; and
- Financial and staffing limits.

Public and stakeholder input

- Preliminary draft circulated
November 14 – 20, 2013
- Briefings with legislative staff,
news media, and judicial branch
stakeholders
- Formal public comment period
December 20, 2013 – February 7,
2014

Formal public comment

- 17 sets of comments received
- Assembly leaders; news media; open government groups; labor; public; courts; and Judicial Council advisory bodies;
- “Went too far” to “Not far enough”

Intent

“...to supplement and expand on existing rules and procedures providing public access to the council and its advisory bodies...This rule expands public access to advisory body meetings.”

Covered bodies

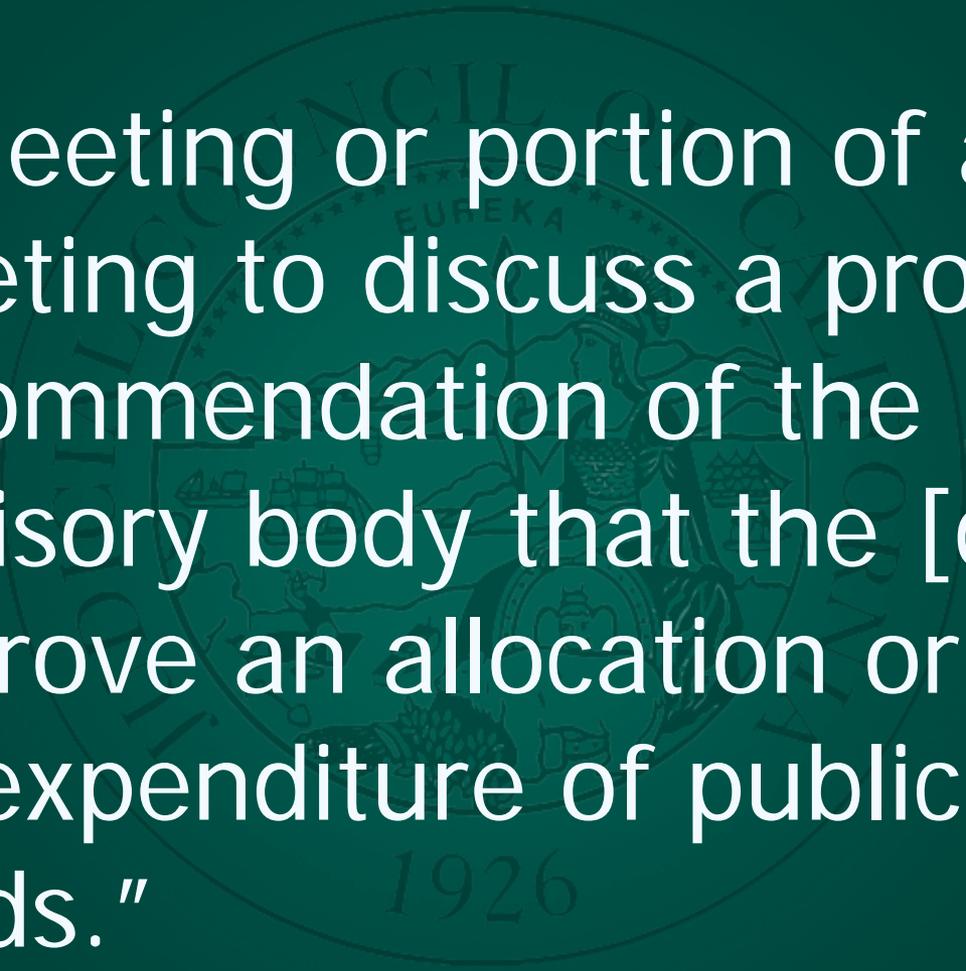
- “Advisory bodies” or any multimember body created by the council to review issues and report to council.
- Includes internal committees, advisory committees, most subcommittees.
- Does not include small ad hoc subcommittees.

Covered meetings

- Meetings to **review issues that the advisory body will report to the Judicial Council**
- Includes “budget meetings”

Budget meetings

A "meeting or portion of a meeting to discuss a proposed recommendation of the advisory body that the [council] approve an allocation or direct an expenditure of public funds."



Exempt bodies

- Litigation Management Committee
- Criminal Jury Instruction Advisory Committee
- Civil Jury Instruction Advisory Committees

Bodies presumed closed

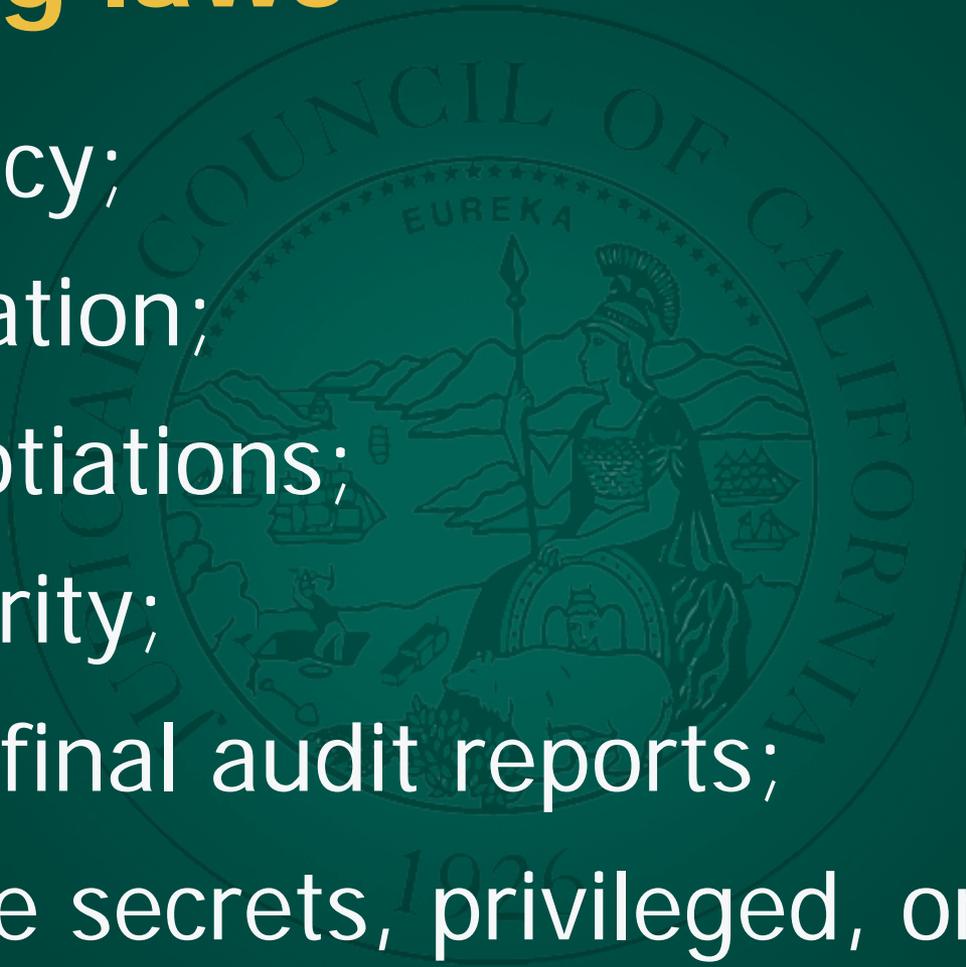
- Appellate Adv. Com.
- Civil and Small Claims Adv. Com.
- Criminal Law Adv. Com.
- Family and Juvenile Law Adv. Com.
- Probate and Mental Health Adv. Com.
- Traffic Adv. Com.

Bodies presumed open

- 20+ bodies and most subcommittees, including:
 - Trial Court Budget Advisory Committee;
 - Court Facilities Advisory Committee;
 - Judicial Council Technology Committee; and
 - Financial Accountability and Efficiency for the Judicial Branch Advisory Committee.

Exceptions from other open meeting laws

- Privacy;
- Litigation;
- Negotiations;
- Security;
- Non-final audit reports;
- Trade secrets, privileged, or confidential information



Exception to comply with ethics obligations of the judiciary

"Topics that judicial officers may not discuss in public without risking a violation of the California Code of Judicial Ethics, necessitating recusal, or encouraging disqualification motions or peremptory challenges against them, including proposed legislation, rules, forms, standards of judicial administration, or jury instructions."

Rule mechanics: Notice

- 5 business days' notice for regular meetings
- 24 hours' notice in case of urgent circumstances requiring prompt action

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Rule mechanics: Public attendance

- Public may listen to all open meetings
- Public may attend open meeting in person if:
 1. Body members gather in person at one location; and
 2. The chair concludes security measures permit.

Rule mechanics: Public comment

- Written comment may be submitted up to one complete business day before a meeting
- In-person comment at open in-person meeting permitted if security measures permit public attendance

Action by e-mail between meetings

Only allowed in 2 specific circumstances:

1. To act on a proposal previously discussed at meeting but more information was required; and
2. When prompt action is required.

Review by Judicial Council

- Review rule's impact within one year of adoption and periodically thereafter
- Consider, among other factors,
 - Public interest in access to meeting;
 - Ethics obligations of the judiciary; and
 - Public interest in effective advisory bodies.