



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on July 27–28, 2017

Title	Agenda Item Type
Judicial Council: Delegation to Administrative Director for Approval of Americans with Disabilities Act Grievance Procedure	Action Required
	Effective Date
	July 28, 2017
Rules, Forms, Standards, or Statutes Affected	Date of Report
None.	July 13, 2017
Recommended by	Contact
Judicial Council staff	Michael Etchepare, 916-643-7019
Martin Hoshino, Administrative Director	Michael.Etchepare@jud.ca.gov
Jody Patel, Chief of Staff	

Executive Summary

Judicial Council staff recommends that the Judicial Council delegate authority to the Administrative Director to approve and maintain a grievance procedure drafted pursuant to the Americans with Disabilities Act (ADA) in order to reduce delays in implementing this required procedure. Consistent with the requirements of the ADA, the grievance procedure will provide members of the public with information about how to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the Judicial Council, as well as procedures for Judicial Council staff to resolve such complaints.

Recommendation

Judicial Council staff recommends that the Judicial Council delegate authority to the Administrative Director to approve the ADA Grievance Procedure, drafted pursuant to the requirements of the ADA, and to maintain the procedure.

Previous Council Action

The Judicial Council has taken no previous action on an ADA grievance procedure.

Rationale for Recommendation

Title II of the ADA requires that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” (42 U.S.C. § 12132.) Federal regulations implementing and enforcing this provision require that public entities employing 50 or more persons must adopt and publish grievance procedures providing for “prompt and equitable resolution of complaints” filed under the statute. (28 C.F.R. § 35.107(b).)

The Judicial Council has the authority to delegate functions to the Administrative Director. (Cal. Const., art. VI, § 6(c); Cal. Rules of Court, rule 10.80(a).) The new grievance procedure will be utilized by members of the public who wish to file a complaint alleging discrimination on the basis of disability, and will provide procedures for Judicial Council staff to resolve such complaints. By delegating to the Administrative Director the authority to approve and maintain the grievance procedure, the Administrative Director may properly discharge his duty to oversee the performance of the Judicial Council staff in implementing this procedure, as required by California Rule of Court, rule 10.80(b). The delegation also allows Judicial Council staff to immediately implement these necessary procedures, thus ensuring uniform, prompt, and equitable resolution of all disability-related complaints or requests for disability accommodation in providing its services, programs, and activities to the public.

Comments, Alternatives Considered, and Policy Implications

The proposal to delegate adoption of an ADA grievance procedure to the Administrative Director was not circulated for public comment. If the Judicial Council adopts the staff recommendation, the new procedure could be implemented immediately. If any adjustments in the procedure are determined to be necessary in the future, the Administrative Director, as the person responsible for maintaining the procedure and for the performance of Judicial Council staff, could make those adjustments.

Implementation Requirements, Costs, and Operational Impacts

This delegation of authority will result in no additional costs or implementation requirements. The delegation of authority will provide positive operational impacts, as it will allow for immediate implementation of a procedure for members of the public to make disability-related complaints and requests for accommodation, and for Judicial Council staff to ensure uniform, prompt, and equitable resolution of all such complaints and requests for accommodation.