



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 18–19, 2019

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**Title**

Administrative Director's Report

**Agenda Item Type**

Information Only

**Submitted by**

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**Executive Summary**

The following information outlines some of the many activities staff is engaged in to further the Judicial Council's strategic goals and priorities for the judicial branch. The report focuses on action since the council's May meeting and is exclusive of issues on the July business meeting agenda.

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## **Trial Court HR and Payroll Management System Deployment**

The Phoenix human resources and payroll management system was deployed to the Superior Court of Colusa County. They are the 16th court to adopt the system, which integrates with the branch's statewide financial system and provides full support for organizational management, personnel and benefits administration, time management, and all aspects of payroll and compliance reporting.

## **Court Interpreter Testing**

Following the Bilingual Interpreting Examination, the Judicial Council certified 26 interpreters in the following languages: Spanish (20 candidates), Russian (3 candidates), Korean (2 candidates), and Vietnamese (1 candidate). California has approximately 1,700 certified interpreters and 15 certified spoken languages.

## **Self-Help Services**

- Court Self-Help Tracking and Reporting Survey: Visits were made to 11 courts to observe and train court staff in the implementation of the tracking and reporting survey in Self-Help Centers and Family Law Facilitator offices.
- Usability of Judicial Council Forms: Staff visited the Fairfield courthouse in Solano County to gather feedback from judicial officers and self-help center staff on usability of Judicial Council forms for revisions that would increase accessibility to the public.

## **AB 1058 Child Support Program Rolling Time Study**

Eight courts began implementation of a newly-approved AB 1058 timekeeping methodology for Child Support Commissioner Program and Family Law Facilitator Programs. The study will improve reporting of time expended on reimbursable activities related to Title IV-D federal law that assists families in receiving child support.

## **Fiscal Audit of the Judicial Council**

The State Controller's Office concluded that the Judicial Council had complied with the State's financial rules for the revenues, expenditures, and fund balances under its control for fiscal year 2017–18. Government Code, Section 77206(i) requires independent, external audits of the Judicial Council biennially. The results, which were reported to the Legislature, positively reflects the council's commitment to financial accountability and transparency.

## **Labor and Employee Relations**

Labor negotiations assistance was provided to eight trial courts.

## **Facilities Services**

- Court facility modifications as of July 2, 2019:

<i>Status</i>	<i>Number of Modifications</i>	<i>Estimated Cost</i>
Awaiting Shared Cost	15	\$17,268,758
In Design	33	\$6,876,816
In Work	842	\$180,927,896
<i>Total</i>	<i>890</i>	<i>\$205,073,470</i>

- Fourteen additional real estate transactions were completed, including a new lease/license in Los Angeles County; lease renewals in Inyo (2), Orange, Sacramento, and Santa Barbara Counties; a lease termination at the Superior Court of Tulare County; and execution of six short-term event licenses.

### **Veterans Treatment Court Strategic Planning**

California was one of five states (others being Maine, Ohio, Pennsylvania, and Virginia) invited by the New York-based Center for Court Innovation to participate in a two-day strategic planning meeting for veterans treatment courts. Stakeholders representing multiple state and county agencies including attorneys, law enforcement, and service providers focused on state capacity for meeting the needs of veterans and enhancement of these collaborative courts.

### **International Visitor Program**

Staff met with a delegate from Northern Ireland’s Civil Service Community Safety Division and coordinated a visit to the San Francisco Community Court. (Judicial Council staff periodically respond to briefing requests from justice representatives from other states and countries.)

## **Advisory Bodies**

Judicial Council advisory bodies focusing on the following areas of judicial administration met in person, by phone, or WebEx since the council’s May meeting:

- |  |                                    |
|--|------------------------------------|
| 1. Access and Fairness                 | 10. Information Technology         |
| 2. Administrative Presiding Justices   | 11. Language Access                |
| 3. Audits and Financial Accountability | 12. Pretrial Reform                |
| 4. Civil Jury Instructions             | 13. Probate and Mental Health      |
| 5. Civil and Small Claims              | 14. Traffic                        |
| 6. Collaborative Justice Courts        | 15. Trial Court Budget             |
| 7. Court Executives                    | 16. Trial Court Presiding Judges   |
| 8. Criminal Jury Instructions          | 17. Tribal Court-State Court Forum |
| 9. Family and Juvenile Law             |                                    |

### **Advisory Group Meeting Details**

#### **Advisory Committee on Providing Access and Fairness**

- Discussed history of and legislation being worked on by the Futures Traffic Advisory Working Group, and heard updates from the Legislation Working Group, and the Language Access Subcommittee.

#### **Administrative Presiding Justices Advisory Committee**

- Received updates on the State budget, human resources issues, and Proposition 66 (Death Penalty Reform and Savings Act of 2016).

### **Advisory Committee for Audits and Financial Accountability for the Judicial Branch**

- Reviewed and approved the annual audit plan for fiscal year 2019–20; considered the results of audit reports for the Superior Courts of Riverside, San Benito, San Francisco, and Santa Cruz Counties; and discussed proposed changes to the *Judicial Branch Contracting Manual*.

### **Civil Jury Instructions Advisory Committee**

- Considered instruction changes and additions based on developments in the law over the last six months; and considered a possible new instruction series on Real Property Actions, including easements, wrongful foreclosure, and the Homeowners Bill of Rights.

### **Civil and Small Claims Advisory Committee**

- Reviewed and responded to comments received on proposals circulated during the spring comment cycle relating to alternative dispute resolution, discovery, interpreters in Small Claims court, and case management rules.
- Reviewed and recommended positions on bills relating to pseudonymous filing procedures, name change and gender change court processes, the California Environmental Quality Act, and other areas.
- Considered potential pilot projects to implement Futures Commission directives on civil litigation.

### **Collaborative Justice Courts Advisory Committee**

- Discussed collaborative court funding and new legislation affecting these types of courts.
- *Mental Health Subcommittee*: Discussed legislative proposals relating to mental health.
- *Veterans Courts and Military Families Subcommittee*: Discussed form changes, topics for the California Association Collaborative Court Conference, the agenda for the joint Center for Court Innovation Veterans Court Strategic Planning Meeting, veterans-related legislation, and effective case planning for military families.

### **Court Executives Advisory Committee**

- Reviewed and discussed changes to the Plan of Cooperation between the courts and local child support agencies.
- Provided comments on the draft document on Facilities Funding Responsibilities between the Judicial Council and superior courts.

### **Criminal Jury Instructions Advisory Committee**

- Proposals were posted for public comment on instructions relating to: Consciousness of Guilt: False Statements; Possession of Recently Stolen Property as Evidence of a Crime; Gross Vehicular Manslaughter and Causing Injury While Driving Under the Influence; Causing Injury; Arson: Inhabited Structure or Property; and Vandalism.

### **Criminal Law Advisory Committee**

- Discussed responses to proposals circulated for public comment including: revisions to the felony murder instructions, and instructions related to the changes enacted by SB 1437

(Resentencing for Felony Murder), including murder: alternative theories, provocative act by accomplice, and special circumstances.

#### **Family and Juvenile Law Advisory Committee**

- Discussed legislation, including confidential filings in civil proceedings and changes to supervision of children described by section 601 of the Welfare and Institutions Code; and new or modified statewide rules and forms addressing domestic violence, family and juvenile law, standards for certifying child support guideline calculators, the Indian Child Welfare Act, and jurisdiction and the transfer and sealing of records in juvenile matters.

#### **Futures Traffic Working Group**

- Finalized details on the proposed Invitation to Comment for moving minor traffic infractions to civil adjudication.

#### **Information Technology Advisory Committee**

- Received updates on the branch budget, technology Budget Change Proposal for fiscal year 2019–20 and 2020, the Futures Commission directive on voice-to-text translation services outside the courtroom, and a presentation by the Self-Represented Litigants E-Services Workstream.
- Reviewed public comments for proposals submitted by the Rules and Policy Subcommittee and Joint Appellate Technology Subcommittee, including a proposal for uniform formatting of rules for electronic documents.

#### **Probate and Mental Health Advisory Committee**

- Discussed new or modified statewide rules and forms addressing graduated filing fees in estate administrative proceedings, notice of a proceeding to determine a claim to property, and proposed amendments to qualifications and education requirements for attorneys appointed by the court to represent wards or conservatees.

#### **Traffic Advisory Committee**

- Discussed traffic and infraction-related legislative proposals.

#### **Trial Court Budget Advisory Committee**

- Considered additional 2019–20 Trial Court Trust Fund and General Fund allocations.
- Approved a total of \$4,762,000 in cash advances for five trial courts in June.

#### **Trial Court Presiding Judges Advisory Committee**

- Submitted comments for 21 rule proposals during the spring Invitation to Comment Cycle.
- Reviewed and provided feedback on 17 legislative bills and proposals.

## Judicial Branch Education

### Summary

#### **Judicial Education**

1. Access to Visitation Grant Program Training
2. California's Fostering Connections to Success Act
3. Cow County Judges Institute
4. Experienced Assignment Courses—Felony Sentencing, and Handling Cases Involving Abuse in Later Life
5. Family Finding and Engagement
6. Indian Child Welfare Act
7. Los Angeles Trial Skills Training
8. New Judge Orientation
9. Primary Assignment Orientations—Criminal Law, Juvenile Dependency, and Traffic
10. Qualifying Judicial Ethics
11. Title IV-E and New Federal Requirements

#### **Judicial Officer, Court Employee, and Justice System Partner Education and Training Programs**

12. Death Penalty Appeals, Felony Abstracts of Judgment, and Habeas Corpus Proceedings After Proposition 66 (Court Personnel Regional Education)
13. Emotional Intelligence: A Key Competency for Successful Leaders
14. Ensuring Access and Fairness When Handling Immigration Issues in Domestic Violence Cases
15. Mental Health Diversion for Felony and Misdemeanor Offenses Regional Roundtable
16. Juvenile Justice and the Color of the Law
17. Pathways to Justice Self-Help Conference
18. Pretrial Programs
19. Preventing and Responding to Sexual Harassment
20. Primer on Capital Habeas Corpus Appeals Post-Proposition 66
21. Proposition 66, for trial court judicial attorneys
22. Proposition 66, Year Two: Implementation of California Death Penalty Reforms
23. Report Writing and Complex Cases (Probate Court Investigator Regional Education)
24. Statewide Indian Child Welfare Act Conference Presentation
25. Visioning and Strategic Planning (Institute for Court Management)
26. Youth Court Summit

#### **Distance Education**

##### Ten-Minute Mentor

27. New Indian Child Welfare Act Regulations

## Video

28. Family Law Update
29. Juvenile Justice Update
30. Primer on Capital Habeas Corpus Appeals Post-Proposition 66
31. Proposition 66, Year Two: Implementation of California Death Penalty Reforms
32. Sealing Delinquency Records

## Webinar

33. AB 1058 Child Support Program
34. Issues of Juvenile Guardianships That Cross Over Between Probate and Juvenile Court
35. Developing Competent Leaders Using the California Court Leadership Certification Process
36. Preventing and Responding to Sexual Harassment
37. Appellate Division Best Practices and Frequently Asked Questions

## Details

### **AB 1058 Child Support Program Webinars**

Using the online Department of Child Support Services Child Support Calculator and implementing the rolling time study timekeeping methodology.

### **Access to Visitation Grant Program Trainings**

Uniform standards of practice for providers of supervised visitation.

### **Appellate Division Best Practices and Frequently Asked Questions**

Common questions, issues, and challenges encountered in handling limited civil, misdemeanor, and infraction appeals.

### **California's Fostering Connections to Success Act**

Educational session for juvenile court judges and court staff in Glenn County.

### **Cow County Judge Institute**

Judicial training on issues affecting smaller courts.

### **Death Penalty Appeals—Court Personnel Regional Education**

Preliminary record preparation through the complete and accurate certification of the record on appeal.

### **Death Penalty Habeas Corpus Petitions After Proposition 66**

Review of new and amended rules of court pertaining to appointment of habeas counsel, and the filing, hearing, and adjudicating of death penalty-related habeas corpus petitions.



**Dependency Trial Skills Training**

For Los Angeles-based court-appointed dependency attorneys for parents and children.

**Developing Competent Leaders Using the California Court Leadership Certification Process**

Leadership competencies, steps for developing employees, and best practices for administering the program fairly.

**Emotional Intelligence: A Key Competency for Successful Leaders**

Gaining awareness of emotional intelligence and how it underlies many critical leadership skills.

**Experienced Assignment Courses—Advanced Topics in Felony Sentencing**

Advanced sentencing scenarios and alternative sentencing schemes.

**Experienced Assignment Courses—Handling Cases Involving Abuse in Later Life**

Ways to better manage and navigate the complexities of cases involving abuse in later life.

**Family Law Update**

New laws and cases affecting family court proceedings.

**Felony Abstracts of Judgment—Court Personnel Regional Education**

How to correctly prepare abstracts of judgment, forms, what to include in a “Prison Packet,” and relevant terminology.

**Habeas Corpus Proceedings After Proposition 66—Court Personnel Regional Education**

Capital habeas corpus petitions and proceedings in the superior courts following implementation of Proposition 66.

**Indian Child Welfare Act**

Educational session provided for court appointed dependency counsel in Alameda County.

**Family Finding and Engagement**

Developing and maintaining safe connections, beginning with youth entry into care and through exit from care, for judicial officers and justice partners in Kings and San Bernardino Counties.

**Juvenile Justice and the Color of the Law**

Presentation to law students at UC Berkeley on historical trauma and the longstanding societal impact on native children who attended Indian boarding schools.

**Juvenile Justice Update**

New laws and cases affecting delinquency court proceedings.

### **Mental Health Diversion for Felony and Misdemeanor Offenses Regional Roundtable**

Second of two regional roundtables to support courts in implementing the new mental health diversion law. Judges and court administrators from 31 of 58 superior courts (representing counties where 86 percent of California's population live) discussed problem-solving approaches around implementation and procedural challenges. Topics included collaborative court practices and principles, determining appropriate treatment, and supervising treatment compliance.

### **New Judge Orientation**

Introduction for new judges, commissioners, and referees to their judicial duties and ethical responsibilities in ensuring fairness in all proceedings, promoting uniform court practices, and improving the administration of justice.

### **Pathways to Justice Self-Help Conference**

Workshops included Technical Innovations for Self-Represented Litigants, Recent Domestic Violence Appellate Decisions and Statutory Changes, Decoding Domestic Abuse Across Cultures, and Improving Self-Help Workshops Through Technology.

### **Pretrial Programs**

Presentation on the Pretrial Pilot project at the California Association of Pretrial Services Annual Conference.

### **Preventing and Responding to Sexual Harassment**

Required training for all court personnel who serve in a management or supervisory role.

### **Primary Assignment Orientations**

- *Civil Law (Experienced)*: Issues and problems in civil law and procedure, law and motion, trial management, and post-trial matters.
- *Criminal Law*: Procedural and substantive law governing criminal cases from arraignment through post-trial.
- *Juvenile Dependency*: Juvenile dependency law, procedure, and evidence rules; the philosophy and responsibilities that underlie the child welfare system and the dependency court; child development; substance abuse; mental health; domestic violence; disproportionately high minority contact; the role of the judicial officer and unique ethical issues.
- *Traffic*: General procedural and substantive law governing traffic cases.

### **Proposition 66, Year Two: Implementation of California Death Penalty Reforms**

New procedures and ongoing aspects of the proposition and their effects on trial and appellate courts.

### **Qualifying Judicial Ethics Core Course**

Training for judicial officers enrolled in the Commission on Judicial Performance insurance program.

**Report Writing and Complex Cases—Probate Court Investigator Regional Education**

Writing reports and handling complex guardianship and conservatorship cases.

**Title IV-E and New Federal Requirements**

Educational session provided to juvenile court judges and court staff of the Superior Court of Orange County.

**Visioning and Strategic Planning—Institute for Court Management**

Based on the National Association for Court Management’s core competencies to develop practical skills for court leaders and managers.

**Youth Court Summit**

In collaboration with the California Association of Youth Courts, judicial officers, youth court staff, youth participants, and stakeholders attended this 14th annual training to increase awareness of peer courts and help improve court practice.

## Staffing Metrics

As of June 28, 2019

STAFFING	Leadership Services Division						Operations & Programs Division						Administrative Division				Judicial Council
	Executive Office	Governmental Affairs	Public Affairs	Audit Services	Legal Services	Leadership Support Services	Center for Families, Children and the Courts	Court Operations Services	Criminal Justice Services	Center for Judicial Education & Research	Information Technology	Appellate Court Services	Budget Services	Branch Accounting & Procurement	Facilities Services	Human Resources	
Authorized Position (FTE)	12.00	10.00	9.00	14.00	55.00	57.80	63.00	25.60	26.00	48.50	137.00	7.00	45.00	136.00	142.00	52.00	839.90
Filled Authorized Position (FTE)	11.00	8.00	9.00	11.00	45.20	53.30	57.55	16.80	18.80	44.00	98.88	5.00	35.00	122.00	107.00	44.00	686.53
Headcount - Employees	11	8	9	11	46	54	58	17	19	44	99	5	35	122	107	44	689.00
Vacancy (FTE)	1.00	2.00	0.00	3.00	9.80	4.50	5.45	8.80	7.20	4.50	38.12	2.00	10.00	14.00	35.00	8.00	153.37
Vacancy Rate (FTE)	8.3%	20.0%	0.0%	21.4%	17.8%	7.8%	8.7%	34.4%	27.7%	9.3%	27.8%	28.6%	22.2%	10.3%	24.6%	15.4%	18.26%
Judicial Council Temp Employee (909)	3	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	7.00
*Employment Agency Temporary Worker (FTE)	0	0	0	0	0	0	1	1	0	1	1	0	1	4	2	0	11.00
Contractors (FTE)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	39.80	0.0	0.0	0.0	0.0	0.0	39.80
TOTAL WORKFORCE (based on FTE, 909s, Agency Temps & Contractors)	14.00	8.00	9.00	11.00	45.20	53.30	58.55	17.80	18.80	45.00	139.68	5.00	36.00	128.00	111.00	44.00	744.33

See following page for definition of terms.

**Definitions:**

<b>Authorized Position (FTE)</b>	Authorized positions include all regular ongoing positions approved in the Budget Act for that year. The number is based on the position's approved full time equivalency.
<b>Filled Authorized Position (FTE)</b>	Filled authorized positions are the number of authorized positions filled based on the employee's full time equivalency.
<b>Headcount</b>	The actual count of persons employed by the Judicial Council, regardless of FTE. This number could be more than the FTE count due to part-time employees being counted as "1". This count does not include Judicial Council Temporary Employees (909) or Employment Agency Temporary Workers.
<b>Vacancy (FTE)</b>	The number of vacancies is the number of authorized positions minus the number of filled authorized positions.
<b>Vacancy Rate (FTE)</b>	Vacancy Rate is calculated by dividing the number of authorized positions by the number of vacant authorized positions. This number excludes temporary employees ("909" funded employees). See definition of temporary employees below.
<b>Judicial Council Temporary Employees (909)</b>	The "909" category is the State Controller code used to reference a temporary position or a temporary employee. 909 Position - it is a position that may not be funded through the Budget Act and it is categorized by the Office of the State Controller as a temporary position used in the absence of an authorized position. 909 positions may be occupied by regular full-time employees due to the unavailability of an authorized vacant position. 909 Employee - An employee whose salary is not funded through the Budget Act. 909 employees may receive benefits if employed at least half-time and the term of employment is for more than six months. Types of "909" Temporary Employees include: Retired Annuitants: A retired annuitant is a retiree who is hired by his or her former employer or by another employer that participates in the same retirement system as the former employer. This includes a former participant in a state retirement system who has previously retired and who is currently receiving retirement benefits. Temporary: Employees employed on a temporary basis - they do not receive full benefits (but do receive CalPERS retirement service credit).
<b>Employment Agency Temporary Worker (FTE)</b>	These are workers from an employment agency. They are employees of the employment agency that provide short-term support.
<b>Contractor (FTE)</b>	Individuals augmenting the work of the organization and providing services for a limited period of time or on a specific project, where a particular skill set is required that is either (1) not within an existing classification and/or job description or (2) where recruitment issues require the use of a contractor.
<b>Full Time Equivalency (FTE)</b>	Full Time Equivalency is the number of total maximum compensable hours designated in a year divided by actual hours worked in a year. For example, the work year is defined as 2,080 hours; one employee occupying a paid full time job all year would consume one FTE. One employee working for 1,040 hours each would consume .5 FTE.
<b>Time Base</b>	Full time: Employee is scheduled to work 40 hours per week. Receives full benefits. Part time: Employee is scheduled to work less than 40 hours per week. Employees that work more than 20 hours per week receive full benefits. Intermittent: Employees have no established work schedule and work on an as-needed basis that varies from one pay period to the next. Eligibility for certain benefits may be limited for these employees.
<b>Regular Employee</b>	Commonly referred to as "permanent employees" – They receive full benefits.
<b>Limited Term</b>	Limited Term Position – It is a position that is funded through the Budget Act with a specific end date. The position is counted as an authorized position. Employee in limited term positions may be regular or temporary.

## Judicial Appointments and Vacancies Report

**Judicial Appointments:** There have been no judicial appointments since the May Judicial Council meeting.

### Number of Judgeships Authorized, Filled, and Vacant as of July 1, 2019

TYPE OF COURT	NUMBER OF COURTS	NUMBER OF JUDGESHIPS					
		Authorized	Filled	Vacant	Vacant (Unfunded AB 159 positions)	<i>Filled(Last Month)</i>	<i>Vacant(Last Month)</i>
Supreme Court	1	7	7	0	0	7	0
Courts of Appeal	6	106	105	1	0	105	1
Superior Courts	58	1,768	1,672	48	23*	1,675	60
<b>All Courts</b>	<b>65</b>	<b>1,881</b>	<b>1,784</b>	<b>71</b>		<b>1,787</b>	<b>69</b>

\*50 new (AB 159) judgeships were authorized, but not funded in 2008; funding was provided for two of the judgeships in the 2018 Budget Act and for a further 25 positions in the 2019 Budget Act.

### JUDICIAL VACANCIES: APPELLATE COURTS

Appellate District	Vacancies	Reason for Vacancy	Justice to be Replaced	Last Day In Office
First Appellate District, Division Three	1	Deferred Retirement	Hon. Martin J. Jenkins	2/22/2019
<b>TOTAL VACANCIES</b>	<b>1</b>			

### JUDICIAL VACANCIES: SUPERIOR COURTS

County	Vacancies	Reason for Vacancy	Judge to be Replaced	Last Day In Office
Alameda	1	Retirement	Hon. Kimberly M. Briggs	4/8/2019
Los Angeles	4	Retirement	Hon. Marvin M. Lager	4/5/2019
Los Angeles		Retirement	Hon. John Joseph Cheroske	2/25/2019
Los Angeles		Retirement	Hon. Gerald Rosenberg	2/14/2019
Los Angeles		Retirement	Hon. Dan Thomas Oki	1/31/2019
Mendocino	1	Retirement	Hon. David A. Riemenschneider	3/31/2019

Napa	1	Retirement	Hon. Diane M. Price	1/31/2019
Orange	5	Retirement	Hon. Geoffrey T. Glass	6/21/2019
Orange		Retirement	Hon. Franz E. Miller	4/29/2019
Orange		Retirement	Hon. Robert C. Gannon	3/20/2019
Orange		Retirement	Hon. David R. Chaffee	3/4/2019
Orange		Retirement	Hon. Kim Garlin Dunning	1/31/2019
Riverside	1	Retirement	Hon. Sharon J. Waters	4/10/2019
Sacramento	1	Retirement	Hon. Robert M. Twiss	3/1/2019
San Diego	2	Retirement	Hon. Leo Valentine, Jr.	2/18/2019
San Diego		Retirement	Hon. Gerald C. Jessop	2/15/2019
San Francisco	1	Retirement	Hon. Carol Yaggy	4/10/2019
San Joaquin	1	Retirement	Hon. Lesley D. Holland	4/2/2019
San Mateo	1	Retirement	Hon. Marta S. Diaz	3/1/2019
Santa Clara	2	Retirement	Hon. Hector E. Ramon	6/24/2019
Santa Clara		Retirement	Hon. Rise Jones Pichon	4/18/2019
Sonoma	1	Retirement	Hon. Robert S. Boyd	6/3/2019
Yolo	1	Retirement	Hon. Janet Gaard	3/16/2019
<b>TOTAL VACANCIES</b>	<b>23</b>			

**Percent of Judgeship Vacancies in the Superior Courts, June 2017–June 2019**

