



Judicial Council of California

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-046

For business meeting on: March 24, 2023

Title

Court Facilities: *Building Official Policy*

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

None

Effective Date

March 24, 2023

Recommended by

Court Facilities Advisory Committee

Hon. Brad R. Hill, Chair

Hon. Patricia M. Lucas, Vice-Chair

Trial Court Facility Modification Advisory
Committee

Hon. Donald Cole Byrd, Chair

Hon. William F. Highberger, Vice-Chair

Date of Report

March 3, 2023

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Executive Summary

The Court Facilities Advisory Committee and Trial Court Facility Modification Advisory Committee recommend adoption of the *Building Official Policy*. This policy sets forth the role, responsibilities, and qualifications of the Judicial Council's Building Official, and establishes the process for appeal of the Building Official's determinations.

Recommendation

The Court Facilities Advisory Committee and Trial Court Facility Modification Advisory Committee recommend that the Judicial Council, effective March 24, 2023, adopt the *Building Official Policy* (see Attachment A).

Relevant Previous Council Action

The attached policy is a new document on which the council has taken no previous action.

Analysis/Rationale

The *Building Official Policy* sets forth the role, responsibilities, and qualifications of the Judicial Council’s Building Official, and establishes the process for appeal of the Building Official’s determinations.

The Building Official will be responsible for enforcement of the provisions of the California Building Standards Code (CBSC) for all projects within their authority, except as otherwise provided by law or the policy. They will inspect projects throughout the construction process; assess consistency with approved plans, the CBSC, and other applicable law; and enforce the standards set forth in the CBSC in accordance with the enforcement provisions therein. The Building Official will administer the Judicial Council’s code compliance program, which includes:

- Developing and implementing an effective project plan review process.
- Managing and facilitating plan review by other regulatory agencies when necessary or appropriate.
- Developing and implementing an internal process for:
 - project permitting including maintenance of permit records;
 - verifying the commissioning of new facilities;
 - inspection of construction works in progress including maintenance of inspection records; and
 - structural, mechanical, and smoke control system peer review.
- Certifying completion of any work performed under a permit issued by the Building Official, if warranted based on inspections.

The Building Official will be appointed by and report to the director of Judicial Council Facilities Services. The position will be a full-time Judicial Council employee and must have at least one of the following credentials: (1) Professional Engineer licensed in California, (2) Architect licensed in California, or (3) International Code Council–Certified Building Official.

Policy implications

The Judicial Council complies with California Code of Regulations, title 24, parts 1–12 and all amendments (collectively, the CBSC), as applicable to its projects or properties. Except as otherwise provided for herein or by law, the council is the authority having jurisdiction to ensure compliance with the CBSC for council projects and properties. Specifically, title 24, part 2 (the California Building Code (CBC)), section 1.2.1.2 provides as follows, “State agencies or state entities [expressly including the Judicial Council] authorized to construct state buildings may appoint a building official who is responsible to the agency for enforcement of the provisions of the California Building Standards Code.” The CBC defines a “state building” as a structure for which the agency “has authority to construct, alter, enlarge, replace, repair, or demolish.” (Cal. Code Regs., tit. 24, § 1.2.1.1.) Accordingly, the Judicial Council has the authority to serve as the

Building Official for property where it has the right to construct, alter, enlarge, replace, repair, or demolish structures.

Comments

The Court Facilities Advisory Committee (CFAC) and Trial Court Facility Modification Advisory Committee (TCFMAC) previously discussed the attached policy at a joint meeting, open to the public, on November 8, 2022. It was posted in advance of that meeting for public comment, and no public comments were received. Moreover, the advisory committees directed its posting, again, for a 30-day public comment period to consider public comments before taking final action. The draft policy was shared via email with all Presiding Judges and Court Executive Officers and posted on three separate webpages on the California Courts website—CFAC, TCFMAC, and Invitations to Comment. The public comment period was from November 9 through December 9, 2022. No public comments were received. On December 29, 2022, and through final action by email, the CFAC and TCFMAC directed that the policy move forward to the Judicial Council for adoption.

Alternatives considered

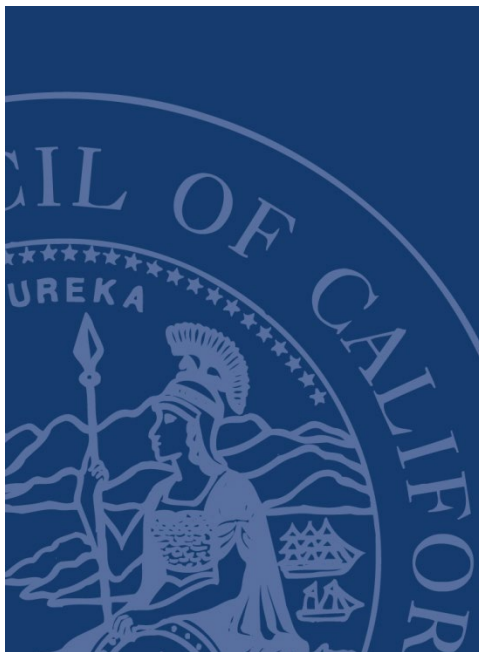
Adoption of the policy is timely, with Judicial Council Facilities Services currently managing 18 capital outlay projects in various phases: 8 in Construction, 1 in Design-Build, 1 in Performance Criteria, 2 in Working Drawings, and 6 in Acquisition. In addition, and in the Governor’s proposed budget for fiscal year 2023–24, funding for initial phases of two new projects (one trial court and one appellate court) has been proposed. To continue to advance the capital outlay program, as well as other projects within the Building Official’s authority, no alternatives to the recommended action were considered.

Fiscal and Operational Impacts

Implementation of this policy will not require new costs. Costs associated with administering the Judicial Council’s code compliance program are paid from project funds and from funds for Judicial Council Facilities Services staffing necessary to implement council authority over management of the capital outlay program as well as other projects within the Building Official’s authority.

Attachments and Links

1. Attachment A: *Building Official Policy* (Mar. 24, 2023)



Building Official Policy

MARCH 24, 2023



Judicial Council of California

Revision Management

Revision	Chapter	Revision Description	Revision Date
1.0			

1. Purpose

The purpose of the Building Official Policy is to set forth the role, responsibilities, and qualifications of the Judicial Council’s building official (“Building Official”) as well as to establish the process for appeal of the Building Official’s determinations.

2. Statutory Authority

2.1. Judicial Council Responsibilities and Authorities

Government Code sections 69202 and 69204, 70374, 70391, 70391.5, and 70398–70398.7; Public Contract Code section 19204.

In these sections, the Legislature grants the Judicial Council broad policymaking and implementation authority and responsibility over appellate and trial court facilities, including all aspects of acquisition and construction of appellate and trial court facilities.

2.2. Judicial Council Staff

Government Code sections 69206 and 70392.

With these provisions, the Legislature gives Judicial Council staff authority to, and responsibility for, several broad areas connected to acquisition and construction of appellate and trial court facilities, requiring staff to (1) carry out the council’s policies with regard to appellate and trial court facilities, except as otherwise expressly limited by law; (2) develop for council approval the long-term court facilities plans for appellate and trial court facilities; (3) develop for council approval a five-year infrastructure plan, and (4) construct appellate and trial court facilities, including, but not limited to, selection of architects and contractors, except as otherwise expressly limited by law.

3. Authority Having Jurisdiction

The Judicial Council complies with California Code of Regulations, title 24, parts 1–12 and all amendments (collectively, the California Building Standards Code or “CBSC”), as applicable to its projects or properties. Except as otherwise provided for herein or by law, the Judicial Council is the authority having jurisdiction to ensure compliance with the CBSC for Judicial Council projects and properties. Specifically, title 24, part 2 (the “California Building Code”), section 1.2.1.2 provides as follows: “State agencies or state entities [expressly including the Judicial Council] authorized to construct state buildings may appoint a building official who is responsible to the agency for enforcement of the provisions of the California Building Standards Code.” The California Building Code defines a “state building” as a structure for which the agency “has authority to construct, alter, enlarge, replace, repair, or demolish.” (Cal. Code Regs., tit. 24, § 1.2.1.1.) Accordingly, the Judicial Council has the authority to serve as the Building Official for

property where it has the right to construct, alter, enlarge, replace, repair, or demolish structures.

4. Role

4.1. Duty Statement

The Building Official shall be responsible for enforcement of the provisions of the California Building Standards Code for all projects within the Building Official's authority, except as otherwise provided by law or this policy.

4.2. Employment Status

The Building Official shall be appointed by, and shall report to, the director of Facilities Services. The Building Official shall be a full-time Judicial Council employee.

4.3. Compliance with Council Policies

The Building Official shall comply with the Judicial Council's employment policies and regulations, including but not limited to the Judicial Council's Conflict of Interest Policy.

5. Responsibilities

5.1. Program Administration

5.1.1. The Building Official administers the Judicial Council's code compliance program. Administration of the program includes:

5.1.1.1. Development and implementation of an effective project plan review process;

5.1.1.2. Managing and facilitating plan review by other regulatory agencies when necessary or appropriate;

5.1.1.3. Developing and implementing an internal process for project permitting, including maintenance of permit records;

5.1.1.4. Developing and implementing an internal process for verifying the commissioning of new facilities;

5.1.1.5. Developing and implementing an internal process for inspection of construction works in progress, including maintenance of inspection records; and

5.1.1.6. Developing and implementing an internal process for structural, mechanical, and smoke control system peer review.

5.1.1.7. If warranted, based on the Building Official’s inspections, the Building Official shall certify the completion of any work performed under a permit issued by the Building Official. Before issuing a Certificate of Completion, the Building Official shall:

- 5.1.1.7.1. Ensure construction inspections are complete, and any required final verified reports are received from the inspector of record.
- 5.1.1.7.2. Obtain final sign-off from any special inspection and material testing laboratory, as required for the project.
- 5.1.1.7.3. Obtain a Certificate of Occupancy or Certificate of Project Completion for the project.
- 5.1.1.7.4. Ensure that building commissioning is complete.

5.2. Cooperation with Other Authorities Having Jurisdiction

Other regulatory agencies may also have jurisdiction over Judicial Council projects or properties. For example, pursuant to Health and Safety Code section 13108, the State Fire Marshal has authority over property and facility elements pertaining to fire and panic safety, also sometimes referred to as fire and life safety. Additionally, pursuant to Government Code section 4450 et seq., the Division of the State Architect is the authority having jurisdiction over property and facility elements dealing with accessibility. The Board of State and Community Corrections (BSCC) may also be the authority having jurisdiction over certain in-custody areas pursuant to California Code of Regulations, titles 15 and 24, Minimum Standards for Local Detention Facilities (Ref. Pen. Code, § 6031.4(d)). “Local detention facility” also includes a court holding facility within a superior court that is operated by or supervised by personnel trained pursuant to section 1024 of title 15 of the California Code of Regulations.

There may also be instances where a Judicial Council property is shared with another public agency, such as a county, and/or that other public agency holds title to, and has the authority to act as the building official for, the property. In such instances, those multiple entities may have concurrent and overlapping authority to act as the building official for a property, and the entities shall confer and mutually agree on the aspects of the project that are under the jurisdiction of each respective entity.

In all instances, the Building Official shall cooperate with all other entities that may have jurisdiction over a property or facility or elements thereof.

5.3. Code Enforcement

The Building Official inspects projects throughout the construction process; assesses consistency with approved plans, the CBSC, and other applicable law; and enforces the standards set forth in the CBSC in accordance with the enforcement provisions therein.

5.4. Standard of Care

The Building Official shall possess the qualifications and ability to perform the responsibilities described in this policy and the CSBC, and to fulfill the Building Official's role in a professional manner. The Building Official shall perform all duties with the reasonable care, skill, and judgment of a person acting in the capacity as a Building Official in the same or similar circumstances.

The Building Official is responsible for the professional quality, technical accuracy, completeness, and coordination of the Building Official's work. The Building Official may, at times, delegate work to subordinates or consultants; the Building Official is responsible to ensure the professional quality, technical accuracy, completeness, and coordination of the Building Official's delegated work.

5.5. Compliance with Law

The Building Official shall comply with all applicable federal, state, and local laws in the performance of the Building Official's duties.

6. Qualifications

6.1. Required Credentials

The Building Official must have at least one of the following credentials:

- Professional Engineer licensed in California;
- Architect licensed in California; or
- International Code Council–Certified Building Official.

7. Appeals

- 7.1.** Any person adversely affected by a determination made by the Building Official in administering or enforcing this policy, the CBSC, or other applicable law may appeal the determination by submitting a written appeal to the Chief Administrative Officer.
- 7.2.** The appeal shall clearly describe the way in which the Building Official's determination adversely affected the appellant and shall include any and all documentation that supports the appellant's allegation.
- 7.3.** The appeal shall be filed with the Chief Administrative Officer no later than 10 calendar days after receipt of written notice of the Building Official's determination. Failure to timely request an appeal constitutes a waiver of the hearing and a failure to exhaust administrative remedies.

- 7.4. The Chief Administrative Officer shall schedule a hearing to consider the appeal within 10 calendar days from receipt or as soon thereafter as practically possible. The Chief Administrative Officer shall consider relevant evidence presented at the hearing and may also consult with outside experts to assist with rendering a decision.

- 7.5. The Chief Administrative Officer shall document all decisions and findings in writing. The decision of the Chief Administrative Officer shall be issued within 10 calendar days of the hearing or as soon thereafter as reasonably practicable. A copy of the decision shall be delivered to the appellant(s) personally or sent electronically with a duplicate copy to the Building Official. The date of service shall be considered the same day if delivered personally or electronically.

- 7.6. The decision of the Chief Administrative Officer in granting or denying an appeal shall become final on the date of service. Any appeal of the decision must be filed by the appellant with a court of competent jurisdiction pursuant to California Code of Civil Procedure sections 1094.5 and 1094.6, within 30 calendar days of the service of the decision; otherwise, all objections will have been waived. The filing of such an appeal within such a time limit shall stay the effective date of the decision of the Chief Administrative Officer.