



# Judicial Council of California

## Meeting Minutes

### Judicial Council

Please visit [courts website](#) to access the recording of the May 17, 2024, meeting.

Meeting materials are available through the hyperlinks in this document.

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Friday, May 17, 2024

9:45 AM

San Francisco

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### **CLOSED SESSION (RULE 10.6(b))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE**

Chief Justice Patricia Guerrero, Chair of the Judicial Council, called the closed session to order at 9:00 a.m.

### **OPEN SESSION (RULE 10.6(a)) — MEETING AGENDA**

#### **Attendance**

##### **Council Members**

- Present:** 22 - Chief Justice Patricia Guerrero, Justice Carol A. Corrigan, Administrative Presiding Justice Brad R. Hill, Justice Carin T. Fujisaki, Judge Maria Lucy Armendariz, Judge C. Todd Bottke, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Charles S. Crompton, Judge Judith K. Dulcich, Judge Samuel K. Feng, Judge Maureen F. Hallahan, Judge Maria D. Hernandez, Judge Ann C. Moorman, Judge Erica R. Yew, Senator Thomas J. Umberg, Ms. Kate Bieker, Mr. David D. Fu, Ms. Rachel W. Hill, Ms. Gretchen Nelson, Mr. Darrel E. Parker, and Mr. David H. Yamasaki
- Absent:** 4 - Judge Michelle Williams Court, Assembly Member Brian Maienschein, Mr. Charles Johnson, and Mr. Maxwell V. Pritt

#### **Call to Order**

Chief Justice Patricia Guerrero, Chair of the Judicial Council, called the open session to order at 9:45 a.m. in the Judicial Council Board Room.

#### **Public Comment**

Written comments were provided to the council members and filed in the record. Mr. Suresh Eswaran addressed the council on general matters of judicial administration.

## Chief Justice's Report

Chief Justice Patricia Guerrero reported on her activities since the last council meeting.

## Administrative Director's Report

[24-009](#)

### Administrative Director's Report

Administrative Director Shelley Curran reported on some of the many activities Judicial Council staff engaged in to further the council's strategic goals and priorities for the judicial branch since the last business meeting, exclusive of items on the May meeting agenda.

## CONSENT AGENDA

### Approval of the Consent Agenda

**A motion to approve all of the following items on the Consent Agenda was made by Judge Moorman and seconded by Judge Brodie. The motion was adopted.**

[24-003](#)

### Minutes of March 15, 2024, Judicial Council Meeting

[24-102](#)

### Criminal Law | Judicial Council Appointment to Board of State and Community Corrections (Action Required)

**Summary:** The Executive and Planning Committee recommends that the Judicial Council reappoint Judge Janet Gaard (Ret.) to the Board of State and Community Corrections (BSCC). The BSCC is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems and expertise on public safety realignment issues. The BSCC is composed of 13 members, including a judge appointed by the Judicial Council.

**Recommendation:** The Executive and Planning Committee recommends that the Judicial Council, effective July 1, 2024, reappoint Judge Janet Gaard (Ret.) to the Board of State and Community Corrections for a term beginning July 1, 2024, and ending June 30, 2027.

[24-090](#)

### Judicial Branch Administration | Judicial Branch Workers' Compensation Program (Action Required)

**Summary:** For fiscal year 2024-25, a workers' compensation cost allocation of \$17.63 million for the trial courts and \$1.25 million for the state judiciary was approved for recommendation by the Judicial Branch Workers' Compensation Program Advisory Committee.

**Recommendation:** The Judicial Branch Workers' Compensation Program Advisory Committee recommends that the Judicial Council, effective May 17, 2024, approve the fiscal year 2024-25 workers' compensation cost allocation of \$17.63 million for participating trial courts and \$1.25 million for the state judiciary.

#### [24-106](#)

### **Judicial Council | Nonvoting Council Position (Action Required)**

**Summary:** The chair of the Executive and Planning Committee recommends approving one new advisory, nonvoting position on the Judicial Council for a single, three-year term. The Judicial Council has the authority to add nonvoting positions under article VI, section 6 of the California Constitution and rule 10.2 of the California Rules of Court. This position will provide the council with an additional source of court-based knowledge and statewide perspective and enhance the geographic and gender diversity among its membership.

**Recommendation:** The chair of the Executive and Planning Committee recommends that the Judicial Council approve the creation of one new advisory, nonvoting Judicial Council position for a single three-year term, from September 15, 2024, through September 14, 2027.

#### [24-073](#)

### **Jury Instructions | Civil Jury Instructions (Release 45) (Action Required)**

**Summary:** The Advisory Committee on Civil Jury Instructions recommends approval of revised civil jury instructions and verdict forms prepared by the committee. Among other things, these changes bring the instructions up to date with developments in the law over the previous six months. Upon Judicial Council approval, the instructions will be published in the official midyear supplement to the 2024 edition of the *Judicial Council of California Civil Jury Instructions*.

**Recommendation:** The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective May 17, 2024, approve for publication under rules 2.1050 and 10.58 of the California Rules of Court:

1. Revisions to 27 instructions and verdict forms: CACI Nos. 372, VF-300, VF-400, 1009A, 2500, 2501, 2502, 2513, 2521A, 2521B, 2521C, 2540, 2541, 2547, 2743, 3066, 4000, 4002, 4004, 4005, 4006, 4007, 4008, VF-4000, 4328, 5009, and 5012; and
2. Revocation of CACI No. 4001.

#### [24-084](#)

### **Report to the Legislature | Pretrial Release Program, Year 2 (Action Required)**

**Summary:** The Budget Act of 2022 (Sen. Bill 154; Stats. 2022, ch. 43) allocated \$70 million of ongoing funding to the Judicial Council for the operation of ongoing court programs and practices that promote safe, efficient, fair, and timely pretrial release of individuals booked into jail. The Judicial Council is required to submit annual reports on program progress. Criminal Justice Services staff recommend that the

Judicial Council approve *Pretrial Release Program: Year 2 Report to the Legislature, 2024* and direct the Administrative Director to submit it to the Legislature, as required under the Budget Bill. The report describes key components of the Pretrial Release Program and documents the local and statewide activities in the second year of the program.

**Recommendation:** Criminal Justice Services staff recommend that the Judicial Council, effective May 17, 2024:

1. Approve *Pretrial Release Program: Year 2 Report to the Legislature, 2024*; and
2. Direct the Administrative Director to submit this report to the Legislature on or before July 1, 2024, as required by the Budget Bill.

#### [24-029](#)

### **Rules and Forms | Criminal Procedure: Appointment of Counsel for Claims Filed Under Penal Code Section 1473(e) (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends the adoption of rule 4.553 of the California Rules of Court to implement legislation requiring the Judicial Council to develop qualifications for the appointment of counsel in superior court habeas corpus proceedings under Penal Code section 1473(e). Section 1473(e) provides for relief under the California Racial Justice Act of 2020, which prohibits the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin and allows petitioners to make claims for relief based on violations of the act.

**Recommendation:** The Criminal Law Advisory Committee recommends that the Judicial Council, effective September 1, 2024, adopt California Rules of Court, rule 4.553, on qualifications for appointed counsel for claims under Penal Code section 1473(e).

#### [24-028](#)

### **Rules and Forms | Criminal Procedure: Racial Justice Act (Action Required)**

**Summary:** The Appellate Advisory Committee and the Criminal Law Advisory Committee recommend amending rules 4.551, 8.385, and 8.386 of the California Rules of Court and revising *Motion to Vacate Conviction or Sentence* (form CR-187), *Order on Motion to Vacate Conviction or Sentence* (form CR-188), and *Petition for Writ of Habeas Corpus* (form HC-001) to implement the Racial Justice Act, which prohibits the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin.

**Recommendation:** The Appellate Advisory Committee and the Criminal Law Advisory Committee recommend that the Judicial Council, effective September 1, 2024:

1. Amend California Rules of Court, rule 4.551, to add provisions on appointment of counsel, judicial disqualification, and evidentiary hearings, and state reasons for denying a petition for requests for relief under Penal Code sections 745 and 1473(e), and authorize an additional 60 days for the court to rule on an amended habeas corpus petition;

2. Amend California Rules of Court, rule 8.385 to add a provision on appointment of counsel;
3. Amend California Rules of Court, rule 8.386 to add a provision detailing when a court must hold an evidentiary hearing when a petition requests relief under Penal Code section 745;
4. Revise *Motion to Vacate Conviction or Sentence* (form CR-187) to allow a moving party to request relief under Penal Code sections 745 and 1473.7(a)(3);
5. Revise *Order on Motion to Vacate Conviction or Sentence* (form CR-188) to allow a court to grant or deny relief requested under Penal Code sections 745 and 1473.7(a)(3);
6. Revise *Petition for Writ of Habeas Corpus* (form HC-001) to allow a petitioner to request relief under Penal Code sections 745 and 1473(e); and
7. Make clarifying and technical changes to forms CR-187, CR-188, and HC-001.

#### [24-092](#)

### **Rules and Forms | Judicial Branch Education: Judicial Schedules (Action Required)**

**Summary:** The Center for Judicial Education and Research Advisory Committee recommends the Judicial Council make a technical amendment to rule 10.603 of the California Rules of Court to replace outdated references with citations to the current judicial education requirements.

**Recommendation:** The Center for Judicial Education and Research Advisory Committee recommends that the Judicial Council, effective September 1, 2024, amend rule 10.603 of the California Rules of Court to replace outdated references to repealed standards of judicial administration with citations to the relevant rules of court on judicial education requirements that replaced the standards (Cal. Rules of Court, rules 10.451, 10.452, and 10.462-10.469).

#### [24-095](#)

### **Rules and Forms | Mental Health Law: CARE Act Rule Amendments and Form Revisions (Action Required)**

**Summary:** The Probate and Mental Health Advisory Committee recommends amending four rules of court and revising seven forms to implement Senate Bill 35 (Stats. 2023, ch. 283), which amended both substantive and procedural aspects of the Community Assistance, Recovery, and Empowerment (CARE) Act. In addition, the statute updated the mandate that the Judicial Council adopt rules implementing the policies and provisions of the act to add a requirement that the rules include “communications between the CARE Act court and the juvenile court, if applicable,” and to remove the requirement that the rules include “the clerk’s review of the petition.” The Family and Juvenile Law Advisory Committee joins in recommending the amendment of rule 7.2210(d)--(f), and the revision of forms CARE-050-INFO and CARE-100 to the extent those proposed changes address communications between the CARE Act court and the juvenile court.

**Recommendation:** The Probate and Mental Health Advisory Committee and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective September 1, 2024:

1. Amend California Rules of Court, rule 7.2210 to add subdivisions (c), (d), (e), and (f), which outline the procedures for filing a motion under Welfare and Institutions Code section 5976.5(e) to seal records in CARE Act proceedings, provide for communications between the CARE Act court and the juvenile court, provide for notification of respondent's attorney in certain parallel or related legal proceedings, and clarify that the rule does not authorize additional communication, absent an express waiver by respondent.
2. Amend rule 7.2221 to remove language regarding the clerk's review of the petition to conform to the repeal of that requirement from Welfare and Institutions Code section 5977.4(c) by SB 35.
3. Amend rule 7.2225 to reflect the amendments to Welfare and Institutions Code section 5978, which clarify who must serve as the petitioner in CARE Act proceedings initiated upon referral from other court proceedings.
4. Amend rule 7.2230 to remove unnecessary language regarding the local rule process.
5. Revise the following forms to conform to statutory amendments and make technical changes:
  - *Information for Petitioners--About the CARE Act* (form CARE-050-INFO);
  - *Information for Respondents--About the CARE Act* (form CARE-060-INFO);
  - *Petition to Commence CARE Act Proceedings* (form CARE-100);
  - *Mental Health Declaration--CARE Act Proceedings* (form CARE-101);
  - *Order for CARE Act Report* (form CARE-105);
  - *Notice of Order for CARE Act Report* (form CARE-106); and
  - *Notice of Respondent's Rights--CARE Act Proceedings* (form CARE-113).

#### [24-034](#)

### **Rules and Forms | Order for Debtor's Examination in Small Claims Cases (Action Required)**

**Summary:** Judicial Council staff recommend revising the instructions on one Judicial Council form to implement a statutory change made by Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. Revisions to the form will ensure that it conforms to existing law and avoid causing confusion for court users, clerks, and judicial officers.

**Recommendation:** Judicial Council staff recommend that the council, effective June 1, 2024, revise *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) to reflect the revised deadline set in AB 1119 for service of an order for examination of a judgment debtor.

#### [24-104](#)

### **Trial Court Budget | 2023-24 State Trial Court Improvement and Modernization Fund Allocation Increase for Legal Services (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends a \$2 million fiscal year 2023-24 State Trial Court Improvement and Modernization Fund allocation for the Litigation Management Program to address increased legal services for the trial courts. The \$2 million request in the current year is to supplement the annual appropriation of \$6.2 million General Fund for the Litigation Management Program.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council approve, effective May 17, 2024, a \$2 million fiscal year 2023-24 Trial Court Improvement and Modernization Fund allocation to the Judicial Council's Legal Services office to support trial court-related expenses managed under the Litigation Management Program.

#### [24-096](#)

### **Trial Court Budget | California Court Interpreter Workforce Pilot Program (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends an allocation methodology for the \$6.8 million appropriated in the Budget Act of 2023 for the California Court Interpreter Workforce Pilot Program. The pilot program is intended to increase the number of court interpreter employees in the courts by reimbursing potential interpreters for costs associated with their training, coursework, and up to three examination fees to become a court interpreter.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective May 17, 2024:

1. Approve the allocation methodology for the \$6.8 million appropriation for implementation of the California Court Interpreter Workforce Pilot Program; and
2. Direct Language Access Services staff of the Judicial Council's Center for Families, Children & the Courts to manage the pilot program and begin the pilot no later than July 1, 2024.

#### [24-027](#)

### **Trial Court Budget | Minimum Operating and Emergency Fund Balance Policy (Action Required)**

**Summary:** The Judicial Council's suspension of the minimum operating and emergency fund balance policy expires on June 30, 2024. The policy, which requires trial courts to set aside a percentage of funds for use in emergency situations or due to budgetary shortfalls, has been suspended by the council since fiscal year 2012-13

due to changes in statute and to consider further statutory amendments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a two-year extension of the suspension of the policy until June 30, 2026, and requests consideration to repeal the policy at a future time.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that, effective July 1, 2024, the Judicial Council:

1. Extend the suspension of the minimum operating and emergency fund balance policy for two fiscal years until June 30, 2026. This will provide additional time to determine the impact of the proposals included in the 2024-25 Governor's Budget on trial court operations and emergency funding levels;
2. Request the committee's Funding Methodology Subcommittee to consider whether the minimum operating and emergency fund balance policy, which has been suspended since fiscal year 2012-13, should be repealed at a future time based on enactment of the proposed changes to the state-level emergency reserve and fund balance cap included in the 2024-25 Governor's Budget.

## DISCUSSION AGENDA

[24-094](#)

### **Rules and Forms | Civil Remote Proceedings: When a Judicial Officer May Preside Remotely (Action Required)**

**Summary:** The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council adopt a rule of court concerning when a judicial officer may preside remotely in civil cases subject to Code of Civil Procedure section 367.75, effective July 1, 2024. The proposed rule satisfies the statutory mandate contained in Code of Civil Procedure section 367.10 that requires the council to adopt a rule that includes "standards for when a judicial officer, in limited situations and in the interest of justice, may preside over a remote court proceeding from a location other than a courtroom." (Code Civ. Proc., § 367.10.)

**Recommendation:** The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council adopt California Rules of Court, rule 10.635, effective July 1, 2024.

**A motion to approve the recommendation was made by Mr. Yamasaki and seconded by Justice Fujisaki. The motion was adopted.**

[24-086](#)

### **Trial Courts | Trial Court Financial Policies and Procedures Manual (13th Ed.) (Action Required)**

**Summary:** Judicial Council staff recommend adoption of the *Trial Court Financial Policies and Procedures Manual, 13th Edition*. The manual was last updated in 2022. It requires both substantive and nonsubstantive revisions to maintain clarity and to update and improve the existing system of internal fiscal controls in accordance with California Rules of Court, rule 10.804.

**Recommendation:** Judicial Council staff recommend that the Judicial Council, effective July 1, 2024, adopt the 13th edition of the *Trial Court Financial Policies and Procedures Manual*, which:



1. Removed the link to the Schedule of Constraints on Fund Balance supplement on the Judicial Resources Network;
2. Clarified the types of purchase card receipts that can be used in place of a goods receipt;
3. Removed references to the travel ban to states with discriminatory laws under Assembly Bill 1887;
4. Removed references to specific lodging rates for ease of policy changes via Finance Memos;
5. Revised the Petty Cash Fund Reimbursement form;
6. Removed specific meal reimbursement rates for group business meals provided at trial court or government facilities for ease of policy changes via Finance Memos;
7. Changed discretionary verbiage to match Government Code section 71386(b);
8. Added a sample Cash Change Fund Balance Form;
9. Clarified that the term “year” refers to the fiscal year unless stated otherwise. For payroll- and tax-related documents, “year” refers to the calendar year;
10. Updated the authorized list of trial court banking services to include remote deposits;
11. Updated the facsimile memo signature line for Delegation of Authority to Accept Gifts from Martin Hoshino to Shelley Curran;
12. Added language to clarify that beginning fiscal year 2024-25, the indirect cost rate proposal carry-forward adjustment will be calculated using only the prior year fiscal data;
13. Corrected footnote 2 in the Escheat procedure to indicate the noted policy does not apply to criminal fees, fines, or forfeitures;
14. Added language authorizing escheatment of unclaimed money from an eminent domain action deposited after entry of judgment that was not ordered to be deposited into the state treasury;
15. Added language authorizing escheatment of unclaimed, stale-dated, Franchise Tax Board overgarnishment refund checks; and
16. Added language authorizing escheatment of stale-dated checks issued to parties as a refund of an overpayment in criminal proceedings.

**A motion to approve the recommendation was made by Ms. Bieker and seconded by Judge Moorman. The motion was adopted.**

#### [24-091](#)

#### **Judicial Branch Administration | Generative Artificial Intelligence and California’s Judicial Branch (No Report. No Action Required.)**

**Summary:** At the January 19, 2024, meeting of the Judicial Council, the Chief Justice announced her request of Administrative Presiding Justice Mary J. Greenwood and Judge Arturo Castro to “spearhead research efforts for our branch on the opportunities and challenges associated with AI.” At the invitation of the Chief Justice, they will give an update on the status of their work on this topic.

**INFORMATION AGENDA (NO ACTION REQUIRED)**[24-093](#)**Report to the Judicial Council | Trial Court Facility Modifications  
Report for Quarter 3 of Fiscal Year 2023-24**

**Summary:** This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the third quarter (January through March) of fiscal year 2023-24. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

[24-063](#)**Report to the Legislature | Allocation of Funding in 2023-24 for  
Federally Funded Dependency Representation Program Shortfall**

**Summary:** Staff of the Judicial Council's Center for Families, Children & the Courts submitted to the Legislature *Report on Allocation of Funding in 2023-24 for Federally Funded Dependency Representation Program Shortfall*, in accordance with the requirement in the 2023 Budget Act.

[24-083](#)**Trial Courts | Quarterly Investment Report for Second Quarter  
Fiscal Year 2023-24**

**Summary:** This quarterly investment report covers the period from October 1 through December 31, 2023, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under the Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

**Judicial Council Internal Committee Reports**[24-015](#)**Written Reports****Appointment Orders**[24-103](#)**Appointment Orders since the last business meeting.****Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:43 a.m.

*Respectfully submitted by Administrative Director Shelley Curran, Secretary to the Judicial Council, on July 12, 2024.*