



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-077

For business meeting on: March 12, 2021

Title

Judicial Council: Triennial Review of
Judicial Council Governance Policies

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

None

Effective Date

March 12, 2021

Recommended by

Executive and Planning Committee
Hon. Marsha G. Slough, Chair

Date of Report

February 16, 2021

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Executive Summary

The Executive and Planning Committee recommends that the Judicial Council adopt the revised *Judicial Council Governance Policies*. The committee oversees the Judicial Council's triennial review of its governance policies and principles under California Rules of Court, rule 10.11(f). The revisions are to conform the policies to changes made to the California Rules of Court in 2019 regarding Judicial Council internal committees. Additional revisions were made to simplify language and add hyperlinks.

Recommendation

The Executive and Planning Committee recommends that the Judicial Council, effective March 12, 2021, adopt the revised *Judicial Council Governance Policies*, which include the following updates:

- Introduction: Added a link to the current judicial branch strategic plan;

- Section 4e, Judicial Branch Budget Committee: Added rule 10.15, adopted in 2019, which sets out the duties and responsibilities of the committee;
- Appendix: Removed the appendix containing the *Operating Standards for Judicial Council Advisory Bodies*; and
- Reformatted the document and simplified the language for consistency and clarity.

The proposed *Judicial Council Governance Policies* are included as Attachment A to this report.

Relevant Previous Council Action

In 1998, the Judicial Council adopted its Judicial Council policies and principles governance document based on consultation with a nationally recognized governance authority, Dr. John Carver. The work of the branch has grown considerably since 1998, and the council's responsibilities have increased accordingly. The first decade of the 21st century brought the Judicial Council expanded responsibilities and expectations, largely due to state funding, trial court unification, transfer of the 500-plus courthouses to state ownership, and the emphasis on the independence and accountability of the judicial branch.

In June 2008, the Judicial Council approved revised governance policies, originally drafted in 1998. These policies are the council's framework for how it engages in policymaking; how it is organized; what the roles and responsibilities are for its members, officers, and committees; what the council's relationship is with the Administrative Director and Judicial Council staff; and the areas of accountability. On August 14, 2009, the council amended rules of court to conform the rules to be consistent with its governance policies. At that time, the council approved the full text of the governance policies as Appendix D to the California Rules of Court.

In 2017, the Executive and Planning Committee's review revealed substantially similar verbiage between the California Rules of Court and the governance policies. Since the governance policies are designed to be more general in their description of the Judicial Council and its internal committees, the committee recommended revisions to remove substantially similar language used in the rules of court to eliminate confusion. In addition, the *Operating Standards for Judicial Council Advisory Bodies* that support the general parameters within which Judicial Council advisory bodies operate under the direction and oversight of the Chief Justice and the Judicial Council was appended to the governance policies. In the attached revision of the governance policies, the operating standards were removed as an appendix and will be maintained as an internal administration resource.

The *Judicial Council Governance Policies* will continue to be reviewed every three years for needed updates.

Analysis/Rationale

Most of the proposed revisions are to conform the governance policies to the current rules of court. Hyperlinks to relevant rules of court were also added for easy access when necessary.

Policy implications

There are no policy implications of this proposal. The proposed changes are already established by the rules of court and current policies and procedures.

Comments

The proposal did not circulate for comment. The proposed changes are to conform the governance policies with amendments to the rules of court and current policies and procedures and are unlikely to create controversy.

Alternatives considered

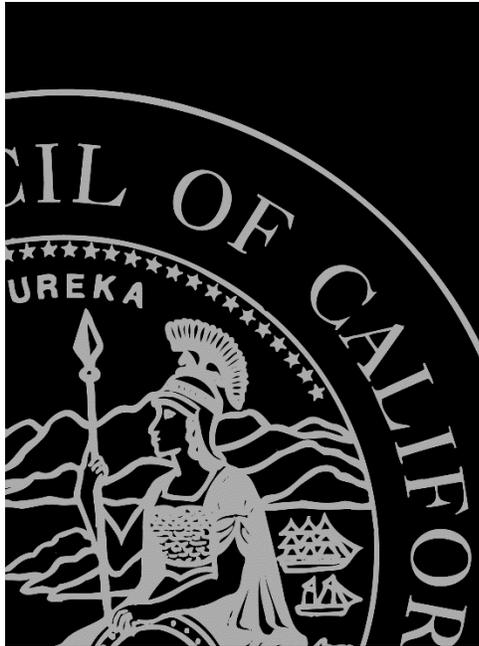
The committee did not consider alternatives because they determined that the changes were desirable for clarity and consistency associated with changes to rules of court and policies and procedures.

Fiscal and Operational Impacts

There are no fiscal or operational impacts resulting from this proposal.

Attachments and Links

1. Attachment A: Judicial Council Governance Policies, March 2021



Judicial Council Governance Policies

MARCH 2021



JUDICIAL COUNCIL
OF CALIFORNIA

Judicial Council Governance Policies

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Members of the council are appointed by the Chief Justice. Appointees from the Board of Trustees of the State Bar of California and both houses of the Legislature also serve as members of the council. Together the members serve to carry out judicial branch goals. Judicial Council staff implements the council's policies, and the goals and priorities of the council are set forth in [*The Strategic Plan for California's Judicial Branch*](#):

- I. Access, Fairness, and Diversity
- II. Independence and Accountability
- III. Modernization of Management and Administration
- IV. Quality of Justice and Service to the Public
- V. Education for Branchwide Professional Excellence
- VI. Branchwide Infrastructure for Service Excellence
- VII. Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

GOVERNANCE PROCESS

1. Responsibilities of the Council

The council establishes goals and policies for California's judicial branch of government. The council is directly responsible for the following:

- a. Establishing broad goals and policies that set the direction and priorities for the continuous improvement of California's system for the administration of justice. These goals and policies include fundamental goals such as promoting public access to the justice system, increasing responsiveness to the needs of court users of diverse backgrounds, and upholding the rule of law and the impartiality of judges as constitutional officers.
- b. Establishing standards for the performance and accountability of the administrative operations and procedures of the branch. These standards address the diverse needs of court users, employ modern management practices that implement and sustain innovative ideas and effective practices, and report on judicial branch performance to the public, the Legislature, the Governor, and the courts.
- c. Developing and maintaining administrative, technological, and physical infrastructures, including court facilities, that enhance accessibility to the courts and support the needs of the people of California and the judicial branch.

- d. Taking all appropriate steps to develop and establish the judicial branch's fiscal priorities, secure appropriate funding for the judicial branch, establish fiscal and budget policies for the branch, allocate branch appropriations to the courts and the council, and ensure accountability through reporting on the use of its public resources to the legislative and executive branches of state government and to the public.
- e. Sponsoring and taking positions on pending legislation consistent with the council's established goals and priorities to support consistent and effective statewide programs and policies that provide for the highest quality of administration of justice, and that promote an impartial judiciary.
- f. Developing high-quality education and professional development opportunities for all judicial branch personnel to meet public needs and to enhance public trust and confidence in the courts.
- g. Communicating with and reporting to the legislative and executive branches of state government to advance judicial branch goals, and account for the use of public funds and resources.

2. Council Policymaking

The Judicial Council establishes judicial branch policy for the improvement of an independent and impartial justice system that meets public needs and enhances public trust and confidence in the courts. The council develops policy in consultation with the people of California, court leadership, judicial officers, Judicial Council advisory bodies, employees in the judicial branch, the State Bar of California, advocacy groups, the Legislature, the Governor, and other government entities and justice system partners.

The principal focus of the Judicial Council is to establish policies that emphasize long-term strategic leadership and that align with judicial branch goals. Council policymaking is focused on the beneficiaries of the policy, the results to be achieved, the costs that may be incurred, and the corresponding judicial branch goals.

To enable the council to make well-informed strategic decisions, all policy proposals submitted for council consideration by internal committees, advisory bodies, the Administrative Director, and staff should address the following:

- Beneficiaries of the policy;
- Results to be achieved;
- Costs that may be incurred;
- Each corresponding judicial branch goal, objective, and anticipated outcome;

- Previous council action on the issue or policy;
- Comments from interested parties;
- Analysis of the benefits and risks of the proposals; and
- Analysis of the strengths and weaknesses of alternative options and an explanation of their implications.

3. Maintenance of Governance Policies and Principles

Every three years, the Judicial Council conducts a review of its governance policies and principles and determines whether any revisions are needed. The Executive and Planning Committee monitors the regular implementation of the governance policies and principles.

In order to ensure that new council members have the knowledge and understanding needed to perform their duties effectively, they are oriented to the council's governance policies and principles as well as the council's history of policymaking on key topics, such as court facilities, fiscal appropriations, and infrastructure initiatives. On an annual basis, the chair of the Executive and Planning Committee reviews the governance policies and principles at a council meeting with members.

4. Internal Committees

a. Executive and Planning Committee

The Executive and Planning Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.11](#), and summarized below.

- Oversees the council's strategic planning process.
- Oversees the council's policies and procedures regarding court facilities.
- Establishes agendas for council meetings.
- Develops a schedule of topics the council intends to consider for making policy.
- Makes recommendations to the council regarding governance.
- Recommends candidates to the Chief Justice for appointment to the council and its advisory bodies.

b. Rules Committee

The Rules Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.13](#), and summarized below.

- Identifies the need for new rules, standards, and forms.
- Establishes and publishes procedures for the proposal, adoption, and approval of rules of court, forms, and standards of judicial administration that ensure that relevant input from the public is solicited and considered.

- iii. Reviews proposed rules, standards, and forms, and circulates those proposals for public comment in accordance with its procedures and guidelines.
- iv. Provides guidelines for the style and format of rules, forms, and standards and ensures that proposals are consistent with the guidelines.
- v. Ensures that proposals for new or amended rules, standards, and forms do not conflict with statutes or other rules.
- vi. Determines whether proposals for new or amended rules, standards, or forms have complied with its procedures.

c. Legislation Committee

The Legislation Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.12](#), and summarized below.

- i. Represents the Judicial Council's position with other agencies and entities, such as the Legislature, the Governor's Office, the State Bar of California, local government, local bar associations, and other court-related professional associations.
- ii. Reviews and makes recommendations on proposals for Judicial Council-sponsored legislation; reviews pending bills; determines positions consistent with the council's previous policy decisions; and oversees advocacy for those positions.

d. Technology Committee

The Technology Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.16](#), and summarized below.

- i. Oversees the council's policies concerning technology and is responsible in partnership with the courts for coordinating with the Administrative Director and all internal committees, advisory committees, commissions, working groups, task forces, justice partners, and stakeholders on technological issues relating to the branch and the courts.
- ii. Responsible for ensuring that council policies are complied with, and that specific projects proceed on schedule and within scope and budget.
- iii. Seeks reports and recommendations from the Administrative Director, the courts, and stakeholders on technology issues. It ensures that technology reports to the council are clear, comprehensive, and provide relevant options so that the council can make effective final technology policy decisions.

e. **Judicial Branch Budget Committee**

The Judicial Branch Budget Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.15](#), and summarized below.

- i. Ensures that proposed judicial branch budgets, allocation schedules, and related budgetary issues are brought to the Judicial Council in a timely manner and in a format that permits the council to establish funding priorities in the context of the council's annual program objectives, statewide policies, and long-range strategic and operational plans.
- ii. Reviews and makes recommendations annually to the council on submitted budget change proposals for the judicial branch, coordinates these budget change proposals, and ensures that they are submitted to the council in a timely manner.
- iii. Reviews and makes recommendations on the use of statewide emergency funding for the judicial branch.
- iv. Reviews and makes recommendations on the funding of grants on programs assigned to the committee.
- v. Acts on other assignments referred to it by the council.

f. **Litigation Management Committee**

The Litigation Management Committee makes regular reports to the council on its actions. Its responsibilities are outlined in [California Rules of Court, rule 10.14](#), and summarized below.

- i. The committee oversees litigation and claims against trial and appellate courts, the Judicial Council, and employees of those bodies that seek recovery of \$100,000 or more, or raise important policy issues.
- ii. Important policy or court operations issues may include whether to initiate litigation on behalf of a court, when to defend a challenged court practice, or how to resolve disputes where the outcome might have statewide implications.

5. Role of Advisory Committees

Advisory committees under [California Rules of Court, rule 10.34\(a\)](#) are standing committees created by rule of court or the Chief Justice to make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:

- i. Identifying issues and concerns affecting court administration and recommending solutions to the council.
- ii. Proposing necessary changes to rules, standards, forms, and jury instructions.

- iii. Reviewing pending legislation and making recommendations to the Legislation Committee on whether to support or oppose it.
- iv. Recommending new legislation to the council.
- v. Recommending to the council pilot projects and other programs to evaluate new procedures or practices.
- vi. Acting on assignments referred by the council or an internal committee.
- vii. Making other appropriate recommendations to the council.

6. Council-Staff Relationship

Officially passed motions of the council, and decisions and instructions of the Chief Justice, are binding on the Administrative Director. Decisions or instructions of individual council members or internal and advisory bodies are binding on the Administrative Director if the council or its chair has specifically delegated such exercise of authority.

The Administrative Director has sole authority to assign, supervise, and direct staff. The Administrative Director is responsible for ensuring the completeness and quality of reports and other work product presented to the council. Council members may from time to time request information or assistance from staff, unless in the Director's opinion such requests require an unreasonable amount of staff time or become disruptive. Council members and advisory body members may individually provide information to the Administrative Director on the performance of staff or staff agency to the council.

The Administrative Director, as secretary to the council, may attend and participate in the meetings of each internal committee.