



# Judicial Council of California

## Meeting Minutes

### Judicial Council

Please visit the [courts website](#) to access the recording of the March 24, 2023 meeting.

Meeting materials are available through the hyperlinks in this document.

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Friday, March 24, 2023

9:40 AM

Videoconference

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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 9:15 a.m.

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

#### **Attendance**

##### **Council Members**

- Present:** 26 - Chief Justice Patricia Guerrero, Justice Carol A. Corrigan, Administrative Presiding Justice Brad R. Hill, Justice Carin T. Fujisaki, Justice Marsha G. Slough, Presiding Judge Kimberly Merrifield, Judge Marla O. Anderson, Judge Maria Lucy Armendariz, Judge C. Todd Bottke, Judge Kevin C. Brazile, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Judith K. Dulcich, Judge Samuel K. Feng, Judge Harold W. Hopp, Judge Ann C. Moorman, Judge David Rosenberg, Judge David M. Rubin, Commissioner Glenn Mondo, Senator Thomas J. Umberg, Ms. Rebecca J. Fleming, Mr. David D. Fu, Ms. Rachel W. Hill, Mr. Shawn C. Landry, Mr. Maxwell V. Pritt, and Mr. David H. Yamasaki
- Absent:** 2 - Assembly Member Brian Maienschein and Ms. Gretchen Nelson

#### **Call to Order**

Chief Justice Patricia Guerrero, Chair of the Judicial Council, called the open session to order at 9:30 a.m.

#### **Public Comment**

No written comments were provided to the council members. No members of the public (speakers) requested to address the council on general matters of judicial administration or on specific agenda items during the meeting.

## Chief Justice's Report

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

## Acting Administrative Director's Report

[23-025](#)

### Acting Administrative Director's Report

Acting Administrative Director Millicent Tidwell reported on the council's activities since the last council meeting.

## Judicial Council Internal Committee Presentations and Reports

23-075

### Presentation | Rules Committee

[23-074](#)

### Written Reports

## CONSENT AGENDA

### Approval of the Consent Agenda

A motion to approve all of the following items on the Consent Agenda was made by Ms. Hill and seconded by Judge Brazile. The motion was adopted.

[23-024](#)

### Minutes of January 20, 2023, Judicial Council Meeting

[23-046](#)

### Court Facilities | *Building Official Policy* (Action Required)

**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*.

[23-047](#)

### Court Facilities | *California Environmental Quality Act Objectives, Criteria, and Procedures* (Action Required)

**Summary:** The Court Facilities Advisory Committee and Trial Court Facility Modification Advisory Committee recommend adoption of the *California Environmental Quality Act Objectives, Criteria, and Procedures* for use by the Judicial Council to ensure that it considers potentially significant environmental impacts of its projects. California law directs public agencies to adopt objectives, criteria, and procedures for evaluation of projects and preparation of environmental documents consistent with the California Environmental Quality Act and its regulations.

**Recommendation:** The Court Facilities Advisory Committee and Trial Court Facility Modification Advisory Committee recommend that the Judicial Council, effective March 24, 2023, adopt the *California Environmental Quality Act Objectives, Criteria, and Procedures*.

### [23-020](#)

#### **Jury Instructions | Criminal Jury Instructions (2023 Edition) (Action Required)**

**Summary:** The Advisory Committee on Criminal Jury Instructions recommends approving for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. These changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2023 edition of the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*.

**Recommendation:** The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective March 24, 2023, approve the following changes to the criminal jury instructions prepared by the committee:

1. Adoption of new CALCRIM Nos. 352, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, and 3234;
2. Revisions to CALCRIM Nos. 301, 335, 336, 350, 358, 375, 418, 540A, 730, 736, 761, 763, 908, 1400, 1401, 1520, 2181, 2542, 2622, and 2623; and
3. Revocation of CALCRIM No. 1156.

### [23-071](#)

#### **Juvenile Law | 2022-23 Allocations for Dependency Counsel Collections Program and Expected Unspent Program Funding (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends two redistributions of funding for court-appointed juvenile dependency counsel for fiscal year (FY) 2022-23. Under the Juvenile Dependency Counsel Collections Program, courts collect reimbursements from parents and other responsible persons liable for the cost of dependency-related legal services to the extent that those persons are able to pay. The committee recommends that the Judicial Council allocate the FY 2021-22 statutorily restricted funds remitted in excess of dependency counsel program administrative costs to the trial courts, calculated according to the methodology adopted by the council. The committee also recommends that the council reallocate unspent dependency counsel funding from courts that have identified funds they do not intend to spend to courts funded at below the average statewide funding level.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective March 24, 2023:

1. Allocate Juvenile Dependency Counsel Collections Program funds of \$364,976 remitted in FY 2021-22; and

2. Allocate FY 2022-23 trial court allocations of estimated unspent dependency counsel funding of \$1,145,000 from courts that have identified funds they do not intend to spend to courts funded at below the average statewide funding level.

[23-072](#)**Rules and Forms | Technical Form Changes to Reflect Federal Poverty Guidelines (Action Required)**

**Summary:** Judicial Council staff recommend the revision of four Judicial Council forms containing figures based on the federal poverty guidelines to reflect the changes in those guidelines recently published by the federal government. Staff also recommend that, at the same time, one of the forms also be revised to reflect recent additions to the qualifying public benefits listed in the fee waiver statute, Government Code section 68632(a).

**Recommendation:** Judicial Council staff recommend that the Judicial Council, effective April 1, 2023, revise the following documents to reflect 2023 increases in the federal poverty guidelines and, for form JV-132, recent changes to Government Code section 68632:

- *Request to Waive Court Fees* (form FW-001)
- *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC)
- *Information Sheet on Waiver of Appellate Court Fees--Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO); and
- *Financial Declaration--Juvenile Dependency* (form JV-132).

[23-068](#)**Rules and Forms | Jury Instructions: Public Access and Publication (Action Required)**

**Summary:** The Rules Committee recommends revising California Rules of Court, rule 2.1050, to remove any implicit references to copyright and to express the council's continued interest in both free public access to its civil and criminal jury instructions and having publishers accurately publish the instructions, properly attribute the council as the source of the instructions, and not claim copyright in them. This proposal originated with a suggestion from a nonprofit organization after a change in copyright law that impacts government bodies.

**Recommendation:** The Rules Committee recommends that the council, effective April 1, 2023, amend rule 2.1050 to remove references to "permission to publish" and "royalties," which may imply copyright in the *Judicial Council of California Civil Jury Instructions* and *Judicial Council of California Criminal Jury Instructions*, and to express the council's continued interest in both free public access to its civil and criminal jury instructions and having publishers accurately publish the instructions, properly attribute the council as the source of the instructions, and not claim copyright in them.

[23-077](#)**Rules and Forms | Miscellaneous Technical Changes  
(Action Required)**

**Summary:** Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors, and minor changes needed to conform to recent legislation or previous council actions. Judicial Council staff recommend making the necessary corrections to ensure the rules and forms conform to law and to avoid causing confusion for court users, clerks, and judicial officers.

**Recommendation:** Judicial Council staff recommend that the council take the following actions:

Effective April 1, 2023:

1. Amend rule 8.137(g)(3) to clarify a cross-reference to subdivision (f)(2) and delete an extraneous word.
2. Amend rule 8.406(a) to update cross-references that changed when the rule was recently amended.
3. Amend rule 8.416 to correct a cross-reference to other rules.
4. Amend rule 8.730(c)(1) and (d) of the California Rules of Court to correct cross-references to rules that were recently renumbered as rules 8.720, 8.724, and 8.728, respectively.
5. Amend rule 8.805(a) to change the cross-reference to the Supreme Court rules in division 5 of title 8, to division 7 of title 8, where the referenced rules are now located.
6. Amend 8.837 to clarify a cross-reference to subdivision (d)(4).
7. Revise *Application and Order for Appearance and Examination* (form AT-138/EJ-125) to add the numeral denoting item 2, which was inadvertently omitted from the form in a recent revision.
8. Revise *Petition and Order to Exit and Reenter Jurisdiction--Nonminor Dependent* (form JV-469) to correct a sentence in item 2 of the form that directs the person filing the petition to indicate how consent was obtained from the subject of the petition, but refers to the “consent of the minor” and should instead read “consent of the nonminor” because the petition can only be filed after the subject has reached the age of 18.

Effective May 1, 2023:

9. Revise *Felony Abstract of Judgment--Determinate* (form CR-290) to replace an incorrect reference in item 9e to “Court Operations Assessment” with “Conviction Assessment,” add back boxes to items 6 and 8 to indicate years and months for sentencing purposes, and indicate statutory references to the Penal Code.

10. Revise *Abstract of Judgment--Prison Commitment--Indeterminate* (form CR-292) to replace check boxes indicating whether the commitment is to state prison or county jail with “Commitment to State Prison--Abstract of Judgment” and correct item 6b by replacing a sentence of “15 years to Life” (already listed in item 6a) with “25 years to Life.”

[23-026](#)**Trial Court Budget | Base Funding Floor Inflationary Increases (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends that the Judicial Council approve an update to the annual base funding floor process to include automatic increases for the base funding floor courts, Alpine and Sierra Superior Courts, similar to all other courts when general inflationary funding is received through the state budget process. Currently, base funding for the two smallest courts is \$950,000 annually and is based on the minimum level of staffing and operational costs necessary.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2023, approve a change to the annual base funding floor process to include automatic increases for the base funding floor courts, similar to all other courts, when general inflationary funding is received through the state budget process.

**DISCUSSION AGENDA**[23-070](#)**Rules and Forms | Juvenile Law: Secure Youth Treatment Facility Offense-Based Classification Matrix (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends the adoption of a rule of court to implement Welfare and Institutions Code section 875(h), which requires the council to develop and adopt a matrix of offense-based classifications to be used by all juvenile courts when setting baseline terms for youth committed to a Secure Youth Treatment Facility (SYTF) disposition. The statute calls for the matrix to assign a baseline term of years to each offense for which a youth can be committed to an SYTF. The offenses are to be grouped into offense categories that are linked to a standard baseline term of years for each offense category. The proposed matrix in the rule would include four total offense categories, with each category assigned a range of years as the standard baseline term. To assist the court in determining a baseline term for each youth within the range, the rule sets forth criteria for the court to weigh in making its decision.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2023, adopt California Rules of Court, rule 5.806 to include the matrix for setting baseline terms as well as criteria for the court to apply when selecting a term within the range.

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

[23-069](#)**Judicial Branch Technology | Allocation of Funds for AB 716  
Legislative Mandate, Fiscal Years 2022-23 and 2023-24  
(Action Required)**

**Summary:** The Budget Act of 2022 appropriated funding to upgrade the audio equipment needs of courtrooms in support of Assembly Bill 716, which requires courts, at a minimum, to provide a public audio stream or telephonic means with which to listen to the courtroom proceedings when the courthouse is physically closed. The Technology Committee recommends the Judicial Council allocate approximately \$32 million among trial courts for fiscal year 2022-23, as itemized in the attached summary. The recommended allocations provide funding for needed audio upgrades to courts eligible for funding that submitted requests.

**Recommendation:** The Technology Committee recommends, effective March 24, 2023, the Judicial Council approve the proposed allocations as itemized in the attached *Courtroom Audio Modernization: Proposed Allocations for FY 2022-23*.

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

[23-019](#)**Report to the Legislature | Online Infraction Adjudication and  
Ability-to-Pay Determinations (February 2023)  
(No Action Required)**

**Summary:** This legislative report describes actions taken in furtherance of the statewide expansion of online ability-to-pay determinations for infraction violations as authorized by Assembly Bill 143 (Stats. 2021, ch. 79). In addition to providing data from courts that have adopted the *MyCitations* tool to adjudicate eligible infractions, the report also includes a performance evaluation of the pilot program. Sixteen courts currently offer online ability-to-pay requests through *MyCitations*. As of January 1, 2023, over 66,000 ability-to-pay requests were submitted through the *MyCitations* tool. These requests account for \$41.5 million in outstanding criminal fines and fees that were granted a reduction account for over \$20 million in reduced fines and fees. An aggregate analysis of cases adjudicated during the pilot period demonstrates that cases granted a reduction through the tool have a 61 percent success rate for full repayment. By contrast, cases denied relief through the tool exhibit a 29 percent success rate. Case-level analysis of requests adjudicated during the pilot period demonstrates that repayment success increases when litigants are ordered to pay less.

**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**[23-002](#)**Court Facilities | Trial Court Facility Modifications Report for Quarter 2 of Fiscal Year 2022-23**

**Summary:** This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the second quarter (October through December) of fiscal year 2022-23. 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*.

[23-067](#)**Report to the Legislature | Compliance With Education Requirements of Welfare and Institutions Code Section 304.7**

**Summary:** In accordance with Welfare and Institutions Code section 304.7(c), the Judicial Council submits the required compliance report. The attached report demonstrates compliance by judges, commissioners, and referees with the juvenile judicial officer training and education requirements of the statute. The information provided in this report was gathered from the courts by staff of the Judicial Council's Center for Judicial Education and Research.

[23-022](#)**Report to the Legislature | Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for 2021-22**

**Summary:** Pursuant to Government Code section 68086(f), the Judicial Council is required to submit a report on the statewide court reporter fees collected and expenditures for court reporter services in superior court civil proceedings to the Joint Legislative Budget Committee by February 1 of each year. On or before February 1, 2023, Judicial Council staff submitted the *Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for 2021-22*.

[23-023](#)**Trial Courts | Quarterly Investment Report for Fourth Quarter 2022**

**Summary:** This quarterly investment report covers the period from October 1, 2022, through December 31, 2022, 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.

**Circulating Orders**[23-073](#)**Circulating Orders since the last business meeting.**



## Appointment Orders

[23-083](#)

**Appointment Orders since the last business meeting.**

## Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:03 a.m.

*Respectfully submitted by Acting Administrative Director Millicent Tidwell, Secretary to the Judicial Council, on May 12, 2023.*