



JUDICIAL COUNCIL OF CALIFORNIA

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CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-22-03

Title

Judicial Council: Nonvoting Council Position

Action Requested

VOTING MEMBERS ONLY: Submit votes by responding to the transmittal email.

Rules, Forms, Standards, or Statutes Affected

None

Please Respond By

Noon, July 28, 2022

Recommended by

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

Date of Report

July 15, 2022

Contact

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California Rules of Court, rules 10.5(h) and 10.13(d) allow the Judicial Council to act on business between meetings, including urgent matters, by circulating order. This memorandum is not a Judicial Council meeting, circulating orders are conducted via electronic communications. Prior public notice of a proposed circulating order is not required.

Executive 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.

Rule 10.46(f), as amended in July 2013,⁵ also provides for another advisory position for the chair of the Trial Court Presiding Judges Advisory Committee. The rule requires the committee to submit one nomination for its chair each year to the Chief Justice. The Chief Justice appoints the chair to serve as an advisory member of the council.

Single-term advisory positions on the council

From time to time, the Judicial Council has created advisory positions for single terms:

- In May 2005, the Executive Committee created on behalf of the council an advisory position for a single term. At that time, the Chief Justice appointed an additional court administrator to the Judicial Council for a three-year term, bringing the total number of court administrators on the council to four; when that position lapsed in September 2008, the council was left with three court administrators as advisory members.
- In 2007, the Executive Committee created on behalf of the council an advisory position for a limited, one-year term. The Chief Justice subsequently appointed the Executive Committee's nominee, Sen. Joseph Dunn (D-Santa Ana), to the position. The position lapsed in December 2007.
- In May 2009, the Executive Committee created on behalf of the council another advisory position for a single term. The Chief Justice appointed an additional court administrator, Mr. Frederick K. Ohlrich, for a three-year term, returning the number of court administrators on the council to four.
- In April 2010, the Executive Committee created on behalf of the council a limited-term advisory position and nominated Judge Terry B. Friedman (Ret.) to fill the position. The position lapsed in September 2012.
- In May 2010, the Executive Committee created on behalf of the council two additional advisory positions, to which the Chief Justice appointed then Judge Teri L. Jackson and Judge Robert J. Moss.
- In May 2012, the Executive Committee recommended, and the council approved, the addition of three nonvoting advisory positions, each for a three-year term. The Chief Justice subsequently appointed Judges Morris D. Jacobson, Brian L. McCabe, and Charles D. Wachob to fill the three positions.

⁵ Rule 10.46(f) was amended to require one nomination from the committee to the Chief Justice for the chair position of the Trial Court Presiding Judges Advisory Committee. Previously, the rule provided for three nominations from the committee to the Chief Justice from which to make a selection and an appointment to the Judicial Council.

- In May 2013, the Executive Committee recommended, and the council approved, the extension of the two nonvoting advisory positions, each for a three-year term, to which the Chief Justice appointed Judges James E. Herman and Kenneth K. So.
- In September 2014, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which the Chief Justice appointed Judge Daniel J. Buckley.
- In May 2015, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which the Chief Justice appointed Ms. Kimberly Flener.
- In February 2016, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which the Chief Justice appointed Justice Marsha G. Slough.
- In September 2016, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which the Chief Justice reappointed Judge So.
- In May 2018, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which the Chief Justice appointed Presiding Judge Ann C. Moorman.
- In March 2019, the Executive Committee recommended, and the council approved, the addition of two nonvoting advisory positions for a limited, one-year term, to which the Chief Justice appointed Justice Carin T. Fujisaki and Judge Eric C. Taylor. Subsequently, in December 2019, the Chief Justice appointed Judge Taylor to a voting position to replace retired Judge Scott M. Gordon.
- In September 2020, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a limited, one-year term, to which the Chief Justice reappointed Justice Fujisaki.
- In May 2021, the Executive Committee recommended, and the council approved, the addition of two nonvoting advisory positions for a single three-year term, to which the Chief Justice reappointed Justice Fujisaki and Presiding Judge Moorman. Subsequently, in September 2021, the Chief Justice appointed Justice Fujisaki to a voting position to replace Justice Harry E. Hull, Jr.

Analysis/Rationale

Rule 10.4(a) observes that nominees for positions on the Judicial Council should be drawn from “diverse backgrounds, experiences, and geographical locations.” The Judicial Council has recognized that it benefits from a diverse group of members with a blend of professional

expertise and other experience on a variety of leadership issues. With the complexity and far-ranging policy implications of the issues brought before it, the council would benefit from an additional member.

Although the state Constitution limits the number of voting members on the council to 21 and requires two nonvoting court administrator members, there is no upper limit on the size or composition of the advisory membership of the council. The council can be as small as the constitutionally required 23 members or as large as the voting membership chooses.

Policy implications

None.

Comments

This proposal was not circulated for comment.

Alternatives considered

None.

Fiscal and Operational Impacts

There will be no fiscal or operational impact from the creation of this single advisory position on the council because the Judicial Council’s total membership will remain at 28.

Attachments and Links

1. Voting instructions, at page 6
2. Vote and signature pages, at pages 6–7

Author

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Instructions for Review and Action by Circulating Order

Voting members

- Please reply to the email message with “I approve,” “I disapprove,” or “I abstain,” by **noon on July 28, 2022**.
- If you are unable to reply by **noon on July 28, 2022**, please do so as soon as possible thereafter.

Advisory members

The circulating order is being emailed to you for your information only. There is no need to sign or return any documents.

**CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages**

Effective immediately, the Judicial Council approves the creation of one new advisory, nonvoting Judicial Council position for a single three-year term, from September 15, 2022, through September 14, 2025.

My vote is as follows:

Approve

Disapprove

Abstain

Tani G. Cantil-Sakauye, Chair

Marla O. Anderson

Richard Bloom

C. Todd Bottke

Stacy Boulware Eurie

Kevin C. Brazile

Kyle S. Brodie

Jonathan B. Conklin

Carol A. Corrigan

Samuel K. Feng

David D. Fu

Carin T. Fujisaki

Brad R. Hill

Rachel W. Hill

My vote is as follows:

Approve

Disapprove

Abstain

Harold W. Hopp

Dalila Corral Lyons

Gretchen Nelson

Maxwell V. Pritt

David M. Rubin

Marsha G. Slough

Thomas J. Umberg

Date: _____

Attest:

Administrative Director and
Secretary of the Judicial Council