



# Judicial Council of California

455 Golden Gate Ave.  
San Francisco, CA  
94102-3688

## Meeting Minutes

Meeting materials  
are available through the  
hyperlinks in  
this document.

## Judicial Council

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Thursday, July 18, 2019

3:00 PM

San Francisco

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

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the closed session to order at 3:00 p.m.

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

#### **Attendance**

#### **Council Members**

- Present:** 24 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Administrative Presiding Justice Brad R. Hill, Justice Harry E. Hull Jr., Justice Douglas P. Miller, Presiding Judge C. Todd Bottke, Presiding Judge Gary Nadler, Judge Marla O. Anderson, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge David M. Rubin, Judge Kenneth K. So, Commissioner Rebecca Wightman, Ms. Nancy CS Eberhardt, Ms. Kimberly Flener, Ms. Rachel W. Hill, Mr. Patrick M. Kelly, Ms. Gretchen Nelson, Mr. Michael M. Roddy, and Ms. Andrea K. Wallin-Rohmann
- Absent:** 6 - Justice Marsha G. Slough, Judge Paul A. Bacigalupo, Judge Samuel K. Feng, Judge Ann C. Moorman, Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

#### **Call to Order**

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 3:55 p.m. in the Judicial Council Board Room.

#### **Opening Remarks**

Chief Justice Tani G. Cantil-Sakauye remarked on the fiscal year 2019-20 State Budget that was enacted in June. Over the last six fiscal years, \$1.3 billion has been added to the General Fund of the judicial branch budget for the trial courts to increase

access to justice for Californians. The Chief commented that council and advisory committees work together diligently, deliberately, and decisively to create and define the funding methodologies that inform the budget. The three-year blueprint on judicial branch funding emphasized four core elements: implementing equal access to justice using the 3D formula--physical, remote, and equal access; closing the trial court funding gap; providing critically needed judgeships; and modernizing court technologies. She acknowledged Martin Hoshino for serving as the chief architect of the budget, and thanked him and other justice system advocates for their teamwork, dedication, and perseverance.

The Chief Justice explained that a new cycle of Judicial Council service begins on September 15 when new and reappointed council members begin their term and outgoing members complete their terms. She acknowledged the service of seven outgoing members:

- Hon. Paul A. Bacigalupo, President of the California Judges Association, Judge of the Superior Court of Los Angeles County
- Ms. Kimberly Flener, Court Executive Officer, Superior Court of Butte County
- Hon. Scott M. Gordon, Judge of the Superior Court of Los Angeles County
- Hon. Audra Ibarra, Judge of the Superior Court of Santa Clara County
- Hon. Douglas P. Miller, Associate Justice of the Court of Appeal, Fourth Appellate District, Division Two
- Hon. Gary Nadler, Presiding Judge of the Superior Court of Sonoma County
- Hon. Kenneth K. So, Judge of the Superior Court of San Diego County

The Chief Justice also recognized the newly appointed or reappointed council members:

- Hon. C. Todd Bottke, Presiding Judge of the Superior Court of Tehama County
- Hon. Dalila Corral Lyons, Judge of the Superior Court of Los Angeles County
- Hon. Carin T. Fujisaki, Associate Justice of the Court of Appeal, First Appellate District, Division Three
- Mr. Kevin Harrigan, Court Executive Officer, Superior Court of Tehama County
- Hon. Joyce D. Hinrichs, Presiding Judge of the Superior Court of Humboldt County
- Mr. Maxwell V. Pritt, State Bar of California Appointee
- Hon. David M. Rubin, Judge of the Superior Court of San Diego County
- Hon. B. Tam Nomoto Schumann (Ret.), Incoming President of the California Judges Association

- Hon. Marsha G. Slough, Associate Justice of the Court of Appeal, Fourth Appellate District, Division Two
- Hon. Eric C. Taylor, Judge of the Superior Court of Los Angeles County

The Chief Justice thanked members for their service now and in the future, and thanked all who submitted nominations for the positions.

## DISCUSSION AGENDA

[19-081](#)

### **Judicial Workload Assessment | 2018 Judicial Workload Study Updated Caseweights (Action Required)**

**Summary:** The Workload Assessment Advisory Committee (WAAC) recommends that the Judicial Council adopt the proposed Judicial Workload Study workload measures (caseweights) that are used as part of the formula for assessing judicial need in the trial courts. The council previously approved the Judicial Workload Study in 2001 and 2011; the study is updated periodically to capture current law and practice. The most recent update accounts for changes that have affected judicial workload since the last study. Further, WAAC recommends that the council approve transmitting to the Legislature an updated Judicial Needs Assessment per Government Code section 69614(c)(1) based on the new Judicial Workload Study measures and the established methodology for prioritization of judgeships. The Judicial Needs Assessment is submitted every November of even-numbered years and incorporates the most recent data available. The updated needs assessment would replace a preliminary version that was completed in 2018 using workload measures developed in 2011.

The committee will be refining the data gathering and analysis processes for this new methodology over the next year or so and anticipates that Judicial Needs Assessment will change over that time and continue to increase in accuracy.

**Recommendation:** The Workload Assessment Advisory Committee recommends that the Judicial Council, effective July 19, 2019:

- Approve the caseweights from the 2018 Judicial Workload Study update for use in evaluating statewide judicial workload, including for use in the biennial judicial needs assessment and to meet the requirements of Government Code section 69614(c)(2); and
- Approve the updated Judicial Needs Assessment for transmittal to the Legislature.

**A motion was made by Administrative Presiding Justice Hill, seconded by Presiding Judge Nadler, that this proposal be deferred to the September 24, 2019 meeting to allow time to gather additional information.**

[19-109](#)**Trial Court Budget | Workload Formula: Allocations (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends that the Judicial Council approve policy recommendations related to how workload formula-based allocations are calculated. These recommendations will increase the accuracy and transparency of the Workload Formula by including all relevant sources of funding. If approved, these changes would take effect with fiscal year 2019-20 allocations.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council take the following actions:

1. Adjust each court's workload allocation to include net civil assessments based on the prior fiscal year (FY), effective with FY 2019-20 allocations.
2. Include specific general ledger accounts that the committee recommends including as part of the Workload Formula, effective with FY 2019-20 allocations.

**A motion was made by Mr. Kelly, seconded by Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote.**

[19-076](#)**Court Innovations Grant Program | Superior Court of Butte County: Remote Video-Conferencing Technology Project Presentation (No Action Required. No materials for this item.)**

**Summary:** The Budget Act of 2016 allocated \$25 million to the judicial branch to promote court innovations and efficiencies through a grant program. During this session, the Superior Court of Butte County will present and provide information related to the court's Remote Video-Conferencing Technology Project.

**Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 4:30 p.m.



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Friday, July 19, 2019

9:30 AM

San Francisco

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### OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

#### Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 9:30 a.m. in the Judicial Council Board Room.

#### Attendance

##### Council Members

**Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Administrative Presiding Justice Brad R. Hill, Justice Harry E. Hull Jr., Justice Douglas P. Miller, Presiding Judge C. Todd Bottke, Presiding Judge Gary Nadler, Judge Marla O. Anderson, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge Ann C. Moorman, Judge David M. Rubin, Judge Kenneth K. So, Commissioner Rebecca Wightman, Assembly Member Richard Bloom, Ms. Nancy CS Eberhardt, Ms. Kimberly Flener, Ms. Rachel W. Hill, Mr. Patrick M. Kelly, Ms. Gretchen Nelson, Mr. Michael M. Roddy, and Ms. Andrea K. Wallin-Rohmann

**Absent:** 4 - Justice Marsha G. Slough, Judge Paul A. Bacigalupo, Judge Samuel K. Feng, and Senator Hannah-Beth Jackson

##### Others Present

Ms. Megan Dolan, Mr. Michael Powell, and Ms. Amelia Robinson

#### Public Comment

Ms. Catherine Campbell presented comments on general judicial administration.

## Approval of Minutes

[19-143](#)

### **Minutes of May 17, 2019, Judicial Council meeting**

**A motion was made by Justice Chin, seconded by Judge Brodie, that the minutes be approved. The motion carried by a unanimous vote.**

## Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye summarized her engagements and outreach activities on behalf of the judiciary since May. She met with members of the Power of Democracy Steering Committee and the Institute for Democracy and Justice. Both entities seek to elevate the status of civic learning in California, with an emphasis on understanding the role of an impartial and independent judiciary. Their work has resulted in successful initiatives that have benefited the branch, courts, and people of California. The annual Civic Learning Awards, cosponsored by the State Superintendent of Public Instruction, recognized 94 state schools. The “Judges in the Classroom” pilot program boasted 18 judges visiting 35 local classrooms and reaching approximately 1,000 students.

The Chief stated that in every legislative session since 2007, the council has sponsored legislation to increase judgeships. Seven bills were in partnership with legislators from the Inland Empire. In the last six fiscal years, funding was included for 27 of 50 authorized judgeships, and vacant positions were reallocated to trial courts in need.

As part of an update to the Judicial Council’s diversity toolkit, the Chief participated in a video on pathways to the judiciary. She noted that the toolkit is an important resource to assist judges on the bench and lawyers, and to reach out to schools and law schools to educate students about the judicial system and help them see their role in it, even perhaps as judges themselves, to address the underrepresentation of minorities in the practice of law.

The Chief Justice participated in a video for the American Bar Association’s Commission on Women in the Profession, which honored Administrative Presiding Justice Judith D. McConnell as one of the 2019 Margaret Brent Award winners. The award recognizes professional excellence in supporting other women in the legal profession. The Chief remarked that Justice McConnell has been a true leader and has created many women’s organizations in San Diego.

Diversity was a key theme for the Chief’s engagements with the California Minority Counsel Program and the Rotary Club of Oakland. The Chief noted that the Minority Counsel Program brings together business lawyers of all races for the purpose of achieving diversity and inclusion within law firms, in-house law departments, and outside counsel.

## Administrative Director's Report

[19-144](#)

### Administrative Director's Report

Administrative Director Martin Hoshino reported on the council's activities since the last council meeting. He remarked that 17 advisory group meetings and 38 education and training sessions were held and that summaries of their activities are included in his written report, which is posted online. Mr. Hoshino reported that the State Controller's Office completed an annual fiscal audit of the Judicial Council and concluded that the council complied with governing statutes, rules and regulations, and policies related to revenues and expenditures for the fund balances for fiscal year 2017-18.

Mr. Hoshino also reported on a second audit of the AB 1058 Child Support Program Rolling Time Study, initiated by the California Department of Child Support Services (DCSS) and aimed at reducing the time and effort to track court personnel costs related to support of Assembly Bill 1058. Nine trial courts began implementation of a newly approved AB 1058 timekeeping methodology for the Child Support Commissioner and Family Law Facilitator Program. Mr. Hoshino explained that the study arose out of an earlier DCSS audit that took place over the last two fiscal years.

## Judicial Council Committee Presentations

[19-145](#)

### Judicial Council Committee Reports

#### Executive and Planning Committee

Justice Douglas P. Miller, chair of the Executive and Planning Committee (E&P), noted that his cumulative 12-year term expires in September 2019 and acknowledged and thanked the Chief Justice, council colleagues, and staff he has worked closely with over the years.

#### Policy Coordination and Liaison Committee

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported on the activities of the committee since May. PCLC met three times since the last council meeting. Out of concern for cost and consequences to the budget, the committee opposes a bill on criminal justice data unless amended. Judge So stated that the Legislature has adjourned for summer recess and will reconvene on August 12. The Governor will have until October 13 to sign or veto bills after the Legislature reconvenes. PCLC will meet to address any last-minute bills, as necessary.

**Rules and Projects Committee**

Presiding Judge Ann C. Moorman, member of the Rules and Projects Committee (RUPRO), reported that the committee met once and acted by email once since the May 17 Judicial Council meeting. RUPRO considered revisions to the civil jury instructions and a request from the Family and Juvenile Law Advisory Committee for appointment of a non-advisory committee member to its Violence Against Women Education Project Subcommittee. To ensure that the membership represents key domestic violence prevention stakeholders, the appointment was approved. RUPRO also recommended approval of the civil jury instructions proposal (consent item 19-138). On July 16, RUPRO acted by email to consider minor revisions to the jury instructions, a proposal for which the council delegated authority to RUPRO to approve.

**Judicial Council Technology Committee**

Presiding Judge Gary Nadler, vice-chair of the Judicial Council Technology Committee (JCTC), reported that the committee has met twice since May. It received updates from the Information Technology Advisory Committee (ITAC) on the branch technology budget change proposals for fiscal years 2019-20 and 2020-21, the Futures Commission directive on voice-to-text translation services, and a presentation by the Self-Represented Litigants E-services Workstream. On July 10, JCTC met with ITAC to review public comments for the proposals submitted by ITAC's Rules and Policy Subcommittee and Joint Appellate Technology Subcommittee. He reported that the voice-to-text translation services workstream is reviewing current technology to enable a non-English-speaking court user to interact with the clerk's office using his or her own language. ITAC is also exploring how remote video access might be applied more broadly, allowing court users to interact with court services without having to travel significant distances.

**Judicial Branch Budget Committee**

Judge David M. Rubin, chair of the Judicial Branch Budget Committee (JBBC), reported on activities of the committee, which met three times since May. Members considered a recommendation to the Policy Coordination and Liaison Committee: a proposal for Judicial Council-sponsored legislation regarding fees for telephonic appearances in civil cases. Judge Rubin remarked that the committee continues active review of the Court Innovations Grant Program to ensure appropriate expenditures of the funds provided by the Legislature in the Budget Act of 2016. JBBC's fiscal year 2018-19 third-quarter report appears as an informational item on the agenda and includes a program award recognition of the Superior Court of Solano County Drug Court Case Management e-database project.



## CONSENT AGENDA

### Approval of the Consent Agenda

A motion was made by Presiding Judge Bottke, seconded by Judge Boulware Eurie, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

#### [19-149](#)

#### **Child Support | Base Funding Allocation for Fiscal Year 2019-20 for Child Support Commissioner and Family Law Facilitator Program (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee recommends approving the allocation of funding for the Child Support Commissioner and Family Law Facilitator Program for fiscal year 2019-20, as required by Assembly Bill 1058 (Stats. 1996, ch. 957). The funds are provided through a cooperative agreement between the California Department of Child Support Services and the Judicial Council. The courts are also offered an option to use local court funds up to an approved amount to draw down, or qualify for, federal matching funds.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2019:

1. Approve allocation for funding of child support commissioners for fiscal year (FY) 2019-20, subject to the state Budget Act; and
2. Approve the allocation for funding of family law facilitators for FY 2019-20, subject to the state Budget Act.

#### [19-141](#)

#### **Child Support | Potential California Department of Child Support Services Budget Change Proposal for Increased Funding for Assembly Bill (AB) 1058 Program (Action Required)**

**Summary:** The Judicial Branch Budget Committee recommends the Judicial Council support the California Department of Child Support Service's development of a budget change proposal to request additional funding to restore program funding for the Assembly Bill (AB) 1058 Child Support Commissioner and Family Law Facilitator Program to "prerecession" funding levels. The additional funding would be allocated to the courts and fund the administration of the Judicial Council's AB 1058 program, which has been flat-funded for 11 years.

**Recommendation:** The Judicial Branch Budget Committee (JBBC) recommends that the Judicial Council support the California Department of Child Support Service's (DCSS) development of a request for additional funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program to be allocated to the trial courts using the current funding methodology, and for additional funding for the administration of the program by the Judicial Council.

[19-148](#)**Equal Access Fund | Distribution of One-Time Funding for Landlord-Tenant Issues (Action Required)**

**Summary:** The Budget Act of 2019 provides a one-time \$20 million allocation to the judicial branch to augment the Equal Access Fund. Funds are to be used for qualified legal services providers and support centers to provide legal services to low-income persons for landlord-tenant issues, including legal assistance for counseling, renter education programs, and preventing evictions. The Budget Act provides that the Judicial Council allocate these funds to the State Bar, which distributes the funding to eligible legal services agencies. The State Bar's Legal Services Trust Fund Commission requests Judicial Council approval of the distribution of the \$20 million according to the formula specified in the Budget Act.

**Recommendation:** The Legal Services Trust Fund Committee recommends, effective July 19, 2019, that the Judicial Council:

1. Direct staff to distribute Equal Access Funds to the State Bar for distribution to legal services agencies that meet the eligibility requirements set forth in the Budget Act; and
2. Report back to the Judicial Council on the initial grants made at its November 14-15, 2019 meeting.

[19-151](#)**Judicial Branch Administration | Court Innovations Grant Program Award (Action Required)**

**Summary:** After consistent monitoring of the Court Innovations Grant Program contingency fund balance and its component funding categories and discussion of alternatives to maximize the grant allocation, the Judicial Branch Budget Committee recommends awarding a grant totaling \$108,000 to the Superior Court of Solano County for its Drug Court Case Management e-database project from the collaborative courts funding category. This grant will fund the testing of new approaches for expanding innovative and efficient services.

**Recommendation:** The Judicial Branch Budget Committee (JBBC) recommends that the Judicial Council, effective July 22, 2019:

1. Approve an award of \$108,000 to the Superior Court of Solano County for the Drug Court Case Management e-database project from the Court Innovations Grant Program under the collaborative court programs funding category; and
2. Authorize staff to send the Notice of Intent to Award to the Superior Court of Solano County and to work with the court to negotiate and execute an intra-branch agreement by August 1, 2019.

[19-146](#)**Judicial Branch Administration | Sabbatical Request for Judge Nicholas S. Thompson (Action Required)**

**Summary:** The Executive and Planning Committee recommends the approval of an unpaid sabbatical leave for Judge Nicholas S. Thompson, Superior Court of Orange County, for the period of October 1 to December 31, 2019. During this sabbatical leave, Judge Thompson intends to study and conduct a comparative analysis of Canadian law and jurisprudence and teach on California law at the University of Calgary Faculty of Law in Alberta, Canada. Judge Thompson anticipates that his experience in this program will provoke new thoughts on enhancing protocols and practices within the California justice system and on how he approaches varied criminal and limited jurisdiction civil matters. He believes it will positively influence his future performance as a California trial court judge.

**Recommendation:** The Executive and Planning Committee (E&P) recommends that the Judicial Council approve a request for an unpaid sabbatical leave from October 1 through December 31, 2019, for Judge Nicholas S. Thompson of the Superior Court of Orange County.

[19-138](#)**Jury Instructions | Civil Jury Instructions (Release 35) (Action Required)**

**Summary:** The Advisory Committee on Civil Jury Instructions recommends approving for publication the revised civil jury instructions prepared by the committee on the subject of workplace harassment. On Judicial Council approval, the instructions will, at publisher option, either be published immediately in print in a special edition of or supplement to CACI, or presented only online until the new 2020 print edition of the *Judicial Council of California Civil Jury Instructions (CACI)* is published.

**Recommendation:** The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective July 19, 2019, approve for publication revisions to the following civil jury instructions:

1. CACI No. 2521A. *Work Environment Harassment-Conduct Directed at Plaintiff-Essential Factual Elements-Employer or Entity Defendant*
2. CACI No. 2521B. *Work Environment Harassment-Conduct Directed at Others-Essential Factual Elements-Employer or Entity Defendant*
3. CACI No. 2521C. *Work Environment Harassment-Widespread Sexual Favoritism-Essential Factual Elements-Employee or Entity Defendant*
4. CACI No. 2522A. *Work Environment Harassment-Conduct Directed at Plaintiff-Essential Factual Elements-Individual Defendant*

5. CACI No. 2522B. *Work Environment Harassment-Conduct Directed at Others-Essential Factual Elements-Individual Defendant*
6. CACI No. 2522C. *Work Environment Harassment-Widespread Sexual Favoritism-Essential Factual Elements-Individual Defendant*
7. CACI No. 2524. *“Severe or Pervasive” Explained*

Note that for the 2521 group, the employer is the defendant. For the 2522 group, an individual is the defendant. The A instructions are for conduct directed at the plaintiff employee; the B instructions are for conduct directed at coworkers; the C instructions are for sexual favoritism. CACI No. 2524 provides additional guidance on what constitutes “severe or pervasive” conduct.

## [19-152](#)

### **Juvenile Law | Distribution of Federal Title IV-E Reimbursement for Dependency Counsel (Action Required)**

**Summary:** The Budget Act of 2019 provides an increase of \$34 million, and ongoing funds in future years, in federal funds to support court-appointed dependency counsel representing children and parents at every stage of the dependency proceeding. This funding became available with a change to the federal *Child Welfare Policy Manual*, which now permits claiming federal foster care dollars (title IV-E funds) for attorneys to provide legal representation to a title IV-E-eligible child in foster care or to the child’s parents. This federal funding brings California closer to the Judicial Council caseload standard to fully fund the adequate and competent representation of parents and children required by Welfare and Institutions Code section 317. The Family and Juvenile Law Advisory Committee recommends the distribution of these funds to court-appointed counsel providers meeting eligibility requirements according to the court-appointed counsel workload methodology adopted in April 2016 and modified for small courts in January 2019.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends, effective July 19, 2019, that the Judicial Council:

1. Direct staff to distribute federal IV-E match funds to court-appointed dependency counsel that satisfy the eligibility requirements, based on each county’s allocation; and
2. Direct staff to survey court-appointed counsel providers regarding their ability to utilize IV-E match funds during the remainder of fiscal year 2019-20; reallocate any court-appointed dependency counsel IV-E match funding that is estimated to remain unspent at the end of the year by workload, using the formula and method approved by the Judicial Council on January 22, 2015; and report back to the council at its July 23-24, 2020 meeting.

[19-142](#)**Juvenile Law | Fiscal Year 2019-20 Funding Allocations for Court-Appointed Special Advocate Local Assistance (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends approving Court Appointed Special Advocate (CASA) program grant funding allocations for fiscal year (FY) 2019-20. The judicial branch budget for Judicial Council CASA grants for FY 2019-20 is \$2.713 million, which includes a \$500,000 augmentation to support efforts to increase the number of foster children served. The recommended allocations were calculated based on the CASA funding methodology approved by the Judicial Council at its July 20 and September 21, 2018, business meetings.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 19, 2019, allocate \$2.713 million for CASA local assistance grants to 46 CASA programs serving 51 California counties using the council's funding methodology approved July 20 and September 21, 2018.

[19-075](#)**Trial Court Budget | Fiscal Year 2019-20 Allocation of Court-Appointed Juvenile Dependency Counsel Funding (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee (TCBAC) recommends allocation of \$156.7 million for fiscal year (FY) 2019-20, from the ongoing Trial Court Trust Fund to the trial courts for court-appointed juvenile dependency counsel. The proposed allocation for FY 2019-20 was reviewed and approved by TCBAC at its May 2, 2019, meeting. The Judicial Council at its March 15, 2019, meeting, on the recommendation of the Trial Court Budget Advisory Committee, approved FY 2018-19 midyear reallocations and directed staff to further survey eligible courts to determine their ability to use funding during the remainder of the fiscal year. Staff was further directed to report the final allocation at the July 2019 council meeting.

**Recommendation:** The Trial Court Budget Advisory Committee recommends that the Judicial Council:

1. Allocate \$156.7 million to the trial courts for court-appointed juvenile dependency counsel costs, effective July 1, 2019. The *FY 2019-20 Court-Appointed Juvenile Dependency Counsel Allocation* was prepared using the methodology specified by the Judicial Council.
2. Approve the submission by staff of the final report of *Juvenile Dependency: FY 2018-19 Court-Appointed Counsel Funding Reallocation*.

## DISCUSSION AGENDA

[19-150](#)

### **Judicial Branch Administration | Prevention of Discrimination, Harassment, Retaliation, and Inappropriate Workplace Conduct Based on a Protected Classification (Action Required)**

**Summary:** The Work Group for the Prevention of Discrimination and Harassment recommends several actions to the Judicial Council to improve how judicial branch entities prevent and address harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification. These recommendations include that the Judicial Council direct that the Rules and Projects Committee oversee the rulemaking process for the development of a California Rule of Court setting forth minimum requirements for court policies and procedures; direct that the Center for Judicial Education and Research Advisory Committee revise its 2020-2022 Education Implementation Plan to increase education offerings and modify existing education, and engage in the rulemaking process regarding education for judicial officers on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; recommend that courts take several actions designed to improve existing court protocols; and direct that Judicial Council staff support courts in these efforts.

**Recommendation:** To effectuate the charge of Chief Justice Tani Cantil-Sakauye (Chief Justice), and recognizing the organizational structure of the judicial branch, the Work Group for the Prevention of Discrimination and Harassment (Work Group) recommends that the Judicial Council:

1. Direct the Rules and Projects Committee to oversee the rulemaking process to propose a California Rule of Court clarifying the responsibility of courts to adopt updated policies that: (a) prohibit harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; (b) contain definitions and examples of prohibited harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification; and (c) address and clarify complaint reporting and response procedures.
2. Direct the Center for Judicial Education and Research Advisory Committee to:
  - A. Under the oversight of the Rules and Projects Committee, engage in the rulemaking process, in consultation with the administrative presiding justices, appellate court clerk/executive officers, trial court presiding judges, and trial court executive officers, regarding education for judicial officers on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.

- B. Incorporate the revisions enumerated below on improving and expanding training into the 2020-2022 Education Implementation Plan, and implement further enumerated revisions in a timely fashion.
  - 1. In the area of judicial education, add explicit references to the proposed California Rule of Court outlined in Recommendation 1 and to the Code of Judicial Ethics, and expand judicial education demeanor trainings in several areas, including antibullying and bystander intervention, and judicial education to prevent harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification for judicial officers.
  - 2. In the area of staff education, create civility training that emphasizes building skills and understanding on many aspects of civil behavior, including etiquette, implicit bias, respect, and acceptable workplace conduct. This curriculum would be consistent statewide and provided by trained court staff.
  - 3. Include content on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification at all in-person educational venues.
  - 4. Develop new tools for court staff and judicial officers to help extend their learning beyond the initial training on prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification.
- 3. Recommend that courts take action to:
  - A. Revise and modernize policies on the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification to comply with the proposed California Rule of Court.
  - B. Create workplace investigation protocols to ensure fairness, consistency, and transparency for all parties to an investigation.
  - C. Improve communication and transparency on policies for the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct based on a protected classification and related complaint resolution processes.

- D. Gather feedback from current and departing employees to determine areas of needed improvement.
- E. Develop and adopt informal complaint resolution processes.
- 4. Direct Judicial Council staff to develop resources to aid courts in the above objectives, such as model policies, processes, procedures, and toolkits.
- 5. Direct Judicial Council staff to follow up with court leadership by July 2021 to assess the effectiveness of these recommendations and determine further areas for improvement; and report back to the Judicial Council at this time.

**A motion was made by Justice Miller, seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.**

#### 19-066

#### **Judicial Branch Administration | Proposal to Reaffirm an Updated Strategic Plan for California's Judicial Branch (Action Required)**

**Summary:** The chairs of the Judicial Council's six internal committees have revised the existing plan and propose that the Judicial Council reaffirm the existing strategic plan for the Judicial Branch to maintain a guiding vision and direction for the judicial branch.

**Recommendation:** The chairs of the Judicial Council's six internal committees recommend, effective immediately:

- 1. Reaffirm the existing strategic plan for the Judicial Branch by incorporating cosmetic changes, hyperlink additions, and other small adjustments that better align the strategic plan with the current environment; and
- 2. Continue to promote, implement, and maintain the seven strategic goals:
  - Goal I: Access, Fairness, and Diversity
  - Goal II: Independence and Accountability
  - Goal III: Modernization of Management and Administration
  - Goal IV: Quality of Justice and Service to the Public
  - Goal V: Education for Branchwide Professional Excellence
  - Goal VI: Branchwide Infrastructure for Service Excellence
  - Goal VII: Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

**A motion was made by Judge Lyons, seconded by Judge Gordon, that this proposal be approved. The motion carried by a unanimous vote.**



[19-072](#)**Trial Court Budget | Trial Court Allocations from the State Trial Court Improvement and Modernization Fund (IMF) for 2019-20 (Action Required)**

**Summary:** The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council approve allocations for 2019-20 from the State Trial Court Improvement and Modernization Fund (IMF) in the amount of \$80,079,860. This value includes approved budget change proposals (BCP) in the 2019-20 Budget Act.

**Recommendation:** The Trial Court Budget Advisory Committee (TCBAC) unanimously recommends that the Judicial Council approve a total of \$80,079,860 in allocations for 2019-20 from the State Trial Court Improvement and Modernization Fund (IMF).

**A motion was made by Judge Gordon, seconded by Judge Hopp, that this proposal be approved. The motion carried by a unanimous vote.**

[19-073](#)**Trial Court Budget | Allocations from the Trial Court Trust Fund and Trial Court Allocations for Fiscal Year 2019-20 (Action Required)**

**Summary:** For 2019-20, the Trial Court Budget Advisory Committee (TCBAC) recommends the Judicial Council allocate \$2.293 billion to the trial courts from the Trial Court Trust Fund (TCTF), and \$68.8 million from the state General Fund, for general court operations and specific costs. The TCBAC also recommends the Judicial Council approve the Workload Formula allocation of \$2.056 billion based on methodologies approved by the Judicial Council. Assuming approval of the allocations, current revenue projections, and estimated savings from 2018-19 appropriations, the TCTF will end 2019-20 with a fund balance of \$58.5 million, of which approximately \$32.0 million will be unrestricted.

**Recommendation:** The TCBAC recommends that the Judicial Council, effective July 19, 2019:

1. Approve base, discretionary, and nondiscretionary program allocations from the TCTF in the amount of \$2.293 billion (Attachment A, line 73);
2. Approve a General Fund allocation in the amount of \$68.8 million for employee benefits (Attachment A, line 13); and
3. Approve a Workload Formula allocation of \$2.056 billion based on methodologies approved by the Judicial Council (Attachment B, column U).

**A motion was made by Mr. Kelly, seconded by Judge Rubin, that this proposal be approved. The motion carried by a unanimous vote.**

[19-074](#)**Judicial Branch Budget: 2020-21 Budget Change Proposals for Supreme Court, Courts of Appeal, Superior Courts, Judicial Branch Facilities Program, Habeas Corpus Resource Center, and Judicial Council (Action Required)**

**Summary:** To continue responsible reinvestment in the judicial branch allowing for greater access to justice for California's citizens, the Judicial Branch Budget Committee (JBBC) unanimously recommends submitting these 2020-21 budget change proposals (BCPs)

to the State Department of Finance.

**Recommendation:** The Judicial Branch Budget Committee recommends that the Judicial Council, effective July 19, 2018, approve the following 2020-21 BCPs (not in priority order) for submission to the State Department of Finance on September 3, 2019:

1. Trial Court Civil Assessment Backfill-\$56.40 million
2. Trial Court Funding Stabilization-\$540.90 million
3. Trial and Appellate Court Facility Operations and Maintenance, Leased Space, and Deferred Maintenance-\$159.10 million
4. Information Technology Modernization-\$9.69 million
5. Digitizing of Documents, Phases 2 and 3-\$17.80 million
6. Court Technology Manager Positions-\$1.52 million
7. Appellate Courts-Court-Appointed Counsel Projects-\$1.63 million
8. Electronic Resources and Collection Rightsizing Adjustment for Appellate Court Libraries-\$0.68 million
9. Appellate Court Security-\$1.20 million
10. Judicial Branch Data Governance-\$0.98 million
11. Statutory Statewide Trial Court Audit Program-State Controller's Office-\$1.60 million
12. Language Access Expansion in the California Courts-\$8.70 million
13. Habeas Corpus Resource Center (HCRC) Case Team Staffing and Establishment of Los Angeles Office-\$11.40 million
14. Stanislaus-New Modesto Courthouse, Buildout Three Shelled Courtrooms-\$9.75 million

**A motion was made by Justice Chin, seconded by Presiding Judge Nadler, that this proposal be approved. The motion carried by a unanimous vote. Assembly Member Bloom abstained.**

## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

### [19-077](#)

#### **Judicial Branch Budget | Quarterly Report on the Court Innovations Grant Program, Fiscal Year 2018-19, Quarter 3**

**Summary:** This report summarizes Judicial Council Court Innovations Grant Program activity for the third quarter of fiscal year 2018-19.

### [19-070](#)

#### **Report to the Legislature | Electronic Recording Equipment**

**Summary:** Government Code section 69958 requires that the Judicial Council report to the Legislature semiannually on all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

[19-136](#)**Trial Courts | Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Rep. No. 48)**

**Summary:** Government Code section 68106 (1) directs trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) directs the council to post all such notices on its website and relay them to the Legislature. This is the 48th report to date listing the latest court notices received by the council under this statutory requirement. Since the previous report, three superior courts--the Superior Courts of Fresno, Tulare, and San Bernardino Counties--have issued new notices.

[19-078](#)**Trial Courts | Quarterly Investment Report for First Quarter of 2019**

**Summary:** This *Trial Courts: Quarterly Investment Report for First Quarter of 2019* covers the period of January 1, 2019, through March 31, 2019, 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 agenda item 10, Statement of Investment Policy for the Trial Courts and Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

**Appointment Orders**[19-080](#)**Appointment Orders since the last business meeting.****Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:00 a.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on September 24, 2019.*