

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

SP13-03

Title	Action Requested
Trial Court Presiding Judges Advisory Committee: Chair Nomination Process	Review and Submit Comments by May 17, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.46	July 1, 2013
Proposed by	Contact
Trial Court Presiding Judges Advisory Committee (TCPJAC) Hon. Laurie M. Earl, Chair	Deirdre Benedict, 415-865-8915 deirdre.benedict@jud.ca.gov

Executive Summary and Origin

The Trial Court Presiding Judges Advisory Committee recommends amendments to the California Rules of Court, rule 10.46(f), to permit the committee to submit to the Chief Justice *one name* for appointment as the chair of the committee.

In December 2012, the members of the TCPJAC approved a change in the TCPJAC bylaws that addresses the chair and vice-chair selection process: to a majority vote of all committee members, rather than a ratification of a vote of the Executive Committee; and to reflect that “the advisory committee shall submit to the Chief Justice *one name* for appointment as the chair of the advisory committee.”

The TCPJAC recognizes that submitting only one name is inconsistent with rule 10.46(f) and therefore, this amendment to the bylaws is contingent on Judicial Council approval of a corresponding rule amendment. Because current rule 10.46(f) provides that the advisory committee must submit three nominations for chair of the advisory committee, the TCPJAC recommends amendment of the rule to provide that the committee must submit one name for chair of the advisory committee.

The Proposal

This proposal would amend rule 10.46(f) to provide that the Trial Court Presiding Judges Advisory Committee must submit to the Chief Justice one nomination, rather than three, for appointment as advisory committee chair, and that the chair is elected by a majority vote of all TCPJAC members.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

This proposal is recommended to allow the TCPJAC to elect its own membership under a majority vote.

The TCPJAC believes this rule change is important to ensure that the presiding judges have an opportunity to identify their choice for Chair, that all presiding judges have an equal opportunity to serve as Chair, and that the entire membership have an equal vote in electing its leaders.

In the event that the Chief Justice does not approve of the TCPJAC's recommended candidate for Chair, the Chief Justice retains the authority under Rule 10.31(c) (Advisory committee membership and terms) to appoint an advisory committee member to be a committee chair or vice-chair for a one-year term.

Alternatives Considered

At its August 24, 2012, TCPJAC business meeting, members discussed revisions to the TCPJAC bylaws in which the TCPJAC Executive Committee would select three names for the chair position and one name would then be ratified by the full committee.

However, after further discussion was held at the TCPJAC Executive Committee meeting on November 8, 2012, it was decided that the initial selection process should be opened up to the entire membership.

Implementation Requirements, Costs, and Operational Impacts

This proposal will impose no implementation burdens on the superior courts, the Court of Appeal, or the Administrative Office of the Courts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Cal. Rules of Court, rule 10.46, at page 3

Rule 10.46 of the California Rules of Court would be amended, effective July 1, 2013, to read:

1 **Rule 10.46. Trial Court Presiding Judges Advisory Committee**

2

3 (a)–(e) * * *

4

5 (f) **Chair**

6

7 The advisory committee must annually submit to the Chief Justice ~~three~~ one
8 nominations for the chair of the advisory committee. ~~The Chief Justice will select a~~
9 ~~chair from among the names suggested.~~ Any member of the advisory committee,
10 whose term as presiding judge would extend at least through the term of the
11 advisory committee chair, is eligible for nomination. The nomination must be made
12 by a majority vote of the full advisory committee. In the event that no nominee
13 receives a majority vote on the first ballot, subsequent ballots of the top two
14 candidates will occur until a candidate receives a majority vote.

15 The chair of the advisory committee serves as chair of any Executive Committee
16 established under (d) and as an advisory member of the Judicial Council.
