



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 20, 2014

Title	Agenda Item Type
Judicial Administration: Rules for Advisory Groups	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, 10.55, and 10.960; and repeal rule 10.49	February 20, 2014
Recommended by	Date of Report
Rules and Projects Committee	February 13, 2014
Hon. Harry E. Hull, Jr., Chair	Contact
Executive and Planning Committee	Susan R. McMullan, 415-865-7990
Hon. Douglas P. Miller, Chair	susan.mcmullan@jud.ca.gov
Technology Committee	
Hon. James E. Herman, Chair	

Executive Summary

The Judicial Council's Rules and Projects Committee (RUPRO), Executive and Planning Committee (E&P), and Technology Committee (internal committees) recommend the adoption of four new California Rules of Court formally establishing by rule the Judicial Council Technology Committee (JCTC) and three advisory committees; the amendment of two rules for existing advisory committees, one rule addressing internal committees generally, and two rules addressing advisory committees generally; and the repeal of one rule. At its meeting on April 25, 2013, the Judicial Council approved the *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups*, which included these recommendations. The internal committees also recommend a technical change to rule 10.960.

Recommendation

The Rules and Projects Committee (RUPRO), the Executive and Planning Committee (E&P), and the Technology Committee (JCTC) recommend that the Judicial Council, effective February 20, 2014:

1. Adopt rule 10.16 of the California Rules of Court to establish by rule the Judicial Council Technology Committee;
2. Adopt rules 10.62, 10.63, and 10.64 to establish by rule the Court Facilities Advisory Committee, the Advisory Committee on Financial Accountability and Efficiency, and the Trial Court Budget Advisory Committee;
3. Amend rule 10.55, concerning the Advisory Committee on Providing Access and Fairness in the Courts, to change the name of the committee and make clarifying changes;
4. Amend rule 10.48 to combine the Conference of Court Executives and the Court Executives Advisory Committee into one group with an executive committee;
5. Amend rule 10.960 to make a technical change that reflects the new responsibility of the Advisory Committee on Providing Access and Fairness in the Courts to recommend to the council updated guidelines and procedures for court self-help centers, as needed; and
6. Repeal rule 10.49 concerning the Conference of Court Executives.

The text of the rules is attached at pages 14–24.

Previous Council Action

The council initiative for reviewing the governance, structure, and organization of the council's advisory groups had its genesis at its June 2011 planning meeting. In August 2011, E&P made this recommendation to the council:

The Judicial Council will review the structure and organization of its advisory groups, including its advisory committees and task forces, and their subcommittees and advisory groups.¹

At its meeting on April 25, 2013, the Judicial Council approved the *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups*,² which included recommendations to establish by rule two

¹ Judicial Council of Cal. mins., Exec. & Planning Com. Rep. (Aug. 25–26, 2011), p. 7, <http://www.courts.ca.gov/documents/jc-20110826-minutes.pdf>. See also Judicial Council of Cal., Exec. & Planning Com. mins. (Aug. 12, 2011), <http://www.courts.ca.gov/documents/jc-121311-comrep.pdf>.

² The report can be found at www.courts.ca.gov/documents/jc-20130426-item4.pdf.

advisory committees: the Court Facilities Advisory Committee and the Trial Court Budget Advisory Committee. The Report and Recommendations also recommended certain changes to the Access and Fairness Advisory Committee and the Court Executives Advisory Committee that necessitate rule amendments and the repeal of rule 10.49, which addresses the Conference of Court Executives. In addition, rules are needed for the JCTC and the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch.

During the internal committees' review, which resulted in the *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups*, the internal committees evaluated ways to achieve the following objectives:

1. Create efficiencies by consolidating certain committee activities and reducing overlapping responsibilities;
2. Reduce the costs associated with committee operations, which includes gaining a better understanding of the resources and staff support reasonably needed by the council's advisory groups;
3. Strengthen Judicial Council oversight of the groups that had not been directly overseen by the council, such as subcommittees and subgroups that had been created by the council's advisory groups; and
4. Create formal standing advisory committees to succeed task forces and working groups when the continued assistance of those groups is needed.

The internal committees concluded that establishing as standing advisory committees the Court Facilities Advisory Committee and the Trial Court Budget Advisory Committee would assist in achieving these objectives. In addition, the internal committees recognized the need for a rule of court for the JCTC and the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch.

Rationale for Recommendation

This proposal establishes by rule of court the JCTC and sets out its responsibilities for technological issues relating to the branch and the courts. In addition, the proposal establishes by rule of court three new advisory committees³ to provide policy recommendations and advice to the council on topics the Chief Justice or the council specifies using the individual and collective experience, opinions, and wisdom of their members. (See Cal. Rules of Court, rule 10.30(b).)

³ The recommendations approved by the council in the *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups* include the establishment by rule of two other advisory groups: the Tribal Court-State Court Forum and the Court Security Advisory Committee. The council adopted rules for these groups effective October 25, 2013.

Consistent with the rules for all advisory committees, the proposed rules for the three new advisory committees include provisions addressing the advisory committee's area of focus and membership. Where appropriate, the proposed rules include additional areas of responsibility and, where necessary, additional information about the nominations process and member selection and appointment if those procedures differ from the procedures set out in rules 10.31 and 10.32.

Existing rules 10.30–10.34 address, respectively, Judicial Council advisory bodies, advisory committee membership and terms, nominations and appointments to advisory committees, advisory committee meetings, and duties and responsibilities of all advisory committees. Unless otherwise stated or other provisions addressing these matters appear in proposed rules 10.62–10.64, these rules would apply to the new rules establishing the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, the Court Facilities Advisory Committee, and the Trial Court Budget Advisory Committee.

Rules for the Access and Fairness Advisory Committee and the Court Executives Advisory Committee would be amended to align the rules with the recommendations approved by the council in April 2013. A rule addressing internal committees generally, and two rules addressing advisory committees generally also would be amended to make them consistent with the council recommendations.

Rule 10.49 (Conference of Court Executives) would be repealed because the amendment of rule 10.48 (Court Executives Advisory Committee) would make all court executive officers members of the Court Executives Advisory Committee, thereby making the Conference of Court Executives unnecessary as a separate advisory body. Finally, a technical change to rule 10.960 is needed to reflect that it will be the responsibility of the Advisory Committee on Access and Fairness to recommend to the council updated guidelines and procedures for court self-help centers. Currently, the rule provides that the Administrative Office of the Courts (AOC), in collaboration with other interested parties, must review and update the guidelines and procedures at least every three years. The rationale for all recommended changes is discussed more fully immediately below.

New Rules

Rule 10.16 (Technology Committee). At its March 27, 2012, meeting, the council voted to stop deployment of the California Court Case Management System (CCMS V4) as a statewide court technology solution. At that time, the council directed the CCMS Internal Committee—in partnership with the trial courts—to develop timelines and recommendations to the council for various matters involving technology in the courts. On June 22, 2012, the council approved the CCMS Internal Committee's recommendation to change its name to the Technology Committee.⁴ The report recommending this action described the committee's role as overseeing

⁴ Judicial Council of Cal., *Technology: Report from the Technology Committee* (June 22, 2012).

the council's policies on technology and advising the council on technology-related policy decisions.

Rule 10.15 would provide that the JCTC oversees the council's policies concerning information technology and is responsible for coordinating with the Administrative Director of the Courts, council internal and advisory committees, the courts, justice partners, and stakeholders on technological issues relating to the branch and the courts. It would also provide that the JCTC, in collaboration or consultation with the Policy Coordination and Liaison Committee, coordinates with other branches of government on information technology issues. The JCTC will report to the council on information technology issues; assess technology needs; develop recommendations for standards and systems; and, similar to E&P and RUPRO, oversee certain advisory committees and task forces.

Rule 10.62 (Court Facilities Advisory Committee). Rule 10.60 would formally establish the Court Facilities Advisory Committee by rule of court and provide that its area of focus is to make recommendations to the council concerning the judicial branch capital program for the trial and appellate courts. This broad language reflects the committee's comprehensive role in making recommendations about court facilities. The rule would provide that membership must include at least one member from each of the following categories:

1. Appellate court justice;
2. Appellate court clerk/administrator;
3. Superior court judge;
4. Court executive officer;
5. Lawyer;
6. Local government official or administrator; and
7. Public member with expertise in real estate acquisition, construction, architecture, cost estimating, or facilities management and operations.

The committee would also include the chair and vice-chair of the Trial Court Facility Modification Advisory Committee, as nonvoting members.

Rule 10.63 (Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch). Rule 10.63 would formally establish by rule of court the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch. The rule would provide that the committee's area of focus is to make recommendations to the council on practices that will

promote financial accountability and efficiency in the judicial branch. Additional duties of the committee contained in the rule are to:

1. Make recommendations annually to the council concerning any budget change proposals for funding of the AOC and any proposed changes to the annual compensation plan for the AOC;
2. Review all audit reports of the judicial branch, recommend council acceptance of audit reports, and, where appropriate, make recommendations to the council on individual or systemic issues;
3. Report to the council on AOC contracts that meet established criteria to ensure that the contracts are in support of judicial branch policy; and
4. Review proposed updates and revisions to the *Judicial Branch Contracting Manual*.

Under the rule, the committee would be composed of appellate court justices, superior court judges, and court executive officers. An advisory committee comment would describe the committee's purpose.

Rule 10.64 (Trial Court Budget Advisory Committee). The Trial Court Budget Advisory Committee's area of focus under rule 10.62 is to make recommendations to the council on the preparation, development, and implementation of the budget for the trial courts and to provide input to the council on policy issues affecting trial court funding. Additional committee duties listed in the rule are to make recommendations to the council on:

1. Trial court budget priorities to guide the development of the budget for the upcoming fiscal year;
2. The allocation of trial court funding, including any changes to existing methodologies for allocating trial court budget augmentations and reductions; and
3. Budget policies and procedures, as appropriate.

The rule would provide that membership consists of an equal number of trial court presiding judges and court executive officers reflecting diverse aspects of state trial courts, including urban, suburban, and rural locales; the size and adequacy of budgets; and the number of authorized judgeships. Under the rule, a presiding judge and a court executive officer from the same court may serve and a presiding judge is qualified to complete his or her term on the advisory committee even if his or her term as presiding judge of a trial court ends.

Amended Rules

Rule 10.55 (Advisory Committee on Providing Access and Fairness in the Courts). The rule providing for the Access and Fairness Advisory Committee would be amended to rename the committee Advisory Committee on Providing Access and Fairness in the Courts. To acknowledge that the committee's area of focus will continue to encompass diversity in the judicial branch, that area would be added to subdivision (a). Also, the rule would be amended to clarify that one of its areas of focus is issues affecting self-represented litigants and to make other clarifying changes.

A technical correction would be made to subdivision (b)(3) to provide that the committee makes recommendations on proposals for the education and training of judicial officers and court staff to the Governing Committee of the Center for Judicial Education and Research, rather than to the AOC office known as CJER.

The rule changes implement various council actions. The *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups*, approved by the council in April 2013, included a recommendation that the Self-Represented Litigants Task Force complete as many of its projects as possible by September 1, 2013, and that its remaining projects be merged with the Access and Fairness Advisory Committee, resulting in one committee formed through the merger of the Access and Fairness Advisory Committee and the Self-Represented Litigants Task Force. To encompass the task force's area of focus, the rule would be amended to specifically provide that one of the committee's cochairs is responsible for leading the advisory committee's work in the area of issues—including economic, education, and language challenges—confronted by self-represented litigants and litigants of limited or moderate income. The rule would provide for a second area, led by the other committee cochair, on physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch.

The rule would be amended to add the following to the existing categories of membership:

1. Lawyer with expertise or interest in additional access, fairness, and diversity issues addressed by the committee;
2. Lawyer from a trial court self-help center;
3. Legal services lawyer;
4. Court executive officer or trial court manager who has experience with self-represented litigants; and
5. County law librarian or other related professional.

The amended membership categories reflect the newly formed committee as continuing to have a focus on all areas of access, fairness, and diversity, including issues faced by self-represented litigants.

Rules 10.48 (Court Executives Advisory Committee). The *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups* included a recommendation to combine the Conference of Court Executives and the Court Executives Advisory Committee into one group with an executive committee. The newly created group would not include an appellate court administrator position because the California Appellate Court Clerks Association meets separately and works with the Administrative Presiding Judges Advisory Committee.

Amended rule 10.48 would eliminate reference to the Conference of Court Executives and provide that the committee consists of the court executive officer of each superior court. The rule would provide for an executive committee that acts on behalf of the full advisory committee. The executive committee would be made up of the following members:

1. The nine court executive officers or interim/acting court executive officers from the nine trial courts that have 48 or more judges;
2. Four court executive officers from trial courts that have 16 to 47 judges;
3. Two court executive officers from trial courts that have 6 to 15 judges;
4. Two court executive officers from trial courts that have 2 to 5 judges; and
5. One court executive officer from the trial courts as an at-large member appointed by the committee chair to a one-year term.

For positions on the executive committee, the rule would provide a nomination process that allows the executive committee to submit three nominations for each vacancy to E&P. The rule would specifically provide for executive committee meetings approximately every two months, with some meetings held in conjunction with the statewide meetings of the full advisory committee.

Rules 10.10, 10.30, 10.34, and 10.960. Rule 10.10, which identifies internal committees of the council, would be amended to add the Technology Committee.

Rule 10.30, on council advisory bodies, would be amended to provide that an advisory body may form subcommittees with the approval of the internal committee that has oversight responsibility for the advisory body. The current rule does not explicitly require the advisory committee to obtain the approval of the oversight committee to create a subcommittee. The *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council*

Advisory Groups recommends that an advisory group solicit the approval of its council oversight committee before creating subcommittees or adding new projects.

Similarly, to align rule 10.34 on the duties and responsibilities of advisory bodies, with the above recommendation, that rule would be amended to provide that to pursue matters in addition to those specified in its annual charge (i.e., additional projects), an advisory committee must have the approval of the internal committee that has oversight responsibility for the advisory committee. Rule 10.960 would be amended to eliminate the sentence in subdivision (e) stating that the AOC must review and update guidelines and procedures for the operation of court self-help centers at least every three years. Instead, a sentence would be added stating that the Advisory Committee on Providing Access and Fairness in the Courts must recommend to the council updated guidelines and procedures for court self-help centers, as needed.

Repealed Rule

Rule 10.49 (Conference of Court Executives). This proposal would repeal rule 10.49, addressing the Conference of Court Executives, because that group would be merged with the Court Executives Advisory Committee under amended rule 10.48.

Nominations and Appointment of Members

JCTC membership will remain unchanged, as members are appointed by the Chief Justice from Judicial Council membership. For most advisory committees affected by this proposal, new members will be solicited through the regular annual nominations cycle beginning in March 2014. Membership terms will begin November 1, 2014.⁵

Comments, Alternatives Considered, and Policy Implications

The proposal was circulated for comment from October 25 to December 20, 2013.⁶ Nine commentators submitted comments.⁷ Commentators included the chair of the JCTC, a superior court judge, superior courts, a court information technology director, the Council of California County Law Librarians (County Law Librarians), the Council on Access & Fairness of the State Bar of California (COAF), and Courthouse News Service (CNS). One commentator agreed with the proposal, seven agreed if modified, and one did not state a position. Comments on new rules are discussed first, followed by comments on rules proposed to be amended. None of the comments concerned the rules for the Advisory Committee on Financial Accountability and

⁵ For the newly formed Advisory Committee on Providing Access and Fairness in the Courts, E&P, RUPRO, and the JCTC have directed the AOC to conduct solicitations for all positions during the regular nominations cycle, with membership terms beginning on August 1, 2014.

⁶ The technical amendment to rule 10.960 was not circulated for comment. Under rule 10.22(d)(2), RUPRO may recommend adoption without circulation if the rule presents a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy.

⁷ A chart containing all comments and the committee responses is attached at pages 25–40. Because some commentators submitted separate comments on different rules contained in the proposal, the chart shows 12 commentators.

Efficiency for the Judicial Branch (rule 10.61) or the Trial Court Budget Advisory Committee (rule 10.62).

Rule 10.16 (Technology Committee). The Court Executive Officer of the Superior Court of Orange County commented that the description of the JCTC's oversight should be more specific because as proposed it could be read to authorize the JCTC to oversee compliance with the policies, scope, and budget of locally funded trial court technology projects. He stated that this would be inconsistent with the concepts being developed by the Technology Planning Task Force and the expectations of trial courts, as well as being beyond the resources of the Technology Committee. He suggested that the rule text be changed to refer to "specific projects approved and funded by the Judicial Council," rather than simply "projects"; this change has been made. Similarly, the Superior Court of Los Angeles County commented that the proposed language "arguably reaches beyond the scope of Judicial Council authority to allow interventions into local courts' decisions about how to use their own budgets to implement technology." It suggests modifying the rule to refer to "council-sponsored projects."

The chair of the JCTC noted that its subject matter is information technology and, on behalf of the JCTC, requested that the rule be changed to use "information technology" instead of "technology" throughout the body of the rule. This change has been made.

A superior court director of information technology suggested that the JCTC membership should include two or three trial court information technology representatives elected by their peers or by the Court Information Technology Management Forum. The committees did not make this change because the JCTC, as a council internal committee, is made up of council members who are appointed by the Chief Justice.

CNS provided lengthy comments addressing matters other than the appropriate duties of the JCTC. For example, the comments discussed how soon documents filed electronically are made available to the public and media. This is not a matter addressed by the rule.

Rule 10.62 (Court Facilities Advisory Committee). CNS submitted a lengthy comment that largely addresses space for the media at courthouses. Because this proposal, which establishes by rule the Court Facilities Advisory Committee, does not affect decisions about courthouse space allocated for the media, the committees do not recommend any changes to the rule that circulated for comment. The Superior Court of Los Angeles County commented that because the committee's focus is decisions about capital projects for trial courts, committee membership should include at least two superior court judges and two court executive officers. The committees decline to make this change because the membership provision already provides for at least one member from each of seven categories, including superior court judge and court executive officer. Maintaining the requirement of at least one member from the listed categories provides the greatest flexibility in making appointments to the advisory committee.

Rule 10.55 (Advisory Committee on Providing Access and Fairness in the Courts). Four commentators submitted comments on proposed amendments to this rule. The County Law Librarians noted that the Self-Represented Litigants Task Force has for many years included a county law librarian as a member. The County Law Librarians recommend that with the upcoming merger of the Self-Represented Litigants Task Force’s remaining projects with the Access and Fairness Advisory Committee, the advisory committee include a county law librarian as a member. The internal committees agree. To provide for a member with this background and to allow flexibility depending on the committee’s needs at a particular time, subdivision (c) would be amended to add “county law librarian or other related professional” as a membership category.

The COAF provided extensive comments and suggested significant changes to the rule amendment as circulated. While the COAF states that it sees value in merging issues affecting self-represented litigants under the Access and Fairness Advisory Committee, it believes that with the merged areas, the level of staffing and resources devoted to both will be minimized and “insufficient to maintain the ongoing access, fairness, and diversity work.” It also commented that the proposed cochair structure would create a “bifurcated approach,” and does not appear to be necessary or the best means for the exchange of ideas and collaboration. The COAF believes that the proposed cochair structure should be eliminated. It also suggested that the advisory committee’s area of focus be expanded to include diversity at the AOC. The internal committees do not recommend adding diversity at the AOC as an area of focus because it involves AOC personnel matters, which are outside the scope of these rules.

The COAF also suggested adding five duties to the additional duties in subdivision (b), including recommendations to the council on ways to ensure fairness in the courts and increased diversity in the judicial branch. All advisory committees are subject to rule 10.34, which addresses duties and responsibilities of advisory committees. The duties and responsibilities include making recommendations for improving the administration of justice within their designated areas of focus by such actions as proposing necessary changes to rules, standards and forms and recommending pilot projects and other programs to evaluate new procedures or practices. Because of the breadth of duties and responsibilities already included in rule 10.34 and the areas of focus for the Advisory Committee on Providing Access and Fairness in the Courts in rule 10.55(a), the internal committees decline to make the change suggested by the commentator. Advisory committee rules are intended to set out broad areas of focus and duties. The five additional duties proposed by the COAF are already encompassed by the committee’s area of focus in subdivision (a) and rule 10.34(a). Hence, these duties do not need to be added to subdivision (b). The internal committees recommend maintaining as the only additional duty making recommendations to the CJER Governing Committee, as in the current rule.

Finally, the COAF commented that the proposed structure of two advisory committee cochairs be eliminated. The proposed amendments, as circulated for comment, provided for a cochair with responsibility for leading the advisory committee’s work in the area of issues confronted by self-represented litigants and litigants of limited or moderate income and another cochair with

responsibility for leading the advisory committee's work addressing physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch. With the merger of the Self-Represented Litigants Task Force with the current Access and Fairness Advisory Committee, the internal committees intended that the advisory committee would take on responsibility for self-represented litigant issues equally with access, fairness, and diversity issues. The internal committees, therefore, continue to recommend the cochair structure.

A judge of the Superior Court of Alameda County submitted comments joining the comments of the COAF. In addition, she suggested that changing the name of the committee, as proposed when the rule circulated, "appears to have diminished the role and importance of access and fairness" and suggested that it remain the same. The commentator proposes revising the name to the "Access, Fairness, and Diversity Advisory Committee." The proposed name change was not intended to diminish the role and importance of access and fairness. Those areas remain areas of focus. (See rule 10.55(a).) The internal committees do not recommend the name change as suggested by the commentator.

The commentator disagrees with the proposed cochair structure, believing it will dilute the committee's work and create a risk that the cochairs will disagree on which area should take priority when resources are limited. After careful consideration and discussion, the internal committees reiterated that with the addition of responsibilities for self-represented litigant issues, the committee should have a structure that provides for cochairs to lead the committee in the following areas: (1) physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch; and (2) issues confronted by self-represented litigants and those of limited or moderate income, including economic, education, and language challenges.

Lastly, the commentator urges the council to consider tabling the proposed amendments to rule 10.55 and sending the proposal to the Access and Fairness Advisory Committee for further study. The proposal resulted from a comprehensive review of and recommendations concerning advisory committees by RUPRO, E&P, and JCTC. The three internal committees, as proponents of the proposal, continue to recommend merger of the projects and duties of the Self-Represented Litigants Task Force with the Access and Fairness Advisory Committee as set out in the proposed amended rule and do not recommend requesting study by the advisory committee concerning the content of the amended rule. Advisory committee rules are intended to set out broad areas of focus, membership categories, and, where appropriate, additional areas of responsibility. The amended rule accomplishes these purposes.

Implementation Requirements, Costs, and Operational Impacts

Internal and advisory committee costs include the costs of members' travel, meals, and lodging (if needed) for in-person meetings and the costs of telephone and video conferences. Other costs include staff time. The Judicial Council has determined that the subject areas of the three new advisory committees are ones in which both the council and the judicial branch would benefit from policy recommendations and advice. It has also determined that to establish advisory

groups of members with diverse experience to provide recommendations and advice in the needed subject areas is appropriate. For the JCTC, the council has determined that it needs an internal committee, governed by a rule, to provide oversight of the council's policies concerning technology.

Relevant Strategic Plan Goals and Operational Plan Objectives

This proposal supports the policies underlying Goal IV, Quality of Justice and Service to the Public, and Goal VI, Branchwide Infrastructure for Service Excellence.

Attachments

1. Cal. Rules of Court, rules 10.10, 10.16, 10.30, 10.34, 10.48, 10.49, 10.55, 10.62–10.64, and 10.960, at pages 14–24
2. Chart of Comments, at pages 25–40

Rules 10.16, 10.62, 10.63, and 10.64 of the California Rules of Court are adopted; rules 10.10, 10.30, 10.34, 10.48, 10.55, and 10.960 are amended; and rule 10.49 is repealed, effective February 20, 2014, to read:

1 **Rule 10.10. Judicial Council internal committees**

2
3 **(a) Judicial Council internal committees**

4
5 The internal committees are:

- 6
7 (1) Executive and Planning Committee;
- 8
9 (2) Policy Coordination and Liaison Committee;
- 10
11 (3) Rules and Projects Committee; ~~and~~
- 12
13 (4) Litigation Management Committee; and
- 14
15 (5) Technology Committee.

16
17 **(b)–(g) * * ***

18
19 **Rule 10.16. Technology Committee**

20
21 **(a) Technology policies**

22
23 The Technology Committee oversees the council’s policies concerning information
24 technology. The committee is responsible for determining that council policies are
25 complied with on specific projects approved and funded by the council and that
26 those projects proceed on schedule and within scope and budget.

27
28 **(b) Coordination**

29
30 The committee coordinates the activities of the Administrative Director of the
31 Courts, council internal committees and advisory committees, the courts, justice
32 partners, and stakeholders on matters relating to court information technology. The
33 committee also, in collaboration or consultation with the Policy Coordination and
34 Liaison Committee, coordinates with other branches of government on information
35 technology issues.

36
37 **(c) Reports**

38
39 The committee seeks reports and recommendations from the Administrative
40 Director, the courts, and stakeholders on information technology issues. It ensures
41 that information technology reports to the council are clear, are comprehensive, and

1 provide relevant options so that the council can make effective final information
2 technology policy decisions.

3
4 **(d) Technology needs, standards, and systems**

5
6 The committee will, in partnership with the courts, develop timelines and
7 recommendations to the council for:

- 8
9 (1) Establishing an approach and vision for implementing information
10 technology that serves the courts, litigants, attorneys, justice partners, and the
11 public, while considering available resources and information technology
12 needs;
13
14 (2) Improving judicial branch information technology governance to best serve
15 the implementation of technological solutions;
16
17 (3) Establishing a strategic information technology plan for the judicial branch
18 and the courts;
19
20 (4) Developing information technology standards; and
21
22 (5) Developing standardized requests for proposals, identifying appropriate
23 vendors, and encouraging the courts to leverage their collective economic
24 purchasing power in acquiring technological systems.

25
26 **(e) Oversight of advisory committees and task forces**

27
28 For those advisory committees and task forces over which it has been assigned
29 oversight by the Chief Justice, the Technology Committee ensures that the
30 activities of each are consistent with the council's goals and policies. To achieve
31 these outcomes, the committee:

- 32
33 (1) Communicates the council's annual charge to each; and
34
35 (2) Reviews an annual agenda for each to determine whether the annual agenda
36 is consistent with its charge and with the priorities established by the council.

37
38 **Rule 10.30. Judicial Council advisory bodies**

39
40 **(a)–(b) * * ***

1 (c) **Subcommittees**

2
3 With the approval of the internal committee with oversight responsibility for the
4 advisory body, an advisory body may form subcommittees, composed entirely of
5 members, to carry out the body’s duties, subject to available resources.
6

7 (d)–(g) * * *

8
9 **Rule 10.34. Duties and responsibilities of advisory committees**

10
11 (a)–(e) * * *

12
13 (f) **Review of annual agendas**

14
15 (1)–(2) * * *

16
17 (3) ~~An advisory committee may~~ To pursue matters in addition to those specified
18 in its annual charge, an advisory committee must have the approval of the
19 internal committee with oversight responsibility for the advisory committee.
20 ~~as long as~~ The matters are must be consistent with the advisory committee’s
21 general charge, as set forth in the rules of court, its approved annual agenda,
22 and the council’s long-range strategic plan. The additional matters must also
23 be within the committee’s authorized budget and available resources, as
24 specified by the council or the Administrative Director of the Courts.
25

26 **Rule 10.48. Court Executives Advisory Committee**

27
28 (a) **Area of focus**

29
30 The committee makes recommendations to the council on policy issues affecting
31 the trial courts.
32

33 (b) **Additional duties**

34
35 In addition to the duties specified in rule 10.34, the committee must:

- 36
37 (1) Recommend methods and policies to improve trial court administrators’
38 access to and participation in council decision making;
39
40 (2) Review and comment on legislation, rules, forms, standards, studies, and
41 recommendations concerning court administration proposed to the council;
42

- 1 (3) Review and make proposals concerning the Judicial Branch Statistical
2 Information System or other large-scope data collection efforts;
- 3
- 4 (4) Suggest methods and policies to increase communication between the council
5 and the trial courts; and
- 6
- 7 ~~(5) Serve as the Executive Committee for the Conference of Court Executives, as~~
8 ~~described in rule 10.49; and~~
- 9
- 10 ~~(6)~~(5) Meet periodically with the Administrative Office of the Courts' ~~directors~~
11 executive team to enhance branch communications.
- 12

13 ~~(e)~~ **Consultation with the Conference of Court Executives**

14
15 ~~To assist it in formulating proposals and recommendations to the council, the~~
16 ~~committee may seek the advice of the Conference of Court Executives.~~

17
18 ~~(d)~~(c) **Membership**

19
20 The committee consists of the ~~following members~~; court executive officer of each
21 superior court.

- 22
- 23 ~~(1) Nine executive officers from trial courts that have 48 or more judges;~~
- 24
- 25 ~~(2) Four executive officers from trial courts that have 16 to 47 judges;~~
- 26
- 27 ~~(3) Two executive officers from trial courts that have 6 to 15 judges;~~
- 28
- 29 ~~(4) Two executive officers from trial courts that have 2 to 5 judges;~~
- 30
- 31 ~~(5) One member from the six clerk/administrators of the Courts of Appeal~~
32 ~~selected from three nominations made by the Appellate Court Clerks~~
33 ~~Association; and~~
- 34
- 35 ~~(6) One at large member appointed from the trial courts by the committee chair~~
36 ~~to a one year term.~~
- 37

38 **(d) Executive Committee**

39
40 The advisory committee may establish an Executive Committee that, in addition to
41 other powers provided by the advisory committee, acts on behalf of the full
42 advisory committee. To assist it in formulating proposals and making
43 recommendations to the council, the Executive Committee may seek the advice of

1 the advisory committee. The Executive Committee consists of the following
2 members:

- 3
- 4 (1) The nine court executive officers or interim/acting court executive officers
5 from the nine trial courts that have 48 or more judges;
- 6
- 7 (2) Four court executive officers from trial courts that have 16 to 47 judges;
8
- 9 (3) Two court executive officers from trial courts that have 6 to 15 judges;
10
- 11 (4) Two court executive officers from trial courts that have 2 to 5 judges; and
12
- 13 (5) One court executive officer from the trial courts as an at-large member
14 appointed by the committee chair to a one-year term.

15

16 (e) **Nominations**

- 17
- 18 (1) ~~The Conference of Court Executives advisory committee~~ must submit to the
19 ~~Court Executives Advisory Committee~~ nominations for each vacancy on the
20 ~~committee~~ Executive Committee. The ~~Court Executives Advisory Committee~~
21 ~~Executive Committee~~ will recommend three nominees for each ~~committee~~
22 ~~Executive Committee~~ vacancy from the nominations received and submit its
23 recommendations to the Executive and Planning Committee of the Judicial
24 Council. The list of nominees must enable the Chief Justice to appoint a
25 ~~committee~~ an Executive Committee that reflects a variety of experience,
26 expertise, and ~~types~~ locales (e.g., urban, suburban, and rural) that is
27 ~~geographically balanced~~. Membership on ~~this committee~~ the Executive
28 ~~Committee~~ does not preclude appointment to any other advisory committee
29 or task force.
- 30
- 31 (2) The Executive Committee must review and recommend to the Executive and
32 Planning Committee of the Judicial Council the following:
- 33
- 34 (A) Members of the Executive Committee;
- 35
- 36 (B) Nonvoting court administrator members of the Judicial Council; and
37
- 38 (C) Members of other advisory committees who are court executives or
39 judicial administrators.

40

41 (f) **Chair and vice-chair**

42

1 The Chief Justice may appoint the chair and vice-chair of the advisory committee
2 for up to a two-year term from the current or incoming membership of the ~~Court~~
3 Executives Advisory Committee Executive Committee. The chair and vice-chair of
4 the advisory committee serve as the chair and vice-chair of the Executive
5 Committee established by subdivision (d).

6
7 **(g) Meetings**

8
9 The Executive Committee will meet approximately every two months, which
10 includes the statewide meetings with the advisory committee. The advisory
11 committee will meet during at least two statewide meetings per year.

12
13 **~~Rule 10.49. Conference of Court Executives~~**

14
15 **~~(a) Function~~**

16
17 ~~The functions of the Conference of Court Executives are to:~~

- 18
19 ~~(1) Increase the opportunities for court executive officers to participate in the~~
20 ~~Judicial Council decision-making process; and~~
21
22 ~~(2) Provide a forum for the education of court executives.~~

23
24 **~~(b) Duties~~**

25
26 ~~The Conference of Court Executives must:~~

- 27
28 ~~(1) Provide information and advice, when requested, to the Court Executives~~
29 ~~Advisory Committee; and~~
30
31 ~~(2) Conduct educational sessions for its members on matters related to court~~
32 ~~management, such as legislation, training, information management, judicial~~
33 ~~branch policy issues, professional development, best practices, and current~~
34 ~~issues facing the trial courts.~~

35
36 **~~(c) Membership~~**

37
38 ~~All court executive officers and clerk/administrators of the Courts of Appeal are~~
39 ~~members of the Conference of Court Executives. A court executive who is unable~~
40 ~~to participate in a meeting may designate his or her deputy to vote in his or her~~
41 ~~place.~~

1 ~~(d) Chair and vice-chair~~

2
3 The chair and vice chair of the Court Executives Advisory Committee are the chair
4 and vice chair of the conference.

5
6 ~~(e) Executive Committee~~

7
8 The conference's Executive Committee is the Court Executives Advisory
9 Committee. The Executive Committee must:

- 10
11 (1) Establish the schedule and agenda for meetings; and
12
13 (2) As necessary, appoint subcommittees consisting of principal and associate
14 members of the conference.

15
16 ~~(f) Nominations subcommittee~~

17
18 The Court Executives Advisory Committee must submit to the Executive and
19 Planning Committee of the Judicial Council nominations for members of the
20 committee, the advisory members of the Judicial Council who are court executives,
21 and members of other advisory committees who are court executives or judicial
22 administrators.

23
24 ~~(g) Meetings~~

25
26 The conference must meet during at least two statewide meetings a year. One
27 meeting must be held at the annual California Judicial Administration Conference.
28 The conference must also meet at least two times a year by region for court
29 administration updates, focused discussions, and educational opportunities.

30
31 ~~(h) Reimbursement for meetings~~

32
33 Reimbursement for meeting travel per diem expenses for conference members will
34 be subject to availability of funds.

35
36 **Rule 10.55. Access and Fairness Advisory Committee on Providing Access and**
37 **Fairness in the Courts**

38
39 **(a) Area of focus**

40
41 The committee makes recommendations for improving access to the judicial
42 system, and fairness in the state courts, diversity in the judicial branch, and court
43 services for self-represented parties.

1
2 **(b) Additional duties**

3
4 In addition to the duties described in rule 10.34, the committee must recommend to
5 the Governing Committee of the Center for Judicial Education and Research,
6 proposals for the education and training of judicial officers and court staff.
7

8 **(c) Membership**

9
10 The committee must include at least one member from each of the following
11 categories:

- 12
13 (1) Appellate justice;
14
15 (2) Trial court judicial officer;
16
17 (3) Lawyer with expertise or interest in disability issues;
18
19 (4) Lawyer with expertise or interest in additional access, fairness, and diversity
20 issues addressed by the committee;
21
22 ~~(4)(5) Other lawyer~~ Lawyer from a trial court self-help center;
23
24 (6) Legal services lawyer;
25
26 (7) Court executive officer or trial court manager who has experience with self-
27 represented litigants;
28
29 (8) County law librarian or other related professional;
30
31 ~~(5)(9)~~ Judicial administrator; and
32
33 ~~(6)(10)~~ Public member.
34

35 **(d) Cochairs**

36
37 The Chief Justice appoints two advisory committee members to serve as cochairs.
38 Each cochair is responsible for leading the advisory committee's work in the
39 following areas:
40

- 41 (1) Physical, programmatic, and language access; fairness in the courts; and
42 diversity in the judicial branch; and
43

1 **Rule 10.63. Advisory Committee on Financial Accountability and Efficiency for the**
2 **Judicial Branch**

3
4 **(a) Area of focus**

5
6 The committee makes recommendations to the council on practices that will
7 promote financial accountability and efficiency in the judicial branch.

8
9 **(b) Additional duties**

10
11 In addition to the duties specified in rule 10.34, the committee must:

- 12
13 (1) Make recommendations annually to the council concerning any budget
14 change proposals for funding of the Administrative Office of the Courts
15 (AOC) and any proposed changes to the annual compensation plan for the
16 AOC;
17
18 (2) Review all audit reports of the judicial branch, recommend council
19 acceptance of audit reports, and, where appropriate, make recommendations
20 to the council on individual or systemic issues;
21
22 (3) Report to the council on AOC contracts that meet established criteria to
23 ensure that the contracts are in support of judicial branch policy; and
24
25 (4) Review proposed updates and revisions to the *Judicial Branch Contracting*
26 *Manual.*

27
28 **(c) Membership**

29
30 The committee must include members in the following categories:

- 31
32 (1) Appellate court justices;
33
34 (2) Superior court judges; and
35
36 (3) Court executive officers.

37
38 The California Judges Association will recommend three nominees for a superior
39 court judge position and submit its recommendations to the Executive and Planning
40 Committee of the Judicial Council.

41
42 **Advisory Committee Comment**

1 The purpose of the Advisory Committee on Financial Accountability and Efficiency for the
2 Judicial Branch is to promote transparency, accountability, efficiency, and understanding of the
3 AOC and the judicial branch. The advisory committee fosters the best use of the work,
4 information, and recommendations provided by the AOC, and it promotes increased
5 understanding of the AOC’s mission, responsibilities, accomplishments, and challenges.

6
7 **Rule 10.64. Trial Court Budget Advisory Committee**

8
9 **(a) Area of focus**

10
11 The Trial Court Budget Advisory Committee makes recommendations to the
12 council on the preparation, development, and implementation of the budget for the
13 trial courts and provides input to the council on policy issues affecting trial court
14 funding.

15
16 **(b) Additional duties**

17
18 In addition to the duties specified in rule 10.34, the committee may make
19 recommendations to the council on:

- 20
21 (1) Trial court budget priorities to guide the development of the budget for the
22 upcoming fiscal year;
23
24 (2) The allocation of trial court funding, including any changes to existing
25 methodologies for allocating trial court budget augmentations and reductions;
26 and
27
28 (3) Budget policies and procedures, as appropriate.

29
30 **(c) Membership**

- 31
32 (1) The advisory committee consists of an equal number of trial court presiding
33 judges and court executive officers reflecting diverse aspects of state trial
34 courts, including urban, suburban, and rural locales; the size and adequacy of
35 budgets; and the number of authorized judgeships.
36
37 (2) A presiding judge and court executive officer may be from the same court.
38
39 (3) The chairs of the Trial Court Presiding Judges Advisory Committee and the
40 Court Executives Advisory Committee serve as ex officio voting members.
41

1 (4) Notwithstanding rule 10.31(e), a presiding judge is qualified to complete his
2 or her term on the advisory committee even if his or her term as presiding
3 judge of a trial court ends.

4
5 (5) The Administrative Office of the Courts' chief of staff, chief administrative
6 officer, chief operating officer, and director of the fiscal services office serve
7 as non-voting members.

8
9 **(d) Cochairs**

10
11 The Chief Justice appoints a presiding judge and the Director of the Fiscal Services
12 Office to serve as cochairs.

13
14 **Rule 10.960. Court self-help centers**

15
16 **(a)–(d) * * ***

17
18 **(e) Guidelines and procedures**

19
20 The Administrative Office of the Courts, in collaboration with judges, court
21 executives, attorneys, and other parties with demonstrated interest in services to
22 self-represented litigants, must develop and disseminate guidelines and procedures
23 for the operation of court self-help centers to the trial courts by March 1, 2008. The
24 guidelines and procedures must address the following topics:

25
26 **(1)–(10) * * ***

27
28 ~~The Administrative Office of the Courts, in collaboration with judges, court~~
29 ~~executives, attorneys, and other parties with demonstrated interest in services to~~
30 ~~self-represented litigants, must review and update the guidelines and procedures at~~
31 ~~least every three years. The Advisory Committee on Providing Access and Fairness~~
32 ~~in the Courts must recommend to the council updated guidelines and procedures for~~
33 ~~court self-help centers, as needed.~~

34
35 **(f) * * ***

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
<i>Adopt Cal. Rules of Court, rules 10.16</i>				
1.	Alan Carlson Chief Executive Officer Superior Court of Orange County	AM	<p>Proposed Rule 10.16(a) says</p> <p style="padding-left: 40px;">“The Technology Committee oversees the council’s policies concerning technology. <u>The committee is responsible for determining that council policies are complied with and that specific projects proceed on schedule and within scope and budget.</u>”</p> <p>Although I doubt it is intended, the underlined language could be read to say that the Technology Committee is authorized to oversee compliance with policies, scope, and budget even for locally funded trial court technology projects. In our opinion, this would be inconsistent with the concepts being developed by the Technology Planning Task Force and its subgroups and the expectations of trial courts, as well as being way beyond the resources of the Technology Committee. In keeping with the work of the task force and trial courts, the following deleted and <i>added</i> language seems appropriate:</p> <p style="padding-left: 40px;">“The committee is responsible for determining that council policies are complied with and that <i>on specific projects approved and funded by the Judicial Council and that those</i> projects proceed on schedule and within scope and budget.”</p>	The internal committees agree and this change has been made.

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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2.	Courthouse News Service By Rachel Matteo-Boehm San Francisco, CA		*Attached at the end of the comment chart is a comment submitted by Courthouse News Service.	The committees note that the comments do not apply to the establishment of the Technology Committee or provisions in the proposed rule. The adoption of a rule setting out the duties and responsibilities of the committee does not determine what the Judicial Council’s “policies concerning technology” are. How soon documents filed electronically are available to the public or media is not a matter addressed by the rule.
3.	Hon. James E. Herman Assistant Presiding Judge Superior Court of Santa Barbara County	AM	The Judicial Council Technology Committee’s subject matter is “information technology” rather than “technology” more broadly. As chair of JCTC and on behalf of the committee, I am requesting that the rule be edited to substitute “information technology” for “technology” throughout the body of the rule. Thank you.	The internal committees agree and this change has been made.
4.	David Schlothauer Director - Information Technology, Facilities and Security Superior Court of Nevada County	AM	I feel the TC should have a formal membership structure (with term limits) which includes, at a minimum, 2-3 Trial Court IT representatives elected by their peers or by the CITMF.	The Technology Committee is made up of Judicial Council members and therefore does not include trial court information technology representatives, but it may include superior court executive officers.
5.	Superior Court of Los Angeles County By Janet Garcia Court Manager	AM	Comment on proposed Rule 10.16: Subpart (a) states in part that “The committee is responsible for determining that council policies are complied with and that specific projects proceed on schedule and within scope and budget.” This language	The internal committees agree that that the rule language should be more specific and have added the following language in italics: specific projects <i>approved and funded by the Judicial</i>

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			is overbroad and arguably reaches beyond the scope of Judicial Council authority to allow interventions into local courts' decisions about how to use their own budgets to implement technology. The following language should be substituted for the sentence quoted above: "The committee is responsible for determining that council-sponsored projects proceed on schedule and within scope and budget."	<i>Council.</i>
<i>Amend Cal. Rules of Court, rules 10.48 and 10.49</i>				
6.	Kim Turner Court Executive Officer Superior Court of Marin County	A	I support the proposed changes to CRC 10.48 and the repeal of CRC 10.49. Thank you.	No response necessary.
<i>Amend Cal. Rules of Court, rules 10.55</i>				
7.	Council of California County Law Librarians By Christopher J. Christman President Auburn, CA	AM	The Council of California County Law Librarians (CCCLL) has reviewed the proposed California Rules of Court, Rule 10.55 and submits our comment to the drafted provisions on the Advisory Committee on Providing Access and Fairness in the Courts. CCCLL notes that a county law librarian has been a member of the Self-Represented Litigants Task Force for many years. With the upcoming merger of the Self-Represented Litigants Task Force's remaining projects with the Access and Fairness Advisory Committee, we recommend that the renamed Advisory Committee on Providing Access and Fairness in the Courts include a county law librarian as a member. Rule 10.55 (c) Membership should be amended to add a requirement that a county law librarian be a member of the Advisory Committee on Providing Access and	The internal committees agree to modify the rule to add a category for a county law librarian <u>or other related professional</u> to allow flexibility in appointments depending on the committee's needs at a particular time.

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>Fairness in the Courts.</p> <p>County law libraries are partners with the Court's Self-Help Centers in providing assistance to self-represented litigants and litigants of limited or moderate income. Our participation on the Advisory Committee should assist in developing recommendations that will improve access to the judicial system for all residents.</p> <p>The Council of California County Law Librarians respectfully submits this comment. Thank you for the opportunity to respond.</p>	
8.	<p>Council on Access & Fairness State Bar of California by Hon. Cynthia Loo, Chair and Patricia D. Lee Special Assistant for Diversity & Bar Relations, State Bar of California San Francisco, CA</p>	AM	<p>The State Bar of California Council on Access & Fairness (COAF) offers the following comments in response to the proposed amendments to Rule 10.55 (Advisory Committee on Providing Access and Fairness in the Courts).</p> <p>Introductory Comments: COAF was created in 2006 to serve as the State Bar’s diversity “think tank”. COAF is the only entity in the State Bar that assists in the implementation of the Bar’s access, fairness, diversity, and elimination of bias strategies and goals. The State Bar’s commitment to and support for diversity appears in its Strategic Plan, Goal 2 (Administration of Justice): <i>Undertake activities to enhance the diversity of the legal profession and to eliminate bias in the practice of law.</i> In this capacity, COAF focuses on issues and initiatives along the full diversity pipeline: Early</p>	

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>Pipeline (preschool to high school), College and University (undergraduate, law school, and bar exam), Legal Profession (recruitment, employment, retention and advancement in the legal profession); and the Judiciary (diversity of the judicial applicant pool and appointments).</p> <p>One of COAF’s major goals is to achieve a level of diversity in the legal profession and judiciary that reflects the diversity of the state’s population. For the State Bar, diversity encompasses racial and ethnic groups, women, LGBT, persons with disabilities and older attorneys. The 2010 U.S. Census figures show that California is close to 60 percent people of color and close to 51 percent women. However State Bar data show that the legal profession is only 20 percent racial-ethnic minority and only 39 percent women. The California judiciary is only slightly over 27 percent racial and ethnic minority and 31 percent women. These statistics show how far the legal profession and judiciary need to go before they reflect the diversity of the population.</p> <p>Another of our goals is to ensure access and fairness and impartial treatment for court users. Judicial Council surveys of court users show that the failure to have a diverse legal profession and judiciary severely impacts the public’s confidence and trust in the legal system. The public’s perception of fairness in the court process is directly related to the level of diversity at all levels of the judicial system.</p> <p>We strongly support the Judicial Council’s Access and</p>	

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>Fairness Advisory Committee for its ongoing efforts to assist the Council in implementing and supporting Goal 1 of your Strategic Plan focusing on diversity, access and fairness in the courts and justice system.</p> <p>Goal 1 of the Judicial Council’s Strategic Plan focuses on access, fairness and diversity and states that</p> <p><i>“California’s courts will treat everyone in a fair and just manner. All persons will have equal access to the courts and court proceedings and programs. Court procedures will be fair and understandable to court users. Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds. The makeup of California’s judicial branch will reflect the diversity of the state’s residents.”</i></p> <p>We also support the ongoing fairness education and training by CJER for judges, attorneys and the State Bar Commission on Judicial Nominees Evaluation (JNE) and note that JNE bias training is now mandated by legislation [Govt. Code 12011.5(b)].</p> <p>We ask for the Judicial Council’s continued support for all of this critical work.</p> <p>Specific Comments on Proposed Amendments to Rule 10.55:</p> <p>Background:</p>	

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>In response to the SEC report and recommendations, the Judicial Council adopted recommendations to continue the Access & Fairness Advisory Committee intact. The Judicial Council also adopted recommendations to sunset the Self Represented Litigants Task Force (“SRL Task Force”). The SRL Task Force was to complete its tasks by October 2012 and the subject matter was to be absorbed by the Access and Fairness Advisory Committee.</p> <p>At that time, COAF submitted comments praising and supporting the Judicial Council’s decision to reaffirm its commitment to access, fairness and diversity in the courts with the retention of the Access and Fairness Advisory Committee.</p> <p>Subsequently, the Judicial Council’s decision was changed, resulting in the current proposed amendments to Rule 10.55, which recommend structural and substantive changes to the Access and Fairness Advisory Committee. The recommendation appears to revitalize the SRL Task Force, raising it to the status of an advisory committee. The proposed amendments “merge” the SRL Task Force with the Access and Fairness Advisory Committee and further recommend a co-chair leadership structure to further the work of the two entities working side-by-side.</p> <p>General Comments: The COAF continues to support the Judicial Council’s commitment to access, fairness and diversity in the judicial system with the retention of the Access and Fairness Advisory Committee.</p>	

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>COAF also sees value in merging issues impacting self-represented litigants under the auspices of the Access and Fairness Advisory Committee. There is a natural affinity between the two areas, as the majority of self-represented litigants are persons from diverse backgrounds and disadvantaged communities. However, with the merged topics, COAF is concerned that the level of staffing and resources devoted to these areas will be minimized and insufficient to maintain the ongoing access, fairness and diversity work.</p> <p>Further, the proposed co-chair structure appears to create a bifurcated approach and does not appear to provide the best opportunity for exchange of ideas and collaboration between the two areas of focus. A co-chair structure does not seem necessary for the ongoing combined work of the newly proposed advisory committee. Rather than continue the dual nature of the newly restructured advisory committee, the proposed co-chair structure should be eliminated and the amendments should retain the current Chair and Vice Chair structure of the Access and Fairness Advisory Committee. The specific discussion of SRL issues can take place in a new Access and Fairness Advisory Committee SRL working group and leadership discussion of the issues can take place at the “executive committee” level with the SRL working group chair sitting on the executive committee. The Access and Fairness Advisory Committee currently has working groups tracking the various constituent groups (Women and Women of Color, persons with disabilities, LGBT persons, etc.).</p>	<p>The specific comment addressing the level of staffing and resources devoted to the advisory committee is not directly related to the proposed amendment. The proponent committees are committed to seeing that the Judicial Council provides sufficient resources for its advisory groups to accomplish council goals and objectives.</p> <p>The internal committees considered this and determined that with the addition of responsibilities for self-represented litigant issues, the committee should have a structure that provides for cochairs to lead the committee in the following areas: (1) physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch; and (2) issues confronted by self-represented litigants and those of limited or moderate income, including economic, education, and language challenges.</p>

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>Regardless of the new advisory committee structure, the Judicial Council should consider increasing resources and staffing for the restructured, merged advisory committee to ensure that both areas are maintained at the current level and also have the resources to address overlapping areas. Without the increased staffing and resources the newly proposed structure would have the effect of minimizing and reducing the ability of the new advisory committee to have a meaningful impact in its original area of focus covering access, fairness and diversity.</p> <p>Specific Language Changes to Proposed Amendments: Page 15, Lines 29-30: Name Change <u>Access and Fairness</u> Advisory Committee on Providing Access and Fairness in the Courts</p> <p>Comments: The work of the current Access and Fairness Advisory Committee has been broader than a focus on the courts. Thus far it also has included issues of diversity on the bench. An additional recommended focus is diversity internally at the AOC. There does not appear to be a need to change the advisory committee name. COAF also questions if the proposed name change would have any negative impact on the access, fairness and diversity work previously conducted by the Advisory Committee.</p> <p>Page 15, line 41 to page 16, lines 1-6: In addition to the duties described in rule 10.34 the committee must recommend:</p>	<p>The committees are committed to seeing that the Judicial Council provides sufficient resources for its advisory groups to accomplish council goals and objectives.</p> <p>The internal committees decline to add diversity at the AOC as an area of focus. This involves AOC personnel matters, which are outside the scope of these rules.</p>

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p>(1) <u>To the Council, ways to assist courts to improve access and fairness by recommending methods and tools to identify and address physical, programmatic and language access;</u></p> <p>(2) <u>To the Council, ways to ensure fairness in the courts;</u></p> <p>(3) <u>To the Council, ways to ensure increased diversity in the judicial branch;</u></p> <p>(4) <u>To the Council, ways to enhance public trust and confidence and the appearance of fairness in the judicial system; and</u></p> <p>(5) <u>To the Council, ways to provide court access to litigants including economic, education and language challenges</u></p> <p>(6) <u>To the Council, ways to maintain and improve self-help services in the courts;</u></p> <p>(7) <u>To the Council, guidelines and procedures for self-help centers as described in rule 10.960 and</u></p> <p>(8) <u>To the Governing Committee of the Center for Judicial Education and Research, proposals for the education and training of judicial officers and court staff.</u></p> <p>Comments: The proposed new language provides detail regarding SRL areas and does not mention priority areas of focus for the Access and Fairness Advisory Committee. The reference to Rule 10.34 does not shed light on the specific programmatic focus of the Advisory Committee. The language that appears elsewhere in the amendments regarding specific access and fairness areas of focus should be incorporated in this section. The access and fairness</p>	<p>The committees note that items 6-8 appear in the proposed amended rule as circulated for comment. Items 1-5 are additions suggested by the commentator. The committees decline to make these changes because advisory committee rules are intended to set out broad areas of focus and duties and the items in 1-5 are already encompassed by the committee’s area of focus and rule 10.34(a). All advisory committees are subject to rule 10.34, which addresses the duties and responsibilities of advisory committees to make recommendations for improving the administration of justice within their designated areas of focus. The committees recommend maintaining as the only additional duty making recommendations to the CJER Governing Committee, as in the current rule.</p> <p>Advisory committees rules are intended to set out broad areas of focus and do not include priorities. An advisory committee’s priorities are generally presented and approved annually by a council internal committee through the annual agenda process. (See rule 10.34(f).)</p>

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>language should be inserted prior to the SRL language.</p> <p>Page 16, Lines 8 to 31: Membership No recommended changes</p> <p>Page 16, Lines 33-43: Co Chairs Comments: Delete all new proposed amendments. Retain current Access and Fairness Advisory Committee Chair and Vice Chair structure and authorize the creation of a new SRL working group, with new working group chair participating in the Access and Fairness Advisory Committee executive committee.</p> <p>Page 17, Lines 2-8: Judicial Council Comment Keep the new proposed Judicial Council Comment language (note added language “including the staff at the AOC):</p> <p><u>The advisory committee’s area of focus includes assisting courts to improve access and fairness by</u></p>	<p>This refers to subdivision (d), which establishes cochairs and describes subject areas for which they are responsible for leading the advisory committee’s work. The internal committees considered this and determined that with the addition of responsibilities for self-represented litigant issues, the committee should have a structure that provides for cochairs to lead the committee in the following areas: (1) physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch; and (2) issues confronted by self-represented litigants and those of limited or moderate income, including economic, education, and language challenges.</p> <p>The internal committees decline to add diversity at the AOC as an area of focus. This involves AOC personnel matters, which are outside the scope of these rules.</p>

SP13-10

Adopt Cal. Rules of Court, rules 10.16, 10.62, 10.63, and 10.64; amend rules 10.10, 10.30, 10.34, 10.48, and 10.55; and repeal rule 10.49

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	Commentator	Position	Comment	Committee Response
			<p><u>recommending methods and tools to identify and address physical, programmatic and language access; fairness in the courts; and diversity in the judicial branch including the staff at the AOC, as well as addressing issues that affect the ability of litigants to access the courts including economic, education and language challenges</u></p> <p style="text-align: center;">* * * * *</p> <p>COAF commends the Judicial Council and the AOC for the positive work it has done to promote and ensure support for and implementation of Goal 1 (Access, Fairness and Diversity) and other important goals for the judicial branch.</p> <p>We look forward to our continued partnership with the Judicial Council’s Access and Fairness Advisory Committee to address our shared diversity goals and to our collaboration with the Center for Judicial Education and Research (CJER) staff with ongoing fairness education and training. We offer our assistance to help build a diverse organization that will foster public trust and confidence and the perception of fairness in our judicial system.</p> <p>Thank you for this opportunity to comment in response to the proposed amendments to Rule 10.55. [Contact information redacted.]</p>	
9.	Hon. Brenda F. Harbin-Forte Superior Court of Alameda County	AM	I write to express my concern about the proposed changes to the name and structure of the Judicial Council’s Access and Fairness Advisory Committee.	

SP13-10

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	Commentator	Position	Comment	Committee Response
			<p>I adopt all of the comments submitted by the State Bar’s Council on Access & Fairness (“COAF”) and incorporate them herein by reference. I particularly agree that there is tremendous “value in merging issues impacting self-represented litigants under the auspices of the Access and Fairness Advisory Committee.” I also applaud all of the council’s efforts, and particularly the efforts of Chief Justice Cantil-Sakauye, to ensure access, fairness, and diversity in our judicial system.</p> <p>As background, I was privileged to provide both written and in-person comments to the Judicial Council as it considered adoption of the Strategic Evaluation Committee Report in 2012. I shared then my concern, as an African American woman judge, that the council’s commitment to access, fairness and diversity in the courts would suffer if all of the SEC recommendations were adopted. I was heartened to hear during the discussion of the SEC report the council’s publicly-stated commitment to access, fairness, and diversity. The current proposed changes to the rules governing the Access and Fairness Advisory Committee, however, have given me pause, and my initial optimism has been replaced with growing concern.</p> <p>One reason for the concern stems from the proposed advisory committee name change. The way to demonstrate the council’s commitment to ensuring access and fairness in our courts is to make those terms primary in the name of the committee itself. By moving those terms to the end of the committee’s</p>	<p>The proposed name change was not intended to diminish the role and importance of access and fairness. Those areas remain areas of focus. (See rule 10.55(a).)</p>

SP13-10

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	Commentator	Position	Comment	Committee Response
			<p>name, the council appears to have diminished the role and importance of access and fairness. The current name of the committee has served the council well for almost two decades. The Access and Fairness Advisory Committee has a rich history, for its origins are grounded in public hearings that revealed the public’s perception that there was very little access and fairness in our courts. I can discern no good reason to make a name change that adds nothing but takes away so much.</p> <p>In fact, if there is any change to the committee’s name, I would urge the council to revise it to the “Access, Fairness, and Diversity Advisory Committee.” The name change I propose informs the public that the council recognizes the changing demographics in California -- which is now a majority minority state -- and that the council is situating itself to respond to the needs of all of its diverse citizens. The name change also more easily allows the new committee the flexibility to focus on ways to increase diversity both on the bench and internally at the AOC. If the AOC is more diverse, the proposals emanating from advisory committees will be more likely to incorporate means to ensure access, fairness and diversity in the courts. This name change is easy to accomplish.</p> <p>The proposed committee structure, which anticipates co-chairs, is also problematic. First, the proposal is inconsistent with the council’s expressed goal of having the Self-Represented Litigants (“SRL”) Task Force sunset and folding its ongoing work into the Access and Fairness Advisory Committee.</p>	<p>As explained above, the internal committees regard issues of diversity within the AOC as outside the scope of this rule.</p> <p>The internal committees considered this and determined that with the addition of responsibilities for self-represented litigant issues, the committee should have a structure that provides for cochairs to lead the</p>

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			<p>Establishing a structure that requires an SRL co-chair, as opposed to having an SRL working group of the Access and Fairness Advisory Committee, elevates the SRL Task Force to full committee standing, which is a far cry from sunseting it. A co-chair structure also seems unique among all of the council’s standing advisory committees, and one must wonder why the strength of the Access and Fairness Advisory Committee is being diluted to this degree. Second, there is a risk that the co-chairs will disagree on which co-chair’s work should take priority when human and financial resources are limited, as we all know they will be. Having a single chair of this new committee will avoid that inevitable conflict.</p> <p>Finally, I am also concerned about the level of transparency that went into these recommendations to change the committee name and leadership structure. If these proposals did not result from a full and fair consideration of the diversity of opinions among stakeholders on how best to accomplish the goal of merging SRL issues with access, fairness and diversity issues, then I would urge the council to consider tabling all of these proposed changes to Rule 10.55 and sending the proposals back to the Access and Fairness Advisory Committee for further study.</p> <p>Thank you for your consideration of these comments.</p>	<p>committee in the following areas: (1) physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch; and (2) issues confronted by self-represented litigants and those of limited or moderate income, including economic, education, and language challenges.</p> <p>The recommendations resulted from a careful study by the three internal committees; the changes are consistent with recommendations to the council concerning the governance, structure, and organization of council advisory groups; the proposal was circulated for public comment; and, after careful consideration by the internal committees, was recommended for adoption by the council.</p>

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	Commentator	Position	Comment	Committee Response
10.	Superior Court of Los Angeles County By Janet Garcia Court Manager	AM	Comment on proposed Rule 10.55: Subpart (d) provides that the Chief Justice is to appoint two advisory committee members to serve as cochairs. Having two persons head an advisory committee is inadvisable in light of the proposed rule on open meetings. The responsibility for determining whether or not a committee meeting, or a portion of a committee meeting, should be open should reside in a single advisory committee chair. Otherwise there would be no way to resolve a difference of opinion between the co-chairs over the proper implementation of the open meeting rule.	The internal committees considered this and determined that with the addition of responsibilities for self-represented litigant issues, the committee should have a structure that provides for cochairs to lead the committee in the following areas: (1) physical, programmatic, and language access; fairness in the courts; and diversity in the judicial branch; and (2) issues confronted by self-represented litigants and those of limited or moderate income, including economic, education, and language challenges.
<i>Amend Cal. Rules of Court, rules 10.60</i>				
11.	Courthouse News Service By Rachel Matteo-Boehm San Francisco, CA		*Attached at the end of the comment chart is a comment submitted by Courthouse News Service.	The comment concerns space for the media at courthouses. The proposal, which establishes by rule the Court Facilities Advisory Committee, does not affect this.
12.	Superior Court of Los Angeles By Janet Garcia Court Manager	AM	Comment on proposed Rule 10.60: The ongoing focus of the Court Facilities Advisory Committee will be decisions about capital projects for trial courts. For this reason, the membership of the advisory committee should effectively represent the trial courts. Subpart (b) should provide that there should be at least two superior court judges and two court executive officer members.	Subdivision (b) provides that the committee must include at least one member from each of seven categories, including superior court judge and court executive officer. This allows the flexibility to include more than one member from the listed categories.