



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 17, 2015

Title	Agenda Item Type
Judicial Administration: Changes to Delegations in Rules of Court	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 10.70, 10.101, and 10. 804	July 1, 2015
Recommended by	Date of Report
Rules and Projects Committee	April 30, 2015
Hon. Harry E. Hull, Jr., Chair	Contact
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Executive Summary

The Rules and Projects Committee recommends amending rules 10.70, 10.101, and 10.804 of the California Rules of Court to change the Judicial Council's delegations of authority to better align them with council governance policies. This need arises from the October 17, 2013, recommendations of the Executive and Planning Committee to the council concerning delegations of authority that the council issued to its Administrative Director.

Recommendation

The Rules and Projects Committee recommends that the Judicial Council, effective July 1, 2015:¹

1. Amend rule 10.70 to eliminate reference to the Administrative Director's authority to establish task forces and other advisory bodies to work on specific projects that cannot be

¹ After the council's action on this item, the effective date provided in the recommendation was corrected to be consistent with the July 1 effective date listed above and on the first page of the text of the amended rules.

addressed by the council's standing advisory committees, and to add a subdivision providing that the Administrative Director may establish working groups to work on specific projects identified by the Administrative Director;

2. Amend rule 10.101 to provide that the council, and not the Administrative Director, must develop policies and procedures for the creation and implementation of a yearly budget for the judicial branch; that the Chief Justice, on behalf of the council, has exclusive authority to allocate funding for the council and its staff, the Supreme Court, the Courts of Appeal, the trial courts, and the Habeas Corpus Resource Center; and make clarifying changes to the rule; and
3. Amend rule 10.804 to provide that before amending the *Trial Court Financial Policies and Procedures Manual*, the Judicial Council, and not the former Administrative Office of the Courts, must make it available to certain interested parties for comment.

The text of the amended rules is attached at pages 5–7.

Previous Council Action

On October 25, 2013, the Judicial Council accepted recommendations of the Executive and Planning Committee (E&P) concerning delegations of authority that the council had previously made to its Administrative Director.² E&P's review of all delegations was made in conjunction with the council's directive to provide greater oversight to ensure transparency, accountability, and efficiency in the operations and practices of the former Administrative Office of the Courts (AOC), as stated in recommendation 2 of the *Report and Recommendations from the Judicial Council's Executive and Planning Committee Regarding the Strategic Evaluation Committee (SEC) Report* (August 27, 2012).³ The directive included a statement reaffirming that the Administrative Director operates subject to oversight of the Judicial Council.⁴

Rationale for Recommendation

Among E&P's recommendations were those to amend rules that address the authority of the Administrative Director concerning the establishment of advisory bodies, budget and financial matters, and the authority of council staff on financial policies and procedures. The delegations in the current rules represent the Judicial Council's authorization for the Administrative Director to act on the council's behalf.

² Judicial Council of Cal., *Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts* (October 17, 2013), www.courts.ca.gov/documents/jc-20131025-itemL.pdf.

³ Judicial Council of Cal., *Judicial Branch Administration: Report and Recommendations from the Judicial Council's Executive Planning Committee Regarding the Strategic Evaluation Committee (SEC) Report* (August 27, 2012), Attachment 1, recommendation 2, www.courts.ca.gov/documents/jc-20120831-itemJ.pdf.

⁴ *Id.* at recommendation 1.

Rule 10.70

This rule is amended to remove the broad authority of the Administrative Director to establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council's standing advisory committees, and to provide authority for the Administrative Director to establish working groups to work on specific projects identified by the Administrative Director. This amendment limits the working groups that the Administrative Director may establish to those that address areas and topics within the Administrative Director's purview.

Rule 10.101

Several subdivisions of this rule are amended to transfer authority to the council from the Administrative Director to "[d]evelop policies and procedures for the creation and implementation of a yearly budget for the judicial branch." Currently, this authority is listed in subdivision (d) under "Duties of the Administrative Director." Consistent with the E&P recommendation, this authority is removed from (d) and placed in subdivision (b), which sets out the role of the council. Subdivision (c) is amended to provide that the Chief Justice, on behalf of the council, has exclusive authority to allocate funding for the council and its staff, the Supreme Court, the Courts of Appeal, and the Habeas Corpus Resource Center. Other changes are made to these subdivisions consistent with retirement of the name "Administrative Office of the Courts."

Similarly, subdivision (e) is amended to eliminate the name "Administrative Office of the Courts" and a reference to the Administrative Director developing budget policies and procedures. An advisory committee comment is added to provide examples of technical changes to the budget, which the Administrative Director has authority to make.

Rule 10.804

This rule is amended to provide that the council, rather than the former AOC (now council staff), must make the *Trial Court Financial Policies and Procedures Manual* available to superior courts, the State Department of Finance, and the State Controller's Office for comment before amending it. Thus, consistent with E&P's recommendations concerning delegations of authority, the rule is amended to provide that the council both amends the manual (when it approves proposed amendments) and is responsible for making proposed amendments available for comment. Another amendment to this rule eliminates the requirement that the *Trial Court Financial Policies and Procedures Manual* be prepared and adopted because this has already occurred.

Comments, Alternatives Considered, and Policy Implications

The proposal circulated for comment from December 11, 2014, to January 23, 2015. One comment was received, from the Superior Court of Los Angeles County, which agreed with the proposal. No narrative comment was included. The chart of comments is attached at page 8.

The Rules and Projects Committee did not consider alternatives to these rule amendments because the proposal is consistent with E&P's recommendations and no person or entity opposed the amendments.

Implementation Requirements, Costs, and Operational Impacts

The effects of implementation would be minimal because this proposal seeks to align the rules with council governance policies.

Relevant Strategic Plan Goals and Operational Plan Objectives

This proposal is consistent with Goal II of the branch strategic plan, Independence and Accountability. This goal affirms that “[t]he branch will maintain the highest standards of accountability for its use of public resources, and adherence to its statutory and constitutional mandates.” Reviewing and modifying the purpose of the council’s delegations of authority to the Administrative Director is fundamental to this standard.

Attachments

1. Cal. Rules of Court, rules 10.70, 10.101, and 10.804, at pages 5–7
2. Chart of comments, at page 8

Rules 10.70, 10.101, and 10.804 of the California Rules of Court are amended, effective July 1, 2015, to read:

1 **Rule 10.70. Task forces, working groups, and other advisory bodies**

2
3 **(a) Established by Chief Justice or Judicial Council**

4
5 The Chief Justice, ~~the Administrative Director of the Courts,~~ or the council may
6 establish task forces and other advisory bodies to work on specific projects that
7 cannot be addressed by the council’s standing advisory committees. These task
8 forces and other advisory bodies may be required to report to one of the internal
9 committees ~~or the Administrative Director,~~ as designated in their charges.

10
11 **(b) Established by Administrative Director**

12
13 The Administrative Director may establish working groups to work on specific
14 projects identified by the Administrative Director that address areas and topics
15 within the Administrative Director’s purview.

16
17 **Rule 10.101. Role of the Judicial Council and ~~Administrative Office of the Courts~~**

18
19 **(a) Purpose**

20
21 This rule specifies the responsibilities of the Judicial Council, the Chief Justice, the
22 Administrative Director ~~of the Courts,~~ and ~~the Administrative Office of the Courts~~
23 council staff with respect to the judicial branch budget.

24
25 **(b) Duties of the Judicial Council**

26
27 The Judicial Council must:

- 28
29 (1) Establish responsible fiscal priorities that best enable the judicial branch to
30 achieve its goals and the Judicial Council to achieve its mission;
31
32 (2) Develop policies and procedures for the creation and implementation of a
33 yearly budget for the judicial branch;
34
35 ~~(2)~~(3) Develop the budget of the judicial branch based on the priorities established
36 and the needs of the courts;
37
38 ~~(3)~~(4) Communicate and advocate the budget of the judicial branch to the Governor
39 and the Legislature;
40
41 ~~(4)~~(5) Allocate funds in a manner that ensures equal access to justice for all citizens
42 of the state, ensures the ability of the courts to carry out their functions
43

1 effectively, promotes implementation of statewide policies as established by
2 statute and the Judicial Council, and promotes implementation of efficiencies
3 and cost-saving measures;

4
5 ~~(5)~~(6) Resolve appeals on budget and allocation issues; and

6
7 ~~(6)~~(7) Ensure that the budget of the judicial branch remains within the limits of the
8 appropriation set by the Legislature.

9
10 **(c) Authority of the Chief Justice and Administrative Director of the Courts**

11
12 (1) The Chief Justice and the Administrative Director ~~of the Courts~~ may take the
13 following actions, on behalf of the Judicial Council, with regard to any of the
14 Judicial Council's recommended budgets for the Supreme Court, the Courts
15 of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource
16 Center, and ~~the Administrative Office of the Courts~~ council staff:

17
18 (A) Make technical changes to the proposed budget; and

19
20 (B) Make changes during their negotiations with the legislative and
21 executive branches consistent with the goals and priorities adopted by
22 the Judicial Council.

23
24 (2) The Chief Justice ~~and the Administrative Director of the Courts~~, on behalf of
25 the Judicial Council, may allocate funding appropriated in the annual State
26 Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, the
27 Habeas Corpus Resource Center, and ~~the Administrative Office of the Courts~~
28 council staff.

29
30 (3) After the end of each fiscal year, the Administrative Director ~~of the Courts~~
31 must report to the Judicial Council on the actual expenditures from the
32 budgets for the Supreme Court, the Courts of Appeal, the trial courts, the
33 Judicial Council, the Habeas Corpus Resource Center, and ~~the Administrative~~
34 ~~Office of the Courts~~ council staff.

35
36 **(d) Duties of the Administrative Director of the Courts**

37
38 The Administrative Director ~~of the Courts~~ implements the directives of the Judicial
39 Council and must:

40
41 ~~(1) Develop policies and procedures for the creation and implementation of a~~
42 ~~yearly budget for the judicial branch;~~

1 ~~(2)~~(1) Present the judicial branch budget in negotiations with the Governor and the
2 Legislature; and

3
4 ~~(3)~~(2) Allocate to the trial courts, on behalf of the Judicial Council, a portion of the
5 prior fiscal year baseline allocation for the trial courts following approval of
6 the State Budget and before the allocation of state trial court funding by the
7 Judicial Council. The portion of the prior fiscal year baseline allocation that
8 may be so allocated is limited to the amount estimated to be necessary for the
9 operation of the courts pending action by the Judicial Council, and may not
10 exceed 25 percent of the prior fiscal year baseline allocation for each trial
11 court.

12
13 (e) **Duties of the Director of the Finance Division**

14
15 The Director of the Finance Division of the Administrative Office of the Courts for
16 the Judicial Council, under the direction of the Administrative Director ~~of the~~
17 ~~Courts~~, administers the budget policies and procedures developed ~~by the~~
18 ~~Administrative Director of the Courts~~ and approved by the Judicial Council. The
19 director of ~~the Finance Division~~ must:

- 20
21 (1) Develop and administer a budget preparation process for the judicial branch,
22 and ensure the submission of a final budget recommendation for the judicial
23 branch to the Department of Finance by November 1 of each year;
- 24
25 (2) Develop, in consultation with the State Controller’s Office and the
26 Department of Finance, a manual of procedures for the budget request
27 process, revenues, expenditures, allocations, and payments;
- 28
29 (3) Monitor all revenues and expenditures for the judicial branch;
- 30
31 (4) Develop recommendations for fiscal priorities and the allocation and
32 reallocation of funds; and
- 33
34 (5) Assist all courts and the Administrative Director ~~of the Courts~~ in preparing
35 and managing budgets.

36
37 **Advisory Committee Comment**

38
39 Subdivision (c)(1)(A). Examples of technical changes to the budget include calculation of fiscal
40 need, translation of an approved concept to final fiscal need, and simple non-policy-related
41 baseline adjustments such as health and retirement benefits, Pro Rata, and the Statewide Cost
42 Allocation Plan.

1 **Rule 10.804. Superior court financial policies and procedures**

2
3 **(a) Adoption of financial policies and procedures by the ~~Administrative Office of~~**
4 **~~the Courts~~ Judicial Council**

5
6 ~~The Administrative Office of the Courts must prepare and adopt a financial policies~~
7 ~~and procedures manual for the superior courts (The “*Trial Court Financial Policies*~~
8 ~~*and Procedures Manual*”), must be consistent with the rules of court and policies~~
9 ~~adopted by the Judicial Council. ~~The manual~~ and must include accounting~~
10 standards for superior courts and policies and procedures for procurement and
11 contracting by superior courts. These policies and procedures must not modify
12 superior courts’ existing authority to procure, contract for, or use goods or services
13 or the requirement that a court have authorized funding available in order to
14 procure or contract for any good or service.

15
16 **(b) Comment period for financial policies and procedures**

17
18 Before ~~issuing or~~ amending the *Trial Court Financial Policies and Procedures*
19 *Manual*, the ~~Administrative Office of the Courts~~ Judicial Council must make it
20 available to the superior courts, the California Department of Finance, and the State
21 Controller’s Office for 30 days for comment.

22
23 **(c) * * ***
24

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Amend Cal. Rules of Court, rules 10.70, 10.101, and 10. 804)

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

	Commentator	Position	Comment	Committee Response
1.	Superior Court of California County of Los Angeles Los Angeles, CA	A	No narrative comment.	No response required.