



## **JUDICIAL COUNCIL OF CALIFORNIA MEETINGS**

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.6(a))

Ronald M. George State Office Complex

William C. Vickrey Judicial Council Conference Center

Malcolm M. Lucas Board Room

455 Golden Gate Avenue • San Francisco, California 94102-3688

**Monday, February 25, 2013 • 10:00 a.m.–5:00 p.m.**

**Tuesday, February 26, 2013 • 8:30 a.m.–2:35 p.m.**

Meeting materials will be hyperlinked to agenda titles as soon as possible after receipt by Judicial Council Support Services. Please check the agenda at <http://www.courts.ca.gov/21004.htm> for recent postings of hyperlinked reports.

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### **MONDAY, FEBRUARY 25, 2013 AGENDA**

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#### **NON-BUSINESS EDUCATIONAL MEETING—CLOSED (RULE 10.6(A))**

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**Session**            10:00–11:00 a.m.

**Break**              11:00–11:15 a.m. (approx.)

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#### **OPEN MEETING (RULE 10.6(A))—EDUCATIONAL MEETING AGENDA (ITEMS 1–3)**

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**Item 1**              11:15–11:35 a.m.

**[Phoenix Program: Deployment of Phoenix Payroll System \(No Action Required\)](#)**

*Public Comment and Presentation (10 minutes) • Discussion (10 minutes)*

**Speakers:**        Ms. Jody Patel, AOC Chief of Staff  
                         Mr. Curt Soderlund, AOC Chief Administrative Officer

***NOTE: Time is estimated. Actual start and end times may vary.***

**Item 2**            **11:35 a.m.–2:15 p.m.**

**Judicial Branch Budget: Educational Session on Branch Budget (No Action Required)**

The Administrative Office of the Courts (AOC) will present information on the judicial branch budget, including a history of allocation methodology, a review of various branch funds, and efforts to simplify branch budget development and fiscal processes.

*Public Comment and Presentation (65 minutes) • Discussion (65 minutes)*

Speakers:            Mr. Curt Soderlund, AOC Chief Administrative Officer  
                              Mr. Zlatko Theodorovic, Fiscal Services Office  
                              Ms. Gisele Corrie, Office of Judicial Branch Capital Program

**Lunch**            **12:30–1:00 p.m. (approx.)**

**Break**            **2:15–2:30 p.m. (approx.)**

**Item 3**            **2:30–5:00 p.m.**

**Trial Court Workload Evaluation: An Overview of the Updated Resource Assessment Study Model (No Action Required. The materials for this item correspond to Item M on page 8 of this agenda.)**

The chair and staff of the SB 56 Working Group will provide background on the update to the Resource Assessment Study (RAS) model which is used to estimate the workload of non-judicial staff in the trial courts.

*Public Comment and Presentation (75 minutes) • Discussion (75 minutes)*

Speakers:            Hon. Lorna A. Alksne, Chair, SB 56 Working Group  
                              Mr. Dag MacLeod, Office of Court Research  
                              Ms. Leah Rose-Goodwin, Office of Court Research

**Item 4**            **5:00–5:10 p.m. (new item added at the meeting)**

**Trial Court Budget: Status on Development of a Funding Methodology Proposal from the Trial Court Budget Working Group (No Action Required. There are no materials for this item.)**

*Presentation (10 minutes)*

Speaker:            Hon. Laurie M. Earl, Cochair, Trial Court Budget Working Group

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## TUESDAY, FEBRUARY 26, 2013 AGENDA—BUSINESS MEETING

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- 8:30–8:35 a.m. Approval of Minutes**  
Approve minutes of the [December 13–14, 2012](#), and [January 17, 2013](#),  
Judicial Council meetings.
- 8:35–8:45 a.m. Chief Justice’s Report**  
Chief Justice Tani G. Cantil-Sakauye will report.
- 8:45–8:55 a.m. [Administrative Director’s Report](#)**  
Hon. Steven Jahr, Administrative Director of the Courts, will report.
- 8:55–9:15 a.m. [Judicial Council Committee Presentations](#)**  
**[under Committee Reports Tab]**  
Policy Coordination and Liaison Committee  
Hon. Marvin R. Baxter, Chair  
Executive and Planning Committee  
Hon. Douglas P. Miller, Chair  
Rules and Projects Committee  
Hon. Harry E. Hull, Jr., Chair  
Technology Committee  
Hon. James E. Herman, Chair
- 9:15–9:45 a.m. Public Comment**  
[See Cal. Rules of Court, rules 10.6(d) and 10.6(e).]  
Note: The Chief Justice has waived certain requirements under Rule 10.6(d)  
for requests to speak at this meeting. If you are requesting the opportunity to  
comment at the meeting, please e-mail your request to  
[judicialcouncil@jud.ca.gov](mailto:judicialcouncil@jud.ca.gov) or mail or deliver your request to the Judicial  
Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102-  
3688, Attention: Nancy Carlisle. A request must pertain to a matter affecting  
judicial administration or an item on the business agenda and be received by  
**4 p.m., Thursday, February 21, 2013**. In the request, please state:
- The speaker’s name, occupation, and (if applicable) name of the  
entity that the speaker represents;
  - The speaker’s e-mail address, telephone number, and mailing address;  
and
  - The agenda item on which the speaker wishes to comment. If the  
requestor wants to speak on a matter generally affecting judicial  
administration, state the nature of the comment in a few sentences.

Time is reserved for public comment about consent agenda items or matters generally affecting the administration of justice at the beginning of the meeting. Time is reserved for public comment about discussion agenda items at the beginning of the presentation on each item. The amount of time allocated to each speaker will be no more than five minutes, the specific time allocation to be determined based on the number of speakers and available time.

The Judicial Council is the policy-making body for the judicial branch. Comments pertaining to a specific court case will not be received.

### **Written Comments Received**

Written comments pertaining to a matter affecting judicial administration or an item on this agenda may be e-mailed to [judicialcouncil@jud.ca.gov](mailto:judicialcouncil@jud.ca.gov) or mailed or delivered to the Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102-3688, Attention: Nancy Carlisle.

Only written comments received by **1 p.m. on Friday, February 22, 2013**, will be distributed to council members at the meeting.

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## **CONSENT AGENDA (ITEMS A–I)**

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*A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.*

### **Item A Jury Instructions: Revisions of Criminal Jury Instructions (Action Required)**

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions* (CALCRIM). These changes will keep CALCRIM current with statutory and case authority.

Hon. Sandy R. Kriegler, Chair, Advisory Committee on Criminal Jury Instructions

Staff: Ms. Robin Seeley, Legal Services Office

### **Item B Rules: Miscellaneous Technical Changes (Action Required)**

The AOC has identified an error in rule 1.4 of the California Rules of Court and on form TR-INST. Therefore, the AOC Legal Services Office recommends making the necessary technical changes.

Staff: Ms. Deborah Brown, Legal Services Office

**Item C Civil Cases: Temporary Suspension of Case Management Rules (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the statewide rules of court on civil case management be amended, on a temporary basis, to give courts the discretion to exempt certain types or categories of general civil cases from the mandatory case management rules. The amendments will help courts to better address the current fiscal crisis by decreasing the time spent by court staff and judicial officers in filing case management statements, setting and holding individual case management conferences, and performing other actions required by the case management rules.

Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee

Staff: Ms. Anne Ronan, Legal Services Office

**Item D Judicial Council Forms: Change in Federal Poverty Guidelines (Action Required)**

The Civil and Small Claims and the Family and Juvenile Law Advisory Committees recommend that three Judicial Council forms containing figures based on the federal poverty guidelines be amended to reflect the changes in those guidelines recently published by the federal government.

Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee

Staff: Ms. Anne Ronan, Legal Services Office

**Item E Access to Visitation: Program Funding Allocation for Grant Fiscal Year 2013–2014 (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the allocation and distribution of \$776,549 statewide for the Access to Visitation Grant Program for grant fiscal year 2013–2014. The funding will be directed to 11 superior courts representing 18 counties and involving 17 subcontractor agencies (i.e., local community nonprofit service providers). The funding will support and facilitate noncustodial parents' access to and visitation with their children through supervised visitation and exchange services, parent education, and group counseling services. Family Code section 3204(b)(2) requires the Judicial Council to determine the final number and amount of grants to be awarded to the superior courts.

Hon. Kimberly J. Nystrom-Geist and Hon. Dean Stout, Cochairs, Family and Juvenile Law Advisory Committee

Staff: Ms. Shelly La Botte and Mr. Michael Wright, Center for Families, Children & the Courts

**Item F Trial Court Allocation: Funding for Costs Related to Redevelopment Agency Writ Cases (Action Required)**

The Administrative Office of the Courts (AOC) recommends that the council, on a two-tiered cost-rate reimbursement basis, allocate up to \$2 million in new General Fund monies provided by Assembly Bill 1484 to the Superior Court of California, Sacramento County (Sacramento Superior Court) for work related to processing redevelopment agency writ cases. Section 38 of AB 1484 appropriates up to \$2 million to the court “for work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.” By statute, any action challenging the validity of the dissolving of redevelopment agencies must be brought in Sacramento Superior Court.

Staff: Mr. Zlatko Theodorovic and Mr. Steven Chang, Fiscal Services Office

**Item G Trial Courts: Application to Establish Remote Video Proceeding Pilot Project from the Superior Court of California, County of Fresno (Action Required)**

The Superior Court of Fresno County has submitted an application for approval to establish a remote video proceeding pilot project for traffic infraction cases in that county under California Rules of Court, rule 4.220. The Judicial Council’s Technology Committee has reviewed the court’s application and recommends that the council approve it.

Hon. James E. Herman, Chair, Judicial Council Technology Committee

Staff: Mr. Patrick O’Donnell and Mr. Courtney Tucker, Legal Services Office

**Item H Judicial Council–Sponsored Legislation: Modernization and Improvement of Statutes on Trial Court Records Retention and Management (Action Required)**

The Policy Coordination and Liaison Committee and Court Executives Advisory Committee recommend that the Judicial Council sponsor legislation to modernize and improve the statutes concerning the retention of trial court records. In particular, this proposal recommends that the records retention statutes be amended to authorize the destruction of some court records earlier than is permitted under existing law to enable the trial courts to reduce their storage costs. The proposed amendments would also establish statutory records retention periods for new types of records that are not dealt with under existing law—such as records resulting from the new criminal realignment process. Finally, the proposed amendments would eliminate ambiguities in the law relating to records retention and would clarify how long certain records are to be retained.

Hon. Marvin R. Baxter, Chair, Policy Coordination and Liaison Committee

Mr. David H. Yamasaki, Chair, Court Executives Advisory Committee

Staff: Mr. Patrick O’Donnell, Legal Services Office

**Item I      Judicial Branch Report to the Legislature: Court Interpreter Expenditure Report for Fiscal Year 2011–2012 (Action Required)**

The AOC recommends that the Judicial Council approve the annual report on trial court interpreter expenditures for submission to the Legislature. This report to the Legislature is required by the Budget Act of 2011 (Stats. 2011 ch. 33).

Staff:      Mr. Chad Finke, Court Operations Special Services Office

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**DISCUSSION AGENDA (ITEMS J–Q)**

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**Item J            9:45–10:15 a.m.**

**Court Facilities: Delays to the Courthouse Capital Program Pending the Proposed Governor’s Budget for Fiscal Year 2013–2014 (Action Required)**

The Court Facilities Working Group recommends the delay of 11 SB 1407 projects should the proposed 2013 Governor’s Budget (FY 2013–2014), which includes the deferred repayment of a \$90 million loan from Senate Bill 1407 construction funds and the redirection of \$200 million in SB 1407 funds to trial court operations, be enacted. The working group further recommends that FY 2013–2014 and FY 2014–2015 funding requests be made to the state Department of Finance for the next project phases in all SB 1407 projects moving forward in the event that additional SB 1407 funds become available in the final budget. The working group also recommends submission of FY 2013–2014 one-time and ongoing funding requests for facility modifications and for facility operational costs for new courthouses, to be funded by construction funds.

*Public Comment and Presentation (15 minutes) • Discussion (15 minutes)*

Speaker:      Hon. Brad R. Hill, Chair, Court Facilities Working Group

**Item K            10:15–10:25 a.m.**

**Court Facilities: Membership in Calaveras Public Power Agency for Low-Cost Utility Rates for New San Andreas Courthouse (Action Required)**

The AOC recommends seeking agency membership in the Calaveras Public Power Agency (CPPA), a joint powers agency that provides electricity to public facilities in the County of Calaveras. To take advantage of the lower electricity rates of the CPPA, the AOC would have to become a member agency of the CPPA, which provides electricity to various local facilities in Calaveras County, including the county jail, the county government center, schools, hospitals, fire stations, and water and wastewater treatment plants. With the AOC as a member of the CPPA, the new San Andreas Courthouse in Calaveras County (New Courthouse) would be able to enjoy the benefits of electricity rates lower than PG&E rates. In addition, construction costs of the New Courthouse project would be reduced by approximately \$115,000, related to equipment no longer required.

*Public Comment and Presentation (5 minutes) • Discussion (5 minutes)*

Speakers: Mr. Hugh K. Swift, Court Executive Officer, Superior Court of  
Calaveras County  
Mr. Curt Soderlund, Chief Administrative Officer  
Ms. Laura Sainz, Office of Real Estate and Facilities Management  
Ms. Gisele Corrie, Office of Judicial Branch Capital Program

**Break 10:25–10:40 a.m. (approx.)**

**Item L 10:40–11:30 a.m.**

**[Trial Court Allocations: Benefits Funding for Fiscal Year 2011–2012 and Fiscal Year 2012–2013 \(Action Required\)](#)**

The Trial Court Budget Working Group recommends allocation of funding provided in the Budget Act of 2012 (Stats. 2012, ch. 21) to address (1) retirement, employee health, and retiree health benefit cost changes in 2011–2012; (2) full-year ongoing costs in fiscal year (FY) 2012–2013 of the benefit cost changes effective in FY 2011–2012; and (3) the use of expenditure authority from the Trial Court Trust Fund (TCTF) on a one-time basis to backfill shortfalls for (1) and (2). The Trial Court Budget Working Group also recommends setting aside funding related to FY 2012–2013 court interpreter benefit cost changes in a separate General Fund item; immediately allocating funding for confirmed FY 2012–2013 benefit cost changes; and, beginning in FY 2012–2013, using available TCTF monies on an ongoing basis, or requesting monies from the General Fund, if insufficient funding is available from the TCTF, to fund the annualized cost of the FY 2012–2013 benefit cost changes.

*Public Comment and Presentation (20 minutes) • Discussion (30 minutes)*

Speakers: Hon. Laurie M. Earl, Cochair, Trial Court Budget Working Group  
Mr. Zlatko Theodorovic, Cochair, Trial Court Budget Working Group

**Item M 11:30 a.m.–12:15 p.m.**

**[Trial Courts: Update of the Resource Assessment Study Model \(Action Required\)](#)**

The SB 56 Working Group recommends approving the updated parameters of the Resource Assessment Study (RAS) model, with the understanding that ongoing technical adjustments will continue to be made by staff of the AOC as the data become available. The RAS model is used to evaluate the workload of nonjudicial staff in the trial courts and was first approved by the Judicial Council in 2005. The updated parameters consist of new caseweights and new formulas that produce more accurate workload estimates.

*Public Comment and Presentation (30 minutes) • Discussion (15 minutes)*

Speakers: Hon. Lorna A. Alksne, Chair, SB 56 Working Group  
Mr. Dag MacLeod, Court Operations and Special Services Office  
Ms. Leah Rose-Goodwin, Court Operations and Special Services Office

***NOTE: Time is estimated. Actual start and end times may vary.***



**Lunch**            **12:15–12:45 p.m. (approx.)**

**Item N**            **12:45–1:40 p.m.**

**[Trial Court Trust Fund Allocations: 2 Percent State-Level Reserve \(Action Required\)](#)**

The AOC submits the following to the Judicial Council for its consideration: (1) Recommendations and options on two courts’ applications for supplemental funding related to unanticipated expenses. The amount remaining in the 2 percent state-level reserve set-aside in the Trial Court Trust Fund for fiscal year 2012–2013 is \$27.7 million. By statute, the Judicial Council after October 31 and before March 15 of each fiscal year may distribute the remaining funds if there has been a request from any trial courts for unforeseen emergencies or unanticipated expenses for existing programs. (2) Allocations to all courts, to be distributed after March 15, of a proportionate share of any unexpended funds from the 2 percent state-level reserve.

*Public Comment and Presentation (25 minutes) • Discussion (30 minutes)*

Speaker:            Mr. Zlatko Theodorovic, Fiscal Services Office

**Item O**            **1:40–2:00 p.m.**

**[AOC Restructuring: Vendor Options for Classification and Compensation Study \(Action Required\)](#)**

The Administrative Director of the Courts requests that the Judicial Council select and approve one of three options to perform a review of the classification structure and compensation plan for the AOC. The request is in direct response to Judicial Council Restructuring Directives, directive 19, which states that the Administrative Director must consider “whether an outside entity should conduct these reviews and return to the Judicial Council with an analysis and a recommendation.” The report contains three implementation options: (1) conduct an organization-wide evaluation of the AOC’s classification structure and compensation plan through the use of AOC staff; (2) conduct an organization-wide evaluation of the AOC’s classification structure and compensation plan through the use of an outside entity; or (3) conduct an organization-wide evaluation of the AOC’s classification structure and compensation plan using a hybrid approach in which an outside entity would review manager classifications and above, and AOC staff would review supervisor classifications and below, with oversight and validation of the proprietary methodology provided by an outside entity.

*Public Comment and Presentation (10 minutes) • Discussion (10 minutes)*

Speakers:            Hon. Steven Jahr, Administrative Director of the Courts  
                              Mr. Kenneth R. Couch, Human Resources Services Office

**Item P 2:00–2:20 p.m.**

**[AOC Restructuring: Amendments to Policy 8.9–Working Remotely \(Telecommuting\) \(Action Required\)](#)**

The Administrative Director of the Courts requests that the Judicial Council consider and approve one of the following options concerning telecommuting. In addition, the Administrative Director confirms that all 85 telecommuting staff are currently in compliance with the existing policy and has prepared a report containing options for consideration by the Judicial Council. The report contains options to: (1) eliminate all forms of telecommuting; (2) eliminate regular telecommuting and only allow for limited ad hoc telecommuting under special circumstances; or (3) permit telecommuting by approving a restructured and more restrictive telecommute policy, which contains controls for approving, monitoring, and, if necessary, rescinding participation. If the revised telecommute policy is approved, a follow-up report will be provided to the Judicial Council in one year.

*Public Comment and Presentation (10 minutes) • Discussion (10 minutes)*

Speakers: Hon. Steven Jahr, Administrative Director of the Courts  
Mr. Kenneth R. Couch, Human Resources Services Office

**Item Q 2:20–2:35 p.m.**

**[AOC Restructuring: Independent Review of Use, Selection, and Management of Outside Counsel \(Action Required\)](#)**

To implement the Judicial Council directive regarding review of the AOC Legal Services Office's use, selection, and management of outside legal counsel to determine whether outside counsel is being used in a cost-effective manner, the Administrative Director of the Courts and the AOC Chief of Staff recommend that the Judicial Council members assigned by the Chief Justice as council liaisons to the Legal Services Office (LSO), with assistance from the Litigation Management Committee chair or members as the liaisons deem appropriate or necessary, conduct the review. Doing so is consistent with the liaison program objectives that the assigned council liaisons familiarize themselves with the programs, budgets, and resources of their assigned areas and their service to the judicial branch and others, and then provide information to the Judicial Council. It is also recommended that the AOC be directed to obtain information about industry practices regarding use of outside legal counsel by large service organizations and provide such information to the LSO council liaisons for their consideration as they conduct their review.

*Public Comment and Presentation (5 minutes) • Discussion (10 minutes)*

Speakers: Hon. Steven Jahr, Administrative Director of the Courts  
Ms. Jody Patel, AOC Chief of Staff

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## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

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### [INFO 1 Judicial Council: Implementation of Judicial Council Directives on AOC Restructuring](#)

The Chair of the Executive and Planning Committee (E&P) presents this informational report on the implementation of the Judicial Council AOC Restructuring Directives, as approved by the council on August 31, 2012. The AOC Restructuring Directives specifically direct the Administrative Director of the Courts to report to E&P before each Judicial Council meeting on every directive. This informational report provides an update on the progress of implementation efforts.

### [INFO 2 Trial Court Trust Fund: Expenditures and Encumbrances for Fiscal Year 2012–2013, Second Quarter](#)

In compliance with the requirements of the Budget Act of 2012, this informational report concerns all expenditures made in the second quarter of fiscal year (FY) 2012–2013 of programs and projects appropriated from Item 0250–001–0932 of the Budget Act of 2012. In addition, this report includes any other expenditures and encumbrances of funds from the Trial Court Trust Fund, excluding those related to Schedules (2), (3), and (4) of Item 0250–101–0932 of the Budget Act of 2012 and direct allocations to trial courts.

### [INFO 3 Trial Courts: Quarterly Investment Report for Fourth Quarter of 2012](#)

This *Trial Court Quarterly Investment Report* provides the financial results for the funds invested by the AOC on behalf of the trial courts as part of the judicial branch treasury program. This report is submitted under the *Resolutions Regarding Investment Activities for the Trial Courts*, approved by the Judicial Council on February 27, 2004. This report covers the period of October 1, 2012, through December 31, 2012.

### [Circulating Orders since the last business meeting](#)

[Circulating Orders Tab]

### [Appointment Orders since the last business meeting](#)

[Appointment Orders Tab]