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## FACT SHEET

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### Temporary Assigned Judges Program

At the request of the presiding judges and justices of the trial and appellate courts, the Chief Justice—assisted by the Temporary Assigned Judges Program (TAJP) of the Judicial Council of California—issues temporary judicial assignment orders to active or retired judges and justices to cover vacancies, illnesses, disqualifications, and calendar congestion in the courts.

#### **What is the authorization for judicial assignments?**

Article VI, section 6(e) of the California Constitution provides that the Chief Justice “shall seek to expedite judicial business and to equalize the work of the judges.” To accomplish this, the Chief Justice may provide for the temporary assignment of any judge to a court. A retired judge or justice approved to participate in the program may be assigned to any court and has all the powers of the position to which he or she is assigned.

The Temporary Assigned Judges Program is governed by standards and guidelines adopted by the Chief Justice to maintain the effectiveness and quality of judicial assignments. These standards and guidelines set out eligibility requirements and procedures for serving in the program. The California Rules of Court describe the procedure for periodic review of judges serving on assignment as well as a formal process for dealing with complaints (see Cal. Rules of Court, rule 10.603(c)(4)(E)(i-iv)).

#### **When is judicial assistance provided?**

The Chief Justice issues assignments to a superior or appellate court at the request of the presiding judge or justice (or his or her designee). Judicial assistance can be provided to cover vacancies, illnesses, disqualifications, and calendar congestion; for replacement of judges who attend training or serve as faculty for the Center for Judiciary Education & Research (CJER); and to allow judges who sit on the Judicial Council and its advisory committees and task forces to attend meetings. In addition, if a judge retires or is elevated and has unfinished matters in his or her previous court, he or she may be assigned to complete those matters.

**What criteria are used to decide which courts receive assistance?**

The program is intended to help courts handle judicial workload that cannot be addressed adequately through either (1) continuances, calendar adjustments, or the reassignment of calendars or caseload to existing judicial officers; or (2) using other judicial officers located in nearby courts who have reciprocal assignment arrangements.

Under criteria established by the Chief Justice, the staff of the Temporary Assigned Judges Program review and process assignment requests on behalf of the Chief Justice. The following factors will be taken into consideration when reviewing requests for program assistance:

- Court efforts to mitigate and minimize the need for program assistance through local efficiency measures;
- The cause or reason for the court's request;
- The court's available judicial resources (i.e., the difference between authorized judicial positions and the court's vacancies and/or long-term absences);
- The difference between the court's available judicial resources and its Assessed Judicial Need per the biennial Judicial Needs Assessment; and
- Other unique local unanticipated factors or events.

**How are assignments made?**

Presiding judges and justices or their designees submit requests for judicial assistance to the TAJJP staff, who act on behalf of the Chief Justice. A request must include an explanation of why and when the assistance is needed and for how long. TAJJP staff, familiar with courts' assignment needs and with the availability and experience of active and retired judges, consult a list of judges participating in the Temporary Assigned Judges Program. When fulfilling a court's assignment request, staff consider each judge's experience, expertise, and availability; the distance he or she is willing to travel; and the length of time he or she is willing to serve.

**How long do assignments last?**

Assignment orders to the Superior Courts are issued for a maximum period of one month; orders to the Courts of Appeal can be up to a two-month period. Courts can submit a new assignment request if an assignment is needed beyond this initial period, and a separate assignment order will be issued. An assignment order can also be issued that identifies a specific case for the assignment; for example, when there is

a judicial disqualification on a case. The assigned judge would be authorized to sit on assignment in the court until the completion of the case.

**What is a reciprocal assignment?**

A reciprocal assignment is an order, issued annually by the Chief Justice and governed by rule 10.630 of the California Rules of Court that enables judges in neighboring counties to hear matters in each other's courts. Reciprocal assignments are issued upon the agreement of the presiding judges of the courts involved. They are updated periodically to reflect changes on the bench.

**What is the role of the TAJP in judicial disqualifications?**

Pursuant to statutory procedure, parties may challenge a judge for "cause" claiming that the judge is prejudiced against a party or an attorney or has an interest in an action or proceeding. (See Code of Civ. Proc., § 170.1, 170.3, et seq.). In some cases, an entire bench may recuse itself from a matter (Code Civ. Proc., § 170.8).

In the event that a ruling is required on a Statement of Disqualification or an assignment is needed for a bench recusal, the Temporary Assigned Judges Program assists in the assignment of judicial officer for the matter. In all disqualification matters, staff in the Temporary Assigned Judges Program work directly and only with the court on identifying and confirming a neutral judge for assignment. The court is responsible for submitting the request to the Temporary Assigned Judges Program for an assignment of a neutral judge in a disqualification matter. The court is also responsible for notifying the parties when an assignment of a neutral judge has been made.

**Is the Judicial Council informed of peremptory challenges of judges?**

A peremptory challenge is made by a motion stating that a judge is prejudiced against a party. The challenge may be made by oral or written motion without notice supported by affidavit or declaration.

TAJP staff are informed of a peremptory challenge only if the court requests a temporary assigned judge to hear the case (Code Civ. Proc., § 170.6). Otherwise, the Judicial Council does not receive information about peremptory challenges.

**What is the compensation for assigned judges?**

A retired judge sitting on assignment is compensated at a daily rate of 92 percent of the salary of a judge of the court of record to which he or she is assigned, based on a 250-day year (Gov. Code, § 68543.5(a)). An active superior court judge sitting on

assignment for a Court of Appeal is paid the difference between his or her current pay and that of an appellate court justice. The state pays the entire cost of judges who serve on assignment.

**How are retired judges evaluated for program admission and assignment?**

Assigned retired judges may be evaluated through the following three processes.

**Application**

During the application process, TAJP staff initially review the qualifications of retired judges to sit on assignment. An applicant must file a release of information with the Commission on Judicial Performance, complete a background questionnaire, and request a reference from the presiding judge or justice of the last court for which he or she served as an active judge or justice. The Chief Justice reviews the application material in light of the current needs of the Temporary Assigned Judges Program and makes a decision to admit or not admit the judge to the program.

**Presiding judge evaluations**

Each judge in the Temporary Assigned Judges Program receives a performance evaluation from the presiding judge or justice in the court in which he or she served on assignment during a given year (see Cal. Rules of Court, rule 10.603(c)(4)(E)(i-iv)). TAJP staff initially review all negative evaluations and conducts investigations as necessary. Reports are prepared for the Chief Justice.

**Complaints**

Complaints about an assigned retired judge may be received from any source. TAJP staff cannot address substantive issues of law but do review allegations of judicial misconduct.

When TAJP staff receive a negative evaluation or a complaint about a judge in the program, they determine the investigative steps that need to be taken. Investigations typically involve reports of bias, harassment, or negative demeanor. Depending on the results of the investigation, a report may be sent to the Chief Justice, who then considers appropriate actions, including removal of the judge from the program.

**How much assistance do assigned judges provide?**

Approximately 350 retired judges and justices currently participate in Temporary Assigned Judges Program. Assigned judges provide significant judicial assistance to the courts on an annual basis. The level of assistance in a given year depends on several factors such as changes in court workload and the number of judicial

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vacancies. Over the past several years, the Temporary Assigned Judges Program has provided on average around 25,000 days of judicial assistance annually to the courts.

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