



Judicial Council of California
Executive and Planning Committee

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EXECUTIVE AND PLANNING COMMITTEE

NOTICE AND AGENDA OF OPEN MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY VIDEOCONFERENCE

THIS MEETING IS BEING RECORDED

Date: Wednesday, August 23, 2023
Time: 12:10 to 1:00 p.m.
Public Video Livestream: <https://jcc.granicus.com/player/event/2975>

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make a recording of the meeting must submit a written request at least two business days before the meeting. Requests can be emailed to executiveandplanning@jud.ca.gov.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve the following draft minutes:

- June 20, 2023, open meeting; and
- July 7, 2023, action by email.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

This meeting will be conducted by videoconference with a livestream available for the public. As such, the public may submit comments for this meeting in writing only. In accordance with rule 10.75(k)(1) of the California Rules of Court, written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be emailed to executiveandplanning@jud.ca.gov. Only written comments received by 12:10 p.m. on Tuesday, August 22, 2023, will be provided to the committee members prior to the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEMS

Item 1

**Real Estate Policies Subcommittee: Policy for Third-Party Uses of Court Facilities
(Action Required)**

Review the proposed *Policy for Third-Party Uses of Court Facilities* and recommend circulation for comment.

Presenters: Hon. C. Todd Bottke, Chair, Real Estate Policies Subcommittee

Ms. Mary Bustamante, Facilities Services

Mr. Jeremy P. Ehrlich, Legal Services

Item 2

Agenda Setting for September 19, 2023, Judicial Council Meeting (Action Required)

Review draft reports and set the agenda for the Judicial Council meeting in September.

Presenters: Various

IV. ADJOURNMENT

Adjourn



EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF OPEN MEETING

June 20, 2023

12:10 to 1:00 p.m.

Videoconference

Advisory Body Members Present: Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Judith K. Dulcich, Hon. Carin T. Fujisaki, Hon. Kimberly Merrifield, Hon. Ann C. Moorman, and Ms. Gretchen Nelson

Advisory Body Members Absent: Hon. Marla O. Anderson, Ms. Rebecca J. Fleming, and Hon. David M. Rubin

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|---------------------------------|---|
| Invited Guests Present: | Hon. Darrell S. Mavis, Chair, Center for Judicial Education and Research Advisory Committee |
| Committee Staff Present: | Ms. Amber Barnett and Ms. Josely Yangco-Frona |

Staff Present: Mr. Cliff Alumno, Ms. Karene Alvarado, Mr. Chris Belloli, Ms. Deirdre Benedict, Ms. Deborah Brown, Ms. Laura Brown, Ms. Francine Byrne, Mr. Blaine Corren, Ms. Angela Cowan, Ms. Shelley Curran, Ms. Charlene Depner, Mr. Douglas Denton, Mr. Robert Downs, Ms. Audrey Fancy, Mr. Michael Giden, Ms. Kristin Greenaway, Ms. Nou Her, Ms. Donna Ignacio, Ms. Rosemary Lane, Mr. Chris Magnusson, Ms. Anna Maves, Ms. Cassandra McTaggart, Ms. Pella McCormick, Ms. Kelly Meehleib, Ms. Fran Mueller, Mr. Robert Oyung, Ms. Kelly Parrish, Mr. Jessie Romine, Ms. Anne Ronan, Mr. Scott Parker, Ms. Laura Speed, Mr. Zlatko Theodorovic, Mr. Steven Warner, and Mr. John Wordlaw

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 p.m. Staff took roll call and made the opening announcements.

Approval of Minutes

The committee reviewed the draft minutes of the following:

- April 18, 2023, open meeting;
- May 18, 2023, action by email;
- May 30, 2023, closed meeting;
- June 1, 2023, closed meeting; and
- June 13, 2023, closed meeting.

Action: The committee unanimously approved the minutes of the April 18, 2023, open meeting and May 18, 2023, action by email. With the correction of Ms. Nelson's attendance and one abstention (Judge Feng/June 1), the committee approved the minutes of the May 30, June 1, and June 13, 2023, closed meetings.

DISCUSSION AND ACTION ITEM

Item 1

Agenda Setting for July 21, 2023, Judicial Council Meeting (Action Required)

Review draft reports and set the agenda for the Judicial Council meeting in July.

Action: The committee set the agenda for the July 21, 2023, Judicial Council meeting by approving reports for placement on the business meeting agenda.

Item 2

Request to Amend 2023 Annual Agenda: Center for Judicial Education and Research Advisory Committee (Action Required)

Review a request from the Center for Judicial Education and Research Advisory Committee to add one new project to its 2023 annual agenda to amend California Rules of Court, rule 10.603(c)(2)(B).

Action: The committee approved the request from the Center for Judicial Education and Research Advisory Committee to add one new project to its 2023 annual agenda to amend California Rules of Court, rule 10.603(c)(2)(B).

Item 3

Creation of Two New Subordinate Judicial Officer Positions: Superior Court of San Bernardino County (Action Required)

Review and approve a recommendation from the Office of Court Research staff to confirm a request from the Superior Court of San Bernardino County for the creation of two new permanent, full-time subordinate judicial officer (SJO) positions to provide increased access to justice to the communities the court serves.

Action: The committee approved the recommendation from the Office of Court Research staff and confirmed the request from the Superior Court of San Bernardino County for the creation of two new permanent, full-time SJO positions.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:45 p.m.

Approved by the advisory body on _____.



EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF ACTION BY EMAIL

Friday, July 7, 2023
12:00 p.m.

Advisory Body Members Present: Hon. Samuel K. Feng (Vice-chair), Hon. Marla O. Anderson, Hon. Judith K. Dulcich, Hon. Carin T. Fujisaki, and Ms. Gretchen Nelson

Advisory Body Members Absent: Hon. Marsha G. Slough (Chair), Ms. Rebecca J. Fleming, Hon. Kimberly Merrifield, Hon. Ann C. Moorman

Others Present: Ms. Amber Barnett, Ms. Josely Yangco-Fronza, and Ms. Donna Ignacio

ACTION BY EMAIL

As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by email concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2), public notice and the proposal were posted on Thursday, July 6, 2023, to allow at least one complete business day for public comment before the committee took action. No public comments were received.

OPEN DISCUSSION AND ACTION ITEM

Agenda Setting for July 21, 2023, Judicial Council Meeting (Action Required)

Review and consider the three draft council reports listed below for placement on the July 21, 2023, Judicial Council business meeting agenda.

1. 23-004 Court Facilities | Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2024–25 (Action Required)
2. 23-114 Rules and Forms | Judicial Branch Administration: Procedures for Submitting Contentions Regarding Administration of the Courts (Action Required)
3. 23-111 Court Facilities | Revised Courthouse Naming Policy (Action Required)

Action: The committee approved the three reports above for placement on the July 21, 2023, Judicial Council business meeting agenda.

CLOSURE OF ACTION

The action by email concluded at 5:00 p.m. on July 10, 2023.

Approved by the committee on _____.



Judicial Council of California

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ITC prefix as assigned]-__

Title

Court Facilities: Policy for Third-Party
Uses of Court Facilities

Action Requested

Review and submit comments by
October 16, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt *Policy for Third-Party Uses of
Court Facilities*

Proposed Effective Date

March 15, 2024

Proposed by

Executive and Planning Committee
Hon. Marsha G. Slough, Chair

Contact

Mary Bustamante, 916-263-7999
mary.bustamante@jud.ca.gov

Executive Summary and Origin

The Executive and Planning Committee seeks public comment on the proposed *Policy for Third-Party Uses of Court Facilities* (Third-Party Use Policy) developed by the Real Estate Policies Subcommittee. The purpose of the Third-Party Use Policy is to establish guidelines for the use of court facilities by third parties including continuous or regularly occurring long-term occupancies, short-term events and activities, and commercial and vendor services. Third-party uses of court facilities previously have been subject to interim policies, and the Executive and Planning Committee established the Real Estate Policies Subcommittee in part to develop a proposal for a current policy governing third-party uses.

Background

Authority over court facilities and third-party uses

The council has statutory authority and responsibility over court facilities including the oversight of a third party's use of space at the buildings and grounds of court facilities. The council has the "full range of policy making authority," as well as the responsibility and authority to "[e]xercise

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

full responsibility, jurisdiction, control, and authority as an owner would have,” over trial and appellate court facilities.¹

Judicial Council staff have the responsibility and authority to “provide the ongoing oversight, management, operation, and maintenance” of trial court facilities that have been transferred to the Judicial Council, and to “[c]arry out the Judicial Council’s policies with regard to” trial court and appellate court facilities.² Under applicable law, a court on its own lacks authority to enter into or manage agreements for any third-party use of court facilities.

Under rule 10.11(c) of the California Rules of Court, the Executive and Planning Committee oversees the council’s policies and procedures regarding court facilities. The Executive and Planning Committee formed the Real Estate Policies Subcommittee in May 2021 to consider and make recommendations regarding the third-party use, disposition, and leasing of court facilities as well as other real estate policies, procedures, and guidelines.

Interim policies

Following the transfer of the approximately 500 court facilities to the judicial branch under the Trial Court Facilities Act of 2002, the Judicial Council faced a myriad of requests from courts for short-term uses of court facilities by third parties and related issues regarding matters such as insurance liability, licensing, fees, and approvals. The Court Facilities Use Working Group (CFUWG) was formed in May 2009 to address these concerns. With input from pertinent stakeholders, the CFUWG ultimately drafted and issued in August 2010 both an *Interim Policy for Third Party Use of Court Facilities* and a *Court of Appeal Interim Policy for Third Party Use of Court Facilities*. The CFUWG intended that a permanent, council-approved policy would replace these interim policies in 2011; however, that did not occur.

Third-party uses

The Judicial Council has now gained over 10 years of experience managing the judicial branch’s portfolio of nearly 450 trial and appellate court facilities including, in consultation with courts, the review and processing of third-party requests to use court facilities. Currently there are approximately 250 agreements for third-party users of court facilities (not counting unlicensed users) and more than 100 event licenses are typically issued each year. Based on this experience and third parties’ extensive use of court facilities, the finalization and adoption of a policy governing third-party uses of court facilities with guidelines reflecting current practices is appropriate.

For reference, examples of third-party occupancies of court facilities (which are generally a long-term type of third-party use) include office space for public entities and nonprofits, self-help and volunteer centers, court cafes, law libraries, news media workstations, and children’s waiting areas. Examples of third-party events (which are generally a short-term or

¹ Gov. Code, §§ 69204(a) & (b), 70391(a) & (b).

² Gov. Code, §§ 69206(a), 70392(a) & (b); see Cal. Rules of Court, rules 10.182, 10.184.

special type of third-party use) at court facilities include ceremonial functions, student mock trial competitions, tours, field trips, educational workshops, trainings, symposiums, and commercial filming.

Third-party use policy development

Throughout 2022, the Real Estate Policies Subcommittee held several informational sessions to review and discuss the development of the Third-Party Use Policy. On May 10, 2023, the Real Estate Policies Subcommittee unanimously approved a recommendation to the Executive and Planning Committee to review the proposal for the Third-Party Use Policy (Attachment A) and for it to be circulated for public comment.

The Proposal

The Third-Party Use Policy addresses third-party uses of court facilities under the Judicial Council's control on behalf of the courts. Such uses include continuous or regularly occurring long-term occupancies, short-term events and activities, and commercial and vendor services. The policy would establish guidelines for the roles of the Judicial Council and courts, the application process, the evaluation of requests, the required agreement, and the assessment of fees for third-party uses of court facilities.

Applicable third-party uses and policy exclusions

The Third-Party Use Policy generally applies to any use of court facilities by a third party. Third parties subject to the policy include any person, private organization or business, public entity, and nonprofit entity.

Specific exclusions from the Third-Party Use Policy include media requests specifically to film courtroom proceedings that are instead governed by rule 1.150 of the California Rules of Court; uses of court facilities by third parties who operate under the Department of Rehabilitation's Business Enterprise Program or Vending Machine Unit and are subject to specific statutory requirements; and other unique circumstances delineated in the policy requiring special treatment.

The Third-Party Use Policy also does not apply to or govern uses of court facilities by the Judicial Council, courts, and their respective judicial officers, employees, and staff acting in their official capacities for purposes related to the administration of justice and/or the conducting of court operations. A court's use of its own court facilities for events jointly hosted, sponsored, or put on by the court and a third party (i.e., when the court is not exclusively responsible for the event and a third party is involved) would be treated as a standard third-party use of court facilities subject to the same policy requirements as other third-party events.

Court facilities

The Third-Party Use Policy is intended to capture all components of court facilities that the Judicial Council controls or manages. This includes the court facilities' surrounding curtilage, rooftops, and parking areas as well as vacant and unimproved parcels.

Unlike other public facilities such as city halls and schools, court facilities are considered nonpublic forums by the United States Supreme Court. Thus, court facilities are not “traditionally held open for the use of the public for expressive activities,” such as free speech demonstrations, and courts may regulate such activities in court facilities or on their curtilage.³ Accordingly, it is important that third-party uses of court facilities preserve the neutrality of courts as a forum free of actual or perceived partiality and free of any appearance of bias, prejudice, or favoritism.

Under the Third-Party Use Policy, the third-party use of court facilities for the placement of telecommunications and other equipment (e.g., antennas, cabling, batteries) would be permitted only in those cases that are absolutely necessary or critical for public welfare or that support court operations. The Third-Party Use Policy also describes the circumstances under which a third party can utilize court facilities for commercial filming purposes.

Policy administration

The Administrative Director, or their designee, would be responsible for overseeing and implementing the Third-Party Use Policy. Judicial Council staff accordingly would be responsible for collaborating with the court’s designated representative when coordinating and contracting with third-party users; determining, implementing, and enforcing all terms and conditions of the third party’s agreement; and assessing and collecting all corresponding fees.

The court is responsible for overseeing third parties’ day-to-day use of court facilities with Judicial Council staff’s support. The court’s designated representative will be the primary point of contact for the Judicial Council’s review and approval of all third-party requests, and will contact Judicial Council staff for assistance with requests, applications, agreement enforcement, and any other aspects of a third party’s use of court facilities.

All third-party requests for the use of court facilities must be submitted to Judicial Council staff via the application prepared by the Judicial Council, which will be revised to be a more user-friendly, all-encompassing form for the ease of all involved. The Third-Party Use Policy delineates the application process and considerations used in evaluating requested uses.

Fee structure and assessment

The Third-Party Use Policy provides for Judicial Council staff’s establishment of a fee structure for third-party uses with consideration of the use, user, and market location along with the court’s needs. The fee structure is to be developed in a manner that supports the operations of the judiciary, courts, and Judicial Council through the equitable, effective, and efficient assessment of fees on third-party uses as well as the prudent expenditure of judicial branch resources.

³ *United States v. Grace* (1983) 461 U.S. 171, 178; see *Comfort v. MacLaughlin* (C.D. Cal. 2006) 473 F.Supp.2d 1026, 1028.

Alternatives Considered

The alternative to adopting the Third-Party Use Policy is for the judicial branch to continue operating under the Interim Policies. Doing so, however, would not reflect current, best practices whereas the Third-Party Use Policy would better serve the needs of the courts, judicial branch, and public; would provide for the efficient expenditure of the Judicial Council's and court's resources, funding, and staff time; and would help avoid or reduce the potential for risk, damage, and loss to the judicial branch from third-party uses of court facilities.

Fiscal and Operational Impacts

The Third-Party Use Policy is not expected to result in the Judicial Council or courts incurring additional one-time or ongoing costs. The policy would memorialize and bring consistency to Judicial Council and court operations with respect to third-party uses of court facilities.

Request for Specific Comments

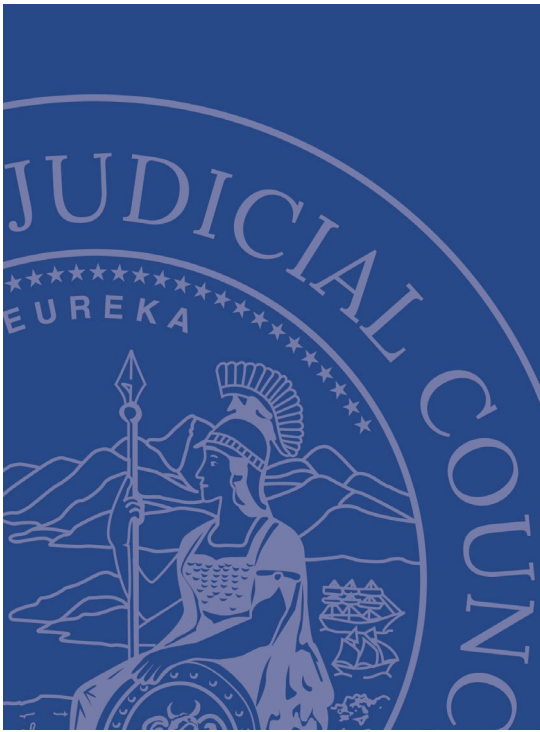
In addition to comments on the proposal as a whole, the committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Attachment A: Draft *Policy for Third-Party Uses of Court Facilities*

July 19, 2023



Policy for Third-Party Uses of Court Facilities

MONTH 2023

DRAFT



Judicial Council of California

Policy for Third-Party Uses of Court Facilities

Revision Management

| Revision | Chapter | Revision Description | Revision Date |
|-----------------|----------------|-----------------------------|----------------------|
| 1.0 | | | |
| | | | |

DRAFT

Policy for Third-Party Uses of Court Facilities

1. Purpose

- 1.1 The purpose of this policy is to establish guidelines for the use of court facilities by third parties including continuous or regularly occurring long-term occupancies, short-term events and activities, and commercial and vendor services.¹ The guidelines established in this policy are intended to serve the needs of the courts, the judicial branch, and the public while providing for the best use of the court facilities and judicial branch resources.

2. Definitions

- 2.1 “**Application**” means the *Application for the Use of Court Facilities* developed by Judicial Council staff.
- 2.2 “**Court**” means either the trial or appellate court that occupies and uses the subject court facilities, as applicable.
- 2.3 “**Court facilities**” means all trial and appellate court buildings managed by the Judicial Council or under its control. Court facilities include vacant and unimproved parcels as well as any of the court facilities’ surrounding curtilage, rooftops, and parking areas under the Judicial Council’s control.
- 2.4 “**Court representative**” means the court’s administrative presiding justice, presiding judge, clerk/executive officer, court executive officer, or their authorized designee.
- 2.5 “**Event**” means a short-term use of court facilities requested by a third party. A third-party event is of limited duration and may be on a single day or a reoccurring series of days but is typically not more than a total of 14 days. Third-party events include but are not limited to ceremonial functions, mock trials, tours, field trips, educational workshops, trainings, and symposiums.
- 2.6 “**Occupancy**” means a long-term or ongoing use of court facilities requested by a third party. A third-party occupancy is typically a continuous, regularly occurring, or long-term use of court facilities. Third-party occupancies include but are not limited to public entity or nonprofit entity office space, self-help and volunteer centers, law libraries, and children’s waiting areas.
- 2.7 “**Third party**” means any persons, private entity, agency, public entity, nonprofit entity, law enforcement agency, or group. Third parties do not

¹ The United States Supreme Court has held that court facilities are considered nonpublic forums that are not “traditionally held open for the use of the public for expressive activities,” such as free speech demonstrations, and courts may regulate such activities in court facilities or on their curtilage. (*U.S. v. Grace* (1983) 461 U.S. 171, 178; see also *Comfort v. MacLaughlin* (C.D. Cal. 2006) 473 F.Supp.2d 1026, 1028.)

Policy for Third-Party Uses of Court Facilities

include the Judicial Council, courts, and their respective judicial officers, employees, and staff acting in their official capacities.

3. Roles and Responsibilities

3.1 Judicial Council

- 3.1.1** The Judicial Council has statutory authority and responsibility over court facilities. As the policymaking body for the judicial branch, the Judicial Council adopts policies governing court facilities including the oversight of a third party's use of space at, within, or on the buildings and grounds of court facilities.
- 3.1.2** The Judicial Council has the responsibility and authority to “[e]xercise full responsibility, jurisdiction, control, and authority as an owner would have” over trial and appellate court facilities. (Gov. Code, §§ 69204(a) & (b), 70391(a) & (b).)
- 3.1.3** The Judicial Council has the responsibility and authority to “[m]anage court facilities in consultation with the trial courts.” (Gov. Code, § 70391(g).)
- 3.1.4** Judicial Council staff have the responsibility and authority to “provide the ongoing oversight, management, operation, and maintenance” of trial court facilities that have been transferred to the Judicial Council, and to “[c]arry out the Judicial Council’s policies with regard to” trial court and appellate court facilities. (Gov. Code, §§ 69206(a), 70392(a) & (b).)
- 3.1.5** Judicial Council staff are responsible for “[t]aking action on the operation of court facilities, including the day-to-day operation of a building Judicial Council staff must, in cooperation with the court, perform its responsibilities concerning operation of the court facility to effectively and efficiently support the day-to-day operation of the court system and services of the court.” (Cal. Rules of Court, rules 10.182, 10.184.)
- 3.1.6** The Administrative Director “has sole authority to assign, supervise, and direct staff” of the Judicial Council. (Cal. Rules of Court, Appx. D, § 6.)
- 3.1.7** The Administrative Director, or their designee, is responsible for overseeing and implementing this policy.
- 3.1.8** Judicial Council staff are responsible for determining, implementing, and enforcing all terms and conditions of the agreement for a third party's use of court facilities including, without limitation, the assessment and collection of all corresponding fees.

Policy for Third-Party Uses of Court Facilities

3.1.9 Judicial Council staff is to work in collaboration with the court representative when coordinating and contracting with any third-party user of court facilities.

3.1.10 The Judicial Council may reserve the right to terminate a third-party use, with or without cause, at any time and include such terms in the third party's agreement for the use of court facilities. All agreements for the use of court facilities subject to bond indebtedness must include a Judicial Council right of termination upon no more than 50 days' prior notice or as otherwise required by the court facilities' applicable bond documents.

3.2 Courts

3.2.1 In accordance with applicable law and Judicial Council policy, a court on its own lacks authority to enter into or manage agreements for any third-party use of court facilities including those uses governed by this policy.

3.2.2 The court representative will be the primary point of contact on behalf of the court with respect to the Judicial Council's review and approval of third parties' requests for the use of court facilities.

3.2.3 The court representative must contact Judicial Council staff for assistance with requests, applications, enforcement of the agreement's terms, and any other aspects of a third party's use of court facilities.

3.2.4 The court is responsible for overseeing third parties' day-to-day usage of court facilities with Judicial Council staff's support. In the event that a third party may not be in compliance with the terms of its agreement, or a third party may be misusing the court facilities, the court representative must immediately notify Judicial Council staff. The court representative must also promptly direct all third parties using court facilities to Judicial Council staff with respect to all inquiries concerning the use of the court facilities, terms of or requested changes to the agreement, alterations and improvements to the court facilities, or other similar matters.

3.2.5 The court representative must work in collaboration with Judicial Council staff to determine if a third-party use should be terminated in accordance with the terms of the third party's agreement.

3.3 If a disagreement arises between the Judicial Council and a court with respect to the requirements, application, interpretation, or enforcement of this policy, the Judicial Council and court will attempt first to resolve the disagreement at the operating level (i.e., among the Judicial Council's Facilities Services Director and/or Real Estate Manager and the court representative). If the disagreement remains unresolved, the matter will be referred to the court's administrative presiding justice, presiding judge,

Policy for Third-Party Uses of Court Facilities

clerk/executive officer, court executive officer, or their authorized designee, as applicable, and to the Chief Administrative Officer of the Judicial Council.

4. Application Process

- 4.1 All third-party requests for the use of court facilities must be submitted to Judicial Council staff via the application.
- 4.2 Judicial Council staff will review and process the third party's application in compliance with this policy.
- 4.3 If the court receives a third-party request for use of court facilities, the court will promptly provide the third party with the application and/or direct them to Judicial Council staff for further handling.
- 4.4 The court representative must review third-party requests for the use of court facilities as part of Judicial Council staff's application process.
- 4.5 Prior to Judicial Council staff's approval of any application, the court representative will provide Judicial Council staff with the court's written consent to the third party's requested use of the court facilities if it consents to the use. The court representative must complete all portions of the application applicable to the court. Judicial Council staff will not approve the third party's application without the court's consent.
- 4.6 Third-party requests for the use of court facilities should be submitted via application with as much advance notice as possible.
- 4.7 Judicial Council staff will not be expected to approve any application unless the application is submitted in full at least **45 days before** the commencement of the third party's requested use. Judicial Council staff will endeavor to process applications as expeditiously as practicable including entering into the corresponding agreement if approved. Failure of a third party to properly submit an application for the use of court facilities at least 45 days before the use's commencement may be sufficient grounds to deny the request or application. However, any extenuating circumstances of a late submission may be considered and accommodated whenever and to the extent reasonably feasible in Judicial Council staff's discretion.

5. Considerations

- 5.1 Judicial Council staff will review and evaluate all applications based on, without limitation, the following considerations:
 - 5.1.1 Whether the space is available for the requested use.

Policy for Third-Party Uses of Court Facilities

- 5.1.2** Whether the court consents to the requested use.
- 5.1.3** Consistency with the integrity of the judicial process and the overall constitutional and statutory mission of the judicial branch.
- 5.1.4** Consistency with this policy.
- 5.1.5** Consistency with the judicial branch use of the court facilities.
- 5.1.6** Preservation of a neutral forum that is free of both actual or perceived partiality and any appearance of bias, prejudice, or favoritism.
- 5.1.7** Potential to benefit a sizeable number of persons with an interest in the judicial system.
- 5.1.8** Potential for disruption to or the impairment of proper judicial decorum, court operations, or Judicial Council business including disruptions to regular use or access of the court facilities by court personnel, judicial officers, jurors, litigants, other court users, and members of the public.
- 5.1.9** Risks to the health, safety, or security of the people and property within the court facilities and surrounding areas.
- 5.1.10** Potential costs, risk, damage, or liability to the court or the Judicial Council that may be or could become associated with or the result of the requested use.
- 5.1.11** Whether the Judicial Council or court are able to sufficiently provide any resources required to permit the requested use (e.g., security, staff escort, or custodial services).
- 5.1.12** Whether the state of repair and condition of the court facilities being requested is suitable for use in general and for the specifically requested use.
- 5.1.13** Whether alterations or other improvements to the court facilities are required to effectuate the requested use.
- 5.1.14** Whether the use is conducted for profit or associated with a private entity or activity other than uses directly relating to court operations or supporting the administration of justice.

Policy for Third-Party Uses of Court Facilities

5.1.15 Activities or uses potentially inconsistent with any constitutional, statutory, other legal requirements or prohibitions, or Judicial Council/court policies and practices.

5.2 Requests for Court-Sponsored Events

5.2.1 Events involving a third party hosting, sponsoring, or putting on the activity jointly with or cosponsored by a court at the court's facilities (regardless of whether the event relates to the administration of justice) will be treated as third-party requests for the use of court facilities. The third party involved in court-cosponsored events will be subject to the same requirements as other third-party events (i.e., application, agreement, fees, insurance, etc.) as if the court were not involved.

5.2.2 Events sponsored by a court that entail a court's use of its own court facilities for activities specifically relating to (i) court operations or (ii) the administration of justice without the involvement of a third party (regardless of a third party's incidental/ancillary attendance, participation, or presentation at such events) are outside the scope of and not subject to this policy; unlike court-cosponsored events, no application or agreement is necessary for such court-sponsored events.

5.3 Requests for Telecommunications Equipment and Rooftop Uses

5.3.1 The third-party use of court facilities for the placement, installation, maintenance, or modification of telecommunications and other equipment (including, without limitation, antennas, cabling, batteries, and support structures) will only be permitted in those cases that are absolutely necessary or critical for public welfare or that support court operations in the discretion of Judicial Council staff.

5.3.2 The third-party use of court facilities for telecommunications equipment may be permitted in instances in which (i) the use specifically and directly supports court operations for the administration of justice (such as the installation of distributed antenna systems (DAS) to strengthen signals used by court personnel, law enforcement agencies, and other court users); (ii) the use is critical to and solely for public welfare purposes such as a county's public safety radio communications system; or (iii) the use is required by law.

5.3.3 The third-party use of court facilities is not permitted in instances in which the use involves the placement, installation, maintenance, and ongoing modification of telecommunications or other equipment for private,

commercial, or other purposes that do not, in the discretion of Judicial Council staff, directly support court operations. Examples of prohibited third-party uses include, without limitation, private entities' wireless communications facilities (e.g., cell towers and antennas for long-term evolution, land mobile radio, 5G, or related future/substitute technologies) and telecommunications equipment that generally operates in a commercial capacity regardless of whether it may be used in limited circumstances for public or emergency purposes (e.g., enhanced 911 or E-911 services, FirstNet, etc.).

5.4 Requests for Commercial Filming

5.4.1 Commercial filming requests consist of the use of court facilities for commercial filming by any means including but not limited to the film, electronic, magnetic, digital, or other recording of an image by a third party for a market audience or with the intent of generating income. Examples of commercial filming requests include feature film, videography, television broadcast, documentary, or any other similar project, production, or shoot. Commercial filming activities may include the use of actors, models, sets, or props or the advertisement of a product or service. For clarification, an individual or not-for-profit entity's use of court facilities for filming purposes may be classified as commercial filming; news media requests specifically to film court proceedings governed by rule 1.150 of the California Rules of Court are not considered commercial filming.

5.4.2 Commercial filming requests must comply with the application and all other requirements applicable to other third-party uses. Commercial filming requests will be subject to the following limitations intended to maintain court facilities' non-public forum status, prioritize the intended use of court facilities, and ensure the efficient expenditure of judicial branch resources:

5.4.2.1 No commercial filming is permitted at operating (open) court facilities at any time of day, as follows: (i) no interior commercial filming; (ii) no exterior commercial filming (including parking areas and curtilage); and (iii) public sidewalks/streets are not considered part of court facilities, but any commercial filming thereon should not interrupt or interfere with court operations.

5.4.2.2 Commercial filming may be permitted at nonoperating (closed) court facilities, as follows: (i) interior commercial filming in court-approved areas and (ii) exterior commercial filming. However, commercial filming is ***never permitted*** of the seal of the court, court/building

Policy for Third-Party Uses of Court Facilities

name, judicial officers/staff, jurors, litigants, court users, other certain court images, and other limitations as may be specified by the Judicial Council or court.

5.4.2.3 Judicial Council staff is responsible for determining, in consultation with the court representative, whether and which court facilities are deemed operating (open) or nonoperating (closed).

5.4.3 Any ancillary, incidental, or noncommercial filming during a third party's otherwise permissible use of court facilities is not considered to be a commercial filming request.

6. Required Agreement for Use

6.1 All third-party users of court facilities are required to enter into an agreement with the Judicial Council for the third party's use of court facilities.

6.2 A third party may not commence its use of court facilities unless and until the third party has entered into and executed the agreement with the Judicial Council (on the Judicial Council's form), provided any required certificates of insurance, paid any corresponding fees, and satisfied all other applicable requirements for the third party's use.

6.3 Based on the type of request and use, Judicial Council staff will determine the form of and terms and conditions of the agreement, in Judicial Council staff's discretion.

7. Fees

7.1 Judicial Council staff will establish a fee structure for third-party uses of court facilities with consideration of the use, user, and market location along with the courts' needs. The fee structure will be developed in a manner that supports the operations of the judiciary, courts, and Judicial Council through the equitable, effective, and efficient assessment of fees on third-party uses as well as the prudent expenditure of judicial branch resources.

7.2 The fee schedules for third-party uses may, as applicable, be broken into those categories then pertinent for the various third-party users and their uses, as determined to be in the best interests of the Judicial Council, which categories Judicial Council staff may update and revise as needed in its discretion.

7.2.1 Judicial Council staff will determine the rates and markets of the fee structure using the data, resources, and other information reasonably available to the best of their knowledge (e.g., consulting with real estate brokers and other appropriate subject matter experts when needed), in the

Policy for Third-Party Uses of Court Facilities

best interests of the Judicial Council, and in light of the unique characteristics of the judicial branch's real estate portfolio.

- 7.2.2** When applicable to the assessment of a fee, Judicial Council staff will base fair market value on the amount that would be charged for similar uses of similar real properties in a voluntary, arm's-length transaction in which neither party is obligated to enter into or agree to the transaction. In determining fair market value, Judicial Council staff may utilize data on comparable transactions, listings, and market reports to the extent available as well as the recommendation and opinion of subject matter experts such as real estate brokers. The unique characteristics of court facilities and third parties' requested uses may impact or entirely prevent the ability to determine or assess the fair market value for particular, or entire categories of, uses of court facilities.
- 7.2.3** As part of the fee structure, Judicial Council staff may develop, maintain, and implement in its reasonable discretion a schedule of administrative charges to be assessed in addition to any required fees.
- 7.3** Notwithstanding any fees assessed on a third party, all costs and expenses of a third party's use of court facilities must be the responsibility of the third party. Any costs and expenses incurred by the Judicial Council or court because of the third party's use must be paid or reimbursed by the third party, except to the extent otherwise agreed under the terms of the third party's agreement in the reasonable discretion and best interests of the Judicial Council. Such expenses may include but are not limited to those for security and custodial services; improvements or alterations; additional or overtime staffing; increased utilities usage; all equipment, trade fixtures, and other personal property required for the third party's use; and any damage or repairs due to the third party's use.
- 7.4** If the third-party use is part of, connected to, or arises from arrangements involving special circumstances as set forth in this policy (e.g., dispositions, per a Joint Occupancy Agreement, etc.) or is an atypical or other use of court facilities that falls outside of the enumerated types/categories of uses in any fee schedules developed by Judicial Council staff, Judicial Council staff will determine the applicability of the fee structure and will proceed on a case-by-case basis in their reasonable discretion consistent with the intent of this policy.
- 7.5** Requests to waive or be relieved from the assessment of fees for a third party's use will be considered by the Administrative Director or their designee. The Administrative Director or their designee may, but is not obligated to, grant the third party a waiver of fees in an amount up to \$75,000 per fiscal year in their reasonable discretion and upon the third party's satisfactory showing of a justifiable basis or hardship. The Judicial Council's Executive

Policy for Third-Party Uses of Court Facilities

and Planning Committee may also, but is not obligated to, grant a third party's request to waive fees that exceed \$75,000 up to \$150,000 per fiscal year in its reasonable discretion and upon the third party's satisfactory showing of a justifiable basis or hardship. In reviewing any fee waivers, all pertinent circumstances will be taken into consideration including but not limited to the third party's amount/number of prior waiver requests and the use.

- 7.6** For requests to waive or be relieved from the assessment of any amounts payable/reimbursable to the court (e.g., custodial or security services), Judicial Council staff will consult with the court representative on whether the court consents to said request and proceed accordingly.

8. Policy Exclusions and Limitations

- 8.1** This policy does not apply to the following uses:

- 8.1.1** Uses of court facilities by the Judicial Council, courts, and their respective judicial officers, employees, and staff acting in their official capacities for purposes related to or concerning the administration of justice or court operations (e.g., a court staff meeting or educational workshop hosted solely by a court). Court operations include a judicial officer acting in their official capacity in their courtroom (e.g., solemnizing a marriage) when not otherwise conducted as part of a third party's special event.
- 8.1.2** Media requests to film courtroom proceedings, which are governed by rule 1.150 of the California Rules of Court.
- 8.1.3** Uses of court facilities by third parties who operate under the Department of Rehabilitation's (DOR) Business Enterprises Program or Vending Machine Unit established by state or federal law (see, e.g., Welf. & Inst. Code, § 19625; 20 U.S.C. § 107) that are administered solely by the DOR and governed by separate agreement between the Judicial Council and the DOR.

- 8.2** This policy may not apply to, or may be limited by, any court facilities subject to agreements entered into with the applicable county for the shared use of the court facilities under Government Code section 70343 (i.e., Joint Occupancy Agreements) to the extent such agreements place varying conditions on usage, user selection, facility location, revenues, or any other aspects of third-party uses. Space within any such shared-use facilities designated as county exclusive-use areas is not under the control of the Judicial Council or subject to this policy.

- 8.3** The terms of any bond (lease revenue) documents used in the financing of courthouse construction may limit the applicability of this policy to the subject court facilities or may restrict or dictate certain terms and conditions of the

Policy for Third-Party Uses of Court Facilities

third-party use of those court facilities. Such bond documents will take precedence over this policy.

- 8.4** Judicial Council staff may determine that this policy, in whole or part, is not applicable to the following special circumstances, which will be handled on a case-by-case basis:
- 8.4.1** A third-party buyer's use of court facilities as part of a disposition/sale of the court facilities being used (e.g., under a lease-to-purchase agreement);
 - 8.4.2** A county being granted additional use of court facilities under an agreement entered into in accordance with the Trial Court Facilities Act of 2002 (Gov. Code, § 70301 et seq.) (e.g., Transfer Agreement or Joint Occupancy Agreement);
 - 8.4.3** Vacant or closed court facilities that are unoccupied;
 - 8.4.4** Third-party use of court facilities incidental to the terms of a services-operations agreement with the Judicial Council or court; and
 - 8.4.5** The temporary use of court facilities associated with the Judicial Council's performance of a capital construction or other project.

[End of Policy]



Judicial Council of California

Meeting Agenda

Judicial Council

Please visit
courts website:
www.courts.ca.gov
to view live meeting on
September 19, 2023

Meeting materials
are available through
the hyperlinks in
this document.

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

*Requests for ADA accommodation should be directed to
JCCAccessCoordinator@jud.ca.gov*

Tuesday, September 19, 2023

San Francisco

CLOSED SESSION (RULE 10.6(b))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

Session: 9:00 – 9:30 a.m.

OPEN SESSION (RULE 10.6(a)) — MEETING AGENDA

A link to the live videostream will be available in the Meeting Information Center at the start of the open session. If the closed session adjourns late, the start time of the open session may be delayed.

Open Session Begins: 9:50 a.m.

Call to Order

10 minutes

Swearing in of New and Reappointed Judicial Council Members

The Chief Justice will administer the oath of office to new and reappointed council members.

10 minutes

Public Comment

10 minutes

The Judicial Council welcomes public comment on general matters of judicial administration. Written comments are encouraged in advance of the meeting for specific agenda items so council members can consider them prior to the council meeting.

For more information about meeting attendance and public comment procedures, visit:

<http://www.courts.ca.gov/28045.htm>

Submit advance requests to speak and written comments for this meeting by 1:00 p.m. on Monday, September 18, by email to:

judicialcouncil@jud.ca.gov

Chief Justice's Report

15 minutes

Administrative Director's Report

23-138 Acting Administrative Director's Report

15 minutes

CONSENT AGENDA

5 minutes

A council member may request an item be moved from the Consent Agenda to the Discussion Agenda. Please notify Josely Yangco-Fronza at 415-865-7626 at least 48 hours before the meeting.

[23-141](#) Minutes of July 21, 2023, Judicial Council Meeting

[23-160](#) Collaborative Justice | Revised Allocation Methodology for Fiscal Year 2023-24 Substance Abuse Focus Grants (Action Required)

Summary:

As part of the Budget Act of 2023, the Legislature allocated \$1.16 million for the Substance Abuse Focus Grant Program to the superior courts to maintain, expand, or enhance collaborative courts, and \$75,000 in federal Court Improvement Program funds have been made available for fiscal year 2023-24 to fund the Dependency Drug Court Augmentation. Beginning with this fiscal year and for all subsequent fiscal years, the Collaborative Justice Courts Advisory Committee recommends revising the caseload-based methodology for allocation of the grant to a population-based methodology. The recommended methodology is consistent with the methodology used in pretrial release allocations and based on the 18- to 24-year-old population by county, which will align the distribution of the funding to the population in greatest need of services.

[23-151](#)**Equal Access Fund | Distribution of Federal Coronavirus Fiscal Recovery Fund for Housing Issues (Action Required)****Summary:**

The Legal Services Trust Fund Commission recommends approval of the distribution of \$20 million of federal funding from the Coronavirus Fiscal Recovery Fund of 2021 in the State Bar of California's Equal Access Fund for distribution to legal services providers and support centers to provide assistance with housing-related issues, including eviction and other tenant defense in landlord-tenant rental disputes, as authorized by the Budget Act of 2023.

[23-157](#)**Equal Access Fund | Distribution of Funds for IOLTA-Formula Grants and Partnership Grants (Action Required)****Summary:**

The Legal Services Trust Fund Commission recommends approval of the distribution of \$40,487,700 to the State Bar of California for the 2023 Equal Access Fund Interest on Lawyers' Trust Accounts (IOLTA)-Formula Grants and Partnership Grants for distribution to legal services providers and support centers to be used for legal services in civil matters for indigent persons and self-represented litigants to improve equal access and the fair administration of justice, as authorized by the Budget Act of 2023. This amount is contingent on filing fee income received for fiscal year 2023-24, which constitutes approximately 13 percent of this allocation. In accordance with the Budget Act, the Judicial Council will also reserve approximately 3 percent of the total for administration. The Legal Services Trust Fund Commission also recommends approval of the grant awards made by the commission, which comply with statutory and other relevant guidelines.

[23-154](#)**Equal Access Fund | Distribution of Funds to the California Access to Justice Commission (Action Required)****Summary:**

The Advisory Committee on Providing Access and Fairness recommends approval of two distributions to the California Access to Justice Commission, as authorized by the Budget Act of 2023: \$5 million for grants to civil legal aid nonprofits and \$250,000 for administration of a tax advantaged student loan repayment assistance program for service providers employed by qualified legal service projects and support centers.

[23-135](#)**Facilities Services | Adopt Judicial Council Security Systems Program Policy (Action Required)****Summary:**

The Court Security Advisory Committee recommends that the Judicial Council adopt the proposed *Judicial Council Policy on Security Systems Program* at its September 2023 meeting. The policy would be used by Facilities Services staff responsible for the existing Security Systems Program, to ensure transparency and equitable distribution of funds. The adoption of a Judicial Council policy provides consistency with the other Facilities Services programs that serve the courts.

[23-127](#)**Judicial Branch Administration | Judicial Branch Contracting Manual (Action Required)****Summary:**

The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council adopt proposed revisions to the *Judicial Branch Contracting Manual*. The proposed revisions include edits to reflect new Public Contract Code provisions regarding procurement and contracting, as well as updated procedures for the advertising of procurements in the California State Contracts Register.

[23-029](#)**Jury Instructions | Criminal Jury Instructions (2023 Supplement) (Action Required)****Summary:**

The Advisory Committee on Criminal Jury Instructions recommends approving for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. These changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2023 supplement of *Judicial Council of California Criminal Jury Instructions (CALCRIM)*.

[23-150](#)**Juvenile Law | Fiscal Year 2023-24 Funding Allocation for California Court Appointed Special Advocate Association (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends approving the allocation of \$20 million in Court Appointed Special Advocate program grant funding, included in the Budget Act of 2023, to the California Court Appointed Special Advocate Association for fiscal year 2023-24.

[23-116](#)**Language Access Plan | Proposed Allocations for Signage and Technology Grant Program, Cycle 5, Fiscal Year 2023-24 (Action Required)****Summary:**

The Advisory Committee on Providing Access and Fairness and the Information Technology Advisory Committee recommend approving proposed grant awards for the Language Access Signage and Technology Grant Program of \$2.35 million to expand language access for court users. For Cycle 5 (fiscal year 2023-24), 13 courts applied for signage and technology needs. Funding of all requested court projects is recommended, and remaining funding will support 4 additional courts that applied for grants under different but related grant opportunities.

[23-149](#)**Rules and Forms | Appellate Procedure: Attachment of Trial Court Order to Petition for Review of Summary Denial of Writ Petition (Action Required)****Summary:**

The Appellate Advisory Committee recommends amending the rule of court governing petitions for review in the Supreme Court to provide for attachment of the entire trial court order when the petitioner seeks review of a Court of Appeal summary denial of a writ petition. This change will facilitate review on the merits and streamline procedures. When the Court of Appeal summarily denies a writ petition, the underlying trial court order is necessary to identify the issues in dispute. Under the current rule, however, a petitioner cannot attach a trial court order that exceeds 10 pages to a petition for review without first requesting and obtaining the permission of the Chief Justice.

[23-144](#)**Rules and Forms | Appellate Procedure: Forms for Extension of Time (Action Required)****Summary:**

The Appellate Advisory Committee recommends revising the forms used to request an extension of time to file a brief in the Court of Appeal and the appellate division of the superior court to ensure that courts receive sufficient information to determine whether good cause exists for an extension. The recommended revisions would (1) add an item on the civil forms to indicate that the case is entitled to, or has been granted, calendar preference or priority; and (2) revise the item where the applicant explains why good cause exists for an extension to direct the applicant to address the relevant factors a court will use in ruling on the motion. Additionally, minor additions or corrections are being recommended to each form.

[23-145](#)**Rules and Forms | Appellate Procedure: Notice of Appeal (Action Required)****Summary:**

The Appellate Advisory Committee recommends revising *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* (form APP-002) and *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to (1) include an item by which an attorney can join the appeal to challenge an order directing payment of sanctions by the attorney; (2) add an optional item by which the appellant can attach a copy of the judgment or order being appealed; and (3) on form APP-002, reorganize item 1 to ensure that the item requesting the date of the judgment or order being appealed was entered is not overlooked.

[23-143](#)**Rules and Forms | Appellate Procedure: Time for Electing and Filing an Appendix (Action Required)****Summary:**

The Appellate Advisory Committee recommends amending two rules of court regarding appendixes to allow appellants to file an appendix before filing an opening brief and to allow respondents to elect an appendix when their other record designations are due. These amendments are intended to assist courts and litigants by permitting earlier filing of an appendix and to provide respondents the opportunity to elect an appendix after receiving notice that the appellant has designated a clerk's transcript. The committee also recommends revising four forms to reflect the rule changes and revoking two forms that would no longer be necessary.

[23-172](#)**Rules and Forms | Child Support: Implementing Amendments to Family Code Section 4007.5 (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee proposes revising several forms in order to provide court users and the public with updated information regarding relief available to incarcerated or involuntarily institutionalized child support obligors. The proposed revisions are necessary to reflect recent amendments made to Family Code section 4007.5.

[23-167](#)**Rules and Forms | Civil Practice and Procedure: Appointment of Guardian ad Litem (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee propose adopting one form, revising two forms, revising and renumbering one form, and revoking one form to reflect a change in the law and to clarify and modernize the existing forms. The mandatory forms in the proposal are used to apply for and order the appointment of a guardian ad litem in a civil action or proceeding, including a family law proceeding, and in a proceeding under the Probate Code.

[23-133](#)**Rules and Forms | Civil Practice and Procedure: Form Revisions to Implement Senate Bill 1200 (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends revising ten Judicial Council forms and revoking one form to implement statutory changes made by Senate Bill 1200 (Stats. 2022, ch. 883), enacted September 30, 2022. SB 1200 limits the ability of a judgment creditor to renew or bring an action on a money judgment and lowers the applicable rate of postjudgment interest where the judgment and unsatisfied principal amount of the judgment meet certain criteria. The recommended revisions to the forms implement these statutory changes.

[23-130](#)**Rules and Forms | Criminal Law: Circumstances in Aggravation (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends revisions to the optional Judicial Council felony plea form to reflect statutory changes regarding the right to trial on aggravating circumstances in order to justify imposition of the upper term of a criminal

offense or enhancement, and to improve consistency throughout the form.

[23-125](#)**Rules and Forms | Criminal Procedure: Appointment of Trial Counsel in Capital Cases (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends amending the rule governing qualifications for appointed trial counsel in capital cases. This amendment would clarify that the requirement for appointment of qualified counsel applies in all capital cases unless the district attorney affirmatively states on the record that the death penalty will not be sought.

[23-040](#)**Rules and Forms | Criminal Procedure: Petition for Resentencing Based on Health Conditions Due to Military Service (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends revising the optional Judicial Council petition for resentencing based on health conditions due to military service to reflect statutory changes expanding eligibility for relief and clarifying that relief is available for health conditions discovered after sentencing.

[23-173](#)**Rules and Forms | Criminal Procedure: Record Cleaning Forms (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends revising optional criminal forms used to petition for dismissals and reductions of convictions and request sealing of arrest records. The proposed revisions reflect recent statutory changes that allow for automatic record relief, expand who is eligible for relief, and clarify the effect of relief granted.

[23-170](#)**Rules and Forms | Domestic Violence: Form Changes to Implement New Laws (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends revising 14 domestic violence restraining order forms to implement Assembly Bill 2369, Senate Bill 935, and Assembly Bill 1621. The committee also recommends adopting 2 new forms that would be used to continue a hearing on a request to renew a restraining order.

[23-163](#)**Rules and Forms | Family and Juvenile Law: Implementation of Assembly Bill 2495 (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending one rule of the California Rules of Court and revising five forms to conform with recent statutory changes enacted by Assembly Bill 2495 (Patterson; Stats. 2022, ch. 159) regarding various topics related to adoptions, including when to display a child's preadoption name on the adoption request and order forms, procedures for filing a postadoption contact order, and venue for adoption requests. The committee also recommends technical changes to the forms to correct errors and respond to partner and stakeholder feedback.

[23-162](#)**Rules and Forms | Family Law: Child Custody and Visitation Orders Involving Gender-Affirming Health Care (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending one rule of court, effective January 1, 2024, to implement Senate Bill 107 (Stats. 2022, ch. 810). Senate Bill 107 amends Family Code sections 3421 and 3424 and enacts a new public policy in Family Code section 3453.5 that supports a parent's ability to seek gender-affirming health care or gender-affirming mental health care for a child in the state of California without penalty. The amendments to the rule would provide procedures for situations in which a parent seeks emergency child custody or visitation orders in family court because the laws of another state prohibit that parent from providing gender-affirming health care or gender-affirming mental health care for their child.

[23-161](#)**Rules and Forms | Family Law: Summary Dissolution Forms (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends revising two family law summary dissolution forms, which are mandated by Family Code section 2400, to reflect an increase in the California Consumer Price Index. The committee also recommends additional changes to the forms to respond to issues raised by court professionals that will help joint petitioners more accurately complete and file the forms needed to request a summary dissolution judgment.

[23-171](#)**Rules and Forms | Indian Child Welfare Act (ICWA): Discretionary Tribal Participation (Action Required)****Summary:**

Although California law protects the relationship between tribes and their children beyond the scope of the Indian Child Welfare Act (ICWA) and permits tribal participation in juvenile cases in various situations where ICWA does not apply, tribal leaders and other advocates report that courts often decline to permit tribes to participate in juvenile cases if ICWA does not apply. The Tribal Court-State Court Forum and the Family and Juvenile Law Advisory Committee recommend amending two rules of court and approving a form to clarify the process and set standards consistent with California statutes for the court's exercise of discretion to permit the participation of a tribe in juvenile cases involving a child affiliated with the tribe, even when there is no express statutory right to participate or intervene under ICWA and Welfare and Institutions Code section 224.4.

[23-129](#)**Rules and Forms | Judicial Branch Education: Delivery Methods Defined (Action Required)****Summary:**

The Center for Judicial Education and Research Advisory Committee recommends amending rule 10.493 of the California Rules of Court to provide extended definitions to terms used in a slate of education rule amendments adopted by the Judicial Council effective January 1, 2023. This proposal is based on public comments received in 2022 on that slate of amendments.

[23-165](#)**Rules and Forms | Juvenile Law: Counsel Collections Program Guidelines (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending *Guidelines for the Juvenile Dependency Counsel Collections Program (Guidelines)*, Appendix F of the California Rules of Court, which addresses reimbursement to the court for the cost of appointed counsel in dependency matters, including setting an income level below which responsible persons are presumed unable to pay for this cost. The income level is based on the statute that addresses eligibility for a fee waiver, which was recently amended to increase the threshold income for a fee waiver from 125 percent of the federal poverty guidelines to 200 percent. Amending the *Guidelines* would maintain consistency with this statute.

[23-166](#)**Rules and Forms | Juvenile Law: Family Finding and Engagement (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending four rules to conform to recent statutory changes clarifying the due diligence that must be used by a social services agency or probation department in performing its family finding obligation when a child is removed from the home. Senate Bill 384 (Stats. 2022, ch. 811) expands the obligation of the placing agency to engage in family finding in dependency and delinquency cases. In addition to the existing duty to ask the child in an age-appropriate manner about parents and adult relatives, due diligence now also requires a social worker or probation officer to use a computer-based search engine to identify relatives and kin to provide family support and possible placement for the child. In the case of an Indian child, the legislation clarifies that the placing agency must contact the child's tribe to help identify relatives and kin. The committee also recommends revising one form to include an item setting forth the court's findings as to whether the probation department exercised due diligence in family finding as required by provisions in Family Code section 7950.

[23-164](#)**Rules and Forms | Juvenile Law: Psychiatric Residential Treatment Facility Voluntary Admission (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends adopting one rule of court and six forms to conform to recent statutory changes enacted by Assembly Bill 2317 (Ramos; Stats. 2022, ch. 589) regarding court oversight of the voluntary admission of a child, nonminor, or nonminor dependent to a psychiatric residential treatment facility.

[23-142](#)**Rules and Forms | Miscellaneous Technical Changes (Action Required)****Summary:**

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from input errors, as well as minor changes needed to conform to changes in law or previous council actions. Judicial Council staff recommend making the necessary corrections to ensure that the rules and forms conform to law and to avoid

causing confusion for court users, clerks, and judicial officers.

[23-159](#)**Rules and Forms | Miscellaneous Technical Changes to Traffic Rules and Forms (Action Required)****Summary:**

The Traffic Advisory Committee recommends amending one rule of court and revising five traffic forms to incorporate changes resulting from legislation and correct a statutory reference. These changes are technical, minor, and noncontroversial. The committee recommends making the necessary corrections to conform to statutes and avoid causing confusion for court users, clerks, and judicial officers.

[23-146](#)**Rules and Forms | Opportunities for Settlement Before Trial in Unlawful Detainer Cases (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends a new rule of court and a new form for optional use in unlawful detainer cases to promote settlement opportunities using alternative dispute resolution processes. The new rule states a policy favoring at least one opportunity for participation in some form of pretrial dispute resolution and would allow a court to shorten the existing deadline for submitting a mandatory settlement conference statement. The new form allows parties to submit to the court a settlement agreement and ask for either an order without judgment or a stipulated judgment. The new rule and optional form are intended to increase settlement opportunities in eviction cases and to promote consistency throughout the state.

[23-169](#)**Rules and Forms | Probate Conservatorship and Guardianship: Eligibility for County Payment of Cost of Appointed Counsel (Action Required)****Summary:**

The Probate and Mental Health Advisory Committee recommends amending the *Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law (Guidelines)*, Appendix E of the California Rules of Court, to update the criteria for establishing presumptive eligibility for county payment of the cost of court-appointed counsel and to make a minor technical revision. The recommendation maintains the Judicial Council's policy of basing the criteria for presumptive eligibility for county payment on the conditions for granting an initial court fee waiver under Government Code section 68632(a)-(c) by adjusting the criteria in the *Guidelines* to conform to recent amendments to that statute.

[23-168](#)**Rules and Forms | Probate Conservatorship: Less Restrictive Alternatives (Action Required)****Summary:**

The Probate and Mental Health Advisory Committee recommends amending three rules of court and revising one form in response to recent legislative changes to conservatorship law. The rule amendments implement legislation that requires education on alternatives to conservatorship for judicial officers assigned to probate, probate staff attorneys, probate examiners, court investigators, and counsel appointed

in probate conservatorship proceedings. Revisions to the form implement legislation that requires supplemental information provided to the court by the petitioner or proposed conservator to specify clearly and discuss in detail the less restrictive alternatives to a conservatorship that were considered or tried before the filing of the petition. Additional revisions to the form would identify the person completing the form, divide the information to be provided about the reasons for conservatorship into more specific categories, and solicit information about the proposed conservatee's knowledge and opinion of the conservatorship.

[23-153](#)**Rules and Forms | Protective Orders: Revisions to Gun Violence Restraining Order Forms (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends the adoption and revision of numerous gun violence restraining order forms. These new and revised forms implement Assembly Bill 2870 (Stats. 2022, ch. 974) permitting additional categories of individuals to petition for gun violence restraining orders. The forms also bring the language describing firearm parts on gun violence restraining order forms in line with other protective order forms, can be used to request continuance of a hearing to renew a gun violence protective order, and clarify that no additional proof of service is required if the respondent attends the hearing where the order was issued remotely.

[23-158](#)**Rules and Forms | Protective Orders: Service Requirements After Remote Appearances (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adopting two California Rules of Court and revising 10 notice and order forms to clarify the service requirements for respondents who appear remotely in protective order proceedings. The committees make this recommendation because the statutory authority governing service of protective orders after hearing does not indicate the type of service required if the respondent appears remotely at the hearing.

[23-156](#)**Rules and Forms | Protective Orders: Updated Law Enforcement Information Form and New Request Forms for Continuances (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee recommend revising form CLETS-001 to make needed updates and adopting new forms to be used when a request to renew has been filed in a protective order proceeding, and the court or a party wishes to continue a hearing.

[23-174](#)**Rules and Forms | Traffic: Notice to Appear Forms (Action Required)****Summary:**

The Traffic Advisory Committee recommends amending a rule of court, revising the notice to appear form (commonly known as a “citation” or “traffic ticket”) and revoking two redundant versions, revising the notice to correct violation, and revising the related instructions form. These changes are recommended to reflect recent statutory changes, improve litigants’ understanding of the citation, and avoid redundant form requirements.

[23-148](#)**Rules and Forms | Trial Courts: Exceptional Criminal Case Reporting (Action Required)****Summary:**

The Court Executives Advisory Committee recommends that the Judicial Council amend the standard of judicial administration that provides guidance on trial court case disposition time goals to repeal a subdivision that advises trial courts to report exceptional criminal case aging. This subdivision is confusing because there is no definition of exceptional criminal cases nor any specific time standards associated with these cases. Eliminating this subdivision is intended to clarify required data reporting.

[23-039](#)**Rules and Forms | Trial Courts: Report of Determinations Affecting Voting Rights (Action Required)****Summary:**

The Probate and Mental Health Advisory Committee and the Criminal Law Advisory Committee recommend one rule of court and two forms to implement Assembly Bill 2841, which requires the trial courts to report to the Secretary of State judicial determinations under Elections Code sections 2208-2211 disqualifying a person from voting or restoring a person’s right to register to vote. The legislation expressly required the Judicial Council to adopt rules and forms, including a mandatory form for the courts to use to furnish the required reports.

[23-152](#)**Rules and Forms | Unlawful Detainer: Forms to Reflect Existing Law and Implement Senate Bill 1017 and Assembly Bill 1726 (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends the approval of one and revision of five unlawful detainer forms. These new and revised forms (1) implement a new law creating a new procedure for partial evictions, (2) implement a new law providing additional time for certain defendants to respond to a summons for unlawful detainer, and (3) update the forms to reflect current law regarding COVID-19 rental protections.

[23-134](#)**Trial Court Budget | Allocation Methodologies for SB 154 and SB 101 Backfill Funding (Action Required)****Summary:**

The Trial Court Budget Advisory Committee recommends the Judicial Council approve the allocation methodologies to provide trial court backfill funding for: 1) fee waiver changes included in the 2022 Budget Act (Senate Bill (SB) 154, Ch. 43, Stats. 2022) for 2022-23 and ongoing and 2) elimination of certain criminal fees

included in the 2023 Budget Act (SB 101, Ch. 12, Stats. 2023) for 2023-24 and ongoing.

[23-155](#)**Trial Court Budget | Fiscal Year 2023-24 Allocation of CARE Act Funding (Action Required)****Summary:**

The Trial Court Budget Advisory Committee (TCBAC) recommends allocating the funding included in the 2023 Budget Act to support the addition of the Superior Court of California, County of Los Angeles, to the courts implementing the Community Assistance, Recovery, and Empowerment (CARE) Act in fiscal year 2023-24.

DISCUSSION AGENDA[23-147](#)**Report on the California Community Correction Performance Incentives Act of 2009: Findings from the SB 678 Program (2023) (No Action Required)****Summary:**

Penal Code section 1232 requires the Judicial Council to submit an annual report to the Legislature on the implementation of the California Community Corrections Performance Incentives Act of 2009 (Stats. 2009, ch. 608). The legislation seeks to alleviate state prison overcrowding by reducing the number of individuals on felony supervision who are sent there. The program is also designed to encourage county probation departments to use evidence-based supervision practices to accomplish these goals. This report includes background information about the act, describes policy changes that impacted the ongoing implementation of the program, and presents findings related to program outcomes. In previous years, the report included recommendations for program improvement; those recommendations have been largely implemented. Thus, this year's report does not contain recommendations.

Speakers:

Ms. Karen Pank, Executive Director, Chief Probation Officers of California
Ms. Francine Byrne, Criminal Justice Services

20 minutes

23-139**Data Analytics Pilots: Progress Report and Future Planning (No Report. No Action Required.)****Summary:**

Overview of the data analytics pilots findings to date and preview of future activities.

Speakers:

Hon. Joyce D. Hinrichs, Chair, Data Analytics Advisory Committee
Ms. Leah Rose-Goodwin, Business Management Services

15 minutes

[23-176](#)**Judicial Council | Policy on Remote Access to Electronic Court Records (Action Required)****Summary:**

The Ad Hoc Workgroup on Post-Pandemic Initiatives recommends adopting *Remote Access to Electronic Court Records--Policy, Rationale, and Guidance* to outline the roles and responsibilities of the Judicial Council going forward concerning rules and statutes relating to remote access to electronic court records. The proposed policy would provide guidance to the council's advisory bodies as they consider pending legislation, proposals for new legislation or rules of court, or any other action that implicates remote access to electronic court records. The workgroup also recommends that the council establish an advisory body to consider whether any recommendations to the council regarding the existing remote access rules of court are appropriate, consistent with the proposed policy.

Speakers:

Hon. Brad R. Hill, Administrative Presiding Justice, Court of Appeal, Fifth Appellate District
Hon. Marla O. Anderson, Judge, Superior Court of Monterey County
Ms. Saskia Kim, Executive Office

20 minutes

[23-131](#)**Court Facilities | Request to Name Fourth Appellate District Courthouse in Santa Ana (Action Required)****Summary:**

The Court Facilities Advisory Committee and its Subcommittee on Courthouse Names recommend approving the request of the Court of Appeal, Fourth Appellate District, Division Three to name the existing appellate courthouse in the City of Santa Ana as the Cruz Reynoso Courthouse. This approval provides a name for the existing courthouse that honors Justice Reynoso's service with distinction to the California Court of Appeal and the Supreme Court of California.

Speakers:

Hon. Brad R. Hill, Chair, Court Facilities Advisory Committee
Hon. Kathleen E. O'Leary, Presiding Justice, Court of Appeal, Fourth Appellate District, Division Three

10 minutes

[23-132](#)**Court Facilities | Request to Name New Courthouse in Downtown Sacramento (Action Required)****Summary:**

The Court Facilities Advisory Committee and its Subcommittee on Courthouse Names will make a recommendation on the name for the superior courthouse under construction in downtown Sacramento. The recommendation from these committees will be made following discussion of this topic at their public meeting, which will be held August 24, 2023.

Speakers:

Hon. Brad R. Hill, Chair, Court Facilities Advisory Committee
Hon. Shama Hakim Mesiwala, Associate Justice, Court of Appeal, Third Appellate District

10 minutes

Note for 23-132: JC report pending and will be considered by the Executive and Planning Committee at a later date.

**23-137 Power of Democracy Civic Learning Initiative
(No Report. No Action Required)****Summary:**

Since its inception in 2013, the Power of Democracy Steering Committee, under the leadership of Justice Judith McConnell has piloted programs to facilitate court-classroom connections, including the Civic Learning Awards and Judges in the Classroom. The Judicial Council will receive information on the achievements of these programs, and future implementation plans under Chief Justice Patricia Guerrero. Further, recommendations outlined in the 2014 K-12 Task Force Report on Civic Learning and requiring branch support will be reviewed.

Speakers:

Hon. Judith McConnell, Chair, Power of Democracy Civic Learning Initiative Steering Committee
Ms. Penne Soltysik, Public Affairs

15 minutes

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**[23-005](#)****Court Facilities | Trial Court Facility Modifications Report for Quarter 4 and Annual Summary for Fiscal Year 2022-23****Summary:**

This informational report to the Judicial Council outlines (1) allocations of facility modification funding made to improve trial court facilities in the fourth quarter (April through June) of fiscal year 2022-23, and (2) a summary of all funding allocations during the fiscal year. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

[23-037](#)**Report to the Legislature | Cash Flow Loans Made to Courts in 2022-23****Summary:**

Pursuant to Government Code section 68502.6(d), the Judicial Council is required to report to the Legislature annually on all cash flow loans made to the courts. There were no loans made to the trial courts in 2022-23. On or before August 30, 2023, Judicial Council staff submitted the report *Cash Flow Loans Made to Courts in 2022-23*.

[23-178](#)**Report to the Legislature | Standards of Timely Disposition Published in the 2023 Court Statistics Report****Summary:**

Government Code section 68604 requires the Judicial Council to report biennially regarding the standards of timely disposition adopted pursuant to section 68603. On September 18, 2023, Judicial Council staff will submit to the Legislature the already-published report *2023 Court Statistics Report*, which contains case-processing and time-to-disposition statistics that meet the reporting requirements of Government Code section 68604.

[23-038](#)**Trial Courts | Annual Investment Report for Fiscal Year 2022-23****Summary:**

This annual investment report covers the period from July 1, 2022, through June 30, 2023, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under the Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

[23-136](#)**Trial Courts | Public Notice by Courts of Closures or Reduced Clerks' Office Hours****Summary:**

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) the council to post all such notices on its website and relay them to the Legislature. This report lists the latest court notices received by the council under this statutory requirement. Since the previous report, one superior court--the Superior Court of Fresno County--has issued a new notice.

Judicial Council Internal Committee Reports**23-140****Written Reports****Circulating Orders****23-112****Circulating Orders since the last business meeting.****Appointment Orders****23-177****Appointment Orders since the last business meeting.****Adjournment**