



JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

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TRIBAL COURT-STATE COURT FORUM

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 ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: February 11, 2021
Time: 12:15-1:15 p.m.
Public Call-in Number: 877-820-7831; Passcode; passcode 4133250 (Listen Only)

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 an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to forum@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 minutes of the December 10, 2020, Tribal Court-State Court Forum meeting.

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

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting only in writing. In accordance with California Rules of Court, rule 10.75(k)(1), 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 e-mailed to forum@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ann Gilmour. Only written comments received by 12:15 p.m. on February 10, 2021 will be provided to advisory body members prior to the start of the meeting.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1

Cochairs Report

- Approval of Minutes for December 10, 2020 Meeting;
- Introduction of new Forum member.

Info 2

Proposed Legislation – Students in Foster Care: Tribal Youth

Presenters: Kimberley Cluff, Legal Director, California Tribal Families Coalition

Info 3

Overview of Center for Judicial Education and Research (CJER)

Presenter: Hon. Robert J. Trentacosta, Judge of the Superior Court of California, County of San Diego

Info 4

Legislative Update

Presenter: Andi Liebenbaum, Attorney, Office of Governmental Affairs

IV. ACTION ITEMS

Action Item 1

Rules Proposal - Indian Child Welfare Act (ICWA): Implementation of AB 3176 in Probate Guardianships and Conservatorships

Presenter: Corby Sturges, Attorney, Center for Families, Children and the Courts, Judicial Council of California

V. ADJOURNMENT

Adjourn

Announcement and Condolences

We announce with much sadness and grief that Tribal Court-State Court Forum Member, Judge Claudette White, passed away on Saturday, February 6, 2021 from COVID-19 complications. Many of you may remember her from the Beyond the Bench featured documentary, "[Tribal Justice](#)", which highlighted to worldwide audiences the value, traditions and innovation of tribal justice systems while serving as Chief Judge of the Quechan Tribal Court. Judge White was an incredible person that left a great legacy for all of our communities and our Forum. Her contributions to violence and trafficking prevention paved the way for our Forum and we will continue to honor her work in the future. An Agave Community Fund established for her family: <https://charity.gofundme.com/o/en/campaign/community-grant-for-claudette-white>





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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

December 10, 2020
12:15-1:15 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair*, Hon. Erin Alexander, Hon. Gail Dekreon, Hon. Leonard Edwards (Ret.), Hon. Mark Juhas, Hon. Kristina Kalka, Hon. Lawrence King, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Ms. Merri Lopez-Keifer, Hon. Delia Sharpe, Hon. Cindy Smith, Hon. Sunshine Sykes, Hon. Mark Vezzola, Hon. Christine Williams.

Advisory Body Members Absent: *Hon. Suzanne Kingsbury, Cochair*, Hon. Richard Blake, Hon. April Attebury, Hon. Hilary Chittick, Hon. Leona Colegrove, Hon. Gregory Elvine-Kreis, Hon. Patricia Guerrero, Ms. Heather Hostler, Commissioner Jayne Lee, Hon. Gilbert Ochoa, Hon. Michael Sachs, Ms. Christina Snider, Hon. Robert Trentacosta, Hon. Juan Ulloa, Hon. Claudette White, Hon. Joseph Wiseman.

Others Present: Ms. Vida Castaneda, Ms. Audrey Fancy, Ms. Ann Gilmour, Ms. Andi Liebenbaum, Ms. Amanda Morris

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 12:16 p.m.

Approval of Minutes

The Forum approved the October 8, 2020 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

Info 1

Co-Chairs Report

The Forum approved the October 8, 2020 meeting minutes

Info 2

Planning for Virtual Meetings in the Spring & Annual Agenda Discussion

Presenters: All

The committee members were updated on the 2021 Tribal Court – State Court Forum annual agenda. This year’s annual agenda will be more narrowly focused on projects that address

problems that arose from the COVID 19 pandemic and not on projects that may take up more court resources.

In-person meetings of the Tribal Court – State Court Forum have been suspended for the foreseeable future. Plans of holding several 2-hour virtual meetings instead of one all-day meeting are taking place.

Several members suggested contacting Greg Rose to speak at one of these 2-hour meetings to speak on the Family First Act.

Info 3

California Social Work Education Center: Title IV-E ICWA Modules

Presenter: Vida Castaneda, Senior Analyst, Center for Families, Children and the Courts, Judicial Council of California

Vida Castaneda updated the committee members on modules created to help social worker students to understand Title IV-E ICWA. Resources included professors include lesson plans and handouts. The modules provide a foundation for students to understand the history of Native Americans within the system and allows them to approach Native American families with cultural/historical sensitivity.

Info 4

Tribal State Programs Staff Updates: ICWA Best Practices Guide, Podcasts

*Presenters: Vida Castaneda, Senior Analyst, Center for Families, Children and the Courts, Judicial Council of California
Ann Gilmour, Attorney, Center for Families, Children and the Courts, Judicial Council of California*

Discussion was deferred for a later date.

Info 5

San Diego County Tribal Collaborative Initiative

Presenters: Hon. Ana Espana, Presiding Juvenile Court Judge, Superior Court of California, County of San Diego; Hon. Devon Lomayesva, Chief Judge of the Intertribal Court of Southern California

Judge Ana Espana and Judge Devon Lomayesva informed the committee members about the San Diego County Tribal Collaborative Initiative they created two months ago with the first meeting set to occur in January 2021. Data collected by the initiative is already showing results on identification efforts of native youth in the system. While this initiative is specific to San Diego County, once the program is up and running there is hope of expanding statewide.

Next Forum call is February 11, 2020.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:01 p.m.

Pending approval by the advisory body on _____.

DRAFT

SUMMARY

Research has shown that students in foster care are one of the most vulnerable and lowest performing student groups in California and nationwide. Changes in education legislation and funding formulas over the last few years have required that students in foster care be considered a separate subgroup and that specific supports and resources be provided to them, along with a series of entitlements to improve their educational outcomes. AB1962 (Wood) extended these entitlements to students under the jurisdiction of Tribal Courts.

AB XXX will build on AB1962 to ensure that youth under the authority of a Tribal Court will not only be included in the definition of a student in foster care, but the bill will recognize the sovereignty of the tribes, defer to federal standards and honor tribal rights to choose to identify their students to their school districts. In addition, it will enable students in foster care under the jurisdiction of a tribal court to receive all entitlements afforded all students in foster care in California.

PROBLEM

Until AB1962, one group of students in foster care, those under the jurisdiction of a Tribal Court, had been excluded from the definition of students in foster care in the California Education Code. This discrepancy, leaving tribal foster youth out of this key definition led to students under the jurisdiction of a Tribal Court, being counted for the purposes of LCFF but not afforded the supports, services, and entitlements provided to other students in foster care. These include but are not limited to:

- ♦ **Right to Remain in School of origin** (48853.5. (f) (1))
- ♦ **Right to Immediate enrollment** (48853.5. (f)(8)(b))
- ♦ **2-day record transfers** (49069.5 (d))
- ♦ **Grades cannot be lowered due to absences related to a placement change or court-ordered activity** (49069.5 (g)(h))
- ♦ **Partial credits** (51225.2)
- ♦ **Right to graduate with the state minimum requirements or stay in high school for fifth year** (51125.1(a)-(b))
- ♦ **Right to access to same resources, services, sports/extracurriculars and enrichment activities as other pupils, regardless of residency** (48850(a))
- ♦ Notification manifestation hearing or expulsion
- ♦ Least restrictive educational environment.

ABXX will build on AB1962 to both clarify the youth for whom these entitlements apply, including students that

are candidates for Tribal Court foster care consistent with the federal Family First Prevention Services Act and will clarify the process by which information about a Tribal Court youth is communicated between the Tribe and the LEA.

SOLUTION

Define students in foster care consistently across all Education Code sections including in such definition federal standards for youth that are subject to Tribal Court jurisdiction. This will ensure that students in foster care under the jurisdiction of a Tribal Court will receive all supports, services and entitlements that are afforded all students in foster care, ensure the process defers to Tribal Court findings and incorporates federal standards. In addition, the proposed language relieves LEAs of the obligation to identify students under the jurisdiction of a Tribal Court and instead allows the identification and notice to the LEA to be initiated by the Tribe.

SUPPORT

Text placeholder

FOR MORE INFORMATION

Text placeholder


Center for Judicial Education and Research Advisory Committee

Purpose:

To develop and deliver education to members of the California Judicial Branch.

Date Established:

January 1, 1993 as an Advisory Committee to the Judicial Branch. Originally created in 1973 via agreement between the Judicial Council and the California Judges Association.

Key projects of this advisory body are outlined in the [annual agenda](#) .

[Expand All](#)

[Collapse All](#)

Meetings

Members




Curriculum Committees

About

Meetings

September 24, 2020 Meeting

12:00 p.m. - 1:00 p.m.

- [Notice and Agenda](#) 
- [Materials](#) 
- [Minutes](#) 

[Past Center for Judicial Education and Research Advisory Committee Meetings](#)

Members

The 16 member advisory committee is comprised of Appellate Court Justices, Superior Court Judges, court executives and advisory staff from the Judicial Council of California and reports directly to the Judicial Council. Members are appointed by the Chief Justice for a three-year term. The current membership terms run through October of each year.

Download the [Committee Roster](#) .

- **Hon. Kimberly A. Gaab**, Chair, Judge of the Superior Court of California, County of Fresno
- **Hon. Darrell S. Mavis**, Vice-Chair, Judge of the Superior Court of California, County of Los Angeles
- **Hon. Michele M. Castillo**, Judge of the Superior Court of California, County of Ventura
- **Mr. Joseph Ford**, Assistant Court Executive Officer, Superior Court of California, County of Placer
- **Hon. Janet Gaard (Ret.)**, Superior Court of California, County of Yolo
- **Mr. Jason Galkin**, Court Executive Officer, Superior Court of California, County of Colusa
- **Hon. Richard D. Huffman**, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One
- **Hon. Mark A. Juhas**, Judge of the Superior Court of California, County of Los Angeles
- **Hon. Michael A. Knish**, Judge of the Superior Court of California, County of San Bernardino
- **Mr. Kevin J. Lane**, Clerk/Administrator Court of Appeal, Fourth Appellate District, Division One
- **Hon. Mary Ann O'Malley**, Judge of the Superior Court of California, County of Contra Costa
- **Hon. Gayle L. Peron**, Judge of the Superior Court of California, County of San Luis Obispo
- **Hon. Robert J. Trentacosta**, Judge of the Superior Court of California, County of San Diego
- **Dr. Cindy Van Schooten**, Assistant Court Executive Officer, Superior Court of California, County of Shasta
- **Hon. Daniel Zeke Zeidler**, Judge of the Superior Court of California, County of Los Angeles

Advisory Members

- **Hon. Carlos M. Cabrera**, Judge of the Superior Court of California, County of San Bernardino
- **Hon. Michael A. Fagalde**, Presiding Judge of the Superior Court of California, County of Mariposa
- **Hon. Michael S. Groch**, Judge of the Superior Court of California, County of San Diego
- **Mr. Martin Hoshino**, Administrative Director, Executive Office, Judicial Council of California

Judicial Council Staff to the Committee

- **Ms. Karene Alvarado**, Director, Center for Judicial Education and Research, Judicial Council of California
- **Dr. Mary Ann Koory**, Education Supervisor, Center for Judicial Education and Research, Judicial Council of California
- **Ms. Hazel Houle**, Executive Secretary, Center for Judicial Education and Research, Judicial Council of California

Curriculum Committees

- Appellate Practice Curriculum Committee
- Civil Law Curriculum Committee
- Criminal Law Curriculum Committee
- Family Law Curriculum Committee
- Judicial Branch Ethics and Fairness Curriculum Committee
- Judicial Branch Leadership Development Curriculum Committee
- Juvenile Law Curriculum Committee
- Probate Law Curriculum Committee
- Trial and Appellate Court Operations Curriculum Committee

[Developing Curriculum-Based Education With Curriculum Committees](#) 

About

In 1973, the Judicial Council of California and the California Judges Association created the Center for Judicial Education and Research (CJER). CJER was governed by the Governing Committee of CJER, which was made an advisory committee to the Judicial Council in 1993 when CJER became an office at the Judicial Council. The committee was renamed the CJER Advisory Committee in January 2019.

The committee makes recommendations to the council for improving the administration of justice through comprehensive and quality education and training for judicial officers and other judicial branch personnel. The committee also recommends rules, standards, policies, and procedures for judicial branch education; recommends a strategic long-range plan for judicial branch education; evaluates the effectiveness of judicial branch education, the quality of participation, the efficiency of delivery, and the impact on service to the public; reviews and comments on proposals from other advisory committees and task forces that include education and training of judicial officers or court staff in order to ensure coordination, consistency, and collaboration in educational services; establishes educational priorities for implementation of curricula, programs, publications, and delivery systems; identifies the need for and appoint education committees to implement the priorities, long-range plan, and programs and products of judicial branch education; creates and adopts procedures for their operation; and reviews and approves their projects and products; identifies and fosters collaborative opportunities with courts to promote and ensure the availability of training at the local court level; identifies, analyzes, and implements systems to enhance the delivery of education and training statewide; and identifies and fosters collaborative opportunities with internal and external partners to maximize the resources dedicated to education and training.

Contact Information

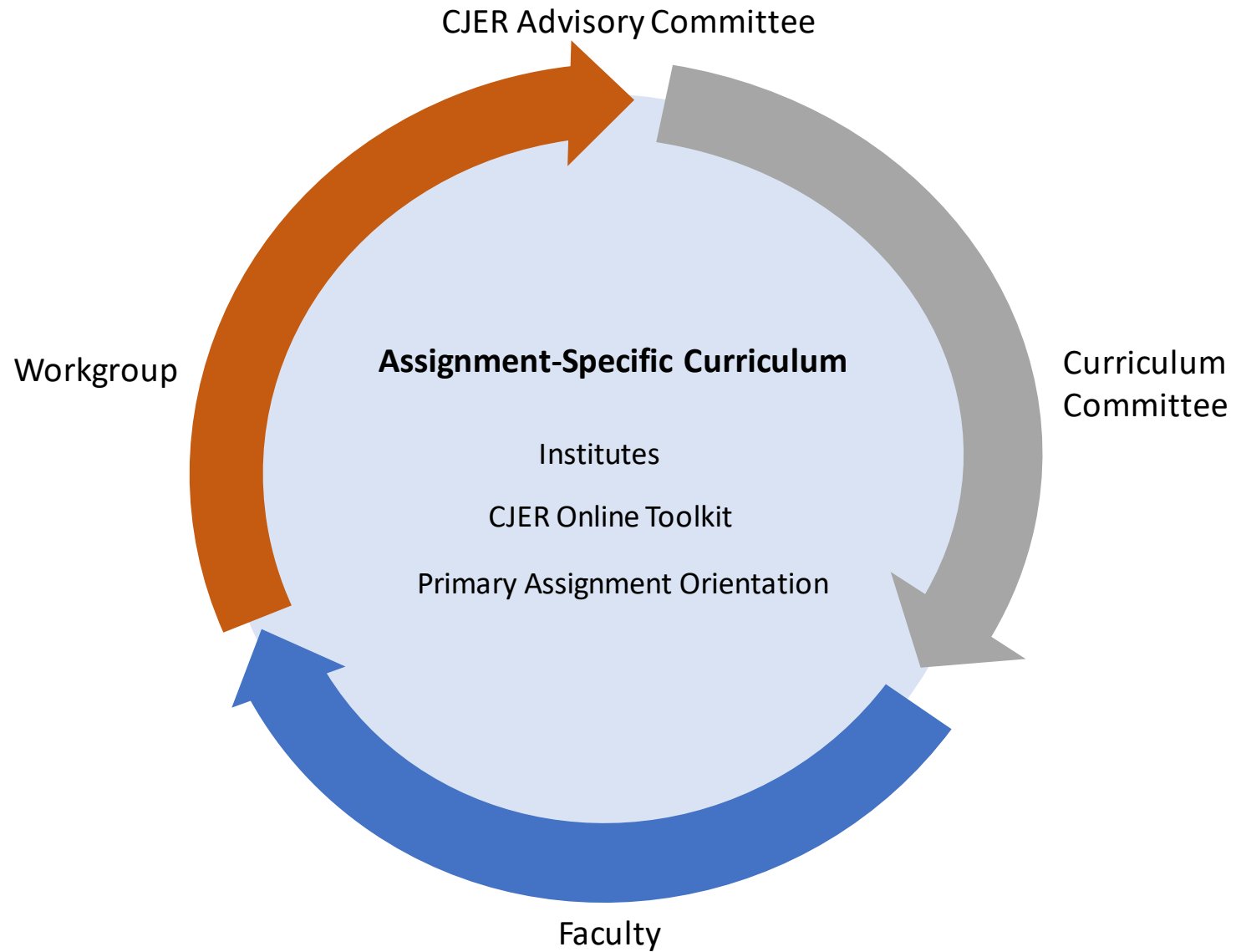
Center for Judicial Education and Research

Operations & Programs

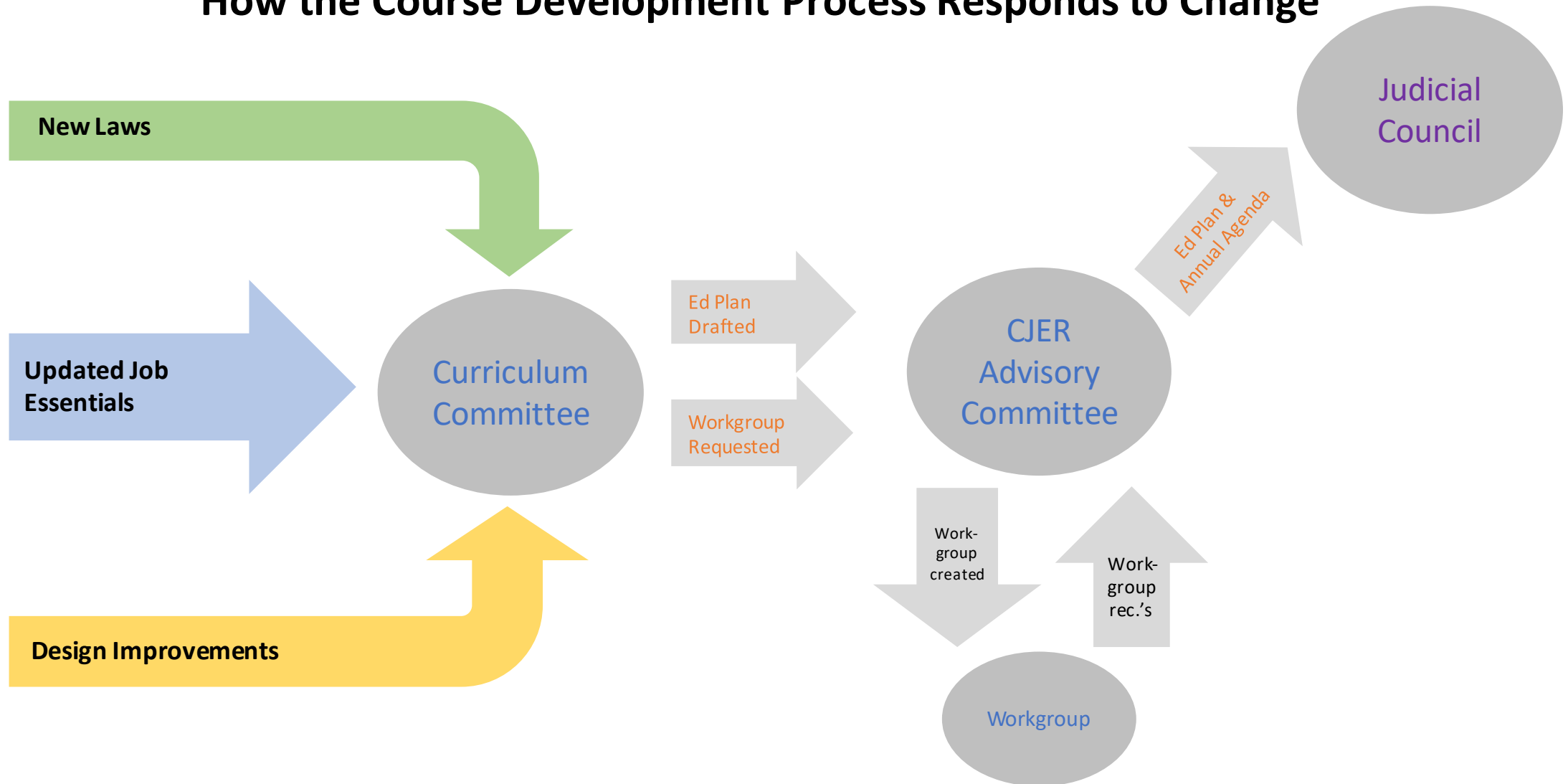
Jason Mayo, Lead Staff

Jason.Mayo@jud.ca.gov

The Dynamic Nature of CJER Curriculum



How the Course Development Process Responds to Change



At the end of every 2-year cycle, the Curriculum Committees will have reviewed the entirety of the curriculum in their designated area, including online courses, videos, job aids, and live programming.

Request for the CJER Advisory Committee to Review and Offer Feedback on a Proposal that Includes Education

The CJER Advisory Committee is required under California Rules of Court, rule 10.50(c)(4) (see attached) to review and comment on proposals from other advisory committees and task forces that include education and training of judicial officers or court staff to ensure coordination, consistency, and collaboration in education services. The Advisory Committee has developed “Guidelines on Proposals from Other Advisory Committees and Task Forces that Include Education or Training” (see attached) to provide guidance when seeking review and feedback from the committee on these proposals. The Guidelines have been approved by the Executive and Planning Committee.

The CJER Advisory Committee weighs a number of educational priorities when it approves and oversees the two-year Education Plan, which sets out the educational events and products prioritized by nine curriculum committees (see attached chart for the process) for the judicial branch. Each committee performs an educational needs assessment for its specific audience, identifying helpful, essential, urgent and emergent needs for education. The CJER Advisory Committee then weighs the cost and benefits of each item on the proposed Education Plan, and makes adjustments according to overall judicial branch educational needs and available resources, and then submits it to the Judicial Council for approval.

In order to help the CJER Advisory Committee understand how to assess and respond to the education that the advisory committee or task force is proposing, please provide the following information.

1. Requestor:

Committee or Task Force:

Committee or Task Force Chair:

Committee or Task Force Principal Staff:

Proposal Title:

Date Submitted:

2. Proposal concerns:

New rule of court or amendment to rules of court on education

Added coverage of issue to existing curriculum, course or program

New education or educational resource

Increased educational opportunities on issue

Education or training for a new audience

3. Summary of proposal, including how it involves or impacts education:

4. At what stage in the process is this proposal (please list dates for the following):

- a. Committee or Task Force review:
- b. RUPRO review:
- c. Executive and Planning Committee review:
- d. Judicial Council review:
- e. Other:

5. What are the next steps in the process for this proposal? Please list dates for the following:

- a. Committee or Task Force review:
- b. RUPRO review:
- c. Executive and Planning Committee review:
- d. Judicial Council review:
- e. Review and feedback by CJER Advisory Committee requested by:
- f. Other:

6. Who is the audience for this education? Please be as specific as possible.

- a. Role (judicial officer, manager, etc.):
- b. Experience (years in role):
- c. Competence Level (novice, experienced, etc.):
- d. Assignment/Department:
- e. Geographic Location:
- f. Other defining characteristics of this audience:

7. Please indicate how long this education should remain in place, and why.

Until:

Because:

8. Please describe the performance gap this education addresses. CJER education is designed to cause a change in behavior, not simply an increase in information. What task is the audience currently unable to perform that the education will enable them to perform?

Performance gap:

9. Please describe how this performance gap impacts the essential roles and responsibilities of the audience. For instance: How are members of the audience currently able to perform their tasks without this knowledge or skill? Does this performance gap effect their ability to complete a specific task (e.g., rule on certain motions or process particular forms)? Is the performance gap responsible for errors, time lost or some other cost? Does the performance gap impact the public's trust and confidence in the courts? If the performance gap does not impact the essential role and responsibility of the audience, then how is it otherwise detrimental?

Describe the impact of the current performance gap:

10. Please assess the value of this education.

Helpful (helps the audience become more efficient or effective at a task that supports their essential work, e.g., software, legislative history)

Explain:

Essential (the audience cannot perform the tasks which defines their role without this education, e.g., Qualifying Ethics, evidence, technical procedures)

Explain:

Urgent (there is an immediate need for the audience to be able to perform this task, e.g., Prop. 66 education)

Explain:

Emergent (there is reason to anticipate a change in the near future that will make the educational need urgent or essential, e.g., pretrial release)

Explain:

11. List current CJER educational events or resources that address proposed educational knowledge or skills for this proposed audience, and note how this education differs in what is currently offered by CJER or other approved providers.

There are no CJER or approved provider educational events or resources that address this educational issue.

There are some CJER or approved provider educational events or resources that address this educational issue, but they differ from the proposed.

1. CJER Title:

Explain difference:

2. CJER Title:

Explain difference:

3. CJER Title:

Explain difference:

4. Other provider event or resource:

Please submit completed form to principal staff to the CJER Advisory Committee.



2020 California Rules of Court

Rule 10.50. Center for Judicial Education and Research Advisory Committee

(a) Establishment and purpose

In 1973, the Judicial Council of California and the California Judges Association created the Center for Judicial Education and Research (CJER). The oversight body then known as the Governing Committee of CJER was made an advisory committee to the council in 1993 through the adoption of former rule 1029. In 2001, the rule that specifies the duties of that advisory committee was made consistent with the rules pertaining to other Judicial Council advisory committees.

(Subd (a) amended effective January 1, 2019; adopted effective December 18, 2001; previously amended effective January 1, 2007, and January 1, 2016.)

(b) Area of focus

The committee makes recommendations to the council for improving the administration of justice through comprehensive and quality education and training for judicial officers and other judicial branch personnel.

(Subd (b) relettered and amended effective December 18, 2001; adopted as subd (a).)

(c) Additional duties

In addition to the duties described in rule 10.34, the committee must:

- (1) Recommend rules, standards, policies, and procedures for judicial branch education;
- (2) Recommend a strategic long-range plan for judicial branch education;
- (3) Evaluate the effectiveness of judicial branch education, the quality of participation, the efficiency of delivery, and the impact on service to the public;
- (4) Review and comment on proposals from other advisory committees and task forces that include education and training of judicial officers or court staff in order to ensure coordination, consistency, and collaboration in educational services;
- (5) Establish educational priorities for implementation of curricula, programs, publications, and delivery systems;
- (6) Identify the need for and appoint education committees to implement the priorities, long-range plan, and programs and products of judicial branch education; create and adopt procedures for their operation; and review and approve their projects and products;
- (7) Identify and foster collaborative opportunities with courts to promote and ensure the availability of training at the local court level;

- (8) Identify, analyze, and implement systems to enhance the delivery of education and training statewide; and
- (9) Identify and foster collaborative opportunities with internal and external partners to maximize the resources dedicated to education and training.

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously relettered and amended effective December 18, 2001.)

(d) Membership

The committee consists of at least the following members:

- (1) Eleven sitting judicial officers, including at least one appellate court justice and one immediate past presiding judge;
- (2) Three judicial administrators, including a supervisor or manager from a trial or appellate court;
- (3) The Administrative Director as an advisory member;
- (4) The president of the California Judges Association or his or her designee as an advisory member; and
- (5) Other advisory members as the Chief Justice may appoint.

(Subd (d) amended effective January 1, 2015; adopted as subd (c); previously relettered and amended effective December 18, 2001.)

(e) Nominations

Nominations for vacant positions on the CJER Advisory Committee will be solicited under the procedures described in rule 10.32. The president of the California Judges Association may submit nominations to the Executive and Planning Committee.

(Subd (e) amended effective January 1, 2019; previously amended effective December 18, 2001, and January 1, 2007.)

(f) Chair and vice-chair

The Chief Justice appoints the chair and vice-chair. The committee may make recommendations to the Chief Justice for these two positions.

(Subd (f) amended effective December 18, 2001.)

Rule 10.50 amended effective January 1, 2019; adopted as rule 6.50 effective January 1, 1999; previously amended and renumbered as rule 10.50 effective January 1, 2007; previously amended effective December 18, 2001, January 1, 2015, and January 1, 2016.

CJER Advisory Committee Guidelines on Proposals from Other Advisory Committees

APPROVED BY THE EXECUTIVE AND
PLANNING COMMITTEE ON JUNE 21,
2010



JUDICIAL COUNCIL
OF CALIFORNIA

GOVERNING COMMITTEE OF THE CENTER
FOR JUDICIAL EDUCATION AND RESEARCH

CJER Advisory Committee Guidelines on Proposals from Other Advisory Committees and Task Forces that Include Education or Training

Purpose of Guidelines

These guidelines are intended to provide guidance to the Judicial Council, its internal committees, and other advisory committees and task forces regarding proposals that include education or training and to help ensure coordination, consistency, and collaboration in education services for the Judicial Branch.

Under California Rules of Court, rule 10.50, the CJER Advisory Committee is primarily responsible for making recommendations to the Judicial Council for improving the administration of justice through comprehensive and quality education and training for judicial officers and other judicial branch personnel. The committee is further required under rule 10.50(c)(4) to review and comment on proposals from other advisory committees and task forces that include education and training of judicial officers or court staff to ensure coordination, consistency, and collaboration in education services.

The committee recognizes that issues about the need for education or training will often come up as the other advisory committees and task forces discuss issues within their central purview. These guidelines are not intended to limit that full discussion; they are intended only to provide guidance on how to seek appropriate review and feedback from the CJER Advisory Committee on those education issues before the proposals have been recommended to the Judicial Council for approval.

Considerations in Determining Whether To Propose New Rules on Education

The advisory committee or task force should first consider the Rules and Projects Committee's (RUPRO) policy on the need for a new rule: "The Judicial Council should exercise restraint in adopting a rule if the problem can be adequately addressed through either judicial branch education or a standard of judicial administration."

Similarly, the CJER Advisory Committee holds a strong preference for other advisory committees and task forces to not recommend adopting a rule if the problem can be adequately addressed through adding coverage of the issue to an existing curriculum, adding coverage of the issue to an existing course or program, or developing a new education product with coverage of the issue. The Advisory Committee oversees nine curriculum committees which collectively are responsible for regularly maintaining and updating the curricula that cover all the subject areas and audiences in the judicial branch. The Advisory Committee will approve the overall education plan for the branch, and will be able to refer most of the issues raised by another advisory committee or task force to the appropriate curriculum committee to address.

The judicial branch education rules (California Rules of Court, rules 10.450–10.491) were developed by the CJER Advisory Committee to work as a system. Common approaches were used, individual elements need to work in complementary ways, and specific values underlie the rules. For example, there is an intent underlying the rules that each individual judge can best determine, with his or her presiding judge, his or her own education needs in the various subject areas, and so the rules are designed to set out more general education requirements and expectations rather than more specific subject matter and/or hours requirements that would apply to everyone. Therefore, the Advisory Committee’s strong preference regarding new rules on education proposed by other advisory committees or task forces would be to develop them as a joint proposal with the other advisory committee or task force with agreement by the two bodies on the proposal.

What Proposals Should Be Submitted

Any proposal that is primarily about education or training should be submitted for review and feedback. Any proposal that contains elements that significantly involve or impact education or training should be submitted for review and feedback on those elements. Examples would include proposed new rules of court on education; proposed new education requirements, expectations, or recommendations; proposed new education products or opportunities; proposals that would require a curriculum or course to include coverage of specified issues; and proposals that would require education or training for a new audience.

What Review and Feedback Should Be Sought

Proposals or elements of proposals that significantly involve or impact education or training should be submitted for review and feedback. These proposals or elements of significant impact will raise policy issues and/or implementation issues. An example of a policy issue would be a proposal to require by rule of court that judges participate in education on ethics. An example of an implementation issue would be a proposal to include education on ethics in an existing course or curriculum on family law. Implementation issues often include resource issues, i.e., whether some new thing can be done with existing resources. If the issue involves a significant demand on existing resources or a significant change in existing priorities, the issue may rise to the level of a policy issue. The CJER Advisory Committee will involve staff to the committee in reviewing and analyzing the issues and in preparing feedback.

When Should Proposals Be Submitted

Proposals that significantly involve or impact education should be submitted to the CJER Advisory Committee for review and feedback at the earliest opportunity, and for rules proposals before circulation for comment. Proposals should be submitted to the committee before they have been recommended to the Judicial Council for approval. By reviewing proposals at an early stage, the committee can provide early comments, which may guide the

other advisory committee in further developing the proposal or in requesting that public comments address particular issues. This will also help identify proposals that need to be coordinated with other proposals, either by the Advisory Committee or by another advisory committee.

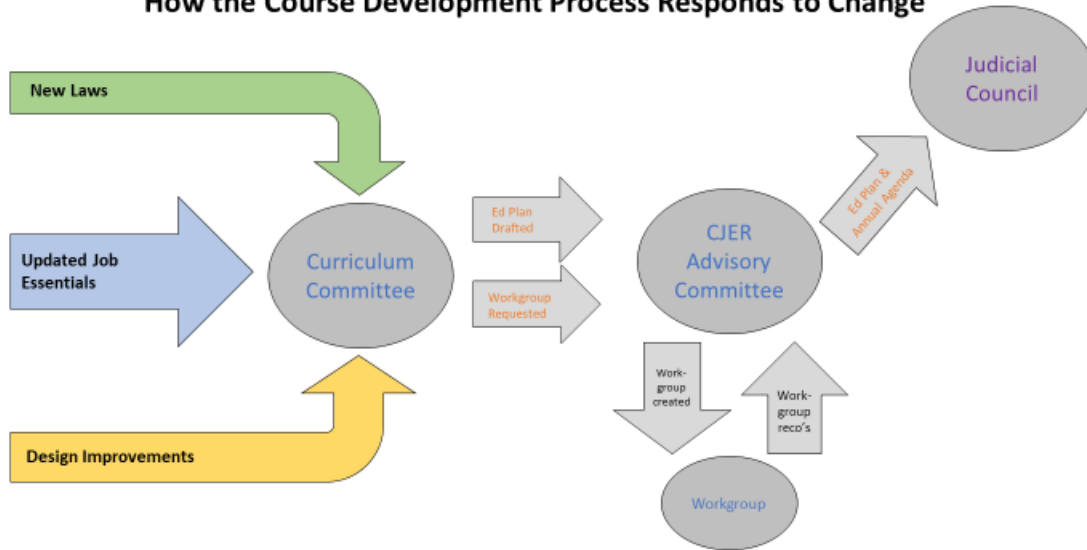
Both the Executive and Planning Committee and the Rules and Projects Committee can help in identifying proposals that come before them from other committees or task forces that include education or training. Both of these Judicial Council internal committees can refer the advisory committee or task force to the CJER Advisory Committee for review and feedback of such proposals.

To Whom Should Proposals Be Submitted

Proposals that involve or impact education should be submitted to the chair of the CJER Advisory Committee and to the principal staff to the committee. The submittal should indicate any specific issues on which the committee wants review and feedback and should indicate the timeline requested for the review and feedback.

Overview of the Process of Developing Education for the Judicial Branch

How the Course Development Process Responds to Change



At the end of every 2-year cycle, the Curriculum Committees will have reviewed the entirety of the curriculum in their designated area, including online courses, videos, job aids, and live programming.

JUDICIAL COUNCIL OF CALIFORNIA

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

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

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INVITATION TO COMMENT

SPR21-__

Title	Action Requested
Indian Child Welfare Act (ICWA): Implementation of AB 3176 in Probate Guardianships and Conservatorships	Review and submit comments by May 21, 2021
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 7.51, 7.1003, 7.1013, and 7.1015; revise forms GC- 210(CA) and ICWA-005-INFO	January 1, 2022
Proposed by	Contact
Probate and Mental Health Advisory Committee	Corby Sturges, Attorney, Center for Families, Children and the Courts, 415-865-4507 corby.sturges@jud.ca.gov
Hon. Jayne C. Lee, Chair	Ann Gilmour, Attorney, Center for Families, Children and the Courts, 415-865-4207 ann.gilmour@jud.ca.gov
Tribal Court–State Court Forum	
Hon. Abby Abinanti, Cochair	
Hon. Suzanne N. Kingsbury, Cochair	

Executive Summary and Origin

The Probate and Mental Health Advisory Committee and the Tribal Court–State Court Forum (forum) recommend amending four rules of court and revising two forms to clarify the procedures required in probate guardianship and conservatorship proceedings involving an Indian child to which the Indian Child Welfare Act (ICWA) applies. The proposed amendments and revisions would update the rules and forms to conform to the requirements of the 2016 federal ICWA regulations, California statutory changes, and recent amendments to the California Rules of Court governing ICWA proceedings generally.

Background

The federal Indian Child Welfare Act (25 U.S.C. §§ 1901–1963) was enacted in 1978 and establishes minimum federal standards that apply in all state court proceedings involving an Indian child where the child could be involuntarily placed in the custody of a nonparent, or where parental rights could be terminated. In 2006, California enacted Senate Bill 678 (Stats. 2006, ch. 838) to incorporate substantial provisions of ICWA into the California Family Code,

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

Probate Code, and Welfare and Institutions Code. Following the enactment of SB 678, the Judicial Council adopted implementing California Rules of Court and Judicial Council forms.¹ Rule 7.1015 included requirements for ICWA's application in probate proceedings and incorporated provisions of the general ICWA rules currently found in rules 5.480 through 5.488.

In 2016, the federal government, for the first time since 1979, adopted final regulations and issued updated guidelines implementing ICWA.² In some areas, the regulations and guidelines were inconsistent with existing California law and practice. In addition, in 2017, the California ICWA Compliance Task Force presented its final report to Attorney General Xavier Becerra.³ The report identified various concerns from tribes and tribal representatives about how ICWA was being interpreted and applied in California.

On September 27, 2018, Governor Brown signed Assembly Bill 3176 to (1) address issues identified in the California ICWA Compliance Task Force Report, and (2) conform California law to the requirements of the new federal ICWA regulations and guidelines.⁴ The bill directs the Judicial Council to adopt any rules or forms necessary to implement its provisions. Although AB 3176 did not amend the Probate Code provisions that incorporate ICWA's requirements, it did nevertheless amend several sections of the Welfare and Institutions Code that impose inquiry and notice requirements on probate guardianship and certain conservatorship proceedings.

In response to the enactment of AB 3176, the Judicial Council amended the generally applicable ICWA rules in title 5 and revised the ICWA forms in 2019.⁵ This proposal would clarify issues left unclear by the amendment of the governing section of the Welfare and Institutions Code in the absence of conforming amendments to the Probate Code and would make the probate rules consistent with the recently amended ICWA rules in title 5. Any apparent inconsistencies in state law would be resolved by reference to the controlling federal law, as implemented by the 2016 regulations. The proposal would also respond to issues concerning access by an Indian child's tribe to reports and documents filed in probate guardianship proceedings, as raised in the ICWA Compliance Task Force Report and by tribal representatives.

¹ Judicial Council of Cal., Advisory Com. Rep., Family, Juvenile, and Probate Law: Enactment of the Federal Indian Child Welfare Act as California Law in the Family, Probate, and Welfare and Institutions Codes (Sept. 12, 2007) (rules 5.480–5.487 and 7.1015 adopted Oct. 26, 2007, effective Jan. 1, 2008), available at www.courts.ca.gov/documents/102607ItemA27.pdf.

² Indian Child Welfare Act, [25 C.F.R. §§ 23.1–23.144](#); U.S. Department of the Interior, Bureau of Indian Affairs, Guidelines for Implementing the Indian Child Welfare Act (December 2016), available at www.bia.gov/sites/bia.gov/files/assets/bia/ois/pdf/idc2-056831.pdf.

³ California ICWA Compliance Task Force, Report to the California Attorney General's Bureau of Children's Justice (2017), available at <https://caltribalfamilies.org/wp-content/uploads/2020/12/ICWAComplianceTaskForceFinalReport2017.pdf>.

⁴ Assem. Bill 3176 (Stats. 2018, ch. 833), available at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB3176.

⁵ Judicial Council of Cal., Advisory Com. Rep., Indian Child Welfare Act (ICWA): Implementation of AB 3176 for Indian Children (Sept. 5, 2019) (adopted Sept. 24, 2019, effective Jan. 1, 2020), available at <https://jcc.legistar.com/View.ashx?M=F&ID=7684873&GUID=52B4C6B1-F704-458F-BF42-EB1AA4F82000>.

The Proposal

The Probate and Mental Health Advisory Committee and the Tribal Court–State Court Forum recommend that the Judicial Council, effective January 1, 2022:

1. Amend California Rules of Court, rules 7.51, 7.1003, 7.1013 to clarify and confirm the rights of an Indian child’s tribe to receive notices of hearings and other activity and obtain access to status reports in a covered proceeding;
2. Amend California Rules of Court, rule 7.1015 to conform to recent changes in the federal ICWA regulations, California statutory law, and California Rules of Court 5.480–5.488 related to implementing ICWA;
3. Revise *Guardianship Petition—Child Information Attachment* (form GC-210(CA)) to:
 - conform to the amendments to rule 7.1015 by modifying item 1c and deleting item 8 to reflect that form ICWA-010(A) would be henceforth used to document the Indian child inquiry;
 - Combine item 3, information about the proposed guardian, and item 6, suitability of the proposed guardian, into a single item 3;
 - Add a new item 4 for the petitioner to explain why appointing a guardian would be in the child’s best interest; and
 - Add a new subitem a. to item 6 for the petitioner to inform the court whether the child’s parent or parents agree that the court needs to appoint a guardian for the child; and
4. Revise *Information Sheet on Indian Child Inquiry Attachments and Notice of Child Custody Proceeding for Indian Child* (form ICWA-005-INFO) to reflect that form GC-210(CA) would no longer be used for the Indian child inquiry in probate guardianship proceedings.

The text of the rules and the forms, as proposed to be amended and revised, are attached at pages 6–20.

The proposed rule amendments are, for the most part, required by the passage of AB 3176 and the new federal regulations and guidelines, and are urgently needed to conform to these recent changes in the law. Additional proposed changes would respond to specific issues and recommendations in the California ICWA Compliance Task Force Report and tribal advocates.

The federal regulations and guidelines and AB 3176 made significant changes to the law and practice under ICWA, especially regarding inquiry and notice. The proposal would benefit the judicial branch, justice partners, attorneys, and litigants by more clearly setting out the requirements of the Indian Child Welfare Act in probate guardianship and conservatorship

proceedings and conforming practice to the requirements of federal and state law, thus protecting the legal rights of tribal children and families by reducing confusion and the need for appeals.

Amendment to rule 7.51

Rule 7.51 governs the manner of giving notices of hearings in probate proceedings. The amendment would add subdivision (f) to specify that notices of hearings in proceedings to which ICWA applies must be mailed to an Indian child's tribe as provided in rule 7.1015(d).

Amendment to rule 7.1003

Rule 7.1003 addresses the confidential guardianship status report. The proposed addition of subdivision (c) would specify that an Indian child's tribe that has intervened or requested special notice in the proceeding is entitled to have access to that report;

Amendment to rule 7.1013

Probate Code section 2352 requires a guardian of the person to give notice to certain persons before and after changing the ward's residence. The proposed amendments to rule 7.1013 would add an Indian child's tribe to those persons entitled to receive notice of a change in residence.

Amendment to rule 7.1015

The proposed amendments would primarily address three substantive issues. First, the amendments would update the inquiry requirements to conform to the requirements in the federal regulations, AB 3176, and the recent amendments to rules 5.480–5.488, which apply to probate guardianship proceedings. Second, the amendments would update the notice requirements to conform to the same federal and state laws. In particular, these amendments would assist courts and parties in determining when there is reason to *believe* that an Indian child is the subject of a proceeding and when there is reason to *know* that an Indian child is involved. Third, the proposed amendments would add a new subdivision applying the emergency proceeding requirements in rule 5.484 to temporary guardianships and conservatorships involving an Indian child. Finally, the amendments would also consolidate the Indian child inquiry onto a single form, *Indian Child Inquiry Attachment* (form ICWA-010(A)) for Indian child custody proceedings, consistent with rule 5.481(a)(1) of these rules.

Guardianship Petition—Child Information Attachment (form GC-210(CA))

The proposed revisions would modify item 1c and delete item 8 to reflect that the proposed amendments conform to rule 7.1015 would require form ICWA-010(A) to be used to document the Indian child inquiry. Additional revisions would combine item 3, information about the proposed guardian, and item 6, suitability of the proposed guardian, into a single item 3 to promote efficiency; add a new item 4 for the petitioner to explain why appointing a guardian would be in the child's best interest, thereby providing information needed by the court to make the determination under Probate Code section 1514(a)–(b)(1) and Family Code section 3040; and add a new subitem a. to item 6 for the petitioner to tell the court whether the child's parent or parents agree that the court needs to appoint a guardian for the child so the court could, among other things, make a preliminary determination whether to apply the standard in Family Code 3040 or the standard in Family Code section 3041 to appointment of a guardian of the person.

Information Sheet on Indian Child Inquiry Attachments and Notice of Child Custody Proceeding for Indian Child (form ICWA-005-INFO)

The proposed revisions would remove references to form GC-210(CA) because that form would no longer be used to document the Indian child inquiry and would make technical changes to the formatting.

Alternatives Considered

The committee and the forum considered proposing more extensive rule amendments, but decided to limit the proposal to these amendments as necessary and appropriate to conform to law.

Fiscal and Operational Impacts

Courts will face some fiscal and operational impacts as courts, justice partners, and litigants adjust to the new requirements and update their existing forms and practices. However, these impacts and burdens are required to comply with federal and state law and cannot be avoided. The benefits of complying with the law and avoiding appellate reversals will outweigh the potential costs. In addition, the burdens may be mitigated in courts that have implemented these requirements in their juvenile and family law divisions.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 7.51, 7.1003, 7.1013, and 7.1015, at pages 6–14
2. Forms GC-210(CA) and ICWA-005-INFO, at pages 15–20

Rules 7.51, 7.1003, 7.1013, and 7.1015 of the California Rules of Court would be amended, effective January 1, 2022, to read:

1 **Rule 7.51. Service of notice of hearing**

2
3 (a)–(e) * * *

4
5 **(f) Notice when Indian Child Welfare Act may apply**

6
7 If the court or the petitioner knows or has reason to know, as described in section
8 224.2(d) of the Welfare and Institutions Code, that an Indian child is the subject of
9 a guardianship or conservatorship proceeding, notice to the child’s tribe must be
10 given as prescribed in rule 7.1015(d).

11
12
13 **Rule 7.1003. Confidential guardianship status report form (Prob. Code, § 1513.2)**

14
15 (a)–(b) * * *

16
17 **(c) Access to report**

18
19 The clerk must make the report submitted under Probate Code section 1513.2
20 available for inspection by all persons served in the guardianship proceedings. If
21 the ward is an Indian child and the child’s tribe has intervened in the proceeding,
22 the clerk must also make the report available to the representative designated by the
23 child’s tribe.

24
25
26 **Rule 7.1013. Change of ward’s residence**

27
28 **(a) Pre-move notice of change of personal residence required**

29
30 Unless an emergency requires a shorter period of notice, the guardian of the person
31 must mail copies of a notice of an intended change of the ward’s personal residence
32 to the persons listed below at least 15 days before the date of the proposed change;
33 and file the original notice with proof of mailing with the court. Copies of the
34 notice must be mailed to:

35
36 (1)–(4) * * *

37
38 (5) A guardian of the ward’s estate; ~~and~~

39
40 (6) Any person who was nominated as guardian of the ward under Probate Code
41 sections 1500 or 1501 but was not appointed guardian in the proceeding; and
42

1 (7) If the ward is an Indian child and the child’s tribe has intervened, the child’s
2 tribe.

3
4 **(b)** * * *

5
6 **(c) Post-move notice of a change of residence required**

7
8 The guardian of the person of a minor must file a notice of a change of the ward’s
9 residence with the court within 30 days of the date of any change. Unless waived
10 by the court for good cause to prevent harm to the ward, the guardian, the
11 guardian’s attorney, or an employee of the guardian’s attorney must also mail a
12 copy of the notice to the persons listed below and file a proof of mailing with the
13 original notice. Unless waived, copies of the notice must be mailed to:

14
15 (1)–(3) * * *

16
17 (4) A guardian of the ward’s estate; ~~and~~

18
19 (5) Any person who was nominated as guardian of the ward under Probate Code
20 sections 1500 or 1501 but was not appointed guardian in the proceeding; and

21
22 (6) If the ward is an Indian child and the child’s tribe has intervened, the child’s
23 tribe.

24
25 **(d)–(g)** * * *

26
27
28 **Rule 7.1015. Indian Child Welfare Act in guardianship and certain conservatorship**
29 **proceedings (Prob. Code, §§ 1449, 1459, 1459.5, 1460.2, 1511(i); Welf. & Inst.**
30 **Code, §§ 224–224.6; 25 U.S.C. §§ 1901–1963)**

31
32 **(a) Definitions**

33
34 As used in this rule, unless the context or subject matter otherwise requires:

35
36 (1) “Act” means the federal Indian Child Welfare Act (~~25 United States Code~~
37 ~~sections~~ U.S.C. §§ 1901–1963).

38
39 (2) “Emergency proceeding” refers to a temporary guardianship of the person of
40 a minor child or a temporary conservatorship of the person of a minor whose
41 marriage has been dissolved when it is known or there is reason to know that
42 the minor is or may be an Indian child.

1 (3) “Petitioner” ~~means and~~ refers to:

2
3 (A) A petitioner for the appointment of a guardian of the person of a minor
4 child; or

5
6 (B) A petitioner for the appointment of a conservator of the person of a
7 ~~formerly married~~ minor child whose marriage has been dissolved.

8
9 (b) **Applicability of this rule and rules 5.480 through 5.4878**

10
11 (1) This rule applies to the following proceedings under division 4 of the Probate
12 Code ~~when the proposed ward or conservatee is an Indian child, within the~~
13 ~~meaning of the act:~~

14
15 (A) A guardianship or temporary guardianship of the person or of the
16 person and estate in which the proposed guardian of the person is not
17 the proposed ward’s ~~natural~~ biological parent or Indian custodian
18 ~~within the meaning of the act;~~

19
20 (B) A conservatorship, limited conservatorship, or temporary
21 conservatorship of the person or of the person and estate of a ~~formerly~~
22 ~~married~~ minor whose marriage has been dissolved in which the
23 proposed conservator of the person is not a ~~natural~~ the proposed
24 conservatee’s biological parent or Indian custodian ~~of the minor~~ and is
25 seeking physical custody of the proposed conservatee.

26
27 (2) Unless the context requires otherwise, ~~requires,~~ rules 5.480 through 5.4878
28 apply to the proceedings listed in (1).

29
30 (3) When applied to the proceedings listed in (1), references in rules 5.480
31 through 5.4878 to social workers, probation officers, county probation
32 departments, or county social welfare departments are references to the
33 petitioner or petitioners for the appointment of a guardian or conservator of
34 the person ~~of an Indian child~~ and to ~~an Indian child’s~~ the appointed temporary
35 or general guardian or conservator of the person.

36
37 (4) If the court appoints a temporary or general guardian or conservator of the
38 person of the child involved in a proceeding listed in (1), the duties and
39 responsibilities of a petitioner under the Act and this rule ~~are transferred to~~
40 ~~and~~ become the duties and responsibilities of the appointed guardian or
41 conservator. The petitioner must cooperate with and provide any information
42 the petitioner ~~has~~ knows or possesses concerning the child to the appointed
43 guardian or conservator.

1
2 (c) **Inquiry**
3

- 4 (1) The court, a the court investigator or county officer appointed to conduct an
5 investigation under Probate Code section 1513 or 1826, and each petitioner;
6 have an affirmative and continuing duty to inquire whether ~~the~~ each child
7 involved in ~~the~~ a matters identified in (b)(1) is or may be an Indian child.
8
- 9 (2) Before filing ~~his or her~~ a petition for appointment of a guardian or
10 conservator of the person, the petitioner must ask the child involved in the
11 proceeding, if the child is old enough, ~~and~~ the parents, any ~~other~~ legal
12 previously appointed guardian of the person, and any Indian custodian,
13 whether the child is or may be an Indian child, ~~and must complete items 4e~~
14 ~~and 8 of the *Guardianship Petition—Child Information Attachment* (form~~
15 ~~GC-210(CA)) *Indian Child Inquiry Attachment* (form ICWA-010(A)), and~~
16 attach ~~it~~ that form to ~~his or her~~ the petition.
17
- 18 (3) ~~At the first personal appearance by a parent or previously appointed legal~~
19 ~~guardian at a hearing in a guardianship or conservatorship, the court must if~~
20 ~~requested by petitioner, or may on its own motion, order the parent or legal~~
21 ~~guardian to complete a *Parental Notification of Indian Status* (form ICWA-~~
22 ~~020) and deliver the completed form to the petitioner. At the initiation of any~~
23 ~~proceeding identified in (b)(1) and at any hearing in such a proceeding that~~
24 ~~may result in the appointment of a guardian or conservator, the court must:~~
25
- 26 (A) Ask each participant present whether the participant knows or has
27 reason to know that the child is an Indian child;
28
- 29 (B) Instruct the parties to inform the court if they subsequently receive
30 information that provides reason to know that the child is an Indian
31 child; and
32
- 33 (C) Order the parent, existing guardian, or Indian custodian, if available, to
34 complete *Parental Notification of Indian Status* (form ICWA-020).
35
- 36 (4) If the parent, Indian custodian, or guardian ~~does not personally appear at a~~
37 ~~hearing in~~ is not available at the initiation of a proceeding identified in (b)(1),
38 the court may must order the petitioner to use reasonable diligence to find
39 and ask inform the parent, Indian custodian, or ~~legal~~ guardian that the court
40 has ordered that person to complete and deliver to petitioner a *Parental*
41 *Notification of Indian Status* (form ICWA-020).
42

- 1 (5) If the court or county investigator, ~~the~~ petitioner, ~~appointed guardian or~~
2 ~~conservator~~, or the attorney for a ~~the~~ petitioner or ~~appointed guardian or~~
3 ~~conservator~~, knows or has reason to know or believe that an Indian child is
4 involved in the proceeding, ~~he or she~~ that person must make further inquiry
5 as soon as practicable by:
- 6
- 7 (A) Interviewing the parents, Indian custodian, and “extended family
8 members” as defined in 25 United States Code section 1903(2), to
9 gather the information listed in ~~Probate Code section 1460.2(b)(5) that~~
10 ~~is required to complete the Notice of Child Custody Proceeding for~~
11 ~~Indian Child (form ICWA-030)~~ Welfare and Institutions Code section
12 224.3(a)(5);
- 13
- 14 (B) ~~Contacting the U.S. Department of the Interior, federal~~ Bureau of
15 Indian Affairs and the California Department of Social Services for
16 assistance in identifying the names and contact information of the tribes
17 of which the child may be a member or eligible for membership; and
- 18
- 19 (C) ~~Contacting the tribes and any other persons~~ who reasonably can be
20 expected to have information regarding the child’s tribal membership
21 status or eligibility for membership. These contacts must at a minimum
22 use the methods and share the information listed in Welfare and
23 Institutions Code section 224.2(e)(2)(C).
- 24
- 25 (6) If the court knows or has reason to know or believe that an Indian child is
26 involved in the proceeding, the court ~~may direct any~~ must direct one or more
27 of the persons named in (5) to conduct the inquiry described in that
28 paragraph.
- 29
- 30 (7) The circumstances that may provide reason to believe the child may be an
31 Indian child are those set forth in Welfare and Institutions Code section
32 224.2(e)(1). The circumstances that may provide reason to know the child is
33 an Indian child ~~include the following:~~ are those set forth in Welfare and
34 Institutions Code section 224.2(d) and rule 5.481(b) of these rules.
- 35
- 36 (A) ~~The child or person having an interest in the child, including an Indian~~
37 ~~tribe, an Indian organization, an officer of the court, a public or private~~
38 ~~agency, or a member of the child’s extended family, informs or~~
39 ~~otherwise provides information suggesting that the child is an Indian~~
40 ~~child to the court or to any person listed in (5);~~
- 41
- 42 (B) ~~The residence or domicile of the child, the child’s parents, or an Indian~~
43 ~~eustodian is in a predominantly Indian community; or~~

1
2 (C) ~~The child or the child's family has received services or benefits from a~~
3 ~~tribe or services that are available to Indians from tribes or the federal~~
4 ~~government, such as the U.S. Department of Health and Human~~
5 ~~Services, Indian Health Service, or Tribal Temporary Assistance to~~
6 ~~Needy Families benefits.~~

7
8 **(d) Emergency proceedings**

9
10 In an emergency proceeding as defined in (a)(2), the following requirements apply
11 to the proceeding in addition to the applicable requirements of Probate Code
12 sections 2250–2257 and California Rules of Court, rules 7.1012 and 7.1062.

- 13
14 (1) If a petition for appointment of a temporary guardian or conservator of the
15 person of the child is filed, the petition must meet the requirements in rule
16 5.484(a) of these rules for a petition requesting emergency placement.
17
18 (2) If a petition for termination of a temporary guardianship or conservatorship
19 of the person of the child is filed, the requirements of rule 5.484(b) apply.
20
21 (3) If the court considers extending the time for the termination of the powers of
22 a temporary guardian or conservator of the person of the child, it must first
23 make the determinations required by rule 5.484(c).
24

25 **(ee) Notice**

26
27 If, at any time after the filing of a petition for appointment of a guardian or
28 conservator for a minor child, the court or petitioner knows or has reason to know,
29 within the meaning of ~~Probate Code sections 1449 and 1459.5 and Welfare and~~
30 ~~Institutions Code section 224.3(b), 224.2(d) and rule 5.481(b) of these rules,~~ that an
31 Indian child is involved, the petitioner and the court must notify the child's parents
32 or ~~legal previously appointed guardian of the person, and~~ Indian custodian, ~~if any,~~
33 and the ~~Indian~~ child's tribe, of the pending proceeding and the right of the tribe to
34 intervene, as provided in rule 5.481(c). follows:
35

- 36 (1) ~~Notice to the Indian child's parents, Indian custodian, and Indian tribe of the~~
37 ~~commencement of a guardianship or conservatorship must be given by~~
38 ~~serving copies of the completed *Notice of Child Custody Proceeding for*~~
39 ~~*Indian Child* (form ICWA-030), the petition for appointment of a guardian or~~
40 ~~conservator, and all attachments, by certified or registered mail, fully prepaid~~
41 ~~with return receipt requested.~~
42

- 1 (2) The petitioner and his or her attorney, if any, must complete the *Notice* and
2 the petitioner must date and sign the declaration. If there is more than one
3 petitioner, the statements about the child's ancestors and background
4 provided in the *Notice of Child Custody Proceeding for Indian Child* (form
5 ICWA-030) must be based on all information known to each petitioner, and
6 all petitioners must sign the declaration.
7
- 8 (3) When the petitioner is represented by an attorney in the proceeding, the
9 attorney must serve copies of the *Notice of Child Custody Proceeding for*
10 *Indian Child* (form ICWA-030) in the manner described in (1) and sign the
11 declaration of mailing on the *Notice*.
12
- 13 (4) When the guardianship or conservatorship petitioner or petitioners are not
14 represented by an attorney in the proceeding, the clerk of the court must serve
15 the *Notice* in the manner described in (1) and sign the certificate of mailing
16 on the *Notice*.
17
- 18 (5) The original of all *Notices of Child Custody Proceeding for Indian Child*
19 (form ICWA-030) served under the act, and all return receipts and responses
20 received, must be filed with the court before the hearing.
21
- 22 (6) Notice to an Indian child's tribe must be sent to the tribal chairperson unless
23 the tribe has designated another agent for service.
24
- 25 (7) Notice must be served on all tribes of which the child may be a member or
26 eligible for membership. If there are more tribes or bands to be served than
27 can be listed on the last page of the *Notice*, the additional tribes or bands may
28 be listed on an *Attachment to Notice of Child Custody Proceeding for Indian*
29 *Child* (form ICWA-030(A)).
30
- 31 (8) Notice under the act must be served whenever there is any reason to know
32 that the child is or may be an Indian child and for every hearing after the first
33 hearing unless and until it is determined that the act does not apply to the
34 proceeding.
35
- 36 (9) If, after a reasonable time following the service of notice under the act—but
37 in no event less than 60 days—no determinative response to the *Notice of*
38 *Child Custody Proceeding for Indian Child* (form ICWA-030) is received,
39 the court may determine that the act does not apply to the proceeding unless
40 further evidence of its applicability is later received.
41
- 42 (10) If an Indian child's tribe intervenes in the proceeding, service of the *Notice of*
43 *Child Custody Proceeding for Indian Child* (form ICWA-030) is no longer

1 required, and subsequent notices to the tribe may be sent to all parties in the
2 form and in the manner required under the Probate Code and these rules. All
3 other provisions of the act, this rule, and rules 5.480 through 5.487 continue
4 to apply.

5
6 (11) Notice under the act must be served in addition to all notices otherwise
7 required for the particular proceeding under the provisions of the Probate
8 Code.

9
10 **(d) — Duty of inquiry**

11
12 (1) — The court, a court investigator or county officer appointed to conduct an
13 investigation under Probate Code section 1513 or 1826, a petitioner, and any
14 appointed temporary or general guardian or conservator of the person of a
15 minor child each have an affirmative and continuing duty to inquire whether
16 the child involved in the matters identified in (b)(1) is or may be an Indian
17 child.

18
19 (2) — Before filing his or her petition, the petitioner must ask the child involved in
20 the proceeding, if the child is old enough, and the parents, any other legal
21 guardian, and any Indian custodian, whether the child is or may be an Indian
22 child, and must complete items 1e and 8 of the *Guardianship Petition — Child*
23 *Information Attachment* (form GC 210(CA)) and attach it to his or her
24 petition.

25
26 (3) — At the first personal appearance by a parent or previously appointed legal
27 guardian at a hearing in a guardianship or conservatorship, the court must if
28 requested by petitioner, or may on its own motion, order the parent or legal
29 guardian to complete a *Parental Notification of Indian Status* (form ICWA-
30 020) and deliver the completed form to the petitioner.

31
32 (4) — If the parent, Indian custodian, or guardian does not personally appear at a
33 hearing in a proceeding identified in (b)(1), the court may order the petitioner
34 to use reasonable diligence to find and ask the parent, Indian custodian, or
35 legal guardian to complete and deliver to petitioner a *Parental Notification of*
36 *Indian Status* (form ICWA-020).

37
38 (5) — If the court or county investigator, petitioner, appointed guardian or
39 conservator, or the attorney for a petitioner or appointed guardian or
40 conservator, knows or has reason to know that an Indian child is involved in
41 the proceeding, he or she must make further inquiry as soon as practicable
42 by:
43

1 (A) ~~Interviewing the parents, Indian custodian, and “extended family~~
2 ~~members” as defined in 25 United States Code section 1903(2), to~~
3 ~~gather the information listed in Probate Code section 1460.2(b)(5) that~~
4 ~~is required to complete the *Notice of Child Custody Proceeding for*~~
5 ~~*Indian Child* (form ICWA-030);~~
6

7 (B) ~~Contacting the U.S. Department of the Interior, Bureau of Indian~~
8 ~~Affairs and the California Department of Social Services for assistance~~
9 ~~in identifying the names and contact information of the tribes of which~~
10 ~~the child may be a member or eligible for membership; and~~
11

12 (C) ~~Contacting the tribes and any other person who reasonably can be~~
13 ~~expected to have information regarding the child’s tribal membership~~
14 ~~status or eligibility for membership.~~
15

16 (6) ~~If the court knows or has reason to know that an Indian child is involved in~~
17 ~~the proceeding, the court may direct any of the persons named in (5) to~~
18 ~~conduct the inquiry described in that paragraph.~~
19

20 (7) ~~The circumstances that may provide reason to know the child is an Indian~~
21 ~~child include the following:~~
22

23 (A) ~~The child or person having an interest in the child, including an Indian~~
24 ~~tribe, an Indian organization, an officer of the court, a public or private~~
25 ~~agency, or a member of the child’s extended family, informs or~~
26 ~~otherwise provides information suggesting that the child is an Indian~~
27 ~~child to the court or to any person listed in (5);~~
28

29 (B) ~~The residence or domicile of the child, the child’s parents, or an Indian~~
30 ~~custodian is in a predominantly Indian community; or~~
31

32 (C) ~~The child or the child’s family has received services or benefits from a~~
33 ~~tribe or services that are available to Indians from tribes or the federal~~
34 ~~government, such as the U.S. Department of Health and Human~~
35 ~~Services, Indian Health Service, or Tribal Temporary Assistance to~~
36 ~~Needy Families benefits.~~

Guardianship of (all children's names): _____

This child's name: _____

Fill out a separate copy of this form for **each child** for whom your petition asks the court to appoint a guardian.

This form is attached to the Petition, **form GC-210, item 2,** or **form GC-210(P), item 8.**

The petition asks the court to appoint a guardian of this child's (specify): person estate person and estate.

1 Tell the court about this child

a. Child's full legal name: _____ Date of birth: _____
First Middle Last mm/dd/yyyy

b. Child's current address: _____

c. **Indian child inquiry (Complete only if your petition asks the court to appoint a guardian of this child's person or person and estate. If your petition asks the court to appoint a guardian of this child's estate only, skip this item and go to item 1d.)**

I have asked whether the child is or may be a member of one or more Indian tribes recognized by the federal government, or eligible for membership in such a tribe and the biological child of a tribal member. Form ICWA-010(A), *Indian Child Inquiry Attachment*, is attached to this form.

(For more information about your duties if the child is or may be an Indian child under the federal Indian Child Welfare Act (ICWA) (25 U.S.C. §§ 1901–1963) and California law, including making the inquiry and completing form ICWA-010(A), see Information Sheet on Indian Child Inquiry Attachment and Notice of Child Custody Proceeding for Indian Child (form ICWA-005-INFO).)

d. Is this child married? Yes No Never married If you checked "No," was this child **married in the past** but the marriage was dissolved or ended in divorce? Yes No
The court cannot appoint a guardian of the person for a minor child who is married or whose marriage was dissolved or ended in divorce.)

e. Is this child receiving public benefits? Yes No I don't know (If you checked "Yes," fill in below.)

Type of Aid	Monthly Benefit	Type of Aid	Monthly Benefit
<input type="checkbox"/> TANF (Temporary Asst. for Needy Families)	\$ _____	<input type="checkbox"/> Other (explain): _____	\$ _____
<input type="checkbox"/> Social Security	\$ _____	<input type="checkbox"/> Other (explain): _____	\$ _____
<input type="checkbox"/> Dept. Veterans Affairs Benefits	\$ _____		

f. Name and address of the person with legal custody of this child: _____

g. (Check this box and fill out below if the person the child lives with is **not** the person in f. with legal custody.)
Name and address of the person this child lives with (who takes care of the child): _____



Guardianship of (all children's names): _____

Case Number: _____

This child's name: _____

1 Tell the court about this child (continued)

h. (Check this box if this child has been involved in an adoption, juvenile court, marriage dissolution (divorce), domestic relations, child custody, or other similar court case.) Describe the court case below:

Type of Case	Court District or County and State	Case Number (if known)

i. (Check this box if this child is in or on leave from an institution supervised by the California Department of Developmental Services or the California Department of State Hospitals.) Write the name of the institution here:

2 List the names and addresses of this child's relatives and all other persons shown below:

Relationship	Name	Home Address (Street, City, State, Zip)
Father	_____	_____
Mother	_____	_____
Grandfather (Father's father)	_____	_____
Grandmother (Father's mother)	_____	_____
Grandfather (Mother's father)	_____	_____
Grandmother (Mother's mother)	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____
Brother/Sister	_____	_____

(Check here if this child has additional brothers or sisters, including half-brothers and half-sisters, and list their names and addresses on a separate sheet of paper. Write "Form GC-210(CA)," the name of this child, and "Item 2: Other Siblings" at the top of the paper and attach it to this form.)



This child's name: _____

2 List the names and addresses of this child's relatives and all other persons shown below:

Relationship	Name	Home Address (Street, City, State, Zip)
Spouse (Guardianship of the estate only)	_____	_____
Person nominated as guardian of this child (if someone other than a proposed guardian named in 3)	_____	_____
Indian custodian (if any)	_____	_____
Child's tribe (if any and if known)	_____	_____

3 Information about the proposed guardian:

a. Name (name all proposed guardians if more than one): _____

b. Relationship(s) to the child named in 1 (check all that apply):

Relative (specify relationship(s) to the child of each proposed relative guardian): _____

Not a relative (explain interest in or connection to this child): _____

c. Was the proposed guardian nominated by the child's parent or parents? Yes No I don't know
(If you checked "Yes," attach the written nomination as Attachment 3c.)

d. Does this child currently live with the proposed guardian? Yes No I don't know
If "Yes," how long has the child lived with the proposed guardian? (years, months): _____

e. If the court approves the guardianship, will this child live with the person named in 3? Yes No

f. Does the person named in 3 currently plan to adopt this child? Yes No I don't know

4 Explain why appointing a guardian for the child named in 1 would be in the child's best interest:

(Check here if you need more space. Continue your explanation on a separate sheet of paper. Write "Form GC-210(CA)," the name of this child, and "Attachment 4: Guardianship—Best Interest of Child" at the top of the paper and attach it to this form.)



Guardianship of (all children's names): _____

Case Number: _____

This child's name: _____

5 Explain why appointing the person named in 3 to be this child's guardian would be in the child's best interest:

(Check here if you need more space. Continue your explanation on a separate sheet of paper. Write "Form GC-210(CA)," the name of this child, and "Attachment 5: Proposed Guardian—Best Interest of Child" at the top of the paper and attach it to this form.)

6 a. Does one or do both of this child's parents agree that the court needs to appoint a guardian for the child?

(1) Father: Yes No I don't know

(2) Mother: Yes No I don't know

b. Does one or do both of this child's parents agree that the person named in 3 should be the child's guardian?

(1) Father: Yes No I don't know

(2) Mother: Yes No I don't know

7 Check this box if you (the petitioner) are not the person named in 3, and fill in below.

Your relationship to this child:

Relative (specify): _____

Not a relative (explain your interest in or connection to this child): _____

8 Except as otherwise stated in this form, the statements made in the petition to which this form is attached fully apply to this child.



INFORMATION SHEET ON INDIAN CHILD INQUIRY ATTACHMENT AND NOTICE OF CHILD CUSTODY PROCEEDING FOR INDIAN CHILD

This is an information sheet to help you fill out form ICWA-010(A), *Indian Child Inquiry Attachment*, and form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*.

Form ICWA-010(A), *Indian Child Inquiry Attachment*

You are responsible for helping to find out if the child is or may be an Indian child and filling out the information requested on ICWA-010(A), *Indian Child Inquiry Attachment*. This is important because if the child is an Indian child, specific steps must be taken to prevent the breakup of the child's Indian family and to obtain for the child resources and services that are culturally specific to the child's family. The court will check to make sure that the child receives these resources and services.

Tips on how to fill out form ICWA-010(A), Indian Child Inquiry Attachment

1. Try to find contact information for the child's parents or other legal guardian, the child's Indian custodian (if the child is living with an Indian person other than a parent), the child's grandparents and great-grandparents, and other available family members.
2. Contact the child's parents, any other legal guardian, and the child's Indian custodian and other available family members and ask them (and the child, if he or she is old enough) these questions:
 - a. Is the child a member of a tribe, and if they think he or she might be, then which tribe or tribes?
 - b. Are they members of a tribe, and if they think they might be, which tribe or tribes?
 - c. Does the child, or do the child's parents, live in Indian country, including a reservation, rancheria, Alaska Native village, or other tribal trust land?
 - d. Does the child or any of the child's relatives receive services or benefits from a tribe, and if yes, which tribe?
 - e. Does the child or any of the child's relatives receive services or benefits available to Indians from the federal government?
3. If you are in touch with any of the child's relatives, ask them the same questions.

The court clerk's office cannot file your petition unless you have filled out form ICWA-010(A), *Indian Child Inquiry Attachment*, and attached it to the petition. This requirement does not apply to a petition for appointment of a probate guardian of the estate only or a petition filed in the juvenile court under Welfare and Institutions Code sections 601 or 602.

After taking the steps listed above to find out whether the child is an Indian child, if you have reason to believe that the child is an Indian child, you must contact the tribe or tribes that may have a connection with the child about your court case. You have reason to believe the child is an Indian child if any of the people you question answers yes to any of your questions. Tribes that learn of the case can investigate and advise you and the court whether the child is a tribal member or eligible to become a tribal member, and can then decide whether to get involved in the case or assume tribal jurisdiction.

Your contacts with the tribe or tribes should include:

- (1) Contacting the tribe's designated agent for service of notice under the Indian Child Welfare Act, which is published in the Federal Register, by telephone, facsimile, or email; and
- (2) Sharing with the tribe or tribes any information identified by the tribe as necessary for the tribe to make a determination about the child's tribal membership or eligibility for membership, as well as information on the current status of the child and the case.

Form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*

Following your inquiry about the child's Indian status and contacts with the child's tribe or tribes, if necessary, you must provide formal notice on form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*, if you know or have reason to know the child is an Indian child.

(continued on next page)

Some tips to help you figure out if you have a reason to know the child is an Indian child.

You have reason to know:

1. If the child, an Indian tribe, an Indian organization, an attorney, a public or private agency, or a member of the child's extended family says or provides information to anyone involved in the case that the child is an Indian child;
2. If the child, the child's parents, or an Indian custodian live in a predominately Indian community; or
3. If the child or the child's family has received services or benefits from a tribe or services that are available to Indians from tribes or the federal government, such as the Indian Health Service.

These are just a few of the facts that would give you reason to know that a child is an Indian child. There also may be other information that would give you reason to know that the child is an Indian child.

Who do you need to notify?

If you know or have reason to know that the child is an Indian child, you must send the Notice to the following:

1. Child's parents or other legal guardian, including adoptive parents;
2. Child's Indian custodian (if the child is living with an Indian person who has legal custody of the child under tribal law or custom, under state law, or if the parent asked that person to take care of the child);
3. Child's tribe or tribes; and
4. Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825 (if the parents, Indian custodian, or tribe cannot be determined or located).

Tips on how to find the address for the child's tribe or tribes

The Secretary of the Interior periodically updates and publishes in the Federal Register (see 25 C.F.R. § 23.12) a list of tribe names and addresses. The Bureau of Indian Affairs also keeps a list. You can access the Federal Register list and other resources related to ICWA on the Bureau of Indian Affairs website at www.bia.gov/bia/ois/dhs/.

Copy to the Secretary of the Interior and the Area Director of the Bureau of Indian Affairs

If you know the identity and location of the parent, Indian custodian, and the tribe or tribes, when you send the Notice to the parent, Indian custodian, and the tribe or tribes, you must also send a copy to the Secretary of the Interior, at 1849 C Street, NW, Washington, DC 20240, and a copy to the Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

Copy to the Area Director of the Bureau of Indian Affairs

If you do **not** know the identity and location of the child's parents, Indian custodian, and tribe or tribes, you must send copies of the Notice and the other documents to the Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825. To help establish the child's tribal identity, provide as much information as possible, including the child's name, birth date, and birth place; the name of the tribe or tribes; the names of all of the child's known relatives with addresses and other identifying information; and a copy of the petition in the case.

How do you send the Notice and prove to the court that you have done so?

If you have an attorney, the attorney will complete the steps described below. If you are representing yourself without an attorney in a probate guardianship case, the court clerk will help you with steps 1 and 2 below, including doing the mailing and signing the certificate of mailing on page 9 of the Notice, but you must deliver copies of the Notice and other documents listed in step 1 below to the court in addressed envelopes ready for mailing and then do step 3.

1. Mail to the persons and organizations listed at the top of this page, by registered or certified mail, with return receipt requested, copies of the following filled-out and signed forms:
 - a. Your petition;
 - b. Form ICWA-010(A), *Indian Child Inquiry Attachment* ; and
 - c. Form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*.
2. The person who does the mailing must fill out the information requested on page 10 of form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*, and then date and sign the original form on page 9.
3. Go to the court and file with the clerk of the court proof that you have given notice to everyone listed above and on page 10 of form ICWA-030, *Notice of Child Custody Proceeding for Indian Child*. Your proof must consist of the following:
 - a. The original signed Notice (form ICWA-030) and copies of the documents you sent with it (the petition and form ICWA-010(A);
 - b. All return receipts given to you by the post office and returned from the mailing; and
 - c. All responses you receive from the child's parents, the child's Indian custodian, the child's tribe or tribes, and the Bureau of Indian Affairs.

Please note that you are subject to court sanctions if you knowingly and willfully falsify or conceal a material fact concerning whether the child is an Indian child or if you counsel a party to do so. (Welf. & Inst. Code, § 224.3(e).)