



## Judicial Council of California · Administrative Office of the Courts

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

[www.courts.ca.gov](http://www.courts.ca.gov)

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# CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: -CO-12-05

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**Title**

Subordinate Judicial Officers: Allocation of  
Conversions for Fiscal Year 2012–2013

**Action Requested**

VOTING MEMBERS ONLY: Vote and  
return by fax. Additionally, return original  
signature page.

**Rules, Forms, Standards, or Statutes Affected**

None

**Please Respond By**

09/28/2012

**Recommended by**

Jody Patel  
Interim Administrative Director of the Courts

**Date of Report**

09/19/2012

Chad Finke  
Director, Court Programs & Services Division

**Contact**

David A. Smith, 415-865-7696  
[david.smith@jud.ca.gov](mailto:david.smith@jud.ca.gov)

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### Executive Summary

The Administrative Office of the Courts (AOC) recommends that the Judicial Council approve a modification to the allocation schedule for Subordinate Judicial Officer (SJO) conversions authorized under Government Code Section 69615(c)(1)(A). The modification will allow the Superior Court of Orange County to convert a second vacant SJO position to a judgeship in fiscal year (FY) 2012–2013 and facilitate the timely implementation of SJO conversion policy.

### Recommendation

The Administrative Office of the Courts recommends that the Judicial Council approve the modification of the allocation schedule for FY 2012–2013 to increase the allocation of conversions of vacant SJO positions in the Superior Court of Orange County from one to two positions by transferring one conversion from one of the other allocation groups.

## Previous Council Action

The 2002 report of the Subordinate Judicial Officer Working Group led the Judicial Council to sponsor legislation to restore an appropriate balance between judges and SJOs in the trial courts. The 2002 report found that many courts had created SJO positions out of necessity in response to a dearth in the creation of new judgeships during the 1980s and 1990s. As a result, many SJOs were working as temporary judges. This imbalance between judges and SJOs was especially critical in the area of family and juvenile law.<sup>1</sup>

In 2007, the Judicial Council approved a methodology for evaluating the workload appropriate to SJOs relative to the number of SJOs working in the courts. In the same year, the Legislature passed Assembly Bill 159, which adopted the Judicial Council's methodology. This action resulted in a list of 25 courts in which a total of 162 SJO positions would be converted. Government Code section 69615(c)(1)(A) allows for the annual conversion of up to 16 SJO vacancies upon authorization by the Legislature in courts identified by the Judicial Council as having SJOs in excess of the workload appropriate to SJOs.<sup>2</sup>

Subsequent council action established and refined guidelines for expediting the conversion of SJO vacancies. These guidelines included:

- The adoption of four trial court allocation groups and a schedule that distributes the 16 annual SJO conversions across these groups in numbers that are proportional to the total number of conversions for which the groups are eligible;
- The delegation of authority to the Executive & Planning (E&P) Committee for confirming SJO conversions;
- The establishment of guidelines for courts to notify the AOC of SJO vacancies and timelines for the redistribution of SJO conversions across the allocation groups; and
- The establishment of criteria for E&P to use in evaluating and granting requests by courts to exempt SJO vacancies from conversion<sup>3</sup>;

Since 2007 all 16 annual conversions for which the trial courts have been eligible have been converted by the end of each fiscal year. In FY 2011-2012 an additional 4 SJO positions were converted to judgeships under the provisions of Assembly Bill 405 which allowed for the acceleration of conversions for positions that courts committed to family and juvenile assignments.

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<sup>1</sup> Judicial Council of Cal., Subordinate Judicial Officer Working Group Rep., *Subordinate Judicial Officers: Duties and Titles* (July 2002), [www.courts.ca.gov/documents/sjowgfinal.pdf](http://www.courts.ca.gov/documents/sjowgfinal.pdf).

<sup>2</sup> Office of Court Research Report to the Judicial Council, *Update of the Judicial Workload Assessment and New Methodology for Selecting Courts with Subordinate Judicial Officers for Conversion to Judgeships*; <http://www.courts.ca.gov/documents/022307item9.pdf> . (Feb, 14, 2007).

<sup>3</sup> Office of Court Research Report to the Judicial Council, *Proposal to modify Subordinate Judicial Officer Conversion Policy*; <http://www.courts.ca.gov/documents/042409itemh.pdf>; (April 14, 2009).

To date, a total of 84 SJO vacancies have been converted to judgeships with judges appointed and currently sitting in 73 of the converted positions. In the current fiscal year 4 positions have been confirmed for conversion by E&P.

### Rationale for Recommendation

The table below shows the allocation schedule adopted in 2007 by the Judicial Council. In the case of the Superior Court of Orange County, the total allocation of 14 SJO conversions cannot be completed within the expected timeframe of 10 years given an annual allocation of 1 conversion<sup>4</sup>.

To accommodate the conversion needs of the Superior Court of Orange County a position will need to be taken from another allocation group. In August 2010, the Judicial Council authorized a similar transfer of a position from one allocation group to another.

The group that can most easily accommodate the transfer of a position is the group furthest along in the conversion of its positions, currently Allocation Group 4. To date, more than two thirds of the positions eligible for conversion have been converted or approved for conversion in Allocation Group 4 (21 of 31 positions), more than half have been converted in Allocation Group 3 (24 of 39 positions), and fewer than half of the positions in Allocation Group 1(31 of 78 positions) have been converted.

Therefore, AOC staff recommend that a single position be transferred from allocation group 4 to the Superior Court of Orange County for FY 2012–2013 as reflected in the table below.

Allocation Groups for SJO Conversions	Annual Allocation of Conversions	Recommended Allocation for Fiscal Year 2012–13	Total Conversions to Date	Percentage of Conversions Completed
<b>Group 1:</b> Los Angeles	7	7	31	40%
<b>Group 2:</b> Orange	1	2	11	79%
<b>Group 3:</b> Alameda, Contra Costa, Riverside, Sacramento, San Diego, San Francisco	4	4	24	62%
<b>Group 4:</b> El Dorado, Fresno, Imperial, Kern, Marin, Merced, Napa, Placer, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, Yolo	4	3	21	68%

<sup>4</sup> Because fractional positions cannot be converted, the annual number of positions allocated to a court with a large number of conversions will not align precisely with the total number of conversions for which a court is eligible.

### **Comments, Alternatives Considered, and Policy Implications**

This proposal has not gone out for comment. The council could choose not to reallocate an SJO conversion from another court group to the Superior Court of Orange County, or it could choose to allocate an SJO conversion from a group other than Allocation Group 4.

### **Implementation Requirements, Costs, and Operational Impacts**

There have been minimal implementation costs to the trial courts that have converted SJO positions. On appointment of a new judge to sit in a converted position, funding equal to the judge's estimated compensation—which includes salary and benefits but does not include retirement—is removed from the trial court's allocation, which previously funded the SJO position.

Because the amount transferred to Program 45.25 does not include funding for retirement, the amount of funds transferred out of the trial courts' budgets has been *less than* the total salary, benefits, and retirement previously budgeted for SJO positions in all but two superior courts. This has left courts in most cases with a positive balance following the appointment of a new judge.

Implementation costs have been incurred by both the trial courts and the AOC in personnel costs related to identifying positions for conversion, communication between the courts and the AOC, and coordinating the confirmation of conversions.

Finally, at 16 conversions per year somewhat less than five more years would be needed to complete the conversion of the remaining SJO positions that are eligible for conversion.

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cc: Curt Soderlund, Interim Chief Deputy Director

## Instructions for Review and Action by Circulating Order

### Voting members

- Please indicate your **vote, sign, and FAX** the signature pages to the attention of **Secretariat Unit, Office of the General Counsel**, at 415-865-4317 by **5 p.m.**, September 28, 2012, if possible.
- If you are unable to reply by September 28, 2012, please do so as soon as possible thereafter.
- Additionally, **return the original** signature page to the Secretariat Unit, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, California, 94102-3688. **Please keep a copy for your records.**

### Advisory members

The circulating order is being faxed to you for your information only. There is no need to sign or return any documents.



**CIRCULATING ORDER  
Judicial Council of California  
Voting and Signature Pages**

Effective immediately, the Judicial Council approves the transfer of an SJO conversion position from Allocation Group 4 to the Superior Court of Orange County.

My vote is as follows:

Approve

Disapprove

Abstain

\_\_\_\_\_  
Tani G. Cantil-Sakauye, Chair

\_\_\_\_\_  
Judith Ashmann-Gerst

\_\_\_\_\_  
Stephen H. Baker

\_\_\_\_\_  
Marvin R. Baxter

\_\_\_\_\_  
James R. Brandlin

\_\_\_\_\_  
Angela J. Davis

\_\_\_\_\_  
David De Alba

\_\_\_\_\_  
Emilie H. Elias

\_\_\_\_\_  
Sherrill A. Ellsworth

\_\_\_\_\_  
Noreen Evans

\_\_\_\_\_  
Mike Feuer

\_\_\_\_\_  
James P. Fox

\_\_\_\_\_  
James E. Herman

\_\_\_\_\_  
Harry E. Hull, Jr.

\_\_\_\_\_  
Teri L. Jackson

\_\_\_\_\_  
Ira R. Kaufman

My vote is as follows:

Approve

Disapprove

Abstain

\_\_\_\_\_/s/  
Edith R. Matthai


\_\_\_\_\_/s/  
Douglas P. Miller

\_\_\_\_\_/s/  
Mary Ann O'Malley

\_\_\_\_\_/s/  
Mark P. Robinson, Jr.

\_\_\_\_\_  
David Rosenberg

Date: 10/2/12

Attest:   
\_\_\_\_\_  
Interim Administrative Director of the Courts and  
Secretary of the Judicial Council