Judicial Council of California · Administrative Office of the Courts

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

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 27, 2013

Title
Update on AOC Policy 2.8 (Responding to Requests for Judicial Administrative Records and Information)

Submitted by
Chad Finke, Director
Court Operations Special Services Office

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Contact
Chad Finke, 415-865-8925
chad.finke@jud.ca.gov

Executive Summary

Per the council's direction, this report provides a 6-month status update on the implementation of Administrative Office of the Courts (AOC) Policy 2.8 (Responding to Requests for Judicial Administrative Records and Information), which the council approved on December 14, 2012.

Previous Council Action

On December 15, 2009, the council took the following actions:

1. Adopted rules 10.500 and 10.501 of the California Rules of Court, which provide public access to nondeliberative and nonadjudicative judicial administrative records, effective January 1, 2010.
2. Adopted a fee structure to be imposed under subdivision (e)(4) of rule 10.500.
3. Approved a one-time allocation of $1.5 million from the Trial Court Trust Fund to reimburse superior courts for specified expenses incurred between January 1, 2010, and December 31, 2011, in responding to requests for public access to judicial administrative records under rule 10.500 and as provided in the fee guidelines and procedures and guidelines issued by the Administrative Office of the Courts (AOC).
4. Adopted rule 10.501, which requires the maintenance of certain superior court budget and management information as set forth previously in rules 10.802(a) and 10.802(b).

5. Repealed rule 10.802, on maintenance of and public access to budget and management information, now superseded by rule 10.501.
6. Amended rule 10.803, on information access disputes, to reflect the adoption of rules 10.500 and 10.501.
7. Directed the Supreme Court, Courts of Appeal, superior courts, and AOC to maintain records on requests for public access to judicial administrative records and information, including the time, cost, and type of court resources spent in responding to requests received, as well as costs recovered.
8. Directed the AOC to report to the council by January 1, 2012, on the number of requests received by the branch, the time necessary to respond to these requests, the fees imposed by judicial branch entities for access to records and information, and the impact of rule 10.500 on both the public's access to records and information and on the judicial branch entities' ability to carry out and fund core judicial operations.

At the council's business meeting on October 28, 2011, the Chair of the Executive and Planning Committee reported that the committee had directed staff to strictly comply with the requirements of rule 10.500 and not to go beyond those requirements in responding to requests made under the rule.

On December 13, 2011, AOC staff presented an informational report to the council on the impact of rule 10.500, as directed by the council in December 2009.

On December 14, 2012, the council approved and adopted the AOC Staff Policy on and Procedures for Responding to Requests for Judicial Administrative Records and Information, and directed the AOC to provide a status report in six months.

Methodology and Process

Following the council's approval of the AOC Staff Policy on and Procedures for Responding to Requests for Judicial Administrative Records and Information in December 2012, the AOC formally codified that policy as internal AOC Policy 2.8 (Responding to Requests for Judicial Administrative Records and Information). Staff in the Court Operations Special Services Office (COSSO)—which administers the program for responding to general requests for records and information—also began tracking informational requests referred to the Chief Justice's designee and other AOC offices under Policy 2.8. Such requests are tracked in the same database used to track requests for judicial administrative records under rule 10.500 of the California Rules of Court. In addition, the Office of Governmental Affairs and the Office of Communications each separately track information requests from other governmental entities and the media, respectively.

Concerns of Stakeholders

Since the adoption of Policy 2.8, some groups have suggested that they believe that Policy 2.8 is specifically directed at them, or that it is disproportionately applied to their requests. As made clear during the discussion of Policy 2.8 in December 2012, however, the policy is applied based on the nature of the information requested and the general type of requester (e.g., judicial officer, member of the press, etc.), not on any particular group affiliation of the requester.

Policy and Cost Implications

Since December, the AOC has handled five (5) requests for information not embodied in judicial administrative records under Policy 2.8.[1] All five of those requests sought information that would require an explanation or discussion of policymaking, and all were received from judicial officers. Per the policy, those requests were all referred to Hon. Harry E. Hull, Jr., the Chief Justice's designee, for consideration and response. Referring these five requests to Justice Hull no doubt resulted in a savings in AOC staff time, although it is impossible to quantify the exact level of savings. It is reasonable to expect that future referrals will likewise result in a savings in AOC staff time.

Implementation Efforts

In addition to tracking information requests that are handled under Policy 2.8, COSSO staff have also begun efforts to train office liaisons across the AOC in the operation of the new policy, as well as provide updated training on the handling of standard requests for judicial administrative records under rule 10.500.

[1] In addition, during the same period the Office of Governmental Affairs has received at least 150 requests for information from other governmental entities, while the Office of Communications has received at least 750 requests for information from the media.