



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

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Title	Agenda Item Type
Judicial Administration: Rule for Trial Court Budget Advisory Committee	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.64	October 28, 2014
Recommended by	Date of Report
Executive and Planning Committee Hon. Douglas P. Miller, Chair	October 6, 2014
	Contact
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### **Executive Summary**

The Executive and Planning Committee recommends amending California Rules of Court, rule 10.64, the rule for the Trial Court Budget Advisory Committee, to make a change to the membership category for presiding judges. It would provide that “presiding judge,” as used in the rule, means a current presiding judge or an immediate past presiding judge. The rule would also be amended to eliminate a provision concerning the appointment of cochairs and to make minor technical changes.

### **Recommendation**

The Executive and Planning Committee (E&P) recommends that the Judicial Council amend, effective October 28, 2014, rule 10.64 of the California Rules of Court to provide that “presiding judge,” as used in the rule, means a current presiding judge or an immediate past presiding judge; eliminate subdivision (d), concerning the appointment of cochairs; and make technical changes.

The text of the amended rule is attached at page 5.

## Previous Council Action

Effective February 20, 2014, the Judicial Council adopted rule 10.64 setting out the area of focus, additional duties, and membership provisions for the Trial Court Budget Advisory Committee. Adoption of the rule followed a council initiative to review the governance, structure, and organization of the council's advisory groups and the *Report and Recommendations to Improve the Governance, Structure, and Organization of Judicial Council Advisory Groups*,<sup>1</sup> which included a recommendation to establish by rule the Trial Court Budget Advisory Committee.

## Rationale for Recommendation

### The primary amendment to rule 10.64

Rule 10.64(c) would be amended to allow an immediate past presiding judge to serve as a member. Membership on the advisory committee is limited to presiding judges and court executive officers. Under the current rule, a judicial officer member must be a current presiding judge, although the rule permits a presiding judge to complete his or her term on the advisory committee even if his or her term as presiding judge of a trial court ends. Thus, a presiding judge could be appointed to the advisory committee at the beginning of his or her first or second year as presiding judge and continue to serve the three-year advisory committee term after stepping down as presiding judge.<sup>2</sup> But the committee has found that a member's experience as a presiding judge is invaluable and believes that allowing an immediate past presiding judge to be appointed would benefit the work of the committee and, ultimately, the Judicial Council as it makes decisions about the allocation of funds to trial courts.

Presiding judges and court executives, who lead and manage trial courts and are most familiar with and experienced in courts' needs and budgets, are essential to the committee's work and exclusively make up its membership. A court executive officer usually remains in that position for many years beyond the three-year membership term of the advisory committee and can therefore serve multiple terms, if appropriate. A presiding judge, by contrast, usually serves for two years in that capacity and can serve out only one advisory committee term before becoming ineligible under the current rule. The proposal would rectify this problem by allowing an immediate past presiding judge to serve. A judge who just completed a term as presiding judge would have recent experience in leading and managing a court and would be well aware of a court's current needs and challenges, while also being removed from the day-to-day leadership of a trial court. A judge in this position would benefit the committee.

The motivation for this change is to increase the pool of presiding judge applications for upcoming nomination cycles. In the 2014–2015 cycle, the number of presiding judge applicants was insufficient for the number of available membership slots. The proposed change would

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<sup>1</sup> The report can be found at [www.courts.ca.gov/documents/jc-20130426-item4.pdf](http://www.courts.ca.gov/documents/jc-20130426-item4.pdf).

<sup>2</sup> Most advisory committee terms are three years. "The Chief Justice appoints advisory committee members to three-year terms unless another term is specified in these rules." (Cal. Rules of Court, rule 10.31(b).)

address these recruitment issues as well as provide a mechanism, as noted above, for retaining critical budget knowledge acquired by presiding judges.

Because the proposal would define *presiding judge* as a “current presiding judge or an immediate past presiding judge,” and current rule 10.64 permits a presiding judge on the committee to complete his or her term even if his or her term as presiding judge of a trial court ends, a member who is appointed when he or she is an immediate past presiding judge could serve a three-year term on the committee.

#### **Other amendments to rule 10.64**

Rule 10.64(c)(2) would also be amended to provide that no more than two members of the committee may be from the same court. Currently, the rule provides that a presiding judge and a court executive officer may not be from the same court. With the amendment that defines a presiding judge as a “current presiding judge or an immediate past presiding judge,” two presiding judges and a court executive officer from the same court could simultaneously serve on the committee unless subdivision (c)(2) is changed as proposed.

Subdivision (c)(5) would be amended to replace “Administrative Office of the Courts’ ” with “Judicial Council’s,” reflecting the recent retirement of the name Administrative Office of the Courts. Also, a change in the cochair structure would be made by deleting subdivision (d), which currently provides that “[t]he Chief Justice appoints a presiding judge and the Director of the Fiscal Services Office to serve as cochairs.” With this amendment, the director of Finance would no longer serve as cochair. The rule would not need a provision concerning the chair or cochairs of the committee because rule 10.31(c) addresses this issue for all advisory committees.

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

The proposal was circulated for comment from August 20 to September 19, 2014. Comments were received from the Superior Courts of Los Angeles and Ventura Counties.<sup>3</sup> Both commentators agreed with the proposal and neither submitted a narrative comment.

#### **Alternatives**

E&P did not consider alternatives because of the need to gain the benefits of an immediate past presiding judge’s experience and knowledge.

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

Immediately after the rule is amended, a solicitation for nominations for membership will occur for a period of approximately two weeks. This will allow the appointment of members who are immediate past presiding judges, among other members. Member appointments are expected to occur by January 1, 2015, so that the Trial Court Budget Advisory Committee can begin meeting when the Governor releases the January budget proposal. This timeline allows continuity in

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<sup>3</sup> A chart containing the comments and the committee responses is attached at page 6.

membership through the budget cycle so that the advisory committee can most effectively analyze the proposed trial court budget and assist in developing data necessary to support trial court budget advocacy efforts.

**Attachments**

1. Cal. Rules of Court, rule 10.64, at page 5
2. Chart of comments, at page 6

Rule 10.64 of the California Rules of Court is amended, effective October 28, 2014, to read:

1 **Rule 10.64. Trial Court Budget Advisory Committee**

2  
3 **(a)–(b) \* \* \***

4  
5 **(c) Membership**

6  
7 (1) The advisory committee consists of an equal number of trial court presiding  
8 judges and court executive officers reflecting diverse aspects of state trial  
9 courts, including urban, suburban, and rural locales; the size and adequacy of  
10 budgets; and the number of authorized judgeships. For purposes of this rule,  
11 “presiding judge” means a current presiding judge or an immediate past  
12 presiding judge.

13  
14 (2) ~~A presiding judge and court executive officer~~ No more than two members  
15 may be from the same court.

16  
17 (3) The chairs of the Trial Court Presiding Judges Advisory Committee and the  
18 Court Executives Advisory Committee serve as ex officio voting members.

19  
20 (4) Notwithstanding rule 10.31(e), a presiding judge is qualified to complete his  
21 or her term on the advisory committee even if his or her term as presiding  
22 judge of a trial court ends.

23  
24 (5) ~~The Administrative Office of the Courts’~~ Judicial Council’s chief of staff,  
25 chief administrative officer, chief operating officer, and director of ~~the fiscal~~  
26 ~~services office~~ Finance serve as non-voting members.

27  
28 **(d) Cochairs**

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30 ~~The Chief Justice appoints a presiding judge and the Director of the Fiscal Services~~  
31 ~~Office to serve as cochairs.~~

**SP14-06****Judicial Administration: Rule for Trial Court Budget Advisory Committee** (amend Cal. Rules of Court, rule 10.64)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Proposed Committee Response</b>
1.	Superior Court of California, County of Los Angeles	A	No narrative comments submitted.	No response required.
2.	Superior Court of California, County of Ventura by Michael Planet, Executive Officer	A	No narrative comments submitted.	No response required.