

GUIDELINES FOR THE JUDICIAL COUNCIL ADVISORY BODY ANNUAL AGENDA PROCESS

Introduction

This document provides an overview of the annual agenda process and information to help prepare the Judicial Council internal committees serving as oversight committees—the Executive and Planning Committee (Executive Committee), the Rules Committee, the Judicial Branch Budget Committee (Budget Committee), the Technology Committee, and the Litigation Management Committee—advisory body chairs, and lead staff for annual agenda review meetings.

Annual Agenda Review Meetings

The Judicial Council governance policies express the council’s interest in connecting with the leaders of its advisory bodies and coordinating efforts for the sake of continuously improving access to the courts and the administration and delivery of justice. The annual agenda review meetings serve as substantive conversations in a multiyear process between the oversight committees and the chairs of the advisory bodies to define the key objectives and projects for advisory bodies in order to align them with judicial branch goals, objectives, and desired outcomes.

The oversight committees and the advisory body chairs discuss the best use of each advisory body’s resources for the coming year. The oversight committees also identify any overlap in advisory body activities and projects. In these conversations, oversight committees are likely to convey their interest in the fulfillment of the council’s strategic goals and operational objectives through the advisory body’s objectives and projects. The oversight committees may see opportunities for collaboration between advisory bodies.

Through the review meetings, the Executive Committee, Rules Committee, Budget Committee, Technology Committee, and Litigation Management Committee provide oversight to the council’s advisory bodies to guide them in focusing on matters of importance to the council and on providing the council with valuable advice and policy recommendations. The internal committees meet to review and approve the annual agendas over which they exercise oversight. The advisory body chairs and lead staff attend the meetings either in person or by telephone.

Preparing Draft Annual Agendas for Review

Before the annual agenda review meetings, advisory bodies submit their draft annual agendas to their respective oversight committees for review. Using the [template](#) approved by Executive Committee, each advisory body submits a proposed annual agenda consistent with its charge, which includes a list of key objectives and a list of related projects that the advisory body intends to either commence or accomplish in the coming year. The annual agenda also contains information relating to any subgroups (e.g., subcommittees, workstreams, working groups, curriculum committees, ad hoc groups); fiscal impact to the council or the trial courts; relevant

resource needs; allocation or distribution of funds to the courts; potential internal or external stakeholders; and anticipated collaboration with committee subgroups; and the status and achievements of the previous year's projects.

If the advisory body would like to create a new subgroup, it may request approval from the oversight committee by including "new" before the name of the proposed subgroup and describing its purpose and membership on the annual agenda.¹ The annual agenda template includes a space for this information in the *Subcommittee/Working Groups–Detail* section.

Prior to the annual agenda review meetings, executive management meets with lead staff to conduct a preliminary review of the draft annual agendas.

Review and Approval of Draft Annual Agendas

Each advisory body's draft annual agenda forms the basis for a conversation during the review meetings about the advisory body's key objectives for the coming year, related projects, and the alignment of those projects with the council's strategic plan. During the meetings, the oversight committees ask questions of the advisory body chairs and engage in conversations to understand the direction and priorities of the advisory bodies. Lead staff are generally included in these meetings to support the chair and to provide further detailed information as needed.

Understanding an advisory body's recent history may be helpful, but the focus of the chair and lead staff should be on the advisory body's present and future work. Questions and proposals from the advisory body chair and lead staff asking for the oversight committee's guidance are also welcome and appropriate.

The intended outcome is an understanding between the oversight committee, the advisory body chair, and lead staff of the advisory body's priorities for the coming year, the objectives to be pursued, and the projects to be undertaken. This understanding serves as a foundation for subsequent annual agenda meetings in a continuous effort to enhance mutual support and coordination between the Judicial Council and its advisory bodies.

Following the review meetings, the approved annual agendas are posted on the advisory bodies' webpages of the California Courts website to allow branch stakeholders to be informed of the work of the advisory bodies.

Roles of a Judicial Council Advisory Body and Its Chair

The [Judicial Council Governance Policies](#) state that the advisory bodies, under California Rules of Court, rule 10.34(a), make recommendations and offer policy alternatives to the Judicial Council for improving the administration of justice within their designated areas of focus by doing the following:

¹ California Rules of Court, rule 10.30(c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

- Identifying issues and concerns affecting court administration and recommending solutions to the council;
- Proposing necessary changes to rules, standards, forms, and jury instructions;
- Reviewing pending legislation and making recommendations to the Legislation Committee on whether to support or oppose it;
- Recommending new legislation to the council;
- Recommending to the council pilot projects and other programs to evaluate new procedures or practices;
- Acting on assignments referred by the council or an internal committee; and
- Making other appropriate recommendations to the council.

The advisory body chair, with the assistance of the lead staff, is responsible for developing a realistic annual agenda and discussing appropriate staffing and resources with the advisory body's office head. The oversight committees are responsible for reviewing and approving the annual agendas, which provide the advisory bodies with charges specifying what they are to achieve during the coming year. The oversight committees may add or delete specific projects and reassign priorities. The template provides descriptions of priority level 1 and 2 projects. For projects that involve rules and forms, descriptions of sub-priorities are also provided. Specifically, the Rules Committee offers the following guidance for rule and form proposals it has approved for inclusion in the annual agendas of the advisory bodies it oversees:

An advisory body can expect that a rule or form proposal on its annual agenda that was approved by the Rules Committee will be circulated for comment. There are limited circumstances in which approval to work on a proposal might not result in approval for public circulation. For example, the Rules Committee could reasonably not approve for circulation something that it earlier approved for development if there is a significant change in the proposal and the proposal: (1) is much bigger in scope or more complex than described on the annual agenda; (2) has consequences not recognized or anticipated when presented on the annual agenda; or (3) is no longer urgent or needed to avoid inconsistency in the law.

If, after approval of its annual agenda, an advisory body identifies additional or different priorities and projects, because of legislation or other reasons, it may seek approval from its oversight committee to amend its annual agenda. [Templates](#) approved for this purpose are available to lead staff on [The Hub](#). In determining whether to give approval to a proposed additional project, the oversight committee considers:

- The new project's urgency;
- Whether it is consistent with the advisory body's charge;
- The advisory body's approved annual agenda;
- The Judicial Council's strategic plan; and
- Whether it falls within the body's available staff and other resources.

Policy Considerations in Reviewing Annual Agendas

Distinction Between Policy Recommendation and Policy Implementation

Because the primary role of advisory bodies is to advise and provide policy recommendations to the Judicial Council, the oversight committees may focus on projects that fall outside of this role. If an advisory body has been directed to implement policy or produce a program, the oversight committee will want to ensure that staff continue to be accountable to the Administrative Director for the satisfactory performance of the implemented policy or program, and that the role of the advisory body is to provide advice to staff. These roles are consistent with the council's governance policies.

For advisory bodies that have policy implementation and programmatic projects, the annual agenda process can clarify for the advisory body the part for which it is responsible (e.g., providing advice and guidance to staff) and the part for which staff are responsible (e.g., performing to the standards and expectations of the Administrative Director).

Preliminary questions about the annual agendas include:

- Which projects give advice or make policy recommendations? (Both are the advisory body's primary role.)
- Which projects are policy implementation or programmatic?
- Which projects may result in a budget change proposal (BCP) or a distribution of funds to the courts?

An advisory body's *recommendations* of new or revised rules and forms are policy recommendations because they require the weighing of various possibilities and alternatives, and their approval requires a policy decision by the Judicial Council. An advisory body's *recommendations* of specific programs or of specific ways to implement policy are also policy recommendations. As long as an advisory body stays in the realm of making recommendations to the council, it occupies its traditional advisory role.

However, when the advisory body's project actually produces products or services, such as resource materials, content, or programs, or the advisory body takes final action independent of the council, it is considered to be performing the work of implementation and program delivery. An explicit Judicial Council or oversight committee charge is required for an advisory body to take this action or pursue this type of project. The advisory body's oversight committee may approve the body's involvement with policy implementation or program delivery, but it is important to specify on the annual agenda that a policy implementation project is being approved and to clarify the role and accountability of the advisory body and staff. In particular, the oversight committee's expectations for reviewing final products or introducing new services at the completion of an advisory body's project should be made clear. That way, oversight committees can ensure that the Administrative Director continues to be accountable to the Judicial Council for staff performance and advisory bodies can proceed with the explicit support of their respective oversight committees. In the event that the advisory body's work results in

recommendations to be submitted to the Judicial Council for its consideration and approval, please consult the [calendar](#) of Judicial Council meeting dates and the Executive and Planning Committee’s [agenda-setting schedule](#) to ensure timely delivery of the Judicial Council report.

Judicial Branch Strategic Plan Alignment

The annual agendas require advisory bodies to identify the strategic plan goals each project works toward. If an oversight committee determines that a project does not appear to align with existing branch priorities, the oversight committee can propose soliciting involvement by a more appropriate entity (e.g., the State Bar). If the annual agenda conversation results in the conclusion that a specific project is attenuated or not covered by branch priorities, the oversight committee and the advisory body chair should discuss and decide whether the project can be modified to meet a judicial branch strategic goal or policy, or an operational objective or outcome, or whether that project should be referred to an outside entity.

General Questions and Issues Applicable to Most Annual Agendas

The following are general questions that may be applicable to annual agendas under review:

- Is this a “realistic” list of objectives and projects for the coming year? (Factors may include the number of projects on the list, the varied scope of projects, the impact on the courts if approved, the resources needed, etc.)
- What is the key direction and focus for this advisory body?
- What is the status of the previous year’s priority level 2 projects? (For priority level 2 projects approved by the Rules Committee, the expectation is that the advisory body can develop the project—typically a rule or form proposal—and that it will be approved for circulation in the second year, absent unusual circumstances.)
- Were there issues/projects that the advisory body worked on during the previous year that were unanticipated? If so, what were they?
- For a project that implements policy or produces a program:
 - What role do the advisory body members play in performing this project? What role do staff play? To whom are staff accountable for the satisfactory and timely completion of this project?
 - Does the advisory body have an explicit Judicial Council or oversight committee charge to pursue this project? If the charge is ambiguous or was issued several years ago, should the oversight committee renew that charge? If so, under what circumstances and conditions should the advisory body pursue this project?
- Does the advisory body gather stakeholder perspectives?
- How does the advisory body intend to obtain information about the cost and training impact on the courts of a particular proposal?
- Does the chair or staff have any concerns about the adequacy of resources to accomplish the projects?