

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
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**Report**

TO: Members of the Judicial Council

FROM: Center for Families, Children & the Courts  
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SUBJECT: Approval of an Access Policy for Low- and Moderate-Income Persons  
(Action Required)

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Issue Statement

The ability of many of California's low- and moderate-income residents to effectively participate in the justice system is limited by economic barriers, including lack of access to legal assistance, inability to pay court fees, and lack of access to technology. Rules, forms, programs, and legislative proposals adopted by the council have the potential to impede access for low- and moderate-income persons.

The California Commission on Access to Justice is a broad-based blue-ribbon commission dedicated to improving access to justice for poor and moderate-income Californians both represented and unrepresented by counsel. The commission, which includes members appointed by the Chief Justice, has requested that the Judicial Council adopt the following policy. The Access and Fairness Advisory Committee also supports the policy. The policy seeks to identify and address existing barriers and to seek to prevent actions, rules, standards, and forms adopted by the Judicial Council from creating additional barriers to participation by low- and moderate-income litigants.

Recommendation

AOC staff recommend that the Judicial Council approve a policy on access to the court system for low- and moderate-income persons as recommended by the California Commission on Access to Justice, as follows:

1. When establishing or revising court rules, standards, or forms, or when considering positions on proposed legislation, the Judicial Council's advisory committees should expressly consider the impact of the proposed action on low- and moderate-income litigants and address that impact in the report to the council. Staff should ensure that comments on these proposals will be sought from groups and entities representing or advocating for litigants who face economic and other barriers to the effective use of the judicial system. A list of such entities will be maintained and updated on an annual basis by the Administrative Office of the Courts.
2. Council advisory committees will begin a process to solicit comments from the legal services community to identify issues and concerns regarding existing rules, standards, and forms, with comment from the groups and entities included on the AOC list maintained as directed in the preceding paragraph, to determine the extent to which any of these create economic barriers to access. The advisory committees will determine the extent to which new rules, standards, or forms would affirmatively increase access. Thereafter, each committee will, as part of its annual plan, review new projects and proposals using the same standards.
3. The Center for Judicial Education and Research will attempt to ensure that economic access issues are included in the curriculum development process and integrated into substantive courses as appropriate in education for judges, court administrators, and staff.
4. Attorneys with knowledge of low-and moderate-income issues will be encouraged to apply for membership on council advisory committees and task forces.
5. AOC staff will provide a copy of this policy, and may provide technical assistance to the extent that resources allow, to local courts to help them develop and maintain their own procedures for evaluating local practices consistent with the goals and mechanisms set forth in paragraph 1.
6. To assist the implementation of this policy, the AOC will develop and disseminate to the council, its committees, and trial court presiding judges information concerning successful practices, rules, standards, and forms developed by courts to improve economic access.

7. The liaison between the council's Access and Fairness Advisory Committee and the California Commission on Access to Justice will be continued to coordinate work and information on appropriate issues of fairness and access.

#### Rationale for Recommendation

The Judicial Council has adopted "Access, Fairness, and Diversity" as Goal I of its strategic plan. The second policy direction related to Goal I of the strategic plan provides that the council shall "Broaden and facilitate access to and understanding of the court process for all persons served by the courts, including unrepresented, low- or middle-income, disabled, and non-English-speaking individuals." This protocol is an important step that will enhance and complement the other actions already taken by the Judicial Council to improve access, including the work of the Access and Fairness Advisory Committee and the newly established Task Force on Self-Represented Litigants.

The problems addressed by this protocol are not limited to the population in poverty or to the self-represented. The barriers for moderate-income persons, who have some ability to bear the costs of representation and access, are also real. Lack of economic access can also disproportionately impact people of color, women, persons with disabilities, and language minorities. The California Commission on Access to Justice believes, and AOC staff concur, that consideration of the impact of actions upon low- and moderate-income persons will improve access for a broad range of Californians.

#### Alternative Actions Considered

The council could choose not to approve this policy. However, the policy advanced by this protocol directly supports the goals set forth in the Judicial Council's strategic plan, which include improvement of access to justice for all persons.

The council could choose, alternatively, to adopt a rule of court requiring that all local courts adopt such a protocol in their consideration of local rules, forms, and procedures. However, staff recommends that the council, instead, provide information to the courts about its activities in this area and suggest best practices, rather than mandate these activities.

#### Comment From Interested Parties

This proposal was not circulated to outside groups, as it is an internal policy for the Judicial Council.

### Implementation Requirements and Costs

Implementation of this protocol would involve staff and committees undertaking the following steps:

1. Analyze issues relevant to each committee or task force that may impact low- or moderate-income litigants, in order to develop a framework for periodic analysis of rules, standards and forms;
2. Amend the Judicial Council report format to require a description of the impact of the proposed action, rule, or form on economic access to justice and a list of entities or individuals to whom the proposal was circulated for comment prior to submission;
3. Convene appropriate trainings about access issues for low- and moderate-income persons for AOC staff who draft rules and forms.

The recommendations contained in this report will have no direct fiscal effect on the courts; nevertheless, the courts will indirectly benefit from assistance provided to self-represented litigants.

