

## **Public Comment on Proposed Rule 9.81 of the California Rules of Court**

Fix the Court appreciates today's opportunity to comment on proposed Rule 9.81 of the California Rules of Court, which would formalize the structure and procedures of the Supreme Court Advisory Committee on the Code of Judicial Ethics.

We support the court's effort to codify the existence and operations of this advisory committee. As described in the invitation to comment, the committee has functioned in various forms for many years, and there are other ethics bodies in the state of California. But establishing a formal rule governing the composition, duties, and procedures of this committee should promote public trust and transparency in the process by which amendments to the California Code of Judicial Ethics are considered.

While we support adoption of Rule 9.81, we respectfully wish to offer several suggestions that may further strengthen the committee's work and public confidence in the process:

First: the proposed rule limits membership to judges and justices. Because the Code of Judicial Ethics governs matters that directly affect public trust in the judiciary, the committee could benefit from the inclusion of at least one non-judicial member, similar to the [composition of the existing CJP](#), which is composed of both judicial and non-judicial members. Such a member could be a law school professor, experienced attorney, journalist, or other member of the public with relevant expertise. Including a non-judicial perspective may improve the public credibility of the committee's deliberations without altering its character.

Second, (g)(1) of the proposed rules requires the committee to obtain approval from the California Supreme Court before soliciting public comment on proposed amendments. We respectfully suggest that the committee be permitted to solicit public comment independently. Allowing the committee to independently gather public input could broaden the range of perspectives available to the court while maintaining an orderly review process.

Third, (g)(2) of the proposed rules would make all public comments submitted to the committee confidential. While some submissions may involve sensitive matters, a blanket rule of confidentiality may unnecessarily confine transparency in the rulemaking process. We suggest that confidentiality be optional rather than mandatory, allowing commenters to request confidential treatment where appropriate while permitting the committee to publish comments with redactions of personal information where possible.

Fourth, the proposed rule does not require periodic public reporting on the committee's activities. Requiring an annual public report summarizing meetings, issues considered, and any recommendations submitted to the court would enhance transparency and help the public better understand how judicial ethics standards are periodically evaluated.

Finally, because financial disclosure requirements (see: [Cal. Code Regs. Tit. 2, § 18115](#)) and ethics training play an important role in promoting judicial transparency and accountability, the committee may wish to periodically review whether the Code of Judicial Ethics adequately addresses these subjects. In our view, California is among the most diligent states for ensuring judicial ethics, but the future may bring unforeseen changes at any moment, and routine review of these regulations would help affirm public trust in the courts.

For example, the committee could consider whether judges' financial disclosure reports should also note completion of regular judicial ethics training. We also note the important role of the California Commission on Judicial Performance in investigating and disciplining judicial misconduct; the advisory committee's work in recommending potential updates to the ethics code could complement that enforcement role by helping ensure that the governing standards remain current.

We appreciate the court's consideration of these comments; we especially appreciate California's efforts to formalize the advisory committee's role in maintaining the state's strong judicial ethics framework.

Respectfully Submitted,

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