

## **RULE 4 TEMPORARY JUDGES AND SETTLEMENT ATTORNEYS**

RULE 4 TEMPORARY JUDGES AND SETTLEMENT ATTORNEYS (Effective 1/1/2022)

### **A. COURT-APPOINTED TEMPORARY JUDGES**

- (1) **APPLICATION AND TRAINING** The Court appoints qualified attorneys as temporary judges pursuant to the California Rules of Court (CRC). Application forms for appointment as a temporary judge may be downloaded from the Court's website at ~~www.sesecourt.org~~ **<https://santaclara.courts.ca.gov/TJP>**. Attorneys applying for appointment as a temporary judge in the Small Claims or Traffic divisions who previously have not served as a temporary judge in that division must observe two (2) half-day calendars in the division conducted by judicial officers, as well as satisfy all other requirements set forth in the CRC. The two (2) half-day calendars in Traffic ~~shall~~ **must** include arraignments and trials.  
(Effective 1/1/2024)
- (2) **COMPLAINTS** Forms for lodging complaints about a ~~Court-appointed~~ **court-appointed** temporary judge may be found on the Court's website at ~~www.sesecourt.org~~ **<https://santaclara.courts.ca.gov/TJP>**, or they are available from the Clerk's Office at any courthouse where temporary judges serve. Complaints about any court-appointed temporary judge **will be processed in line with the CRC and** should be sent to **the** Temporary Judge Administrator, Santa Clara County Superior Court, 191 N. First Street, San Jose, CA 95113. Complaints related to sexual harassment **or those that cannot be submitted online due to a disability** may be made by phone by calling the Temporary Judge Administrator at (408) 882-2721.  
(Effective 1/1/2022)

<b>Superior Court of California, County of Santa Clara</b> <b>TEMPORARY JUDGE PROGRAM</b> <b>Process</b>	<b>NUMBER</b> <b>TJP- 005</b>	<b>Page</b> <b>1 of 1</b>
	DATE ISSUED <b>X/X/2025</b>	
<b>SUBJECT: COMPLAINTS REGARDING</b> <b>TEMPORARY JUDGES</b>	APPROVED BY	

**1.0 INTRODUCTION/PURPOSE:**

1.1 The purpose of this process is to establish the procedures by which complaints regarding Temporary Judges will be received, investigated, and resolved.

**2.0 RELEVANT AUTHORITIES:**

California Rule of Court 10.746; **California Rule of Court 10.703**; Local General Rule 4 (A)(2).

**3.0 PROCEDURES:**

3.1 All complaints concerning temporary judges shall **must** be directed to the Temporary Judge Administrator.

3.2 **Except as stated in this paragraph, Complaints complaints** should be presented in writing. A complaining party may use the Complaint Form (TJP-F014) which is available from the Clerk’s Office at any court facility where temporary judges preside and from the court’s website. Complaints related to sexual harassment **or those that cannot be submitted online due to a disability** may be made by phone by calling the Temporary Judge Administrator at (408) 882-2721.

3.3 On receipt of a complaint, the Temporary Judge Administrator will:

3.3.1 Note in the Confidential Temporary Judges’ Complaint Log (TJP-F007) the date the complaint was received and the name of the complainant.

3.3.2 Review the complaint.

3.3.3 Prepare a complaint packet consisting of a Routing Slip, the complaint, and the temporary judge file. **If the complaint is related to an employee serving as a temporary judge, the Temporary Judge Administrator must refer to the process outlined in California Rule of Court Rule 10.703 and include the relevant noticing requirements in the complaint packet as drafted.** The packet will be forwarded to the Assistant Presiding Judge (APJ) or Presiding Judge (PJ) based on the direction of the PJ.

- 3.3.4 Prepare a letter to the complainant acknowledging receipt of the complaint, if requested by the A/PJ.
- 3.3.5 Obtain a copy of the audio recording of the hearing and any other case material, if requested by the A/PJ.
- 3.3.6 Assist the A/PJ in preparing a disposition by letter to the complainant or by internal memo, send correspondence to the complainant if so directed, and file the disposition in the temporary judge complaint folder and file under the appropriate year.

#### 4.0 **SHARING OF COMPLAINT INFORMATION**

- 4.1 Except when necessary or as outlined below, complaint information shall be handled in a confidential manner. The intent of this information sharing is to ensure that appropriate information is communicated across divisions to confirm that proper action is taken by the Court.
- 4.2 When there is an applicant to the TJP, the Temporary Judge Administrator shall reach out to the SOC Officer and/or ADR Coordinator to obtain and record information about any complaints made about the applicant.
- 4.3 When a complaint about a temporary judge is made about an individual who also serves as a settlement attorney, the Temporary Judge Administrator shall forward the relevant information to the SOC Officer and/or ADR Administrator.



## 2024 California Rules of Court

### **Rule 10.703. Subordinate judicial officers: complaints and notice requirements**

#### **(a) Intent**

The procedures in this rule for processing complaints against subordinate judicial officers do not:

- (1) Create a contract of employment;
- (2) Change the existing employee-employer relationship between the subordinate judicial officer and the court;
- (3) Change the status of a subordinate judicial officer from an employee terminable at will to an employee terminable only for cause; or
- (4) Restrict the discretion of the presiding judge in taking appropriate corrective action.

*(Subd (a) amended effective January 1, 2016; previously amended effective January 1, 2007.)*

#### **(b) Definitions**

Unless the context requires otherwise, the following definitions apply to this rule:

- (1) "Subordinate judicial officer" means an attorney employed by a court to serve as a commissioner, referee, or hearing officer, whether the attorney is acting as a commissioner, referee, hearing officer, or temporary judge. The term does not include any other attorney acting as a temporary judge.
- (2) "Presiding judge" includes the person or group the presiding judge designates to perform any duty required by this rule to be performed by a presiding judge.
- (3) "Commission" means the Commission on Judicial Performance. The commission exercises discretionary jurisdiction over the discipline of subordinate judicial officers under article VI, section 18.1 of the California Constitution.
- (4) "Written reprimand" means written disciplinary action that is warranted either because of the seriousness of the misconduct or because previous corrective action has been ineffective.

*(Subd (b) amended effective January 1, 2016.)*

#### **(c) Application**

- (1) A court that employs a subordinate judicial officer must use the procedures in this rule for processing complaints against the subordinate judicial officer if the complaint alleges conduct that if alleged against a judge would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution.

- (2) If a complaint against a subordinate judicial officer as described in (f) does not allege conduct that would be within the jurisdiction of the commission, the local procedures adopted under rule 10.603(c)(4)(C) apply. The local process may include any procedures from this rule for the court's adjudication of the complaint other than the provisions for referring the matter to the commission under (g) or giving notice of commission review under (k)(2)(B).
- (3) A court may adopt additional policies and procedures for the adjudication of complaints against subordinate judicial officers not inconsistent with this rule.

*(Subd (c) amended effective January 1, 2016; previously amended effective July 1, 2002 and January 1, 2007.)*

**(d) Promptness required**

The presiding judge must ensure that the court processes each complaint promptly. To the extent reasonably possible, the court must complete action on each complaint within 90 days after the complaint is submitted.

*(Subd (d) amended effective January 1, 2007.)*

**(e) Confidentiality**

- (1) All proceedings by a presiding judge under this rule must be conducted in a manner that is as confidential as is reasonably possible consistent with the need to conduct a thorough and complete investigation and the need for proper administration of the court.
- (2) This rule does not prohibit access by the commission to any information relevant to the investigation of a complaint against a subordinate judicial officer.

*(Subd (e) amended effective January 1, 2007.)*

**(f) Written complaints to presiding judge**

- (1) A complaint about the conduct of a subordinate judicial officer must be in writing and must be submitted to the presiding judge.
- (2) Persons who are unable to file a written complaint because of a disability may present an oral complaint, which the presiding judge must commit to writing.
- (3) The presiding judge has discretion to investigate complaints that are anonymous.
- (4) The presiding judge must give written notice of receipt of the complaint to the complainant, if known.

*(Subd (f) amended effective January 1, 2016; previously amended effective January 1, 2007.)*

**(g) Initial review of the complaint**

- (1) The presiding judge must review each complaint and determine if the complaint:
  - (A) May be closed after initial review;
  - (B) Requires investigation by the presiding judge; or
  - (C) Should be referred to the commission or to the presiding judge of another court for investigation or for investigation and adjudication.
- (2) A presiding judge may request that the commission investigate and adjudicate the complaint if a local conflict of interest or disqualification prevents the court from acting on the complaint.

- (3) In exceptional circumstances, a presiding judge may request the commission or the presiding judge of another court to investigate a complaint on behalf of the court and provide the results of the investigation to the court for adjudication.
- (4) The court must maintain a file on every complaint received, containing the following:
  - (A) The complaint;
  - (B) The response of the subordinate judicial officer, if any;
  - (C) All evidence and reports produced by the investigation of the complaint, if any; and
  - (D) The final action taken on the complaint.

*(Subd (g) amended effective January 1, 2016; previously amended effective January 1, 2007.)*

**(h) Closing a complaint after initial review**

- (1) After an initial review, the presiding judge may close without further action any complaint that:
  - (A) Relates to the permissible exercise of judicial or administrative discretion by the subordinate judicial officer; or
  - (B) Does not allege conduct that if alleged against a judge would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution.
- (2) If the presiding judge decides to close the complaint under (h)(1), the presiding judge must notify the complainant in writing of the decision to close the complaint. The notice must include the information required under (k).
- (3) The presiding judge may, in his or her discretion, advise the subordinate judicial officer in writing of the decision to close the complaint.

*(Subd (h) amended effective January 1, 2016; previously amended effective January 1, 2007.)*

**(i) Complaints requiring investigation**

- (1) If after an initial review of the complaint the presiding judge finds a basis for further inquiry, the presiding judge must conduct an investigation appropriate to the nature of the complaint.
- (2) The investigation may include interviews of witnesses and a review of court records.
- (3) The presiding judge may give the subordinate judicial officer a copy of the complaint or a summary of its allegations and allow him or her an opportunity to respond to the allegations during the investigation. The presiding judge must give the subordinate judicial officer a copy of the complaint or a summary of its allegations and allow the subordinate judicial officer an opportunity to respond to the allegations before the presiding judge decides to take any disciplinary action against the subordinate judicial officer.
- (4) After completing the investigation, the presiding judge must, in his or her discretion:
  - (A) Close action on the complaint if the presiding judge finds the complaint lacks merit; or
  - (B) Impose discipline; or
  - (C) Take other appropriate corrective action, which may include, but is not limited to, oral counseling, oral reprimand, or warning of the subordinate judicial officer.

- (5) If the presiding judge closes action on the complaint under (i)(4)(A) and the presiding judge is aware that the subordinate judicial officer knows of the complaint, the presiding judge must give the subordinate judicial officer written notice of the final action taken on the complaint.
- (6) If the presiding judge decides to impose discipline or take other appropriate corrective action under (i)(4)(B) or (C), within 10 days after the completion of the investigation or as soon thereafter as is reasonably possible, the presiding judge must give the subordinate judicial officer the following in writing:
  - (A) Notice of the intended final action on the complaint; and
  - (B) The facts and other information forming the basis for the proposed action and the source of the facts and information.
- (7) The notice of the intended final action on the complaint in (i)(6)(A) must include the following advice:
  - (A) The subordinate judicial officer may request an opportunity to respond to the intended final action within 10 days after service of the notice; and
  - (B) If the subordinate judicial officer does not request an opportunity to respond within 10 days after service of the notice, the proposed action will become final.
- (8) If the subordinate judicial officer requests an opportunity to respond, the presiding judge must allow the subordinate judicial officer an opportunity to respond to the notice of the intended final action, either orally or in writing as specified by the presiding judge, in accordance with local rules.
- (9) Within 10 days after the subordinate judicial officer has responded, the presiding judge must give the subordinate judicial officer written notice of the final action taken on the complaint.
- (10) If the subordinate judicial officer does not request an opportunity to respond, the presiding judge must promptly give written notice of the final action to the complainant. The notice must include the information required under (k).

*(Subd (i) amended effective January 1, 2016; previously amended effective January 1, 2006 and January 1, 2007.)*

**(j) Notice to the Commission on Judicial Performance**

- (1) If a court disciplines a subordinate judicial officer by written reprimand, suspension, or termination for conduct that, if alleged against a judge, would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution, the presiding judge must promptly forward to the commission a copy of the portions of the court file that reasonably reflect the basis of the action taken by the court, including the complaint or allegations of misconduct and the subordinate judicial officer's response. This provision is applicable even when the disciplinary action does not result from a written complaint.
- (2) If a subordinate judicial officer resigns (A) while an investigation under (i) is pending concerning conduct that, if alleged against a judge, would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution, or (B) under circumstances that would lead a reasonable person to conclude that the resignation was due, at least in part, to a complaint or allegation of misconduct that, if alleged against a judge, would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution, the presiding judge must, within 15 days of the resignation or as soon thereafter as is reasonably possible, forward to the commission the entire court file on any pending complaint about or allegation of misconduct committed by the subordinate judicial officer.

- (3) On request by the commission, the presiding judge must forward to the commission any requested information regarding a complaint about or allegation of misconduct committed by a subordinate judicial officer.

*(Subd (j) relettered and amended effective January 1, 2016; adopted as subd (k); previously amended effective January 1, 2007 and July 1, 2010.)*

**(k) Notice of final court action**

- (1) When the court has completed its action on a complaint, the presiding judge must promptly notify the complainant, if known, of the final court action.
- (2) The notice to the complainant of the final court action must:
  - (A) Provide a general description of the action taken by the court consistent with any law limiting the disclosure of confidential employee information; and
  - (B) Include the following statement:

If you are dissatisfied with the court's action on your complaint, you have the right to request the Commission on Judicial Performance to review this matter under its discretionary jurisdiction to oversee the discipline of subordinate judicial officers. No further action will be taken on your complaint unless the commission receives your written request within 30 days after the date this notice was mailed. The commission's address is:

Commission on Judicial Performance  
455 Golden Gate Avenue, Suite 14400  
San Francisco, California 94102-3660

*(Subd (k) relettered and amended effective January 1, 2016; adopted as subd (l); previously amended effective April 29, 1999 and January 1, 2007.)*

*Rule 10.703 amended effective January 1, 2016; adopted as rule 6.655 effective November 20, 1998; previously amended and renumbered effective January 1, 2007; previously amended effective April 29, 1999, July 1, 2002, January 1, 2006, and July 1, 2010.*