

# THE JUDICIAL CONFERENCE OF THE UNITED STATES: WHERE FEDERAL COURT POLICY IS MADE

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Visitors to a federal courthouse, even those who visit frequently, may not fully understand the link between what they see and hear there and the policy-making Judicial Conference of the United States. Building security, courtroom technology, clerk's office staffing, rules of practice and procedure, and even courthouse design are among the varied reflections of decisions made by the Judicial Conference as it carries out its fundamental purpose—to make policy for the administration of the U.S. courts.

That purpose has remained unchanged since Congress created the office, first called the Conference of Senior Circuit Judges, in 1922. The name was changed in 1948, and district judges were formally added to the Judicial Conference in 1957.

Today, the Judicial Conference is a 27-judge body. Chief Justice John Roberts is its presiding officer. The chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge elected from each judicial circuit also comprise the membership. The conference meets twice a year—in March and September—to act on proposals brought by its network of committees.

For example, at the March 2009 meeting, the conference adopted a revised Code of Conduct for United States Judges that took effect July 1, 2009, the first substantial code revision since 1992. The revised version builds on the dictate in the code's Canon 1, that judges should uphold the integrity and independence of the judiciary, and reflects the assiduous work done by the conference's 15-member Committee on Codes of Conduct over a period of several years. At that same March meeting, the Judicial Conference acted on a recommendation made by its Committee on Court Administration and Case Management and advised all federal courts to review their attorney admission procedures in order to ensure that only those attorneys who have met the necessary bar admission requirements are permitted to represent clients.

In all, more than 300 federal judges serve on Judicial Conference committees and all are appointed by the Chief Justice of the United States. Each committee reviews issues within its established jurisdiction and makes policy recommendations to the entire conference. Matters considered by a committee may be suggested by the Chief Justice or the conference secretary, members of Congress, federal judges, circuit judicial councils, or committee members themselves. Lawyers and other members of the public may bring suggestions about matters they would like a conference committee to consider to the director of the Administrative Office of the United States Courts, currently James C. Duff, who is also the secretary of the Judicial Conference.

The list of committee names lends insight into the wide

variety of court administration subjects considered. Among the 26 committees that make up the structure of the Judicial Conference of the United States are the Committees on Administration of the Bankruptcy System, Budget, Criminal Law, Defender Services, Information Technology, Intercircuit Assignments, International Judicial Relations, Judicial Security, and Administration of the Magistrate Judges System.

How many appellate, district, magistrate, and bankruptcy judges do the nation and each judicial subdivision need? What future courthouse construction or renovation is required and what funding should be requested from Congress? How can the safety and security of federal judges and all those who enter a federal courthouse best be ensured? How does the judiciary retain the services of the best and brightest? All these important questions are grist for the deliberations of the Judicial Conference's committees.

The Executive Committee, which I currently chair, is authorized to act on behalf of the Judicial Conference between its regular sessions, after consultation with the relevant committee or committees, on any matter requiring emergency action. The Executive Committee also resolves questions as to whether a given matter falls within the jurisdiction of a particular committee and approves spending plans for the judiciary.

The so-called program committees of the Judicial Conference, which generally meet twice a year, advise the Budget Committee on the development of budgets and on appropriate spending plans for programs within the jurisdiction of the individual committees. The so-called process committees, such as the Committee on Intercircuit Assignments and the Committee on Judicial Conduct and Disability, hold meetings as needed.

Most committee work is done internally and becomes public when the Judicial Conference votes on specific recommendations. The work of the Committee on Rules of Practice and Procedure (sometimes called the Standing Committee on Rules) is public. This committee and its five advisory committees—Appellate Rules, Bankruptcy Rules, Civil Rules, Criminal Rules, and Evidence Rules—seek public comment, hold hearings across the nation, and deliberate in public, as new rules and rule amendments are drafted and debated. The proposed rules and amendments initially considered by the appropriate advisory committee are published widely for public comment before being approved by that advisory committee and sent to the Standing Committee on Rules. Once that committee has given its approval, the matter goes to the Judicial Conference for approval and then to the Supreme Court for promulgation. The rules become law unless Congress votes to reject or modify them. This process can take several years.



The Executive Committee is aided in carrying out its responsibilities by a very able Office of the Judicial Conference Executive Secretariat within the Administrative Office. Similarly, each of the conference's other committees finds yeoman staff support from the various program offices of the Administrative Office. Activities leading up to one of the Judicial Conference's two sessions each year will help illustrate the kind of help the staff renders.

Committee agendas are typically distributed well in advance of the March or September conference meeting. Several weeks prior to the meeting, each committee meets and prepares its reports to the conference—whether they contain policy recommendations or serve informational purposes only. After the committee reports are distributed to the conference members, the Executive Committee creates consent and discussion calendars for the upcoming Judicial Conference session. Those proposed calendars, which reflect the committees' recommendations, are distributed to all conference members in advance of the meeting. Any one conference member may, by giving notice to the conference secretary, move an item from the consent to the discussion calendar. All action items must be approved by the conference. After the conference meets, committee reports are available to the public on request. In addition, the extraordinary help the conference receives from the Federal Judicial Center, which provides research and other assistance to conference committees, should also be noted.

The mission of the Judicial Conference—making policy for the administration of the federal court system—has

been codified in § 331 of the U.S. Code's Title 28, which provides that the conference shall do the following:

- Make a comprehensive survey of the conditions of business in the courts of the United States.
- Prepare plans for the assignment of judges to or from courts of appeals or district courts, where necessary.
- Submit suggestions to the various courts in the interest of promoting uniformity of management procedures and the expeditious conduct of court business.
- Exercise authority ... for the review of circuit council conduct and disability orders.
- Carry on a continuous study of the operation and effect of the general rules of practice and procedure to use within the federal courts, as prescribed by the Supreme Court pursuant to law.

I believe the Judicial Conference of the United States has carried out these mandates with great vigor and continues to serve well the judiciary—and, beyond it, the nation's system of justice and the American public. **TFL**

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