



Mentoring the advocate

THE CALIFORNIA JUDICIAL MENTOR PROGRAM PROVIDES JUDICIAL MENTORS STATEWIDE FOR ATTORNEYS CONSIDERING A CAREER ON THE BENCH

Have you considered a career as a judge or justice, but need help to understand the judicial application process? Or you'd like to talk confidentially with a judge to better appreciate what the job is like or determine whether you are genuinely suited for a career change?

There's a program that addresses these questions and it's called the California Judicial Mentor Program (CJMP). CJMP provides judicial mentors statewide for individuals considering a judicial career. What's unique about this program is the fact that an attorney can establish a confidential one-on-one relationship with an experienced and trusted advisor – a judicial mentor.

CJMP, created in 2021, is an effort between the governor's office and judicial branch with a shared goal to expand the pool of qualified judicial applicants from diverse legal backgrounds and different communities. CJMP operates in all 58 trial courts and the six districts of the Court of Appeal.

One of the program's primary aims is to demystify the complex process of applying to the bench, so that it's more transparent and accessible to all members of the legal community. For example, a judicial mentor can explain the judicial application process as well as the vetting systems like the Judicial Nomination Evaluation Committee (JNE), the Judicial Selection Advisory

Committee (JSAC), and county bar associations.

Values and character traits

CJMP mentors are also familiar with Governor Gavin Newsom's criteria for values and character traits for judicial officers. For example, Judicial Appointment Secretary Luis Céspedes states that humility is the number one criterion as a qualification for appointments. That means the applicant should not consider themselves the smartest person in the room or to always have the correct answer, but recognize the need to be prepared, listen mindfully, and evaluate approaches other than their own. To practice humility is a badge of courage,

such as admitting when you're wrong. Accepting accountability when you are part of the judicial institution strengthens trust and confidence in the judicial system.

Other criteria mentioned by Governor Newsom include empathy and compassion, courage, integrity and honesty, good people skills, judicial temperament and judgment. Life experience, collegiality, intellectual curiosity, legal ability, community engagement and a desire to do public service are also mentioned.

Empathy, as an important quality to be found in a judicial applicant, cannot be overstated. It can be argued that judicial empathy is necessary for objective adjudication and impartial decision-making. For example, in many cases, questions of inequality and perspective are raised, and involve a highly factual inquiry in applying the law. The outcome depends in large measure upon how the judge hears the litigants' stories. A judge who relies on their own assumptions and experiences may tend to gravitate – unconsciously or not – in favor of the more familiar story. Consequently, a judge as the trier of fact, or gatekeeper of evidence, may exhibit partiality toward one side. While attorneys and litigants expect judges to be mindful of their biases or inclinations, when hearing different views, it's crucial that impartiality requires judicial empathy to give equal and objective consideration to all points of view and life experiences, especially those that are different to the judge.

Experience and connections

There are some misconceptions or myths that people hold that they believe may impose a barrier for an attorney seeking a judicial appointment such as trial or courtroom experience. An applicant should have familiarity with the courtroom and trial rules and the Evidence Code, but trial experience, while important, is not always necessary. The reality is that fewer civil cases today are tried in court. Moreover, women and people of diverse backgrounds often have less opportunity to first-chair or try cases.

Instead, an applicant can emphasize legal experience like significant appellate or motion practice, or transferable skills such as time spent serving as a judge pro-tem, mediator, arbitrator or special master.

Another misconception is that a judicial applicant needs to know people with political influence, the governor or the appointment secretary. Secretary Céspedes says who you know is not a factor in the evaluation process.

Further, a judicial applicant does not need to have both criminal and civil law experience. In-depth knowledge of one's practice area is sufficient because there's a recognition that attorneys often specialize in a specific practice area. The key is the willingness of the applicant to learn new areas of the law.

According to Secretary Céspedes and Supreme Court Associate Justice Martin Jenkins, Governor Newsom's former judicial appointment secretary, judicial applicants should not let self-doubt – commonly called *imposter phenomenon* – hold an applicant back from achieving their professional goals. Lawyers, they say, can be high achieving but still feel they are not worthy, or have a sense that failure is anticipated, or self-perceived deficiencies will be revealed. These feelings may well have been formulated early in that person's life. The antidote to this phenomenon for a judicial applicant is to get a mentor who can help a mentee overcome self-doubt and build confidence in one's qualifications and achievements.

Mentee qualifications

The qualifications to be a mentee are simple. A lawyer must be a member of the California State Bar, typically for at least 10 years, and be in good standing. The mentee must commit to a mentorship relationship for one year. To avoid the potential for a conflict of interest, a mentee is generally not paired with a judge who may see that attorney in their courtroom. Further, a prospective mentee may be asked when applying for a mentor – the application can be found on the court's public website – to be assigned a

judicial mentor of the same ethnic, gender, sexual orientation, practice area or geographic preference. The pairing process conducted by judges and justices is designed to make the best match possible.

Once a mentee submits a judicial application to the governor's office, the mentorship relationship officially concludes. A CJMP mentor will not coach or prepare a mentee for interviews with JNE, bar associations or the governor's office. However, an applicant may certainly seek out assistance from other judges who, for example, may belong to an affinity judicial association or seek advice and support from another active or retired judge. Further, the CJMP mentor generally doesn't serve as a reference for the applicant, unless the judge and applicant had a relationship prior to the mentorship.

The mentor's role

Hundreds of judges and justices volunteer and participate in CJMP. They answer questions about the judicial application process and suggest new skills and experiences to improve the mentee's suitability for an appointment. All CJMP mentors have completed implicit bias training to educate themselves about their implicit biases and equip judges and justices with tools and strategies to act objectively, limiting the influence of their implicit biases.

Participation in CJMP is not a prerequisite to or a guarantee of a gubernatorial appointment to the bench. The role of a judicial mentor, however, can influence an applicant's professional and personal growth and support an individual to fulfill their potential in life.

Like any healthy relationship, the mentee and mentor at the beginning of the mentorship relationship should establish clear goals. A mentee may be asked to write a short summary of the 10 most memorable professional and personal setbacks they have had in their life and provide an explanation of what were the most significant learning

experiences from those setbacks. It's important that the mentorship relationship be open and candid. The role of the mentor is to support and encourage a mentee in their learning, deepen their self-awareness, and help them "find their voice."

Another goal may be for the mentee to write about their family of origin, role models, and events that describe how these people or events have influenced or impacted their life. Lawyers are trained to tell stories of others but when it comes to telling their own story with authenticity, humility and truly show themselves, a mentor is available to help.

Influencing a mentee's personal and professional growth means that the mentor will provide honest and constructive feedback, and sometimes play devil's advocate. The mentor and mentee should always be prepared for their conversations, and be good listeners, a skill that's fundamentally essential to being a judge. After all, a good listener can practice compassion, empathy and open-heartedness.

To build trust and confidence with the mentorship relationship, it may be helpful for the mentee to learn about the mentor's path to the bench, including barriers, pitfalls, failures and successes. Through these conversations, the mentee can better appreciate the similarities of their professional and personal journeys.

Realities of a career on the bench

Not all lawyers are prepared or suited for a career on the bench. Dealing with high conflict, the wrangle of the courtroom and lawyers and disputants bringing their baggage of unmanaged stress – professional and personal – into the courtroom is challenging. And there's chronic incivility in the courtroom and legal profession. As reported in the 2021 Initial Report of the California Civility Task Force, a joint project of the California Lawyers Association and the California Judges Association, "Bullying, intimidation, and nastiness have too often replaced discussion, negotiation and skillful, hard-fought advocacy." Not all

judicial aspirants are suited for this kind of toxic workplace.

Judges are also targets of systemic incivility, which is based at times on gender, race, sexual preference, gender identity, political affiliation or other such characteristics. It is common to attack judges on social media and other outlets using tactics to bully and intimidate and spread false and misleading information. Civil disagreement is healthy, and the lawful and ethical use of appellate processes is part of our system of justice, but the fundamental role of the courts in our system of democracy is under attack when judges apply the rule of law with a fear of adverse outcomes to them personally.

In addition to the fact that the personal safety of judges and their families is at stake because of threats of physical harm, a judicial applicant must also be aware of the prospect that every six years, when a Superior Court judge's term of office ends, and the judge files nomination papers for re-election, the judge may well get challenged, as the current system allows. Consequently, a judge must raise and spend tens of thousands of dollars to retain their seat. As distasteful as it may seem for a judge to ask others, including lawyers for political contributions, judicial applicants must appreciate that they may someday have to run against opponents in a judicial election.

Lawyers who aspire to be a judge must also understand that there are plenty of judges on the bench who feel overburdened by heavy dockets, weighty decisions, repeated exposure to disturbing evidence and traumatized individuals, and court budget and staffing constraints. These issues can lead to excessive stress and burnout. A mentorship relationship will explore these real-life factors so that a mentee can receive honest and direct feedback about whether they are truly suited to be a judge or justice.

Another issue that a mentor should discuss with the mentee is the impact of the restrictions imposed on a judge's

personal and professional life by the California Code of Judicial Ethics. For example, judges must be vigilant and maintain an appropriate distance and demeanor at social and bar gatherings and be mindful of what they say to former colleagues, friends, neighbors and family members. Losing one's First Amendment right to speak untethered may be too difficult for some to relinquish. Family members are also drawn into the image and behavior restrictions. An applicant's decision to seek a judicial appointment should be carefully discussed with family members and intimate partners.

Mentees should truly understand the level of occupational and personal stress and strain that judges face. Newly appointed judges have many resources available to them to transition into their new role, where they are expected to be wise, responsible, efficient case-managers and knowledgeable about all aspects of their assigned discipline, as well as court procedures and the various role of justice partners and stakeholders. However, the need for broad-based skills in substantive and procedural issues can be daunting.

The bench can be isolating

It was no surprise when the results of The National Judicial Stress and Resiliency Survey, the largest of its type ever conducted, were published in 2020 in the American Bar Association's Center for Professional Responsibility *Journal of the Professional Lawyer* entitled "Stress and Resiliency in the U.S. Judiciary." Systemic isolation, acutely experienced by jurists after taking the bench, accompanied by alcohol use and indications of mental health issues, and how judges manage that stress and use resiliency practices, were identified. Recommendations to judges to manage isolation include basic steps for self-care, including practices that benefit the body, mind and spirit.

Burnout – a syndrome emerging as a prolonged response to chronic interpersonal stressors on the job, or overwhelming exhaustion, feelings of cynicism, detachment from the job, a sense of ineffectiveness, fatigue – also

contributes to occupational dissatisfaction. The survey found that female judges scored higher than male judges on internalizing factors versus externalizing factors, findings consistent with other studies on gender and stress for various populations.

The question to a mentee is: How satisfied are you with the work you are doing as an attorney and what kind of resiliency (the ability to rebound or bounce back) and stress management do you practice since emotional, intellectual, occupational, physical, social and spiritual wellness are relevant to our professional and personal well-being? What does a mentee's self-care practice look like to maintain and sustain a healthy, balanced perspective and lifestyle both on and off the bench? These are topics a mentee can discuss in confidence with a mentor.

Read the handbook

A final suggestion for an attorney considering an appointment to the bench is look at the 971-page book entitled, *California Judicial Handbook*. This book sits on every judge and justice's bookshelf because it's the definitive source for ethics guidance and support in California. The book is a source of information on the standards expected of judges and provides a basis for an understanding of the essence of what being a judge is about. In explaining the purpose of the handbook, the authors state: "The Central Principle of Being a Judge is to ensure the honesty and integrity of the process of judicial decision-making and of the decisions of judges. It provides a single foundational idea unifying the elements of judging based on constitutional provisions, statutes,

precedents, the rules of procedure, and the California Code of Judicial Ethics governing the conduct of judges in court and in private life."

If you are considering applying for an appointment to be a judge or justice, you are invited to go to your court's public website and submit a request for a judicial mentor. CJMP is free and it's an opportunity for a mentee to grow and fulfill their potential in life and pursue their dream job.

Los Angeles Superior Court Judge Paul A. Bacigalupo is chair of the California Judicial Mentor Program, a founding co-chair of the Los Angeles Superior Court's Judicial Mentor Program, and a former president of the California Judges Association and co-chair of the Judicial Branch Bench-Bar Coalition. 