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INVITATION TO COMMENT

W14-08

Title	Action Requested
Judicial Branch Education: Trial Court Employee Education	Review and submit comments by comments by January 24, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rule 10.474	April 25, 2014
Proposed by	Contact
Rules and Projects Committee Hon. Harry E. Hull, Jr., Chair Hon. Judith Ashmann-Gerst, Vice-Chair	Susan R. McMullan, 415-865-7990 susan.mcmullan@jud.ca.gov

Executive Summary and Origin

Rule 10.474 addresses education for trial court managers, supervisors, and other personnel. Among other provisions, it requires that continuing education must be completed every two years and that half of the required hours be live, face-to-face education, and states that for good cause an extension of time to may be granted to complete the requirements. In August 2012, the Judicial Council directed the Rules and Projects Committee to evaluate relaxation of mandatory education requirements to allow the Administrative Director of the Courts and court executive officers greater discretion and flexibility in utilizing their workforces during times of budget constraints. The Rules and Projects Committee proposes amending rule 10.474 to accomplish this goal.

Background

On May 25, 2012, the Strategic Evaluation Committee (SEC) issued its report on the Administrative Office of the Courts. Among the recommendations to the Judicial Council was the following recommendation concerning AOC and trial court education requirements:

Recommendation No. 7-23: As to training currently required of AOC staff and court personnel, the Judicial Council should examine and consider a relaxation of current mandatory requirements to allow the Administrative Director of the AOC and/or court executive officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The council's Executive and Planning Committee (E&P) evaluated and prioritized each recommendation in the SEC report and presented them to the council on August 31, 2012. As to recommendation No. 7-23, E&P proposed and the council adopted the following:

Directive #79: E&P recommends that the Judicial Council direct the Rules and Projects Committee to evaluate relaxation of mandatory education requirements to allow the Administrative Director of the Courts and Court Executive Officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.

In response, the Rules and Projects Committee (RUPRO) considered Directive #79; recommendations from Administer Director of the Courts Steven Jahr; the rules of court that apply to education for AOC staff, trial court staff, appellate court staff, and clerk/administrators of the appellate courts; and the compliance periods for each category of employees. In its deliberations, RUPRO recognized the importance of judicial branch education and did not consider recommending that the education requirements be eliminated.

To gather information from trial courts about their needs and desires relating to staff education, in May 2013, RUPRO chair, Justice Harry E. Hull, Jr., wrote to all presiding judges and court executive officers soliciting their views on relaxing the mandatory education requirements for trial court staff to allow greater discretion and flexibility in use of these employees. Fifteen courts provided written comments in response. Justice Hull also attended the statewide business meetings of the Trial Court Presiding Judges Advisory Committee, Court Executives Advisory Committee, and the Conference of Court Executives on August 29, 2013, to discuss this subject.

The Proposal

Rule 10.474 would be amended to give greater flexibility and discretion to court executive officers and extend the education compliance period for all trial court employees¹ one year. Specifically the amendment would provide that:

- The court executive officer has discretion to determine the number of hours, if any, of traditional (live, face-to-face) education required to meet the continuing education requirement, and
- For good cause, the executive officer may grant a one-year extension of time to complete the education requirements.

If an extension is granted, the subsequent two-year compliance period would begin immediately after the extended compliance period ends, unless otherwise determined by the executive officer.

¹ Rule 10.474 does not apply to court executive officers. The Court Executives Advisory Committee will separately consider rule 10.473, which addresses education requirements for trial court executive officers.

Under the current rule, an extension of time does not affect the timing of the next two-year period; instead, the two periods overlap.

Many of the courts that responded to Justice Hull's May 2013 letter supported amending rule 10.474 to give the court executive officer greater discretion to determine the number of hours, if any, of live, face-to-face education required to meet the continuing education requirement and to grant extensions of time to complete the education requirements. More specifically, one court suggested eliminating the mandate for live training, stating that it is a reasonable area in which to economize. Similarly, one court asked that the distinction between face-to-face and online education be removed at this time. Another comment suggested extending the length of the education cycle by one year to provide relief for understaffed courts. Other comments went further, and they are paraphrased as questions in bullets in the box titled, "Request for Specific Comments," on page 4.

Alternatives Considered

RUPRO considered recommending that rule 10.474 be amended to provide an automatic one-year extension of time to all trial court employees. This would provide uniformity across all trial courts and eliminate each court's need to track its compliance period. It would also more closely parallel the education compliance period for AOC employees, in which all employees were granted a one-year extension to complete requirements. RUPRO recognized, however, that this alternative would not provide the flexibility for each court executive officer to determine whether to grant needed extensions based on a court's particular circumstances. RUPRO is interested in comments on this alternative as well as the alternative proposed in the accompanying rule text.

In deciding to recommend that each court executive officer be given authority to grant a one-year extension of time to complete the education requirements, RUPRO also considered whether to retain the language in the current rule that provides authority for the executive officer or a supervisor, if delegated by the executive officer, to extend the compliance period. RUPRO decided to eliminate the authority to delegate this decision, believing that it would allow divisions of a court to act independently and could result in different compliance periods even within a particular superior court.

Implementation Requirements, Costs, and Operational Impacts

With the extension of the compliance period and the elimination of face-to-face education requirements, there will be some minimal requirements and costs associated with tracking employee education. The proposal, however, is expected to have positive operational impacts by allowing trial court employees additional time to complete educational requirements and flexibility with respect to alternatives to live training, thereby increasing employee availability to provide needed services.

Request for Specific Comments

In addition to comments on the proposal as a whole, the Rules and Projects Committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should relaxation of the face-to-face education requirements in subdivision (c)(5) have a sunset date? If so, when should it end?
- Should the one-year extension of time proposed in subdivision (d)(1) apply to all trial court employees or should it be within the discretion of each court executive officer to grant an extension (as proposed in the attached rule text)?
- If the one-year extension of time proposed in subdivision (d)(1) is within the discretion of each court executive officer to grant, should it have a sunset date? If so, when should it end?
- Should the number of hours of education required in subdivision (c) be reduced or otherwise changed?
- Should the length of the compliance period in subdivision (c) be changed? (This is separate from a one-time extension of the period.)
- Should the orientation required in subdivision (c)(3) count toward the total hours requirement?
- Should the education requirements in the rule be made nonbinding recommendations (“should”) rather than mandatory (“must”)?

The Rules and Projects Committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts?
- Would 8 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 10.474, at pages 5–8

Rule 10.474 of the California Rules of Court would be amended, effective April 25, 2014, to read:

1 **Rule 10.474. Trial court managers, supervisors, and other personnel**

2
3 **(a) Applicability**

4
5 All California trial court managers, supervisors, and other personnel must complete
6 these minimum education requirements. All managers, supervisors, and other
7 personnel should participate in more education than is required, related to each
8 individual's responsibilities and in accordance with the education recommendations
9 set forth in rule 10.479.

10
11 **(b) Content-based requirements**

12
13 (1) Each new manager or supervisor must complete orientation courses within
14 six months of becoming a manager or supervisor, unless the court's executive
15 officer determines that the new manager or supervisor has already completed
16 these orientation courses or courses covering equivalent content. The courses
17 must include orientation about:

18
19 (A) The judicial branch of California;

20
21 (B) The local court; and

22
23 (C) Basic management and supervision.

24
25 (2) Each new court employee who is not a manager or supervisor must complete
26 orientation courses within six months of becoming a court employee, unless
27 the employee's supervisor determines that the new court employee has
28 already completed these orientation courses or courses covering equivalent
29 content. The courses must include orientation about:

30
31 (A) The judicial branch of California;

32
33 (B) The local court; and

34
35 (C) Basic employee issues, such as sexual harassment and safety; and

36
37 (D) The employee's specific job.

38
39 (3) The court executive officer may determine the appropriate content, delivery
40 mechanism, and length of orientation based on the needs and role of each
41 individual employee.

1 (c) **Hours-based requirements**

- 2
- 3 (1) Each court manager or supervisor must complete 12 hours of continuing
4 education every two years.
- 5
- 6 (2) Each court employee who is not a manager or supervisor must complete 8
7 hours of continuing education every two years, with the exception of
8 employees who do not provide court administrative or operational services.
9 Those employees are not subject to the continuing education hours-based
10 requirement but must complete any education or training required by law and
11 any other education required by the court executive officer.
12
- 13 (3) ~~The first two year period for all court managers, supervisors, and other~~
14 ~~personnel begins on January 1, 2007.~~ The orientation education required for
15 new managers, supervisors, and other personnel under (b) does not apply
16 toward the required hours of continuing education because it must be
17 completed before they enter the two-year period. Each new manager,
18 supervisor, or employee enters the two-year continuing education period on
19 the first day of the quarter following his or her completion of the orientation
20 education required under (b); the quarters begin on January 1, April 1, July 1,
21 and October 1. Each manager, supervisor, or employee who enters the two-
22 year continuing education period after it has begun must complete a prorated
23 number of continuing education hours for that two-year period, based on the
24 number of quarters remaining in it.
25
- 26 (4) Any education offered by an approved provider (see rule 10.481(a)) and any
27 other education, including education taken to satisfy a statutory, rules-based,
28 or other education requirement, that is approved by the executive officer or
29 the employee's supervisor as meeting the criteria listed in rule 10.481(b)
30 applies toward the orientation education required under (b) and the
31 continuing education required under (c)(1) and (2).
32
- 33 (5) Each hour of participation in traditional (live, face-to-face) education;
34 distance education such as broadcasts, videoconferences, and online
35 coursework; and faculty service counts toward the requirement on an hour-
36 for-hour basis. ~~Each manager, supervisor, and employee must complete at~~
37 ~~least half of his or her continuing education hours requirement as a~~
38 ~~participant in traditional (live, face to face) education. The individual may~~
39 ~~complete the balance of his or her education hours requirement through any~~
40 ~~other means with no limitation on any particular type of education. The court~~
41 ~~executive officer has discretion to determine the number of hours, if any, of~~
42 traditional (live, face-to-face) education required to meet the continuing

1 education requirement. Self-directed study is encouraged for professional
2 development but does not apply toward the required hours.

3
4 (6) A manager, supervisor, or employee who serves as faculty by teaching legal
5 or judicial education to a legal or judicial audience may apply education
6 hours as faculty service. Credit for faculty service counts toward the
7 continuing education requirement in the same manner as all other types of
8 education—on an hour-for-hour basis.

9
10 (7) The court executive officer may require managers, supervisors, and other
11 court personnel to participate in specific courses or to participate in education
12 in a specific subject matter area as part of their continuing education.

13
14 **(d) Extension of time**

15
16 (1) For good cause, the executive officer ~~or a supervisor, if delegated by the~~
17 ~~executive officer,~~ may grant a ~~six-month~~ one-year extension of time to
18 complete the education requirements in this rule. If an extension is granted,
19 the subsequent two-year compliance period begins immediately after the
20 extended compliance period ends, unless otherwise determined by the
21 executive officer.

22
23 (2) If the executive officer or supervisor grants a request for an extension of
24 time, the manager, supervisor, or employee who made the request, in
25 consultation with the executive officer or supervisor, must also pursue
26 interim means of obtaining relevant educational content.

27
28 (3) ~~An extension of time to complete the hours-based requirement does not affect~~
29 ~~the timing of the next two-year period.~~

30
31 **(e) Records of participation**

32
33 (1) Each court is responsible for tracking participation in education and for
34 tracking completion of minimum education requirements for its managers,
35 supervisors, and other personnel.

36
37 (2) Each manager, supervisor, and employee must keep records of his or her own
38 participation for two years after each course or activity that is applied toward
39 the requirements.

40
41
42 **Advisory Committee Comment**

- 1 The time frame for completion of compliance courses based on statutory or regulatory mandates
- 2 is unaffected by the one-year extension in (d)(1).