

**JUDICIAL COUNCIL OF CALIFORNIA**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Governing Committee of the Center for Judicial Education and Research  
(CJER)  
Hon. Ronald B. Robie, Chair  
Hon. Robert L. Dondero, Vice-chair  
Dr. Diane E. Cowdrey, Director, Education Division/CJER, 415-865-7795  
Mr. James M. Vesper, Assistant Director, Education Division/CJER,  
415-865-7797, jim.vesper@jud.ca.gov

DATE: July 30, 2008

SUBJECT: Judicial Branch Education: Minimum Education Requirements and  
Expectations—Justices’ and Judges’ Individual Recording and Reporting  
Form (amend Cal. Rules of Court, rules 10.461 and 10.462) (Action  
Required)

---

Issue Statement

The Judicial Council recently approved two major rules proposals regarding minimum education requirements for the judicial branch. The first proposal, adopted by the council in 2006, addressed minimum education requirements and expectations in the trial courts and the second proposal, adopted by the council in 2007, addressed minimum education requirements in the appellate courts and the Administrative Office of the Courts.

As part of those proposals, the council adopted rules 10.461 and 10.462, which currently require justices and judges to record and report their judicial education participation on a form provided by the Judicial Council. The individual recording and reporting form is used to gather the data that the Chief Justice, administrative presiding justices, and presiding judges use to provide an aggregate report to the Judicial Council, on a separate, council-provided form, as required under rule 10.452(d)(6) and (e)(7).

The Executive Committee of the Trial Court Presiding Judges Advisory Committee (TCPJAC) has expressed concern about the requirement that judges record and report their judicial education participation on a form provided by the Judicial Council because

of problems that some trial courts have experienced using the automated format of the form. For various technical reasons, the automated format of the individual judges' recording and reporting form, approved by the Judicial Council's Executive and Planning Committee on behalf of the council, did not function well for several trial courts.

### Recommendation

The Governing Committee of the Center for Judicial Education Research (Governing Committee) recommends that the Judicial Council, effective immediately, amend California Rules of Court, rules 10.461 and 10.462 to change the current requirement that the form used by individual justices and judges to record and report their judicial education participation must be one provided by the Judicial Council, in order to allow courts to use other appropriate forms that include all the required information.

The text of the proposed amendments is attached at pages 6–8.

### Rationale for Recommendation

#### *Rules applicable to the trial courts*

At its October 26, 2006, meeting, the Judicial Council adopted minimum education requirements for the trial courts. Effective January 1, 2007, California Rules of Court, rule 970 was repealed, and rules 10.451–10.471 were adopted as a comprehensive system of minimum education requirements and expectations for trial court judges, subordinate judicial officers, court executive officers, managers, supervisors, and personnel. The rules adopted included specific recording and reporting requirements for judges and presiding judges.

Specifically, rule 10.462(f) provides that each judge is responsible for:

- (1) Tracking his or her own participation in education and keeping a record of participation, on a form provided by the Judicial Council, for three years after each course or activity that is applied toward the requirements and expectations;
- (2) At the end of each year, giving the presiding judge a copy of his or her record of participation in education for that year, on a form provided by the Judicial Council; and
- (3) At the end of each three-year period, giving the presiding judge a copy of his or her record of participation in education for that year and a cumulative history of participation for that three-year period, on a form provided by the Judicial Council.

Rule 10.452(e)(7) provides that presiding judges:

Must retain the records and cumulative histories of participation provided by judges. These records and cumulative histories are subject to periodic audit by the Administrative Office of the Courts (AOC). The presiding judge must report the data from the records and cumulative histories on an aggregate basis to the Judicial Council, on a form provided by the Judicial Council, within six months after the end of each three-year period.

After the Judicial Council adopted these rules the Governing Committee made recommendations on the data to be collected on judges' participation in continuing education to the Executive and Planning Committee of the Judicial Council. The Executive and Planning Committee approved the committee's recommendation on the data to be collected and directed that the forms specified in rule 10.462(f) and 10.452(e)(7) be developed based on that specific data.

The individual judges' recording and reporting form was developed in both a manual format and an automated format (based on Excel software). Both formats were provided to the presiding judges, who could choose which format to distribute to the judges in his or her court. For various technical reasons, the automated format of the individual judges' recording and reporting form did not function well for several trial courts. Some courts have developed their own recording and reporting form and distributed it to their judges.

The Executive Committee of TCPJAC expressed concern about the functionality of the automated format of the form and support for amending the rules to allow courts to use other appropriate recording and reporting forms.

This proposal would amend rule 10.462(f) to provide that judges must track their participation in education on a form provided by the presiding judge and that the form used must include all the information needed by the presiding judge to complete the aggregate form required by rule 10.452(e)(7). In addition, this proposal would amend the advisory committee comment to rule 10.462 to provide more information to presiding judges about the options available to them in determining which form to use in their court.

#### *Rules applicable to the Supreme Court and the Courts of Appeal*

At its August 31, 2007, meeting the Judicial Council adopted minimum education requirements for the appellate courts, effective January 1, 2008. The rules adopted included recording and reporting requirements for Supreme Court and Court of Appeal justices identical to those for trial court judges and presiding judges. Both a manual format and an automated format of the justices' individual recording and reporting form "provided by the Judicial Council" were developed and distributed to the appellate courts.

Although the appellate courts have not expressed any concern about the individual recording and reporting form similar to that expressed by the Executive Committee of TCPJAC on behalf of the trial courts, the Governing Committee decided to recommend that parallel amendments be made in the rules for the appellate courts and the trial courts. The administrative presiding justices and the appellate clerk/administrators were informed that this proposal was being submitted to RUPRO to circulate for comment. None expressed concern about the proposal, and those who responded expressed support for the proposal.

This proposal would amend rule 10.461(e) to provide that justices must use a recording and reporting form provided by the Chief Justice or by the administrative presiding justice that includes the information regarding a justice's participation in education that is needed by the Chief Justice or by the administrative presiding justice in order to comply with rule 10.452(d)(6) (completion of the aggregate report to the Judicial Council on a council-provided form). This proposal would also amend the advisory committee comment to this rule, consistent with the amendments made to the advisory committee comment to the rule applicable to the trial courts, to provide more information to the Chief Justice and the administrative presiding justices about the options available to them in determining which form to use in their court.

### Summary

These proposed amendments are intended to authorize the Chief Justice, administrative presiding justices, and presiding judges to determine what recording and reporting form should be used in their court. They may determine that their court should use the manual or the automated format of the form provided by the Judicial Council but may also determine that their court should use another appropriate form that has been developed by their court or another court, as long as the form includes all the required information.

The individual recording and reporting form determined for their courts by the Chief Justice, each administrative presiding justice, and each presiding judge will be used to gather the data they will in turn use to report on an aggregate basis to the Judicial Council, on an aggregate form provided by the Judicial Council (as required in rule 10.452(d)(6) and (e)(7)). The Executive Committee of TCPJAC expressed its agreement that there is no need to change the requirement in rule 10.452(e)(7) that the aggregate form be one provided by the Judicial Council. The Governing Committee of CJER is not recommending any changes to the provisions in the rule 10.452(d)(6) or (e)(7) regarding the aggregate form.

The purposes of the proposed amendments are to enable (1) individual justices and judges to more effectively record and report their judicial education participation, (2) the Chief Justice, administrative presiding justices, and presiding judges to more effectively facilitate and monitor judicial education participation in their courts, and (3) all justices

and judges to more easily and effectively demonstrate their compliance with the education requirements and expectations in the rules.

#### Comments From Interested Parties

The proposal was circulated for public comment during a special comment cycle, from May 1 to June 13, 2008. The invitation to comment on the proposal went to the standard circulation list of interested persons and organizations. In addition, information about the proposal, with a link to the invitation to comment and rules, was twice included in *Court News Update*, the Administrative Office of the Courts' weekly e-mail briefing for California court leaders, judicial officers, and court professionals.

A total of six comments were received on the proposal. Four of the six were on behalf of courts, one was on behalf of a local bar association, and one was from an individual. All six comments agreed with the proposal. A comment chart containing the responses and the committee responses is attached.

#### Alternative Actions Considered

At its June 19, 2008, meeting, the Governing Committee of CJER considered the comments received, discussed its proposal, and unanimously approved recommending its proposal to the Judicial Council without modification.

#### Implementation Requirements and Costs

The committee found that any additional implementation requirements and costs from this proposal would not be significant.

#### Attachments

**Rules 10.461 and 10.462 of the California Rules of Court would be amended, effective August 15, 2008, to read:**

**1 Rule 10.461. Minimum education requirements for Supreme Court and  
2 Court of Appeal Justices**

3  
4 **(a)–(d) \*\*\***

5  
6 **(e) Records and summaries of participation for justices**

7  
8 Each justice is responsible for:

- 9
- 10 (1) Tracking his or her own participation in education and keeping a record  
11 of participation, ~~on a form provided by the Judicial Council~~, for three  
12 years after each course or activity that is applied toward the  
13 requirements, on a form provided by the Chief Justice for the Supreme  
14 Court or by the administrative presiding justice for each appellate  
15 district of the Court of Appeal. The form must include the information  
16 regarding a justice’s participation in education that is needed by the  
17 Chief Justice or the administrative presiding justice to complete the  
18 aggregate form required by rule 10.452(d)(6);  
19
  - 20 (2) At the end of each year, giving the Chief Justice or the administrative  
21 presiding justice a copy of his or her record of participation in  
22 education for that year, ~~on the a form provided by the Chief Justice or~~  
23 the administrative presiding justice~~Judicial Council~~; and  
24
  - 25 (3) At the end of each three-year period, giving the Chief Justice or the  
26 administrative presiding justice a copy of his or her record of  
27 participation in education for that year and a cumulative history of  
28 participation for that three-year period, ~~on the a form provided by the~~  
29 Chief Justice or the administrative presiding justice~~Judicial Council~~.

30  
31 **Advisory Committee Comment**

32  
33 The requirements formerly contained in subdivision (e)(2) of rule 970,  
34 which has been repealed, are carried forward without change in rule  
35 10.461(b).  
36

37 The Administrative Office of the Courts (AOC) has developed both a  
38 manual format and an automated format of the individual justice’s  
39 recording and reporting form referenced in rule 10.461(e) that gathers  
40 all the information needed by the Chief Justice or the administrative

1            presiding justice to complete the aggregate report to the Judicial  
2            Council required under rule 10.452(d)(6). The Chief Justice or the  
3            administrative presiding justice may determine which form should be  
4            used in his or her court and may provide the manual or automated  
5            format of the AOC-developed form (available from the AOC's  
6            Education Division/Center for Judicial Education and Research) or may  
7            provide another appropriate form that has been developed by his or her  
8            court or by another court that gathers all the information needed by the  
9            Chief Justice or the administrative presiding justice to complete the  
10           aggregate report to the Judicial Council.

11  
12        **Rule 10.462. Minimum education requirements and expectations for trial**  
13        **court judges and subordinate judicial officers**

14  
15        **(a)–(e) \*\*\***

16  
17        **(f) Records and cumulative histories of participation for judges**

18  
19           Each judge is responsible for:

- 20  
21           (1) Tracking his or her own participation in education and keeping a record  
22           of participation, ~~on a form provided by the Judicial Council~~, for three  
23           years after each course or activity that is applied toward the  
24           requirements and expectations, on a form provided by the presiding  
25           judge. The form must include the information regarding a judge's  
26           participation in education that is needed by the presiding judge to  
27           complete the aggregate form required by rule 10.452(e)(7);  
28  
29           (2) At the end of each year, giving the presiding judge a copy of his or her  
30           record of participation in education for that year, ~~on the a form~~  
31           provided by the presiding judge~~Judicial Council~~; and  
32  
33           (3) At the end of each three-year period, giving the presiding judge a copy  
34           of his or her record of participation in education for that year and a  
35           cumulative history of participation for that three-year period, ~~on the a~~  
36           form provided by the presiding judge~~Judicial Council~~.

37  
38        **(g) \*\*\***

39           **Advisory Committee Comment**

40  
41           The minimum judicial education requirements in rule 10.462 do not  
42           apply to retired judges seeking to sit on regular court assignment in the  
43           Assigned Judges Program. Retired judges who seek to serve in the

1 Assigned Judges Program must comply with the Chief Justice's  
2 Standards and Guidelines for Judges Who Serve on Assignment, which  
3 includes education requirements.  
4

5 The Administrative Office of the Courts (AOC) has developed both a  
6 manual format and an automated format of the individual judge's  
7 recording and reporting form referenced in rule 10.462(f) that gathers  
8 all the information needed by the presiding judge to complete the  
9 aggregate report to the Judicial Council required under rule  
10 10.452(e)(7). The presiding judge may determine which form should be  
11 used in his or her court and may provide the manual or automated  
12 format of the AOC-developed form (available from the AOC's  
13 Education Division/Center for Judicial Education and Research) or may  
14 provide another appropriate form that has been developed by his or her  
15 court or by another court that gathers all the information needed by the  
16 presiding judge to complete the aggregate report to the Judicial  
17 Council.

**SP08-06****Judicial Branch Education: Minimum Education Requirements and Expectations—Justices’ and Judges’ Individual Recording and Reporting Form**

(amend Cal. Rules of Court, rules 10.461 and 10.462)

All comments are verbatim unless indicated by an asterisk (\*)

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Donna Burt, Division Manager Juvenile Division Superior Court of Riverside County	A	No specific comment.	No response required.
2.	Court of Appeal, Second Appellate District Hon. Roger W. Boren, Administrative Presiding Justice	A	On behalf of the Second Appellate District, I AGREE with the proposed changes.	No response required.
3.	Orange County Bar Association Catherine Castaldi, President	A	No specific comment.	No response required.
4.	Superior Court of Los Angeles County Janet Garcia, Court Manager	A	No specific comment.	No response required.
5.	Superior Court of Sacramento County Robert Turner, ASO II	A	We have reviewed the proposal and have no comments at this time.	No response required.
6.	Superior Court of San Diego County Mike Roddy, Executive Officer	A	No additional comments.	No response required.