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

Report Summary

TO: Members of the Judicial Council

FROM: Governing Committee of the Center for Judicial Education and Research
Hon. Fumiko H. Wasserman, Chair
Hon. Ronald B. Robie, Vice-Chair
Karen M. Thorson, Director, Education Division/CJER, 415-865-7795
James M. Vesper, Assistant Director, Education Division/CJER, 415-865-7797, jim.vesper@jud.ca.gov

DATE: October 10, 2006

SUBJECT: Judicial Branch Education: Minimum Education Requirements for the Judicial Branch (repeal Cal. Rules of Court, rules 970 and 5.30; adopt rules 10.451, 10.452, 10.461,10.462, 10.463, 10.464, and 10.471) (Action Required)[1]

Issue Statement

The protection of the rights of the public depends on an independent and professionally competent judicial system. In addition, the public expects and should receive the highest quality of justice and service from the courts regardless of court location, personnel, or judge. The courts occupy a unique place in our democratic society. The public looks to the courts for protection, resolution of problems or disputes, and fair and impartial decisions regarding personal and professional issues. Fulfilling these roles is challenging in an environment of change, complexity, and diversity.

The Judicial Council of California has long been a leader in establishing a strong judicial branch education program, initially offering courses for judges in 1959 and for court personnel in 1989. In a postmodern society with a constantly changing body of law, the need to maintain and improve the professional competency of judges and court personnel requires that the council, in its leadership role in education, take the next evolutionary

[1] Rules 10.451–10.471 were numbered as proposed rules 6.401–6.421 when they were circulated for comment. However, at its June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, rule 970 would be renumbered as rule 10.501.

step by establishing and administering a system of continuing education that includes minimum education requirements. This would demonstrate the judicial branch's public commitment to ongoing professional development and create a branchwide environment of professional excellence.

The judicial branch in California currently has rules regarding education requirements. These rules, however, are incomplete, do not represent a system of education requirements, and are scattered in the California Rules of Court. There are education requirements for new judges and for judges with family law assignments, but no continuing education requirement for all judges. There are several rules with education requirements for specific types of trial court personnel, but there are no education requirements that apply to all court personnel, whether new to their positions or experienced. As to the location of these rules, the rule containing education requirements for new judges is included in a miscellaneous title of the rules of court, and the rule containing education requirements for judges with family law assignments is included with the family court rules.

Recommendation

The Governing Committee of the Center for Judicial Education and Research (CJER Governing Committee), in its capacity as an advisory committee to the Judicial Council, recommends that the Judicial Council, effective January 1, 2007:

1. Repeal rules 970 and 5.30 of the California Rules of Court;
2. Adopt rules 10.451, 10.452, 10.461, 10.462, 10.463, 10.464, and 10.471 of the California Rules of Court; and
3. Approve *Minimum Education Requirements for the California Judicial Branch: Guidelines for Implementation* to establish and implement a comprehensive system of minimum education requirements for trial court judges and subordinate judicial officers, court executive officers, managers, supervisors, and personnel.

The text of the repealed and proposed rules is attached at pages 51–68; the proposed guidelines for implementation are attached at pages 93–146.

At the request of the Rules and Projects Committee (RUPRO), staff also has included versions of the rules that separately address minimum education requirements for (1) trial court judges and subordinate judicial officers; and (2) court executive officers, managers, supervisors, and personnel. The text of the rules addressing only trial court judges and subordinate judicial officers is attached at pages 69–80. The text of the rules addressing only court executive officers, managers, supervisors, and personnel is attached at pages 81–92.

Rationale for Recommendation

The proposed rules would help ensure the professional competency of judges and court personnel to most effectively serve the public. They represent a complete system of

requirements located in associated rules, as opposed to the current situation in which a few specific requirements are scattered throughout the rules. The rules allow delivery of educational content by many education providers, allow local courts to approve courses offered by other providers, and indicate that tracking of compliance would be the responsibility of the individual and/or his or her local court. They would represent a determination from within the judicial branch of the appropriate level of education requirements for judges and court personnel. Further, the rules would strike a balance between minimum education requirements and discretion and options at the individual and local court levels. Finally, the proposed rules would strike a balance on the fiscal impact of continuing education on the courts and on the impact of judges' and court personnel's time away from their duties to attend training. While the current proposal would establish minimum education requirements for the trial courts, if the proposal is adopted, the committee will determine how to address minimum education requirements for the appellate courts in order to implement a complete system of requirements for the branch.

The CJER Governing Committee has participated in a three-year process to study the viability and feasibility of judicial branch education requirements. The process has involved three previous meetings with the Judicial Council. In November 2005 the CJER Governing Committee presented to the council a proposed model for minimum education requirements for the California judicial branch. In addition to approving the model, the council directed the committee to draft proposed rules to implement the model, to provide the proposed rules for public comment, and to submit a recommendation for later council consideration. The committee drafted a comprehensive set of rules based on the approved model and worked though the Rules and Projects (RUPRO) Committee to circulate the proposed rules for public comment.

The CJER Governing Committee, as an advisory committee to the Judicial Council, is charged under rule 6.50 of the California Rules of Court (renumbered 10.50) with providing guidance and making recommendations to the Judicial Council for improving the administration of justice through comprehensive and quality education and training for judicial officers and judicial branch personnel. The committee's charge specifically includes making recommendations on rules, standards, policies, and procedures for judicial branch education. Committee members, while drawn from courts across the state, do not represent their respective courts or a specific constituency but rather are part of a body that is concerned with branchwide issues and policies and must act in the best interests of the public and the entire court system.

The initial goals of the proposal for minimum education requirements were for the judicial branch to make a public commitment to ongoing professional development, create a branchwide environment of professional excellence, and ensure that regardless of the court, judge, employee, or type of case, each and every member of the public would

have access to the highest levels of expertise and would receive the highest level of service possible in each and every court in our state.

The proposal was one facet of ongoing branchwide improvement and accountability to the public; it represents a statement of branch values. The impetus for the proposal was not based on the premise that California's judicial education system is broken; it was not based on increasing attendance at courses offered by the Education Division/CJER; it was not about putting check marks beside each judge's name; and it was not about education just for the sake of education.

The Governing Committee carefully followed an open and inclusive process that included three meetings with the council, three meetings with presiding judges and court executive officers, and an effort to share the minimum education requirement model with the branch before the committee crafted a proposal.

Comments from Interested Parties

The proposal was circulated for public comment during a special extended 90-day comment cycle, from April 24 to July 24, 2006. The period was again extended to August 7 at the request of the California Judges Association to allow that entity's executive board to submit a comment following the executive board's vote on the proposal. Comments were accepted from other individuals and organizations through the extended deadline. 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. As of April 2006, the California judicial system includes 1610 judges and justices, 427 subordinate judicial officers, 58 executive officers, and approximately 18,000 court personnel, including managers and supervisors.

A total of 255 comments were received on the proposal, with 80.5 agreeing, 17 agreeing if modified, 156.5 disagreeing, and one comment taking no position. Individuals submitted 232 of the comments received, with 70 agreeing, 13 agreeing if modified, and 149 disagreeing. Groups submitted 23 comments, with 10.5[2] agreeing, 4 agreeing if modified, and 7.5 disagreeing. One group did not take a position on the proposal. Twelve of the 17 commentators who agreed if modified generally supported the proposal. The groups that submitted comments included the California Judges Association, the Commission on Judicial Performance, and the State Bar Board of Governors. Despite the number of comments that disagreed with the proposal, the committee concluded that the goals of the proposal outweighed the reasons given in opposition.

[2] One group (a court) indicated in its comment that it did not reach consensus: Of those who responded 17 judicial officers agreed with the proposal and 13 judicial officers disagreed with it. That group is reported as 0.5 agreeing and 0.5 disagreeing.

Most of the comments received during the comment period were from judges and thus focused on judges rather than court personnel. Few of the comments addressed the substance of the rules. Early in the comment period, the focus of feedback shifted away from education and its benefits. In fact, most comments noted the high quality of judicial education in California, and many judges noted that they attend education on a voluntary basis. Most of the comments addressed more global issues and perceptions, including the concern that the proposed rules were simply one more in a long series of actions that minimize judicial autonomy and authority. Because most comments were based on noneducational issues and on perceptions, they have been difficult to address in the committee's responses.

The primary concerns raised by commentators who disagreed with the proposal regarding judicial education requirements were (1) the Judicial Council does not have the authority to mandate education for judges; (2) education requirements infringe on a judge's and on the judicial branch's independence; (3) most judges already participate in continuing education or otherwise remain current on the law, and thus a mandate is unnecessary, and (4) education requirements would cause a reduction in quality of the education offered.

The committee's considered responses to these primary concerns can be summarized as (1) the Administrative Office of the Courts has concluded that the rules are within the council's authority to adopt rules for court administration and are not inconsistent with statute; (2) the proposed rules would support judicial independence, both institutional and individual, rather than infringe on it; (3) the primary reason for the proposal is global and institutional: to establish a public commitment by the judicial branch to education and training as an essential, not optional, component of professional development and excellence; and (4) the high quality of current education programs, both mandated and voluntary, is based on the involvement and dedication of the judges who plan and deliver them, which will not change.

The primary concerns raised by commentators who disagreed with the proposal regarding education requirements for court personnel were (1) the rules are unnecessary because education for court personnel is already underway; (2) the costs of implementation will be substantial; (3) statewide education requirements would diminish local court control; and (4) the requirements would raise labor issues.

The committee's considered responses to these primary concerns can be summarized as (1) the primary reason for the proposal is global and institutional: to establish a public commitment by the judicial branch to education and training as an essential, not optional, component of professional development and excellence; (2) the costs will vary from court to court but should not be substantial; given the resources already devoted at both the state and local levels, the number of hours required was determined to be viable; (3) the only content requirement is orientation, which presumably already occurs; the content of continuing education is completely within the local court's discretion; and (4) some of

the labor concerns raised may be management issues; the AOC will assist courts in handling meet-and-confer requirements created by implementation of the education requirements.

The proposal on minimum education requirements has generated much debate within the judicial branch, most of it seemingly unrelated to the proposed education requirements. The committee has devoted much time and energy in the past three years trying to share information and gather input so it could produce a meaningful proposal. Given the lengthy and inclusive development process, the feedback received during the comment period has been surprising in terms of its focus on what some have called an erosion of the judicial position rather than on the benefits of a branchwide commitment to ongoing improvement and professional development. The original proposal reflected what the committee thought that the judicial branch would consider indisputable: that branchwide, ongoing professional development is not optional but essential to a successful and independent judiciary, and that continuing education is an integral part of that development.

A chart summarizing the comments and the committee's responses is attached at pages 147–382.

Alternative Actions Considered

At the conclusion of the comment process, the committee considered its next step given its goals and the opposition to the proposal. The committee considered (1) whether the information received from the comments changed the goals of the proposal in any significant way; (2) whether the need for and benefits of the proposal significantly outweighed any burdens or concerns that the proposal might cause for the trial courts; (3) whether the proposal was the appropriate policy for the committee to recommend; and (4) if not, how to proceed.

The committee considered a range of options, from recommending the proposal unchanged or with minor changes to withdrawing the proposed rules. The committee considered the pros and cons of these options in weighing both the goals of the committee in its original proposal of minimum education requirements and the concerns voiced in the comment period. Overall, the committee felt that the goals of the proposal substantially outweigh the reasons given in opposition. In addition, the committee felt that of the options available, only one—a slightly modified version of the original proposal—fully addressed the committee's original goals. Although the committee decided to move the proposal forward, members voiced a strong collective desire to work within the branch to address concerns expressed during the comment period and to strive to ensure that education-related resources were available to local courts.

After extensive discussion, the committee unanimously approved recommending to the Judicial Council its proposal for minimum education requirements for the judicial branch.

The recommendation includes proposed rules of court (including some simplifications of the language from the original proposal that make no substantive change) and one amendment to the original education criteria that local courts use to approve education programs that would give them more flexibility in approving those programs. This amendment was based on a recommendation from the California Judges Association.

Implementation Requirements and Costs

The proposed rules may have some fiscal impact at both the state and local court levels, but the committee believes they will not be significant. With regard to coverage for judges participating in education programs, the Assigned Judges Program will be available to provide backup, just as it does currently. The proposed rules are intended to strike a balance on the fiscal impact of continuing education on the courts and on the impact of judges' and court personnel's time away from court.

Rules and Projects Committee

RUPRO discussed the committee's proposal at its September 14 meeting. RUPRO recommended that the list of approved providers in rule 10.471(a) be expanded and that language be added clarifying that education is not limited to the approved providers listed. The committee chair and vice chair agreed with this recommendation and directed staff to revise the original list of approved providers to include accredited colleges and universities, Continuing Education of the Bar—California, and the Superior Court Clerks' Association of the State of California, and to add language clarifying that education is not limited to the approved providers listed.

RUPRO also recommended that the report separate the discussion relating to minimum education for judicial officers from that relating to minimum education for court executive officers, managers, supervisors, and personnel. RUPRO recommended this, in part, to assist the Judicial Council if it were to want to separate its discussion of the proposal, discussing the judicial education requirements first, and then discussing the education requirements for court personnel. The chair and vice chair of the committee agreed to this recommendation and directed staff to: (a) change the report to the Judicial Council to provide the council with separate data regarding comments on the proposal as it relates to judicial officers (including subordinate judicial officers) and as it relates to court personnel (court executive officers, managers and supervisors, and other court personnel); and (b) provide the council with three sets of proposed rules: one set that addresses both judicial officers and court personnel; a second set that applies only to judicial officers; and a third set that applies only to court personnel.

Attachments

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
Hon. Fumiko H. Wasserman, Chair
Hon. Ronald B. Robie, Vice-Chair
Karen M. Thorson, Director, Education Division/CJER, 415-865-7795
James M. Vesper, Assistant Director, Education Division/CJER, 415-865-7797, jim.vesper@jud.ca.gov

DATE: October 10, 2006

SUBJECT: Judicial Branch Education: Minimum Education Requirements for the Judicial Branch (repeal Cal. Rules of Court, rules 970 and 5.30; adopt rules 10.451, 10.452, 10.461,10.462, 10.463, 10.464, and 10.471) (Action Required)[3]

Issue Statement

The protection of the rights of the public depends on an independent and professionally competent judicial system. In addition, the public expects and should receive the highest quality of justice and service from the courts regardless of court location, specific personnel, or specific judge. The courts are a vital component of our democratic society. The public looks to the courts for protection, resolution of problems or disputes, and fair and impartial decisions regarding public, personal, and professional issues. Fulfilling these roles is challenging in an environment of change, complexity, and diversity.

The Judicial Council of California has long been a leader in establishing a strong judicial branch education program, initially offering courses for judges in 1959 and for court personnel in 1989. In a postmodern society with a constantly changing body of law, the need to maintain and improve the professional competency of judges and court personnel

[3] Rules 10.451–10.471 were numbered as proposed rules 6.401–6.421 when they were circulated for comment. However, at its June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, rule 970 would be renumbered as rule 10.501.

requires that the council, in its leadership role in education, take the next evolutionary step by establishing and administering a system of continuing education that includes minimum education requirements. This would demonstrate the judicial branch's public commitment to ongoing professional development, create a branchwide environment of professional excellence, and make evident that ongoing individual and institutional improvement is a core value of the branch.

The judicial branch in California currently has rules regarding education requirements. These rules, however, are incomplete, do not represent a system of education requirements, and are scattered in the California Rules of Court. There are education requirements for new judges and for judges with family law assignments but no continuing education requirement for all judges. There are several rules with education requirements for specific types of trial court personnel, but there are no education requirements that apply to all court personnel, whether new to their positions or experienced. As to the location of these rules, the rule containing education requirements for new judges is included in a miscellaneous title of the rules of court, and the rule containing education requirements for judges with family law assignments is included with the family court rules.

Summary of Rationale

The proposed rules help ensure the professional competency of judges and court personnel in the trial courts to most effectively serve the public in an environment of change, complexity, and diversity. They make evident that ongoing professional development is a core value of the judicial branch. They are an internal commitment to continued individual and institutional improvement. They create an environment and expectation of branchwide professional excellence. The proposed rules represent a system of requirements located in associated rules, as opposed to the current situation where requirements are scattered throughout the rules.

In order to achieve the goals of minimum education requirements while minimizing the requirements' fiscal impact on courts and the impact of judges' and staff's time away from professional duties, the proposed rules acknowledge a variety of pre-approved providers, enable local courts to approve courses offered by other providers, acknowledge the variety of delivery options currently available, and honor all courses offered by the local courts. In order to minimize administrative activities and ensure maximum local and individual discretion, the proposed rules provide that, once new judges and staff complete core content, they choose the content for their continuing education, and they or their local courts track their progress in meeting minimum requirements. While the current proposal would establish minimum education requirements for the trial courts, if the proposal is adopted, the committee will determine how to address minimum education requirements for the appellate courts in order to implement a complete system of requirements for the branch.

Council Directive

The Governing Committee of the Center for Judicial Education and Research (CJER Governing Committee) has participated in a three-year process to study the viability and feasibility of judicial branch education requirements. The process has involved three previous meetings with the Judicial Council. In November 2005 the CJER Governing Committee presented to the council a proposed model for minimum education requirements for the California judicial branch. Below is an outline of the model that the council approved. (Boldface type indicates content that is already required through rule or statute.)

	REQUIREMENTS FOR THOSE NEW TO POSITION	CONTINUING EDUCATION REQUIREMENTS		
Position	**Content or Course**	**Hours**	**Content or Course**	**Cycle**
Judges, commissioners, referees	**New Judge Orientation; Judicial College;** overview course in primary assignment	30 hours per cycle (continuing education begins after "new judge" requirements have been met and would include sexual harassment training and courses required for a new assignment or administrative position)	Overview course when changing primary assignment: ▪ Civil ▪ Criminal ▪ **Family** ▪ Juvenile – **Dependency** – Delinquency ▪ Probate **Sexual harassment prevention**	Three years, individualized for the specific judge, commissioner, or referee
Supervising judges	Calendar Management and/or Supervising Judge Overview course			
Presiding judges	Presiding Judge and Court Executive Officer Orientation			
Court executive officers	Presiding Judge and Court Executive Officer Orientation	30 hours per cycle (including any repeated orientation sessions with new presiding judges)	Recommended: orientation with *new* presiding judges as appropriate	Three years, individualized for the specific executive officer
Managers and supervisors	Orientation to the court, branch, and management issues	12 hours per cycle		Two years, with defined dates
Staff	Orientation to the court, branch, job, and employment issues	8 hours per cycle (including any required content, such as family and juvenile content or MCLE[4])	**Required education for selected staff in family and juvenile courts**	Two years, with defined dates

In addition to approving the model, the council directed the committee to draft proposed rules to implement the model, to provide the proposed rules for public comment, and to submit a recommendation for later council consideration. The committee drafted a comprehensive set of rules based on the approved model and worked though the Rules

[4] Minimum Continuing Legal Education.

and Projects Committee to circulate the proposed rules for public comment. This is discussed more fully at pages 15–32.

Foundation
The CJER Governing Committee, as an advisory committee to the Judicial Council, is charged under rule 6.50 of the California Rules of Court (renumbered 10.50) with providing guidance and making recommendations to the Judicial Council for improving the administration of justice through comprehensive and quality education and training for judicial officers and judicial branch personnel. The committee's charge specifically includes making recommendations on rules, standards, policies, and procedures for judicial branch education. Committee members, while drawn from courts across the state, do not represent their respective courts or a specific constituency but rather are part of a body that is concerned with branchwide issues and policies and must act in the best interests of the public and the entire court system.

The initial goals of the proposal for minimum education requirements, as discussed by former and current committee members, were for the judicial branch to make a public commitment to ongoing professional development, create a branchwide environment of professional excellence, and ensure that regardless of the court, judge, employee, or type of case, each and every member of the public would have access to the highest levels of expertise and would receive the highest level of service possible in each and every court in our state.

The proposal was one facet of ongoing branchwide improvement and accountability to the public; it represents a statement of branch values. The impetus for the proposal was not based on the premise that California's judicial education system is broken; it was not based on increasing attendance at courses offered by the Education Division/CJER; it was not about putting check marks beside each judge's name; and it was not about education just for the sake of education.

Considerations
The underlying issues and considerations of the CJER Governing Committee included the following.

The Public
The public expects and deserves the highest quality of professionalism and service from the judicial branch. Ensuring that the public receives that high quality of professionalism and service involves continued improvement within and across the branch. How does education currently contribute to branchwide improvement? Could or should education play a more significant role?

The Courts

The courts in California have historically been separate entities, each with practices reflective of the individuals in the specific court. How are "best practices" most effectively shared among the courts? What concerns do we hear from attorneys practicing in multiple courts? How can education most effectively be responsive and supportive of local court culture and local court needs while addressing issues of branchwide importance?

Judges

Judges in California courts are dedicated and hard working. Many engage in ongoing professional development; some do not. Judges play a unique role in the courts and in our democratic society. Every day, judges make individual, independent decisions affecting the personal freedom, livelihoods, finances, and family matters of individuals. Highly qualified judges are the foundation of a strong judicial branch. But laws and procedures change rapidly, the demographics of the state change, the complexity of the law constantly evolves, and there are always new and emerging issues in cases. How can education contribute most effectively to the ongoing professional development of individual judges and of the judicial branch? What approach ensures some basic content yet allows maximum individual discretion?

Court Personnel

Like judges, court personnel are dedicated and hard working. Some participate in ongoing professional development; some do not. What can be done to ensure ongoing professional development for each and every member of the judicial branch? What minimal levels of professional development are appropriate for various members of the branch? How can branchwide goals be met while honoring local court needs and maintaining local court control?

Resources

Human and fiscal resources in the judicial branch are limited. Increasing those resources is a challenge but should always be a priority because there is a need to keep up with increasing workload. How can the branch ensure ongoing professional development for every member of the judicial branch within the constraints of existing resources? How can education contribute to the most effective and efficient use of limited judicial branch resources to best serve the public?

Internally Generated Improvement

All organizations need to improve, remain constantly responsive to changing needs, and find better ways to achieve goals. In the public sector, this improvement is vital because service to the public is at stake. What should the judicial branch do internally to ensure branchwide improvement? What is the most effective way to highlight the necessity and importance of branchwide professional development?

Process

The CJER Governing Committee carefully followed a process that included three meetings with the Judicial Council, three meetings with presiding judges and court executive officers, and efforts to share the minimum education requirement model with the branch before the committee crafted a proposal. Following is a summary of the process.

Date	**February 2003**
Event	Governing Committee Meeting
Outcomes	Initial discussions whether to explore enhanced requirements are held; research subcommittees are formed to obtain input from court leaders.

Date	**February 2003**
Event	Discussion with chairs of Judicial Council advisory committees
Audience	Chairs of the Judicial Council advisory committees
Outcomes	Committee receives general support for the concept.

Date	**October 2003**
Event	Fall Issues Meeting
Audience	Presiding judges and court executive officers
Outcomes	Research subcommittees initiate first discussions with presiding judges and court executive officers and receive general support.

Date	**April 2004**
Event	Issues Meeting of Judicial Council
Audience	Judicial Council
Outcomes	Governing Committee discusses issues and possible approaches and is directed by the council to do research on the topic.

Date	**Summer 2004**
Outcomes	Governing Committee conducts research on continuing education requirements in other states (42 other states have continuing education requirements for judges at that time; now it is 43).

Date	**September 2004**
Event	Judicial survey to assess current continuing education practices
Audience	All judges and subordinate judicial officers
Outcomes	Responses are received from 324 judges, reporting an average of 26 continuing education hours annually.

Date	**Fall 2004**
Outcomes	Governing Committee develops a "Minimum Education Requirements Example" for purposes of discussion. Judges and administrators from outside the committee were invited to assist in drafting the example.

Date	**February 2005**
Event	Second Issues Meeting with Judicial Council
Audience	Judicial Council
Outcomes	Council discusses the example. Council directs Governing Committee to continue research for a proposal.

Date	**April 2005**
Event	Regional Meetings
Audience	Presiding judges and court executive officers
Outcomes	Committee conducts open discussion of the example to gather feedback and input. Overall feedback is supportive.

Date	**May 2005**
Event	California Judges Association (CJA) Annual meeting
Audience	CJA Executive Board
Outcomes	The board issues a statement in favor of voluntary continuing education and additional resources for judicial participation.

Date	**May 2005**
Event	Example distributed to the branch to gather feedback
Audience	Judicial branch members
Outcomes	Responses: 160 judicial officers, 75% supportive; 10 executive officers, all supportive; 195 managers and supervisors, 97% supportive; 456 court personnel, 97% supportive.

Date	**June 2005**
Event	Joint meeting of Trial Court Presiding Judges and Court Executives Advisory Committees
Audience	Presiding judges and court executive officers
Outcomes	Advisory committees extensively discuss the example, review the recently completed branch survey, and conduct small-group discussion regarding support of and opposition to the model. The minutes of the joint advisory committees' meeting provide: "In a voice vote, the joint committees agreed to support the minimum education requirements with a couple of votes in opposition."

Date	**November 2005**
Event	Judicial Council Business Meeting
Audience	Judicial Council
Outcomes	Governing Committee presents the Minimum Education Requirements Model to the Judicial Council. The council directs the committee to draft proposed rules to implement the model.

Date	**February 2006**
Event	Governing Committee Meeting
Outcomes	Governing Committee approves proposed rules.

Date	**April 2006**
Event	Proposed rules presented to Rules and Projects Committee (RUPRO)
Audience	RUPRO
Outcomes	RUPRO approves 90-day circulation of proposed rules for public comment.

Date	**April 24, 2006**
Event	Proposed rules are posted for extended comment period of 90 days.
Audience	The public
Outcomes	Governing Committee receives feedback from within and outside the judicial branch.

Date	**July 26–27, 2006**
Event	Meetings of Trial Court Presiding Judges and Court Executives Advisory Committees
Outcomes	Advisory committees discuss the proposal; Governing Committee responds to questions and perceptions.

Date	**August 15, 2006**
Event	Leadership Meeting (representatives of some advisory committees and California Judges Association)
Outcomes	Proposal and additional suggestions or alternatives are discussed.

Date	**August 16, 2006**
Event	Governing Committee Meeting
Outcomes	Governing Committee reviews comments and makes decision regarding next steps.

Comments from Interested Parties

The proposal was circulated for public comment during a special extended 90-day comment cycle, from April 24 to July 24, 2006. The period was again extended to August 7 at the request of the California Judges Association to allow that entity's executive board

to submit a comment following the executive board's vote on the proposal. Comments were accepted from other individuals and organizations through the extended deadline. 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 255 comments were received on the proposal, with 80.5 agreeing, 17 agreeing if modified, 156.5 disagreeing, and one comment taking no position. Individuals submitted 232 of the comments received, with 70 agreeing, 13 agreeing if modified, and 149 disagreeing. Groups submitted 23 comments, with 10.5[5] agreeing, 4 agreeing if modified, and 7.5 disagreeing. One group did not take a position on the proposal. Of the 17 commentators who agreed if modified, 12 generally supported the proposal. The groups who submitted comments included the California Judges Association, the Commission on Judicial Performance, and the State Bar Board of Governors. Despite the number of comments that disagreed with the proposal, as described more fully below, many of the reasons stated for opposition were based on perceptions seemingly unrelated to continuing education or on misperceptions. The committee concluded that the goals of the proposal substantially outweighed the concerns voiced in opposition.

<u>Comments Regarding the Proposal as It Relates to Judges and Other Judicial Officers</u>
Most of the comments received during the comment period were from judges and thus focused on judges rather than on court personnel. Few of the comments addressed the substance of the rules. Early in the comment period, the focus of feedback shifted away from education and its benefits. In fact, most comments noted the high quality of judicial education in California, and many judges noted that they attend education on a voluntary basis. Most of the comments addressed more global issues and perceptions, including the concern that the proposed rules were simply one more in a long series of actions that minimize judicial autonomy and authority. Because most comments were based on non-educational issues and on perceptions, they have been difficult to address in the committee's responses.

In addition, the focus of the comments seemed to change during the comment period and seemed to be based on opinions that were apparently expressed and shared widely but not submitted to the Governing Committee. Initially, concerns seemed to focus on whether the Judicial Council had the authority to impose education requirements. Later comments shifted to concerns about judicial independence and a perceived lack of need for education requirements, since many judges already participate voluntarily in ongoing

[5] One group (a court) indicated in its comment that it did not reach consensus: Of those who responded, 17 judicial officers agreed with the proposal and 13 judicial officers disagreed with it. That group is reported as 0.5 agreeing and 0.5 disagreeing.

education. More recently, there were concerns about the possibility that the quality of education would decline if requirements were adopted.

The following provides more detail on the themes voiced in comments opposed to the proposed minimum education requirements and highlights the basis upon which the committee provided responses.

Authority
Many of the comments reflected the belief that the Judicial Council does not have the authority to mandate education for judges and that the proposal is therefore unconstitutional. Several noted that the Judicial Council's rule-making authority was limited to issues of judicial administration, which some felt did not include requirements for education. The committee proposed the rules based on information from various sources indicating that the Judicial Council has the authority under article VI of the State Constitution to adopt rules requiring minimum education for judges.

Independence
Many of the comments reflected the belief that required education infringes on a judge's independence. To address this concern, the committee offers a published definition of "judicial independence" on page 19. According to information from the Bureau of Justice Statistics of the National Center for State Courts, 43 states have requirements for continuing education for judges, some in place for decades. Some of the text that introduces requirements in other states notes judicial independence as one of the reasons for the judicial branch to create education requirements. The committee proposed the rules based on the belief that the independence of the judiciary would be protected by the requirements.

Lack of need
Many of the comments reflected a belief that judges already participate in continuing education or otherwise remain current on the law and thus a mandate is unnecessary. For some, a mandate is seen as insulting. Based on previous committee discussions, one of the premises for the proposed rules was to ensure ongoing education across the judicial branch while not overburdening the courts or individual judges. The proposed rules reflect the committee's intent that the requirements would be easily met by many judges and court personnel and would not create new or unachievable burdens on the courts.

Reduced quality
Many of the comments reflected a belief that requirements would result in cookie-cutter education and would cause a need for increased programming, leading to a reduction in the quality of courses. One premise for this concern was that with voluntary education, planners and faculty had to ensure high quality or attendance would be low; the associated perception was that, if education were required, faculty would not be motivated to maintain the same level of quality. This concern is difficult to understand

given the high level of participation and dedication to quality by judges who currently plan and deliver both voluntary and required judicial education courses. The same can be said for those who plan and deliver education for court personnel. The proposed model was chosen in part because current offerings are more than sufficient to meet requirements and are, based on comments received, of very high quality.

Other issues
Some of the concerns expressed during the comment period seem to be based on misinformation and misperception. Examples include beliefs that there would be statewide tracking; content would be solely state-directed; judges would have no choice regarding content; local courts would have no ability to address their own educational needs; the proposal was designed and promoted by nonjudges; the current judges-teaching-judges model would change; CJER resources would dramatically increase; and CJER would be the only provider. These concerns should not be attributed to the proposed minimum education requirements.

The chart summarizing the comments and the committee's responses is attached at pages 147–382. The Governing Committee has responded as fully as possible to the comments. To assist the council's consideration, following is a summary of the thematic areas that appear in comments opposing the proposal regarding education requirements for judges.

Concerns about the authority of the Judicial Council
The Administrative Office of the Courts (AOC) has concluded that the rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. This information was provided in a April 13, 2006, memorandum from the AOC's Office of the General Counsel to RUPRO, Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges. After the AOC's Office of the General Counsel provided this opinion, on June 15, 2006, the California Judges Association received an opinion from Munger, Tolles & Olson, which concluded that although there is a substantial argument to the contrary, it is more likely than not that a court would hold that the council has the authority to require judicial education. That opinion also concluded that there is at least a substantial argument that the proposed rules are inconsistent with statute. More recently, on July 27, 2006, the State of California Office of the Attorney General provided an informal opinion that supports the opinion of the AOC's Office of the General Counsel and concludes that the Judicial Council has the authority to adopt rules requiring minimum education for judges, and that the proposed rules—if they were to be adopted by the Judicial Council—would not be inconsistent with statute. A copy of all three opinions is found at pages 383–415.

Concerns about independence
This concern has been difficult to address because judicial independence can be defined in different ways. The following is a widely accepted definition that is published on the American Judicature Society Web site:

> Judicial independence is a concept that expresses the ideal state of the judicial branch of government. The concept encompasses the idea that individual judges and the judicial branch as a whole should work free of ideological influence. Scholars have broken down the general idea of judicial independence into two distinct concepts: decisional independence and institutional, or branch, independence. Decisional independence refers to a judge's ability to render decisions free from political or popular influence based solely on the individual facts and applicable law. Institutional independence describes the separation of the judicial branch from the executive and legislative branches of government.

Based on this definition the minimum education proposal would support both institutional and individual judicial independence. Institutional independence would be maintained by the proposed requirements as they would demonstrate that the judicial branch has taken action to ensure ongoing professional development and continuous improvement of the branch rather than leaving it to others to do so. The proposed requirements would maintain individual independence in decision making because continuing education and professional development ensure that each judge has the most recent information, the most relevant practices, and the most effective skills at his or her disposal to make the most effective decisions possible.

Concerns about the need for the proposed rules
This concern is at the heart of the proposal. Many commentators focused on the fact that they had already attended judicial education and believed that almost all judges did as well. The prime reason for the proposed rules is not whether all or almost all judges participate in appropriate amounts of education and professional development. There is not enough information to answer that question (most of the information is anecdotal), and it is also not helpful to try to quantify what percentage of nonparticipation is acceptable. As has been stated by the committee throughout the process, the primary reasons for the proposal include a public commitment to ongoing professional development, creating a branchwide environment of professional excellence, and ensuring that regardless of the court, judge, employee, or type of case, each and every member of the public will have access to the highest levels of expertise and will receive the highest level of service possible in each and every court in our state. Education requirements are a public statement of branchwide values: that the judicial branch considers the goal of improvement—individual and collective improvement—as an integral part of its responsibility to be accountable to the public, and that self-generated requirements are a matter of pride and professionalism to the branch. The current system of education requirements only for new judges and voluntary standards for continuing

education makes the statement that education for new judges is necessary and important (and thus required by rule) but that continuing education for judges and education for court personnel must not be necessary or important (because it is voluntary and, thus, optional). Some who responded in support of the proposal indicated that the public might consider it arrogant to say that education is not needed. To say that it is not important undercuts the judicial branch's ability to defend the resources (staff and funding) needed to support the education program.

One argument stated in opposition of the proposal is that imposing required education is not necessary because of the existing rich culture of voluntary education and the widely acknowledged high caliber of its content and faculty. While it is very true that there is a rich and extensive culture of voluntary judicial education, the proposed rules also establish a commitment by the judicial branch to education and training as an essential, not optional, component of professional development and excellence.

Concerns about reduced quality of education
This concern can be dispelled directly and quantifiably. There is no evidence that quality would suffer if minimum education requirements were adopted.

First, the currently mandated New Judge Orientation and the B. E. Witkin Judicial College are of the highest caliber. These programs have been required by rule of court for more than a decade. The judges who plan and deliver these programs have not allowed the mandated nature of the programs to diminish quality. On the contrary, because the programs are required, the judges who serve on the education committee as seminar leaders and as faculty feel an even stronger commitment to excellence. They conduct faculty development programs to ensure they all have the skills necessary to plan and deliver effective education. They devote days and weeks at a time to their responsibilities. And they consistently evaluate the programs, improving them again and again over time. The judges who organize and implement programs for new judges want each participant to leave having experienced memorable and useful courses that will contribute to their individual and collective success in the judicial branch.

Qualifying Ethics, although not required by rule, is attended by more than 99 percent of California judges and is required if participants want coverage under the master insurance policy for defense in proceedings before the Commission on Judicial Performance. The judges who plan and deliver these courses, more than 30 courses per year, also conduct faculty development courses to enable all faculty to deliver the most effective courses possible. They also consistently evaluate and update the content, the materials, and the delivery. The judges who organize and implement programs dealing with ethics want each participant to obtain the ethics education they need in their judicial careers.

Judges who currently plan and deliver judicial education do so out of a sense of giving back to the judicial branch, giving other judges the tools to be the best they can be,

sharing effective practices to make the courts better, and sharing their individual and collective expertise for the benefit of others. It is doubtful that they would abandon those goals simply because education is required.

Finally, the proposed rules identify numerous providers and provide very basic criteria for local courts to use to approve courses offered by any provider. As only one provider for judicial education, CJER currently delivers enough education for each judge in California to earn 15 hours per year, or 45 hours in any three-year period, 50 percent more than called for in the proposed rules. Those who have commented praise the current excellence of CJER programs.

In summary, (a) currently mandated programs are high quality because of the dedication of the judges who plan and deliver them; (b) current faculty demonstrate ongoing dedication to the improvement of the judicial branch; (c) CJER, as only one of many providers, currently delivers more than is required for judges in the proposed rules and the quality of its current programs is high. Based on all of these factors, there is no evidence that quality would suffer from the imposition of minimum education requirements.

Analysis of comments regarding required education for judges
The following table presents a simple numerical analysis of the comments received in the categories of "agree," "agree if modified," and "do not agree" with the proposal as it relates to judges. The results are then broken down vertically in the table, with group responses listed first, followed by the individual responses grouped by court. As of August 11, of the comments received from groups, 8.5 agreed, 2 agreed if the proposal was modified, and 6.5 disagreed. Of comments received from individuals, 67 agreed, 12 agreed if modified, and 139 disagreed. When totaled, 235 comments regarding the proposal as it relates to judges were received: 75.5 agreed, 14 agreed if modified, and 145.5 disagreed. Of the 14 commentators who agreed if modified, 10 generally supported the proposal. (While this chart shows data on comments regarding the proposal as it relates to judges, a few of the comments that referenced judges also referenced court personnel, thus these comments are counted in both judicial and court personnel charts.) As of April 2006, the California judicial system includes 1610 judges and justices as well as 427 subordinate judicial officers.

COMMENTS ON BEHALF OF GROUPS

Group	Agree	Agree If Modified	Do Not Agree	Total for Group
California Judges Association	0	0	1	1
California Partnership to End Domestic Violence	1	0	0	1
Commission on Judicial Performance	1	0	0	1

Group	Agree	Agree If Modified	Do Not Agree	Total for Group
Consumer Attorneys of California	1	0	0	1
Continuing Education of the Bar	0	1	0	1
Crime Victims United of California	1	0	0	1
Domestic Violence Practice and Procedure Task Force	No Position – Revisions Recommended			
State Bar Board of Governors	1	0	0	1
State Bar Family Law Executive Committee	1	0	0	1
State Bar Taxation Section	1	0	0	1
Superior Court of Imperial County	0	0	1	1
Superior Court of Los Angeles County	0	1	1	2
Superior Court of Mendocino County	1	0	0	1
Superior Court of Napa County	0	0	1	1
Superior Court of San Mateo County	0	0	1	1
Superior Court of Stanislaus County	0	0	1	1
Superior Court of Ventura County	0.5	0	0.5	1
Total of Group Comments	**8.5**	**2**	**6.5**	**17**

COMMENTS FROM INDIVIDUALS GROUPED BY COURT

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Court of Appeal	14	1	1	16
Alameda	5	0	7	12
Alpine	0	0	0	0
Amador	0	0	1	1
Butte	0	0	1	1
Calaveras	0	0	0	0
Colusa	0	0	0	0
Contra Costa	2	0	3	5
Del Norte	0	0	0	0
El Dorado	0	0	0	0
Fresno	3	0	3	6
Glenn	0	0	0	0
Humboldt	0	0	1	1
Imperial (see group comments)	0	0	1	1
Inyo	0	0	0	0
Kern	0	0	3	3
Kings	0	0	0	0
Lake	0	0	0	0
Lassen	0	0	0	0

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Los Angeles (see group comments)	3	2	68	73
Madera	0	0	1	1
Marin	1	0	0	1
Mariposa	0	0	1	1
Mendocino (seen group comments)	0	0	1	1
Merced	2	0	0	2
Modoc	0	0	0	0
Mono	0	0	0	0
Monterey	1	0	0	1
Napa (see group comments)	0	0	1	1
Nevada	0	0	2	2
Orange	8	0	0	8
Placer	0	0	2	2
Plumas	0	0	1	1
Riverside	2	0	6	8
Sacramento	3	0	7	10
San Benito	0	0	0	0
San Bernardino	2	4	1	7
San Diego	1	1	3	5
San Francisco	2	0	3	5
San Joaquin	1	0	0	1
San Luis Obispo	0	0	0	0
San Mateo (see group comments)	0	1	3	4
Santa Barbara	3	0	1	4
Santa Clara	1	2	4	7
Santa Cruz	0	0	0	0
Shasta	2	0	0	2
Sierra	0	0	1	1
Siskiyou	2	0	0	2
Solano	0	0	1	1
Sonoma	0	0	1	1
Stanislaus (see group comments)	1	0	1	2
Sutter	0	0	0	0
Tehama	0	0	0	0
Trinity	0	0	0	0
Tulare	1	0	1	2
Tuolumne	0	0	0	0
Ventura (see group comments)	0	0	1	1
Yolo	0	1	3	4
Yuba	0	0	1	1
Assigned Or Retired Judge	4	0	1	5

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Anonymous	1	0	2	3
Public, Non-Court	2	0	0	2
Total of Individual Comments	**67**	**12**	**139**	**218**

TOTAL COMMENTS RECEIVED	**75.5**	**14**	**145.5**	**235**

The following chart analyzes the broad themes that emerged from review of the comments, both those in support of and those opposed to the proposed rules on minimum education requirements for judges. This chart assisted committee members in reviewing the comments and in determining the committee's final responses. The themes, as defined below, are not quoted verbatim from the original comments but summarize the original comments. Please note that because many comments contained more than one theme, the total number of comments in the chart does not equal the total number of comments received.

Comments not reflected in this thematic chart either mention a single instance of a specific issue, refer generally to the comments of other commentators, or simply state support for or opposition to the proposed rules without elaborating further. Comments which specifically refer to or adopt another individual's comments are included as having raised the same thematic concerns.

Comments in Opposition		Comments in Support	
Unneeded The proposed rules are not needed because the current voluntary system is excellent and well attended and the majority of judges already stay current on the law.	53 comments contained this theme.	Public Trust and Confidence The proposed rules would enhance the public's trust and confidence in the judicial branch.	50 comments contained this theme.
Independence The proposed rules would infringe on the independence of the judiciary as a third branch of government or on the independence of individual judicial officers.	34 comments contained this theme.	Independence The proposed rules would support judicial independence, both institutional and individual.	29 comments contained this theme.

Comments in Opposition		Comments in Support	
Authority The Judicial Council does not have the authority under the California Constitution to promulgate rules imposing education requirements on judges.	27 comments contained this theme.	Professional Development The proposed rules would enhance and facilitate the professional development and excellence of all judicial branch members.	16 comments contained this theme.
Reduced Quality The rules would result in lower quality education programs, reduced enthusiasm of faculty, and the promulgation of unnecessary and irrelevant courses.	21comments contained this theme.	Current on the Law The proposed rules would help judicial branch members remain current on the law.	16 comments contained this theme.
Demeaning The proposed rules are insulting and/or demeaning to the bench.	13 comments contained this theme.		
Funding/Logistics The proposed rules would result in a financial and scheduling hardship on the courts.	11 comments contained this theme.		

Comments Regarding the Proposal as It Relates to Court Personnel

Few comments regarding education for court personnel were received during the 90 day comment period. After the public comment period ended, comments were solicited directly from court executive officers. A total of 23 executive officers submitted comments. Comments generally addressed education requirements for managers, supervisors, and other court personnel; thus, the information that follows reflects those comments. Education for executive officers was not directly addressed in comments, with the exception of one that included a statement that the education of executive officers was his or her individual responsibility (several other commentators referenced this comment in general) and a second that simply referenced executive officers along with other court personnel.

Analysis of comments regarding education for court personnel

The following table presents a simple numerical analysis of the comments received in the categories of “agree,” “agree if modified,” and “do not agree” with the proposal as it relates to required education for court personnel. The results are then broken down vertically in the table, with group responses listed first, followed by the individual

responses grouped by court. As of August 11, of the 7 comments related to court personnel education received from groups, 3 agreed, 2 agreed if modified, and 2 disagreed. Of the 25 comments received from individuals, 9 agreed, 3 agreed if modified, and 13 disagreed. When totaled, 32 comments were received: 12 who agreed, 5 who agreed if modified, and 15 who disagreed. Of the 5 commentators who agreed if modified, 4 generally supported the proposal. (While this chart shows data on comments regarding the proposal as it relates to court personnel, a few of the comments that referenced court personnel also referenced judges, thus these comments are counted in both judicial and court personnel charts.) As of April 2006, the California judicial system includes 58 executive officers and approximately 18,000 court personnel, including managers and supervisors.

COMMENTS ON BEHALF OF GROUPS

Group	Agree	Agree If Modified	Do Not Agree	Total for Group
California Partnership to End Domestic Violence	1	0	0	1
Superior Court of Fresno County Executive and Management Team	1	0	0	1
Superior Court Clerks Association	0	1	0	1
Superior Court of Napa County	0	0	1	1
Superior Court of Placer County	0	0	1	1
Superior Court of San Benito County	0	1	0	1
Superior Court of Stanislaus	1	0	0	1
Total of Group Comments	**3**	**2**	**2**	**7**

COMMENTS FROM INDIVIDUALS GROUPED BY COURT

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Alameda	0	0	0	0
Alpine	0	0	0	0
Amador	0	0	1	1
Butte	0	1	0	1
Calaveras	0	0	0	0
Colusa	0	0	0	0
Contra Costa	0	0	0	0
Del Norte	0	0	1	1
El Dorado	0	0	1	1
Fresno (see group comments)	0	0	0	0
Glenn	0	0	1	1
Humboldt	0	0	0	0
Imperial	0	0	0	0

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Inyo	0	0	0	0
Kern	0	0	0	0
Kings	0	0	0	0
Lake	0	0	0	0
Lassen	0	0	0	0
Los Angeles	0	0	1	1
Madera	0	0	0	0
Marin	0	0	0	0
Mariposa	0	0	0	0
Mendocino	0	0	0	0
Merced	1	0	0	1
Modoc	0	0	0	0
Mono	0	0	0	0
Monterey	3	0	0	3
Napa (see group comments)	0	0	0	0
Nevada	0	0	0	0
Orange	1	0	0	1
Placer (see group comments)	0	0	1	1
Plumas	0	0	0	0
Riverside	1	0	0	1
Sacramento	0	0	2	2
San Benito	0	0	0	0
San Bernardino	0	2	0	2
San Diego	1	0	0	1
San Francisco	0	0	0	0
San Joaquin	0	0	0	0
San Luis Obispo	0	0	0	0
San Mateo	0	0	0	0
Santa Barbara	0	0	1	1
Santa Clara	0	0	0	0
Santa Cruz	0	0	0	0
Shasta	1	0	0	1
Sierra	0	0	1	1
Siskiyou	0	0	0	0
Solano	0	0	0	0
Sonoma	0	0	0	0
Stanislaus (see group comments)	0	0	0	0
Sutter	0	0	1	1
Tehama	0	0	0	0
Trinity	0	0	0	0
Tulare	0	0	1	1

Court	Agree	Agree If Modified	Do Not Agree	Total for Court
Tuolumne	0	0	0	0
Ventura	1	0	0	1
Yolo	0	0	1	1
Yuba	0	0	0	0
Total of Individual Comments	**9**	**3**	**13**	**25**

TOTAL COMMENTS RECEIVED	**12**	**5**	**15**	**32**

Almost all comments, supportive and opposed, noted the importance of education for court personnel. Those supportive of the proposed rules indicated that the rules would improve competence and service to the public as well as trust and confidence in the judicial branch and that education for court personnel was already underway, thus, implementation would be straightforward and have a minimal impact on court operations. Most of those who commented in opposition to requirements for court personnel noted implementation concerns rather than the broad philosophical concerns received in comments regarding judges. A few of the comments, however, did state that education of court personnel was a local court issue, not a branchwide issue. More specifically, most of those opposed to the proposed rules cited the following as concerns: (1) the rules were unnecessary as education for court personnel was already underway, (2) the requirements would diminish local court control; and (3) the cost of providing educational opportunities, funding participation, and paying for replacements for those attending education. Two noted concerns related to labor negotiations. With respect to the four commentators who agreed if modified, one suggested implementation over time as new labor contracts were negotiated, another noted that the rules should include a manager or supervisor "designee" for approving content and that the courts should be responsible for tracking compliance of court personnel, and two indicated that the list of approved providers should be expanded. Several comments stating opposition suggested that the education requirements become standards or guidelines rather than rules.

The chart summarizing the comments and the committee's responses is attached at pages 147–382. The Governing Committee has responded as fully as possible to the comments. To assist the council's consideration, following is a summary of the categories of comments regarding education requirements for court personnel that appear in comments opposing the proposal. As with the summary of comments regarding education for judges, most comments opposed to the proposed rules included more than one concern, so the total of comments under each of the following categories will be greater than the number of comments received. If a commentator directly referenced the comments of someone else, the category of concern for the individual referenced was attributed to the commentator in the final analysis.

Need for rules
Almost all who commented indicated belief in and support for education for court personnel. Ten of those who opposed the rules felt that rules were not necessary. Nine noted that their courts already had demonstrated commitment to education for court personnel through support of attendance at education programs or established local court education programs. One indicated that there were no known complaints regarding the competency of court personnel.

As has been stated by the committee throughout the process, the primary reasons for the proposal include making a public commitment to ongoing professional development, creating a branchwide environment of professional excellence, and ensuring that regardless of the court, judge, employee, or type of case, each and every member of the public will have access to the highest levels of expertise and will receive the highest level of service possible in each and every court in our state. Education requirements are a public statement of branchwide values: that the judicial branch considers the goal of improvement—individual and collective improvement—as an integral part of its responsibility to be accountable to the public, and that self-generated requirements are a matter of pride and professionalism to the branch. The current system of education requirements for only a few court personnel who work on certain family law issues makes the statement that education for court personnel must not be necessary or important (because it is voluntary and, thus, optional).

In addition to these goals, the ongoing education of court personnel is crucial to reducing the court's potential exposure to liability regarding a host of areas including ethics, safety and security, sexual harassment, confidentiality of records, legal information v legal advice, and more. While in the proposed rules the specific content for continuing education is left to the discretion of the local court, the committee feels that there are many areas of content that will serve not only to improve competency and service, but also to protect the local court and the judicial branch.

Cost
Nine of those who commented voiced concerns regarding the costs of implementation. Concerns included the actual cost of producing education, the cost to fund participation at events away from the local court, the time personnel would spend in education rather than performing their roles, and the cost of replacement for those attending education, whether local or otherwise.

This is a concern that will differ from court to court. For those courts that have internal education programs, the cost of implementing the proposed requirements for court personnel should be relatively minimal. Regarding the cost of producing education to meet requirements, most of those who commented in support and in opposition noted that their courts already sponsor and/or support education for court personnel. In such instances, the requirements will be an augmentation to what is already provided. In

addition, as only one provider, the AOC provides (a) numerous online and broadcast courses that are available at no direct cost to the local court; (b) local and regional training on CARS, CHRIS, and CCMS; (c) regional courses for managers and supervisors; (d) statewide and regional offerings to comprise the Court Clerks Training Institute. In addition, the AOC awards annual grants to local courts for educational endeavors. Court-related associations are another source of in-state education. For example, the Association of Court Trainers in California is an affordable and rich resource for faculty available for local court use.

Regarding concerns voiced that time away from duties is an issue for court personnel education, the committee acknowledges this can present challenges, but believes that education is an effective way to improve the performance of all court personnel–a continual goal for the branch. The committee thoroughly discussed the issue of time and, working with several court executive officers, determined that 12 hours in two years--or 6 hours per year--for managers, and 8 hours in two years--or 4 hours per year--for court personnel was not only viable but critical to the ongoing improvement of each individual and thus of the court and branch.

Local control

Nine who voiced opposition to the proposed rules regarding court personnel cited that education requirements were a local responsibility and/or the rules would not address local needs. The committee thoroughly discussed and supports the need for local courts to determine content and oversee education of court personnel. For that reason the only content requirements the committee included in the proposed rules were orientation to the branch (which can be of differing content and length depending on the specific job), orientation to the local court (which presumable already occurs), and orientation to the work and employment issues (which presumably already occurs). Continuing education content is fully at the discretion of the local court unless there are other job-related content requirements outside the minimum education rules (such as a sexual harassment prevention requirement for supervisory personnel), all of which can be applied toward the hourly requirements.

Labor issues

Two who voiced opposition noted labor concerns. One indicated that education would not improve the performance of some personnel, but would instead take high performers off the job for education. The other noted that grievances may result from required education. One of the commentators who agreed if modified suggested that, to avoid any labor issues, requirements for staff should be phased in when contracts are being negotiated.

To address concerns regarding labor issues, the committee consulted the Office of General Counsel (OGC) staff, who provided advice on the committee's responses on those issues. One concern was that education requirements could pose a risk to the court

regarding represented employees who might claim lack of training as a reason for poor performance. The committee does not believe that minimum education requirements pose any greater risk than voluntary education without education requirements. A staff member could claim lack of training as a reason for poor performance with or without requirements. The committee believes that courts could use education requirements to provide employees with useful tools to perform at the expected level; if, after education, the employee fails to perform, the court would have grounds for disciplinary action and evidence that the employee was given the educational opportunity to improve performance. Training requirements are intended to provide employees with tools to enhance their job skills, but it remains the responsibility of the employee to perform the duties of the position in a satisfactory manner. Regardless of training requirements, corrective measures will be appropriate if an employee fails to perform the job duties in a satisfactory manner or if the employee demonstrates unsatisfactory conduct (e.g., tardiness, insubordination).

Another labor concern was that education requirements would create an obligation to meet-and-confer with unions. The council may exercise it's constitutional rule-making authority over court administration by setting minimum education requirements for court staff, which may create a meet and confer requirement to meet with court unions over the effects of the rule, i.e., how the rule will be implemented. However, some executive officers note that some training is already required locally, thus branchwide requirements would not be a significant change. The AOC will assist courts with implementation of the rules as they pertain to court staff.

Consideration of comments received
In preparation for making a decision, committee members received a report from staff, the numerical data, and also had access to the complete set of comments. The committee considered the reasons provided by those in opposition and those in support of the proposal before deciding on a recommendation to the Judicial Council. The committee acknowledges that the majority of individual comments received reflects opposition to the proposed rules and weighed that opposition against the goals of the proposal before deciding on a recommendation to the Judicial Council.

Summary regarding comments received
The proposal on minimum education requirements has generated much debate within the judicial branch, most of it seemingly unrelated to the proposed education requirements. The committee has devoted much time and energy in the past three years trying to share information and gather input so it could produce a meaningful proposal. Given the lengthy and inclusive development process, the feedback during the comment period has been surprising in terms of its focus on what some have called an erosion of the judicial position rather than on the benefits of a branchwide commitment to ongoing improvement and professional development. The original proposal reflected what the committee thought that the judicial branch would consider indisputable: that branchwide,

ongoing professional development is an essential, not optional, component of a successful and independent judiciary and that continuing education is an integral part of that development.

Alternative Actions Considered

At the conclusion of the comment process, the committee considered its next step in light of its goals and the opposition to the proposal. The committee considered (1) whether the information received from the comments changed the goals of the proposal in any significant way; (2) whether the need for and benefits of the proposal significantly outweighed any burdens or concerns that the proposal might cause for the trial courts; (3) whether the proposal was the appropriate policy for the committee to recommend; and (4) if not, how to proceed.

The following options were provided to the committee for consideration. The pros and cons of the options address both the goals of the committee in its original proposal and some of the concerns voiced by commentators.

Option	**Pros**	**Cons**
1. Propose the current draft of the rules.	This would achieve the goals originally established by the Governing Committee.	The current debate will probably continue.
2. Modify the current draft of the rules incorporating some of the suggestions given in the comments [see attached suggestion chart at pages 42–50].	This would achieve the goals originally established by the Governing Committee.	Some would still oppose the proposal.
3. Modify the proposed rules to address only new judge education, assignment rotation, orientation for presiding judges [the content requirements].	This would eliminate the concern that continuing education is being dictated at the state level. This would accomplish some of the goals originally established by the Governing Committee.	Some would still oppose the proposal. This temporarily negates the Governing Committee's original goal of ongoing, branchwide professional development.

Option	Pros	Cons
4. Modify the proposed rules to only address a certain number of continuing education hours after new judge education is completed.	This would eliminate the concern that content is being dictated at the state level. This would accomplish some of the goals originally established by the Governing Committee.	Some would still oppose the proposal. This may lead to a perception of “seat time” rather than education as professional development.
5. Modify the proposal to address only court personnel [excluding subordinate judicial officers].	This would reduce the debate regarding judicial independence and the necessity for judicial requirements. This would accomplish some of the goals originally established by the Governing Committee.	Some would still oppose the proposal.
6. Modify the proposal to address only judicial officers [including subordinate judicial officers].	This would reduce the debate regarding local court resources and the number of court personnel receiving continuing education. This would accomplish some of the goals originally established by the Governing Committee.	Court personnel are often the “face” of the court to the public. Some would still oppose the proposal.
7. Propose a rule that directs local courts to establish their own minimum education requirements; offer the current proposal as a potential model.	This would reduce the debate regarding statewide requirements applied to all courts. This may accomplish some of the goals originally established by the Governing Committee.	Some would complain that requirements differ from court to court. Some would still oppose the proposal.

Option	Pros	Cons
8. Propose the rules as aspirational for current judges and required for judges taking the oath after January 1, 2006 [leaving intact the proposal for court personnel].	This may reduce the current debate. This would accomplish the goals originally established by the Governing Committee, although in phases.	Some would still oppose the proposal. This would create differential treatment of judges.
9. Propose the rules as "should" rather than "must."	This may reduce the debate and refocus the discussion on education and its benefits rather than the current focus on authority, independence, and necessity.	This would do nothing regarding education requirements that may originate outside the judicial branch. This is a weakened commitment from what the Governing Committee initially sought and would not fully address the goals originally established. Some would still oppose the proposal.
10. Make the proposal aspirational only (standards/guidelines rather than rules) [with the exception of the existing rules regarding new judges, appellate justices, etc., already in place].	This may reduce the debate and refocus the discussion on education and its benefits rather than the current focus on authority, independence, and necessity.	The existing Standards of Judicial Administration already have aspirational goals for education (for judges the aspiration is eight days annually—more than the proposed rules). This would do nothing regarding education requirements that may originate outside the judicial branch. The Judicial Council is moving away from standards.

Option	Pros	Cons
11. Temporarily withdraw the proposed rules and study the issues further.	This may provide a hiatus in the debate, providing an opportunity for further clarification and discussion. Local courts could track participation and provide additional information.	This may not yield any new information as concerns seem global rather that specific to the substance of the proposed rules. Tracking individual participation does not address the original goals established by the Governing Committee.
12. Withdraw the proposed rules [leaving the existing rules regarding new judges, appellate justices, etc., in place].	This would eliminate the debate.	This would abandon the goals originally established by the Governing Committee. This would do nothing regarding education requirements that may originate outside the judicial branch.

In addition to these options, a letter from Justice Norman Epstein was provided to each committee member; the letter, originally sent to the Governing Committee chair and vice-chair, suggested a possible alternative to the current proposal: make the proposal a standard or guideline or use "should" rather than "must" if creating a rule.

On August 15, the committee chair and vice-chair met with representatives of the California Judges Association, the Access and Fairness Advisory Committee, the Subcommittee of the Administrative Presiding Justices Advisory Committee, and the Trial Court Presiding Judges Advisory Committee to discuss those representatives' thoughts about and their reactions to the proposed minimum education requirements. Most of the individuals present indicated support for the current proposal but acknowledged the voices of those opposed and discussed a possible alternative to the requirements for judges, using the word "should" rather than "must" in the rules. Some of those present noted issues that could arise if this wording were used.

On August 16, during a committee meeting, the committee chair reviewed for members the discussion of the August 15 meeting with judicial branch leadership, including the possible alternative in wording. Committee members then individually expressed their thoughts and views, including reactions to comments received, concerns regarding the debate among some individuals who hold differing views on the proposal, and the goals

and merits of the proposal. Overall, the committee felt that the goals of the proposal substantially outweigh the reasons given in opposition. In addition, the committee felt that of the range of options available only one—a slightly modified version of the original proposal—fully addressed the committee's original goals. Although the committee decided to move the proposal forward, members voiced a strong collective desire to work within the branch to address concerns expressed during the comment period and to strive to ensure that education-related resources would be available to local courts.

For the August 16 meeting, two voting members were unable to participate and one member did not vote because of appointment to the Judicial Council effective September 15. With those exceptions, and after extensive discussion, the committee unanimously approved recommending to the Judicial Council its proposal for minimum education requirements for the judicial branch. The recommendation includes proposed rules of court (including some simplifications of the language included in the original proposal that make no substantive change) and one amendment to the original education criteria that local courts use to approve education programs that would give them more flexibility in approving those programs. This amendment was based on a recommendation from the California Judges Association.

Implementation Requirements and Costs

Costs associated with minimum education requirements are addressed in two categories: state level and local court level. In each, estimated costs are subdivided into those for judicial education and those for court personnel education.

State-level costs—judges

At the state level, the cost of delivering enough content to fulfill the minimum education for judges would be minimal. Education Division/CJER staff analyzed the hours of education delivered in 2003 and determined that, at that rate, every judge in California could have participated in 15 hours during the year, 50 percent more than required in the proposal. The proposal calls for 30 hours in three years, or 10 hours per year. The content of education offered at the state level could change, based on what education committees determine the branch needs, but the amount of education delivered need not.

Two other factors bear consideration. First, an ever-increasing amount of educational content is being delivered through broadcast and online courses, and for those courses increases in direct costs would be minimal. Second, the Education Division/CJER is not the only provider; other providers include associations (such as the California Judges Association) and local courts.

The Education Division/CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content.

State-level costs—court personnel
At the state level, the cost of delivering enough content to fulfill the minimum education model for court managers, supervisors, and court personnel could increase. If local courts prefer that more is offered at the state level, depending on several variables the costs could increase from $50,000 to $100,000 annually.

As with judges' education, an ever-increasing amount of educational content is being delivered through broadcast and online courses, and for those courses increases in direct costs would be minimal. Again, the Education Division/CJER is not the only provider; other providers include associations and local courts.

The Education Division/CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content to increase sources of continuing education for court personnel.

Local-level costs—judges
At the local court level, the cost of supporting judges' participation in education to meet minimum requirements would vary. For Education Division/CJER courses, state funds currently cover lodging and group meals; there is no registration expense. The costs of travel and nongroup meals are currently the responsibility of the local court or individual judge.

Although local courts currently support enough attendance by judges at CJER programs to total 15 hours for every judge in the branch, many judges attend numerous courses while others attend none. It is assumed that these costs would be redistributed among the courts if all judges were required to meet minimum education requirements.

The cost of providing education or partially reimbursing expenses for attendance by judges could increase for some courts. However, in an unrelated proposal, the Judicial Council will consider a "chambers budget" for individual judges to seek up to $2,000 per year in reimbursement for funds expended on professional development, which would include expenses to participate in a wide array of judicial education programs offered nationwide.

With regard to coverage for judges participating in education programs, the Assigned Judges Program will be available to provide backup, just as it currently does.

Since there are many ways to meet the minimum education requirements, no one formula can project a local court's potential education costs. The following two examples, from the Minimum Education Requirements Model, illustrate two possible calculations of a single judge's education-related expenses:

Minimum Education Requirements for Judges
(30 hours in each 3-year cycle)

Example A

	COST TO THE LOCAL COURT			
	Travel	**Per Diem**	**Ground Transportation**	**Total**
A three-day CJER Continuing Judicial Studies Program (18 hours)	$300	3 x $40 = $120	$100	$520
A one-day local court training (6 hours), taught by a local court judge or other no-cost faculty	0	0	0	0
Qualifying Ethics (5 hours)	300	40	100	440
Total: $960 over three years, or approximately **$320 per year**				$960

Example B

	COST TO THE LOCAL COURT					
	Travel	**Lodging**	**Per diem**	**Ground transportation**	**Regis-tration**	**Total**
CJER Institute (14 hours)	$300	$ 0	$40	$100	$ 0	$ 440
Qualifying Ethics (5 hours)	300	0	40	100	0	440
Courses at CJA Mid-Year Conference (10 hours)	300	350	40	100	350	1,140*
Total: $2,020 over three years, or approximately **$673 per year**						$2,020

*Some judges may pay portions of this out of pocket.

Hence, for a local court, the annual continuing education cost for a judge who attends courses in state could range between $320 and $673. There would be the additional cost of the judge's time—although many judges already put in many more education hours than the proposed minimum.

Local-level costs—court personnel

At the local court level, the cost of supporting court personnel's participation in education to meet minimum requirements would vary. For Education Division/CJER courses, state funds currently cover lodging and group meals; there is no registration expense. The costs of travel and nongroup meals are currently the responsibility of the local court or individual employee.

The cost of providing education or partially reimbursing expenditures for attendance would increase. The 1,167 court personnel who responded to a recent survey reported participating in an average of 8 hours of continuing education each year. For them the minimum education requirement would be 8 hours over two years or, for managers and supervisors, 12 hours over two years.

The Education Division/CJER does not currently offer enough content for court personnel to obtain that amount of education. Although the division is not the only source of education, and it intends to increase broadcast and online courses, it is unlikely that local courts are fiscally prepared to make up the difference in support of their personnel's full participation in continuing education. The volume of court personnel, their workload, and the shortage of training funds at the local level would be obstacles.

As with judges, there are many ways in which court personnel could meet minimum education requirements. Examples from the model illustrate possible expenses for a single court employee:

Minimum Education Requirements for Court Personnel
(8 hours in each two-year cycle)

Example C	COST TO THE LOCAL COURT					
	Travel	**Lodging**	**Per diem**	**Ground transportation**	**Registration (incl. lunch)**	**Total**
A one-day regional course taught by the California Courts Association (6 hours)	(Participants generally drive) $200	(Max.) $110	$20	$100	(Nonmember) $52	$482
A two-hour Education Division/CJER broadcast	0	0	0	0	0	0
Total: $482 over two years, or approximately **$241 per year**						$482

Example D	COST TO THE LOCAL COURT
	Total
Two Education Division/CJER broadcasts (4 hours)	$0
Two local court courses (4 hours), taught by a local court judge or other no-cost faculty	0
Total: **$0**	$0

Hence, for a local court, the annual continuing education cost for an employee who takes courses in state could range from $0 to $241. There would be the additional cost of the employee's time—although many court personnel already obtain more education hours than the proposed minimum.

Rules and Projects Committee

The Rules and Projects Committee (RUPRO) discussed the committee's proposal at its September 14 meeting. RUPRO recommended that the list of approved providers in rule 10.471(a) be expanded and that language be added clarifying that education is not limited to the approved providers listed. The committee chair and vice chair agreed with this recommendation and directed staff to revise the original list of approved providers to include accredited colleges and universities, Continuing Education of the Bar—California, and the Superior Court Clerks' Association of the State of California, and to add language clarifying that education is not limited to the approved providers listed.

RUPRO also recommended that the report separate the discussion relating to minimum education for judicial officers from that relating to minimum education for court executive officers, managers, supervisors, and personnel. RUPRO recommended this, in part, to assist the Judicial Council if it were to want to separate its discussion of the proposal, discussing the judicial education requirements first, and then discussing the education requirements for court personnel. The chair and vice chair of the committee agreed to this recommendation and directed staff to: (a) change the report to the Judicial Council to provide the council with separate data regarding comments on the proposal as it relates to judicial officers (including subordinate judicial officers) and as it relates to court personnel (court executive officers, managers and supervisors, and other court personnel); and (b) provide the council with three sets of proposed rules: one set that addresses both judicial officers and court personnel; a second set that applies only to judicial officers; and a third set that applies only to court personnel.

Recommendation

The Governing Committee of the Center for Judicial Education and Research, in its capacity as an advisory committee to the Judicial Council, recommends that the Judicial Council, effective January 1, 2007:

(1) Repeal rules 970 and 5.30 of the California Rules of Court;
(2) Adopt rules 10.451, 10.452, 10.461, 10.462, 10.463, 10.464, and 10.471 of the California Rules of Court; and
(3) Approve the *Minimum Education Requirements for the California Judicial Branch: Guidelines for Implementation* to establish and implement a comprehensive system of minimum education requirements for trial court judges and subordinate judicial officers, court executive officers, and managers, supervisors, and other court personnel.

The text of the rules is attached at pages 51–68; the proposed guidelines are attached at pages 93–146.

At the request of the Rules and Projects Committee (RUPRO), staff also has included versions of the rules that separately address minimum education requirements for (1) trial court judges and subordinate judicial officers; and (2) court executive officers, managers,

supervisors, and personnel. The text of the rules addressing only trial court judges and subordinate judicial officers is attached at pages 69–80. The text of the rules addressing only court executive officers, managers, supervisors, and personnel is attached at pages 81–92.

Attachments

Attachment: Suggestions to Modify the Proposed Rules Received During the Comment Period (Organized by topic)

	Suggestion	Pros	Cons
	Approved Providers		
A(1)	Add the Superior Court Clerks Association to the list of approved providers.	This is a recognized organization that provides quality education.	The list is illustrative only and cannot include all appropriate providers.
A(2)	Add CEB to the list of approved providers.	This is a recognized provider of quality education.	The list is illustrative only and cannot include all appropriate providers.
A(3)	Have all State Bar MCLE providers automatically approved as providers.		Some MCLE courses will not necessarily be applicable to the judiciary, and thus blanket approval is not appropriate.
	Expand Amount Allowed for Online and Self-Study		
B(1)	Expand the hours allowed for online education.	This would provide more flexibility for judges, executive officers, and court personnel.	Not all education is appropriate for online delivery. Live programs can offer benefits that online study does not.
B(2)	Expand amount of self-study allowed.	This would provide more flexibility for judges and executive officers.	Not all education is appropriate for self-study. Live programs can offer benefits that self-study does not.
	Supervising Judges		
C	Add classes in management for supervising judges.	Already being done through the curriculum process.	None.

	Suggestion	Pros	Cons
	Increase Requirements		
D(1)	Make it 45 hours over three years.	Judges are attending more education and training, which is indicative of their actual educational needs.	A higher hourly requirement may place a burden on certain courts.
D(2)	Increase the hours to meet the median of other states. We are currently at the bottom.		There may be more resistance to the proposal.
	Rules vs. Standards		
E(1)	Adopt the current standards as the rules.	The standards outline a comprehensive and potentially useful educational model.	Since they were written to be aspirational and are not requirements, they would likely have to be reexamined and edited as rules of court. The standards recommend more education than the current proposal.
E(2)	If the rules are enacted, the current standards should be repealed.	Judicial education requirements would be located in one place in the rules.	The standards set aspirational goals beyond the proposed education requirements, and that would be lost if they were repealed.
	Appellate Courts		
F(1)	Expand current appellate orientation to Supreme Court justices who have no prior appellate experience.	The content of the orientation course would likely be appropriate for Supreme Court justices.	The committee has not yet studied the educational needs of the Supreme Court or proposed requirements.

	Suggestion	Pros	Cons
F(2)	Modify rule so that the presiding justice, and not the administrative presiding justice, can grant leave for a justice to attend education. The presiding justice assigns work and knows the workload better than the administrative presiding justice.	This seems to be administratively appropriate.	The committee has not yet studied the educational needs, of the appellate courts or proposed requirements.
F(3)	Have the proposed rules apply to all courts, not just the trial courts.	The intent has always been that if the proposed rules were adopted, the committee would next consider education requirements for the appellate courts. It would be a more consistent implementation of educational requirements. Including the appellate courts, rather than only addressing the trial courts, would be more acceptable to some of the trial court judges.	Appellate courts may have different educational needs and the proposed requirements were not drafted to specifically incorporate those potential differences. The appellate courts were not studied or consulted as extensively as were the trial courts. Taking the time to study the educational needs of the appellate courts would delay the existing proposal. If the currently proposed rules are not adopted, the work on the appellate courts would be superfluous.

	Suggestion	Pros	Cons
	<u>Education Leave</u>		
G(1)	Revise rules 970 (renumbered 10.501) and 6.603 (renumbered 10.603) to allow a specific number of days off for judges to attend education. These rules currently qualify time off ("to the extent compatible with the administration of justice") or make no mention of time off.	If this is added to the proposed rules, it may enhance the ability of judges to attend education beyond the required hours.	The proposal is intended to strike a balance. Under proposed rule 10.452(e)(2) (circulated as rule 6.402(e)(2)), the presiding judge must grant sufficient educational leave to complete the education requirements; granting educational leave is qualified ("to the extent compatible with the efficient administration of justice") for education beyond the requirements recommended by the standards.
G(2)	Allocate a specific number of work days for continuing education in lieu of mandatory rules.		If in lieu of the proposed rules, this would impede an ongoing commitment to branchwide professional development.
G(3)	Adopt a rule allowing a minimum of 10 days for education and funding to attend	In response to an earlier request from the Judicial Council, AOC staff is developing a separate proposal for funding that may be used for professional development. The proposed "chambers budget" will be presented to the Judicial Council for consideration.	See comments above.

	Suggestion	Pros	Cons
	<u>Additional Content Requirements</u>		
H(1)	The rules should also include specific requirements to attend classes on access and fairness as well as domestic violence.	These areas of education are critical, and including them would ensure higher participation in the classes.	There are many, many areas of education that are essential, and it could possibly be too burdensome to include a complete list of these and other subjects as requested. The curriculum development work should include some of these areas, including the most critical ones, in substantive education that reflects how these areas are encountered in the courts.
H(2)	Add mandatory training in the area of therapeutic justice.		
	<u>Incentives</u>		
I(1)	Create an incentive to comply with voluntary requirements. Judges who exceed the minimum could be granted a sabbatical or higher retirement contributions.	This could likely increase voluntary participation.	There may be ethical issues or other concerns with this approach.
I(2)	Establish an education fund for judges.	In response to an earlier request from the Judicial Council, AOC staff is developing a separate proposal for funding that may be used for professional development. The proposed "chambers budget" will be presented to the Judicial Council for consideration.	

	Suggestion	Pros	Cons
J	Simplify Rules Simplify the rule language. The format of the rules is too complex and contains unnecessary language dealing with purpose and goals, which is more appropriate in a notes or annotation section.	The rules have been simplified from their original version. Making them simpler than they are now would make them more accessible to everyone.	The rule-making process drives some of the format of the rule, and much of the essential content must be in the actual rule. Moving much of the language to a note or comment would mean that many people will not read the essential information.
K	Board of Exemptions Create a board of judges to consider exemptions to the requirements based upon substantial compliance by other means.	This would provide more flexibility for the judiciary.	This would be too administra–tively cumbersome a process to effectively implement.
L	Adopt methods used by the State Bar's Board of Legal Specialization advisory commissions. (Lewis)	Unknown.	Unknown.
M	Rules vs. Publication Provide a quality monthly publication on changes in the law instead of these rules.	This would provide additional information in a timely manner.	While useful, this approach to providing additional information it is not education as envisioned by the committee.
N(1)	Additional Process Table the proposed rules and issue a survey to everyone asking if they would comply with the proposed minimum requirements. Analyze and publish the results for further discussion.	This may provide the council with additional meaningful information for it to consider.	The committee has analyzed educational requirements for three years. It is doubtful that more would be learned, and it is unknown what impact the survey results would have on actual compliance if the rules were adopted.

	Suggestion	Pros	Cons
N(2)	Impose a 90-day cooling-off period and appoint a blue ribbon commission to deal with this issue. (Lewis).	A neutral board composed of stakeholders (including members of the Bar, the Legislature, and the public) would be able to review the current rules with a fresh eye and may add legitimacy with respect to the judiciary.	The committee could be considered to be that body, and it has done this work over the past three years.
N(3)	Implement the rule in two phases. Phase 1 would make the proposed requirements voluntary, and the council would track how many comply with them voluntarily. If not complied with, then in phase 2 make it mandatory. (Rosenberg)	This process would test the proposed requirements to see how easily they can be met, and would establish a true benchmark.	Tracking would be difficult, and it is not certain the committee would be able to obtain valid and complete results. Tracking at the local level has been the committee's desire. Voluntary participation to avoid requirements is not necessarily a true indicator of ongoing participation.
N(4)	Phase in the requirements for staff in consideration of the labor issues involved. (LeTellier)	This may reduce potential conflicts with existing labor contracts.	This would delay full implemen–tation of the proposed rules.
O	<u>New Assignment Education</u> Change the new assignment rules so that this education is completed less than 6 months before the new assignment begins. Also specify the length of the training (e.g., 10 hours) and specify the type of training that would qualify. (Shuman)	Education is more useful the closer it is to the actual need, so having the new assignment education closer to the beginning of the new assignment would enhance its value.	Scheduling this education closer to the assumption of the assignment is often difficult, especially if it is live training. Much of the flexibility desired for continuing education would

	Suggestion	Pros	Cons
		Being more specific with respect to the length of the course and the content would be beneficial to the judge needing the education.	be lost if length and type of training were specified. Content determines both the length and the most effective delivery of a course; setting an artificial length does not necessarily promote or facilitate the quality of the course. Course content will likely change over time to meet the needs of the participants, so enumerating the content or length in the rule may prove unnecessary.
P	<u>Records</u> Records verifying compliance with standards or policies should not be required. But if records are required, record-keeping responsibilities of local courts should be minimized, records should not be public, and records should include programs that each judicial officer requested for which approval was denied.	Local court administrative work would be lessened.	Record keeping is a concern as these are expenditures of public funds. Without records, it is more difficult to demonstrate accountability.
Q	<u>Education Criteria</u> The approved education criteria in proposed rule 10.471(b)(2)(A)–(E) should be eliminated as unnecessary and overly restrictive, although (A) and (B) are acceptable.	This would increase flexibility and the ability to participate in education based on each individual's interests, background, needs, and style.	Approved education criteria were included to allay concerns voiced by some judges that (1) if local courts were determining courses that could receive credit, some common criteria should be in place or there would be criticisms about inequality from court to court, and (2) some

	Suggestion	Pros	Cons
			criticism of MCLE was based on a lack of standards, which, in the view of some, allowed nonrelevant or poorly planned education to receive credit.

Rules 970 and 5.30 are repealed and rules 10.451–10.471 are adopted, effective January 1, 2007, to read:[5]

~~Rule 970. Judicial education~~

~~(a) [Judicial education responsibility]~~ ~~Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.~~

~~(b) [Judicial education objectives]~~ ~~Judicial officers, educational committees, approved providers, and others who plan educational programs shall endeavor to achieve the following objectives:~~

~~(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;~~
~~(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;~~
~~(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as set forth in the Code of Judicial Ethics;~~
~~(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;~~
~~(5) Promote standardized court practices and procedures; and~~
~~(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.~~

~~(c) [Applicability]~~ ~~All California judicial officers shall comply with these judicial education requirements.~~

~~(d) [Definitions]~~ ~~As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners,~~

[5] The proposed rules were numbered 6.401–6.421 when they were circulated for comment. However, at the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. For the proposed rules to be consistent with the newly reorganized rules of court, the proposed rules are now referred to and numbered 10.451–10.471. Rule 970, proposed for repeal, was numbered rule 10.501 under the reorganization.

~~and referees who are full-time court employees not engaged in the practice of law.~~

~~**(e) [Educational requirements for new judicial officers]**~~

~~(1) Each newly appointed or elected trial court judicial officer shall complete three weeks of new judge education provided by the Center for Judicial Education and Research (CJER) within the following time frames:~~

~~(i) A one-week orientation program shall be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are excluded from this requirement if they have previously attended the one-week program.~~

~~(ii) The two-week Judicial College shall be completed within two years of taking the oath as a judicial officer.~~

~~(2) Each new Court of Appeal justice shall attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.~~

~~**(f) [Budget]** Each presiding judge shall include as part of the court's budget request adequate funding to provide annual judicial education consistent with Standards of Judicial Administration section 25.~~

~~**(g) [Educational leave]** Each presiding judge shall grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (e). To the extent compatible with the efficient administration of justice, all presiding judges shall grant to all judicial officers sufficient leave to participate in educational programs consistent with Standards of Judicial Administration section 25.~~

~~Rule 970 adopted effective January 1, 1996.~~

~~**Rule 5.30. Judicial education for family court judicial officers**~~

~~Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judge hearing family law matters must, if funds are available, attend the following judicial education programs:~~

~~**(a) [Basic family law education]** Within six months of beginning a family law assignment, or within one year of beginning a family law assignment in~~

~~courts with five or fewer judges, the judicial officer must attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear family law matters, including retired judges who sit on court assignment, must participate in appropriate family law educational programs.~~

~~*(Subd (a) amended and relettered effective January 1, 2003; adopted as subd (1) effective January 1, 1992.)*~~

~~**(b) [Continuing family law education]** The judicial officer must attend a periodic update on new developments in California family law and procedure.~~

~~*(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (2) effective January 1, 1992.)*~~

~~**(c) [Other family law education]** To the extent that judicial time and resources are available, the judicial officer must attend additional educational programs on other aspects of family law including interdisciplinary subjects relating to the family.~~

~~*(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (3) effective January 1, 1992.)*~~

~~*Rule 5.30 amended and renumbered effective January 1, 2003; adopted as rule 1200 effective January 1, 1992.*~~

Title 10. Judicial Administration Rules
Division II. Administration of the Judicial Branch
Chapter 8. Minimum Education Requirements

Rule 10.451. Judicial branch education

(a) Purpose

Judicial branch education for all justices, judges, subordinate judicial officers, and court personnel is essential to enhance the fair, effective, and efficient administration of justice. Participation in education activities is part of the official duties of judicial officers and court personnel. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial

Council's Long-Range Strategic Plan, which include access, fairness, and diversity; branch independence and accountability; modernization of management and administration; and quality of justice and service to the public. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch.

(b) Education objectives

Justices, judges, subordinate judicial officers, court personnel, education committees, and others who plan and deliver education will endeavor to achieve the following objectives:

(1) To provide justices, judges, subordinate judicial officers, and court personnel with the knowledge, skills, and abilities required to perform their responsibilities competently, fairly, and efficiently;

(2) To ensure that education, including opportunities for orientation, continuing education, and professional development, is available to all justices, judges, subordinate judicial officers, and court personnel;

(3) To assist justices, judges, subordinate judicial officers, and court personnel in preserving the integrity and impartiality of the judicial system through their efforts to ensure that all members of the public have equal access to the courts and equal ability to participate in court proceedings and are treated in a fair and just manner;

(4) To promote the adherence of justices, judges, subordinate judicial officers, and court personnel to the highest ideals of personal and official conduct, as set forth in the California Code of Judicial Ethics and the Code of Ethics for the Court Employees of California;

(5) To improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;

(6) To promote standardized court practices and procedures; and

(7) To implement the recommendations adopted by the Judicial Council in the California Standards of Judicial Administration.

Rule 10.452. Minimum education requirements

(a) Purpose

Justices, judges, and subordinate judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect the freedom, livelihood, and happiness of the people involved. Court personnel assist justices, judges, and subordinate judicial officers in carrying out their responsibilities and must provide accurate and timely services to the public. Each justice, judge, and subordinate judicial officer and each court staff member is responsible for maintaining and improving his or her professional competence. To assist them in enhancing their professional competence, the judicial branch will develop and maintain a comprehensive and high-quality education program, including minimum education requirements, to provide educational opportunities for all justices, judges, subordinate judicial officers, and court personnel.

(b) Goals

The minimum education requirements set forth in rules 10.461–10.464 are intended to achieve two complementary goals:

(1) To ensure that both individuals who are new to the bench or the court and those who are experienced on the bench or court but are beginning a new assignment or role obtain education on the tasks, skills, abilities, and knowledge necessary to be successful in the new roles; and

(2) To establish broad parameters, based on time, for continuing education for individuals who are experienced both on the bench or court and in their assignments or roles, preserving the ability of the individual, working with the presiding judge or court executive officer, to determine the appropriate content and provider.

(c) Relationship to education standards

The education requirements set forth in rules 10.461–10.464 are minimum requirements. Justices, judges, and subordinate judicial officers should participate in more judicial education than is required, in accordance with the judicial education standards set forth in standards 10.10–10.14 of the California Standards of Judicial Administration. Court executive officers and other court personnel should participate in more education than is required, in accordance with the education standards set forth in standard 10.15 of the California Standards of Judicial Administration.

(d) Responsibilities of administrative presiding justices

Each administrative presiding justice:

(1) Must grant sufficient leave to new Court of Appeal justices to enable them to complete the minimum education requirements stated in rule 10.461;

(2) To the extent compatible with the efficient administration of justice, must grant to all justices sufficient leave to participate in education programs consistent with standard 10.11 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for his or her court to facilitate the involvement of justices as both participants and faculty in judicial education activities.

(e) Responsibilities of presiding judges

Each presiding judge:

(1) Must grant sufficient leave to all judges and subordinate judicial officers and to the court executive officer to enable them to complete the minimum education requirements stated in rules 10.462 and 10.463, respectively;

(2) To the extent compatible with the efficient administration of justice, must grant to all judges and subordinate judicial officers and to the court executive officer sufficient leave to participate in education programs consistent with standards 10.11–10.14 and 10.15 of the California Standards of Judicial Administration;

(3) Should establish an education plan for his or her court to facilitate the involvement of judges, subordinate judicial officers, and the executive officer as both participants and faculty in education activities and should consult with each judge, each subordinate judicial officer, and the executive officer regarding their education needs and requirements related to their current and future assignments; and

(4) Should use his or her assignment powers to enable all judges and subordinate judicial officers, particularly those assigned to specific calendar courts, to participate in educational activities.

(f) Responsibilities of court executive officers, managers, and supervisors

Each court's executive officer, managers, and supervisors:

(1) Must grant sufficient leave to all court personnel to enable them to complete the minimum education requirements stated in rule 10.464;

(2) To the extent compatible with the efficient administration of justice, must grant to all court personnel sufficient leave to participate in education programs consistent with standard 10.15 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for their court to facilitate the involvement of court personnel as both participants and faculty in educational activities, and should consult with each court staff member regarding his or her education needs and requirements and professional development.

Rule 10.461. New Court of Appeal justices

Each new Court of Appeal justice, within two years of confirmation of appointment, must attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research.

Advisory Committee Comment

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

Rule 10.462. Trial court judges and subordinate judicial officers

(a) Applicability

All California trial court judges and subordinate judicial officers must complete these minimum judicial education requirements.

(b) Definitions

Unless the context or subject matter otherwise requires, "subordinate judicial officers" as used in this rule means subordinate judicial officers as defined in rule 10.701.

(c) Content-based requirements

(1) Each new trial court judge and subordinate judicial officer must complete the following "new judge education" provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER):

(A) The New Judge Orientation program within six months of taking the oath as a judge or subordinate judicial officer;

(B) An orientation course in his or her primary assignment (civil, criminal, family, juvenile delinquency or dependency, probate, or traffic) within one year of taking the oath as a judge or subordinate judicial officer; and

(C) The B. E. Witkin Judicial College of California within two years of taking the oath as a judge or subordinate judicial officer.

(2) Each new supervising judge must complete the following education:

(A) For a judge who has administrative responsibility, CJER's Supervising Judges Overview course within one year of beginning the supervising judge role, preferably before beginning the role;

(B) For a judge who has calendar management responsibility, a calendar management overview course, provided either by the local court or by CJER, within one year of beginning the supervising judge role, preferably before beginning the role;

(C) For a judge who has both administrative and calendar management responsibility, both overview courses within one year of beginning the role.

(3) Each new presiding judge must complete CJER's Presiding Judges Orientation and Court Management Program within one year of beginning the presiding judge role, preferably before beginning the role.

(4) Each judge or subordinate judicial officer who is beginning a new primary assignment—unless he or she is returning to an assignment after less than two years in another assignment—must complete a course on the new primary assignment, provided by CJER, the California Judges Association (CJA), or the local court, within six

months of beginning the new assignment. CJER is responsible for identifying content for these courses and will share the identified content with CJA and the local courts. A judge or subordinate judicial officer who is returning to a previous primary assignment after less than two years is not required to complete a course on the new primary assignment.

(d) Hours-based requirement

(1) Each judge or subordinate judicial officer must complete 30 hours of continuing judicial education every three years, beginning on the following date:

(A) For a new judge or new subordinate judicial officer, the first three-year period begins on January 1 of the year following completion of the required new judge education;

(B) For all other judges and subordinate judicial officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the required 30 hours of continuing judicial education:

(A) The content-based courses required under (c)(2), (3), and (4) for a new supervising judge, a new presiding judge, and a judge or subordinate judicial officer beginning a new primary assignment; and

(B) Any other education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.471(b).

(3) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the requirement on an hour-for-hour basis. Participation in online coursework and self-directed study is limited to a combined total of 7 hours in each three-year period.

(4) A judge or subordinate judicial officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the

following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period.

(e) Extension of time

(1) For good cause, a presiding judge may grant an extension of time to complete the education requirements in (c)(2)–(4) and (d) as follows:

(A) A time extension to complete the content-based requirements in (c)(2)–(4) is limited to the original time period provided for completion—that is, one year, one year, or six months, respectively.

(B) A time extension to complete the hours-based requirement in (d) is limited to one year.

(2) If the presiding judge grants a request for an extension of time, the judge or subordinate judicial officer, in consultation with the presiding judge, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the individual's next three-year period.

(f) Records of participation; statement of completion

Each judge or subordinate judicial officer is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation for three years after each course or activity that is applied toward the requirements;

(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; and

(3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.

Advisory Committee Comment

The minimum judicial education requirements in rule 10.462 do not apply to retired judges seeking to sit on regular court assignment in the Assigned Judges Program. Retired judges who seek to serve in the Assigned Judges Program must comply with the Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment, which includes education requirements.

Rule 10.463. Trial court executive officers

(a) Applicability

All California trial court executive officers must complete these minimum education requirements.

(b) Content-based requirement

(1) Each new executive officer must complete the Presiding Judges Orientation and Court Management Program provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER) within one year of becoming an executive officer and should participate in additional education during the first year.

(2) Each executive officer should participate in CJER's Presiding Judges Orientation and Court Management Program each time a new presiding judge from his or her court participates in the course and each time the executive officer becomes the executive officer in a different court.

(c) Hours-based requirement

(1) Each executive officer must complete 30 hours of continuing education every three years beginning on the following date:

(A) For a new executive officer, the first three-year period begins on January 1 of the year following completion of the required education for new executive officers.

(B) For all other executive officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the required 30 hours of continuing education:

(A) Any education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.471(b).

(B) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the requirement on an hour-for-hour basis. Participation in online coursework and self-directed study is limited to a combined total of 7 hours in each three-year period.

(C) An executive officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period.

(d) Extension of time

(1) For good cause, a presiding judge may grant a one-year extension of time to complete the education requirements in (b) and (c).

(2) If the presiding judge grants a request for an extension of time, the executive officer, in consultation with the presiding judge, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the executive officer's next three-year period.

(e) [Record of participation; statement of completion]

Each executive officer is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation for three years after each course or activity that is applied toward the requirements;

(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; and

(3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.

Rule 10.464. Trial court managers, supervisors, and personnel

(a) Applicability

All California trial court managers, supervisors, and personnel must complete these minimum education requirements.

(b) Content-based requirements

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

(A) The judicial branch of California;

(B) The local court; and

(C) Basic management and supervision.

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

(A) The judicial branch of California;

(B) The local court; and

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

(D) The employee's specific job.

(c) Hours-based requirements

(1) Each court manager or supervisor must complete 12 hours of continuing education every two years.

(2) Each court employee who is not a manager or supervisor must complete 8 hours of continuing education every two years.

(3) The first two-year period for all court managers, supervisors, and personnel begins on January 1, 2007. The orientation education required for new managers, supervisors, and personnel under (b) does not apply toward the required hours of continuing education because it must be completed before they enter the two-year period. Each new manager, supervisor, or employee enters the two-year continuing education period on the first day of the quarter following his or her completion of the orientation education required under (b); the quarters begin on January 1, April 1, July 1, and October 1. Each manager, supervisor, or employee who enters the two-year continuing education period after it has begun must complete a prorated number of continuing education hours for that two-year period, based on the number of quarters remaining in it.

(4) Any education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory, rules-based, or other education requirement, that is approved by the executive officer or the employee's supervisor as meeting the criteria listed in rule 10.471(b) applies toward the orientation education required under (b) and the continuing education required under (c)(1) and (2).

(5) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, and online coursework counts toward the requirement on an hour-for-hour basis. Participation in online coursework is limited to a total of 4 hours for managers and supervisors and to a total of 3 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun. Self-directed study is encouraged for professional development but does not apply toward the required hours.

(6) A manager, supervisor, or employee who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for

each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 6 hours for managers and supervisors and to 4 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun.

(d) Extension of time

(1) For good cause, the executive officer or a supervisor, if delegated by the executive officer, may grant a six-month extension of time to complete the education requirements in this rule.

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

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

(e) Records of participation

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

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

Rule 10.471. Approved providers; approved course criteria

(a) Approved providers

Any education program offered by any of the following providers that is relevant to the work of the courts or enhances the individual participant's ability to perform his or her job may be applied toward the education requirements stated in rule 10.462(d), 10.463(c), or 10.464(b)–(c):

(1) California Administrative Office of the Courts;
(2) California Judges Association;
(3) Supreme Court of California;

(4) California Courts of Appeal;
(5) Superior Courts of California;
(6) State Bar of California;
(7) National Judicial College;
(8) National Center for State Courts;
(9) National Council of Juvenile and Family Court Judges;
(10) National Association of Women Judges;
(11) American Bar Association;
(12) National Association for Court Management;
(13) American Judges Association;
(14) American Academy of Judicial Education;
(15) Dwight D. Opperman Institute of Judicial Administration;
(16) National Institute of Justice;
(17) Law schools accredited by the American Bar Association;
(18) Accredited colleges and universities;
(19) Continuing Education of the Bar—California;
(20) Local California bar associations;
(21) California Court Association; and
(22) Superior Court Clerks' Association of the State of California.

(b) Approved education criteria

Education is not limited to the approved providers listed in (a). Any education from a provider not listed in (a) that is approved by the presiding judge as meeting the criteria listed below may be applied toward the continuing education requirements for judges and subordinate judicial officers or for court executive officers stated in rule 10.462(d) or 10.463(c), respectively. Similarly, any education from a provider not listed in (a) that is approved by the court executive officer or by the employee's supervisor as meeting the criteria listed below may be applied toward the orientation or continuing education requirements for managers, supervisors, and employees in rule 10.464(b) and (c)(1), (2).

(1) The education must meet the following three criteria:

(A) The subject matter is relevant to the work of the courts or the judicial branch;

(B) The education is at least one hour in length; and

(C) Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied, demonstrated, or used) are identified prior to the education work.

(2) The education must also meet at least two of the following five criteria:

(A) The learning environment is educationally sound (e.g., distractions are limited and the physical location is conducive to learning the subject matter);

(B) The participant receives or has access to all the reference tools and other materials and resources (such as handouts) that are required for learning and applying the content (such as job aids or scripts);

(C) The participant has an opportunity to practice using or applying the new information or skill (through direct experience, role play, or case studies/hypothetical situations) as part of the learning experience;

(D) The participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;

(E) An assessment tool or activity (such as the development of an action plan to apply the newly gained knowledge or skill) enables the participant to determine whether the skills, abilities, or knowledge gained through the education can be used in the future in his or her work.

Rules 970 and 5.30 are repealed and rules 10.451–10.471 are adopted, effective January 1, 2007, to read:[6]

~~Rule 970. Judicial education~~

~~(a) [Judicial education responsibility]~~ ~~Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.~~

~~(b) [Judicial education objectives]~~ ~~Judicial officers, educational committees, approved providers, and others who plan educational programs shall endeavor to achieve the following objectives:~~

~~(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;~~
~~(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;~~
~~(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as set forth in the Code of Judicial Ethics;~~
~~(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;~~
~~(5) Promote standardized court practices and procedures; and~~
~~(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.~~

~~(c) [Applicability]~~ ~~All California judicial officers shall comply with these judicial education requirements.~~

~~(d) [Definitions]~~ ~~As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners,~~

[6] The proposed rules were numbered 6.401–6.421 when they were circulated for comment. However, at the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. For the proposed rules to be consistent with the newly reorganized rules of court, the proposed rules are now referred to and numbered 10.451–10.471. Rule 970, proposed for repeal, was numbered rule 10.501 under the reorganization.

~~and referees who are full-time court employees not engaged in the practice of law.~~

~~**(e) [Educational requirements for new judicial officers]**~~

~~(1) Each newly appointed or elected trial court judicial officer shall complete three weeks of new judge education provided by the Center for Judicial Education and Research (CJER) within the following time frames:~~

~~(i) A one-week orientation program shall be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are excluded from this requirement if they have previously attended the one-week program.~~

~~(ii) The two-week Judicial College shall be completed within two years of taking the oath as a judicial officer.~~

~~(2) Each new Court of Appeal justice shall attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.~~

~~**(f) [Budget]** Each presiding judge shall include as part of the court's budget request adequate funding to provide annual judicial education consistent with Standards of Judicial Administration section 25.~~

~~**(g) [Educational leave]** Each presiding judge shall grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (e). To the extent compatible with the efficient administration of justice, all presiding judges shall grant to all judicial officers sufficient leave to participate in educational programs consistent with Standards of Judicial Administration section 25.~~

~~Rule 970 adopted effective January 1, 1996.~~

~~**Rule 5.30. Judicial education for family court judicial officers**~~

~~Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judge hearing family law matters must, if funds are available, attend the following judicial education programs:~~

~~**(a) [Basic family law education]** Within six months of beginning a family law assignment, or within one year of beginning a family law assignment in~~

~~courts with five or fewer judges, the judicial officer must attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear family law matters, including retired judges who sit on court assignment, must participate in appropriate family law educational programs.~~

~~*(Subd (a) amended and relettered effective January 1, 2003; adopted as subd (1) effective January 1, 1992.)*~~

~~**(b) [Continuing family law education]** The judicial officer must attend a periodic update on new developments in California family law and procedure.~~

~~*(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (2) effective January 1, 1992.)*~~

~~**(c) [Other family law education]** To the extent that judicial time and resources are available, the judicial officer must attend additional educational programs on other aspects of family law including interdisciplinary subjects relating to the family.~~

~~*(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (3) effective January 1, 1992.)*~~

~~*Rule 5.30 amended and renumbered effective January 1, 2003; adopted as rule 1200 effective January 1, 1992.*~~

Title 10. Judicial Administration Rules
Division II. Administration of the Judicial Branch
Chapter 8. Minimum Education Requirements for Judicial Officers

Rule 10.451. Judicial branch education

(a) Purpose

Judicial branch education for all justices, judges, and subordinate judicial officers is essential to enhance the fair, effective, and efficient administration of justice. Participation in education activities is part of the official duties of judicial officers. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial Council's Long-Range Strategic Plan, which include access,

fairness, and diversity; branch independence and accountability; modernization of management and administration; and quality of justice and service to the public. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch.

(b) Education objectives

Justices, judges, subordinate judicial officers, education committees, and others who plan and deliver education will endeavor to achieve the following objectives:

(1) To provide justices, judges, and subordinate judicial officers with the knowledge, skills, and abilities required to perform their responsibilities competently, fairly, and efficiently;

(2) To ensure that education, including opportunities for orientation, continuing education, and professional development, is available to all justices, judges, and subordinate judicial officers;

(3) To assist justices, judges, and subordinate judicial officers in preserving the integrity and impartiality of the judicial system through their efforts to ensure that all members of the public have equal access to the courts and equal ability to participate in court proceedings and are treated in a fair and just manner;

(4) To promote the adherence of justices, judges, and subordinate judicial officers to the highest ideals of personal and official conduct, as set forth in the California Code of Judicial Ethics;

(5) To improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;

(6) To promote standardized court practices and procedures; and

(7) To implement the recommendations adopted by the Judicial Council in the California Standards of Judicial Administration.

Rule 10.452. Minimum education requirements

(a) Purpose

Justices, judges, and subordinate judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect the freedom,

livelihood, and happiness of the people involved. Each justice, judge, and subordinate judicial officer is responsible for maintaining and improving his or her professional competence. To assist them in enhancing their professional competence, the judicial branch will develop and maintain a comprehensive and high-quality education program, including minimum education requirements, to provide educational opportunities for all justices, judges, and subordinate judicial officers.

(b) Goals

The minimum education requirements set forth in rules 10.461–10.462 are intended to achieve two complementary goals:

(1) To ensure that both individuals who are new to the bench and those who are experienced on the bench but are beginning a new assignment or role obtain education on the tasks, skills, abilities, and knowledge necessary to be successful in the new roles; and

(2) To establish broad parameters, based on time, for continuing education for individuals who are experienced both on the bench and in their assignments or roles, preserving the ability of the individual, working with the presiding judge, to determine the appropriate content and provider.

(c) Relationship to education standards

The education requirements set forth in rules 10.461–10.462 are minimum requirements. Justices, judges, and subordinate judicial officers should participate in more judicial education than is required, in accordance with the judicial education standards set forth in standards 10.10–10.14 of the California Standards of Judicial Administration.

(d) Responsibilities of administrative presiding justices

Each administrative presiding justice:

(1) Must grant sufficient leave to new Court of Appeal justices to enable them to complete the minimum education requirements stated in rule 10.461;

(2) To the extent compatible with the efficient administration of justice, must grant to all justices sufficient leave to participate in education

programs consistent with standard 10.11 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for his or her court to facilitate the involvement of justices as both participants and faculty in judicial education activities.

(e) Responsibilities of presiding judges

Each presiding judge:

(1) Must grant sufficient leave to all judges and subordinate judicial officers to enable them to complete the minimum education requirements stated in rule 10.462;

(2) To the extent compatible with the efficient administration of justice, must grant to all judges and subordinate judicial officers sufficient leave to participate in education programs consistent with standards 10.11–10.14 of the California Standards of Judicial Administration;

(3) Should establish an education plan for his or her court to facilitate the involvement of judges and subordinate judicial officers as both participants and faculty in education activities and should consult with each judge and each subordinate judicial officer regarding their education needs and requirements related to their current and future assignments; and

(4) Should use his or her assignment powers to enable all judges and subordinate judicial officers, particularly those assigned to specific calendar courts, to participate in educational activities.

Rule 10.461. New Court of Appeal justices

Each new Court of Appeal justice, within two years of confirmation of appointment, must attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research.

Advisory Committee Comment

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

Rule 10.462. Trial court judges and subordinate judicial officers

(a) Applicability

All California trial court judges and subordinate judicial officers must complete these minimum judicial education requirements.

(b) Definitions

Unless the context or subject matter otherwise requires, "subordinate judicial officers" as used in this rule means subordinate judicial officers as defined in rule 10.701.

(c) Content-based requirements

(1) Each new trial court judge and subordinate judicial officer must complete the following "new judge education" provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER):

(A) The New Judge Orientation program within six months of taking the oath as a judge or subordinate judicial officer;

(B) An orientation course in his or her primary assignment (civil, criminal, family, juvenile delinquency or dependency, probate, or traffic) within one year of taking the oath as a judge or subordinate judicial officer; and

(C) The B. E. Witkin Judicial College of California within two years of taking the oath as a judge or subordinate judicial officer.

(2) Each new supervising judge must complete the following education:

(A) For a judge who has administrative responsibility, CJER's Supervising Judges Overview course within one year of beginning the supervising judge role, preferably before beginning the role;

(B) For a judge who has calendar management responsibility, a calendar management overview course, provided either by the

local court or by CJER, within one year of beginning the supervising judge role, preferably before beginning the role;

(C) For a judge who has both administrative and calendar management responsibility, both overview courses within one year of beginning the role.

(3) Each new presiding judge must complete CJER's Presiding Judges Orientation and Court Management Program within one year of beginning the presiding judge role, preferably before beginning the role.

(4) Each judge or subordinate judicial officer who is beginning a new primary assignment—unless he or she is returning to an assignment after less than two years in another assignment—must complete a course on the new primary assignment, provided by CJER, the California Judges Association (CJA), or the local court, within six months of beginning the new assignment. CJER is responsible for identifying content for these courses and will share the identified content with CJA and the local courts. A judge or subordinate judicial officer who is returning to a previous primary assignment after less than two years is not required to complete a course on the new primary assignment.

(d) Hours-based requirement

(1) Each judge or subordinate judicial officer must complete 30 hours of continuing judicial education every three years, beginning on the following date:

(A) For a new judge or new subordinate judicial officer, the first three-year period begins on January 1 of the year following completion of the required new judge education;

(B) For all other judges and subordinate judicial officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the required 30 hours of continuing judicial education:

(A) The content-based courses required under (c)(2), (3), and (4) for a new supervising judge, a new presiding judge, and a judge or

subordinate judicial officer beginning a new primary assignment; and

(B) Any other education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.471(b).

(3) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the requirement on an hour-for-hour basis. Participation in online coursework and self-directed study is limited to a combined total of 7 hours in each three-year period.

(4) A judge or subordinate judicial officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period.

(e) Extension of time

(1) For good cause, a presiding judge may grant an extension of time to complete the education requirements in (c)(2)–(4) and (d) as follows:

(A) A time extension to complete the content-based requirements in (c)(2)–(4) is limited to the original time period provided for completion—that is, one year, one year, or six months, respectively.

(B) A time extension to complete the hours-based requirement in (d) is limited to one year.

(2) If the presiding judge grants a request for an extension of time, the judge or subordinate judicial officer, in consultation with the presiding judge, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the individual's next three-year period.

(f) Records of participation; statement of completion

Each judge or subordinate judicial officer is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation for three years after each course or activity that is applied toward the requirements;

(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; and

(3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.

Advisory Committee Comment

The minimum judicial education requirements in rule 10.462 do not apply to retired judges seeking to sit on regular court assignment in the Assigned Judges Program. Retired judges who seek to serve in the Assigned Judges Program must comply with the Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment, which includes education requirements.

Rule 10.471. Approved providers; approved course criteria

(a) Approved providers

Any education program offered by any of the following providers that is relevant to the work of the courts or enhances the individual participant's ability to perform his or her job may be applied toward the education requirements stated in rule 10.462(d):

(1) California Administrative Office of the Courts;
(2) California Judges Association;
(3) Supreme Court of California;
(4) California Courts of Appeal;
(5) Superior Courts of California;
(6) State Bar of California;
(7) National Judicial College;
(8) National Center for State Courts;
(9) National Council of Juvenile and Family Court Judges;

(10) National Association of Women Judges;
(11) American Bar Association;
(12) National Association for Court Management;
(13) American Judges Association;
(14) American Academy of Judicial Education;
(15) Dwight D. Opperman Institute of Judicial Administration;
(16) National Institute of Justice;
(17) Law schools accredited by the American Bar Association;
(18) Accredited colleges and universities;
(19) Continuing Education of the Bar—California; and
(20) Local California bar associations.

(b) Approved education criteria

Education is not limited to the approved providers listed in (a). Any education from a provider not listed in (a) that is approved by the presiding judge as meeting the criteria listed below may be applied toward the continuing education requirements for judges and subordinate judicial officers stated in rule 10.462(d).

(1) The education must meet the following three criteria:

(A) The subject matter is relevant to the work of the courts or the judicial branch;

(B) The education is at least one hour in length; and

(C) Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied, demonstrated, or used) are identified prior to the education work.

(2) The education must also meet at least two of the following five criteria:

(A) The learning environment is educationally sound (e.g., distractions are limited and the physical location is conducive to learning the subject matter);

(B) The participant receives or has access to all the reference tools and other materials and resources (such as handouts) that are required for learning and applying the content (such as job aids or scripts);

(C) The participant has an opportunity to practice using or applying the new information or skill (through direct experience, role play,

or case studies/hypothetical situations) as part of the learning experience;

(D) The participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;

(E) An assessment tool or activity (such as the development of an action plan to apply the newly gained knowledge or skill) enables the participant to determine whether the skills, abilities, or knowledge gained through the education can be used in the future in his or her work.

Rule 970 is renumbered as rule 10.451 and rules 10.476–10.491 are adopted, effective January 1, 2007, to read:[7]

Title 10. Judicial Administration Rules
Division II. Administration of the Judicial Branch
Chapter 8. Minimum Education Requirements for Judicial Officers

Rule ~~970~~ 10.451. Judicial education

(a) [Judicial education responsibility] Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.

(b) [Judicial education objectives] Judicial officers, educational committees, approved providers, and others who plan educational programs ~~shall~~ must endeavor to achieve the following objectives:

(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;
(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;
(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as ~~set forth~~ stated in the Code of Judicial Ethics;
(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;
(5) Promote standardized court practices and procedures; and
(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.

[7] The proposed rules were numbered 6.401–6.421 when they were circulated for comment. However, at the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. For the proposed rules to be consistent with the newly reorganized rules of court, the proposed rules are now referred to and numbered 10.476–10.491.

(c) [Applicability] All California judicial officers ~~shall~~ must comply with these judicial education requirements.

(d) [Definitions] As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are full-time court employees not engaged in the practice of law.

(e) [Educational requirements for new judicial officers]

(1) Each newly appointed or elected trial court judicial officer ~~shall~~ must complete three weeks of new judge education provided by the Center for Judicial Education and Research (CJER) within the following time frames:

(i) A one-week orientation program ~~shall~~ must be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are excluded from this requirement if they have previously attended the one-week program.

(ii) The two-week Judicial College ~~shall~~ must be completed within two years of taking the oath as a judicial officer.

(2) Each new Court of Appeal justice ~~shall~~ must attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.

(f) [Budget] Each presiding judge ~~shall~~ must include as part of the court's budget request adequate funding to provide annual judicial education consistent with standard 10.10 of the Standards of Judicial Administration ~~section 25~~.

(g) [Educational leave] Each presiding judge ~~shall~~ must grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (e). To the extent compatible with the efficient administration of justice, all presiding judges ~~shall~~ must grant to all judicial officers sufficient leave to participate in educational programs consistent with standard 10.10 of the Standards of Judicial Administration ~~section 25~~.

Rule 970 adopted effective January 1, 1996.

Chapter 9. Minimum Education Requirements for Court Personnel

Rule 10.476. Judicial branch education

(a) Purpose

Judicial branch education for all court personnel is essential to enhance the fair, effective, and efficient administration of justice. Participation in education activities is part of the official duties of court personnel. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial Council's Long-Range Strategic Plan, which include access, fairness, and diversity; branch independence and accountability; modernization of management and administration; and quality of justice and service to the public. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch.

(b) Education objectives

Court personnel, education committees, and others who plan and deliver education will endeavor to achieve the following objectives:

(1) To provide court personnel with the knowledge, skills, and abilities required to perform their responsibilities competently, fairly, and efficiently;

(2) To ensure that education, including opportunities for orientation, continuing education, and professional development, is available to all court personnel;

(3) To assist court personnel in preserving the integrity and impartiality of the judicial system through their efforts to ensure that all members of the public have equal access to the courts and equal ability to participate in court proceedings and are treated in a fair and just manner;

(4) To promote the adherence of court personnel to the highest ideals of personal and official conduct, as set forth in the Code of Ethics for the Court Employees of California;

(5) To improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;

(6) To promote standardized court practices and procedures; and

(7) To implement the recommendations adopted by the Judicial Council in the California Standards of Judicial Administration.

Rule 10.477. Minimum education requirements

(a) Purpose

Court personnel assist justices, judges, and subordinate judicial officers in carrying out their responsibilities and must provide accurate and timely services to the public. Each court staff member is responsible for maintaining and improving his or her professional competence. To assist them in enhancing their professional competence, the judicial branch will develop and maintain a comprehensive and high-quality education program, including minimum education requirements, to provide educational opportunities for all court personnel.

(b) Goals

The minimum education requirements set forth in rules 10.481–10.482 are intended to achieve two complementary goals:

(1) To ensure that both individuals who are new to the court and those who are experienced on the court but are beginning a new role obtain education on the tasks, skills, abilities, and knowledge necessary to be successful in the new roles; and

(2) To establish broad parameters, based on time, for continuing education for individuals who are experienced both on the court and in their roles, preserving the ability of the individual, working with the presiding judge or court executive officer, to determine the appropriate content and provider.

(c) Relationship to education standards

The education requirements set forth in rules 10.481–10.482 are minimum requirements. Court executive officers and other court personnel should participate in more education than is required, in accordance with the education standards set forth in standard 10.15 of the California Standards of Judicial Administration.

(d) Responsibilities of presiding judges

Each presiding judge:

(1) Must grant sufficient leave to the court executive officer to enable him or her to complete the minimum education requirements stated in rule 10.481;

(2) To the extent compatible with the efficient administration of justice, must grant to the court executive officer sufficient leave to participate in education programs consistent with standard 10.15 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for his or her court to facilitate the involvement of the executive officer as both participant and faculty in education activities and should consult with the executive officer regarding his or her education needs and requirements related to current and future assignments.

(e) Responsibilities of court executive officers, managers, and supervisors

Each court's executive officer, managers, and supervisors:

(1) Must grant sufficient leave to all court personnel to enable them to complete the minimum education requirements stated in rule 10.482;

(2) To the extent compatible with the efficient administration of justice, must grant to all court personnel sufficient leave to participate in education programs consistent with standard 10.15 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for their court to facilitate the involvement of court personnel as both participants and faculty in educational activities, and should consult with each court staff member regarding his or her education needs and requirements and professional development.

Rule 10.481. Trial court executive officers

(a) Applicability

All California trial court executive officers must complete these minimum education requirements.

(b) Content-based requirement

(1) Each new executive officer must complete the Presiding Judges Orientation and Court Management Program provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER) within one year of becoming an executive officer and should participate in additional education during the first year.

(2) Each executive officer should participate in CJER's Presiding Judges Orientation and Court Management Program each time a new presiding judge from his or her court participates in the course and each time the executive officer becomes the executive officer in a different court.

(c) Hours-based requirement

(1) Each executive officer must complete 30 hours of continuing education every three years beginning on the following date:

(A) For a new executive officer, the first three-year period begins on January 1 of the year following completion of the required education for new executive officers.

(B) For all other executive officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the required 30 hours of continuing education:

(A) Any education offered by a provider listed in rule 10.491(a) and any other education, including education taken to satisfy a statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.491(b).

(B) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the requirement on an hour-for-hour basis. Participation in online coursework and self-directed study is limited to a combined total of 7 hours in each three-year period.

(C) An executive officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the

following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period.

(d) Extension of time

(1) For good cause, a presiding judge may grant a one-year extension of time to complete the education requirements in (b) and (c).

(2) If the presiding judge grants a request for an extension of time, the executive officer, in consultation with the presiding judge, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the executive officer's next three-year period.

(e) [Record of participation; statement of completion]

Each executive officer is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation for three years after each course or activity that is applied toward the requirements;

(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; and

(3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.

Rule 10.482. Trial court managers, supervisors, and personnel

(a) Applicability

All California trial court managers, supervisors, and personnel must complete these minimum education requirements.

(b) Content-based requirements

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

(A) The judicial branch of California;

(B) The local court; and

(C) Basic management and supervision.

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

(A) The judicial branch of California;

(B) The local court; and

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

(D) The employee's specific job.

(c) Hours-based requirements

(1) Each court manager or supervisor must complete 12 hours of continuing education every two years.

(2) Each court employee who is not a manager or supervisor must complete 8 hours of continuing education every two years.

(3) The first two-year period for all court managers, supervisors, and personnel begins on January 1, 2007. The orientation education required for new managers, supervisors, and personnel under (b) does not apply toward the required hours of continuing education because it must be completed before they enter the two-year period. Each new manager, supervisor, or employee enters the two-year continuing education period on the first day of the quarter following his or her completion of the orientation education required under (b); the quarters

begin on January 1, April 1, July 1, and October 1. Each manager, supervisor, or employee who enters the two-year continuing education period after it has begun must complete a prorated number of continuing education hours for that two-year period, based on the number of quarters remaining in it.

(4) Any education offered by a provider listed in rule 10.491(a) and any other education, including education taken to satisfy a statutory, rules-based, or other education requirement, that is approved by the executive officer or the employee's supervisor as meeting the criteria listed in rule 10.491(b) applies toward the orientation education required under (b) and the continuing education required under (c)(1) and (2).

(5) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, and online coursework counts toward the requirement on an hour-for-hour basis. Participation in online coursework is limited to a total of 4 hours for managers and supervisors and to a total of 3 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun. Self-directed study is encouraged for professional development but does not apply toward the required hours.

(6) A manager, supervisor, or employee who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 6 hours for managers and supervisors and to 4 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun.

(d) Extension of time

(1) For good cause, the executive officer or a supervisor, if delegated by the executive officer, may grant a six-month extension of time to complete the education requirements in this rule.

(2) If the executive officer or supervisor grants a request for an extension of time, the manager, supervisor, or employee who made the request, in

consultation with the executive officer or supervisor, must also pursue interim means of obtaining relevant educational content.

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

(e) Records of participation

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

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

Rule 10.491. Approved providers; approved course criteria

(a) Approved providers

Any education program offered by any of the following providers that is relevant to the work of the courts or enhances the individual participant's ability to perform his or her job may be applied toward the education requirements stated in rule 10.481(c) or 10.482(b)–(c):

(1) California Administrative Office of the Courts;
(2) Supreme Court of California;
(3) California Courts of Appeal;
(4) Superior Courts of California;
(5) State Bar of California;
(6) National Judicial College;
(7) National Center for State Courts;
(8) National Council of Juvenile and Family Court Judges;
(9) American Bar Association;
(10) National Association for Court Management;
(11) Dwight D. Opperman Institute of Judicial Administration;
(12) National Institute of Justice;
(13) Law schools accredited by the American Bar Association;
(14) Accredited colleges and universities;
(15) Continuing Education of the Bar—California;
(16) Local California bar associations;
(17) California Court Association; and

(18) Superior Court Clerks' Association of the State of California.

(b) Approved education criteria

Education is not limited to the approved providers listed in (a). Any education from a provider not listed in (a) that is approved by the presiding judge as meeting the criteria listed below may be applied toward the continuing education requirements for court executive officers stated in rule 10.481(c). Similarly, any education from a provider not listed in (a) that is approved by the court executive officer or by the employee's supervisor as meeting the criteria listed below may be applied toward the orientation or continuing education requirements for managers, supervisors, and employees in rule 10.482(b) and (c)(1), (2).

(1) The education must meet the following three criteria:

(A) The subject matter is relevant to the work of the courts or the judicial branch;

(B) The education is at least one hour in length; and

(C) Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied, demonstrated, or used) are identified prior to the education work.

(2) The education must also meet at least two of the following five criteria:

(A) The learning environment is educationally sound (e.g., distractions are limited and the physical location is conducive to learning the subject matter);

(B) The participant receives or has access to all the reference tools and other materials and resources (such as handouts) that are required for learning and applying the content (such as job aids or scripts);

(C) The participant has an opportunity to practice using or applying the new information or skill (through direct experience, role play, or case studies/hypothetical situations) as part of the learning experience;

(D) The participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;

(E) An assessment tool or activity (such as the development of an action plan to apply the newly gained knowledge or skill) enables the participant to determine whether the skills, abilities, or knowledge gained through the education can be used in the future in his or her work.

Minimum Education Requirements for the California Judicial Branch

GUIDELINES FOR IMPLEMENTATION

A Supplement to Rules 10.451–10.471

JUDICIAL COUNCIL OF CALIFORNIA

ADMINISTRATIVE OFFICE OF THE COURTS

Minimum Education Requirements for the California Judicial Branch

Guidelines for Implementation
A Supplement to Rules 10.451–10.471[1]

These guidelines are offered as a resource to assist in implementation of rules 10.451–10.471 of the California Rules of Court—Minimum Education Requirements for the California Judicial Branch.

The intent of these guidelines is to provide examples, clarify terminology, and provide optional templates and forms that local courts may find helpful in implementing minimum education requirements.

For purposes of brevity, the acronym CJER will be used in this document to indicate the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research.

[1] Rules 10.451–10.471 were numbered as proposed rules 6.401–6.421 when they were circulated for comment. However, at its June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Throughout the guidelines document, references to the rule numbers that circulated when the proposal went out for comment are shown in parentheses after the current proposed rule numbers.

Minimum Education Requirements for the California Judicial Branch Guidelines for Implementation

TABLE OF CONTENTS

Options and Resources for Implementing Minimum Education Requirements 97
Flexibility 98
Assistance With Establishing Local Court Education 98
Statewide and Regional Offerings 98
Networking/Sharing 98

Summary of Minimum Education Requirements 99
Minimum Education Requirements for Judges, Commissioners, Referees 100
Minimum Education Requirements for Court Executive Officers 101
Minimum Education Requirements for Court Managers and Supervisors 101
Minimum Education Requirements for Court Personnel 101

Definitions, Explanations, and Examples 102
Approved Providers 103
Content-Based Requirements 103
Distance Education 103
Education Plan for the Local Court 103
Extension of Time 104
Faculty Service Credit 104
Good Cause for Granting Extensions of Time 104
Hours-Based Requirements 105
Orientation 105
Self-Directed Study/Learning 105
Self-Paced Learning 105
Sound Educational Environment 105

Recommendations for Effective Practice 107
Individual Learning Plan Templates 107
Learning Plan for New Judges and Subordinate Judicial Officers 108
Learning Plan for Judges and Subordinate Judicial Officers 109
Learning Plan for Court Executive Officers 110
Learning Plan for New Supervisors and Managers 111
Learning Plan for Supervisors and Managers 112
Learning Plan for New Court Personnel 113
Learning Plan for Court Personnel 114

Self-Directed Study/Learning: 115

Designing the Experience 115
Overview 116
Process 116

Template 117

Frequently Asked Questions 118
Authority 119
Content 119
Coverage 119
Credit 120
Impact 123
Rationale 127
Record Keeping/Tracking 127
Scope 128

Examples/Illustrations of Completing Minimum Requirements 129
Trial Court Presiding Judges 130
Trial Court Supervising Judges 133
Trial Court Judges and Subordinate Judicial Officers 136
Executive Officers 140
Managers and Supervisors 143
Court Personnel 145

Options and Resources for Implementing Minimum Education Requirements

Options/Resources	Page
Flexibility	98
Assistance With Establishing Local Court Education	98
Statewide and Regional Offerings	98
Networking/Sharing	98

Flexibility

The rules regarding minimum education requirements are designed to provide considerable flexibility and control at the local court level. Content that must be obtained at the state level is limited to courses for new judges, new supervising judges, new presiding judges, and new executive officers. Continuing education for these groups of individuals may be obtained from a variety of sources.

Assistance With Establishing Local Court Education

To support education at the local court level, CJER, if requested by the presiding judge or executive officer, will provide assistance to local courts in establishing systems to support local education programs. This assistance includes facilitation of strategic planning for continuing education at the local level, faculty development opportunities for local court judges and court personnel, and access to curricula for all areas and groups that have been completed by CJER Education Committees.

Statewide and Regional Offerings

CJER will continue to offer courses at statewide institutes and conferences, will offer additional regional courses for judges and court personnel, and will offer broadcasts and online courses in a wide variety of content areas.

Numerous CJER Education Committees have developed curricula for their respective target audience; curricula include each substantive area of the law, access and fairness, management and supervision, and more. These curricula will be made available to local courts and the California Judges Association to provide assistance and resources to develop courses as they deem appropriate.

Networking/Sharing

Based on decisions by presiding judges and executive officers, each court has a local training coordinator who serves as a liaison between the court and CJER. Although the work of training coordinators is defined by the local court, these individuals receive advance notice of statewide educational opportunities, disseminate educational information locally, and make the educational needs of the local courts known at the state level. In addition, training coordinators network with each other and share resources independent of any statewide offerings. Many oversee local court education programs.

In addition to the work of the training coordinators, local courts can coordinate with courts in neighboring counties regarding educational offerings, seeking grants for educational purposes, and sharing expenses to make education from state and national providers available locally to their judges and court personnel.

Summary of Minimum Education Requirements

Minimum Education Requirements	Page
Judges, Commissioners, and Referees	100
Court Executive Officers	101
Court Managers and Supervisors	101
Court Personnel	101

Summary of Minimum Education Requirements

Minimum Education Requirements for Judges, Commissioners, Referees

A. New Judges (content-based)

- New Judge Orientation
- Judicial College
- Primary Assignment Orientation

Provider: CJER

B. Experienced Judges (30 hours in a three-year period)
Provider: Multiple providers

C. Experienced Judges Rotating Assignment (content-based)

- Overview or refresher course in new assignment (if out of that assignment 2 years or more)

Provider: Local court, CJER, or CJA

[Hours may be applied toward the 30 hours in a three-year period]

D. New Supervising Judges (content-based)

- Supervising judges overview

Provider: CJER

- Calendar management overview

Provider: Local Court or CJER

[Hours may be applied toward the 30 hours in a three-year period]

E. New Presiding Judges (content-based)

- Presiding Judges Orientation and Court Management Program

Provider: CJER

[Hours may be applied toward the 30 hours in a three-year period]

Summary of Minimum Education Requirements

Minimum Education Requirements for Court Executive Officers

F. New Court Executive Officers (content-based)
- Presiding Judges Orientation and Court Management Program

Provider: CJER

G. Experienced Court Executive Officers (30 hours in a three-year period)
Provider: multiple providers

Minimum Education Requirements for Court Managers and Supervisors

H. New Court Managers and Supervisors (content-based)

- Orientation to the Judicial Branch (if new to the judicial branch)

Provider: local court or CJER

- Orientation to the local court (if new to the court)

Provider: local court

- Orientation to management/supervision (if new to management/supervision)

Provider: local court or CJER or other provider

I. Experienced Managers and Supervisors (12 hours in a two-year period)
Provider: multiple providers

Minimum Education Requirements for Court Personnel

J. New Court Personnel (content-based)

- Orientation to the Judicial Branch

Provider: local court or CJER

- Orientation to basic employee issues (sexual harassment, safety, etc.)

Provider: local court or CJER

- Orientation to the local court and the specific job

Provider: local court

K. Experienced Court Personnel (8 hours in a two-year period)
Provider: multiple providers

Definitions, Explanations, and Examples

The following definitions and explanations are offered to clarify some terms used in rules 10.451–10.471, Minimum Education Requirements for the California Judicial Branch. They do not address all potential applications or variations of these terms.

Definitions, Explanations, and Examples — Page

Approved Providers 103
Content-Based Requirements 103
Distance Education 103
Education Plan for the Local Court 103
Extension of Time 104
Faculty Service Credit 104
Good Cause for Granting Extensions of Time 104
Hours-Based Requirements 105
Orientation 105
Self-Directed Study/Learning 105
Self-Paced Learning 105
Sound Educational Environment 105

Approved Providers

The approved provider list in rule 10.471(a) is illustrative and is not intended to limit or exclude credit for educational opportunities offered by other providers. The state and national providers on the list are considered to be consistent, high-quality judicial branch education providers, most of which have education as a key part of their missions. The local providers listed, such as local courts and local bar associations, are considered to be high-quality providers of judicial branch education, although education is not necessarily a key part of their missions. Any education provider may sponsor other activities or events, such as business meetings, that are not educational and for which no educational credit should be granted. A list of criteria is provided in rule 10.471(b) for presiding judges and court executive officers to use in granting credit for education courses offered by providers not on the list.

Content-Based Requirements

The minimum education requirements for individuals **new to the court** and/or **new to their positions** are based on acquiring certain content that addresses the skills, abilities, and knowledge necessary to effectively perform a given job. A new judge, subordinate judicial officer, executive officer, manager, supervisor, or court employee must complete content-based requirements before entering a period of hours-based continuing education. For an individual new to a court or new to a position, time spent satisfying content-based requirements does not apply toward the hours-based continuing education requirement. For an **experienced** judge or subordinate judicial officer who is changing assignments or assuming administrative responsibilities as a supervising judge or presiding judge, time spent satisfying content-based requirements does apply toward the hours-based continuing education requirements.

Distance Education

In distance education, faculty and participant are separated by time and/or geography. The most familiar forms of distance education are broadcast and online courses. A broadcast separates faculty from participants by geography; the faculty is in the broadcast studio and the participants are in the courts around the state. A static online course separates faculty from participants through time; the faculty creates the course long before participants can access it. A few online courses involve faculty with participants in “real-time” discussions, but still faculty and participants are separated by geography.

Education Plan for the Local Court

To ensure continued administration of justice and to enable ongoing professional development for judges, subordinate judicial officers, executive officers, managers, supervisors, and court personnel, each court should develop a plan for education-related absences. As stated in rule 10.451, judges, subordinate judicial officers, and court personnel must consider participation in education activities to be part of their official duties. Thus, courts must provide opportunities for them to engage in those activities.

Extension of Time

Judges, subordinate judicial officers, and executive officers may request of presiding judges an extension of time to complete some of the content-based minimum education requirements or to complete the hours-based requirement. Managers, supervisors, and court personnel may make the same request of executive officers (or their designees). When applicable, an extension of time for content-based requirements is not to exceed the original time period. For example, if an experienced judge with a new assignment cannot complete the required overview/refresher course for the assignment within the required six months, the presiding judge may grant an extension of six months, for good cause. If a new court manager cannot complete the required orientation courses within the required six months, the court executive officer may grant an extension of six months, for good cause. (See Good Cause, below.)

Faculty Service Credit

Judges, subordinate judicial officers, executive officers, managers, supervisors, and court personnel may apply time spent in faculty service for California court-based audiences toward their hours-based continuing education as follows: 3 hours of education credit for each hour taught for a new course and 2 hours of education credit for each hour taught for a course being repeated. "California court-based audiences" include California justices, judges, subordinate judicial officers, temporary judges, and court personnel. The total number of hours that can be applied for faculty service is limited to half the number of education hours required for that individual in the education period. Judges have a 30-hour requirement in a three-year period; no more than 15 hours can be applied from faculty service during that time period. Court personnel have an 8-hour requirement in a two-year period; no more than 4 hours can be applied from faculty service. The reason for the limitation is to ensure that judges and court employees who teach also earn some of their hours-based continuing education as participants.

For example, if a judge teaches a new three-day course, 6 hours per day for three days, the total faculty credit is 54 hours (6 hours per day x 3 days = 18 hours of teaching; 18 hours of teaching x 3 hours of faculty credit for each hour taught = 54); however, in any three-year period only 15 of those faculty credit hours may be applied to the hours-based continuing education credit.

Good Cause for Granting Extensions of Time

Judges, subordinate judicial officers, and executive officers may request of presiding judges an extension of time to complete some of the content-based minimum education requirements or to complete the hours-based minimum education requirements. Managers, supervisors, and court personnel may make the same request of executive officers. A request for an extension of time may be granted for good cause. One example of good cause for an extension of time would be a severe shortage of judges or court personnel that prevented an individual from obtaining the required content-based education within the required time frame.

Hours-Based Requirements

The minimum education requirements for individuals who are experienced in their roles is based on time. The requirement for judges, subordinate judicial officers, and court executive officers is 30 hours in a three-year period. The requirement for managers and supervisors is 12 hours in a two-year period. The requirement for court personnel is 8 hours in a two-year period. The flexibility of this continuing education requirement enables local discretion in determining the content needed by an individual. Experienced judges, subordinate judicial officers, court executive officers, managers, supervisors, and court personnel may have some specific content requirements based on their roles; the time spent in these courses may be applied to the hours-based continuing education requirement.

Orientation

Orientation is defined as coursework for individuals new to the courts and/or new to their roles that introduces unfamiliar content deemed necessary for the effective performance of their work. Orientation for new judges and subordinate judicial officers includes judicial demeanor and access and fairness in the courts; orientation for new presiding judges includes laws, rules, and responsibilities in dealing with administrative issues; orientation for new court personnel includes an overview of the judicial system and the work of the courts.

Self-Directed Study/Learning

Self-directed study/learning is a process through which individuals diagnose their learning needs, formulate learning goals, identify resources for learning, select and implement learning strategies, and evaluate learning outcomes, with or without the help of others. In more traditional education settings, learning goals and methods are determined by faculty. In self-directed learning, this control is in the hands of the individual. Only judges and executive officers can receive credit for self-directed study/learning. (See page 83, *Self-Directed Study/Learning: Designing the Experience*, for details.)

Self-Paced Learning

Self-paced learning is a form of distance education (separation of faculty and participants by geography and/or time) in which participants move through content at their own pace. Online courses are the best example of self-paced learning; each participant sets the speed at which he or she advances in the course; thus, some individuals may complete a course sooner than others. A broadcast, while a form of distance education, is not self-paced, since all participants are provided content at the same time and at the same rate.

Sound Educational Environment

A sound educational environment is a surrounding that supports the specific learning, is comfortable for participants, and is free of non-content-related interruptions. For example, a crowded hallway might be a sound educational environment for orienting new court personnel to the court or teaching them about effectively dealing with the public or about safety issues, but it would not be a sound educational environment for teaching new court personnel about case processing. A large hotel ballroom set theater style

(chairs in rows, no tables) might be a sound educational environment for an hour-long panel presentation with questions and answers from judges attending, but it would not be a sound educational environment for a three-hour course on calculating child support in which judges participating would need to access documents, complete forms, and review and resolve case studies in small groups.

Recommendations for Effective Practice

Individual Learning Plan Templates

The use of these templates is optional. They are Word documents and will be accessible online. They can be modified to meet the needs of the local court or the individual. These templates can assist in planning how to obtain needed education and can also serve as a reporting tool. Or they may simply provide ideas for developing learning plans that meet the needs of the local court.

Learning Plans — Page

New Judges and Subordinate Judicial Officers 108
Judges and Subordinate Judicial Officers 109
Court Executive Officers 110
New Supervisors and Managers 111
Supervisors and Managers 112
New Court Personnel 113
Court Personnel 114

Learning Plan for New Judges and Subordinate Judicial Officers

For use by the new judge or subordinate judicial officer for initial content and through the initial three-year period.

New Judge's Name: Presiding Judge:

Date of Oath of Office:

Content-Based Requirements

No time is assigned to content-based requirements for new judges or subordinate judicial officers, and time spent in these content-based courses does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
New Judges Orientation program	Within 6 months of taking office	CJER		
Sexual Harassment Prevention—AB 1825	Within 6 months of taking office	Two-hour requirement—multiple providers, including local court		
Overview course in primary assignment	Within 12 months of taking office	CJER		
B. E. Witkin Judicial College*	Within 24 months of taking office	CJER		

* The judicial college includes content that satisfies the requirement for the current three-year Qualifying Ethics cycle.

Hours-Based Requirement

The hours-based requirement for judges and subordinate judicial officers is 30 hours in a three-year period. The three-year period begins January 1 of the year following completion of the content-based requirements for new judges and subordinate judicial officers.

Initial Three-Year Period: 1/1/__ through 12/31/__

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		
Qualifying Ethics	Required every three years if participating in the Commission on Judicial Performance Insurance Program/CJER			

New Judge's Signature_____ Date_____

Learning Plan for Judges and Subordinate Judicial Officers

Judge's Name: Current Three-Year Period: 1/1/__ through 12/31/__

Content-Based Requirements

For experienced judges and subordinate judicial officers, content-based requirements are only for new roles and/or new assignments; any hours earned may be applied to the hours-based requirement of 30 hours in a three-year period.

Requirement	Due Date	Provider	Course Credit Hours	Scheduled Date	Completion Date
Presiding Judges Orientation and Court Management Program	Within 12 months of taking office	CJER			
New Supervising Judges Overview course	Within 12 months of taking position	CJER			
New Supervising Judges Calendar Management Overview	Within 12 months of taking position	CJER or the local court			
Overview or refresher course in **new primary assignment** (content based on CJER's curriculum)	Within 6 months of taking new assignment	CJER, the local court, or CJA			

Hours-Based Requirement

The hours-based requirement for judges and subordinate judicial officers is 30 hours in a three-year period. Time spent in any of the content-based courses listed above may be applied toward compliance with the hours-based requirement.

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		
Qualifying Ethics	Required every three years if participating in the Commission on Judicial Performance Insurance Program/CJER			

Judge's Signature_____ Date_____

Learning Plan for Court Executive Officers

Executive Officer's Name: Presiding Judge:

Date of Hire/Promotion:

Content-Based Requirements

No time is assigned to content-based requirements for new Executive Officers and time spent in the required content-based course does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Presiding Judges Orientation and Court Management Program	Within 12 months of hire/promotion	CJER		
Sexual Harassment Prevention—AB 1825	Within 6 months of hire/promotion	Two-hour requirement—multiple providers, including local court		

Hours-Based Requirement

The hours-based requirement for Executive Officers is 30 hours in a three-year period. The three-year period begins January 1 of the year following completion of the content-based requirements. Experienced Executive Officers are encouraged to attend the Presiding Judges Orientation and Court Management Program when a new presiding judge attends; hours for repeat attendance at this course can be applied toward the hours-based education requirement.

Current Three-Year Period: 1/1/__ through 12/31/__

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Required every two years—multiple providers	2 hours required		

Executive Officer's Signature_____ Date_____

Presiding Judge's Signature_____ Date_____

Learning Plan for New Supervisors and Managers

Sup/Mgr Name: Sup/Mgr Area of Responsibility:

Manager/Exec Officer: Full-time ☐ Part-time ☐

Sup/Mgr Date of Hire/Promotion: Current Designated Two-Year Period: 1/1/__–12/31/__

Content-Based Requirements

No time is assigned to content-based requirements and time spent in these courses does not apply to the hours-based requirement. Based on formal education or experience, the Court Executive Officer (or designee) may determine that a manager/supervisor is not in need of some components of the required content.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Orientation to the judicial branch	Within 6 months of hire	CJER or local court		
Orientation to the local court	Within 6 months of hire	Local court		
Orientation to basic management or supervision issues*	Within 6 months of hire	Multiple providers, including the local court and CJER		

* Including 2 hours of Sexual Harassment Prevention—AB 1825; safety; performance management; and ethics.

Hours-Based Requirement

The hours-based requirement for managers and supervisors is 12 hours in a designated two-year period. For new managers and supervisors, the hours-based requirement is initiated on the first day of the quarter (the quarters begin in January, April, July, and October) following completion of the content-based requirements. Required hours are prorated at 1.5 hours for each quarter remaining in the designated period (e.g., if five quarters remain, 7.5 hours are required).

Hours required for quarters remaining in designated period: _____

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date

Supervisor/Manager's Signature_____ Date_____

Manager/Exec. Officer's Signature_____ Date_____

Learning Plan for Supervisors and Managers

Sup/Mgr Name: Sup/Mgr Area of Responsibility:

Manager/Exec Officer: Full-time ☐ Part-time ☐

Sup/Mgr Date of Hire/Promotion: Current Designated Two-Year Period: 1/1/__–12/31/__

Content-Based Requirement

The content-based requirement for managers and supervisors is based on statute. Time spent in this course may be applied toward the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Sexual Harassment Prevention—AB 1825	Every two years	Two-hour requirement—multiple providers, including local court		

Hours-Based Requirement

The hours-based requirement for managers and supervisors is 12 hours in each designated two-year period.

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date

Supervisor/Manager's Signature_____ Date_____

Manager/Exec. Officer's Signature_____ Date_____

Learning Plan for New Court Personnel

Employee's Name: Employee's Role:

Manager/Supervisor: Full-time ☐ Part-time ☐

Employee's Date of Hire: Current Designated Two-Year Period: 1/1/__–12/31/__

Content-Based Requirements

No time is assigned to content-based requirements and time spent in these courses does not apply to the hours-based requirement.

Requirement	Due Date	Provider	Scheduled Date	Completion Date
Orientation to the judicial branch	Within 6 months of hire	CJER or local court		
Orientation to the local court	Within 6 months of hire	Local court		
Orientation to the job	Within 6 months of hire	Local court		
Orientation to basic employee issues	Within 6 months of hire	Multiple providers, including local court		

* Including sexual harassment prevention; safety; ethics; and customer service.

Hours-Based Requirement

The hours-based requirement for court personnel is 8 hours in each designated two-year period. For new employees, the hours-based requirement is initiated on the first day of the quarter (January, April, July, October) following completion of the content-based requirements. Required hours are prorated at 1 hour for each quarter remaining in the designated period (e.g., if five quarters remain, 5 hours are required).

Hours required for quarters remaining in designated cycle: _____

Content Areas	Course and Provider	Course Credit Hours	Scheduled Date	Completion Date

Employee's Signature_____ Date_____

Supervisor's Signature_____ Date_____

Learning Plan for Court Personnel

Employee's Name: Employee's Role:

Manager/Supervisor: Full-time ☐ Part-time ☐

Employee's Date of Hire: Current Designated Two-Year Period: 1/1/__–12/31/__

Hours-Based Requirement

The hours-based requirement for court personnel is 8 hours in each designated two-year period.

Content Areas	Course and Provider (include faculty service and hours applicable to requirement)	Course Credit Hours	Scheduled Date	Completion Date

Employee's Signature_____ Date_____

Supervisor's Signature_____ Date_____

Self-Directed Study/Learning: Designing the Experience

Self-Directed Study/Learning	Page
Overview	116
Process	116
Template	117

Self-Directed Study/Learning: Designing the Experience

Overview

This type of learning experience is available for credit toward the hours-based minimum education requirements for judicial officers and executive officers only. Self-directed study/learning must be relevant to the work of the courts or the judicial branch.

Self-directed study/learning is a process through which individuals diagnose their learning needs, formulate learning goals, identify resources for learning, select and implement learning strategies, and evaluate learning outcomes, with or without the help of others. In more traditional education settings, learning goals and methods are determined by faculty. In self-directed learning, this control is in the hands of the individual.

Illustrative examples include:

- **Expanding knowledge of a specific topic.** Learning activities might include research; reading; visiting other courts, or courts in other states, or other organizations; and writing an article for publication based on the new knowledge.

- **Analyzing a specific procedure that could be implemented in the local court.** Learning activities might include interviews with subject matter experts, researching resources needed to implement the new procedure, discussing with others the viability of implementation, designing a local court version of the procedure, and teaching a course based on new knowledge.

The following process and template for planning are optional. These tools can assist in planning a self-directed study/learning experience and can also serve as documentation of the experience.

Process

- ❑ Create a brief outline of the anticipated learning experience, including goals, possible learning activities (research, interviews, and so on), resources, and the final product (such as an article, a course, or a new procedure). A template is provided.

- ❑ Implement the self-directed study/learning experience.

- ❑ Create the final product.

- ❑ Assign hours of credit. *Credit for online coursework and self-directed study/learning are limited to a combined total of 7 hours in the three-year period.*

Template: Self-Directed Study/Learning

*Name:*_____ *Date:*_____

What is your initial idea or reason for undertaking self-directed study/learning?

Before implementing the self-directed study/learning experience, answer these questions to help you formulate a plan:

1. What do you hope to learn or gain from the planned educational experience?

2. What do you hope to create or produce as a result of the learning? [An article for publication, a course, a new procedure, etc.]

3. What learning strategies can you employ? [Research, interviews, visitation, etc.]

4. What resources are available? [People, books, organizations, Web sites, etc.]

After completing the self-directed study/learning, answer these questions to help you evaluate the experience:

1. What did you learn or gain from the experience?

2. How well did your original plan work when you put it into practice?

3. What can or did you produce as a result of the experience?

4. How many hours of credit can be applied toward the hours-based minimum education requirements? (*Credit for online coursework and self-directed study/learning are limited to a combined total of 7 hours in the three-year period.)*

Frequently Asked Questions

Questions and answers are organized by topic/subject.

Topic/Subject	Page
Authority	119
Content	119
Coverage	119
Credit	120
Impact	123
Rationale	127
Record Keeping/Tracking	127
Scope	128

Authority

What authority does the Judicial Council have to impose minimum education requirements?

The Administrative Office of the Courts has concluded that the rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006.) An informal opinion of the State of California Office of the Attorney General dated July 27, 2006, also concludes that the Judicial Council has the authority to adopt rules requiring minimum education for judges, and that the proposed rules—if they were to be adopted by the Judicial Council—would not be inconsistent with statute.

Content

Who determines the content for continuing education?

The content for education for new judges, new supervising judges, and new presiding judges is determined by CJER Governing Committee education committees composed of experienced judges with expertise in those areas.

The content of education for new executive officers is determined by a CJER Governing Committee education committee composed of experienced executive officers and presiding judges.

The content for new managers/supervisors and new court personnel is recommended by CJER Governing Committee education committees composed of experienced individuals in those roles, but how that content is actually developed is left to the discretion of the local court.

Once initial education requirements are met and an individual is in a cycle of continuing education, choice of content is at the discretion of the individual judge or executive officer in consultation with the presiding judge, the manager/supervisor in consultation with the executive officer, or the individual court employee in consultation with his/her manager or supervisor. The only exception is experienced judges who are changing their primary assignment and either have never had the assignment or have not had the assignment for two years or more. The content for courses in each area of assignment is determined by CJER Governing Committee education committees composed of experienced judges in each substantive area of the law. (While CJER will offer courses based on this content, the content will also be shared with local courts and the California Judges Association, each of which may provide the education.)

Coverage

How will coverage be handled for judges attending education programs if there is an increase in educational requirements?

The flexibility of how to complete the minimum education requirements is intended to reduce time away from the court and the expense of travel, through distance education (broadcast and online), local court courses, and courses offered by other local providers, as well as self-directed learning opportunities. If or when coverage is needed, current options for the local court include temporary reassignment of cases within the court, use of temporary judges, and use of assigned judges. (Staff to the Assigned Judges Program of the AOC will continually review with presiding judges the needs of each court and, when appropriate, initiate efforts to meet any increased needs.)

Are court personnel on court time when participating in courses? Will distance education be during normal work hours?

The expectation is that courts will allow court personnel work time to comply with minimum education requirements.

Credit

Who determines whether a course qualifies for credit?

Courses offered by approved providers listed in the rules automatically qualify for credit. The list of approved providers is illustrative; no published list can include all continuing education providers.

Presiding judges and court executive officers, or those they designate, can approve courses from providers that are not on this list based on approved education criteria included in the rules.

What are the approved education criteria?

Must meet the following three criteria:

1. Subject matter/topic is relevant to the work of the courts or the branch;
2. Education is at least one hour in length; and
3. Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied or demonstrated or used) are identified before the educational work.

Must also meet at least two of the following five criteria:

1. Learning environment is educationally sound (such as limited distractions, physical location is conducive to learning the subject matter);
2. Participant receives or has access to all reference tools and other materials and resources (such as handouts) required for learning and for application of newly acquired content (such as job aids or scripts);
3. Participant has an opportunity to practice using and applying new information or skill (through direct experience, role-play, or case studies/hypothetical situations) as part of the learning experience;
4. Participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding; and

5. An assessment tool or activity (such as the development of an action plan to apply newly gained knowledge and skill) enables participants to determine whether the skills and abilities and/or knowledge can be used in the future in their work.

In the criteria for granting credit, what is meant by "content relevant to the work of the court"? Does the content have to be related to the current work?

Content relevant to the work of the court includes content that either: (a) helps an individual perform his or her current work more effectively or efficiently or (b) prepares him or her for a different role or assignment in the court system.

How is credit measured?

Continuing education credit is measured as 60 minutes of education equaling one hour of credit. For traditional education settings (seminars, conferences, workshops) and for broadcasts, credit is granted hour for hour. For online courses and for self-study courses, credit is granted hour for hour, but is limited: judges and court executive officers are limited to a combined total of 7 hours in a three-year period. For managers and supervisors, the limit for online courses is 4 hours in a two-year period; for court personnel, the limit for online courses is 3 hours in a two-year period. Self-study courses are encouraged for professional development for managers, supervisors, and personnel but do not apply toward the required hours.

What kind of credit is granted for faculty service?

Credit for serving as faculty is:

1. Limited to service for a California court-based audience ("California court-based audience" means justices, judges, subordinate judicial officers, temporary judges, and court personnel, and includes but is not limited to teaching for the AOC, the California Judges Association, or the local court).
2. Granted 3 hours for each hour of presentation for the first time a course is presented, and 2 hours for each hour of presentation for repeating the same course.
3. Limited to no more than half the required continuing education hours in a period (e.g., limit of 15 hours in a three-year period for judges and court executive officers, 6 hours in a two-year period for managers and supervisors, and 4 hours in a two-year period for court personnel).

What about credit for other kinds of learning (noncourse education)?

Continuing education requirements are not intended to address every situation in which an individual learns something, but instead to address situations that are designed to be educational, such as education courses. The rules regarding minimum education requirements include a list of approved providers; any courses offered by these providers are considered approved for credit. The rules also include a list of criteria that can be used to determine whether education credit should be granted for courses offered by providers not on the list. (See approved education criteria under the topic of Credit, page 88.) The criteria may also be used to assist in determining whether credit may be granted for noncourse learning situations.

For example, the Administrative Office of the Courts is an approved provider, so any courses offered by AOC divisions would be approved for credit. But the AOC sponsors many other activities that are not courses, such as issues meetings, advisory committee meetings, regional meetings, and more. Generally these meetings would not qualify for credit because they are not courses. However, if an AOC-sponsored meeting or portion of a meeting met the approved education criteria, that meeting or portion of that meeting could be given continuing education credit, determined by the provider, even though the event was not designated as a course.

Specific questions have been asked about the following types of noncourse activities, which may be approved for credit if they meet the criteria:

- **Regional meetings for presiding judges and court executive officers**
  If a particular regional meeting or portion of a regional meeting sponsored by the AOC satisfies the criteria, credit may be determined by the regional office and announced to participants.

- **Publishing legal articles by judges**
  If publishing a legal article is the product of a self-directed learning activity and meets the criteria, credit may be obtained through the presiding judge within the established limits, not to exceed 7 hours (the 7 hours is a combined total of self-directed learning and online coursework) in a three-year period.

- **Briefing cases from advance sheets/creating memos to fellow judges regarding current legal issues**
  This activity is considered part of a judge's normal work, not continuing education. However, if briefing cases from advance sheets or creating memos for fellow judges regarding current legal issues is part of a self-directed learning activity, and meets the criteria, credit may be obtained through the presiding judge within the established limits, not to exceed seven hours (the seven hours is a combined total of self-directed learning and online coursework) in a three-year period.

- **Serving on Judicial Council advisory committees**
  If a particular advisory committee meeting or portion of a meeting sponsored by the AOC satisfies the criteria, credit may be determined by the committee chair and AOC staff and announced to participants.

- **Presiding judge/court executive officer issues meetings**
  If a particular issues meeting or portion of an issues meeting sponsored by the AOC satisfies the criteria, credit may be determined by the chairs of the Trial Court Presiding Judge Advisory Committee and the Court Executive Officers Advisory Committee, and by AOC staff, and announced to participants.

- **Local court executives committee meeting**
  If a particular meeting or portion of a meeting sponsored by a local court satisfies the criteria, credit may be determined by the presiding judge and announced to participants.

If there are to be minimum education requirements for judges, why not simply extend Mandatory Continuing Legal Education (MCLE) to judicial positions?

Based on data provided by the National Center for State Courts, Court Statistics Project, as of September 2005, in some states judges comply with MCLE. Minimum education requirements in California are designed to acknowledge the unique nature of serving as a judge, the long and well-supported tradition of judges-teaching-judges, and the benefit of judge-based participation in courses that deal with sensitive judicial issues.

If a position already has education requirements (e.g., attorneys with MCLE or family court facilitators, evaluators, and investigators who have educational requirements), would the minimum continuing education requirements be in addition?

Participation in courses required by statute or other rule applying to specific positions may be applied toward meeting the minimum education requirements so long as courses comply with rule 10.471—the courses are offered by approved providers or, if offered by other providers, meet the approved education criteria.

Can credit be earned for education that is not coursework (e.g. one-to-one cross-training for court personnel in the court)?

If the training meets the criteria for granting credit, and if the court executive officer approves, one-to-one training may be credited.

Impact

What will be the impact of implementing minimum education requirements?

The 2004 survey of the judicial branch revealed that, of the 324 judicial respondents, judges were obtaining an average of approximately 26 hours of education every year. The minimum education requirement proposes only 30 hours in three years (if taken on the average, 10 hours per year)—considerably less than the survey results indicated.

In addition, an analysis of participation in CJER courses (just one of many providers) showed that the current number of hours of judges' participation equals enough for every judge in California to be able to earn 45 hours in a three-year cycle.

How can travel be minimized and time away from court be managed if educational requirements are increased?

An experienced judge, court executive officer, or court employee may earn all required credits through a combination of broadcasts, online courses, and local courses (and, for judges and court executive officers, self-directed learning), all of which would minimize the expense and time away from court.

Will the court be responsible for costs associated with minimum education requirements for court personnel?

The expectation is that the courts will allow court personnel the necessary work time to participate in education. If the court executive officer, or his or her designee (e.g., managers or supervisors), approves a course, an event, or specific content for an individual, the expectation is that the court would pay any associated travel and registration costs. For hourly employees, the court would also need to pay the employee for any time spent participating in the required education and, if necessary, time for travel to and from an off-site location. If this qualified the employee for overtime pay, compensation would have to be at the appropriate overtime rate for that individual. However, an individual can earn all required education credits with very limited cost through local court courses, approved courses offered by other local providers, broadcasts, and online courses. The cost to the court would primarily be the time needed for personnel to participate.

What are the anticipated costs of implementing minimum education requirements?

Costs associated with minimum education requirements are addressed in two ways: the cost at the state level, and the cost at the local court level. In each, costs are estimated in two ways: the cost for judicial education, and the cost for court personnel education.

State level—judges
At the state level, the cost for delivering enough content to meet the minimum education requirements for judges will be minimal. CJER staff analyzed the amount of education delivered to and attended by judges in 2003 and determined that attendance equaled enough contact hours for every judge in California to earn 15 hours annually. The minimum education requirement rule calls for 30 hours in three years, which equates to 10 hours per year. The content of education offered at the state level will change, but the amount of education delivered need not. In addition, an ever-increasing amount of educational content is being delivered through broadcast and online courses, whose increased direct costs are minimal. And CJER is only one provider; other providers include associations (such as the California Judges Association), local courts, and others. CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content.

State level—managers and supervisors
At the state level, the cost for delivering enough content to meet the minimum education requirements for court managers, supervisors, and court personnel will increase. The current estimated increase in expense ranges from $50,000 to $100,000, depending on several variables. As mentioned earlier, an ever-increasing amount of educational content is being delivered through broadcast and online courses, whose increased direct costs are minimal. And CJER is only one provider. Other providers include associations, local courts, and others. CJER will share its curriculum work with local courts and associations and will offer train-the-trainer packages for many areas of content to increase sources of continuing education for court personnel.

Local level

Costs to local courts for supporting judges to participate in education to meet minimum education requirements will vary. For CJER courses, state funds currently cover lodging and group meals; there is no registration expense. Travel and nongroup meal costs are currently the responsibility of the local court or individual judge. Although local courts currently support enough attendance by judges at CJER programs to total 15 hours for every judge in the branch, we know that many judges attend more, while some attend nothing. So, it is assumed that these costs will be redistributed among the courts if all judges are required to earn minimum education requirements. At the local court level, the cost of providing education or partially reimbursing expenses for attendance by judges will increase for some courts. Since there are many ways to meet the minimum education requirements, there is no simple formula for projecting costs to a local court. Using a few of the examples, possible expenses for a single judge might be as follows:

<u>Minimum Education Requirement for Judges: 30 hours in three-year cycle</u>

Example:

- Three-day CJER Continuing Judicial Studies Program (18 hours)
- Day-long local court training (6 hours)
- Qualifying Ethics (5 hours)
- Broadcast (1 hour)

Cost to the local court:
CJSP: travel ($300), per diem (3 x $40), ground transportation ($50) = $ 470
Local: (if taught by local court judge or other no-cost faculty) = none
Ethics: travel ($300), per diem ($40), ground transportation ($50) = $390
Broadcast: no cost
Total: $860 over a three-year period, or approximately $287 per year

Example:

- One CJER institute (14 hours)
- Qualifying Ethics (5 hours)
- Courses at CJA MidYear Conference (10 hours)
- Online course (1 hour)

Cost to the local court:
Institute: travel ($300), per diem ($40), ground transportation ($50) = $390
Ethics: travel ($300), per diem ($40), ground transportation ($50) = $390
CJA: travel ($300), lodging ($350), per diem ($40), ground transportation ($50), registration ($350) = $1090 *(some judges may pay portions of this personally)*
Online course: no cost
Total: $1,870 over a three-year period, or approximately $624 per year

So, the annual cost for the local court for a judge who stays in-state for continuing education could range between $287 and $624. There would be the additional cost-of-time for a judge to participate in continuing education, although many judges currently take much more than the minimum education requirements.

At the local level, costs for supporting court personnel to participate in education to meet minimum education requirements will vary. For CJER courses, state funds currently cover lodging and group meals; there is no registration expense. Travel and nongroup meal costs are currently the responsibility of the local court or individual employee. At the local court level, the cost of providing education or partially reimbursing expenses for attendance by court personnel will increase. Based on 1,167 respondents to a recent survey, court personnel reported participating in an average of 8 hours of continuing education each year. Although for court personnel the minimum education requirement is 8 hours over two years (12 hours over two years for managers and supervisors), unlike judicial education (in which case CJER offers more than enough content), the division does not currently offer enough content for court personnel to attain that amount of education. Although CJER is not the only source of education, it is unlikely that local courts are fiscally prepared to support court personnel's fully participating in continuing education. Although the Education Division/CJER plans to increase broadcast and online courses, the volume of court personnel, their workload, and the shortage of training funds at the local level will be obstacles. As with judges, there are many ways in which court personnel can achieve minimum education requirements. Using a few of the examples, possible expenses for a single court employee might be as follows:

<u>Minimum Education Requirement for Court Personnel: 8 hours in two-year cycle</u>

Example:

- Day-long regional course by California Court Association (6 hours)
- Two-hour CJER broadcast

Cost to the local court:
CCA: travel ($200—participants generally drive), per diem ($20), lodging ($110 maximum), ground transportation ($50), registration, including lunch ($52 nonmember) = $432
Broadcast: none
Total: $532 in a two-year period, or $216 per year

Example:

- CJER regional course (5 hours)
- Half-day local court course (3 hours)

Cost to the local court:
Regional: travel ($300), per diem ($40), ground transportation ($50) = $390
Local: (if taught by local court staff or other no-cost faculty) = none
Total: $390 in a two-year period or $195 per year

Example:

- Two CJER broadcasts (4 hours)
- Two local court courses (4 hours)

Cost to the local court:
Broadcast: none

Local: (if taught by local court staff or other no-cost faculty) none
Total: none

So, the annual cost for a local court for an employee who stays in-state for continuing education could range from nothing to $216. There would be the additional cost-of-time for an employee to participate in continuing education, although many court personnel currently take more than the minimum education requirements.

Rationale

Why have requirements at all? What is the problem or need that underlies this proposal?

The following three quotations are representative of the many comments received in 2005 from respondents supportive of minimum education requirements; these comments provide some answers to this question:

- "The skyrocketing complexity of the law, not to mention the wide range of practical and ethical problems inherent in being a judge, more than justify it."
- "It sends the right message to the Legislature, the public and members of the judiciary."
- "I do not understand the debate. The court should lead and establish minimum requirements. The litigants expect and deserve no less."

The motivation for minimum education requirements is *not* simply correcting deficiencies. Ongoing professional development necessarily includes relevant education and training as a component of best practices, regardless of the profession. Minimum education requirements are one mechanism to reach that goal.

Record Keeping/Tracking

Who is responsible for tracking completion of minimum education requirements?

Each judge is responsible for tracking his or her participation in education, including faculty service, and is to give the presiding judge a copy of the record of participation at the end of each year and a signed statement of completion at the end of each three-year period. (Sample planning and record keeping/tracking forms are provided in this document.)

Each executive officer is responsible for tracking his or her participation in education, including faculty service, and is to give the presiding judge a copy of the record of participation at the end of each year and a signed statement of completion at the end of each three-year period. (Sample planning and record keeping/tracking forms are provided in this document.)

The executive officer, or his or her designee (e.g., managers/supervisors), is responsible for tracking participation in education by managers, supervisors, and court personnel. (Sample planning and record keeping/tracking forms are provided in this document.)

Scope

Why are assigned judges as well as the justices and personnel of the appellate courts not included in minimum education requirements?

Regarding assigned judges, the Chief Justice has already established their education requirements. Regarding appellate justices, the education requirement for new Court of Appeal justices in current rule 970(e)(2) would be carried forward without change in new rule 10.461, but no additional education requirements would be established for appellate justices at this time. It was determined that the work and therefore the educational needs of appellate justices and appellate court personnel are different from those of trial court judges and court personnel. Implementing minimum education requirements in the trial courts seemed most relevant to trust and confidence in the courts, because the greatest interaction with the public takes place in the trial courts. So the focus of the research and this proposal was the trial courts. If this proposal were adopted, the CJER Governing Committee would study the appellate courts next and consider what recommendations to make regarding minimum education requirements for appellate justices and appellate court personnel.

Examples/Illustrations of Completing Minimum Requirements

The following charts outline minimum education requirements for judges, court executive officers, managers and supervisors, and court personnel. The charts include content-based requirements and associated providers as well as hours-based requirements and some potential providers.

The examples included in the charts are offered to illustrate the completion of the minimum education requirements set out in rules 10.462–10.464. They do not represent the only means by which the requirements can be completed.

Examples/Illustrations Page
Trial Court Presiding Judges....130
Trial Court Supervising Judges....133
Trial Court Judges and Subordinate Judicial Officers....136
Executive Officers....140
Managers and Supervisors....143
Court Personnel....145

Trial Court Presiding Judges

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
Presiding judge (and assistant presiding judge, at the discretion of the local court)	30 hours per individualized three-year cycle	
New presiding judge (or assis–tant presiding judge before taking office as presiding judge)	Presiding Judges Orientation and Court Management Program *Provider: CJER*	**<u>Example 1 (total of 37 hours)</u>** • Presiding Judges Orientation and Court Management Program (18 hours) • Statewide Judicial Branch Conference (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 2 (total of 34 hours)</u>** • Presiding Judges Orientation and Court Management Program (18 hours) • Daylong local court course (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours)

Experienced presiding judge (and assistant presiding judge, at the discretion of the local court)	*Providers: multiple*	**Some Annual Course Options**
		• CJER offerings:
		  o PJ/CEO Roundtable (4 broadcasts)
		  o Statewide Judicial Branch Conference (biannual)
		  o Online courses
		  o Qualifying Ethics
		  o Institutes

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		o Continuing Judicial Studies Program o *Today's Law* broadcasts o *Inside Justice* broadcasts • Management courses o Institute for Court Management o National Judicial College o American Management Association o University courses o Other state/national courses • Other AOC division courses or special trainings (e.g., Collections) • California Judges Association courses • Local court courses **Examples for completing 30 hours in a three-year cycle:** **<u>Example 1 (total of 31 hours)</u>** • Statewide Judicial Branch Conference (12 hours) • Two-day management course through National Judicial College (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 2 (total of 32.5 hours)</u>** • Statewide Judicial Branch Conference (12 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • First-time faculty for a 3.5-hour course at Continuing Judicial Studies Program (10.5 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		<u>Example 3 (total of 31 hours)</u> • One two-day management course through Institute for Court Management (12 hours) • Daylong special training (e.g., AOC Collections) (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • CJER online course (6 hours) **<u>Example 4 (total of 32 hours)</u>** • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Statewide Judicial Branch Conference (12 hours) • Returning faculty for all-day course at a CJER institute (10 hours) **<u>Example 5 (total of 31 hours)</u>** • Rural Courts Institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 = 3 hours) • CJER online course (7 hours)

Trial Court Supervising Judges

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
Supervising judge	30 hours per individu–alized three-year cycle	
New supervising judge with *administrative* responsibility (before taking office) ***New*** supervising judge with *calendar management* responsibility	Supervising Judges Overview course *Provider: CJER* Calendar Management Overview course *Provider: CJER or local court*	**<u>Example 1 (total of 31 hours)</u>** • Supervising Judges Overview course (12 hours) • Statewide Judicial Branch Conference (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 2 (total of 31 hours)</u>** • Supervising judges' calendar management course (6 hours) • Courses at CJA annual and midyear meetings (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours)

Experienced supervising judge	*Providers: multiple*	**Some Annual Course Options**
		• CJER offerings:
		  o PJ/CEO Roundtable broadcasts (4 per year)
		  o Statewide Judicial Branch Conference (biannual)
		  o Self-directed study through CJER Online Resource Center
		  o Qualifying Ethics
		  o Institutes
		  o Continuing Judicial Studies Program

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		• Management courses through Institute for Court Management, National Judicial College, American Management Association, or other national providers • Other AOC division courses or special trainings (e.g., Collections) • Local court courses **Examples for completing 30 hours in a three-year cycle:** **<u>Example 1 (total of 31 hours)</u>** • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours) • One two-day management course through National Judicial College (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • AOC special training (6 hours) • Self-directed study (3 hours) **<u>Example 2 (total of 32.5 hours)</u>** • Statewide Judicial Branch Conference (12 hours) • First-time faculty for a 3.5-hour course at CJA annual meeting (10.5 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) **<u>Example 3 (total of 37 hours)</u>** • Rural Courts Institute (14 hours) • Daylong special training (e.g., Collections) (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		• Returning faculty for an all-day course at Continuing Judicial Studies Program (10 hours) **<u>Example 4 (total of 31 hours)</u>** • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour = 3 hours) • Daylong course through local court (6 hours) • Statewide Judicial Branch Conference (12 hours) • CJER Online Resource Center course (3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours)

Trial Court Judges and Subordinate Judicial Officers

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
New judge or subordinate judicial officer	New Judge Orientation (within the first six months of taking the bench) *Provider: CJER* B. E. Witkin Judicial College (within the first two years of taking the bench) *Provider: CJER* Assignment-based over–view course (within the first year of taking the bench) *Provider: CJER*	*These two programs also satisfy the Qualifying Ethics requirement for a new judge.*

Experienced judge or subordinate judicial officer **NOT changing primary assignment**	30 hours per individu–alized three-year cycle
	
	Providers: multiple
		Some Annual Course Options
		• CJER offerings:
		  o Annual institutes
		  o Continuing Judicial Studies Program courses
		  o *Today's Law* broadcasts
		  o *Great Minds* broadcasts
		  o Statewide Judicial Branch Conference (biannual)
		  o Online courses
		  o Qualifying Ethics
		• CJA midyear and annual meetings
		• National Judicial College
		• Local court programs
		• Other AOC division programs (e.g., CFCC's Beyond the Bench)
		• National Association of Women Judges Conference courses
		• American Judges Association Conference courses

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		Examples for completing 30 hours in a three-year cycle: **<u>Example 1 (total of 31 hours)</u>** • One CJER institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Courses at CJA annual and midyear conferences (10 hours) **<u>Example 2 (total of 31 hours)</u>** • Three-day CJER Continuing Judicial Studies Program (18 hours) • Daylong local court training (6 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 3 (total of 31 hours)</u>** • CFCC's Beyond the Bench conference (14 hours) • Half-day broadcast (3 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Online course in specialty area (3 hours) • Self-directed study (4 hours) **<u>Example 4 (total of 31.5 hours)</u>** • CJER institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • First-time faculty for a 3.5-hour course at a CJA annual meeting (10.5 hours) **<u>Example 5 (total of 31 hours)</u>** • National Association of Women Judges annual conference (14 hours) • Qualifying Ethics (5 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		• Sexual Harassment Prevention (2 hours) • Returning faculty for an all-day course at Continuing Judicial Studies Program (10 hours) **Example 6 (total of 31 hours)** • Courses at CJA annual and midyear conferences (24 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **Example 7 (total of 31 hours)** • Advanced 2.5-day Continuing Judicial Studies Program course in a subject area (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Faculty for a 5-hour local court program (10 hours) **Example 8 (total of 31 hours)** • One-hour broadcast every quarter (12 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • Local court's 4-hour legal update seminar every year (12 hours) **Example 9 (total of 33 hours)** • Rural Court Institute (14 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • One-hour broadcast every quarter (12 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
Experienced judge or subordinate judicial officer **CHANGING primary assignment**	30 hours per individu–alized three-year cycle *Providers: multiple* Including an assignment-based course in the new assignment *Provider: CJER, local court, or CJA (based on CJER curriculum work)*	**Example 1 (total of 37 hours)** • CJER overview course (30 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) **Example 2 (total of 31 hours)** • An overview course through a local court (e.g., 10 hours) • Qualifying Ethics (5 hours) • Sexual Harassment Prevention (2 hours) • American Judges Association annual conference (14 hours)

Executive Officers

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
New executive officer (and new assistant or deputy executive officer, at the discretion of the local court)	Within the first year: Presiding Judges Orientation and Court Management Program *Provider: CJER*	
Experienced executive officer (and experienced assistant or deputy executive officer, at the discretion of the local court)	30 hours per individu–alized three-year cycle *Providers: multiple*	**Some Annual Course Options** • CJER offerings: o PJ/CEO Roundtable (4 broadcasts) o Broadcasts on management issues o Statewide Judicial Branch Conference (biannual) o Self-study through CJER Online Resource Center o Conflict of Interest course • Management courses through o Institute for Court Management o National Judicial College o American Management Association o University courses o National Association for Court Management o Other state and national providers • Other AOC division courses or special trainings (e.g., Collections) • Local court courses

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		Examples for completing 30 hours in a three-year cycle **<u>Example 1 (total of 32 hours)</u>** • Four PJ/CEO Roundtable broadcasts (4 @ .75 hour =3 hours) • Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Two-day course on management through Institute for Court Management (12 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 2 (total of 32 hours)</u>** • Statewide Judicial Branch Conference (12 hours) • First-time faculty for a 4-hour course at the Statewide Judicial Branch Conference (12 hours) • Conflict of Interest course (3 hours) • Sexual Harassment Prevention (2 hours) • Self-directed study (3 hours) **<u>Example 3 (total of 32 hours)</u>** • Conflict of Interest course (3 hours) • Statewide Judicial Branch Conference (12 hours) • One 2-day management course through Institute for Court Management (12 hours) • Two 90-minute broadcasts on management issues (3 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 4 (total of 35 hours)</u>** • CJER Presiding Judges and Court Management Program *with new presiding judge* (18 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		• Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Sexual Harassment Prevention (2 hours) **Example 5 (total of 33 hours)** • Statewide Judicial Branch Conference (12 hours) • Conflict of Interest online course (3 hours) • Two breakout sessions at a National Association for Court Management conference (6 hours) • Sexual Harassment Prevention (2 hours) • Returning faculty for an all-day course at California Court Association (10 hours)

Managers and Supervisors

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
New manager or supervisor	Within the first six months: • Orientation to basic management/supervi–sion issues—including legal compliance training for super–visors, Integrated Disability Management, Safety, Family and Medical Leave Act, Preventing Sexual Harassment, Americans With Disabilities Act, Preventing Discrimination *If new to the court:* • Orientation to the judicial branch of California • Orientation to the local court *Provider: CJER and/or local court*	

Experienced manager or supervisor	12 hours per defined two-year cycle
	
	Providers: multiple
		Some Annual Course Options
		• CJER offerings:
		  o Regional supervisory series
		  o Management broadcasts
		  o Core 40 regional training
		• Local court courses
		• University courses
		• National provider courses
		  o Institute for Court Management
		  o National Association for Court Management

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		• State association courses (California Court Association) • Other AOC division courses or special trainings (e.g., Collections) **Examples for completing 12 hours in a two-year cycle:** **<u>Example 1 (total of 15.5 hours)</u>** • One day CJER regional training session (6 hours) • Two 1.5-hour supervisory broadcasts (3 hours) • First-time faculty for a 1.5-hour course at a local court (4.5 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 2 (total of 14 hours)</u>** • Two days of courses at the California Court Association Conference (12 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 3 (total of 14 hours)</u>** • National Association for Court Management Conference (12 hours) • Sexual Harassment Prevention (2 hours) **<u>Example 4 (total of 14 hours)</u>** • One CJER regional one-day elective course (6 hours) • Returning faculty for a 3-hour course at California Court Association (6 hours) • Sexual Harassment Prevention (2 hours)

Court Personnel

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
New court personnel	Within the first year: • Orientation to the judicial system, the local court, basic employment issues, and the job *Provider: CJER and/or local court*	

Experienced court personnel	8 hours per defined two-year cycle
	
	Providers: multiple
		Some Annual Course Options
		• CJER offerings:
		  o Regional courses
		  o Broadcasts
		  o Court Clerk Training Institute
		• Local court courses
		• Other AOC division courses (e.g., HR Fast-Track for HR professionals)
		• State association courses (e.g., California Court Association Conference)
		• Courses at academic institutions
		
		Examples for completing 8 hours in a two-year cycle:
		
		<u>Example 1 (total of 8 hours)</u>
		• One CJER broadcast (1 hour)
		• Half-day local court course (3 hours)
		• Returning faculty for a 2-hour regional course (4 hours)
		
		<u>Example 2 (total of 8 hours)</u>
		• Day-and-a-half course at California Court Association Conference (8 hours)

Position	Required Hours and Courses	Course Suggestions and Examples of Meeting the Requirements
		Example 3 (total of 9 hours) • CJER regional course (6 hours) • Half-day local court course (3 hours)

SP06–14

Judicial Branch Education: Minimum Education Requirements for the Judicial Branch

(repeal Cal. Rules of Court, rules 970 and 5.30; adopt rules 10.451 [circulated as rule 6.401], 10.452 [circulated as rule 6.402], 10.461 [circulated as rule 6.411], 10.462 [circulated as rule 6.412], 10.463 [circulated as rule 6.413], 10.464 [circulated as rule 6.414], and 10.471 [circulated as rule 6.421]

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	GROUPS				
1.	California Judges Association Executive Board Response by Stanley Bissey, Executive Director	N	Y	Substance of or need for rules: The California Judges Association (CJA) has undertaken a comprehensive review of the proposal and have received and considered the individual viewpoints of hundreds of our members. The goal of the rules is laudable and proper and is shared by supporters and opponents of the rules alike. The CJA is committed to the continued availability of high-quality educational opportunities for judicial officers. However, mandatory judicial education must have broad support in order to be effective in achieving that goal. It is clear that broad divisions exist within the branch as to the need for, and propriety of, the proposed rules. Tellingly, these divisions are perhaps deepest among those in the branch who have devoted their careers not just to judging, but to helping to teach others how to judge. CJA opposes the proposed rules insofar as they pertain to judicial officers. We believe that each and every stated goal of the proposed rules, including the maintenance of the current high level of public confidence in the competence of the judiciary, can be met by standards and policies, including budget priorities, which concentrate on incentives and recognition, but avoid mandates	The committee agrees that there are differing opinions regarding minimum education requirements. The committee does not believe that standards and policies would achieve the goals of the proposed rules. For more than a decade, the Standards of Judicial Administration have included an aspiration that judges should be granted at least eight court days a year to participate in continuing education. The standards communicate to the branch and to the public that ongoing professional development and internal improvement are fundamental values of the judicial branch. Branchwide education requirements are not just about participation by individual judges; they will clearly demonstrate the branch's accountability to the collective public, to the other two branches of government, and to ourselves.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				of the type proposed. CJA Executive Board offers the following comments in an effort to work toward adoption of non-mandatory standards or policies: • At least 50% of all hours suggested by any adopted standard or policies may be satisfied by self-study methods; • There are no funding assurances or leave provisions in the current proposal • There has been no need assessment or showing that bench officers do not currently participate voluntarily beyond what is being proposed; • Standards or policies should provide that the AOC will provide and fund replacement (assigned judges) to sit in place of judicial officers attending education; • Standards should have branch-wide applicability, and should therefore apply to appellate and Supreme Court justices; • Local courts should be responsible for coverage and reimbursement of costs incurred by judicial officers who attend educational programs in compliance with standards or policies;	• The committee feels the current limit is appropriate and ensures some participation in live programs. • Under a separate proposal the council is considering a "chambers budget" for each judge. • Individual compliance is not the sole impetus for the proposal. • The Assigned Judges program will respond individually to courts and meet their needs. • As noted elsewhere, addressing the appellate courts is a next step. • The committee agrees.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				• Any adopted standards of policies should provide that individual presiding judges and justices may approve qualifying programs within their court and approve attendance; • Records verifying compliance with standards or policies should not be required. But if required, responsibilities of local courts should be minimized, records should not be public records, records should include programs that each judicial officer requested but approval for which was denied. Non-compliance with any standards or policies should not, by itself, constitute grounds for disciplinary action by the CJP; • A judicial education program must be extremely flexible to preserve each judge's independence and ability to study based on his or her own interests, background, need, and style. CJA recommends elimination of rule 10.471(b)(2)(A)–(E) (circulated as rule 6.421(b)(2)(A)–(E)) as it is unnecessary and overly restrictive, although (A) and (B) are acceptable.	• The current proposal includes this provision. • Record keeping is a concern as these are expenditures of public funds; the committee agrees that local court administrative work should be minimized; regarding discipline, this is beyond the committee's purview. • The criteria were established to allay concerns voiced by some judges that if local courts were determining which courses receive credit, some common criteria should be in place or there would be criticism that courses are evaluated differently for purposes of credit from court to court. Some criticism of MCLE was based on a lack of standards, which in the view of some allowed non-relevant or poorly planned

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					education to receive credit. The committee reconsidered the criteria and changed 10.471(b)(2) (circulated as 6.421(b)(2)) to require two of the criteria in A–E rather than three.
2.	California Partnership to End Domestic Violence Response by Marivic Mabanag, Executive Director	A	Y	The California Partnership to End Domestic Violence, a domestic violence state coalition representing over one hundred domestic violence service providers in California, is in support of the proposed rule of court. It is important for professionals to keep abreast of new emerging issues affecting domestic violence victims because domestic violence involves complex issues. Most professions that work in areas involving complex issues, such as doctors, lawyers, therapists, psychologists, and mediators, are required to receive continuing education. The proposed rule would ensure the professional competency of judges and court personnel. Judges who have sought education beyond the current requirements have been much better equipped to decide cases involving domestic violence. There is a definite and real benefit to the public and to victims of domestic violence when judges receive continuing education on emerging issues and new laws.	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				The proposed minimum requirements are not the highest or lowest in the country. The proposed rule is not a burden on the judiciary, with minimum requirements that are below the average training hours. On behalf of domestic violence victims in the State of California and the service providers that assist them, we urge the adoption of this proposed rule.	
3.	Commission on Judicial Performance Response by Marshall B. Grossman, Chairperson	A	Y	Substance of or need for rules: Since 2001, when regular ethics training began, there have been decreases in both the proportion of meritorious complaints received by the commission and the number of advisory letters issued. While these decreases may be attributable to a variety of factors… regular ethics training seems to lead to a higher standard of ethical conduct—we can expect that regular general education will lead to a higher standard of judicial conduct. Whether reducing the incidence of legal error and of appeals or better preparing judges for the challenges of a new assignment, mandatory education would strengthen our judicial system and the public's confidence in it.*	
4.	Consumer Attorneys of California Response by Frank M. Pitre, President	A	Y	Substance of or need for rules: Continuing legal education can only help to improve an already stellar judiciary in the state of California. The bench and bar can both	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				benefit from continuing legal education, especially in the areas of gender and racial bias, as well as issues relating to equal access to the courts. Continuing legal education for judges can also assure that the judiciary is kept abreast of changes in both laws and rules. Our members continue to voice concerns about courts that fail to adhere to Rule 212 (new rules 3.720–3.730) in connection with the conduct of status conferences and the number of appearances required in pending cases, as well as the conduct of many judges who refuse to grant continuances of trials, seemingly in violation of Rule 375 (new rule 3.1332). With respect to Los Angeles County, which appears to have some opposition to the proposed rules, it is our understanding that judges receive approximately $5,000 per year intended for educational pursuits. Therefore it appears that judges are already paid to participate in education of the type envisioned by this proposal.*	
5.	Continuing Education of the Bar Response by Pamela J. Jester, Director	AM	Y	Substance of or need for rules: If the omission of CEB from the approved provider list is not simply an oversight, CEB and other CLE providers should have an opportunity to be considered for inclusion of the list. If a CEB education program is relevant to	The committee appreciates the suggestion to include the CEB as an approved provider and agrees to do so. The list of providers is illustrative, and omission of the CEB was not intentional

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				the work of the courts or enhances the individual's ability to perform his or her job, the program should be applicable toward the participant's education requirements. CEB proposes that proposed rule 10.471(a) (circulated as rule 6.421 (a)) be modified to include Continuing Education of the Bar as an approved provider.*	
6.	Crime Victims United of California Response by Harriet Salarno, President/Chair	A	Y	It is essential that Crime Victims United of California support this proposed rule to require judges to have 30 hours of continuing education in a time frame of 3 years. Most other professionals must have so many hours, per year, of continuing education. Judges directly affect people's lives. I have served on the Judicial Performance Commission Board and it is just human nature that you can fall into bad habits. The demeanor of judges in the court room is very important to the public sitting in the court room. Judges must be up to date on current law changes and victims rights.	
7.	Domestic Violence Practice and Procedure Task Force	No position; revisions recom-mended			
8.	State Bar of California Board of Governors, Response by James Otto	A	Y	<u>Substance of or need for rules:</u> The Board of Governors of the State Bar of	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Heiting, President			California supports, in concept, mandatory continuing education for judges, which it believes will provide benefits to California judges, the pubic they serve, the attorneys who appear before them, and the administration of justice in this state. In 1990, the State Bar initiated California's MCLE program for attorneys, pursuant to legislation sponsored by the State Bar and rule of court. Sixteen years later, we are more convinced than ever that continuing legal education for attorneys has been a benefit to all concerned. The Board also believes that requiring continuing legal education for judges not only carries similar benefits, but will further affirm and demonstrate California's commitment to judicial excellence, enhancing public confidence in the judiciary. The Board expresses no opinion on the number of continuing education hours of the specific provisions of the draft rules being circulated for comment. *	
9.	State Bar, Family Law Executive Committee, Response by Diane Wasznicky, Advisor	A	Y	We definitely agree that mandatory continuing education for sitting judges is necessary and an excellent base (this proposal) on which to build.	
10.	State Bar, Taxation Section Response by Stuart M. Hurwitz, Chair	A	Y		
11.	Superior Court Clerks' Association Response by Michael Terry, Vice	AM	Y	<u>Substance of or need for rules:</u> We would request consideration of adding our	The committee appreciates the suggestion to add the Superior

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	President (Education)			association, the Superior Court Clerks' Association of the State of California (or "SCCA") to the list of "approved providers" at proposed rule 10.471(a) (circulated as rule 6.421(a)) or, in the alternative, add "[and] other court employee education associations" to the list of "approved providers" at proposed rule 10.471(a) (circulated as rule 6.421(a)). The latter is suggested in the spirit of the existing language in section 25.6(f) (2) (new standard 10.15(f)(2)) of the Standards of Judicial Administration (that a court employee continuing education course may be offered "statewide by the clerks' associations"). We are a professional association of court employees that has coordinated educational workshops statewide on topics of interest to court employees for over fifty years. We would like the opportunity to provide some of the proposed minimum education for court employees and supervisors.	Court Clerks' Association to the list of approved providers and agrees to do so. *The list of providers is illustrative, and omission of the association was not intentional.*
12.	Superior Court of Fresno County Executive and Management Team Response by Tamara Beard, Executive Officer	A	Y	<u>Substance of or need for Rules:</u> On behalf of my Court's entire Executive and Management team, I would like to extend our full and unconditional support for the proposed mandatory education standards for court staff. We in Fresno have taken staff education very seriously and have developed numerous	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				programs such as a 24 hour new employee orientation program (which provides education as to the judicial branch and how we fit into the local and statewide government, sexual harassment prevention, our ethical responsibilities as court employees, safety preparedness, etc.); a Judicial Assistant Academy which educates our new judicial assistants as to the various case types and their applicable laws and processing responsibilities; a full education / training day in which up to 25 various subject classes are offered to our employees; as well as numerous other classes being offered throughout the year on an as needed basis. In other words, this Court will not have a problem meeting these standards.	
13.	Superior Court of Imperial County Response by Jose Guillen, Executive Officer	N	Y	<u>Substance of or need for rules</u>: 1. There is no demonstrated need for the rules;	1. The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings in evaluations, and have contributed to reduced complaints to the CJP.
				2. The rules would overly bureaucratize judicial education, with no defined goal;	2. The committee does not believe that the proposed rules would overly bureaucratize judicial education. Judges would track their own participation in education and provide an annual update to the presiding judge. It would basically be an honor system.
				3. The rules were inherently demeaning to judges, as they assumed that judges were not capable of selecting educational courses pertinent to their assignments; and,	3. The committee does not believe that the proposed education requirements are demeaning to judges; and the committee does not intend to imply that judges are not capable of selecting educational courses pertinent to their assignments. The only content requirements are related to entering a new area of responsibility; beyond the minimal initial content, judges are free to choose what they deem appropriate based on their

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				4. The rules would require a new (and large) administrative staff for the AOC and local courts. *	assignments or other professional interests. 4. No new resources are being sought by the AOC regarding minimum education requirements because CJER currently produces far more education and training for judges than the minimums outlined in the proposed rules. The content that CJER offers may change substantively, but the cumulative amount of education delivered will not. Regarding administrative staff, new judge education requirements are already managed, as is orientation for new presiding judges and executive officers. Regarding the courts, local courts are free to establish whatever system is most efficient for them. The proposed rules indicate that individual judges would be responsible for tracking their own education.
14.	Superior Court of Los Angeles County Executive Committee Response from Presiding Judge William A. MacLaughlin	N	Y	Substance of or need for rules: The Executive Committee of the Los Angeles Superior Court is composed of 22 voting members who are democratically elected by the Judges and Commissioners of the Court. On	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				July 19, 2006, at its regularly scheduled meeting, the Executive Committee voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education, which has been issued for comment by the Judicial Council. The Committee's vote was solely on the issue of whether judicial education should become mandatory by California Rules of court and did not address either the authority of the Judicial Council to enact such rules of the specific provisions of the rules which will be addressed by the Presiding Judge in separate comments. The Executive Committee believes that the imposition of mandatory education is, in part, unwarranted in the absence of: 1. any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. any reasonable indication that the public perceives that the trial court judges lack the	The committee acknowledges the uniqueness of Los Angeles as a very large court with multiple locations. 1. The committee does not intend by its proposal to indicate that trial court judges lack the educational qualifications for their positions. Continuing education is not about qualifications–it is about ongoing, internally generated, branchwide improvement. 2. The committee began its consideration of minimum

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall improvement in trust and confidence in the judicial branch from what was documented in the nineties, it also recommended the following: • "Judges and court staff must be educated in the criteria of procedural fairness …. Initiatives are needed to ensure that all cases are processed in a manner consistent with a sense of fairness in court procedures." • "Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceedings … This is particularly important in the court venues receiving low ratings by court users …. traffic, small claims, juvenile and family." • "Develop special training for

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					judicial officers and court staff regarding specific cultural differences …" • "Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court experience, taking the lead in promoting a respectful and unbiased image … Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and fairness for all residents of the state." Regarding perceptions: • Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands, but are less likely to use the courts because of their unfamiliarity with the system, language difficulties, immigration issues, fear of the unknown, and a shortage of low-cost attorneys who speak

	Commentator	Position	Comment on behalf of group?	Comment An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	Committee Response Text in *italics* indicates the response occurs previously.
					their languages. • African-American and Latino court users have a high regard for judges but a low sense of confidence in the courts, saying ethnicity and income affect treatment. These findings all seem related to the importance of ongoing professional development and education.
				3. any reasonable indication that trial judges do not maintain professional competence in the law; and	3. The committee agrees that most trial judges probably do maintain their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal. The goal was instead to instill a branchwide commitment to improvement from within and create an environment of professional excellence–not just competence but a commitment to excellence and an expectation that everyone is committed to improvement.
				4. Any reasonable indication that mandatory education, if imposed, would either result in a	4. The committee believes that mandatory training does makes a

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				higher level of competency or the public's confidence in the judiciary.	difference and that trust and confidence will be enhanced with minimum education requirements. For example, qualifying ethics courses have contributed to a reduced number of complaints to the CJP; New Judge Orientation and the Judicial College are highly rated and valued by participants.
15.	Superior Court of Los Angeles County Response by Presiding Judge William A. MacLaughlin	AM	Y	<u>Substance of or need for rules:</u> These comments, made in addition to a comment from the Executive Committee of the Los Angeles Superior Court comment, should not be interpreted as acquiescence to mandatory education but are submitted in the event that rules or standards are adopted providing for such education. 1. Rule 10.452(e) (circulated as rule 6.402(e)): The requirement that a Presiding Judge should establish an education plan for the court to facilitate participation of judges is imprecise and may be construed as onerous. In addition, the requirement that the Presiding Judge should consult with each judicial officer and court executive officer regarding educational needs would be nearly impossible in a court the size of Los Angeles.	*The committee acknowledges the uniqueness of Los Angeles as a very large court with multiple locations.* 1. This section of rule 10.452(e) deliberately uses the term *should* as opposed to using mandatory language such as *shall* or *must* when referring to the presiding judge's creation of an education plan and consultation with judicial colleagues and CEOs regarding their educational needs. The committee understands that it may not be realistic to complete these

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					tasks in some courts and so phrased them as aspirational goals instead. The committee believes the presiding judge has the authority to delegate these responsibilities; however, if necessary, the committee in the future can specify "the presiding judge or his or her designee."
				2. Rule 10.462(c)(2) (circulated as rule 6.412(c)(2)): Supervising judges, by definition, will have an administrative role but that role will differ from court to court; one size will not fit all and this training should be left to local court.	2. The rule sets minimum requirements, and local courts are free to add to these requirements. This education would not be intended to replace education and training for a specific assignment but would provide new supervising judges with baseline skills and education in administrative issues. Also, the Governing Committee intends this education to be developed in close collaboration with those courts that utilize supervising judges in an administrative role.
				3. Rule 10.462(c)(4) (circulated as rule 6.412(c)(4)): The requirement overlooks the experience gained from active judicial experience and is far too broad to effectively	3. The rule explicitly permits the local court to determine the needs of a judge or subordinate judicial officer who is changing

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				deal with the needs of the judicial officer. Some may need recent law updates, others may need extensive subject matter training, others may need calendar management as examples. It should be left to the judicial officer to determine what further education should be obtained	assignments. And the local court is able to defer to the specific needs determined by the judge in meeting his or her educational requirements. The committee determined that the judge who is changing assignments would work with the local court and presiding judge to identify the education and training needed to successfully move into the new assignment. That could include sending the judge to a CJER course, a CJA course, or a locally designed course. This section is broadly written precisely for the reasons stated in this comment. Each judge may have different educational needs, and the rule permits that judge to participate in an appropriate educational course to meet those needs.
				4. Rule 10.462(f) (circulated as rule 6.412(f)): What is the obligation of the PJ to make sure each judicial officer has complied and what is the consequence to the individual judge? What does the PJ do with received reports?	4. The proposed rules indicate that judges will submit an annual report to the presiding judge regarding their participation in education and a signed statement of completion at the end of the three-year period that the judge has obtained the required

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				5. Branch imposed cost should not be transferred to the local courts without providing the requisite funds.*	education. If the proposed rules are adopted, the responsibility of the presiding judge would be same as with compliance with any other rule. 5. Separate from the proposed rules regarding minimum education requirements, a "chambers budget" will be considered by the Judicial Council, enabling an individual judge to access reimbursement of up to $2,000 per year for professional development, including association dues, legal publications, and attendance at educational events. This does not relieve the courts or Judicial Council of any current obligations, such as council reimbursement for lodging and group meals for CJER events.
16.	Superior Court of Mendocino County Response by Presiding Judge F. Cindee Mayfield	A	Y	<u>Substance of or need for rules:</u> Mendocino judges believe the education requirements will enhance the strength and credibility of CA's judiciary. We already attend programs, read voraciously, and will continue to improve ourselves whether or not mandatory education becomes a requirement. We support	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				the proposed rules.	
17.	Superior Court of Napa County Response by Stephen A. Bouch,* Executive Officer	N	Y	Substance of or need for Rules: As for Napa, I must agree with John Clarke and the others who have expressed concerns about the mandatory education requirements. Napa has been very aggressive in it's pursuit of continuing education for both Judicial Officers and court staff. In the past five years both our judicial and non-judicial complement have experienced almost a 50% turnover. Because of this, we have instituted several major initiatives to improve all court staff training and development and ensure successful succession planning and implementation. Education needs are determined through a systematic review of the performance goals that have been established for staff through the performance review process. I believe that we have demonstrated our commitment to training and development without a rule of court. I am 100% behind training and staff development. I just don't believe that a rule of court is the way to implement it. Why are AOC employees not included in the rules?*	The committee acknowledges and respects the educational efforts of the court and believes that many courts have similar foundations upon which requirements could be built. However, the committee notes that *branchwide education requirements are not just about individual participation or local court commitment; they will clearly demonstrate the branch's accountability to the collective public, to the other two branches of government, and to ourselves. Ongoing professional development and internal improvement are fundamental values of the judicial branch.* The proposal was drafted to be as flexible as possible, asking that for court personnel, in a two–year period, only 8 of 4,160 full-time employee hours be devoted to education, enabling local courts to assess and address education needs

* On August 17, 2006, Mr. Bouch notified staff in the AOC's Education Division/CJER that his comments were on his behalf individually *and* on behalf of the Napa County Superior Court. This comment was moved from # 41 to # 13 so that the comment could be listed with other group comments submitted.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					at the local level while contributing to a larger branchwide commitment to professional excellence.
18.	Superior Court of Placer County Response by John P. Mendes Executive Officer	N	Y	Substance of or need for rules: Currently I believe we have a working process. The standards provide the level of desired training and there are specific mandatory training sessions (e.g. sexual harassment). That leads me to ask, Why fix it if it is not broke? I have heard no factual representation of the broken part? Philosophically, I believe in both training and mandatory training. However, given the structure of our system, I am concerned about what agency or division would be given the authority to make the decisions as to what is mandatory or not. Would it become a delegation to the AOC, perhaps a director with input from their staff? Considering that we often have dialogues around a gap in the understanding of the local level (both for policy and implementation) it concerns me that again, we would have a system that overlooks the trial court needs. Lastly, and most importantly, how would enforcement occur? With any designation or nomenclature that contains the word Mandatory, comes some type of penalty.*	The committee does not believe that the only impetus for minimum education requirements is "something being broken." The proposal's focus is ongoing improvement. Content is at the discretion of the local court, can be based on individual need, and can come from many providers. *The proposal was drafted to be as flexible as possible, enabling local courts to assess and address education needs at the local level while contributing to a larger branchwide commitment to professional excellence.* Enforcement is not addressed in the proposed rules. Local courts would track participation by their court personnel.
19.	Superior Court of San Benito County Response by Gil Solorio	AM	Y	Substance of or need for Rules: San Benito agrees with the proposed changes if	*The council may exercise its constitutional rule-making*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Executive Officer			modified. San Benito supports establishing education requirements for all Court personnel. The CJER Governing Committee persuasively cites minimum education requirements as the path to professional competency and public service of the highest standard. In its simplest form, this is the collective goal of the system. It should also be noted that San Benito supports the proposed level of requirements as well as the reasonable methodology suggested to achieve compliance. However, regarding managers, supervisors and court personnel, San Benito suggests that it may be better to incrementally establish minimum education requirements for these positions over time. Establishment of minimum education requirements for these individuals may be perceived as a change in working conditions for those employees governed by existing local labor contracts. It is respectfully suggested that minimum education requirements for managers, supervisors and other personnel be extracted from SP06–14 and subsequently established according to a timeline that coincides with the various labor negotiation processes.*	*authority over court administration by setting minimum education requirements for court staff, which may create a meet-and-confer requirement to meet with court unions over the effect of the rule, i.e., how the rule will be implemented. The AOC will assist courts with implementation of the rules as they pertain to court staff.*
20.	Superior Court of San Mateo County Response from Assistant Presiding Judge Robert D. Foiles	N	Y	<u>Substance of or need for rules:</u> On July 21, 2006, at its regularly scheduled monthly meeting and with a majority of the	*The committee believes that the proposed education requirements are necessary. The intended*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				judicial officers in attendance, the Judges and Commissioners of the Superior Court of San Mateo County voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education. The vote was solely on the issue of whether judicial education should become mandatory by California Rules of Court, not on Judicial Council authority or the specific provisions of the rules. All judges and commissioners are aware of the obligation specified in Canon 3B(2) of the California Code of Judicial Ethics to "maintain professional competence in law" and are committed to the maintenance and growth of their judicial skills and legal knowledge through a variety of sources, including the finest available judicial education that is provided by CJER, CJA and other professional organizations.	*purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. Branchwide education requirements are not just about participation by individual judges; they will clearly demonstrate the branch's accountability to the collective public, to the other two branches of government and to ourselves. Ongoing professional development and internal improvement are fundamental values of the judicial branch.*
21.	Superior Court of Stanislaus County Response by Presiding Judge Marie Silveira	N	Y	<u>Substance of or need for rules:</u> While our bench recognizes the value of a well trained judiciary, the majority of judges on our bench do not support mandatory education. CJER, CJA and various other organizations provide an excellent array of programs that our judges attend regularly without the requirement of being mandated. Passing a rule aimed at those few judges who do not attend training is	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				unnecessary. Presiding Judges currently have the authority to see that judges needing specific training attend courses that will benefit them. Further, there are already several required programs such as ethics training for all judges, juvenile programs for judges in those courts and family programs for those bench officers. Expanding mandated programs for all judges will result in forced attendance and the benefits received because of this will be marginal. We believe the high quality of the current programs being provided is a direct result of participation by voluntary attendees.	*branch in his or her own continuing professional development.* *The committee believes that the quality of education programs offered will remain high. The judges who plan and present education will be no less motivated to deliver the highest quality education possible. In fact, the quality takes on a higher importance because the value of the content may need to be proven to some participants. The New Judges Orientation and the Judicial College are required now and yet receive high ratings in evaluations by participants and faculty.*
22.	Superior Court of Stanislaus County Response by Don Lundy Executive Officer	A	Y	Substance of or need for rules: Assuming there is AOC funding provided for this training, Stanislaus does not oppose the rule requiring mandatory training for non judicial employees.	
23.	Superior Court of Ventura County Response by Judge Manuel J. Covarrubias	A (17) N (13)	Y	Substance of or need for rules: After analysis of the proposal and opinions of others, judges in the Ventura court did not reach consensus. Of the responses received 13 judicial officers opposed the rules and 17	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				favored the requirement. Most of those opposed expressed strong opposition. Those opposed were concerned about the need for such rules and the need to maintain an autonomous and independent judiciary. Those that responded in favor noted that imposition of rules will instill and foster public trust and confidence, may ward off action that may be taken by the legislature, and the judiciary is in the best position to determine what should be contained in the rules. They also expressed concern for the social and/or political impression that will be made by opposing the proposal. Four of five of those opposed did not express strong opposition and joined in the concern that the public will negatively perceive judicial opposition to the rules.* <u>Authority of Judicial Council:</u> Those who expressed opposition included in their concerns the constitutional authority of the Judicial Council to impose such rules.	*in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* The committee does not believe that education requirements are an intrusion into the independence of the judiciary. There are two kinds of independence: independence of the judiciary as a third branch of government and independence of each judge in his or her handling of cases and decision making. Regarding the independence of the branch, the requirements, if approved, are an example of the judiciary implementing internal practices to ensure continued improvement of the branch, strengthening its independence from the other two branches of government. Regarding the ability of a judge to exercise independence in handling cases and in decision making, education requirements

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					will contribute to the knowledge and skills of judges, enabling them to most effectively decide the issues before them. The rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
	INDIVIDUALS				
24.	Decline to state (Anonymous 1) Judge Northern California	N	N	Substance of or need for rules: Mandatory education is an inefficient means to achieve a dubious result; those of us who want to learn already do; those forced into education will not necessarily learn anything. If there are	The committee believes that education is the foundation of a profession and continuing education is the hallmark of professional growth and ongoing improvement

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				requirements, why not make the same education requirements across the board so that everyone from the Chief on down has the same burden? Anything less treats trial judges like second class jurists and is a slap in the face of most of us.*	of individuals and thus of the institution. In addition, the committee believes that continuing education is especially important for judges, who have a significant impact on the public, who decide cases independently, who deal with an ever-changing body of law, and who interact with a diverse array of individuals. The committee included in the proposed rules numerous options, including multiple providers, online courses, self-study activity, and faculty service, to assist in the efficient completion of requirements. Self-tracking and self-reporting are also intended to maximize efficiency and reduce the need for administrative oversight. Regarding the appellate courts, the committee has made known that the proposed rules are an initial step and that, if they are approved, the committee will determine how to address minimum education requirements for the appellate

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					courts. In addition, the committee considered several factors in choosing to begin with the trial courts, including: • Owing to the nature of their role, trial courts represent the broadest contact with the public, creating the greatest opportunity to enhance public trust and confidence. • Owing to the size of the trial courts, they receive the bulk of educational resources, ensuring that current offerings/resources would be sufficient to meet the new requirements. • Owing to the scope of the work of the trial courts, designing a model for continuing education would require the greatest level of research, fully revealing the possibilities for any future work. • Owing to the historical educational culture of the trial courts, many have already instituted local education opportunities, which have the

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					potential to: – Reduce the impact of requirements; – Make local engagement and local control a smooth process; and – Enable the courts to more readily identify and meet local educational needs.
25.	Judge (Anonymous 2) Superior Court	N	N	Substance of or need for rules: I decline to comment as I fear retribution from the Judicial Council. I am not convinced this request to comment will be confidential. I checked the "box" above only to allow my comment to be sent.	
26.	"Hail from Pasadena" (Anonymous 3)	A	N	I am a legal secretary/paralegal, having worked for law firms for 30 years of my life. I'm appalled that judges are taking the position of being "offended" that they should continue to educate themselves. It's ok to establish rules for doctors, lawyers and other professionals to take "continuing education" courses, but judges are exempt? And as a citizen, if ever I would be involved in a courtroom proceeding, I would like to know that checks and balances exist. The mere fact that judges have threatened to "resign" over this issue should be suspect. Unbelievable!*	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
27.	Hon. Joyce Allegro Judge Superior Court of Santa Clara County	N	N	<u>Substance of or need for rules:</u> [copy of Judge Highberger's comments] The proposed rules are ill-advised, unnecessary and will create untold bad will for the Judicial Council, the Administrative Office of the Courts, and their hardworking leadership. What should be adopted is a revision of rules 970(g) and 6.603(c)(2)(A) (new rule 10.603(c)(2)(A)), so that a certain number of working days are to be allowed all sitting bench officers to attend continuing education programs. Some issues: 1. Lack of Meaningful Consultation – proposal has been prepared in a secluded environment; 2. Demeaning to Trial Court Judges and Commissioners – lack of application to appellate courts equals asymmetrical requirements seen as disrespect for the trial court; 3. Mandatory Judicial CLE is Inherently Inferior – increased new demand will result in acceptance of offerings otherwise rejected;	[Response to Judge Highberger:] The committee appreciates the suggestion to revise rules to set aside a certain number of days for attending education, which was the intent of the Standards of Judicial Administration. Regarding the issues highlighted, the committee feels that: 1. The three–year process has been as open as possible, including sending the proposed model to each trial court judge in 2005; 2. There is no intent to demean the trial courts–the committee chose a phased approach to addressing minimum education requirements for the judicial branch (see the response to comment #24 above for the reasons the trial courts were chosen for the initial phase); 3. More than enough education to meet proposed requirements is currently offered by CJER, only one of many providers, so there

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				4. Proposed Rules are Bureaucratic and Complex; 5. Existing Tribunals and Processes Protect the Public from Judges Who Fail to Obtain Education – for example, judges who make errors will be corrected on appeal.*	should not be an increased demand for programming. In addition, mandatory education is not inherently inferior. The New Judge Orientation and the B. E. Witkin College are carefully planned by judges who take extreme care in developing and delivering courses of the highest quality possible, and Qualifying Ethics courses have been evaluated as highly valuable; 4. While the rules may seem complex, the requirements (as outlined in the guidelines that accompany the rules) are straightforward (see the response to comment # 243 later in this document for a brief outline of the proposed requirements); 5. Having corrective options available for errors does not counterbalance the need for continued professional development nor can that remedy fully restore or repair damage to the parties involved in a particular case.
28.	Hon. Larry W. Allen Presiding Judge	A	N	<u>Substance of or need for rules:</u> I strongly support the continuing education	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of San Bernardino County			proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
29.	Hon. Thomas Pearce Anderle Judge Superior Court of Santa Barbara County	N	N	Substance of or need for rules: I do not agree with the mandatory education requirement. It is clearly an invasion of judicial independence.	The committee does not believe that educational requirements invade judicial independence. • The proposed rules have come from within the judicial branch, not the legislative or executive branches; the committee is concerned, however, that if requirements are not created

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					within the branch, where judges craft the curriculum and best understand the branch's educational needs, requirements may come from outside the branch and thus may not reflect the needs of the courts. • The proposed rules will not interfere with a judge's independent case management or decision making but will instead ensure that all judges have the most up-to-date knowledge, skills, and abilities to most effectively fulfill their roles.
30.	Hon. Robert Axel Commissioner Superior Court of Los Angeles County	N	N	Substance of or need for rules: Having read most all of the e-mails and publications that have been circulated regarding this proposed "mandatory" judicial education program that is being considered, I think it is time for all involved to take a couple of steps back and evaluate the benefits and damage that will result from trying to fix something that may not be broken. If one of our goals is to do the best possible job for both the court and the public, education is important. But, has anybody bothered to tally the attendance at the	The committee agrees that education is an important contributor to enabling bench officers to do the best job possible. But the committee does not believe that the only impetus for minimum education requirements is "something being broken." The proposal's focus is ongoing improvement. The most recent analysis of

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				hundreds of programs put on by CJER to determine how many bench officers have taken advantage of education provided? If you find a high percentage of participation statewide, why go further?*	participation at the state level indicated that approximately 20% of judges did not participate; however, these judges may be engaged in other educational activities. The committee hopes that full participation is or will be achieved, but the participation of individual judges is not the basis for the proposal. Minimum requirements are not just about individual participation; they establish a commitment by the branch to continued improvement through education and acknowledge that professional development is an expectation of each and every individual who is part of the court system. The committee believes two things in this regard: • The public expects and should receive no less than continued branchwide improvement in service to the public and the fair and efficient administration of justice. Improvement is not

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					based on fixing "something broken"; it is an ongoing process to achieve a higher degree of effectiveness and, within that, a greater level of efficiency. Each member of the public should know that regardless of the court or the judge, he or she can expect the highest level of professionalism, the greatest level of respect, and use of the most current approaches in resolving his or her issues. • As members of the judicial branch, we can each improve ourselves and thus improve the court system and our ability to serve the public. Many judges and court employees participate in continuing education, not because they are lacking but because they can become better at whatever they do. It is difficult to accurately determine the level of individual participation in judicial education. It is also difficult to determine what

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					is an acceptable level of judicial participation—is it 100%, 98%, or something less? While the current proposal would require full participation, the overarching issue is what the judicial branch currently communicates, and what it should communicate, to the other branches and to the public about its commitment to professional excellence and ongoing improvement from within.
31.	Hon. Eugene L. Balonon Judge Superior Court of Sacramento County	N	N	Substance of or need for rules: Although I personally agree with and support judicial education, I am opposed to the mandatory nature of SP06–14. However, I would be supportive of any proposal which encourages continuing judicial education; such as allocating a specific number of work days annually for that express purpose.	*The committee appreciates the suggestion regarding revising rules to set aside a certain number of days for attending education, which was the intent of the Standards of Judicial Administration.*
32.	Hon. Gordon S. Baranco Judge Superior Court of Alameda County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
33.	Hon. Antonio Barreto Jr. Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: Although I agree that new judges must attend the judicial college, I am strongly opposed to any other mandatory continuing education. I fully concur in the insightful comments of Judge Ronald Sabraw and of my colleague, Judge Charles Horan, as to this important subject. I urge that the proposed changes not be adopted in any form.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to entering a new area of responsibility; beyond the minimal initial content, judges are free to*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					choose what they deem appropriate based on their respective assignment or other professional interest. Judge Sabraw did not submit a comment through the public comment process, thus the committee cannot respond to this comment effectively.
				[Comment from Judge Horan] <u>Substance of or need for rules</u>: The rules are unnecessary; the vast majority of judges understands the duty to be well educated in the law, and don't need yet another Byzantine bureaucratic rule foisted upon then. Voluntary education IS WORKING; I WANT education offered to us, and I WANT it to be accessible without having to travel 40 miles through traffic. I WANT to have the opportunity to stay abreast of legal changes. What I DON'T want is to be insulted by having a RULE state that I must do it YOUR way.*	[Response to Judge Horan] The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to entering a new area of responsibility; beyond the minimal initial content, judges are free to choose what they deem appropriate

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: Clearly in excess of Council's Article VI rule-making authority	based on their respective assignment or other professional interest. *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
34.	Hon. Thang Nguyen Barrett Judge Superior Court of Santa Clara County San Jose	N	N	Substance of or need for rules: While I am in support of voluntary education for judges, I oppose the enactment of the proposed court rules requiring mandatory judicial education.	
35.	Hon. William P. Barry Judge	N	N	Substance of or need for rules: I am strongly in favor of continuing education,	The committee does not believe that the proposed minimum education

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of Los Angeles County Compton			including judges and justices. My concern is with the mandatory nature of the proposed rule. As proposed, the rules would allow an unaccountable bureaucracy to interfere with a bench officer's performance of his duties. Such rules will tend to foster an adversarial relationship between the AOC and the bench. In the end, the proposed rule is not going to accomplish intended purpose. A person can be ordered to training but cannot be ordered to learn.*	requirements would create an unaccountable bureaucracy that would interfere with a bench officer's performance of duties, that they would possibly foster an adversarial relationship between the AOC and the bench, and that they will not accomplish their intended purpose. • The committee determined that self-tracking makes each judge accountable and that annual self-reporting to the local court's presiding judge would minimize any bureaucracy. • The AOC did not create or propose the rules and will not be tracking continuing education. The proposed rules were created by an advisory committee to the Judicial Council, the CJER Governing Committee, which consists of numerous judges. • *The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development, resulting in ongoing improvement of the judicial branch. For example, the *Qualifying Ethics courses, which are "required" if judges want CJP-defense insurance, have been very successful, have received high ratings in evaluations, and have contributed to a reduction in the number and kind of complaints to the CJP*. This demonstrates that "required" education can and does have beneficial results; the requirement was only attendance, not a predetermined level of learning, and yet learning from the courses is evident. Approximately 99% of the judiciary participates in the Qualifying Ethics courses in

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					order to receive the insurance. Another and longer term example is education for new judges, the New Judge Orientation and the Judicial College. These programs, which have been required by rule since 1996, have been very successful, have received high ratings in evaluations, and have made the transition to the judiciary more effective for hundreds of new judges.
36.	Peter J. Basso Sebastopol	A	N	Substance of or need for rules: Agree with proposed changes. There is a need for training in the probate court in which I practice.*	
37.	Hon. Candace J. Beason Judge Superior Court of Los Angeles County Pasadena	N	N	Authority of Judicial Council: Judges are independent constitutional officers. The Judicial Council and AOC are without the authority to mandate such requirements	*The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					April 13, 2006. . Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
38.	Hon. William Bedsworth Associate Justice Court of Appeal, Fourth Appellate District, Division Three Santa Ana	A	N	Substance of or need for rules: I have been in favor or MCLE for judges for 15 years. We all need it. If you're gonna get it without it being mandatory, then the fact that it becomes mandatory will have NO effect on you at all. And if you aren't going to get it unless it's mandatory, you're precisely the reason it has to be mandatory. Regarding those opposed, some may have legitimate, strongly-held philosophical reservations and others may simply not want to participate. This is a hill to die on.*	
39.	Hon. Loretta Murphy Begen Judge Superior Court of Stanislaus County	N	N	Substance of or need for rules: I am a Superior Court judge with 13 years experience on the bench. I am vehemently opposed to the proposed rule that judges be required to participate in mandatory continuing legal education. I have voluntarily attended a CJER or CJA-sponsored conference every year since I became a judge. I have always been impressed with the exceptional high quality. It is very difficult for me to leave my own heavy	Currently CJER, only one of many providers, offers enough live programming that each judge in California could earn 15 hours per year, 50% more than the proposed rules require, and by all accounts CJER's programs are currently excellent. There is no basis, given the more-than-is-needed amount currently delivered, that quality will

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				caseload, but when I do, I know that I will receive relevant information that I can use to improve my efficiency and strengthen my knowledge of the law. If all judges are required to accumulate mandatory class hours, more classes must be presented to meet the demand. The excellent teachers we now have will not be available. Out of necessity, we will have poorly-prepared judges scrambling to put on classes that no one really wants to attend.*	diminish if the proposed rules are adopted.
40.	Hon. Martha E. Bellinger Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I have been on the court for over 15 years. During that time I have taught at the judicial college as well as numerous CJER institutes. I have also been an Adjunct Law Professor at an ABA school for 18 years. I understand the value of continuing education but firmly believe we as professional people should be entrusted to educate ourselves. We are elected constitutional officers and if we do not maintain the public trust through scholarship and knowledge of the area of law we are handling for the court system, we can be recalled by the electorate.	The committee does not agree that the potential for individual recall by the electorate counterbalances the need for public commitment by the judicial branch to continual internal improvement and branchwide professional excellence. The proposed rules are not intended to imply that individual judges cannot be trusted to educate themselves; beyond initial content, the proposed rules leave continuing education to the discretion of the individual judge. The flexible continuing education requirement is intended to ensure that professional development is an acknowledged value in the judicial branch.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Branchwide education requirements are not just about an individual judge's accountability to his or her electorate; they clearly demonstrate the branch's accountability to the collective public, to the other two branches of government and to ourselves. Ongoing professional development and internal improvement are fundamental values of the judicial branch.
41.	Hon. James G. Bertoli Judge Superior Court of Sonoma County	N	N		
42.	Hon. Steven Blades Judge Superior Court of Los Angeles County	N	N		
43.	Mr. Gary Blair Executive Officer Superior Court of Santa Barbara County	N	N	In general, I am in favor of staff training. I simply do not think it is wise to make it mandatory. I believe that there should be standards to follow rather than mandated rules.	The committee believes the requirements are necessary. T*he requirements clearly demonstrate the branch's accountability to the collective public, to the other two branches of government, and to ourselves. Ongoing professional development and internal improvement are fundamental values of the judicial branch.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				There are several labor-related concerns why I hold this belief. Minimum education requirements may well not address issues related to poor attention to duties, performance problems, too much personal time during working hour, willful neglect of responsibilities; requirements would produce at least some degree of: a less discretion at the individual trial court level; fiscal burden on the court; time away from job duties; resistance to minimum education requirements.*	The council may exercise it's constitutional rule-making authority over court administration by setting minimum education requirements for court staff, which may create a meet-and-confer requirement to meet with court unions over the effect of the rule, i.e., how the rule will be implemented. The AOC will assist courts with implementation of the rules for court staff. In addition, the training requirements are intended to provide employees with tools to enhance their job skills, but it remains the responsibility of the employee to perform the duties of the position in a satisfactory manner. Regardless of training requirements, corrective measures will be appropriate if an employee fails to perform the job duties in a satisfactory manner or if the employee demonstrates unsatisfactory conduct (i.e., tardiness, insubordination).

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
44.	Hon. Paul Boland Court of Appeal, Second Appellate District	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
45.	Hon. Robert S. Bowers Judge Superior Court of Solano County	N	N		
46.	Hon. Laurel S. Brady Judge Superior Court of Contra Costa County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
47.	Hon. Gilbert Brown Judge Superior Court of Santa Clara County San Jose	N	N	Substance of or need for rules: This is another intrusion into the independence of the judiciary. Judges are not politicians and shouldn't be forced into taking political actions at the whims of politicians (i.e., "looks good"). It doesn't matter where the intrusions come from, whether it's from internal or external sources. We need to maintain our independence from the other two branches.	*The committee does not believe that education requirements are an intrusion into the independence of the judiciary. There are two kinds of independence: independence of the judiciary as a third branch of government and independence of each judge in his or her handling of cases and decision making.* • *Regarding the independence of the branch, the requirements, if*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					approved, are an example of the judiciary implementing internal practices to ensure continued improvement of the branch, strengthening its independence from the other two branches of government. • *Regarding the ability of a judge to exercise independence in handling cases and in decision making, education requirements will contribute to the knowledge and skills of judges, enabling them to most effectively decide the issues before them.*
48.	Hon Susan Bryant-Deason Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I do not support mandatory education requirements for any state court judges. My opinions were captured by Justice Hollenhorst. [Comment from Justice Hollenhorst] This same proposal was made in 1994 and rejected. The rational set forth by the proponents are of dubious merit. The legislature has shown no interest in imposing MJE in part, I presume, because they know it would be stricken as violative of separation of powers. The public, according to the most	[Response to Justice Hollenhorst:] This is not the same proposal that was made is 1994. The committee does not agree that the proposal is of dubious merit; the committee has nothing to gain from the proposal other than ensuring branchwide improvement and professional

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				recent polls, is very satisfied with the work and quality of judges in California. There are already mechanisms in place to keep judges up on the law including canon 3B(2). There is NOTHING compelling to support the proposal and, in my view based on 26 years of experience with CJER, requiring judges to attend classes will take the pressure off of producing quality programming. Finally, this issue is so divisive that it has caused judges not to speak to each other, created disrespect for the Chief and Bill Vickrey, and torn CJA apart. It is likely, in my view, that another more militant organization will be born from the chaos and hard feelings within CJA over this proposal.	excellence. The committee does not agree that the Legislature has shown no interest in judicial education; instead the committee references the genesis of current requirements regarding family law, juvenile dependency, and sexual harassment generated by legislative action based on specific situations brought to its attention. In addition, recent newspaper articles in Los Angeles regarding problems with probate matters have generated a considerable interest in the legislature, and the 2005 Attorney General report on domestic violence cases generated a six-month audit of judicial education by the Bureau of State Audits. The committee does not agree that requirements will affect the quality of judicial education; as only one provider, CJER already delivers enough content for each California judge to earn 15 hours per year, 50% more than the proposed rules require. And the dedication and commitment to quality of judges

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					teaching the New Judge Orientation and Judicial College are testament that quality is always paramount.
49.	Hon. Dennis J. Buckley Judge Superior Court of Yuba County	N	N		
50.	Tina M. Burkhart Executive Officer Superior Court of Glenn County	N	N	<u>Substance of or need for Rules:</u> I don't think I could say it better than Len (LeTellier) and Jack (Clarke). Thank you so much for this opportunity to comment. [Comment by Len LeTellier:] I am very supportive of education and believe that it is my responsibility as CEO to assure that my staff has the necessary tools, skills and education to perform their duties. I think these recommendations should be guidelines, not rules. As rules, they have the potential to create labor grievances and negatively impact operations. Every organization has a percentage of staff that are "deadwood". They are marginally productive at best, and are experts at avoiding work or just aren't capable of doing more. No amount of training or education is going to improve their performance. Under the proposal, a court would be required to incur cost to send these individuals to training. If a court fails to send these individuals to the required	[Response to Len LeTellier:] The committee does not believe that minimum education requirements pose any greater risk than voluntary education without education requirements. A staff member could claim lack of training as a reason for poor performance with or without requirements. The committee believes that courts could use education requirements to help ensure that employees not performing well are given tools to perform at the expected level; if, after education, the employee fails to perform, the court would have grounds for disciplinary action and

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				training, they can claim "lack of training" to argue a poor performance review, or simply file a grievance against the court for failing to meet a requirement. Conversely, each court has a group of "workhorses" who produce two or three times the average work product and train the rest of the staff. Their absence to satisfy a mandatory requirement could have serious negative operational impact. It is not a "one size fits all." To make education mandatory for all staff crosses the line of diminishing return, and negatively impacts the court's ability to manage effectively and efficiently.* [Comment by Jack Clarke] The assessment and implementation of appropriate training for management and staff is an inherent responsibility of the Court's Executive Officer, as is his/her own professional development. Mandatory statewide requirements are not necessary, do not take into consideration local needs, resources and requirements, and discount the unique local differences in courts. The proposed requirements have the potential for placing a severe financial and staffing burden on some courts. To accomplish the mandatory training	evidence that the employee had been given the educational opportunity to improve performance. Regarding court personnel who perform well, their ability to continue to enhance their skills would further benefit the court and the public. The proposal was not designed as a "one size fits all" model; after initial education, content is at the discretion of the local court, can be based on individual need, and can come from many providers. [Response to Jack Clarke:] *The committee acknowledges the uniqueness of Los Angeles as a very large court with multiple locations.* The committee agrees that appropriate training for management and staff is an inherent responsibility of the executive officer, as is his or her own professional development; the proposed rules were drafted in consultation with several executive officers. The committee believes

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				hours for management and staff in the proposed rules would require the Los Angeles court to provide 46,000 hours of training every two years. An impossible task given recent years of budget shortfalls. Staff would lose over 23,200 man hours per year in productivity, the equivalent of 2,900 days. The proposed changes pose a significant impact that has not had the benefit of a details and rational review, without which imposition of the proposed rules is premature and ill advised.*	that the requirements are necessary because they are intended to ensure branchwide professional excellence. The committee believes that the proposed rules do take into consideration local needs and resources: they were drafted to be minimal, flexible, and attainable at the local level, with content left to the discretion of the local court. Because of the flexibility of obtaining the required hours and the small number of hours required, the committee believes that the requirements are attainable. When considered in aggregate, the numbers given in the comment do seem quite large, but when compared with overall work hours, the proportion of time to be spent in training is more readily visible: managers and supervisors—12 out of 4,160 full-time work hours or one and one-half to two days out of 520 work days in each two–year period; court personnel—8 hours out of 4,160 full-time work hours or one day out of 520 work days in

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					each two–year period. If court personnel and managers and supervisors receive any training currently, that training can serve as a basis for the requirements. The committee appreciates the magnitude of implementing education requirements in Los Angeles and hopes to clarify that the need for 46,000 hours of training every two years appears to be "participant hours" rather than hours of training that must be individually developed and delivered (participant hours are calculated by multiplying the number of individuals in a session by the length of the course–for example, 30 participants in a 4–hour course total 120 participant hours). The committee believes that time spent in education results in increased effectiveness and efficiency, long-term benefits that should be a constant goal. While the committee acknowledges that Los Angeles is an extremely large court, it is also a court with

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					significant resources. The committee felt that with multiple providers (including the local court) and education that can be earned through online courses, one-on-one cross-training, broadcasts, as well as live courses, the impact of implementation and of time away from court duties would be minimized.
51.	Hon. Roland Candee Judge Superior Court of Sacramento County	N	N	Substance of or need for rules: We should never agree to mandatory education requirements without 1) new funding to pay for the minimum, 2) new judgeships to account for the lost time, and 3) a PJ's ability to waive if appropriate (examples: a) a judge in a last term doing a job they've done for a long period of time with no desire for expanded education; b) a judge in the Reserves or National Guard that gets deployed to Iraq. The mandatory requirements should replace the "suggested" standards altogether so there isn't a specific number beyond the minimum – otherwise you crate an administrative nightmare and statewide inconsistencies on judicial treatment I agree our court personnel should also get training but mandatory minimum education tells	While the committee agrees that the judicial branch is in need of and should continue to pursue additional needed resources, the committee does not believe that education requirements should be contingent on additional funding or judgeships. Current offerings/opportunities for professional development are more than adequate for judges to meet the proposed continuing education requirements; as only one provider, CJER currently offers enough education for each judge to obtain 45 hours in a three–year period, while the minimum requirement is only 30 and there are numerous

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				me as a PJ and tells my CEO as an administrator that we aren't (and can't) do our jobs without dictatorial mandates from above. Regarding education of court personnel – the rules imply the PJ and CEO cannot do their jobs without a mandate from above.	other providers. While the need for additional judgeships is evident, the ongoing professional development of existing judges should not be tabled; it is even more important given the complexity of cases and volume of work. The committee discussed the pros and cons of giving presiding judges the authority to grant a waiver and decided that authority to grant time extensions was the better option. Regarding court personnel, the proposed education requirements are not intended to imply that presiding judges and court executive cannot do their jobs without a mandate; they are, instead, intended to engage each individual in the judicial branch in his or her own professional development and to make participation in education a branchwide expectation and duty. Each member of the public should know that regardless of the court and court employee, he or she can expect the highest level of

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					professionalism, the greatest level of respect, and use of the most current approaches in resolving his or her issues.
52.	Hon. Theresa J. Canepa Judge Superior Court of Contra Costa County	N	N	Substance of or need for rules: I strenuously oppose the proposal to mandate continuing education, for the reasons stated so eloquently by Judges Ron Sabraw and Mark Cope.	Judges Sabraw and Cope did not submit public comments on the proposal. Thus the committee cannot effectively respond to this comment.
53.	Mr. Stephen Cascioppo Executive Officer Superior Court of El Dorado County	N	N	Substance of or need for rules: I believe training is good. I don't really agree with "mandated," especially since all of us would (and do) send staff to training on our own. The biggest concern I have on this proposal is the cost. Another mandate will bring another unfunded cost. Training for my court will include hard and soft costs. But in a court my size, without a training department, I would need to hire professional trainers, which, according to their brochures, would charge $100–250 per person. And, of course, finding the right day where staff could actually attend would be another headache.*	The committee understands the fiscal concerns but does not believe that use of private-industry professional trainers is necessary. Managers, supervisors, and court personnel have access to broadcasts and online courses in sufficient amounts to meet minimum education requirements. In addition, one-to-one cross-training, automated business training (CARS, CHRIS, CCMS), and other courses now being delivered routinely are readily available regionally and at the local court. Finally, several courts have offered to share faculty, open their courses to neighboring courts, or otherwise assist courts with limited training

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					resources.
54.	Hon. Norma Castellanos-Perez Commissioner Superior Court of Tulare County	A	N	Substance of or need for rules: I believe the rule should include requirements for specific courses such as fairness and domestic violence; DV issues are present in so many cases that every judicial officer needs to understand the area of California law as well as develop the skills necessary for fact-finding and working with the parties affected by this issue.	The committee appreciates the suggestion to add specific courses. During the three–year process that resulted in the proposed rules, the committee received many suggestions regarding content areas that should be required. Rather than add more content requirements, the committee determined that the curriculum development process that the education committees and CJER staff have undertaken will incorporate numerous content areas into substantive law education. This will ensure that relevant content will be addressed. Domestic violence, access and fairness, ethics, procedural fairness, and other topics will always be content areas that foster standalone courses; in addition the curriculum work will incorporate these topics as appropriate and applicable into civil, criminal, family, juvenile, probate, and traffic law content.
55.	Hon. Hilary A. Chittick	A	N	Substance of or need for rules:	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Assistant Presiding Judge Superior Court of Fresno County			I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
56.	Mr. John [Jack] A. Clarke Executive Officer Superior Court of Los Angeles County	N	N	<u>Substance of or need for rules:</u> The assessment and implementation of appropriate training for management and staff is an inherent responsibility of the Court's Executive Officer, as is his/her own professional development. Mandatory statewide requirements are not necessary, do not take into consideration local needs, resources and	*The committee acknowledges the uniqueness of Los Angeles as a very large court with multiple locations. The committee agrees that appropriate training for management and staff is an inherent responsibility of the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				requirements, and discount the unique local differences in courts. The proposed requirements have the potential for placing a severe financial and staffing burden on some courts. To accomplish the mandatory training hours for management and staff in the proposed rules would require the Los Angeles court to provide 46,000 hours of training every two years. An impossible task given recent years of budget shortfalls. Staff would lose over 23,200 man hours per year in productivity, the equivalent of 2,900 days. The proposed changes pose a significant impact that has not had the benefit of a details and rational review, without which imposition of the proposed rules is premature and ill advised. *	*executive officer, as is his or her own professional development; the proposed rules were drafted in consultation with several executive officers. The committee believes that the requirements are necessary because they are intended to ensure branchwide professional excellence. The committee believes that the proposed rules do take into consideration local needs and resources: they were drafted to be minimal, flexible, and attainable at the local level, with content left to the discretion of the local court. Because of the flexibility of obtaining the required hour, and the small number of hours required, the committee believes that the requirements are attainable. When considered in aggregate, the numbers given in the comment do seem quite large, but when compared with overall work hours, the proportion of time to be spent in training is more readily visible: managers and supervisors—12 out of 4,160 full-time work hours or one*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					and one–half to two days out of 520 work days in each two–year period; court personnel—eight hours out of 4,160 full-time work hours or one day out of 520 work days in each two–year period. If court personnel and managers and supervisors receive any training currently, that training can serve as a basis for the requirements. The committee appreciates the magnitude of implementing education requirements in Los Angeles and hopes to clarify that the need for 46,000 hours of training every two years appears to be "participant hours" rather than hours of training that must be individually developed and delivered (participant hours are calculated by multiplying the number of individuals in a session by the length of the course–for example, 30 participants in a 4–hour course total 120 participant hours). The committee believes that time spent in education results in increased effectiveness and efficiency, long-

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					term benefits that should be a constant goal. While the committee acknowledges that Los Angeles is an extremely large court, it is also a court with significant resources. The committee felt that with multiple providers (including the local court) and education that can be earned through online courses, one-on-one cross training, broadcasts, as well as live courses, the impact of implementation and of time away from court duties would be minimized.
57.	LaRayne Cleek Executive Officer Superior Court of Tulare County	N	N	Substance of or need for rules: I am a great supporter of educational programs, but I am not in favor of mandatory training for the court executive officers, court managers, and court staff. The very establishment of California Rules of Court providing for mandatory educational compliance creates an arena begging to be challenged, ridiculed, and abused. The cost of implementing, maintaining and enforcing such program of mandatory education would be staggering. It would seem to me that a better use of resources would be that AOC provide effective, efficient, and cost effective educational tools and guidelines.	The committee believes that educational requirements will ensure that each individual has the most up-to-date knowledge, skills, and abilities to most effectively fulfill his or her role. Each member of the public should know that regardless of the court or the judge, he or she can expect the highest level of professionalism, the greatest level of respect, and use of the most current approaches to resolving his or her issues. Regarding costs, the committee

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Thank you for this final opportunity to comment.	assumes (a) that court personnel currently receive some education, so there is a baseline;(b) that 8 hours in a two–year period out of the 4,160 hours each full-time employee works is reasonable; and (c) that with online courses, broadcasts, one-on-one cross-training, AOC education offerings (regional courses, CCMS, CARS, and CHRIS, to name a few), and the ability of local courts to develop and deliver what is needed locally, numerous low-to-no-cost options are readily available.
58.	Hon. James P. Cloninger Judge Superior Court of Ventura County	N	N	Substance of or need for rules: First, it is not necessary. The judges with whom I work and who I know are quite good at maintaining their legal skills. This is a solution in search of a problem, at best, or an overly broad solution to the potential problem of a few judges, in a few places, who do not read or stay abreast of legal developments. It is undesirable to impose a mandatory continuing ed. burden on all to deal with a problem which may be present in a very small number of cases. Authority of Judicial Council:	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. All participants in education learn to differing degrees whether required*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Second, I do not believe that the Judicial Council has the power to enact this requirement by the rulemaking process. The requirements for being a judge are set forth in the Constitution and codes, the Council cannot lawfully add to them by rule. While it would not be doing so directly, it would be doing so indirectly with the threat of action by the CJP for non-compliance.	*to attend or not. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, well evaluated, and contributed to a reduction in complaints to the CJP.* *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006.)*
59.	Hon. Julie Conger Judge Superior Court of Alameda County	N	N	<u>Substance of or need for rules:</u> I have devoted much of my judicial career (23 years) to furthering and improving judicial education for California judges. I am opposed to the Proposed Rules mandating minimum educational requirements for the following reasons: 1. The rules are unnecessary. The current	1. The committee agrees that

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				system is acknowledged to be the finest in the country and judges take advantage of it. There is no showing that the public has lost or is losing confidence in the competence of the judiciary. Canon 3B(2) requires that judges maintain professional competence in the law	judicial education in California is the best in the country but does not agree that the proposed rules in any way diminish that. While the recent Public Trust and Confidence survey did show an overall improvement from the survey done in the 1990s, the report issued by the researchers further noted that there were areas in which judicial branch education was necessary and that minority populations did not have the desired level of confidence in the system (see response to comment # 14 earlier in this document or comment # 94 later in this document for details on findings from the survey).
				2. Mandatory education compromises the quality of judicial education programs and increases staff control and involvement to the detriment of judicial input. Chief Justice George supported an exemption from MCLE requirements for retired judges who have returned to active Bar status "because of the high level of legal skills and qualifications that generally are required to obtain a position as a judge…" This reasoning is all the more cogent and persuasive when applied to sitting judges	2. The committee does not agree that required education will alter the current system of judges comprising the education committees, serving as faculty, or determining content. The committee does not agree that education requirements will cause any increase in staff involvement. Regarding retired judges who are part of the Assigned Judges Program, while they are exempt

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				who receive this continuing education on a daily basis.*	from MCLE, they have required judicial education as determined by the Chief Justice.
60.	Lucille Corioso Accounting Supervisor Superior Court of Monterey County	A	N		
61.	Hon. Richard A. Curtis Commissioner Superior Court of Los Angeles County	N	N	<u>Substance of or need for rules:</u> I've always been self-motivated to take as much bench education as time will allow . I do this out of a sense of duty to the public and to myself. I want to be at least as expert as the best attorneys who practice before me. A prime motivator for any bench officer ought to be not wanting to look like a fool on the bench. I believe it is for the vast majority of the California trial court bench as well. California is blessed with the most knowledgeable, diligent, and least corrupt state judges of any state in the nation. California's current system of voluntary judicial continuing education is the pride of our judiciary and the flagship of state education programs. I join in the eloquent and principled expression of views communicated by Justice Thomas Hollenhorst and Judge Ronald Sabraw in their recent conditional letters of resignation from CJA over the issue of mandatory judicial	The committee acknowledges the individual commitment to professional development made by many judges and agrees that the quality of the current judicial education is outstanding. The committee believes the proposed rules are necessary, however. The focus of the proposal goes beyond individual participation and addresses a branchwide commitment to ongoing improvement, both individually and institutionally. The conditional letters of resignation from the CJA sent by Judge Sabraw and Justice Hollenhorst were not submitted as part of the public comment process,

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				education. The independence of individual judges and therefore of the judiciary is at stake. <u>Authority of Judicial Council:</u> I agree with those judges who have expressed a concern that mandatory judicial education, imposed by the Judicial Council by its rule making power on a highly strained reading of the phrase "judicial administration," is destined to result in a stultifying regimen of uniform training and is an insult to the judiciary and a threat to judicial independence.	thus the committee cannot effectively respond to that portion of the comment. Justice Hollenhorst did submit a public comment. [Response to Justice Hollenhorst] *This is not the same proposal that was made in 1994. The committee does not agree that the proposal is of dubious merit; the committee has nothing to gain from the proposal other than ensuring branchwide improvement and professional excellence. The committee does not agree that the Legislature has shown no interest in judicial education; instead the committee references the genesis of current requirements regarding family law, juvenile dependency, and sexual harassment generated by legislative action based on specific situations brought to its attention. In addition, recent newspaper articles in Los Angeles regarding problems with probate matters have generated a considerable interest in*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the Legislature, and the 2005 Attorney General report on domestic violence cases generated a six–month audit of judicial education by the Bureau of State Audits. The committee does not agree that requirements will affect the quality of judicial education; as only one provider, CJER already delivers enough content for each California judge to earn 15 hours per year, 50% more than the proposed rules require. And the dedication and commitment to quality of judges teaching the New Judge Orientation and Judicial College are testament that quality is always paramount. *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.) The committee does not agree that the proposed rules will result in a stultifying regimen of uniform training; current offerings by numerous providers will remain available and judges have great flexibility in choosing content based on self-identified need or interest. In addition, the committee does not believe that the proposed rules are an insult to the judiciary; 43 states have continuing education requirements. Finally, the committee does not believe that the proposed rules are a threat to judicial independence; the proposal underscores the independence of the branch by instituting continuing education requirements from within

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the branch and ensures that every judge has the most current knowledge, skills, and abilities to make his or her independent decisions most effectively.
62.	Hon. John Davidson Judge Superior Court of San Diego County	N	N	Substance of or need for rules: I honestly think the current system of judges' college for new judicial officers and the process of VOLUNTARY continuing education through CJER is both adequate and appropriate. There is absolutely no need to burden the judiciary with yet another requirement which would interfere with our ability to meet our demanding case loads and force us to do that which any responsible judge would do in any event. I personally feel this is an infringement upon the smooth functioning of the courts and is somewhat demeaning to our independently-elected office as judges. I am all for education but feel with the exception of the core education offered by Judges College, each Judicial Officer should be allowed to decide upon his or her topics of interest and attend the many wonderful educational programs offered by CJER without deadlines or pressure.	The committee does not believe that education requirements are demeaning to the independently elected office of a judge or are an infringement on the smooth functioning of the court. The proposed requirements highlight the complexity of the work of judges and the need for the highest level of education in order to most effectively fulfill that role. And there is individual discretion as to content within the proposed number of hours. The committee also does not believe that the requirements infringe on the smooth functioning of the court. Almost all of the requirements for continuing education can be earned through multiple providers, including the local court, and many hours can be

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					earned through online courses or self-study. The committee believes that education can improve the functioning of the court.
63.	Hon. William Davis Judge Superior Court of Siskiyou County	A	N	Substance of or need for rules: I would be in favor of a higher standard – 45 hours in three years would be my preference, so that trial judges can be assured the time and funding to remain adequately up to date.	The committee appreciates the suggestion for a higher standard and agrees that 45 hours would be desirable, but the committee also acknowledges the potential burden that some courts might feel. The committee thoroughly discussed the amount of time for the continuing education requirements and felt that, as a minimum, 30 hours in three years would be sufficient to engage all members of the branch in meaningful education that would contribute to their continued professional development. The committee hopes that judges will participate in education as outlined in the Standards of Administration– eight days per year.
64.	Hon. Juan Carlos Dominguez Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: For all of the reasons that have been amply stated, I oppose the implementation of mandatory education requirements for judicial officers.	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
65.	Hon. H. Ronald Domnitz Judge Superior Court of San Diego County	A	N	Substance of or need for rules: I believe most Judges support the efforts of the AOC regarding Judicial Branch Education.	The committee appreciates the support but wants to make clear that the proposal is from an advisory committee of the Judicial Council, the CJER Governing Committee, and that the AOC will be only one of many providers.
66.	Hon. Faye D'Opal Judge Superior Court of Marin County	A	N	Substance of or need for rules: I support the intent, terms and implementation schema of mandatory judicial education as set forth in the proposed new rules. Mandatory judicial education does not usurp the independence of the judicial officers, or micromanage the judicial officers, or impose similar charges. Mandatory judicial education helps ensure that judicial officers have top-notch skills and current knowledge of the law; such attributes are crucial to teach judicial officer enjoying best practices, modeling the highest of ethics, and making fair and just decisions. Such standards also build public confidence in our courts.	
67.	Hon. Leo Dorado Judge Superior Court of Alameda County	N	N	Substance of or need for rules: I am strongly opposed to the proposed rules for Mandatory Judicial Continuing Legal Education. California judges are elected officials, responsible and accountable to the citizens of their county, they are not employees	The committee does not believe that the proposed rules imply that judges are employees. They have been developed and proposed by judges. The committee agrees that the California Judges Association

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				of the Judicial Council. The California Judges Association has consistently provided educational programs that are thorough, current, professional, and highly effective. In addition, well written opinions of the appellate court provide not only critical correction, but also important guidance and education. If the Judicial Council wants to guarantee effective continuing education it should adopt rules that guarantee 10 working days a year for judicial education and fund attendance in a wide range of educational programs.	provides high-quality education; that is why the rules include the CJA as an approved provider. While the committee agrees that appellate opinions are a source of guidance and education, the opinions do not counterbalance or negate the need for or the benefit of formal education. Regarding time for educational pursuits, the Standards of Judicial Administration call for up to eight days per year for judges to participate. Regarding funding, in a separate proposal the Judicial Council will consider a chambers budget that enables each judge to seek reimbursement for up to $2,000 per year for professional development including association dues, legal publications, and participation in educational activities.
68.	Hon. Frank Dougherty Presiding Judge Superior Court of Merced County	A	N	<u>Substance of or need for rules:</u> I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
69.	Hon. Albert Dover Presiding Judge Superior Court of Nevada County	N	N	Substance of or need for rules: California has as good a judicial program as exists anywhere in the world. In no small measure it is because it is by and for bench officers. That is, bench officers who want to teach and are teaching bench officers who want to learn. What teach people who do not want to learn and resent being present for "mandatory" education? Can one be forced to learn? The obvious answers should not obfuscate the more important principle, to wit: It is and has been the spirit of voluntary education that has maintained	The committee agrees that voluntary education has built a great system, but the committee does not believe that requirements will cause a loss of faculty or that maintaining a voluntary system is the most worthwhile use of judicial education. Part of the greatness of judicial education in California is the involvement of numerous judges in planning and teaching courses; currently, 300 judges

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				the great system we have today,. How will it be debased if MJE is implemented? As a practical matter we will lose many of our best teachers who want nothing to do with teaching those who do now want to be taught. Fundamentally, MJE will kill the spirit that supported excellence. Keep the system as it is and its' own excellence perpetuate it to its fullest and most worthwhile use.	participate on education committees and serve as faculty for CJER courses; this number does not include those who serve in similar capacities at the local court level or in court-related associations. These individuals take great pride in the quality of their courses, and they deal with a wide variety of participants as a routine matter. The committee does not believe that additional education requirements will diminish their professional commitment to high-quality education. There have been education requirements (New Judge Orientation and the Judicial College) since 1996, so they have been part of the system in California for 10 years. Those programs continue to receive high ratings in evaluations. The Qualifying Ethics courses, although only required if a judge wants to access the CJP insurance, has contributed to reduced complaints to the commission. The committee believes learning takes place even

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					when a course is required, and many judges want to serve as faculty for these required courses.
70.	Hon. Sean P. Dowling Judge Superior Court of Nevada County	N	N	Substance of or need for rules: Mandatory education is unnecessary and the issue divisive for the many reasons already expressed by other bench officers. What is needed is additional support for the existing voluntary education, including many for visiting judges, in order for bench officers to fully utilize current programs. This should certainly be the case with instructors, and that would be a good place to start. My view is that mandatory education will be much like Basket Weaving 101 and will not improve judges or the system. I believe existing judicial education is the best in the land. Why take the risk of mediocrity? To suggest we lack the interest or motivation to remain educationally fit is simply an insult to the integrity, dedication, and professionalism of those on the bench.*	The committee agrees that additional support is needed for judges to attend educational events but also believes that the quality of judicial education will be maintained with minimum education requirements. CJER, as only one of many providers, currently offers enough education for each judge in California to earn 15 hours per year, 50% more than the proposed rules require. Current offerings by a multitude of providers will continue; the content currently available for judicial education far exceeds what is required in the proposed rules. Further, the committee does not believe that required education is an insult to judges.
71.	Hon. Anita H. Dymant Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I have been involved with judicial education for all of my nearly 15 years on the bench, the last 10 of which I have been an instructor at numerous local, CJER and other programs.	The committee agrees that additional funding is needed to enable judges to attend educational events and will continue to pursue that goal. *In a separate proposal,*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Nevertheless, I am opposed to the concept of mandatory educational requirements. If the Judicial Council truly wants to increase participation, it should offer to underwrite the cost of attending; for example each judge/commissioner would be eligible to receive funding for one program yearly. I would also not oppose a statement strongly encouraging participation in such programs. Thank you for considering my views. <u>Authority of Judicial Council</u>: I simply believe that as independent elected officials, judges cannot be subject to such a rule.	*the Judicial Council will consider a chambers budget enabling each judge to seek reimbursement for up to $2,000 per year for professional development activities, including association dues, legal publications, and participation in education events.* *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
72.	Hon. Wayne Ellison Judge	N	N	<u>Substance of or need for rules</u>: For all the reasons articulated by a Judge from	The committee does not believe that minimum education requirements

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of Fresno County			Northern California in a letter to Terry Friedman, CJA President, as follows, I oppose mandatory judicial education: "In my view, there has been a steady erosion of the independence and authority of individual judges over the last 20 years. The march toward micro managing every aspect of a judge's work continues unabated. The AOC's mandatory judicial education proposal is merely the latest example. My fear is that over time judges will be reduced to mere administrative functionaries whose every working moment will be measured, managed, directed and critiqued by bureaucrats. … Yet what has evolved over time is often the imposition of petty, picayune, pedantic… insulting rules… that erode the judge's sense of authority, independence and autonomy in discharging their sworn duties…" Thank you for the opportunity to comment.*	contribute to minimization of the judicial position. Instead the committee believes that educational requirements will ensure that each judge has the most up-to-date knowledge, skills, and abilities to most effectively fulfill his or her role.
73.	Hon. Mildred Escobedo Judge Superior Court of Los Angeles County	N	N	Authority of Judicial Council: The Judiciary is the third tier of a tripartite form of government established by this country's constitution. The purpose of the tripartite form of government is to maintain the independence of each branch of government. Each branch that operates independently serves as a check and balance against the other. We must maintain that independence and not permit any	*The committee agrees that judicial branch should maintain its independence. The proposed rules have come from within the judicial branch, not the legislative or executive branches; the committee is concerned, however, that if requirements are not created within the branch, and judges do not craft*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				governmental agency to dictate what the judiciary must do. I vote NO mandatory education. Judges are responsible enough to attend courses they need to attend as it is.	*the curriculum, requirements may come from another branch of government and thus may not reflect the needs of the judicial branch.*
74.	Hon. Tim Fall Judge Superior Court of Yolo County	N	N	Substance of or need for rules: I have taught judicial education courses for years, starting with court management in 2000, and continuing to the present with ethics classes in QE 2 and QE 3. California's judicial education programs are the envy of the nation. Making them mandatory will not improve their quality, nor their attractiveness to judges. The only increase will be participation by judges who do not want to be in class anyway. There will be a decrease in the quality of judicial education when the voluntary nature of class membership and participation is extinguished. There will be an increase in the expense of providing increased programming for which	The committee agrees that the judicial education programs of California are the envy of the nation. In addition, the committee believes that the quality of judicial education will be maintained with minimum education requirements. Each year planning and implementation of judicial education are done by more than 300 judges who serve on education committees and/or as faculty. The high quality of courses is based on their commitment to serve their colleagues and improve the judicial branch. Minimum education requirements will not alter the planning/implementation process or the commitment of these judges to deliver high-quality courses. The committee does not believe that there will be a need to provide

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				there is no demonstrated need. If there is to be mandatory education, it should be for all court levels.*	increased programming for judges. CJER currently provides enough education for all judges in California to participate in 15 hours per year, or 45 hours in three years. CJER will not increase its programming; content may change based on minimum education requirements and on the work of the education committees. CJER is only one of many providers. Given the many providers, the current availability of programming for judges exceeds the minimum education requirements in the proposed rules. *Regarding minimum education requirements for all levels of courts, the committee has made clear that minimum education requirements for the trial courts were an initial step, undertaken for several reasons, and that if proposed rules are approved, the committee would assess whether to recommend requirements for the appellate courts.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
75.	Hon. Susan P. Finlay (Ret.) Assigned Judge Coronado	A	N	Substance of or need for rules: It is important that Judicial Education be seen as a duty, to the court and to the community, as well as an opportunity for personal professional growth. It is a necessary part of court administration and planning. It is the mark of a profession. Every profession has continuing education requirements established by the professional association and/or board. We can either have a system where every court determines its own individual response to this requirement, which we have had in the past and hardly seems professional or in the best interests of good court administration, or a statewide system, run by the Judicial Branch, which guarantees judges and courts a minimal education benefit to meet their needs.*	
76.	Hon. Tia Fisher Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I concur with the opposition that has been voiced by many jurists statewide regarding mandatory education.	
77.	Hon. David B. Flinn Judge Superior Court of Contra Costa County	N	N	Substance of or need for rules: I concur entirely with the comments of Judge Ronald Sabraw which have been circulated. Like him, I have been teaching in CJER programs for some 6 years and often attend as a 'student' as well. I believe that the vast majority of our judges do so. I trust that those that have	The committee does not have comments from Judge Sabraw and thus cannot effectively respond. *Branchwide education requirements clearly demonstrate branch accountability to the collective*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				been through the careful appointment process to be selected and then are elected to this honorable position either attend sufficient judicial education programs or have a valid and good reason for not doing so (e.g a single assignment in which they have achieved a high degree of knowledge and competence and in which they keep up, by reading, with the latest law and techniques).	*public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.*
78.	Hon. Mark R. Forcum Judge Superior Court of San Mateo County	N	N	Substance of or need for rules: I strongly oppose mandatory judicial education. There is no constitutional authority to create this rule and enforce it. The current voluntary system of judicial education works in an exemplary way. The judges I work with view judicial education as a daily ongoing process because we care deeply about our work and the citizens of San Mateo County. Quite frankly, this proposal has caused enough division. Please stop eroding judicial independence.	*The rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006 . Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)* *The committee does not believe that*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the proposed rules erode judicial independence. The proposal underscores the independence of the branch by instituting continuing education requirements from within the branch and ensures that every judge has the most current knowledge, skills, and abilities to make his or her independent decisions most effectively. *The committee agrees that the current voluntary system works in an exemplary way and that most trial judges probably do maintain their professional competence. However, the committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence but a commitment to excellence and a branchwide expectation that everyone is*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					committed to improvement.
79.	Hon. Donald R. Franson Superior Court of Fresno County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
80.	Hon. Timothy M. Frawley Judge Superior Court of Sacramento County	A	N		
81.	Hon. Josh M. Fredricks Judge Superior Court of Los Angeles County	N	N		

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
82.	Hon. Mary Fuller Judge Superior Court of San Bernardino County	AM	N	Substance of or need for rules: Why repeat in rule 10.452(a) (circulated as rule 6.402(a)) the purpose as it is stated in rule 10.451 (circulated as rule 6.401) as is the goal or objective? I see no reason to limit online education to 7 hours each period – for some courts it is difficult to get to a program. I support minimum standards.	The committee received several requests to increase the amount of credit that can be earned through online courses and self-study but decided that the current limitation is appropriate. The committee would not recommend having individual judges fully meet education requirements through online courses and self-study; great benefit is gained from actively networking with other judges, being part of face-to-face discussions and problem solving in a class, and interacting directly with faculty.
83.	Hon. Larry D. Gaddis Judge Superior Court of Placer County	N	N	Substance of or need for rules: I am clearly in favor or appropriate and ongoing judicial education. It should not be dictated by the legislature. We do not tell them how to do their jobs. The bench is responsible enough to send bench officers to the appropriate training at the appropriate time in their judicial careers. The judicial college provides the basics for the incoming judicial officer. Not all courts have the same needs of their bench officers at the same time. The legislature is not cognizant enough of our duties, needs and performance to be able to properly set up a curriculum. Plus, it	*The committee agrees that judicial branch should maintain its independence. The proposed rules have come from within the judicial branch, not the legislative or executive branches; the committee is concerned, however, that if requirements are not created within the branch and judges do not craft the curriculum, requirements may come from another branch of government.* The committee believes that

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				is not their function. We are a separate branch of government. The courts have demonstrated our competence in this area and it should be left well enough alone. If it ain't broke, don't fix it.	continued improvement of the judicial branch is not based on "something being broken," but is based instead on a branchwide commitment to ensuring that we are the best that we can be. The proposal's focus is ongoing individual and institutional improvement.
84.	Lisa M. Galdos Court Executive Officer Superior Court of Monterey County	A	N	Substance of or need for rules: I support 100% the proposed judicial branch education requirements for managers supervisors and line staff. I am a firm believer in education and it is important that the branch continue to provide training opportunities to our colleagues. Knowledge is a powerful tool and with it we can provide exceptional service to all court users.	
85.	Hon. Catherine Gallagher Assistant Presiding Judge Superior Court of Santa Clara County	AM	N	Substance of or need for rules: There is no need for mandatory education. Most California judges take their responsibility to be informed very seriously. While there could be a problem with a few judges, this proposal is too broad. The problem of a few judges should not be solved by requiring all judges to be subject to mandatory education. I would suggest that the problem, if there is one, be addressed with a scalpel not a hammer.	The committee believes that there is a need for mandatory education, but the sole impetus of the proposal is not the group of judges who apparently do not participate in continuing education. The committee believes that the judicial branch should create an environment of professional excellence, internally focus on

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					ongoing improvement to best serve the public, and make a public commitment that ongoing professional development is highly valued within this branch of government.
86.	Hon. Brian F. Gasdia Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: From the time of my appointment in 1997, judicial education through CJER, including the one-week orientation and the two-week judges' college, has been excellent. Each time my assignment has changed (criminal to family law, family law to civil, civil to felony trials, etc.) CJER has been there with the right materials and the right instructors to help make the transition. It is offensive and unnecessary to make mandatory an ongoing education system that is already in place and already provides the knowledge we judges desire, why create such a divisive issues over something where there is no existing need?	The committee appreciates the feedback that CJER has served your educational needs. *The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to entering a new area of responsibility; beyond the minimal initial content, judges are free to choose what they deem appropriate based on their respective assignment or other professional interest.*
87.	Hon. Francis Gately	N	N	Substance of or need for rules:	The committee believes that the

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Judge Superior Court of Los Angeles County			The proposal for mandatory minimum requirements for judicial education is an attempted 'solution' to a problem that does not exist, i.e., an uneducated and uninformed judiciary. The level of education and preparation of our (California) trial courts is second to none. Furthermore, no presiding judge would ever assign any unprepared judge to a caseload without adequate preparation. I am not aware of any elected official having to submit to involuntary education from a bureaucratic entity. This is especially important for members of the judicial branch of government. An independent judiciary is the bulwark of a free and democratic society. The voluntary system we have seen for generations has serves us well. In my view, it is largely the result of the enthusiasm of many individual volunteering their time and efforts. That same level of enthusiasm would be largely destroyed by imposing some bureaucratic. In the end, the judicial education process would be reduced due to lack of creativity on the part of presenters and boredom and resentfulness on the part of the audience.	proposed rules aim for higher branchwide goals, ongoing improvement from within and continued professional development to establish excellence in the branch regardless of the individual court or specific judge. *The committee agrees that the current voluntary system works well and that most trial judges probably do maintain their professional competence. However, the committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence, but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* The committee does not believe that compulsory education would reduce

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the level of enthusiasm of faculty in producing high-quality education and would result in mediocre education. Two of the most highly regarded programs, New Judge Orientation and the Witkin Judicial College, are currently required by rule 970. And although not required by rule of court, the Qualifying Ethics program, which is required if a judge signs up for the CJP insurance defense program, is also very highly rated. At least 43 other states have some form of required continuing education for judges.
88.	Hon. George Genesta Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I oppose the new rule on several grounds: 1. This is a solution in search of a problem. There is no evidence that there is a problem of judges failing to educate themselves or keep abreast of the law; 2. California has the premier education system for judges in the country. Judges teaching judges. 3. Each county has an informal system of rewarding judges based on competence,	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. All*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				reputation and integrity by the judicial assignment process. There is an incentive to improve skills, competence and demeanor; 4. The argument that other states have mandatory minimum judicial education requirements is not an argument in favor of such a rule In California. In most states there is a highly politicized system, where even the Chief Justice of a State Supreme Court can be elected based upon special interest financial support. 5. By maintaining an informal system of education, we recognize that our judges overwhelmingly accept the responsibility to maintain their competence. Forcing a judge to attend educational classes will not make good judges better and not make bad judges good ones.* <u>Authority of Judicial Council:</u> I am doubtful the council has the legal authority to require minimum education requirements.	*participants in education learn in differing degrees whether required to attend or not. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings in evaluations, and have contributed to reduced complaints to the CJP.* *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
89.	Hon. Maryanne G. Gilliard Judge Superior Court of Sacramento County	N	N	Substance of or need for rules: As an independently elected official, and a member of the 3rd branch of government, I strongly oppose this measure. This proposal further erodes the constitutional underpinnings of judges by imposing requirements not mandated by the state's constitution. Judges are not simply state workers—they are elected officials, answerable to the voters.	The committee does not believe that education requirements erode the constitutional underpinnings of judges. *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.).* In addition, *branchwide education requirements are not just about an individual judge's accountability to his or her electorate; the proposed requirements would clearly demonstrate the branch's*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.
90.	Hon. Bert Glennon Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: While I am very much in support of continued education, I do not support this proposal.	
91.	Ms. Kathie Goetsch Executive Officer Superior Court of Merced County	A	N	I find I agree most with Alan Slater's commentary. [Comment from Alan Slater] I think the proposal is an expression of the professional minimum standards that should apply to our respective positions in government public service. For a court, the mere "doing" of justice is not sufficient; preserving the Appearance of Justice is equally critical. It is entirely appropriate for the Judicial Council to adopt a rule regarding Education Requirements because it would speak in greater volume about the level of professionalism we have achieved in the branch. If we do nothing, the void will surely be filled eventually, but under the theory that the Judicial Branch is not capable of governing itself, even regarding a subject so	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				incredibly obvious and benign as Education Requirements. I urge the Judicial Council to support this modest proposal, which has nothing to do with autonomy or the loss thereof, nor is there any implication of some deficiency that must be corrected. The Judicial Branch has a responsibility to the public we serve to make a clear commitment to providing the best educated and best trained judicial officers and administrative staff.*	
92.	Hon. Nazario A. Tito Gonzales Judge Superior Court of Santa Clara County	AM	N	Substance of or need for rules: I will soon retire and not be affected by mandatory education 1. I do not object to judges having to complete a minimum of 10 to 20 hours per year of judicial education. I do object to AOC monitoring each judge's compliance. I also object to potentially rigid class requirements set by CJER. I prefer monitoring be done at the local level by the PJs, who would only report those judges not meeting the standards. 2. Classes must be germane to the judge's, assignment, but once the core class requirements are met, then judges should be encouraged to branch out intellectually and professionally by attending classes outside CJER's domain. The goal should be to get judges to strive for understanding and wisdom.*	The committee agrees with all of these comments and has included in the proposed rules local court monitoring by the presiding judge; many provider options; and, once core courses are completed, judicial choice of content and courses.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
93.	Hon. Elizabeth A. Grimes Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I am opposed to the Judicial Council's proposal to mandate judicial education, for all of the reasons stated by my colleagues in opposition.	The committee would like to note that the proposal is not from the Judicial Council but from the CJER Governing Committee, an advisory committee to the council. The Judicial Council has not yet been asked to act on the proposal.
94.	Hon. Philip S. Gutierrez Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: The imposition of mandatory education is unwarranted, in part, due to the absence of: 1. Any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. Any reasonable indication that the public perceives that the trial court judges lack the educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	*1. The committee does not intend by its proposal to indicate that trial court judges lack educational qualifications for their positions. Continuing education is not about qualifications; it is about ongoing improvement.* *2. The committee began its consideration of minimum education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall increase in trust and confidence in the judicial branch from what was documented in the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					nineties, the studies also recommend the following: • *"Judges and court staff must be educated in the criteria of procedural fairness …. Initiatives are needed to ensure that all cases are processed in a manner consistent with a sense of fairness in court procedures."* • *"Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceedings …. This is particularly important in the court venues receiving low ratings by court users … traffic, small claims, juvenile, and family."* • *"Develop special training for judicial officers and court staff regarding specific cultural differences …."* • *"Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court experience, taking the lead in*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					promoting a respectful and unbiased image .… Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and fairness for all residents of the state." *Regarding perceptions:* • *Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands but are less likely to use the courts because of unfamiliarity with the system, language difficulties, immigration issues, and fear of the unknown, as well as a shortage of low-cost attorneys who speak their languages.* • *African-American and Latino court users have a high regard for judges, but a low sense of confidence in the courts, saying ethnicity and income affect treatment.* *These findings all seem related to*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the importance of ongoing professional development and education.
				3. Any reasonable indication that trial judges do not maintain professional competence in the law; and	*3. The committee agrees that most trial judges probably do maintain their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.*
				4. Any reasonable indication that mandatory education, if imposed, would either result in a higher level of competency or the public's confidence in the judiciary;	*4. The committee believes that mandatory training makes a difference and that trust and confidence would be enhanced with minimum education requirements. Qualifying ethics courses have contributed to a reduced number of complaints to the CJP; new judge orientation and the judicial college*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: 5. The proposed rule is inconsistent with the current statutory scheme and thus exceeds the Council's constitutional rule making authority.	*are highly valued by participants.* 5. *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
95.	Hon. Douglas M. Haigh Commissioner Superior Court of Los Angeles County	N	N	Substance of or need for rules: I OPPOSE the rule. While I am an SJO, and will do whatever my employers tell me to do, I think the imposition of mandatory education impinges on the rights of constitutionally elected judicial officers. Finally, I believe that most judicial officers in this state will do the suggested number of hours without the need for rules	The committee does not believe that minimum education requirements impinge on the rights of judges as constitutionally elected officers. *Branchwide education requirements are not just about participation by individual judges; the requirements would clearly demonstrate branch accountability to the collective public, to the other two branches of*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: I also believe the rule is far too broad in scope to fall within the general purview of "administration of justice."	*government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.* *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
96.	Jam Hamilton Executive Officer Superior Court of Sierra County Downieville	N	N	Substance of or need for rules: The staff members of Sierra Court continually participate in cross-training within the Court as well as attending formal training provided	The committee recognizes the challenges faced by small courts and designed the minimum education requirements with those

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				through various recognized training entities and we intend to continue to do so. I am concerned in a small Court that mandatory rules might be counterproductive. For example, due to MCLE Attorneys are compelled to take useless courses on issues outside their primary focus of practice to meet arbitrary mandatory training requirements. I feel that it would be preferable to establish standards for trainings rather than mandatory rules to attend training. Lastly, any mandatory proposal always implicates significant financial consideration which has a disproportionate impact on small Courts. Funding should be made available to facilitate training, not only for training itself, but providing for replacement for services lost while staff is attending training.	challenges in mind. Regarding costs, the committee assumes: • That court personnel currently receive some education, so there is a baseline; • that 8 hours out of the 4,160 hours each full time employee works in a two–year period is reasonable; and • That with online courses, broadcasts, one-on-one cross-training, AOC education offerings (regional courses, CCMS, CARS, and CHRIS to name a few), and the ability of local courts to develop and deliver what is needed locally, numerous low-to-no cost options are readily available.
97.	Hon. William Kent Hamlin Judge Superior Court of Fresno County	N	N	<u>Substance of or need for rules:</u> CJER currently provides excellent continuing education programs. Because it is voluntary programs have to be excellent in order to attract judges. Those judges who do don't care what they do not know do not attend. Those who don't know what they don't know do not attend. They will now be required to attend but they will not learn beyond what they accidentally	The committee agrees that the current voluntary system works well and that most trial judges probably do maintain their professional competence. The committee also agrees that there are judges who do not, and do not want to, attend continuing education. *However, the committee decided*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				take in. meanwhile the rest of us will have more programs much of which will be duplicative or cover irrelevant topics. Programs will be of inferior quality, increase costs to the courts for travel, invades on independence by administrators who need one massive bureaucracy to justify their existence. Uneducated judges are already subject to the appellate courts and the CJP.*	*early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence– not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* The committee does not believe that the rules will result in redundant or irrelevant education. The proposed rules leave continuing education to the discretion of the individual judge. They were drafted to be minimal, flexible, and attainable at the local level, with content left to the discretion of the local court. Also, the multiple methods of delivery (live, online, broadcast, etc.) will ensure that relevant content is always available. The flexible continuing education requirement is intended to ensure

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					that professional development is an acknowledged value in the judicial branch. The committee does not believe that compulsory education would reduce the quality of the education. *Two of the most highly regarded programs, New Judge Orientation and the Witkin Judicial College, are currently required by rule 970. And although not required by rule of court, the Qualifying Ethics program, which is required if a judge signs up for the CJP insurance defense program, is very highly rated.* *The committee does not believe that educational requirements encroach on judicial independence. (A) The proposed rules have come from within the judicial branch, not the legislative or executive branches; the committee is concerned, however, that if requirements are not created within the branch, where judges craft the curriculum*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					and best understand the branch's educational needs, they may come from another branch of government and thus may not reflect the needs of the branch. (B) The proposed rules will not interfere with a judge's independent case management or decision making but will instead ensure that all judges have the most up-to-date knowledge, skills, and abilities to effectively fulfill their roles.
98.	Hon. Marcelita V. Haynes Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I have and still do strongly support judicial education in its present form. I have and continue to volunteer to teach for CJER, CJA and other judicial education seminars. I DO NOT agree that the Judicial Council can nor should make judicial education mandatory. Authority of Judicial Council: [I DO NOT agree that the Judicial Council can make judicial education mandatory.]	*The rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27,*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					2006.)
99.	Hon. Richard J. Henderson Judge Superior Court of Mendocino County	N	N	<u>Substance of or need for rules:</u> The proposed rule encroaches into the independence, authority and discretion of the constitutional judicial officers. The proposed rule in also not necessary due to the high quality voluntary educational programs and the high rate of attendance.	The committee does not believe that the proposal encroaches into judicial independence, authority, or discretion or that the proposal is unnecessary. • *The proposed rules have come from within the judicial branch, not the legislative or executive branches;* • *The proposed rules will not interfere with a judge's independent case management or decision making but will instead ensure that all judges have the most up-to-date knowledge, skills, and abilities to effectively fulfill their roles.* *Branchwide education requirements are not just about participation by individual judges; the requirements would clearly demonstrate the branch's accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					improvement are fundamental values of the judicial branch.
100.	Hon. James Herman Judge Superior Court of Santa Barbara County	A	N	Substance of or need for rules: I am writing because I am very concerned opposition to minimum judicial educational requirements is the wrong issue advanced at the wrong time for the wrong reasons. As a branch we have worked very hard to educate the legislature on the importance of judicial independence and the need for additional judicial resources. The result of our united efforts has been a real shift in the direction of support for the branch. But the quid pro quo for this new credibility is that we act judiciously, responsibly and in the public interest. The idea of mandatory education did not originate with the AOC or the Council but with the CJER advisory committee, judges who collectively have devoted years to the improvement of judicial education. The two major arguments against mandatory education—that quality will suffer and independence will be eroded—in my view do not stand up to scrutiny. *	
101.	Hon. William F. Highberger Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: The proposed rules are ill-advised, unnecessary and will create untold bad will for the Judicial Council, the Administrative Office of the Courts, and their hardworking leadership. What	*The committee appreciates the suggestion to revise rules to set aside a certain number of days for attending education, which was the intent of the Standards of Judicial*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				should be adopted is a revision of rules 970(g)) and 10.603(c)(2)(A) (circulated as rule 6.603 (c)(2) (A)), so that a certain number of working days are to be allowed all sitting bench officers to attend continuing education programs. Some issues: 1. Lack of Meaningful Consultation – proposal has been prepared in a secluded environment; 2. Demeaning to Trial Court Judges and Commissioners – lack of application to appellate courts equals asymmetrical requirements seen as disrespect for the trial court; 3. Mandatory Judicial CLE is Inherently Inferior – increased new demand will result in acceptance of offerings otherwise rejected; 4. Proposed Rules are Bureaucratic and Complex;	*Administration. This suggestion will be considered in further discussions.* *Regarding the issues highlighted, the committee feels that:* *1. The three–year process has been as open as possible .In addition, the proposed model was sent to each trial court judge in 2005.* *2. There is no intent to demean the trial courts–the committee chose a phased approach to addressing minimum education requirements for the judicial branch.* *3. Mandatory education is not inherently inferior. The New Judge Orientation and the B. E. Witkin College are carefully planned by judges who take extreme care in developing and delivering courses of the highest quality possible, and Qualifying Ethics courses have been evaluated as highly valuable.* *4. While the rules may seem complex, the requirements (as outlined in the guidelines that*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				5. Existing Tribunals and Processes Protect the Public from Judges Who Fail to Obtain Education – for example, judges who make errors will be corrected on appeal..*	*accompany the rules) are straightforward.* *5. These options do not counterbalance the need for continued professional development, and they cannot fully restore or repair damage to the parties involved in a particular case.*
102.	Hon. Brad R. Hill Court of Appeal, Fifth Appellate District	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
103.	Hon. Donna J. Hitchens Judge Superior Court of San Francisco County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
104.	Hon. Michael R. Hoff Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: Continuing education is a good thing. Mandatory continuing education is not a good thing. If the Judicial Branch is really the Third	*The committee does not believe that the only impetus for minimum education requirements is "something broken." The*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Branch of Government then it should be treated as such. The other two branches of government do not have mandatory continuing education. Who would tell the Governor that he needs to take a class in ???? Same for the members of the legislature. California and Los Angeles already have the best educational programs in the United States. Why try to fix something that is not broken?? Also if the Judicial Branch is really an equal branch of government why is the mandatory education limited to only the trial courts. There is no rush on this program. To force such an issue without input from all the members of the Third Branch is unnecessary.	*proposal's focus is ongoing individual and institutional improvement. The committee believes two things in this regard:* • *The public expects and should receive no less than continued branchwide improvement.* • *As members of the judicial branch, we can each improve ourselves and thus improve the court system and our ability to serve the public.* The committee agrees that it is important to gather input from all members of the judicial branch; that was the purpose of the 2005 dissemination of the example/model to all judges and is the purpose of the public comment period that is part of the rule-making process.
105.	Hon. Thomas Hollenhorst Associate Justice Court of Appeal, Fourth Appellate District	N	N	<u>Substance of or need for rules:</u> This same proposal was made in 1994 and rejected. The rationale set forth by the proponents is of dubious merit. The legislature has shown no interest in imposing MJE in part, I presume, because they know it would be stricken as violative of separation of powers. The public, according to the most recent polls,	*This is not the same proposal that was made in 1994. The committee does not agree that the proposal is of dubious merit; the committee's sole desire is to ensure branchwide improvement and professional excellence. The committee does not agree that the Legislature has*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				is very satisfied with the work and quality of judges in California. There are already mechanisms in place to keep judges up on the law including canon 3B(2). There is NOTHING compelling to support the proposal and, in my view based on 26 years of experience with CJER, requiring judges to attend classes will take the pressure off of producing quality programming. Finally, this issue is so divisive that it has caused judges not to speak to each other, created disrespect for the Chief and Bill Vickrey, and torn CJA apart. It is likely, in my view, that another more militant organization will be born from the chaos and hard feelings within CJA over this proposal.*	*shown no interest in judicial education; the committee references the current requirements regarding family law, juvenile dependency, and sexual harassment prevention training, generated by legislative action based on specific situations brought to its attention. In addition, recent newspaper articles in Los Angeles regarding problems with probate matters have sparked considerable interest in the Legislature, and the 2005 Attorney General report on domestic violence cases resulted in a six–month audit of judicial education by the Bureau of State Audits. The committee does not agree that requirements will affect the quality of judicial education; as only one provider, CJER already delivers enough content for each California judge to earn 15 hours per year, 50% more than the proposed rules require. And the dedication and commitment of judges teaching the New Judge Orientation and Judicial College provide evidence that*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					quality is always paramount.
106.	Hon. Rose Hom Judge Superior Court of Los Angeles County	N	N		
107.	Hon. Charles Horan Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: The rules are unnecessary; the vast majority of judges understands the duty to be well educated in the law, and don't need yet another Byzantine bureaucratic rule foisted upon them. Voluntary education IS WORKING; I WANT education offered to us, and I WANT it to be accessible without having to travel 40 miles through traffic. I WANT to have the opportunity to stay abreast of legal changes. What I DON'T want is to be insulted by having a RULE state that I must do it YOUR way.* Authority of Judicial Council: Clearly in excess of Council's Article VI rule-making authority	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to new assignments; beyond the minimal initial content, judges are free to choose what they deem appropriate based on their assignments or other professional interests.* *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
108.	Hon. Frederick P. Horn Judge Superior Court of Orange County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
109.	Hon. Colette M. Humphrey Judge Superior Court of Kern County	N	N	Substance of or need for rules: I agree with the comments of the Los Angeles Superior Court Executive Committee. [Comment from Los Angeles Superior Court Executive Committee] The Executive Committee of the Los Angeles Superior Court is composed of 22 voting members who are democratically elected by the Judges and Commissioners of the Court. On July 19, 2006, at its regularly scheduled meeting, the Executive Committee voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education, which has been issued for comment by the Judicial Council. The Committee's vote was solely on the issue of whether judicial education should become mandatory by California Rules of court and did not address either the authority of the Judicial Council to enact such rules of the specific provisions of the rules which will be addressed by the Presiding Judge in separate comments.	[Response to Executive Committee of Superior Court of Los Angeles County]

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				The Executive Committee believes that the imposition of mandatory education is, in part, unwarranted in the absence of: 1. Any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. Any reasonable indication that the public perceives that the trial court judges lack the educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	*1. The committee does not intend by its proposal to imply that trial court judges lack the educational qualifications for their positions. Continuing education is not about qualifications; it is about ongoing improvement.* *2. The committee began its consideration of minimum education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall increase in trust and confidence in the judicial branch from what was documented in the nineties, the studies also recommend the following:* • *"Judges and court staff must be educated in the criteria of procedural fairness .… Initiatives are needed to ensure*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					that all cases are processed in a manner consistent with a sense of fairness in court procedures." • *"Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceedings .… This is particularly important in the court venues receiving low ratings by court users … traffic, small claims, juvenile and family."* • *"Develop special training for judicial officers and court staff regarding specific cultural differences .…"* • *"Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court experience, taking the lead in promoting a respectful and unbiased image .… Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	Position	Comment on behalf of group?	Comment An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	Committee Response Text in *italics* indicates the response occurs previously.
					fairness for all residents of the state." *Regarding perceptions:* • *Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands, but they are less likely to use the courts because of their unfamiliarity with the system, language difficulties, immigration issues, and fear of the unknown, as well as a shortage of low-cost attorneys who speak their languages.* • *African-American and Latino court users have a high regard for judges but a low sense of confidence in the courts, saying that ethnicity and income affect treatment.* *These findings all seem related to the importance of ongoing professional development and education.*
				3. Any reasonable indication that trial judges do not maintain professional competence in the	*3. The committee agrees that most trial judges probably do maintain*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				law; and 4. Any reasonable indication that mandatory education, if imposed, would either result in a higher level of competency or the public's confidence in the judiciary.	*their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* *4. The committee believes that mandatory training makes a difference and that trust and confidence would be enhanced with minimum education requirements. Qualifying ethics courses have contributed to a reduced number of complaints to the CJP; New Judge Orientation and the Judicial College are highly valued by participants.*
110.	Hon. Jack P. Hunt Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: The proposed rule change is the most divisive issue that I have seen in the twenty years I have	The committee agrees that there has been divisiveness and would like to clarify as much as possible. There

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				been on the bench. If this rule is adopted, I fear the judiciary will become so fractured that it will no longer be able to speak with one voice. There is a growing distrust of the Administrative Office of the Courts because of the revelation of secret drafts of the proposed rule change, secret opinion of the AOC's General Counsel and the intense lobbying for the rule change by members of the AOC. This proposed rule change is unnecessary and possibly unconstitutional. Passage of the rule will cause more damage to the judiciary than good. I strongly urge the Judicial Council to shelve this rule. <u>Authority of Judicial Council:</u> This proposed rule change is unnecessary and possibly unconstitutional.	has never been a secret draft of the proposed rule change. The model upon which the proposed changes were based was distributed to all judges in May 2005 for comment. The AOC serves as staff to all of the Judicial Council's advisory committees, including the CJER Governing Committee. Staff have not lobbied for the proposal; rather, it has assisted the committee during the rule-making process. *The rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006.)*
111.	Hon. David E. Hunter Judge Superior Court of Alameda County	N	N	<u>Substance of or need for rules</u>: I have been a judge since 1978. I take great pride in knowing the law. I try many difficult cases, e.g. I tried the first elder abuse case ever	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				tried involving the issue of failure to properly treat pain. In each case I spend many hours reviewing the law. I also attend weeklong CJER classes every two years. Mandating continuing education is wrong! I adamantly oppose a mandatory continuing education requirement.*	
112.	Hon. Dale Ikeda Judge Superior Court of Fresno County	A	N	Substance of or need for rules: The rationale for minimum education requirements are well stated in the letter. I support the Committee's efforts.	
113.	Hon. Steven E. Jahr Judge Superior Court of Shasta County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
114.	Hon. Lance P. Jensen Judge Superior Court of Orange County	A	N		
115.	Hon. Hurl W. Johnson Judge Superior Court of Stanislaus County Modesto	N	N	Substance of or need for rules: The continuing judicial education in California exceeds any state or other country education. We have the highest standards and have done so by being a voluntary organization committed to providing the best service to the members of the branch. I have been involved in judicial education for the past 8–9 years as a planner and as a teacher. An independent judiciary does not nee, nor should it allow, the attempt to provide mandatory minimum educational requirements which will not rival what is already available to the judicial community.	*The committee agrees that the current voluntary system is exemplary and that most trial judges probably do maintain their professional competence. However, the committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence, not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.*
116.	Hon. Barbara J. R. Jones Presiding Justice, Court of Appeal, First Appellate District, Division Five	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
117.	Dennis B. Jones Executive Officer Superior Court of Sacramento County	N	N	Substance of or need for rules: I believe the proposal as it relates to court staff could increase the emphasis on continuing development and education, could acknowledge the need to develop an education plan for each employee, and could assist us in doing the right thing for our employees and our courts—providing employees the training and development that will make them better able to respond to our changing needs and requirements. I am, however, ambivalent about suggesting that the proposal go forward. The focus of the majority of the responses that I have seen has been on the maintenance of maximum independence by local trial courts. The education focus seems to have gotten lost. Governing Committee goals may be better served by establishing aspirational educational goals, delineating concrete steps CJER will take to assist courts wishing to pursue these goals, and recognizing courts that develop best practices in this area. The focus might then return to education which deserves both our attention and support.	The committee agrees that the focus of those opposed to the proposal has not been on education but on maintenance of maximum independence by local trial courts. However, even though the focus on education seems to have been lost, education is the basis of the proposal currently out for comment. The committee must decide whether to let concerns of authority and local court independence override the benefits of minimum education requirements or whether to acknowledge that the concerns voiced are really about other matters and thus move the recommendation forward.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
118.	Hon. Michael Kaiser Judge Superior Court of Riverside County	N	N		
119.	Hon. Jonath E. Karesh Judge Superior Court of San Mateo County	N	N	<u>Substance of or need for rules:</u> I am strongly against mandatory judicial education imposed by the Judicial Council/AOC. We have an excellent voluntary system which works very well now. One of the reasons we have such a good education system is that it is voluntary so the courses have to be good to make the course attractive to judicial officers. Much more important is the erosion of local judicial independence. This is another example of the Judicial Council taking away powers of independently elected constitutional officers. It is also contrary to law.	*The committee agrees that the current voluntary system is excellent and that most trial judges probably do maintain their professional competence. However, the committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead, the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence, not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* *The committee does not agree that compulsory education would reduce the quality of judicial education. Two of the most highly regarded programs, New Judge Orientation and the Judicial College, are*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					currently required by rule 970. And although not required by rule of court, the Qualifying Ethics program, which is required if a judge signs up for the CJP insurance defense program, is very highly rated.
120.	Hon. Mary Lou Katz Commissioner Superior Court of Los Angeles County	N	N	Substance of or need for rules: California judges are hard-working and conscientious about keeping up with their education – this measure is unnecessary Authority of Judicial Council: As the Munger, Tolles & Olsen, opinion has confirmed, this proposed rule is UNCONSTITUTIONAL. Let's keep the "independent" in "independent judiciary," shall we?	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
121.	Hon. Andrew Kauffman Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: Continuing education is a laudatory goal; council should facilitate an educational process rather than require it. Authority of Judicial Council: I do not believe the Judicial Council has the authority to impose mandatory education requirement.	The committee agrees that continuing education is a laudatory goal and believes that the proposed rules facilitate a process to achieve that goal. The committee believes that education requirements are the next logical step for the judicial branch in formally including professional development as an expectation of all members of the judicial system. *The proposed rules are within the council's authority to adopt rules on court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
122.	Hon. Ira Kaufman Judge Superior Court of Plumas County	N	N	Substance of or need for rules: We have the best judicial education in the nation why change it.	The committee agrees that California has the best judicial education in the nation and does not intend for the proposed rules to change the process or the substance of judicial education. The requirements would, however, make a public commitment to improvement of the branch from within and ongoing branchwide professional excellence.
123.	Hon. Richard O. Keller Judge Superior Court of Alameda County	N	N	Substance of or need for rules: I have had a long standing commitment to education, have taught at the college level, served on the numerous accrediting teams, taught at the California Judges College and for CJER programs. I am committed to education. I am strongly opposed to mandatory education requirements for judges, based on my belief that	The committee agrees that additional resources are needed to enable all judges to participate more fully in judicial education. *Regarding funding, in a separate proposal the Judicial Council will consider a chambers budget that enables each judge to seek*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				the current system serves us well. The greatest impediment at the present time is the lack of adequate and equal funding within the courts. A vast majority of judges recognize the importance of education yet are forced to pay for programs out of his/her own pocket. The fight is unnecessary and clearly has the appearance of a power play between "the system" and the judges. Instead of mandates, recommend the requirements, have participation paid for by the courts, and voluntary education will more than continue to prove itself out.*	*reimbursement for up to $2,000 per year for professional development including association dues, legal publications, and participation in educational activities.* The current proposal is not a power play by "the system"; the CJER Governing Committee is primarily made up of judges interested in and advocating for education.
124.	Hon. Donald Kennedy Superior Court of Los Angeles County	N	N	<u>Substance of or need for rules</u>: Judges should not have to answer to admin personnel of the AOC as to their interpretations of what is needed. The existing system is not broken, so does not need to be fixed.	The proposal does not cause judges to answer to the administrative personnel at the AOC regarding their education. The Governing Committee has more than 12 education committees that are made up of judges who will continue to plan and deliver education for judges, as they do now. *The committee does not believe that the only impetus for minimum education requirements is "something being broken." The proposal's focus is ongoing individual and institutional improvement. Minimum*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					requirements are not just about individual participation in education: they establish a commitment by the branch to continued improvement through education and acknowledge that professional development is an expectation of each and every individual who is part of the court system.
125.	Hon. John P. Kennelly Judge Superior Court of Sierra County	N	N		
126.	Tressa Kentner, Executive Officer, and Debra Meyers, Chief of Legal Counsel Services Superior Court of San Bernardino County	AM	N	Substance of or need for rules: The minimum hours seem reasonable, however the format of the rules is burdensome and overlong. We suggest that all MCLE providers be automatically accepted as providers.	The committee acknowledges that the proposed rules are lengthy but points out that much of the content is contextual. Based on several comments, the committee is recommending a simplified version of the proposed rules. Regarding approved providers, the committee hesitates to include all MCLE providers since: • The target audience of these providers is attorneys, and thus some content would not be relevant to judges; and • Many MCLE providers have

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					events that are not educational. The committee included in the proposed rules criteria that the local court can use to approve content offered by providers not on the approved list.
127.	Tressa Kentner Executive Officer Superior Court of San Bernardino County	A	N	I agree with the mandatory education for staff. I don't believe the requirements will seriously impact our budget and the Court will benefit from the requirement.	
128.	Hon. Greg Keosian Judge Superior Court of Los Angeles County Van Nuys	N	N		
129.	Hon. Janet Kintner Judge Superior Court of San Diego County	N	N		
130.	Hon. Larry Knupp Judge Superior Court of Los Angeles County Norwalk	N	N		
131.	Hon. Roger T. Kosel Presiding Judge Superior Court of Siskiyou County	A	N	<u>Substance of or need for rules:</u> I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it,	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
132.	Hon. James R. Lambden Associate Justice, Court of Appeal First Appellate District, Division Two San Francisco	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.*	
133.	Hon. Luis A. Lavin Judge Superior Court of Los Angeles County Los Angeles	N	N		
134.	Len LeTellier Executive Officer Superior Court of Sutter County	N	N	Substance of or need for Rules: I am very supportive of education and believe that it is my responsibility as CEO to assure that	*The committee does not believe that minimum education requirements pose any greater risk than*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				my staff has the necessary tools, skills and education to perform their duties. I think these recommendations should be guidelines, not rules. As rules, they have the potential to create labor grievances and negatively impact operations. Every organization has a percentage of staff that are "deadwood". They are marginally productive at best, and are experts at avoiding work or just aren't capable of doing more. No amount of training or education is going to improve their performance. Under the proposal, a court would be required to incur cost to send these individuals to training. If a court fails to send these individuals to the required training, they can claim "lack of training" to argue a poor performance review, or simply file a grievance against the court for failing to meet a requirement. Conversely, each court has a group of "workhorses" who produce two or three times the average work product and train the rest of the staff. Their absence to satisfy a mandatory requirement could have serious negative operational impact. It is not a "one size fits all." To make education mandatory for all staff crosses the line of diminishing return, and negatively impacts the court's ability to manage effectively and efficiently.*	*voluntary education without education requirements. A staff member could claim lack of training as a reason for poor performance with or without requirements. The committee believes that courts could use education requirements to help ensure that employees not performing well are given tools to perform at the expected level; if, after education, the employee fails to perform, the court would have grounds for disciplinary action and evidence that the employee had been given the educational opportunity to improve performance. Regarding court personnel who perform well, their ability to continue to enhance their skills would further benefit the court and the public. The proposal was not designed as a "one size fits all" model; after initial education, content is at the discretion of the local court, can be based on individual need, and can come from many providers.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
135.	Hon. Thomas Trent Lewis Judge Superior Court of Los Angeles County Los Angeles	AM	N	Substance of or need for rules: I am a new judge. I favor legal (judicial) education because it promotes public confidence in the accountability of the judiciary, avoids the appearance of judicial arrogance and it assures that judges are constantly educating themselves. At the end of the day, judges should be setting the rules for education… assuring that the judiciary governs the judiciary. I urge that the process not be derailed by the volume of the chorus for or against. I suggest that the Judicial Council table adoption of any rule for a cooling off period, appoint a blue ribbon commission consisting of the wisest judges of those in favor and those against to find suitable compromises.	
136.	Sandy Linderman Executive Officer Superior Court of Del Norte County	N	N	Substance of or need for rules: I double agree with those sentiments [expressed by Steve Bouch]. I believe it should remain a "tool" for us not a mandatory rule. Thank you. [Comment from Steve Bouch] I must agree with John Clarke and the others who have expressed concerns about the mandatory education requirements. Napa has been very aggressive in its pursuit of continuing education for both Judicial Officers and court staff. In the past five years both our judicial and non-judicial complement have experienced almost a 50% turnover. Because of this, we	[Response to Steve Bouch] *The committee acknowledges and respects the educational efforts of the court and believes that many courts have similar foundations upon which requirements could be built. However, the committee notes that branchwide education requirements are not just about individual participation or local court commitment; they clearly demonstrate branch accountability to the collective public and to the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				have instituted several major initiatives to improve all court staff training and development and ensure successful succession planning and implementation. Education needs are determined through a systematic review of the performance goals that have been established for staff through the performance review process. I believe that we have demonstrated our commitment to training and development without a rule of court. I am 100% behind training and staff development. I just don't believe that a rule of court is the way to implement it. Why are AOC employees not included in the rules?*	*other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch. The proposal was drafted to be as flexible as possible, asking that only 8 of 4,160 full-time employee hours be devoted to education, enabling local courts to assess and address education needs at the local level while contributing to a larger branchwide commitment to professional excellence.*
137.	Hon. Joseph Lodge Judge Superior Court of Santa Barbara County Santa Barbara	A	N	<u>Substance of or need for rules:</u> We need judicial education not only for our public image, but primarily because we need to be kept up to date.	
138.	Hon. Rudolph R. Loncke (Ret.) Sacramento	A	N	<u>Substance of or need for rules:</u> I am writing to support the concept that continuing education should be mandatory for trial judges. In my view too many members of the judiciary and judicial leaders fail to place public benefit above petty, personal interests. The executive team of the Los Angeles Superior Court must have its head in the sand,	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				unanimously, on the issue of mandatory education if the July 24 article is accurate. Public confidence in the judiciary certainly is threatened by an attitude that "once in office a judge should be trusted to maintain professional competence." It is ludicrous to believe that the public would not fully support mandatory continuing education for judges. I urge the Judicial Council to place public interest above unenlightened judicial self interest and develop a program of mandatory continuing education for judges. *	
139.	Hon. Daniel S. Lopez Judge Superior Court of Los Angeles County Pomona	N	N	<u>Substance of or need for rules:</u> As I enter my 17th year on the bench, I am well aware of the need to remain updated on the current state of the law and our numerous obligations as bench officers. As a public official who has taken an oath of office, I recognize that I already am under an obligation to be the best bench officer. I will continue to take advantage of the many educational updates, however, I do object to any mandate that I do so. Our current caseload and the need to make proper legal decisions is compelling enough to motivate me to remain current on all legal issues which allow me to do a better job as a judge.	
140.	Mr. Stuart Lord Mediator	A	N		

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Family Court Services Superior Court of Contra Costa County Martinez				
141.	Hon. Runston G. Maino Judge Superior Court of San Diego County Vista	N	N	Substance of or need for rules: The proposed rules state that professional competency will be establishing minimum education requirements. Professional competency is ensured by appointing or electing competent people to the bench. 30 hours in three years will not change an incompetent lawyer into a good judge. Judges can retain their competency without a complicated mandate by the Administrative Office of the Courts. We are constantly educated and receive that education from attorneys, our staff, other judges, reading and our voluntary attendance at formal educational functions. If there is any mandate, it should start with Courts of Appeal and Supreme Court, then trial courts? What is the cost to taxpayers? This is another example of the AOC amassing power.	The committee does not believe that competency can be based solely on appointment or election of competent judges and also does not believe that the kind of education gained in the day-to-day activity of the job is sufficient to ensure competency and continued improvement. As part of a response to the committee's survey in 2005, one judge wrote: "One of the difficulties of our profession is that the trappings of the job (such as the deference we generally get and the time pressures we are under) conspire to support us in thinking we know everything and don't need or can't afford the time for further education. This is terribly dangerous. I believe we need the additional support of significant continuing education requirements to overcome this [perception]."

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Regarding the appellate courts, the committee has made known that the proposed rules are an initial step and that, if they are approved, the committee will determine how to address minimum education requirements for the appellate courts. In addition, the committee considered several factors in choosing to begin with the trial courts, including the following: • *Owing to the nature of their role, trial courts represent the broadest contact with the public, creating the greatest opportunity to enhance public trust and confidence.* • *Owing to the size of the trial courts, they receive the bulk of educational resources, ensuring that current offerings/resources will be sufficient to meet requirements.* • *Owing to the scope of the work of the trial courts, designing a model for continuing education will require the greatest level of research, fully revealing the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					possibilities for any future work. • *Owing to the historical educational culture of the trial courts, many have already instituted local education opportunities, which have the potential to:* – Reduce the impact of requirements; – Make local engagement and local control a smooth process; and – Enable the courts to more readily identify and meet local educational needs. Regarding the cost to taxpayers, CJER currently delivers enough education for each judge in California to earn 45 hours in three years; the requirement is only 30, and CJER is not the only available provider. Regarding the proposed rules as an example of the AOC's amassing of power, the committee is unsure how

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					required education, numerous providers, self-reporting at the local level, and no new resources for the Education Division contribute to amassing power. Judges represent the overwhelming majority of members of the CJER Governing Committee, which has proposed the education requirements.
142.	Hon. Barbara Mallach Judge Superior Court of San Mateo County Redwood City	AM	N	Substance of or need for rules: It would be helpful to have classes in management for supervising judges, etc.; otherwise judges interested in increasing legal knowledge will continue to go to seminars, etc.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.*
143.	Hon. Stephen Marcus Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: The idea of judges attending continuing education programs is a good one. It is not necessary to make these education programs mandatory and I believe the same result could be achieved if the AOC made the education proposals guidelines instead of mandatory. The AOC should encourage judges to increase their	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include: public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				legal knowledge but should not do so in a directory manner. I am against the mandatory nature of this education program – despite the fact I attend education programs approximately 48 hours a year and teach at the LA Superior Court 8–10 hours per year—because of the need to preserve the independence of the judiciary. The state courts are going to receive negative publicity unless wiser minds prevail. Please consider changing the proposal.*	*involving everyone in the judicial branch in his or her own continuing professional development.* *The committee does not agree that making the proposed rules into standards would achieve the same result. The Standards of Judicial Administration already call for eight days of education for judges. While it is very true that there is a rich and extensive culture of voluntary judicial education, the proposed rules also establish a commitment by the judicial branch to education and training as an essential, not optional, component of professional development and excellence.*
144.	Hon. Patrick Marlette Judge Superior Court of Sacramento County Sacramento	N	N	Authority of Judicial Council: I support continued quality education for the judiciary, but deny that the AOC has the authority to make education for any elected jurist.	The committee would like to note that the proposal is from an advisory committee to the Judicial Council, not the AOC. *The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
145.	Hon. Bruce F. Marrs Judge Superior Court of Los Angeles County Pomona	N	N	Substance of or need for rules: This proposal is insulting, demeaning and reduces elected officials to the level of grade school children, needing supervision by their nanny (the AOC). This proposal is unnecessary. No poll, survey, study, or anything demonstrates a need for this type of plan. Mandatory education will wreck the current educational system that is nationally recognized as one of the best in the country. Mandatory Ed. will further strain the shortage of judges by removing more judges from the courts during normal court days. (or is the AOC going to send an assigned judge to cover my court while I am in class, @ AOC expense.) Lastly, I agree with Justice Hollenhorst's observation	The committee does not believe that the proposed rules are demeaning or affect the position of judges. *Instead the committee believes that required education is a public commitment that the judicial branch, from within, values continued improvement and expects everyone in the branch to engage in ongoing professional development. The committee believes that the proposal is necessary. Branchwide education requirements are not just about participation by individual judges; they clearly demonstrate branch accountability to the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				about the effect of mandatory education on the creativity and quality of the actual educational course content. (I cite as an example the "mandatory" sexual harassment training video which was dull, boring, and worst of all...it was full of MISINFORMATION.) Mandatory education equals mediocre education. Mandatory education is a bad idea. <u>Authority of Judicial Council:</u> This proposal is unconstitutional.	*collective public, to the other two branches of government, and to ourselves sand provide tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.* The committee does not agree that education requirements will "wreck" the current system. Each year *more than 300 judges serving on education committees and/or as faculty plan and implement judicial education programs. The high quality of courses is due to their commitment to serving their colleagues and improving the judicial branch. Minimum education requirements will not alter the planning and implementation process or the commitment of these judges to delivering high-quality courses.* *The rules are within the council's authority to adopt rules for court administration, are not inconsistent*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
146.	Hon. Brian L. McCabe Superior Court of Merced County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
147.	Hon. Judith McConnell Presiding Justice Court of Appeal, Fourth Appellate District, Division One	A	N	<u>Substance of or need for rules:</u> I have served on the CJER Governing Committee and it has been my privilege to serve for the past year on the Commission on Judicial Performance. Today most professionals are required to participate in ongoing education. Trial judges are called upon on a daily basis to make difficult decisions concerning the most intimate aspects of people's lives, including whether parents will be allowed to raise or visit their children, whether people will receive psychotropic drugs or electroshock therapy, whether individuals will be free in the community or locked up for the rest of their lives, whether someone will die, whether people can keep their property or maintain their business, how much someone will pay if they have breached a contract. Furthermore, the law is not static. Requiring a minimal level of ongoing education will increase the level of confidence the public has in its court system and	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				the quality of justice rendered.*	
148.	Inga E. McElyea Executive Officer Superior Court of Riverside County	A	N	I fully support the minimum education requirements for the Judicial Branch. These requirements will not impose a fiscal hardship to our court. I obtained feedback from managers, supervisors, and staff regarding this and the support and enthusiasm was unanimous. We recognize and support education both on and off the job. Tenet Nine of our Code of Ethics speaks to the importance of education and we believe this further supports this Tenet.	
149.	Hon. William R. McGuiness Presiding Justice, Court of Appeal First Appellate District, Division Three San Francisco	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
150.	Hon. Dennis J. McLaughlin Judge Superior Court of Alameda County Fremont	N	N	Substance of or need for rules: I object to some language contained in rules and to rules themselves. Proposed rule 10.462 (circulated as rule 6.412) requires mandatory for a "new" supervising judge; yet in smaller courts that judge may have been a supervising judge – and have completed the necessary training only two years before. To require additional after such a short hiatus and a waste of judicial resource. The proposed rule also does not	"New primary assignment" is defined in the rules as a change from one of the following to another: civil law, criminal law, family law, juvenile law, probate law, and traffic. The education requirement for new supervising judges does not relate to the two–year out-of-assignment requirement. The proposed rules

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				appear to define what is meant by "new primary assignment"? If a judge switches from preliminary hearings to felony trials, is training needed? I am an elected Constitutional officer, independent of executive and legislative control. Only the judiciary can impose these requirements on itself. In sum, California judges continue to educate themselves voluntarily. No reason has been circulated that would justify the courts surrendering their independence such that a Judicial council (including non-judges) could remove or even discipline judges for failing to complete a certain number of education hours, as if we were employees of the Council *	are not based on evidence that judges are poorly educated or grossly incompetent; the rules are to institute from within the judicial branch an internal system of improvement through education.
151.	Mr. John McNicholas Member, Board of Governers, District 7 State Bar of California Los Angeles	A	N	<u>Substance of or need for rules:</u> In my opinion these proposals for judicial education requirements are well taken and should be adopted. They will result an expansion of knowledge and in greater efficiencies in the court system. Except for the inconvenience, I would expect that these proposals would be well received by those who will be its primary beneficiaries. After all, who is opposed to education? Learning? Knowledge? All professionals strive to improve their professional skills, whether in law, medicine, science, education, sports, or ?.	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				These proposals, if enacted, will do just that. These are win-win proposals for all Californians as I see it.	
152.	Hon. Cheryl Meegan Judge Superior Court of Sacramento County Sacramento	N	N		
153.	Hon. Peter J. Meeka Judge Superior Court of Los Angeles County Pomona	N	N	Substance of or need for rules: Mandatory education is a solution to a problem that does not exist. It has at its core an ulterior motive. Authority of Judicial Council: The proposed rules are unconstitutional.	*The committee believes that the proposed rules will help meet important branchwide goals: ongoing improvement from within and continued professional development to establish excellence in the branch regardless of the individual court or specific judge.* *The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
154.	Debra Meyers, Chief of Legal Counsel Services, and Tressa Kentner, Executive Officer Superior Court of San Bernardino County	AM	N	Substance of or need for rules: The minimum hours seem reasonable, however the format of the rules is burdensome and overlong. We suggest that all MCLE providers be automatically accepted as providers.	*The committee acknowledges that the proposed rules are lengthy but points out that much of the content is contextual. Based on several comments, the committee is recommending a simplified version of the proposed rules. Regarding approved providers, the committee hesitates to include all MCLE providers since (a) the target audience of these providers is attorneys, and thus some content would not be relevant to judges; and (b) many MCLE providers hold events that are not educational. Instead the committee included in the proposed rules criteria that the local court can use to approve content offered by providers not on the approved list.*
155.	Hon. Patrick T. Meyers Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: By most indications the performance of trial judges generally in California is regarded highly	The committee acknowledges the significant commitment of many individual judges to ongoing

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Norwalk			by discerning observers. The opportunities for continuing legal education for judges are abundant, and judges have largely been availing themselves of it voluntarily. Since CJER is only one of several reputable providers, it is likely that the hours of participation by trial judges are considerably higher than the CJER 2004 estimate. I have regularly undertaken meaningful continuing education on a voluntary basis for the purpose of improving my performance as a trial judge. I suggest that comparable sentiments motivate the overwhelming majority of judges. The case for the proposed rules has simply not been made. I believe the impact of the proposed rule changes will not be to "enhance" continuing judicial education, but rather to supplant it with a cumbersome, time-consuming, costly, and unnecessary bureaucracy. Such a development will not serve the best interests of the courts and the public.* <u>Authority of Judicial Council:</u> The legal opinion of the General Counsel's Office for the Administrative Office of the Courts strikes me as robustly simplistic and results-oriented. The independent legal opinion prepared for the California Judges Association	education but does not agree that the case for these rules has not been made. Establishing minimum education requirements is a key factor in professional development and excellence in performance. The committee also does not agree that establishing minimum education requirements will supplant the existing system with a cumbersome, time-consuming, costly, and unnecessary bureaucracy. *CJER, only one of many providers, currently produces 50% more education and training than would be required under the proposed rules. Branchwide education requirements are not just about an individual judge's accountability to his or her electorate; they clearly demonstrate branch accountability to the collective public, to the other two branches of government,, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				properly takes issue with the superficiality of the General Council's opinion and clearly conveys a much more constructive and cautionary view of reasons for and against the proposed rule changes under the law.	*The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006.)*
156.	Hon. Barbara J. Miller Judge Superior Court of Alameda County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
157.	Hon. Franz E. Miller Judge Superior Court of Orange County Orange	A	N		
158.	Hon. Marla J. Miller Judge Superior Court of San Francisco County San Francisco	N	N	<u>Substance of or need for rules:</u> I respectfully disagree with the proposed changes, for the reasons set forth by the Los Angeles Superior Court Executive Committee. [Comment from Executive Committee of Los Angeles Superior Court] The Executive Committee of the Los Angeles Superior Court is composed of 22 voting members who are democratically elected by the Judges and Commissioners of the Court. On July 19, 2006, at its regularly scheduled meeting, the Executive Committee voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education, which has been issued for comment by the Judicial Council. The Committee's vote was solely on the issue of whether judicial education should become mandatory by	[Response to Executive Committee of Los Angeles Superior Court]

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				California Rules of court and did not address either the authority of the Judicial Council to enact such rules of the specific provisions of the rules which will be addressed by the Presiding Judge in separate comments. The Executive Committee believes that the imposition of mandatory education is, in part, unwarranted in the absence of: 1. Any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. Any reasonable indication that the public perceives that the trial court judges lack the educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	*1. The committee does not intend by its proposal to imply that trial court judges lack the educational qualification for their positions. Continuing education is not about qualifications; it is about ongoing improvement.* *2. The committee began its consideration of minimum education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall increase in trust and confidence in the judicial branch from what was documented in the nineties, the studies also*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					recommend the following: • *"Judges and court staff must be educated in the criteria of procedural fairness …. Initiatives are needed to ensure that all cases are processed in a manner consistent with a sense of fairness in court procedures."* • *"Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceedings …. This is particularly important in the court venues receiving low ratings by court users … traffic, small claims, juvenile and family."* • *"Develop special training for judicial officers and court staff regarding specific cultural differences …."* • *"Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court experience, taking the lead in promoting a respectful and*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					unbiased image …. Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and fairness for all residents of the state." *Regarding perceptions:* • *Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands but are less likely to use the courts because of their unfamiliarity with the system, language difficulties, immigration issues, and fear of the unknown, as well as a shortage of low-cost attorneys who speak their languages.* • *African-American and Latino court users have a high regard for judges but a low sense of confidence in the courts, saying ethnicity and income affect treatment.* *These findings all seem related to the importance of ongoing*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					professional development and education.
				3. Any reasonable indication that trial judges do not maintain professional competence in the law; and	*3. The committee agrees that most trial judges probably do maintain their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead the goal was to instill a branchwide commitment to improvement from within and create an environment of professional excellence, not just competence but a commitment to excellence and an expectation that everyone is committed to improvement.*
				4. Any reasonable indication that mandatory education, if imposed, would either result in a higher level of competency or the public's confidence in the judiciary.	*4. The committee believes that mandatory training makes a difference and that trust and confidence will be enhanced with minimum education requirements. Qualifying ethics courses have contributed to a reduced number of complaints to the CJP; New Judge Orientation and the Judicial College are highly valued by participants.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
159.	Hon. Rita Miller Judge Superior Court of Los Angeles County Los Angeles	N	N		
160.	Hon. Cheryl Mills Judge Superior Court of Contra Costa County Pittsburg	N	N	<u>Substance of or need for rules:</u> I do not believe that mandatory education is necessary nor a wise requirement. I agree with the following quote from Justice Hollenhorst: "… California's judicial education program has always been considered unique because it is both voluntary and of extraordinarily high caliber. Because it is voluntary, the programs must be of the highest quality to draw attendance.…..Compulsory education takes the pressure off producing high quality programming, allows agendas into the educational process and provides for a high degree of staff control inconsistent with judicial needs…. Further, mandatory judicial education … allows mediocrity to replace excellence. ..." When I was an attorney, most of the mandatory education, especially required courses, were so substandard.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development* The committee does not believe that compulsory education would diminish the quality of education and would result in mediocre education. *Currently CJER, only one of many providers, offers enough live programming that each judge in California could earn 15 hours per year, 50% more than the proposed rules require, and by all accounts CJER's current programs are excellent. There is no basis,*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					given the more-than-is-needed amount currently delivered, that quality will diminish if the proposed rules are adopted. *In addition, two of the most highly regarded programs, New Judge Orientation and the Witkin Judicial College, are currently required by rule 970. And although not required by rule of court, the Qualifying Ethics program, which is required if a judge signs up for the CJP insurance defense program, is very highly rated.*
161.	Hon. Lawrence Mira Judge Superior Court of Los Angeles County Malibu	N	N	Substance of or need for rules: 1. Mandatory judicial education is unnecessary as educational excellence is being achieved through voluntary educational efforts.	*1. While the committee agrees that the current system produces excellent education, it also believes that establishing minimum education requirements is necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				2. History suggests voluntary programs initiated, designed, and executed by sitting bench officers have been very successful. 3. The authority for mandated judicial education	*development.* *2. The committee does not believe that the quality of judicial education will be reduced by minimum education requirements. Planning and implementation of judicial education is and will continue to be done by the more than 300 judges each year who serve on education committees and/or as faculty. The high quality of courses is due to their commitment to serve their colleagues and improve the judicial branch. Minimum education requirements will not alter the planning and implementation process or the commitment of these judges to deliver high-quality courses. The Qualifying Ethics courses, which are "required" if judges want the CJP defense insurance, have been very successful and have received high ratings, and they have contributed to a reduction in complaints to the CJP.* *3. The rules are within the*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				is dubious at best. 4. Mandatory education can not be imposed, only mandatory exposure to educational programs. Voluntary exposure is ultimately more successful and enduring.	*council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)* *4. The committee does not believe that required education is less valid or less effective than voluntary education. New Judge Orientation, the B. E. Witkin Judicial College, and Qualifying Ethics (required only if a judge wants access to CJP defense insurance) receive high evaluations from participants. And the CJP reports a reduction in meritorious complaints since the qualifying ethics training began. In*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: The authority for mandated judicial education is dubious at best.	*addition, once core education for new duties has been completed, judges are free to choose content for continuing education.*
162.	Jamoa Moberly Superior Court of Orange County Santa Ana	A	N		
163.	Hon. William Monroe Judge Superior Court of Orange County	A	N	Second Comment Submitted: I have had a number of talks with other judges and read Judge Murray's comment. I have changed my position and support mandated education and support a unified CJA. Bailing out is not the answer. First Comment Submitted: Substance of or need for rules: We are personally responsible for our conduct. If we do not live up to our responsibilities as judicial officers then we should be taken to task. The CJP is already ready to "get our attention". I resent the bureaucracy in San Francisco continuing to foist on the judges, their perception of what some faceless soul thinks is best for us.	*Judges have led the process, including judges on the CJER Governing Committee, judges on subcommittees, and judges who provided feedback on the proposal in 2005.* *The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					education; and involving everyone in the judicial branch in his or her own continuing professional development. All participants in education learn to differing degrees whether they are required to attend or not. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in complaints to the CJP.
164.	Hon. Jack Morgan Judge Superior Court of Los Angeles County Compton	N	N	Substance of or need for rules: Judges are responsible persons, many of whom have taken substantial reduction in income for the privilege of serving as a judge. Judges routinely read material and take seminars on subjects related to their assignments as well as reading daily advance sheets. It is disturbing that a body in Sacramento not involved in the daily task of judging decides that judges should be compelled to take a certain number of hours of "education" as well as taking a role in what the "education" should be. To say the least, such acts are more than presumptuous. The system in place has worked well and should be continued.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include: public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					ratings, and have contributed to a reduction in complaints to the CJP. *Judges have led the process, including judges on the CJER Governing Committee, judges on subcommittees, and judges who provided feedback on the proposal in 2005. The proposed rules are from within the judicial branch.*
165.	Hon. Heather Morse Judge Superior Court of Santa Cruz County	A	N	Substance of or need for rules: I am in support of the proposal because it is the right thing to do. It is obvious from the language of the proposal that neither the AOC nor CJER wishes to have a controlling interest in the content of the education itself, nor to "make" the judges receive education to take away their independence. The fact that the requirements are so reasonable, and that they may be attained in several different manners, indicates to me that the intent here is to support the judiciary in order to provide the highest level of service to all Californians. I would urge my colleagues to not view this as a personal affront, but rather to support the proposal as it is the right thing to do. Substance of or need for rules:	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
166.	Hon. Philip J. Moscone Judge Superior Court of San Francisco County San Francisco	N	N	Substance of or need for rules: Mandatory education is not needed. Most judges voluntarily and regularly participate in many forms of education opportunities, both formal and informal. This appears to be yet another in a disturbing trend toward centralization – both in private and government spheres. Is California's historically efficient	The committee believes that the proposed rules are necessary but does not believe they will replace the current system with an inflexible model. The committee believes that minimum education requirements will engage all members of the judicial branch–not

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				arrangement of voluntary education to be replaced by some inflexible governmental study hall into which we are herded to accrue prescribed numbers of hours of "education" (or in recent times, political correctness) in areas that might or might not apply to our current assignments?*	just some or many—in an ongoing commitment to improvement, individually and collectively. The committee believes that the proposed rules are flexible. Judges choose the content of the 30 hours of continuing education they participate in during each three–year cycle, thus making the model very flexible and allowing judges to choose training related to their current assignment if they so wish. The proposed rules include content related to the work of judges.
167.	Hon. John Murphy Commissioner Superior Court of Los Angeles County Lancaster	N	N	Substance of or need for rules: I attend education seminars prepared by members of our court at least 4 times a year. Mandatory education, I suspect, would not be of the high quality we currently enjoy.	*The committee does not believe that the quality of education would diminish if education requirements were adopted. As only one provider, CJER produces enough education programming for each judge in California to participate in 15 hours of education annually, 50% more than what the proposed rules require. The planning and delivery of education would remain as it is currently, with education committees comprised of judges and*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					with judges serving as faculty. The dedicated judges who currently plan and deliver education will not care less about quality simply because there are broad hourly requirements.
168.	Hon. Tim Murphy Commissioner Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: Should be encouraged at this point and surveyed to see how we voluntarily respond. Authority of Judicial Council: No Authority of Judicial Council for mandatory rules at this point.	*The committee acknowledges the significant commitment of many individual judicial officers to ongoing education.* The committee appreciates the suggestions, to encourage voluntary education and to survey to determine participation. Both have been done. Voluntary education for judges has been the norm for more than 25 years. In a 2004 survey, average participation of the 324 judges who responded was 26 hours per year, with some participating much more and some much less. Mandatory education for new judges has also been the norm for the past 10 years; New Judge Orientation and the Judicial College have been required since 1996. Over 1,000 trial court judicial officers have completed those education requirements; as of the

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					recent fiscal years of 2002–2003 and 2003–2004, 99% of new judges and subordinate judicial officers have completed those requirements. As stated in the proposal to the Judicial Council, it is now time to take the next evolutionary step, ensuring ongoing professional development for all members of the judicial branch. *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
169.	Hon. William J. Murray, Jr. Judge Superior Court of San Joaquin County Stockton	A	N	Substance or need for rules: The proposed rule will enhance the public confidence and public opinion about the branch. If we do not enact a provision governing mandatory judicial education, we can expect the Legislature to impose requirements. The arguments advanced against the rule will not resonate with the public. The quality of judicial education will not suffer. If anything, it may be enhanced as judges who have dedicated themselves to the profession will continue the process of planning and presenting the highest quality educational activities. There have been several theories concerning the constitutionality of the proposed rule. The memo by Munger, Tolles, and Olsen deflates all of those arguments except the theory that the proposed rule is implicitly inconsistent with statute. When one looks at the cases discussing this theory, it becomes clear that it is not a winning theory.*	
170.	Hon. Deanne Smith Myers Judge Superior Court of Los Angeles County Torrance	N	N		
171.	Hon. Michael Naughton Judge Superior Court of Orange County	A	N	Substance of or need for rules: I don't think that there is anything wrong with the AOC or Supreme Court insisting that trial	The committee appreciates the support for the proposal. The committee notes that the proposal

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Santa Ana			judges be minimally proficient at the job for which the taxpayers are paying.	has been made by the CJER Governing Committee, not the AOC or the Supreme Court.
172.	Hon. Leslie C. Nichols Judge Superior Court of Santa Clara County San Jose	N	N	Substance of or need for rules: I have carefully reviewed the materials distributed from the AOC. I am persuaded by the letters and position advanced by Justice Hollenhorst and from Judges Horan, Highberger, Cope, Conger, Sabraw and others that this rule should not be adopted. My 22 1/2 years as a judge confirms those opinions. Those who oppose the rule, for all the good reasons set forth emphasize that great need for maintenance and enhancement of the highest quality of judicial education in California. In the aggregate, this objective can best be realized without a rule. I do not subscribe to the rhetoric and attribution of dark motives which some have advanced on either side of the controversy. I believe that the 'best practice' would be abandon the effort to secure a 'rule' and to continue devoting all available resources to producing the nation's finest program of judicial education. Thank you for considering my opinion.*	*The committee does not believe that the quality of education would diminish if education requirements were adopted. As only one provider, CJER produces enough education programming for each judge in California to participate in 15 hours of education annually, 50% more than what the proposed rules require. The planning and delivery of education would remain as it is currently, with education committees made up of judges and with judges serving as faculty. The dedicated judges who currently plan and deliver education will not care less about quality simply because there are broad hourly requirements.*
173.	Hon. Karen Nudell Judge Superior Court of Los Angeles County	N	N		

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Van Nuys				
174.	Ms. Susan Null Executive Officer Superior Court of Shasta County Redding	A	N	I agree with the proposed changes to the sections regarding mandatory education for judges and all other judicial branch employees. The language is written broadly enough to allow various ways to obtain the education and also may allow some judges and court staff to attend training who were not previously allowed to do so. There will not be a substantial increase in costs for my court to fully participate as most of us are involved in training, or easily attend educational programs that meet the requirements. If funding is an issue for a particular court, perhaps broadcasts or video-type training would be best for them.	
175.	Hon. David B. Oberholtzer Judge Superior Court of San Diego County San Diego	AM	N	Substance of or need for rules: More input from local courts	
176.	Hon. Steven D. Ogden Judge Superior Court of Los Angeles County Lancaster	N	N		
177.	Hon. Gail Ohanesian Judge Superior Court of Sacramento County Sacramento	N	N	Authority of Judicial Council: I side with those that have argued that mandatory education is insulting and unconstitutional and an undue invasion of judicial independence. I am a former CJA	The committee does not believe that education requirements are insulting to the independently elected office of a judge or are an undue invasion of judicial

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Board member, served on the Judicial Council Standing Advisory Committee, served as faculty at the Judicial College, was president of the Metropolitan Municipal Courts Association and have been a speaker at CJA and CJER programs. I have been on the bench for 19 years.	independence. *The proposed requirements highlight the complexity of the work of judges and the need for the highest level of education in order to most effectively fulfill that role.* *The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
178.	Hon. Kathleen E. O'Leary Associate Justice Fourth AppellateDistrict, Division Three	A	N	<u>Substance of or need for rules:</u> Historically, judicial education needs have been addressed on an ad hoc basis, and this has resulted in the scattering of provisions for	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Santa Ana			judicial education throughout statues, Rules of court, and Standards of Judicial Administration. The proposed rule would establish a sound and comprehensive education plan for judicial officers in the trial courts. It is my hope that a similar rule will soon b developed for the appellate justices. I understand vocal objections have been made to the mandatory nature of this rule, but in reality judicial officers are already subject to mandatory attendance at certain education programs. I believe uniform and consistent rules for judicial education would greatly further our efforts to increase public trust and confidence in the judicial branch.*	
179.	Hon. Rafael Ongkeko Judge Superior Court of Los Angeles County Alhambra	N	N	Substance of or need for rule: Make it voluntary, and highly recommended, but not mandatory. Judges are not employees, but constitutional officers, and should answer not to an un-democratic Judicial Council or a heavily-bureaucratized and potentially unresponsive AOC or an out-of-touch CJER ivory tower body, but to the People and through clear legislation enacted in the usual democratic manner. Judges already have obligations to be and remain competent; this proposal is superfluous and should be a non-issue for judges.	The committee believes that the proposal would support judicial independence, both institutional and individual, rather than infringe on it. *The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					professional development.
180.	Hon. James R. Oppliger Judge Superior Court of Fresno County Clovis	N	N	Substance of or need for rules: I adopt the comments in opposition to mandatory training stated by Judges Mark Cope, William F. Highberger and Chuck Horan. [Comment from Judge Highberger] The proposed rules are ill-advised, unnecessary and will create untold bad will for the Judicial Council, the Administrative Office of the Courts, and their hardworking leadership. What should be adopted is a revision of rules 970(g)) and 10.603(c)(2)(A) (circulated as rule 6.603 (c)(2)(A)), so that a certain number of working days are to be allowed all sitting bench officers to attend continuing education programs. Some issues: 1. Lack of Meaningful Consultation – proposal has been prepared in a secluded environment; 2. Demeaning to Trial Court Judges and Commissioners – lack of application to appellate courts equals asymmetrical requirements seen as disrespect for the trial court; 3. Mandatory Judicial CLE is Inherently	Judge Cope did not submit a public comment on the proposal. Thus the committee cannot effectively respond to that reference. [Response to Judge Highberger] *The committee appreciates the suggestion to revise rules to set aside a certain number of days for attending education, which was the intent of the Standards of Judicial Administration. This suggestion will be considered in further discussions.* *Regarding the issues highlighted, the committee feels that:* *1. The three-year process has been as open as possible. In addition, the proposed model was sent to each trial court judge in 2005.* *2. There is no intent to demean the trial courts–the committee chose a phased approach to addressing minimum education requirements for the judicial branch.* *3. Mandatory education is not*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Inferior – increased new demand will result in acceptance of offerings otherwise rejected; 4. Proposed Rules are Bureaucratic and Complex; 5. Existing Tribunals and Processes Protect the Public from Judges Who Fail to Obtain Education – for example, judges who make errors will be corrected on appeal..* [Comment from Judge Horan] The rules are unnecessary; the vast majority of judges understands the duty to be well educated in the law, and don't need yet another Byzantine bureaucratic rule foisted upon then. Voluntary education IS WORKING; I WANT education offered to us, and I WANT it to be accessible	*inherently inferior .The New Judge Orientation and the B.E. Witkin College are carefully planned by judges who take extreme care in developing and delivering courses of the highest quality possible, and Qualifying Ethics courses have been evaluated as highly valuable.* *4. While the rules may seem complex, the requirements (as outlined in the guidelines that accompany the rules) are straightforward.* *5. These options do not counterbalance the need for continued professional development, and they cannot fully restore or repair damage to the parties involved in a particular case.* [Response to Judge Horan:] *The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				without having to travel 40 miles through traffic. I WANT to have the opportunity to stay abreast of legal changes. What I DON'T want is to be insulted by having a RULE state that I must do it YOUR way.*	*from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to new assignments; beyond the minimal initial content, judges are free to choose what they deem appropriate based on their assignments or other professional interests.*
				Authority of Judicial Council: Clearly in excess of Council's Article VI rule-making authority	*The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Rules for Judicial Education, dated July 27, 2006.)
181.	Hon. Randall Pacheco Commissioner Superior Court of Los Angeles County Compton	N	N	Substance of or need for rules: As a commissioner I will, of course, do any training required. However, mandatory training imposed by the state is not wise or needed. I sit in family law court. The Family Law Department in L.A. County already does a two day training each year. Bar trainings are free for bench officers and I attend them regularly. I often do independent research in chambers. I read all of the advanced sheets related to my assignment and others cases of interest. Any bench officer who does less will wind up looking like a fool. The overwhelming majority who keep up with the law independently don't need mandatory training. What if judges decline to participate – rate them unqualified when they stand for election? Why is the Judicial Council entertaining this implied admission that California judges are lazy and ill-informed?	*The committee acknowledges the significant commitment of many individual judges to ongoing education. The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* The committee has not addressed issues regarding failure to complete requirements as this is beyond the scope of the committee's area of responsibility. The committee does not intend by this proposal to imply that California judges are lazy and ill informed. The proposed rules are about improvement, which is always a goal.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
182.	Hon. Joanne C. Parrilli Associate Justice, Court of Appeal First District, Division Three San Francisco	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
183.	Hon. Roy Paul Judge Superior Court of Los Angeles County Long Beach	N	N	Substance of or need for rules: I support recommendations for education but strongly oppose a mandatory requirement.	
184.	Jim Perry Court Executive Officer Superior Court of Yolo County	N	N	Substance of or need for Rules: I too agree with John (Clarke), Jose (Guillen), Stephen (Bouch), and Len (LeTellier) for all the stated reasons. The proposal, as it stands, is a great resource for court and AOC management as a guideline or standard. I fully support and have implemented training programs for all court staff. I continue to ask the question as to why there is a move to mandate a rule for a process that does not seem broken and is inherently the responsibility of the local court. Thank you for another chance to comment.	*The committee does not believe that something must be "broken" in order to take action to improve the branch. Branchwide education requirements are not just about individual participation and local court commitment; they clearly demonstrate branch accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.*
185.	Hon. Victor Person Judge	N	N	Substance of or need for rules: I am in favor or continuing legal education for	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of Los Angeles County Los Angeles			judges as it is very valuable. However, I am adamantly opposed to it becoming mandatory.	
186.	Hon. Wayne L. Peterson (Ret.) Superior Court of San Diego County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
187.	Hon. Rosemary Pfeiffer Judge Superior Court of San Mateo County Redwood City	N	N	Substance of or need for rules: For my entire career on the bench I have participated in voluntary judicial education, as a faculty member and a student. The system has worked splendidly and efficiently. This proposal	The committee agrees that the voluntary judicial education system has worked well in the past but believes that the proposed minimum requirements are necessary.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				would necessitate a layer of bureaucracy and compulsion that neither benefits our profession or serves the taxpayer of this state. The growth of the AOC in terms of budget and employees is an affront to the taxpayers of this state who never could have contemplated such expense and would surely recoil from this proposal if they truly understood it. Instead, judges are being put in the position of defending their own independence and integrity while being subtly accused of being anti-continuing education. We have the right to expect much more respect from the administrators who purport to serve our interests and interests of the public.	*There are no new resources for the AOC associated with the proposed requirements. The rules were written to acknowledge the many education providers, including the local court, and the variety of education delivery options, such as online courses and broadcasts. CJER, as only one provider, currently produces enough judicial education for every judge to earn 15 hours annually, or 45 hours in a three–year period, which is 50% more than what the proposed rules require. There will be no need for the AOC to produce more judicial education. In addition, tracking will be by the individual judge. Finally, the proposed rules are the product of the CJER Governing Committee, and the overwhelming majority of members are judges.*
188.	Hon. Craig Phillips Judge Superior Court of Kern County Lamont	N	N	<u>Substance of or need for rules:</u> I believe that support for training should be provided to encourage use of same. I endorse comments of Judge Horan.	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				[Comment from Judge Horan] The rules are unnecessary; the vast majority of judges understands the duty to be well educated in the law, and don't need yet another Byzantine bureaucratic rule foisted upon then. Voluntary education IS WORKING; I WANT education offered to us, and I WANT it to be accessible without having to travel 40 miles through traffic. I WANT to have the opportunity to stay abreast of legal changes. What I DON'T want is to be insulted by having a RULE state that I must do it YOUR way.*	[Response to Judge Horan:] *The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The only content requirements are related to new assignments; beyond the minimal initial content, judges are free to choose what they deem appropriate based on their assignments or other professional interests.*
				Authority of Judicial Council: Clearly in excess of Council's Article VI rule-making authority	*The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
189.	Mr. Michael Planet Executive Officer Superior Court of Ventura County	A	N	Substance of or need for rules: I've appreciated the debate that is taking place on the subject of the minimum education requirements proposal. As I stated at the CEAC meeting last week, I support the proposal that has been put out for comment as it relates to CEOs and court staff. A well trained staff is one of our core values, as it should be for the branch. I view the minimum requirements as a statement supporting what we would like to accomplish locally, not as an impediment or a loss of autonomy. Finding the time to train staff and identifying relevant courses are a challenge now, and I believe that the minimum requirements can only help to expand the training opportunities now available through CJER and other sources. That, in the end, will help us to achieve our	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				training needs locally, and meet at least a minimum level of educational requirements that I think we can all agree demonstrates our commitment to excellence. Thanks for the opportunity to share my comments on this important proposal. *	
190.	Hon. William Pounders Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: I have always believed in continuing education for judges. BUT I DO NOT BELIEVE IN MANDATORY EDUCATION. The discretion judges had 23 years ago when I became a judge has been constantly diminished. There is no one best way to do things, and no one type of training suits all. I continue my education by reading the advance sheets and attending our own seminars.	The committee does not believe that education requirements diminish the discretion of judges with respect to education and training. The committee included in the proposed rules numerous education options such as multiple providers, online courses, self-study activity, and faculty service in order to address the efficiency of completing requirements. In addition, the rules are designed to leave the decision regarding content largely to the local court and individual judges.
191.	Hon. Jeffrey J. Prevost Judge Superior Court of Riverside County Riverside	N	N	Substance of or need for rules: I strongly disagree with the proposal. It seems to me that this is a solution in search of a problem. Are California's judicial officers horribly – or even slightly – deficient in their training and knowledge of the law? Empirical data to that effect are sorely lacking. I have attended, sometimes voluntarily, sometimes not,	*The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				many continuing education courses in the six years I have served as a commissioner and judge. In my estimation I got a lot more out of those specific courses I chose to attend	*development. All participants in education learn to differing degrees whether they are required to attend or not. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in complaints to the CJP.*
192.	Hon. Mel Red Recana Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: I am strongly opposed to mandatory judicial education. It is a solution without a problem;. We, judges, will take the extra mile to learn. We live by our sworn duty to uphold the integrity and independence of the judiciary; to perform our duties impartially and diligently. As an example, I worked for the passage of the Judges sabbatical Leave Law, took one year leave of absence without pay to attend the Kennedy School of Government and spent $20,000 plus of my own money. I did this to prepare myself as our court's PJ. We have CJER already doing an excellent job in voluntary education. Instead, we should focus our attention on pressing matters such as increasing the daily pay of jurors	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* The committee believes that branchwide professional development is one of the most important components in improving both public trust and confidence and safeguarding the independence of the judicial branch.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
193.	Hon. Elwood M. Rich (Ret.) Riverside	N	N	Substance of or need for rules: Remember the adage that you can lead a horse to water but you can't make him drink! If there is a significant opposition, it would not seem prudent to force mandatory judicial education on the judges. Judicial education is extremely important! It would seem more prudent to develop a quality monthly publication to keep judges informed on changes in the law, problem areas in the law, and other matters of interest to judges. You can't make them read it, of course, but you also can't make them truly pay attention in a class. It is a matter of responsibility and pride in being a competent judge.	The committee appreciates the suggestion to develop a monthly publication for judges. The committee does not believe that required education will diminish participant learning. *Two required programs, New Judge Orientation and the Witkin Judicial College, receive consistently high ratings. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in complaints to the CJP.*
194.	Hon. Andria K. Richey Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: I oppose mandatory education of this sort. There is no demonstrable need. The survey on trust and confidence does not support this in any way. I have not heard of a single legislator who intends to introduce any legislation of this sort, so there is no reason to assume we have to do this or they will. Even CJER's own report says that judges are already doing—on average—far more than is required. I also oppose the extremely limited amount of self-study allowed. Why should judges be restricted to an amount	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				even lower than that for lawyers? We should be able to meet this requirement entirely by self-study if we so choose. We are all already doing that!	
195.	Hon. Maria P. Rivera Associate Justice, Court of Appeal First Appellate District, Division Four San Francisco	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
196.	Hon. Barbara L. Roberts Judge Superior Court of Butte County Oroville	N	N		
197.	Hon. Ronald B. Robie Associate Justice, Court of Appeal Third Appellate District Sacramento	A	N	I wholeheartedly support the proposal as circulated. It is long overdue and puts California in line with the vast majority of the States. The purpose of the proposal is to assure the public that its judicial system serves it needs to the highest standards by ensuing professional competency and continued improvement branchwide. Every day, the fate of 27 million Californians' families, fortunes, and freedom is in the hand of fewer than 2000 judicial officers. We hold unique individual and collective roles and responsibilities in our society. It is up to us to make informed, responsible, decisions about	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				hot to most effectively ensue the continued improvement of our court system and everyone in it.*	
198.	Michael Roddy Executive Officer Superior Court of San Diego County San Diego	A	N	I fully support the proposed rules requiring mandatory minimum education requirements for court executives, managers, supervisors and court employees.	
199.	Hon. Frank Roesch Judge Superior Court of Alameda County Oakland	N	N	Substance of or need for rules: Please count me as strongly opposed to a "minimum continuing legal education" requirement for judges. In my tenure as an attorney, MCLE was imposed; after many years I can attest that it has not improved the performance of lawyers. In my current assignment, I am sometimes discouraged by the lack of scholarship of attorneys – all of whom are current with their MCLE. In my tenure as a probate referee, mandatory education requirements were imposed; after many years I can attest that the already excellent performance of probate referees neither improved nor diminished. One could argue that the imposition of minimum education requirements for Judges "proves" that the court system is replete with incompetence. *	The committee believes that minimum continuing education requirements will improve performance. For example, *the Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in the number and kinds of complaints to the CJP. This demonstrates that "required" education can and does have beneficial results; the only requirement was attendance, not a predetermined level of learning, and yet learning from the courses is evident. Approximately 99% of the judiciary participates in the "required" Qualifying Ethics courses in order to receive CJP*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					insurance. Another and longer-term example is education for new judges, the New Judge Orientation and the Judicial College. These programs, which have been required by rule since 1996, have been very successful, have received high ratings, and have made the transition into the judiciary more effective for hundreds of new judges.
200.	Hon. Jon R. Rolefson Judge Superior Court of Alameda County Oakland	N	N	<u>Authority of Judicial Council:</u> I strongly object to the proposed rules. I question the authority of the Judicial Council to promulgate such rules, since they impose requirements on individual judges in particular, rather than the administration of justice in general. The next step, of course, would be disciplinary action for failure to comply with these requirements—the authority for which I would also question. While we may properly be subject to disciplinary action for misconduct in office, we are nevertheless elected officials; as such, our qualifications and suitability to hold office are subject to review by the voters. There is no good reason or authority for us to have to pass muster with an administrative body, as well.	*The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					The committee has not addressed the failure-to-comply issue as it is beyond the scope of the committee's area of responsibility.
201.	Hon. Glade F. Roper Judge Superior Court of Tulare County Porterville	N	N	Substance of or need for rules: I have been on the bench for 16 years. During that time I have always sought training when I felt I needed it. I believe other judges do the same. I have watched with interest the education requirement debate has developed, with one side insisting that we must impose these artificial requirements for continuing education or the legislature will force it on us, and the other side decrying this descent onto the slippery slope of making us mere pawns and destroying the separation of powers. I think both sides are wrong. What I do think is that our image in the eyes of the taxpayers will not be enhanced by requiring that we be away from court paying $200 per night at some fancy hotel in the big cities to go to classes that we may not need taught by our fellow judges who are also away from court. My constituents, who have to wait for hours to get their cases heard expect me to be here presiding over court. Certainly they expect me to know the law, and when I need training I get it. They don't want someone in	*The committee acknowledges the significant commitment of many individual judges to ongoing education. The committee does not believe that education requirements are an infringement on the smooth functioning of the court. The proposed requirements highlight the complexity of the work of judges and the need for the highest level of education in order to effectively fulfill that role. Almost all of the requirements for continuing education can be earned through multiple providers, including the local court, and many hours can be earned through online courses or self-study, which would significantly reduce the cost and time away from court. This flexibility is an attempt by the committee to make the education requirements easier to meet. The*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				San Francisco or Sacramento telling me how much I need to be away from my court. I believe this proposal is an undue interference with each judge's ability to function properly.*	*committee believes that education can improve the functioning of the court.*
202.	Hon. David Rosenberg Judge Superior Court of Yolo County Woodland	AM	N	Substance of or need for rules: I support continuing education for judicial officers, however, the issue has, unfortunately, become divisive. I propose, accordingly, a two–phase process. Phase 1 should include a period of time (including evaluation time) for voluntary judicial education pursuant to the same criteria and courses proposed. If, after Phase 1 it is shown that voluntary compliance works, then we need not implement Phase 2. If it doesn't work, then we implement Phase 2 which is the mandatory program.	The committee appreciates the suggestion regarding a voluntary period of time for meeting the minimum education proposed, but feels that (a) sufficient time has been devoted to assessing voluntary education in California, and (b) the overriding purpose of the proposed requirements is ongoing, internally generated, branchwide improvement. The rules would represent a public commitment to improvement and a statement of branch values.
203.	Hon. Michelle R. Rosenblatt Judge Superior Court of Los Angeles County Pasadena	N	N	Substance of or need for rules: CJER provides California judicial officers with the finest education system in the country. Voluntary education works very well. CJER prepares innovative courses and judges for the most part like to attend. A mandatory system will hurt the enthusiasm of attendees and potentially affect the quality of the courses. Judges do not attend the Qualifying Ethics courses with the same enthusiasm with which	*The committee agrees that voluntary education has built a great system, but the committee does not believe that requirements will cause a reduction in the quality of education. Part of the greatness of judicial education in California is the involvement of numerous judges in the planning and implementation of courses;*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				they attend other CJER classes. None of the judges who I have spoken to favor a mandatory system, although they all like and favor education. I am on the criminal law education committee for CJER and I teach at NJO, CJSP and at Institutes. I believe having Standards of Judicial Administration advise judges on the education they should attend, without any watch dog, without punishment, would be better than having mandatory judicial education. I do not oppose the amount of education in the plan—just the language that it is mandatory.	*currently, 300 judges participate in education committees and serve as faculty for CJER courses; this number does not include those who serve in similar capacities at the local court level or in court-related associations. These individuals take great pride in the quality of their courses, and they routinely deal with a wide variety of participants. The committee does not believe that additional education requirements will diminish their professional commitment to high-quality education. There have been education requirements (New Judge Orientation and the College) for 10 years (since 1996). Those programs continue to receive high evaluations, and there is no shortage of judges who want to serve as faculty for them.* The committee does not believe that participants in the Qualifying Ethics program attend with less enthusiasm than they have at other

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					classes. Course evaluations from this program are consistently very high. The proposed rules do not contain any punishment or appoint a watchdog to oversee compliance. The thrust of the rules is to keep oversight and implementation at the local court level, where they are most appropriate.
204.	Hon. Alan S. Rosenfield Judge Superior Court of Los Angeles County Lancaster	N	N	Substance of or need for rules: Although well intended, such a rule is unnecessary. The judicial canons already require judges to maintain proficiency and a failure to do so is already actionable by the CJP for a violation of the canons.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in complaints to the CJP.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
205.	Hon. Ignazio J. Ruvolo Presiding Justice, Court of Appeal First Appellate District, Division Four San Francisco	A	N	Substance of or need for rules: I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
206.	Hon. William C. Ryan Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: I doubt that the AOC has the power to compel judicial education. The proposal is insulting to trial judges in that it suggests that trial judges need to be supervised like small children and that they, unlike our august brethren on the appellate courts, are currently deficient in our training and education. Judges themselves know best what they need by way of training and we do not need unelected and unaccountable AOC bureaucrats who haven't a clue what it's like to be a judge telling us what to study, in what amounts and how often. The proposal is totally unacceptable in its present form.	The committee, not the AOC, is responsible for proposing the minimum education requirement rules to the Judicial Council. The committee does not agree that the proposed rules would result in supervision of judges; judges would track their own education and have considerable freedom in choosing education that meets their individual needs. The committee does not intend to imply that trial court judges are deficient; as stated elsewhere, the trial courts were chosen for the initial phase of branchwide minimum education requirements for specific reasons. The proposed rules do not change the current education planning process, thus AOC personnel are not determining education for

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					judges. The Governing Committee has more than 20 education committees, 12 of which are dedicated to judicial education and are therefore made up of judges, who determine content for judicial education. Governing Committee membership is primarily judges.
207.	Hon. Philip Saeta (Ret.) South Pasadena	A	N	Substance of or need for rules: At 10 hours / year we are at the bottom; we should at least aim for the median of the other states.	*The committee thoroughly discussed the amount of time for the continuing education requirements and felt that, as a minimum, 30 hours in three years would be sufficient to engage all members of the branch in meaningful education that would contribute to their continued professional development. The committee hopes that judges will participate in education as outlined in the Standards of Administration–eight days per year.*
208.	Hon. Yvonne T. Sanchez Judge Superior Court of Los Angeles County Whittier	N	N		
209.	Hon. Steven P. Sanora Superior Court of Los Angeles County	A	N	Substance of or need for rules: I strongly support the continuing education	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
210.	Hon. Jack Sapunor Judge Superior Court of Sacramento County Sacramento	N	N		
211.	Hon. Barbara M. Scheper Judge Superior Court of Los Angeles County Chatsworth	N	N	Substance of or need for rules: I strongly oppose mandatory judicial education. I believe it assumes a problem that does not exist and is insulting.	*The committee does not believe that education requirements for judges are insulting. The proposed requirements highlight the*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					complexity of the work of judges and the need for education in order to effectively fulfill their role. In addition, the committee did not develop this proposal because it thought that some judges either were not professionally competent or did not stay current on the law because of lack of participation in education. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.
212.	Hon. Peter Schultz Judge Superior Court of Kings County Hanford	N	N	Substance of or need for rules: I urge you to make the requirements advisory and not further curtail the independence of and further "bureaucratize" local judiciary.	The committee believes that a whole system of aspirational or advisory goals for judicial education already exists in the Standards of Judicial Administration (which recommends that judges should be granted at least eight court days per year to participate in continuing education—more than the proposed

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					minimum requirements). *The committee does not believe that proposed minimum education requirements would create a bureaucracy that would interfere with a bench officer's performance of duties. The committee determined that self-tracking makes each judge accountable and that annual self-reporting to the local court presiding judge would minimize bureaucracy.*
213.	Hon. Arthur G. Scotland Administrative Presiding Justice Court of Appeal, Third Appellate District Sacramento	A	N	Substance of or need for rules: I write in support of the proposed rule to establish mandatory minimum education requirements for trial court judges and subordinate judicial officers. In my view, it is a responsible proposal designed to maintain the high quality of justice administered by trial courts throughout California. Education is beneficial to those who work in the court system and to the public that uses it. To my knowledge, most professions require mandatory minimum continuing education. In view of our state's complicated system of laws, continuing education is a valuable resource that will help us to maintain the high standards that	

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				have been the hallmark of California's judiciary. I urge the Judicial Council to "do the right thing" and adopt the proposed rules establishing mandatory minimum continuing education requirements for trial court judges and subordinate judicial officers.*	
214.	Hon. Christopher John Sheldon Judge Superior Court of Riverside County Indio	N	N		
215.	Hon. Harry R. Sheppard Judge Superior Court of Alameda County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
216.	Hon. Doris Shockley Judge Superior Court of Yolo County Woodland	N	N	Substance of or need for rules: I do NOT agree with MINIMUM standards of education. In our court that is interpreted by our current presiding judge as ALL a judge can do. This effectively eliminates drug court, mental health court and other alternative courts that really require much time attending training, seeking funding, etc.. Until we have a bench that accepts change in how courts are run, "minimum standards" are used to prevent change and prevent participation in any education outside the "norm."	The committee does not believe that the minimum will become the maximum. The proposed rules do not replace the existing Standards of Judicial Administration, which recommend that judges should be granted at least eight court days per year to participate in continuing education, but refer to the standards as the aspirational goals for participation. For example, according to proposed rule 10.452(c): "The education requirements … are minimum requirements. Justices, judges, and subordinate judicial officers should participate in more judicial education than the minimum requirements in accordance with the standards set forth in … the Standards of Judicial Administration." Proposed rule 10.452(e)(2) states: "To the extent compatible with the efficient administration of justice, each

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					presiding judge must also grant to all judges and subordinate judicial officers … sufficient leave to participate in education programs consistent with the Standards of Judicial Administration."
217.	Hon. D. Robert Shuman Judge Superior Court of Sacramento County Sacramento	N	N	Substance of or need for rules: First response I believe this requirement is an excellent idea, but new assignment training should be completed before entering the new assignment or sooner than six months into it. In most instances six months is simply too long to be performing the duties of the new assignment without receiving appropriate training. Also, the rule needs more specificity as to length of the course and type of training that would qualify.	The committee agrees that participating in education prior to taking a new assignment is desirable or should be done sooner than the six months called for in the proposed rules. The committee discussed this issue thoroughly and felt that the differences in resources from court to court might make it difficult for judges to meet the requirement in a shorter time period. CJER is producing online courses in each substantive area of the law; the committee hopes that judges with new assignments will take advantage of these courses prior to or soon after assuming a new assignment. To allow maximum flexibility, the committee decided to leave to local court discretion the question of the length and type of training that would

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					qualify for credit. The proposed rules include numerous preapproved providers and criteria for local courts to use in determining whether courses offered by other providers would qualify.
				Substance of or need for rules: Second response I believe the proposal to enact mandatory continuing education requirements on trial court judges is unwarranted and unnecessary. I'm sure you have already been apprised of the many reasons why this proposal should not be adopted so I won't repeat them. Suffice it to say that I consider the mandatory nature of the proposal to be demeaning, and one more reason why good lawyers should not aspire to become judges.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The committee does not believe that education requirements are demeaning to judges. The proposed requirements highlight the complexity of the work of judges and the need for education in order to effectively fulfill their role.*
218.	Hon. Peter J. Siggins	A	N	Substance of or need for rules:	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Associate Justice, Court of Appeal First Appellate District, Division Three San Francisco			I support mandatory continuing education for all of California's judicial officers. Supplemental education programs administered by the judicial branch will reaffirm California's commitment to judicial excellence and will enhance public confidence in the courts.	
219.	Hon. Shari Silver Judge Superior Court of Los Angeles County San Fernando	N	N	Substance of or need for rules: I regularly attend many education programs. I do not believe Mandatory Education is needed or necessary. I do not believe in micro-management. I am an elected official, take my position very seriously and regularly attend voluntary education programs to keep me up on the law and learn from other judges. No elected official that I am aware of has any MANDATORY EDUCATION requirements imposed upon them. Thank you.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. Branchwide education requirements are not just about participation by individual judges; they clearly demonstrate branch accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					The proposed rules do not establish a situation of micromanagement. The requirements are designed to be flexible and to retain discretion and options at the individual and local court levels.
220.	Hon. Jessica Perrin Silvers Judge Superior Court of Los Angeles County Van Nuys	N	N	Substance of or need for rules: I oppose the imposition of mandatory education. Judicial independence must be maintained.	*The committee does not believe that education requirements are an intrusion into the independence of the judiciary. There are two forms of independence: independence of the judiciary as a third branch of government and independence of each judge in his or her handling of cases and decision making. Regarding the independence of the branch, the requirements, if approved, demonstrate that the judiciary is implementing internal practices to ensure continued improvement of the branch and strengthening its independence from the other two branches of government. Regarding the ability of a judge to exercise independence in handling cases and in decision making, the education requirements*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					will contribute to the knowledge and skills of judges, enabling them to effectively decide the issues before them.
221.	Alan Slater Executive Officer Superior Court of Orange County	A	N	Substance of or need for rules: I think the proposal is an expression of the professional minimum standards that should apply to our respective positions in government public service. For a court, the mere "doing" of justice is not sufficient; preserving the Appearance of Justice is equally critical. It is entirely appropriate for the Judicial Council to adopt a rule regarding Education Requirements because it would speak in greater volume about the level of professionalism we have achieved in the branch. If we do nothing, the void will surely be filled eventually, but under the theory that the Judicial Branch is not capable of governing itself, even regarding a subject so incredibly obvious and benign as Education Requirements. I urge the Judicial Council to support this modest proposal, which has nothing to do with autonomy or the loss thereof, nor is there any implication of some deficiency that must be corrected. The Judicial Branch has a responsibility to the public we serve to make a clear commitment to providing the best educated and best trained judicial officers and	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				administrative staff.*	
222.	Hon. Robin Miller Sloan Judge Superior Court of Los Angeles County West Covina	N	N	Substance of or need for rules: I do not believe that an independent branch of government should be required to participate in mandatory education. Implicit in the qualifications for the position and explicit to the oath of office is the requirement to uphold the laws of this State. No judge can do their job effectively unless they continue to educate themselves. All judges recognize this and therefore participate in judicial education as much as practicable.	*The committee does not believe that education requirements are an intrusion into the independence of the judiciary. There are two forms of independence: independence of the judiciary as a third branch of government and independence of each judge in his or her handling of cases and decision making. Regarding the independence of the branch, the requirements, if approved, demonstrate that the judiciary is implementing internal practices to ensure continued improvement of the branch, and strengthening its independence from the other two branches of government. Regarding the ability of a judge to exercise independence in handling cases and in decision making, the education requirements will contribute to the knowledge and skills of judges, enabling them to effectively decide the issues before them.*
223.	Hon. Philip L. Soto Judge	N	N	Substance of or need for rules: I do not agree with mandatory judicial	*The committee believes that the proposed education requirements*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of Los Angeles County Pasadena			education given the number of voluntary educational programs provided to judges and the number of judges who attend these programs. Nor does there appear to be sufficient pressure from the other branches of state office to justify the judiciary diluting its independence as the third branch of government. We should not mandate that judges attend educational programs but continue to provide quality educational opportunities for judges to obtain and improve their knowledge and skills.	*are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* *The committee does not believe that education requirements are an intrusion into the independence of the judiciary. There are two forms of independence: independence of the judiciary as a third branch of government and independence of each judge in his or her handling of cases and decision making. Regarding the independence of the branch, the requirements, if approved, demonstrate that the judiciary is implementing internal practices to ensure continued improvement of the branch, and strengthening its independence from the other two branches of government. Regarding the ability*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					of a judge to exercise independence in handling cases and in decision making, the education requirements will contribute to the knowledge and skills of judges, enabling them to effectively decide the issues before them.
224.	Hon. William D. Stein Associate Justice, Court of Appeal First Appellate District San Francisco	AM	N	<u>Substance of or need for rules:</u> In general, I support the proposal to establish minimum educational requirements for the Judicial Branch. Educational requirements are nothing new to judges. Every one of us has already undergone an extensive education. Each day, a judge's education continues as he or she is faced with numerous decisions requiring the correct application of the law while the attorneys make compelling arguments for opposing positions. As judges, we are required to maintain professional competence in the law and must, therefore, keep abreast of its developing trends. While I have no objection to the proposed minimum educational requirements, I am concerned with the proposal's manner of insuring compliance with them. I am concerned about the issue of potential discipline for failure to meet the requirements and would prefer to see an incentive, such as eligibility for a sabbatical	The committee has not addressed the issue of noncompliance as it is beyond the scope of the committee's responsibility.

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				leave or funds to attend courses in distant locations, or earning additional contributions to their retirement funds. [Comment also includes suggestions about appellate requirement.]*	
225.	Hon. Nancy Wieben Stock Presiding Judge Superior Court of Orange County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
226.	Hon. Kathryne Stoltz Judge Superior Court of Los Angeles County	N	N	Substance of or need for rules: I am opposed to the proposal for mandatory education requirements for judges. I am very	The committee does not believe that the proposed requirements will create centralized control and a

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Van Nuys			much in favor of voluntary judicial education. I have attended many conferences as a participant as well as an instructor and a seminar leader. We do not need, nor do we want, centralized control with a large bureaucracy behind it having to approve what we will and will not get credit for. We do a great deal of education locally; some programs have been wildly popular. I think that the AOC, the Judicial Council and the Chief have clearly underestimated what a strong issue this is for many, many judges. There are even rumors going around that Chief Justice George wants to select the Presiding Judge for each court rather than having him or her elected by the local judges. These are not minor issues. The mandatory education requirement has become a lightening rod for all of these concerns. I share these concerns.*	large bureaucracy. The committee determined that self-tracking makes each judge accountable and that annual self-reporting to the local court's presiding judge would minimize any bureaucracy. The proposal provides a long list of approved providers, and the presiding judge may approve other programs to apply toward the requirements.
227.	Ms. Sharol Strickland Executive Officer Superior Court of Butte County	AM	N	As branch leaders we spend a good deal of time talking about our responsibility to provide high-quality, accessible justice services to the people of California. This is not just a lofty goal. It is the purpose behind what we do every day. For many court users, our employees are the face and hands of the court. They provide technical, ministerial and navigational assistance to a increasingly diverse and demanding community.	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				As employers, it is our responsibility to provide our employees with the tools (both technical and interpersonal) they need to do their jobs and do them well. Our primary vehicle for providing these tools is continuing training and professional development. This is a process that begins the moment we hire a new employee and continues throughout their career with the court. I support the adoption of the proposed rules for court personnel. However, I would suggest the following: (1) I suggest eliminating the section requiring employees to maintain records of their educational activities. For court sponsored or sanctioned programs, this should be a court management responsibility; and (2) The rule specifies the court executive or the employee's supervisor may approve an alternative education provider. I would suggest "designee" be substituted for "supervisor" to provide greater local flexibility.*	
228.	Hon. Michael Sweet Judge Superior Court of Sacramento County Sacramento	N	N	<u>Substance of or need for rules:</u> I am opposed to mandatory minimum education requirements for the Judicial Branch. It is unnecessary and represents an unwanted intrusion into our branch of government. Judges should be spending their time in court doing the people's business and minimally in seminars. There are sufficient discretionary programs in	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				place for those who need additional training. Requiring Judges to attend programs they deem unnecessary is a waste of time and money and fosters a bad image.	*involving everyone in the judicial branch in his or her own continuing professional development. The committee does not believe that the proposed requirements intrude upon judicial independence but rather support it.* In addition, the committee does not believe that time spent in education fosters a bad image. The committee believes a positive image of the judicial branch results from a branchwide commitment to professional excellence.
229.	Hugh Swift Executive Officer Superior Court of Amador County	N	N	In principle, I am not opposed to the idea of professional career development through education for the judicial branch. However, I have several concerns about making education mandatory. First, as far as I know, no one has identified the lack of judicial or administrative education as a problem within the judicial branch. If it appeared that the administration of justice was adversely affected by judges or court staff lacking proper training, I could see the need for mandatory education. However, this is not a complaint that I have heard from the public, the media, the executive or legislative	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				branch or even from within the branch. Secondly, there did not seem to be any cost-benefit analysis performed prior to offering the rules for comment and possible adoption. I would be interested to see how much the implementation of mandatory education would cost at both the AOC and local levels. Amador is an underfunded court. We do not receive sufficient funding to support our ongoing operations. I cannot support a mandatory educational program unless the court receives additional funding to offset its costs dollar for dollar. I question the idea of spending money on mandatory education in the absence of a demonstrated need.*	
230.	Hon. Deborah Talmage Commissioner Superior Court of Santa Barbara County	A	N	<u>Substance of or need for rules:</u> Keep up the good work. In my experience as a humble commissioner, those who object to continuing legal education for judges are the ones who need it the most. I encourage you to include training in therapeutic jurisprudence. *	*The committee appreciates the support and did discuss whether to include certain content. After due consideration the committee determined that in order to provide maximum flexibility, it would include only a few content-based courses. However, the curricula that education committees have created during the past few years will ensure that therapeutic jurisprudence is addressed appropriately in continuing*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					education.
231.	Ms. Kathy Tice Human Resources Director Superior Court of Monterey County Salinas	A	N	Substance of or need for rules: This is an exceptional plan and I appreciate all the hours that have gone into creating the plan. Court employees and judges will benefit greatly and become even better than they already are. Thank you so much for providing these training opportunities and outlines.	
232.	Hon. Jon S. Tigar Judge Superior Court of Alameda County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Branch.*	
233.	Hon. Leland H. Tipton Judge Superior Court of Los Angeles County Bellflower	N	N		
234.	Hon. Patricia J. Titus Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: While I am in favor of continuing education, I am strongly opposed to a mandatory judicial education rule. I am in favor of "enhanced" voluntary judicial education and urge the defeat of the proposed changes. Authority of Judicial Council: I have not been persuaded that any legal authority presently exists to unilaterally impose this on us as a mandatory requirement.	*The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
235.	Hon. Thomas N. Townsend Judge Superior Court of Los Angeles County Los Angeles	A	N		
236.	Hon. Gloria Trask Judge Superior Court of Riverside County Riverside	N	N		
237.	Hon. Rolf M. Treu Judge Superior Court of Los Angeles County Los Angeles	AM	N	<u>Substance of or need for rules</u>: Since the issue is not the need for continuing education of judges, but rather the assurance of its execution, I respectfully offer the following suggestions: 1. Immediately table the proposed mandatory rule(s); 2. Send to each judge an inquiry as to whether s/he will voluntarily commit in writing to the level of continuing education contemplated in the proposed rules, with a response due in 30 days 3. Analyze and publish the relevant stakeholders for further discussion No side to the issue gains or loses by this proposal, but a basis for resolution may be closer.	The committee appreciates the suggestions but feels the work done over the past three years has provided sufficient information. In addition, some judges have expressed concern about publishing information regarding their participation in education. As stated in response to some other comments received, *branchwide education requirements are not just about an individual judge's participation; they clearly demonstrate branch accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					values of the judicial branch.
238.	Hon. Kay Tsenin Judge Superior Court of San Francisco County San Francisco	N	N	Substance of or need for rules: The colleagues who have voiced opposition to the rule change have stated so eloquently my feelings on this subject. I just want to add my name and voice to all of their sentiments.	
239.	Hon. Juan Ulloa Judge Superior Court of Imperial County El Centro	N	N	Substance of or need for rules: There is no need for a mandatory education rule. What is needed is a mandate freeing time from bench duties for the purpose of attendance at voluntary education programs. Our current program is a model nationwide, and should not be watered down with bureaucratic oversight.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The committee also does not agree that the proposed requirements would create a bureaucracy. The committee determined that self-tracking makes each judge accountable and that annual self-reporting to the local court's presiding judge would minimize bureaucracy.*
240.	Charles Van Court Commissioner	N	N		

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Superior Court of Yolo County Woodland				
241.	Hon. Richard Van Dusen Judge Superior Court of Los Angeles County El Monte	N	N	Substance of or need for rules: I get an excellent education daily from fine attorneys who appear in my court; on my own I attend judicial conferences; I choose not to be ordered to do anything. Los Angeles already has mandatory education.	*Branchwide education requirements are not just about an individual judge's participation; they clearly demonstrate branch accountability to the collective public, to the other two branches of government, and to ourselves, providing tangible evidence that ongoing professional development and internal improvement are fundamental values of the judicial branch.*
242.	Hon. Raymond P. Van Stockum Judge Superior Court of San Bernardino County Rancho Cucamonga	AM	N	Substance of or need for rules: I do not wish to pay the costs attendant to traveling to places to stay in a hotel, etc. If I am gone we must pay for a pro-tem and I am away from my court for something that I can earn by a video, audio or internet broadcast and have to refer to later. I would hope all credits may be earned by classroom or self-study. Give us more options.*	*The committee received several requests to increase the amount of credit that can be earned through online courses and self-study and has consequently considered increasing the recommendation in the proposed rules. The committee has decided not to change those amounts at this time. The committee hesitates to have individual judges fully meet education requirements through online courses and self-study, however; great benefit is gained from networking with other judges, being part of discussions*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					and problem solving in a class, and interacting directly with faculty.
243.	Hon. John P. Vander Feer Judge Superior Court of San Bernardino County Barstow	N	N	Substance of or need for rules: I don't think it is necessary. Additionally, the proposed rule is so serpentine, you would have to be an appellate justice to verify that you were in compliance.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* Regarding the language of the rules, much of the information is contextual. The actual requirements are straightforward: • New judges–New Judge Orientation, Judicial College, overview course in primary assignment; • Experienced judges–30 hours in three years, including accelerated credit for faculty service and up to a combined seven hours of online and/or self-study. The 30 hours can

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					include orientation for new presiding judges, orientation for new supervising judges, and an orientation or a refresher course for judges changing primary assignment after two years or more out of the assignment.
244.	Hon. Judith A. Vander Lans Judge Superior Court of Los Angeles County San Pedro	N	N		
245.	Hon. Alice Vilardi Judge Superior Court of Alameda County Pleasanton	A	N	Minimum mandatory on-going educational requirements for judicial officers is long overdue. I do not think 30 hours is adequate for triennial educational participation. I would have preferred the provisions of the Standards be adopted, perhaps with modified flexible content provisions set out with required courses, rather than the minimal 10–hour per year standard that is proposed The minimal requirement is, however, an important symbolic step and a start, and so has my support. I think it would facilitate acceptance and compliance with minimum mandatory educational requirements if the AOC budgeted and accounted separately for judicial coverage required for absences occasioned by attendance at training sessions. I do not share the view expressed by some that a mandatory	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				educational requirement is either demeaning or will cause a diminution of the quality of the education. I consider the resources devoted by the council and AOC to continuing judicial education an investment in my and my colleagues' ability to meet the highest possible standards in providing the essential service to the public we do. *	
246.	Hon. Michael G. Virga Judge Superior Court of Sacramento County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	Position	Comment on behalf of group?	Comment An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	Committee Response Text in *italics* indicates the response occurs previously.
				Branch.*	
247.	Hon. F. Dana Walton Assistant Presiding Judge Superior Court of Mariposa County Mariposa	N	N	Substance of or need for rules: So much has been said and so much better that I will indicate that I join in the comments by the Los Angeles Superior Court Executive Committee and those of Judge Highberger. On a personal note, in my discussions with judges throughout the state I have found that they would attend more training if their PJs would give the time to do it. This seems to be the biggest hurdle we need to overcome. Thank you. [Comment from Executive Committee of Los Angeles Superior Court] The Executive Committee of the Los Angeles Superior Court is composed of 22 voting members who are democratically elected by the Judges and Commissioners of the Court. On July 19, 2006, at its regularly scheduled meeting, the Executive Committee voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education, which has been issued for comment by the Judicial Council. The Committee's vote was solely on the issue of whether judicial education should become mandatory by	[Response to Executive Committee of Superior Court of Los Angeles County]

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				California Rules of court and did not address either the authority of the Judicial Council to enact such rules of the specific provisions of the rules which will be addressed by the Presiding Judge in separate comments. The Executive Committee believes that the imposition of mandatory education is, in part, unwarranted in the absence of: 1. Any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. Any reasonable indication that the public perceives that the trial court judges lack the educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	*1. The committee does not intend by its proposal to imply that trial court judges lack the educational qualifications for their positions. Continuing education is not about qualifications–it is about ongoing, internally generated, branchwide improvement.* *2. The committee began its consideration of minimum education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall improvement in trust and confidence in the judicial branch*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					from what was documented in the nineties, the studies also recommend the following: • *"Judges and court staff must be educated in the criteria of procedural fairness …. Initiatives are needed to ensure that all cases are processed in a manner consistent with a sense of fairness in court procedures."* • *"Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceeding …. This is particularly important in the court venues receiving low ratings by court users … traffic, small claims, juvenile and family."* • *"Develop special training for judicial officers and court staff regarding specific cultural differences …."* • *"Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					experience, taking the lead in promoting a respectful and unbiased image …. Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and fairness for all residents of the state." *Regarding perceptions:* • *Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands, but are less likely to use the courts owing to their unfamiliarity with the system, language difficulties, immigration issues, and fear of the unknown, as well as a shortage of low-cost attorneys who speak their languages.* • *African-American and Latino court users have a high regard for judges but a low sense of confidence in the courts, saying ethnicity and income affect treatment.*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				3. Any reasonable indication that trial judges do not maintain professional competence in the law; and 4. Any reasonable indication that mandatory education, if imposed, would either result in a higher level of competency or the public's confidence in the judiciary.	*These findings all seem related to the importance of ongoing professional development and education.* *3. The committee agrees that most trial judges probably do maintain their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing education was not the goal; instead the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* *4. The committee believes there is evidence that mandatory training makes a difference and that trust and confidence would be enhanced with minimum education requirements. Qualifying Ethics courses have contributed to a reduced number of complaints to*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					the CJP; New Judge Orientation and the Judicial College are highly valued by participants.
				[Comment from Judge Highberger] The proposed rules are ill-advised, unnecessary and will create untold bad will for the Judicial Council, the Administrative Office of the Courts, and their hardworking leadership. What should be adopted is a revision of rules 970(g)) and 10.603(c)(2)(A) (circulated as rule 6.603 (c) (2) (A)), so that a certain number of working days are to be allowed all sitting bench officers to attend continuing education programs. Some issues: 1. Lack of Meaningful Consultation – proposal has been prepared in a secluded environment; 2. Demeaning to Trial Court Judges and Commissioners – lack of application to appellate courts equals asymmetrical requirements seen as disrespect for the trial court; 3. Mandatory Judicial CLE is Inherently Inferior – increased new demand will result in acceptance of offerings otherwise rejected;	[Response to Judge Highberger] *The committee appreciates the suggestion to revise rules to set aside a certain number of days for attending education, which was the intent of the Standards of Judicial Administration. This suggestion will be considered in further discussions.* *Regarding the issues highlighted, the committee feels that:* *1. The three-year process has been as open as possible. The proposed model was sent to each trial court judge in 2005.* *2. There is no intent to demean the trial courts–the committee chose a phased approach to addressing minimum education requirements for the judicial branch.* *3. Mandatory education is not inherently inferior. The New Judge Orientation and the B.E. Witkin*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				4. Proposed Rules are Bureaucratic and Complex; 5. Existing Tribunals and Processes Protect the Public from Judges Who Fail to Obtain Education – for example, judges who make errors will be corrected on appeal..*	*College are carefully planned by judges who take extreme care in developing and delivering courses of the highest quality possible, and Qualifying Ethics courses have been evaluated as highly valuable.* *4. While the rules may seem complex, the requirements (as outlined in the guidelines that accompany the rules) are straightforward.* *5. These options do not counterbalance the need for continued professional development, and they cannot fully restore or repair damage to the parties involved in a particular case.*
248.	Hon. Fumiko Hachiya Wasserman Judge Superior Court of Los Angeles County Los Angeles	A	N	Substance of or need for rules: Mandatory training would enhance trust and confidence in our courts. The purpose of the proposal is to assure the public that its judicial system serves it needs to the highest standards by ensuing professional competency and continued improvement branchwide. Every day, the fate of 27 million Californians' families, fortunes, and freedom is in the hand of fewer than 2000 judicial officers. We hold unique	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				individual and collective roles and responsibilities in our society. It is up to us to make informed, responsible, decisions about hot to most effectively ensue the continued improvement of our court system and everyone in it.*	
249.	Hon. Sharon Waters Presiding Judge Superior Court of Riverside County	A	N	Substance of or need for rules: I strongly support the continuing education proposal. It is a carefully crafted and thoughtful blueprint that ensures judges will continue to control their own destiny when it comes to judicial education. The idea of mandatory hours is not novel, as many states already require it, and the public, to whom we often look for support, should expect nothing less. There is no political upside to our refusing to formally remain current on the law. The downside, however, is steep. It is breathtaking that some would take the position that our own branch of government should not require education of us when all practicing lawyers, from whose ranks we were drawn, must meet educational requirements. If we do not establish our own requirements, the Legislature might bypass the Council and declare itself the sole arbiter of judicial education, weakening the Judicial Branch.*	
250.	Hon. W. Bruce Watson	N	N	Substance of or need for rules:	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
	Judge Superior Court of Humboldt County Eureka			I agree with the Resolution of the Executive Committee of the Los Angeles Superior Court submitted on the matter. [Comment from Executive Committee of Los Angeles Superior Court] The Executive Committee of the Los Angeles Superior Court is composed of 22 voting members who are democratically elected by the Judges and Commissioners of the Court. On July 19, 2006, at its regularly scheduled meeting, the Executive Committee voted unanimously to oppose adoption of the proposed Rules of Court contained in Item SP06–14, pertaining to mandatory judicial education, which has been issued for comment by the Judicial Council. The Committee's vote was solely on the issue of whether judicial education should become mandatory by California Rules of court and did not address either the authority of the Judicial Council to enact such rules of the specific provisions of the rules which will be addressed by the Presiding Judge in separate comments. The Executive Committee believes that the imposition of mandatory education is, in part, unwarranted in the absence of:	[Response to Executive Committee of Superior Court of Los Angeles County]

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				1. Any reasonable indication that the trial court judges lack the educational qualification, both past and present, for their position; 2. Any reasonable indication that the public perceives that the trial court judges lack the educational qualifications for their position; (to the contrary, the report prepared for the AOC on public trust and confidence states that "the public perceives a high level of job performance" by the judges);	*1. The committee does not intend by its proposal to imply that trial court judges lack the educational qualifications for their positions. Continuing education is not about qualifications–it is about ongoing internally generated, branchwide improvement.* *2. The committee began its consideration of minimum education requirements before the most recent Public Trust and Confidence Surveys were undertaken and has not based the proposal on survey results. However, while the study showed an overall improvement in trust and confidence in the judicial branch from what was documented in the nineties, the studies also recommend the following:* • *"Judges and court staff must be educated in the criteria of procedural fairness …. Initiatives are needed to ensure that all cases are processed in a manner consistent with a sense of fairness in court*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					procedures." • *"Create best practices to help judges appropriately meet public expectations of having a 'voice' in court proceedings …. This is particularly important in the court venues receiving low ratings by court users … traffic, small claims, juvenile and family."* • *"Develop special training for judicial officers and court staff regarding specific cultural differences …."* • *"Encourage judges to monitor how the conduct of courtroom staff is influencing the way court users view their court experience, taking the lead in promoting a respectful and unbiased image …. Take a leadership role in working with minority bars and other justice system partners to promote increased access to justice and fairness for all residents of the state."* *Regarding perceptions:*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					• *Recent immigrants have positive views of the courts in part because they compare California's courts to those in their native lands, but are less likely to use the courts owing to their unfamiliarity with the system, language difficulties, immigration issues, and fear of the unknown, as well as a shortage of low-cost attorneys who speak their languages.* • *African-American and Latino court users have a high regard for judges but a low sense of confidence in the courts, saying ethnicity and income affect treatment.* *These findings all seem related to the importance of ongoing professional development and education.*
				3. Any reasonable indication that trial judges do not maintain professional competence in the law; and	*3. The committee agrees that most trial judges probably do maintain their professional competence. The committee decided early in the process that simply ensuring that all judges attend continuing*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				4. Any reasonable indication that mandatory education, if imposed, would either result in a higher level of competency or the public's confidence in the judiciary.	*education was not the goal; instead the goal was to instill a branchwide commitment to improvement from within and create a branchwide environment of professional excellence–not just competence but a commitment to excellence and a branchwide expectation that everyone is committed to improvement.* *4. The committee believes that mandatory training makes a difference and that trust and confidence would be enhanced with minimum education requirements. Qualifying Ethics courses have contributed to a reduced number of complaints to the CJP; New Judge Orientation and the Judicial College are highly valued by participants.*
251.	Hon. William R. Weisman Judge Superior Court of Los Angeles County Los Angeles	N	N	Substance of or need for rules: Rule is not needed.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: Rule is probably invalid.	*system through education; and involving everyone in the judicial branch in his or her own continuing professional development.* *The rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
252.	Hon. Randall White Judge Superior Court of Riverside County Indio	N	N	Substance of or need for rules: In my 14 years on the bench, I and other judges throughout the state have witnessed a continuous diminution of judicial independence and autonomy. Some of this is lost on the newer judges – they don't know it wasn't	The committee does not believe that minimum education requirements would diminish judicial independence and autonomy. *The committee sees independence and autonomy as (a) the independence*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				always like this. We have slowly and inexorably moved toward the status of mere functionaries. I joke with my colleagues that soon we will be called "case processors", and appellate justices will be called "quality control technicians". At this rate, the job of judging may soon simply not be one worth keeping. The proposed rules are a dizzyingly complex and unworkable solution to a non-existent problem. The AOC/council's own surveys demonstrate that the vast majority of judges ALREADY take training well in excess of those set forth in the proposed rules—we all recognize that training is a wonderful and necessary part of being a judge. Additionally, we are already under a mandatory duty per our Judicial Canons to be learned in the law. No evidence exists that judges aren't being properly trained through their voluntary efforts.* <u>Authority of Judicial Council:</u> [N]one of the rule makers seemed to have given the slightest attention to whether they were possessed of the constitutional power to do that which they proposed to do. The council, unlike the legislature, has no plenary powers.	*of the judicial branch from the executive and legislative branches, and (b) the judge's independence and autonomy in overseeing the courtroom, deciding disputes, resolving conflicts, and determining the outcome of cases. Neither of these is affected by education requirements. If anything, education requirements contribute to the independence of the branch by instituting improvement from within and providing judges with the necessary skills, abilities, and knowledge for effectively fulfilling the judicial role.* *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial*

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
					Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)
253.	Hon. Charles Wieland Judge Superior Court of Madera County Bass Lake	N	N	Substance of or need for rules: I do not believe that circumstances exist in our courts such that mandated CLE is needed.	*The committee believes that the proposed education requirements are necessary. The intended purposes of the proposed rules include public trust and confidence in the judicial branch; taking action from within to improve the court system through education; and involving everyone in the judicial branch in his or her own continuing professional development. The Qualifying Ethics courses, which are "required" if judges want CJP defense insurance, have been very successful, have received high ratings, and have contributed to a reduction in complaints to the CJP. There are, in addition, some areas in which the judicial branch needs*

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				Authority of Judicial Council: I do not believe the Judicial Council has the legal authority to mandate CLE rules as to constitutional officers.	*to improve. A recent example is the area of domestic violence. The report of the Office of the Attorney General did not reflect well on some courts.* *The proposed rules are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office. (See Memorandum from the AOC's Office of the General Counsel to RUPRO re: Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges, dated April 13, 2006. Also see the informal opinion of the Attorney General to William C. Vickrey re: Judicial Council Authority to Adopt Rules for Judicial Education, dated July 27, 2006.)*
254.	Hon. Rebecca Wightman Commissioner Superior Court of San Francisco County San Francisco	A	N	Substance of or need for rules: Although I share the concerns of colleagues who have gone on record in opposing, I am NOT opposed to having minimum judicial educational standards put in place. I already	

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	**Position**	**Comment on behalf of group?**	**Comment** An asterisk (*) in this column indicates it is an excerpt(s) or summary of the comment.	**Committee Response** Text in *italics* indicates the response occurs previously.
				attend and/or present at conferences more that the minimum. Unfortunately, there are a few who could really use such education, but do not take advantage of the existing voluntary system. I am concerned about the layer of bureaucracy, and not having sufficient resources to support it (financial and time-off), but if that is not a problem, then I do not suppose the proposal. I would rather AOC be involved, as I do not wish to se more piecemeal legislation imposing training requirements.	
255.	Hon. George Wu Judge Superior Court of Los Angeles County Los Angeles	N	N		

 Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date
April 13, 2006

To
Members of the Rules and Projects Committee

From
Michael Bergeisen, General Counsel
Deborah Brown, Managing Attorney
Susan Goins, Senior Attorney
Office of the General Counsel

Subject
Judicial Council's Rule-Making Authority for Minimum Education Requirements for Judges (Appendix to Invitation to Comment SP06-14)

Introduction

As described in the accompanying Invitation to Comment, the Governing Committee of the Center for Judicial Education and Research (CJER Governing Committee) proposes rules for minimum education requirements for the judicial branch. The Office of the General Counsel has been asked to provide a legal opinion about the Judicial Council's authority to adopt such rules, to be included with the Invitation to Comment. This memorandum sets forth our legal opinion.

Question Presented

Does the Judicial Council have the authority to adopt rules requiring minimum education for judges?

Short Answer

Yes, we conclude that the Judicial Council has the authority to adopt rules requiring minimum education for judges. We reach this conclusion because rules requiring minimum education for judges are within the council's authority to adopt rules for court administration, are not inconsistent with statute, and do not add a qualification for judicial office.

Analysis

A. We conclude that a rule of court requiring minimum legal education for judges is within the council's authority to adopt rules for court administration.

1. The legal basis for a rule requiring minimum legal education for judges is the council's authority to improve the administration of justice by adopting rules for court administration, practice, and procedure.

The Judicial Council's composition and powers are specified in article VI, section 6 of the California Constitution. Section 6(d) of that section describes the council's rule-making authority:

> To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

Thus, the council has the authority to adopt rules relating to "court administration, practice and procedure," which rules have the force of law as long as they are not inconsistent with statute. (*People v. Hall* (1994) 8 Cal.4th 950, 960.) Therefore, the first question is whether a minimum judicial education rule would fall within the scope of article VI, section 6(d) as a rule relating to "court administration, practice and procedure." We conclude that it would.

We have found no definition of "court administration" as it is used in article VI in California case law.[1] However, a number of other states have adopted mandatory judicial education rules relying on authority over court administration. Likewise, respected national and California commentators, as well as the American Bar Association explicitly address judicial education requirements as a part of court administration. Finally, the California Rules of Court recognize judicial education as integral to the administration—that is, the management and operation—of the courts.[2] Considering the strong nexus between judicial education and court administration recognized by these authorities, we conclude that the council's article VI authority over "court administration" permits it to adopt minimum judicial education rules.

2. A large number of states have adopted continuing education requirements for judges. To do so, some have relied on constitutional rule-making authority over the administration of the courts.

The National Center for State Courts, Court Statistics Project, reports that as of September 2005, 42 states require continuing education for general-jurisdiction judges. In several instances, the state's judicial branch entity adopting the rule requiring judicial education did so pursuant to its authority over court administration and considered the rule to be a rule of judicial administration.

For example, Florida's Supreme Court is responsible for promulgating "rules for the practice and procedure in all courts including . . . the administrative supervision of all courts"—which rules can be repealed only by a law enacted by two-thirds of the membership of each house of the Legislature. (Fla. Const., art. V, § 2; *School Board of Broward County v. Surette* (Fla. 1973) 281 So.2d 481, 483.) Rule 2.150 of the Florida Rules of Judicial Administration provides that judges "shall complete a minimum of 30 credit hours of approved judicial education programs every 3 years. Two must be in the area of judicial ethics. In addition to the 30-hour requirement, every judge new to a level of trial court must complete the Florida Judicial College program in that

[1] Nor does the Constitution define the phrase further. It should be noted, however, that when the council's authority to adopt rules was expanded to include court administration in 1966, the expressed intent behind the change was to increase the council's authority. Before this change, the council's authority extended only to rules of practice and procedure. The California Constitution Revision Commission, which proposed the amendments, explained: "The rule-making power of the council may be broadened somewhat by the addition of 'court administration' to the present phrase 'practice and procedure.' This is in accord with language used in states that have recently adopted new constitutions and meets the needs of a rapidly growing court structure." (Cal. Const. Revision Com., *Proposed Revision of the California Constitution* (San Francisco: Cal. Const. Revision Com. 1966), p. 88.)

[2] *Black's Law Dictionary* defines "administration" as the "performance of the executive duties of an institution, business, or the like. In public law, the administration of government means the practical management and direction of the executive department or of the public machinery or functions, or of the operations of the various organs or agencies." (*Black's Law Dictionary*, 6th ed. (1990), p. 44, col. 2.)

judge's first year of judicial service following selection to that level of court; every new appellate court judge or justice must, within 2 years following selection to that level of court, complete an approved appellate-judge program."

Similarly, in Arizona, the Supreme Court has enacted a comprehensive judicial education and training program "in accordance with the administrative authority vested in the Supreme Court by Article VI, Section 3 of the Arizona Constitution." (Supreme Ct. of Ariz., Educational Policies & Stds., Admin. Order 89-2.) Article VI, section 3 states, in part, that the "Supreme Court shall have administrative supervision over all the courts of the State." Pursuant to this constitutional authority, the Arizona Supreme Court enacted canon 3 of Arizona's Code of Judicial Conduct, which states that judges "shall participate actively in judicial education programs and shall complete mandatory judicial education requirements." (17A A.R.S. Sup.Ct.Rules, Rule 81, Code of Jud. Conduct, Canon 3B(13).) Arizona's Council on Judicial Education and Training (COJET) is a standing committee of the Arizona Judicial Council and the regulatory body responsible for implementing and ensuring compliance with the Supreme Court's judicial educational requirements. Arizona requires its bench officers to attend 16 hours of mandatory educational training each year.[3] (Supreme Ct. of Ariz., Stds. Governing Judicial Branch Education, Admin. Order 99-8.)

Finally, Utah's Constitution authorizes that state's Judicial Council to "adopt rules for the administration of the courts of the state." (Utah Const., art. VIII, § 12.) Pursuant to this rule-making authority, the council adopted rules relating to judicial education. Rule 1-102 of the Utah Code of Judicial Administration, for instance, states: "Consistent with the status of the judiciary as a co-equal branch of government, the Council is committed to developing uniform policies to improv[e] the opportunity for and the quality of continuing education for judges and staff." (Utah Rules Jud. Admin., rule 1-102(3)(C).) The council also adopted rule 3-403, "Judicial Branch Education," which establishes education standards for judges and other court staff, and requires that judges complete 30 hours of continuing education annually.[4] (Utah Rules Jud. Admin., rule 3-403.)

Thus, the proposed minimum education rules are consistent with what other states are doing. As stated above, in some states, minimum education rules were adopted under the state judicial branch entity's authority over court administration and included as rules of judicial

[3] The 1996 amendment notes to rule 45 of the Arizona Supreme Court Rules (Ariz. Revised Stats. 17A) state that COJET "is responsible for enforcing educational compliance through audits or other methods."
[4] Tim Shea, an attorney in Utah's Administrative Office of the Courts, confirmed that the council adopted the above-referenced rules pursuant to its rule-making authority in article VIII, section 12 of the state Constitution.

administration. At least with respect to the above-referenced rules, none has been challenged as being outside the scope of court administration or on any other ground.

3. Respected national and California commentators and the American Bar Association explicitly address mandatory judicial education rules as a part of court administration.

The American Bar Association (ABA) and commentators on judicial administration also provide support for including judicial education as a component of judicial administration on the basis that it improves the professional competence of the judiciary. In its Standards of Judicial Administration, the ABA specifically provides for continuing judicial education. (ABA Stds. Jud. Admin. (1990), std. 1.25, pp. 64–66.) Section 1.25 of the standards states: "Judges should maintain and improve their professional competence through programs of continuing professional education. Court systems should operate programs of and support judges' participation in training and education, including programs of orientation for new judges and refresher education for experienced judges in developments in the law and in technique in judicial and administrative functions." (*Id.* at p. 64.) The commentary to this section adds that "[c]ontinuing training and education for judges is essential to establishing and maintaining a satisfactory level of professional competence in the judiciary. . . . The tasks of organizing and conducting continuing judicial education are the responsibility of the court system, and should be carried out under the supervision of the chief justice through the administrative office." (*Id.* at pp. 64–65. See also pp. 89–91, describing responsibilities of administrative office of the courts as including "management of the court system's continuing education program for judges, judicial officers, administrators, and other court personnel.") In the book *Creating the Judicial Branch*, Robert Tobin states that judicial education is a major concern of chief justices and adds: "The educational requirements for judges and the extent to which these requirements are enforced constitute a major *administrative* responsibility that involves policymaking by the full court and the administrative oversight of the chief." (R. Tobin, *Creating the Judicial Branch: The Unfinished Reform* (Lincoln, Neb.: Authors Choice Press, 1999) p. 151.) These authorities and others confirm that judicial education is accepted as the norm today, with mandatory judicial education being considered essential to the fair administration of justice. (See, e.g., L. Sipes, *Committed to Justice: The Rise of Judicial Administration in California* (San Francisco: Admin. Off. of Cal. Cts., 2002), p. 214 ["By 1990, most states had gone to some form of mandatory judicial education."].)

4. The California Rules of Court recognize judicial education as integral to the administration of the courts.

The California Rules of Court recognize judicial education as integral to the administration of the courts. Presiding judges currently have many "administrative" duties. For example, under rule 6.603 of the California Rules of Court, they are charged with making appropriate judicial assignments. In doing so, presiding judges must be certain that a judge assigned to a particular courtroom has the substantive and procedural expertise required to handle his or her assignment. Rule 6.603 specifically states that in making judicial assignments, presiding judges "must take into account . . . the knowledge and abilities demanded by the assignment . . . [and] the judge's judicial and nonjudicial experience, *including specialized training or education*." (Cal. Rules of Court, rule 6.603(c)(1)(A)(ii)–(iii), italics added.) Minimum education requirements for judges would enable a presiding judge to make judicial assignments with full confidence that the judges given those assignments have (or will have) the required training.

Judicial education is also integral to court administration in that a judiciary that receives necessary training and is professionally competent is necessary to ensure that justice is being properly administered. This is noted in current rule 970, which states that judicial education "enhances the fair and efficient administration of justice." (Cal. Rules of Court, rule 970(a).) In addition to setting forth minimum judicial education requirements for new judicial officers, rule 970 provides information about judicial education responsibility, sets forth educational objectives, and provides information for presiding judges about budgeting for judicial education and providing educational leave to judicial officers. (Cal. Rules of Court, rule 970.) One of the conclusions reached in the CJER Standing Advisory Committee's April 1994 memorandum on then-proposed rule 970 was that "[m]inimum judicial education requirements would ensure that all judicial officers have equal opportunity to develop and maintain their professional competence and *would improve the administration of justice* by ensuring that all judicial officers are aware of and familiar with the law and procedure necessary to perform their duties effectively." (Judicial Council Report, May 9, 1994, Minimum Judicial Education Requirements, pp. 3-4, italics added.) For over ten years, since the adoption of rule 970, California has required specific education for new judicial officers. Rule 970 has not been challenged, and is generally viewed as a necessary component of the administration of the courts.

Minimum judicial education also is consistent with the spirit of canon 3B(2) of the California Code of Judicial Ethics, which provides, in part, that a "judge shall . . . maintain professional competence in the law." Likewise, canon 2A states that a "judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and

impartiality of the judiciary." In addition, the preamble to the Code of Judicial Ethics states: "Our legal system is based on the principle that an independent, fair and *competent judiciary* will interpret and apply the laws that govern us." (Italics added.)

Although we conclude that the council has the authority to adopt a minimum judicial education rule, reasonable counterarguments can be made based on a narrower reading of the council's rule-making power. Some of those who argue that adopting such a rule is beyond the council's rule-making authority contend that the phrase "adopt rules for court administration, practice and procedure" in article VI is commonly understood to encompass functions within the authority of the court's leadership, but not minimum judicial education requirements. Others argue that minimum judicial education goes well beyond the administration of the courts, the practices of the courts, and the procedures used in the courts, as those terms are traditionally understood. The proponents of that argument note that with the exception of rule 970, the rules of court have always addressed administration, practices, and procedures, such as hours of operation, functioning of court departments, selection of a presiding judge, and delay reduction; and minimum judicial education rules are claimed to be a radical departure from past rule-making.

As shown above, however, other states' actions, respected national and California commentators, as well as the ABA provide support for the conclusion that the phrase "court administration" in article VI encompasses minimum judicial education rules. Even *Black's Law Dictionary* defines administration to include the management and direction of a public entity. Finally, as indicated in the rules of court, for presiding judges to be able to properly administer their courts, they and the public need to be confident that judges are professionally competent in the areas to which they are assigned. Therefore, we conclude that the council's authority to adopt "rules for court administration" includes minimum judicial education requirements.

B. We conclude that a rule of court requiring minimum legal education for judges is not inconsistent with statute.

To be valid, a California Rule of Court not only must fall within the subject matter of the council's constitutional authority but also must "not be inconsistent with statute." (Cal. Const., art. VI, § 6.)

Several statutes require or authorize the council to provide judicial training and education in various areas, including new judge orientation; criminal sentencing; juvenile law; family law; domestic violence matters; and prevention of sexual harassment and racial, ethnic, and gender

bias.[5] (See Gov. Code, §§ 68088, 68551, 68553, 68555; Welf. & Inst. Code, §§ 264, 304.7; Pen. Code, §§ 1170.5, 13828.1.) As described below, however, we conclude that a rule requiring minimum judicial education is not inconsistent with those statutes.

Several cases have addressed the council's rule-making authority. Most recently, in *Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1011, the Supreme Court reiterated that "rules have the force of statute to the extent that they are not inconsistent with legislative enactments and constitutional provisions." (Internal citations omitted.) (See also *Alicia T. v. County of Los Angeles* (1990) 222 Cal.App.3d 869, 884 [rules adopted by the council have "the force of positive law and must be complied with provided they do not conflict with any act of the Legislature"].)

Sara M. addressed the validity of a rule of court the council had adopted that interpreted a statute. The court contrasted this with a rule promulgated as part of the broader "lawmaking power" delegated to an entity. (*Sara M., supra,* 36 Cal.4th at p. 1012.) Comparing the two, the court stated that judicial review of rules promulgated as part of an agency's lawmaking power is very limited, whereas rules that interpret a statute are entitled to less judicial deference. *(Ibid.)* The court commented that rules of court adopted by the Judicial Council can fall under either category and considered the rule at issue in *Sara M.* an interpretive rule. (*Id.* at p. 1013.)

In determining how much weight to give a rule interpreting a statute, the court stated that such a review is "situational" and depends on a number of factors—whether the interpretation (1) is contained in a rule adopted after public notice and comment, rather than prepared by a single staff person without notice and comment; (2) is long-standing and consistently maintained; and (3) was contemporaneous with the legislative enactment of the statute being interpreted. (*Sara M., supra,* 36 Cal.4th at p. 1013.) The court found all these factors present in the rule at issue in *Sara M.* (*Id.* at pp. 1013–1014.) "All of these circumstances support the conclusion that the formal rules the Judicial Council adopts that interpret a statute, including rule 1460, are entitled to a measure of judicial deference. Accordingly, rule 1460's interpretation of section 366.21, subdivision (e), although not binding on the courts and invalid if contrary to statute, is entitled to great weight and will be overturned only if it is clearly erroneous." (*Id.* at p. 1014, internal citations omitted.)

It should be noted that this was the standard applied where the council's rule was entitled to *less* judicial deference. The minimum judicial education rules would not involve the interpretation of a statute as in *Sara M.*, but the exercise of the council's "lawmaking power" delegated in the

[5] Those statutes are reviewed below and a summary of those statutes is attached to this memorandum.

Constitution. Such a rule would be entitled to *greater* deference under *Sara M.* (*Sara M., supra,* 36 Cal.4th at p. 1012.)

Earlier cases provide additional guidance. In *Butterfield v. Butterfield* (1934) 1 Cal. 2d 227, the California Supreme Court stated that the mere fact that a rule goes beyond a statute does not make it inconsistent with the statute. The Court of Appeal, in *People v. Reeder* (1984) 152 Cal.App.3d 900, stated that a court should uphold a rule even if it is "not perfectly congruent" with a statute, so long as the two are reconcilable.

In contrast, in *Trans-Action Commercial Investors, Ltd. v. Firmaterr, Inc.* (1997) 60 Cal.App. 4th 352, 364, the Court of Appeal struck down a rule of court as inconsistent with statute. The Court of Appeal stated that the council's rule-making authority is subordinate to that of the Legislature: "The Legislature's primary constitutional authority to provide the rules governing judicial procedure necessarily controls over the Judicial Council's secondary rulemaking authority." (*Ibid.*, citations omitted.) The council's rule-making authority "is especially limited in areas where the Legislature has been active." (*Id.* at p. 363.)

In *Trans-Action*, the court found that there was a statutory scheme under which a court could impose sanctions and that the statutes set certain conditions and monetary limits on the imposition of sanctions. Because the rule purported to confer on courts a broad power to award sanctions, which went beyond the more limited powers available under applicable statutes, the court concluded that the rule was invalid "to the extent it fails to conform with the statutory conditions for an award of attorney's fees as sanctions." (*Trans-Action Commercial Investors, Ltd., supra,* 60 Cal.App. 4th at p. 355.)

The appellate court's summary of cases addressing rule-making authority is instructive:

> A rule of court may go beyond the provisions of a related statute so long as it reasonably furthers the statutory purpose. (*Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228 [rule requiring points and authorities in support of motion for change of venue]; *Mann v. Cracchiolo* (1985) 38 Cal.3d 18, 29 [rule limiting time to file opposition to summary judgment motion].) However, if a statute even implicitly or inferentially reflects a legislative choice to require a particular procedure, a rule of court may not deviate from that procedure. (*People v. Hall* (1994) 8 Cal.4th 950, 961–962 [rule limiting aggravating factors to be considered in imposing sentence enhancements conflicted with Legislature's evident intent to apply full range of factors]; *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15, 26–31 [rule permitting electronic

> recording of superior court proceedings conflicted with implicit legislative intent that such proceedings be stenographically recorded]; *Cox v. Superior Court* (1993) 19 Cal.App.4th 1046, 1050–1051 [local rule requiring notice of motion to suppress at preliminary hearing conflicted with statute raising "reasonable inference" that no prior notice is required].)
>
> (*Trans-Action Commercial Investors, Ltd. , supra,* 60 Cal.App.4th at p. 364.)

As stated above, the Legislature has enacted several statutes in various areas that address council-provided judicial training and education. Those statutes are reviewed below.

With respect to criminal law matters, Penal Code section 1170.5 provides that the council shall conduct annual sentencing institutes for trial court judges, pursuant to section 68551 of the Government Code, to assist judges in imposing appropriate sentences. Penal Code section 13828.1 provides that the council shall establish and maintain an ongoing program to provide training for the judicial branch relating to the handling of child sexual abuse cases.

Regarding family and juvenile law, Welfare and Institutions Code section 264 provides that, under the council's direction and supervision, the judges of the juvenile courts shall meet in statewide or regional conferences for the purpose of improving the administration of juvenile justice. In addition, Welfare and Institutions Code section 304.7 states that the council shall develop and implement standards for the education and training of all judges who hear dependency matters. Government Code sections 68553 and 68555 provide that the Judicial Council shall establish judicial training programs for judges handling family law and domestic violence matters.

As part of the Lockyer-Eisenberg Trial Court Funding Act of 1997, the Legislature enacted Government Code section 68088. Section 68088 states that the council "may provide by rule of court for ethnic, and gender racial, bias, and sexual harassment training for judges."

More generally, with respect to orienting new judges and keeping judges apprised of new developments in the law, Government Code section 68551 states, in relevant part, that the "Judicial Council is authorized to conduct institutes and seminars from time to time . . . for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law and promoting uniformity in judicial procedure."

Those arguing against the council's authority to adopt minimum judicial education rules point to the above-referenced statutes as providing the council with some authority to develop training

programs (in certain areas), but not providing specific authority to the council to impose minimum education requirements on judges.[6]

We conclude, however, that a rule requiring minimum judicial education is not inconsistent with the current statutes that address judicial education. First, a rule requiring minimum education for judges does not conflict with any of those statutes. Those statutes reflect the importance placed on judicial education by the Legislature. In addition, in each of those statutes the Legislature has placed responsibility with the council to establish training programs, conduct institutes or seminars, and provide direction and supervision for statewide educational conferences. We believe that the better argument is that those statutes do not limit the council's authority, but rather reflect a broad legislative intent that the council address judicial education in a comprehensive manner, to improve the administration of justice by providing for an educated judiciary. There is no indication of any legislative intent to limit the council's authority to require minimum judicial education.[7] (Cf. *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15 [finding rules of court that allowed electronic recording of superior court proceedings inconsistent with statute and the legislative intent behind the statutory scheme].)

Second, even if a rule of court that *requires* minimum judicial education goes beyond the provisions of most of the current statutes that address judicial education, as some opponents of the proposal have argued, such a rule would reasonably further the purpose of those statutes. (See *Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228 [a rule of court may go beyond the provisions of a related statute so long as it reasonably furthers the statutory purpose].) The legislative intent reflected in those statutes is that the council provide training to judges so that

[6] Government Code sections 68551 and 68552 and Welfare and Institutions Code section 264 were enacted as part of a bill requested by the council. (See Sen. Bill 498; Stats. 1965, ch. 412.) As stated above, Government Code section 68551, the most general of these statutes, "authorizes" the council to conduct certain institutes and seminars. Those arguing against the council's authority to adopt a minimum judicial education rule may contend that the council's request for this bill authorizing it to provide institutes and seminars indicates the council's awareness that it lacks the authority to enact rules requiring minimum judicial education absent legislation. (See Sen. D. Grunsky, sponsor of Sen. Bill 498, letter to Governor Edmund G. Brown, May 17, 1965 ["The purpose of the bill is to broaden the Council's authority to conduct judicial seminars and institutes. . . . This legislation would broaden this authority so that a continuing education program could be arranged for the judiciary, paralleling the very effective system now used for lawyers in California."].) We conclude, however, that such an argument would be unpersuasive because these statutes were passed before the 1966 expansion of the council's constitutional rule-making authority to include "rules for court administration."

[7] Indeed, by other actions, the Legislature has shown its support for judicial education. Since 1976, three years after CJER was created with grant funding, CJER has been a permanent part of the judicial system, funded by the Legislature through annual appropriations to the Judicial Council. (See Witkin, Cal. Proc. (4th Ed.), Courts, section 437, p. 504.)

they may effectively perform their duties in an ethical manner free from bias. Rules requiring minimum judicial education would do exactly that. Therefore, we conclude that a rule requiring minimum judicial education would not be found inconsistent with the current statutes addressing judicial education, and indeed would be consistent with those statutes.

C. The adoption of minimum judicial education rules is not prohibited by the California Constitution provision prescribing the qualifications for holding judicial office because the rules would not alter those qualifications.

Some have questioned whether minimum judicial education rules would add a qualification for judicial office that is not otherwise required by the state Constitution and therefore would violate the Constitution. For the reasons set forth below, we conclude that the proposed rules would not add a qualification for holding judicial office.

Article VI, section 15 (hereinafter "section 15") prescribes the qualifications for holding judicial office:

> A person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State.

It is settled that this constitutional provision is exclusive with respect to the eligibility of a candidate to assume judicial office. In *Wallace v. Superior Court* (1956) 141 Cal.App.2d 771, 774, the Court of Appeal struck down a residency requirement for election to superior court judgeship on the ground that the predecessor to section 15, former article VI, section 23,[8] is exclusive with respect to the requirements for judicial office. A subsequent Supreme Court case also relied on former article VI, section 23 in striking down a residency requirement for Supreme Court justices during their terms of office, although language in the case suggested that it did so because the requirement had no reasonable relation to the performance of a judge's duties. (*People v. Chessman* (1959) 52 Cal.2d 467, 500 ["When a candidate for justice meets the requirement of section 23 of article VI and, after election or appointment, qualifies by taking the oath . . . , the Legislature cannot properly require, by way of additional qualification, anything

[8] Former article VI, section 23 was repealed Nov. 8, 1966 and replaced with article VI, section 15. It does not differ from article 15 in any way relevant to this discussion. Former article VI, section 23 provided: "No person shall be eligible to the office of a Justice of the Supreme Court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office . . . ."

(such as change of residence) which has no reasonable relation to the performance of his duties."].)[9]

However, section 15 does not prohibit the Legislature or the council from adopting statutes and rules requiring that judges engage in or refrain from specific actions. And, a number of such statutes and rules have been enacted and enforced, without any claim that they violate section 15. For example, under the Political Reform Act ((PRA) (Gov. Code, § 81000 et seq.), a judge is required to file a financial disclosure statement on filing for election (Gov. Code, § 82001), after assuming office (Gov. Code, § 82002), annually thereafter (Gov. Code, § 82003), and on leaving office (Gov. Code, § 82004). The required financial disclosure statement must include the name and address of each source of income; the amount and the date on which any gift was received; and the annual interest rate, term, and security given for any loan. (Gov. Code, § 82007.)

Likewise, under Code of Civil Procedure provisions, a judge must recuse himself or herself if, among other circumstances, the judge has personal knowledge of disputed evidentiary facts concerning the proceeding, served as a lawyer in the proceeding, has a financial interest in the subject matter of the proceeding or in a party to the proceeding, or the judge believes his or her recusal would further the interests of justice (Code Civ. Proc., § 170.1(a)(1)–(3), (6)(A)(i).) A judge is also required to notify the presiding judge if a judge determines himself or herself to be disqualified and may not further participate in the proceeding, with limited exceptions, unless the disqualification is waived by the parties. (Code Civ. Proc., § 170.3(a)(1).) A judge must state the basis of the disqualification on the record in order to accept a waiver of the disqualification. (Code Civ. Proc., § 170.3(b)(1).) Code of Civil Procedure section 170.9 also prohibits a judge from accepting gifts totaling more that $250 from a single source in any calendar year.

In addition, all judges have duties set out in rule 6.608, including hearing all assigned matters unless disqualified or otherwise excused, requesting approval from the presiding judge for an intended absence of more than one-half day, and following the directives of the presiding judge in matters of court management and administration. Among the many duties of a presiding judge are the following: to make judicial assignments, taking into account specific factors; to supervise

[9] In *People v. Bowen* (1991) 231 Cal.App.3d 783, the Court of Appeal considered whether the *Chessman* court intended to create a "reasonable relation" test for evaluating requirements for holding office imposed on judges during their tenure, as distinguished from the eligibility for assuming office invalidated in *Wallace*. The court noted: "Though *Chessman* cited *Wallace*, the court appeared to treat the question before it as distinct: While the Legislature could not add any eligibility requirements, it could add tenure requirements provided they bore a reasonable relation to the duties of office . . . . The Attorney General has previously so interpreted *Chessman* (Cal. Atty. Gen., Indexed Letter, No. IL 76-137 (July 21, 1976) p. 5) but characterized it as dicta." (*People v. Bowen, supra,* at p. 787.) The Attorney General more recently issued a formal opinion declaring the statute at issue in *Bowen* to be unenforceable on the ground that it violated section 15. (78 Ops.Cal.Atty.Gen 204 (1995).)

the court's calendar; to adopt a process for scheduling judges' vacations and absences from court; to supervise and monitor the number of causes under submission; to support and encourage judges to engage in community outreach; to establish responsible budget priorities and submit budget requests; to approve expenditures and the allocation of funds; and to prepare a long-range strategic plan. (Cal. Rules of Court, rule 6.603.)

These statutes and rules, like the proposed minimum education rules and unlike those struck down in *Chessman* and *Wallace* do not set forth prerequisites for assuming office or qualifications for holding office. Like the proposed minimum education rules, the statutes and rules state duties with which judges must comply. The consequences of failing to comply are not addressed in these existing statutes and rules, nor are they addressed in the proposed minimum education rules. Enforcement of the statutes and rules, including sanctions to be applied for noncompliance, are left to those entities that have enforcement authority over the particular laws, the Fair Political Practices Commission, the Commission on Judicial Performance (CJP), and, ultimately, the California Supreme Court. (See *Doan v. Commission on Judicial Performance* (1995) 11 Cal. 4th 294, 305-306 [judge charged by CJP with willful misconduct, conduct prejudicial to the administration of justice, and persistent nonperformance of duties for, among other things, failing to report in annual statement of economic interests certain loans that she had received in violation of the PRA.].) In addition, enforcement with respect to all of these statutes and rules would include a number of sanctions other than removal from office. For example, among other actions, the CJP may censure a judge for willful misconduct in office and may publicly or privately admonish a judge found to have engaged in an improper action. (Cal. Const., art, VI, § 18(d).)

Accordingly, we conclude that the proposed minimum education rules, like the various statutes and rules currently in place that govern judges, would not be barred by section 15. Unlike the statutory provisions challenged in *Wallace* and *Chessman*, the proposed judicial education rules do not state qualifications for assuming or holding office. Rather, if adopted, they would fall in the same category as the numerous other conditions with which judges must comply while in office.

DCB/SG/sl
Attachment

ATTACHMENT

California Statutes Addressing Judicial Education

California Government Code

Section 68551: States that the council is "authorized" to conduct institutes and seminars to orient judges to new judicial assignments, to keep them informed of new developments in the law, and to promote uniformity in judicial procedure.

Section 68552: States that the council "may" publish and distribute manuals, guides, and other educational materials to assist the judiciary.

Section 68553: States that the council "shall" establish judicial training programs for family law judges.

Section 68555: States that the council "shall" establish judicial training programs for judges who perform duties in domestic violence matters.

Section 68088: States that the council "may provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training for judges."

California Welfare and Institutions Code

Section 264: Provides that under the council's direction and supervision, the judges of the juvenile courts shall meet in statewide or regional conferences for the purpose of improving the administration of juvenile justice.

Section 304.7: States that the council "shall" develop and implement standards for the education and training of all judges who hear dependency matters. The statute also requires the council to submit an annual report to the Legislature on judicial compliance with these education and training standards.

California Penal Code

Section 1170.5: States that the council "shall" conduct annual sentencing institutes for trial court judges pursuant to section 68551 of the Government Code to assist judges in imposing appropriate sentences.

Section 13828: States legislative declaration regarding the need to develop and provide training programs for the handling of judicial proceedings involving the victims of child sexual abuse.

Section 13828.1: States that the council "shall" establish and maintain an ongoing program to provide training for the judicial branch relating to the handling of child sexual abuse cases.

MEMORANDUM

TO: Stanley Bissey, Executive Director
California Judges Association

FROM: Munger, Tolles & Olson (Bradley S. Phillips and Daniel B. Levin)

DATE: June 15, 2006

RE: Proposed Rules on Mandatory Minimum Education Requirements

---

This memo provides our view on the Judicial Council's authority to enact the proposed minimum education requirements for judges ("Proposed Rules"). We have examined 1) whether the Council has the power under Article VI, Section 6 of the California Constitution to adopt the proposed rules; 2) whether the Proposed Rules impose unconstitutional "eligibility" requirements on judges in violation of Article VI, Section 15; and 3) whether the Proposed Rules violate separation of powers doctrine.

We believe that the Proposed Rules may fall within the Council's authority to adopt rules for "court administration," although we note that there is relatively little authority on this question and that there is a substantial argument to the contrary. We also conclude, however, that there is at least substantial argument that the rules are "inconsistent with statute" and thus exceed the Council's constitutional rulemaking authority. We do not believe that the Proposed Rules impose unconstitutional judicial eligibility requirements or violate separation of powers doctrine.

I. The Judicial Council's Constitutional Authority To Enact The Proposed Rules

Article VI, section 6 of the California Constitution provides the Judicial Council's rulemaking authority.

> To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, *adopt rules for court administration, practice, and procedure*, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute. (Emphasis added.)

Rules promulgated by the Judicial Council "have the force of positive law and must be complied with provided they do not conflict with any act of the Legislature." (*Alicia T. v. County of Los Angeles* (1990) 222 Cal.App.3d 869, 884.) The Council's authority to adopt the Proposed Rules depends on 1) whether the Proposed Rules are for "court administration, practice, and procedure," and 2) whether they are inconsistent with statute.

A. The Judicial Council's Authority To Adopt Rules For Court Administration

The Opinion of the AOC Office of the General Counsel ("AOC Opinion") that accompanies the Judicial Council's request for comments on the Proposed Rules concludes that the Proposed Rules fall within the Council's authority to "adopt rules for court administration." As the AOC Opinion recognizes, neither the Constitution nor California case law provides a definition of "court administration" as used in Section 6. Other sources do not provide precise guidance about the scope of the phrase "court administration." Our preliminary conclusion, as noted above, is that, although there is a substantial argument to the contrary, a court is likely to conclude the Council's constitutional authority encompasses education requirements.

The Council's rulemaking authority was expanded by constitutional amendment in 1966 to encompass rules for court administration. The California Constitution Revision Commission, which proposed the addition, explained that "[t]he rule-making power of the council may be broadened somewhat by the addition of 'court administration' to the present phrase 'practice and procedure.' This is in accord with language used in states that have recently adopted new constitutions and meets the needs of a rapidly growing court structure." (Cal. Const. Revision Com., *Proposed Revision of the California Constitution* (1966), p. 88.) The Revision Commission's explanation provides relatively little insight into the precise scope of the Council's new authority over "court administration."

The AOC Opinion relies on three arguments to justify its conclusion that the power to adopt rules for "court administration" includes the power to impose education requirements: (1) numerous other states have judicial education requirements and three of those states (Florida, Arizona, and Utah) have adopted requirements by rule; (2) the ABA and various commentators have endorsed judicial education and suggest that the provision of education is an administrative function; and (3) minimum education requirements are consistent with other California rules, such as Rule 970 which governs education for new judges.

None of the sources on which the AOC Opinion relies, however, provides significant help interpreting the limits of the key phrase "court administration." None of the state rules (from Arizona, Florida, and Utah) discussed by the AOC General Counsel appears to have been challenged in court. Although each of these states seems to have considered education requirements to fall within a general rubric of judicial "administration," and the activities of other states may be relevant to the Judicial Council's policy decision to adopt the Proposed Rules, the out-of-state rules provide little guidance about the meaning of the California Constitution.[1]

---

[1] Arizona imposes its judicial education requirement through its Code of Judicial Conduct, which is part of the state supreme court rules. Notably, Canon 3, in which the education requirement appears, is divided into sections for "adjudicative responsibilities" for judges and "administrative responsibilities." The education requirements appear in the section for "adjudicative responsibilities," not the section for "administrative responsibilities." (See 17A A.R.S. Sup.Ct.Rules, Rule 81, Code of Judicial Conduct, Canon 3B(13).) Florida's education requirement was adopted by the state supreme court in 1987, more than two decades after the California Constitution was amended to expand the Judicial Council's authority. (Fla. Rules of Judicial Admin. 2.150.) It thus provides relatively little guidance about the meaning of the phrase "court administration" when it was adopted.

Similarly, the fact that the ABA and several commentators have endorsed judicial education shows little about the scope of the Council's authority. The ABA standards cited in the AOC Opinion anticipate that education should be supervised by the chief justice through the administrative office but are silent about whether requiring education falls within the scope of "court administration."

Finally, the fact that the Judicial Council has previously adopted rules such as Rule 970, creating minimum education requirements for new judges, has little bearing on the meaning of "court administration" in the Constitution. Those rules show at most that the Council itself believes (rightly or wrongly) that judicial education requirements are within its authority. The minimum education requirements for new judges do not appear to have been challenged in court.

The California legislature has enacted at least ten statutes dealing with education for judges. These statutes both pre- and post-date the 1966 constitutional amendment. The history of these statutes provides some indication that the Council's "court administration" authority at the very least encompasses the power to conduct education. It provides somewhat less guidance about the Council's authority to *mandate* education.

In 1965, the Legislature "authorized" the Judicial Council "to conduct institutes and seminars from time to time . . . for the purpose of orienting judges to new judicial assignments, keeping them informed concerning new developments in the law and promoting uniformity in judicial procedure." (Stats. 1965, ch. 412, § 2, codified at Gov. Code § 68551.) The language of the 1965 act suggests that the Legislature did not believe that, before the 1966 amendment, the Judicial Council had authority under its constitutional rulemaking power to conduct, let alone mandate, education programs. Hence the legislature "authorized" the Council to conduct education programming.

Subsequent to the 1965 statute and 1966 constitutional amendment, the Legislature has enacted a number of statutes requiring the Council to offer educational programs. (E.g., Stats. 1987, ch. 1134, § 2, codified at Gov. Code § 68553 ["The Judicial Council shall establish judicial training programs for judges . . . who perform duties in family law matters]; Stats. 1996, ch. 695, § 1, codified at Gov. Code § 68555 [["The Judicial Council shall establish judicial training programs for individuals who perform duties in domestic violence matters, including, but not limited to, judges"]; Stats. 2005, ch. 265, § 2, codified at Gov. Code § 68553.5 ["[T]he Judicial Council shall provide education on mental health and development disability issues affecting juveniles in delinquency proceedings . . . to judicial officers . . . ."].)

These statutes imply that, while the Council has the authority to conduct judicial training, the Legislature is going a step further to order the Council to exercise that authority.[2] But the source of that authority to conduct educational programs is most likely the 1965 authorization, not the 1966 amendment. For example, in 1976, the Legislature enacted a statute requiring the Judicial Council to conduct annual sentencing institutes for judges "pursuant to Section 68551 of the Government Code." (Stats. 1976, ch. 1139, § 273, codified at Penal Code § 1170.5). This

[2] One statute is more ambiguous. In 1997, the Legislature enacted a statute stating, "The Judicial Council *may* provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training for judges." (Stats. 1997, ch. 850, § 31, codified at Gov. Code § 68088).

legislative history could be read to mean that the Council's authority over education derives from statute and that education—mandatory or not—is outside the scope of "court administration."

A recently adopted constitutional provision arguably provides support on both sides of the question whether the Council's authority to make "rules of administration" encompasses the power to adopt mandatory education requirements. Section 23 of Article VI was approved by the voters in 1998 in Prop. 220, which consolidated the municipal and superior courts. It provides: "Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification." (Cal. Const. Art. VI, § 23.) One reading of this provision suggests that the Senate drafters (and, by way of legal fiction, the voters) believed that the Judicial Council had the authority "pursuant to Section 6" to "prescribe" or order judicial education. (See Webster's Collegiate Dictionary (11th ed. 2004) at p. 981 [defining "prescribe" as "to lay down a rule"].) Under this reading, the introductory clause "pursuant to Section 6" means that the Judicial Council already has authority under section 6 to prescribe the rules specifically referenced in Section 23, which is not meant to expand the Council's authority. Any argument that judicial education requirements do not come within the Council's court administration rulemaking authority, this argument would run, raises the possibility of an inconsistency between Section 6 and Section 23. Reading "court administration" to encompass judicial education requirements harmonizes the two sections. This reading of Section 23 supports the argument that the Judicial Council has authority to prescribe judicial education as part of its authority to make "rules of administration."

On the other hand, one could argue that Section 23 expands the Council's authority for the specific purpose of permitting it to prescribe training about trial court unification. Indeed, any other interpretation, this counter-argument would run, would render Section 23 precatory and superfluous: It would amount to nothing more than a reiteration of an authority that the Judicial Council already has, without directing the Council to exercise that authority in any particular way (since it says merely "*may* prescribe"). Under this interpretation, the language "[p]ursuant to Section 6" is merely a (probably unnecessary) reference to the constitutional creation of the Judicial Council and its general authority to do various things, not including the new thing authorized by Section 23. This latter reading of Section 23 supports the argument that the Judicial Council does not have authority to prescribe judicial education, except to the extent specifically authorized by Section 23 or by statute.

In sum, there is plausible support for arguments for and against the Council's power to require judicial education under its "court administration" authority. We conclude, however, that it is more likely than not that a court would hold that the Council does have such authority given the broad scope of the words "court administration" and the lack of any concrete authority limiting the Council's power.

B. Consistency Of The Proposed Rules With Statute

Article VI, Section 6 of the California Constitution mandates that a valid California Rule of Court may not be "inconsistent with statute." The AOC Opinion concludes that the Proposed Rules are consistent with the current statutory scheme governing judicial training and education because case law establishes that 1) the Judicial Council's rulemaking authority is entitled to great judicial deference and 2) the Council's rules may go beyond the relevant statutory

provisions because they reasonably further the purpose of those statutes. Further analysis of relevant case law as applied to the instant facts suggests that there is at least a reasonable argument that the Proposed Rules are inconsistent with the statutory scheme that governs judicial education and training.

The AOC General Counsel first addresses the Council's rulemaking authority and breaks it down into two categories: lawmaking authority and interpretive authority. The AOC General Counsel then notes that rules adopted pursuant to the Council's lawmaking authority are entitled to more judicial deference than those adopted pursuant to the Council's interpretive authority. A rule created pursuant to the Council's interpretive authority, "although not binding on the courts and invalid if contrary to statute, is entitled to great weight and will be overturned only if it is clearly erroneous." (*Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1013.) The AOC Opinion focuses on the second clause concerning the amount of deference to be shown by a court, but the Opinion ignores the key phrase in the first clause, "invalid if contrary to statute." (*Ibid*.) The language regarding deference begs the question, because a rule that is inconsistent with statute is not entitled to such deference. It is therefore irrelevant that the Council's lawmaking authority, at issue here, is sometimes afforded more deference than its interpretive authority, which was at issue in *Sara M.* (*Ibid*.) In *either* case, the Council's rules must be consistent with statute, and whether they are is a question of law to be decided by the court. (*Ibid.*) Moreover, California courts have not hesitated to invalidate rules created pursuant to the either of the Council's rulemaking authorities when such rules are inconsistent with the legislature's intent. (See, e.g., *People v. Hall* (1994) 8 Cal.4th 950, 962 [holding a rule limiting the authority of the trial court to impose a sentence enhancement was contrary to the legislative intent that trial courts consider all factors]; *California Court Reporters Ass'n v. Judicial Council of California* (*California Court Reports*) (1995) 39 Cal.App.4th 15, 24 [invalidating a rule that authorized electronic recording of superior court proceedings because it was contrary to the implicit legislative intent that official court reporters should be used].)

The AOC Opinion suggests that a court will uphold a rule even if it is not perfectly consistent with statute, as long as the two are reconcilable, citing *People v. Reeder* (1984) 152 Cal.App.3d 900, 920-21. A more recent appellate court decision holds, however, that determining whether a court rule is inconsistent with statute does not mean determining merely whether they are reconcilable. (*California Court Reporters, supra*, 39 Cal.App.4th at p. 24.) Rather, courts should determine whether the rule is consistent with the intent expressed in the statute. (*ibid.*) Furthermore, it is "well settled" that, to be in compliance with the California Constitution, a rule promulgated by the Judicial Council must not conflict with statutory intent. (See, e.g., *Trans-Action Commercial Investors, Ltd. v. Firmaterr Inc.* (*Trans-Action*) (1997) 60 Cal.App.4th 352, 364.) Whether the Proposed Rules are "inconsistent" with existing statutes depends on whether they conflict with the intent behind the statutory scheme governing judicial training and education.

As discussed above, the current statutory scheme in California permits, and in some instances requires, the Council to provide judicial training and education programs for judges that deal with specific areas of the law. The AOC Opinion acknowledges that the Council's rulemaking authority is "especially limited in areas where the legislature has been active." (*Trans-Action Commercial Investors, Ltd., supra*, 60 Cal.App.4th at p. 363.) Moreover, "if a

statute even implicitly or inferentially reflects a legislative choice to require a particular procedure, a rule of court may not deviate from that procedure." (*Id.* at p. 364.)

The case most analogous to the present situation is *California Court Reporters*. In *California Court Reporters*, the Judicial Council sought to authorize the use of electronic recording to make the official superior court record. (39 Cal.App.4th at p. 20.) The court acknowledged that no statute expressly prohibited a superior court from making an official record by electronic means. (*Id.* at p. 25.) The court proceeded, however, to examine whether the rule was consistent with what the Legislature "implicitly" intended. (*Id.* at p. 26.) The Government Code specifically provided for electronic recording of municipal and justice court proceedings. (*Id.* at p. 29.) The court found that, wherever the Legislature intended to permit electronic recording, it had expressed that intent by statutory authorization. (*Ibid.*) The court concluded that the legislative pattern "suggests strongly that . . . the Legislature does not intend that electronic recording of superior court proceedings be the method of creating an official record." (*Id.* at p. 31.) "[A]lthough the statutes do not expressly prohibit electronic recording . . . they nevertheless lead to one conclusion – that the Legislature intended that such proceedings be stenographically recorded by official shorthand reporters." (*Ibid.*) The court concluded that the Council's rule permitting electronic recording was inconsistent with statute and could not be squared with the existing legislative scheme. (*Id.* at p. 33.)

A similar situation exists here. The Legislature has passed several statutes governing judicial education and the resulting statutory scheme is similar to the one that was analyzed in *California Court Reporters*. (*Id.* at pp. 29-33.) Several statutes specify that the Council "shall," "may," or is "authorized," to establish seminars, training programs, or distribute training materials to educate the judiciary. (E.g., Gov. Code §§ 68088, 68551-68553.5, 68555; Welf. & Inst. Code § 304.7; Pen. Code §§ 1170.5, 13828.) Moreover, many of these statutes are for particular courts or very specific and limited training. (E.g., Gov. Code § 6855 ["training programs for judges who perform duties in domestic violence matters"]; Pen. Code § 13828 ["provide training programs regarding the handling of judicial proceedings involving the victims of child sexual abuse"].) In only one instance has the Legislature imposed a *requirement* on judges. Welfare & Institutions Code section 264 provides that "[a]t the direction and under the supervision of the Judicial Council, judges of the juvenile courts and juvenile court referees *shall meet* from time to time in statewide or regional conferences, to discuss problems arising in the course of administration [of the juvenile courts], for the purpose of improving the administration of justice in the juvenile courts." (Emphasis added.)

This pattern suggests that the Legislature, although it has never expressly prohibited minimum education requirements, did not contemplate that the Council would be able to create such requirements for the entire judiciary without statutory approval or authorization. It seems reasonable to conclude that the Legislature intended that the judiciary would be subject to mandatory training and education only when such programs were specifically authorized by statute. Viewed in this light, the Proposed Rules cannot be squared with this implicit intent of the Legislature and would therefore be inconsistent with the statutory scheme.

The AOC Opinion further contends that, even if the Proposed Rules go beyond the provisions of existing statutes, they are valid because they reasonably further the purpose of those statutes. (See *Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228.) In *Butterfield*, the court

held that a rule requiring points and authorities in support of the statutory right to a change in venue reasonably furthered the purpose of that statute. (*Ibid.*) The Proposed Rules at issue here go well beyond providing a procedural mechanism for the exercise of a statutory right, as the rule in *Butterfield* did; they create a comprehensive scheme for judicial education and training independent of existing statutes. The AOC Opinion found that the purpose of the existing statutory scheme is to "provide training to judges so that they may effectively perform their duties in an ethical manner free from bias." But the Opinion simply states this broad view of the statutory purpose without any apparent support. An equally, if not more, plausible reading of the statutes suggests that their purpose is to make education available and to provide training for judges in particular areas where the Legislature concluded that specialized education was required (*e.g.*, family law and child sexual abuse cases). Under this reading, the Proposed Rules do not further the statutory purpose. This reading, combined with the Legislature's implicit intent that the Judicial Council may provide for judicial training and education only when authorized by statute, suggests that the Proposed Rules may be inconsistent with the current statutory scheme.

II. Constitutional Eligibility Requirements For Judges

The Proposed Rules do not appear to impose additional eligibility requirements for judges beyond those established by the Constitution. Article VI, section 15 of the California Constitution provides the qualifications for being a judge:

> A person is ineligible to be a judge of a court of record unless for 10 years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State.

Although nothing in the text explicitly makes the 10-year bar admittance requirement the exclusive qualification for office, California courts have long held that the constitutional eligibility requirement is exclusive. In *Wallace v. Superior Court of Placer County* (1956) 141 Cal.App.2d 771, the Court of Appeal struck down a residency requirement for judges as inconsistent with the constitutional eligibility requirements.[3] A candidate for a judgeship challenged a provision of the Government Code providing: "'No person is eligible for election to the office of judge of the superior court unless he has (a) been a citizen of the United States and a resident of this state for five years of the county in which he is elected for two years preceding his election.'" (*Id.* at p. 772 (quoting Govt. Code § 69500 (repealed).) The court recognized the constitutional qualifications were not expressly exclusive but found that, in general, when a constitution prescribes qualifications for state office, "the legislature can neither add to, nor detract from, the qualifications so prescribed." (*Id.* at p. 775, internal quotation marks omitted.)

The Supreme Court reiterated the exclusivity of the constitutional requirements in *People v. Chessman* (1959) 52 Cal.2d 467, 500. The Court struck down a statute requiring Supreme Court justices to reside in Sacramento. Although the Court stated that the constitutional

[3] The court addressed former Article VI, section 23, which did not differ significantly from current Article VI, section 15, except that the former section required admission to the bar for a period of only five years before becoming a judge.

requirement "is generally regarded as exclusive," it also used language suggesting that its ruling rested on the lack of a reasonable relation between the residency requirement and the duties of the office. The Court stated: "When a candidate for justice meets [the constitutional requirement] and, after election or appointment qualifies by taking the oath . . . , the Legislature cannot properly require, by way of additional qualification, anything (such as change of residence) which has no reasonable relation to the performance of his duties." (*Ibid.*)

The Court of Appeal considered *Wallace* and *Chessman* in *People v. Bowen* (1991) 231 Cal.App.3d 783. A defendant asserted that he was illegally tried by a superior court judge who did not live in the county in which he sat, in violation of former Government Code section 69502. The court noted that *Wallace* involved a statute imposing a residency requirement to be eligible for election as a judge, while *Chessman* involved a statute imposing a residency requirement during a judge's tenure in office. (*Id.* at p. 787.) "Though *Chessman* cited *Wallace*," the Court of Appeal reasoned, "the [Supreme Court] appeared to treat the question before it as distinct: While the Legislature could not add any *eligibility* requirements, it could add *tenure* requirements provided they bore a reasonable relation to the duties of the office." (*Ibid.*) The Court of Appeal noted that the Attorney General had interpreted *Chessman* the same way in a 1976 opinion. Ultimately, the court declined to reach the question whether the superior court tenure-residency requirements was unconstitutional because it had been raised improperly. But the court outlined some of the considerations that would have been relevant: "This . . . issue raises questions concerning the nature of the statute, i.e., mandatory or directory, whether there really was a 'reasonableness' standard employed in *Chessman*, and the historical matrix which the 'reasonableness' standard could be applied to review this statute." (*Id.* at pp. 788-789.)

In 1995, the Attorney General issued an opinion that the residency statute at issue in *Bowen*, former Government Code section 69502, was unenforceable because it added a qualification for superior court judge not found in the Constitution. (78 Ops. Atty. Gen. 204 (1995).) The Attorney General noted that section 69502 imposed a tenure-residency requirement, but not a requirement for the judge's initial selection. The Attorney General nevertheless concluded that the statute likely imposed an invalid qualification for office. The Attorney General did not evaluate the reasonableness of the residency requirement. Rather it appears to have viewed any legislatively imposed residency requirement as invalid. The Legislature repealed section 69502 in 2000. (Stats. 2000, ch. 1081, § 25.)

Residency requirements appear to be the only type of restriction on judges that has been found to conflict with the constitutional eligibility requirement. The Opinion of the AOC Office of General Counsel collects a number of statutes imposing various duties on judges. For example, judges must file financial disclosure statements on filing for election and at various points after assuming office. (See Gov. Code §§ 87201-87205.) Various provisions of the Code of Civil Procedure impose disqualification requirements. (E.g., Code Civ. Proc. § 170 *et seq.*) California Rule of Court 970 presently imposes education requirements on new judges. None of these provisions appears to have been challenged as imposing an eligibility requirement in excess of Article VI.

Nothing in the Proposed Rules suggests that failure to comply with the education requirements would render a judge automatically ineligible to continue in office. Indeed, the Proposed Rules have no enforcement mechanism. In this respect, the Proposed Rules are similar

to the various statutory and rule-based requirements that have gone unchallenged; they are unlike the residency provision struck down in *Wallace*, which explicitly provided that residency was an eligibility requirement for running for judicial office. Any discipline for failing to comply with the Proposed Rules would flow from the Commission on Judicial Performance disciplinary process. A judge threatened with removal for failing to comply with the Proposed Rules might have a valid constitutional challenge if he or she could show that failure to satisfy the requirements does not fall within the types of misconduct for which the Constitution authorizes removal from office.[4] But, because discipline short of removal from office is available, it is difficult to characterize even mandatory education requirements as "eligibility" requirements.

Even if mandatory judicial education requirements were treated like residency requirements, it is not apparent that the Proposed Rules would be held unconstitutional. Although the opinion is not absolutely clear on the point, *Chessman* appears to have adopted a "reasonable relation" test for statutes imposing requirements on judges already in office. Judicial education almost certainly *is* reasonably related to the performance of a judge's duties. At the least, it seems more closely related to judicial performance than the judge's residency. Thus, even if a challenge to the Proposed Rules could successfully characterize them as eligibility requirements and equate them to residency requirements, a court might well uphold the Proposed Rules under *Chessman*.

III. Separation of Powers

The Proposed Rules most likely do not violate separation of powers doctrine. In *Schmier v. Supreme Court of California* (2000) 78 Cal.App.4th 703, 705, the Court of Appeal addressed a claim that a Council rule outlining criteria for publishing opinions violated, among other things, the separation of powers doctrine. The court concluded that the plaintiff did not have standing but also noted that the plaintiff had no viable cause of action because the rule was consistent with the statutory scheme. (*Id.* at p. 708.) Another case ruled that a prosecutor dictating the place and manner of court supervised settlement negotiations violated the separation of powers doctrine. (*Bryce v. Superior Court of Orange County* (1988) 205 Cal.App.3d 671.) In so ruling, however, the court held that "it is the responsibility of the judicial branch to manage the processing of cases under the guidance of the Constitution, the Legislature, *and the Judicial Council*." (*Id.* at

[4] Any action to remove a judge for failing to comply with the Proposed Rule would arise under Article VI, section 18 of the California Constitution, which authorizes the Commission on Judicial Performance to remove a judge for certain specified misconduct: "(1) 'wilful misconduct in office'; (2) 'conduct prejudicial to the administration of justice that brings the judicial office into disrepute'; (3) 'persistent failure or inability to perform the judge's duties'; and (4) 'habitual intemperance in the use of intoxicants or drugs.'" (*Doan v. Commission on Judicial Performance* (1995) 11 Cal.4th 294, 311, quoting Cal. Const. Art. VI, § 18.) It is not clear that failure to comply with minimum education requirements falls within any of these categories. A potential disciplinary action would presumably focus on whether a failure to meet the requirements constituted either (a) willful misconduct or (b) failure to perform judicial duties. The latter is less likely because "[p]ersistent nonperformance of duties entails a pattern of legal or administrative omissions or inadequacies in the performance of a judge's duties. [Cite.] It does *not* entail any intentional disregard of such duties." (*Doan*, 11 Cal.4th at 312.) If the Commission on Judicial Performance concluded that failure to comply with the Proposed Rule constituted willful misconduct, a judge challenging the Proposed Rule as an unconstitutional eligibility requirement would likely have a weak claim.

p. 672, emphasis added.) Furthermore, the fact that the Council consists primarily of Judges may work against any separation of powers argument. Given that the Proposed Rules fall well within the expertise of the Council, a separation of powers claim does not appear viable.

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 322-2217
Facsimile: (916) 324-8835
E-Mail: Louis.Mauro@doj.ca.gov

July 27, 2006

William C. Vickrey
Administrative Director of the Courts
Judicial Council of California - Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

RE: Judicial Council Authority To Adopt Rules For Judicial Education

Dear Mr. Vickrey:

You asked the Office of the Attorney General to provide informal legal advice regarding whether the Judicial Council of California is vested with authority to adopt rules for judicial education. For the reasons that follow, we conclude that the Judicial Council has legal authority to adopt rules for judicial education. We further conclude that if the rules for judicial education currently proposed by the Governing Committee of the Center for Judicial Education and Research (CJER)[1] are adopted by the Judicial Council, the rules would not be inconsistent with statute.

Turning first to the question of Judicial Council authority to adopt rules for judicial education, we begin our analysis by reviewing the express language of the California Constitution. Article VI of the California Constitution establishes the judicial branch of state government, and it sets forth the powers and duties of the various judicial branch entities and officers. The judicial power of the state is vested in the Supreme Court, the courts of appeal, and the superior courts. (Cal. Const., art. VI, § 1.) The constitution establishes the eligibility standards for judicial officers (Cal. Const., art. VI, § 15), and it also imposes certain restrictions on judges. (Cal. Const., art. VI, § 17.) The Supreme Court is responsible for making rules for the conduct of judges, both on and off the bench, and those rules are known as the Code of Judicial Ethics. (Cal. Const., art. VI, § 18, subd. (m).) In addition, the constitution provides that the Commission on Judicial Performance and the Supreme Court have specified authority and responsibility for judicial disciplinary proceedings. (Cal. Const., art. VI, §§ 8, 18.)

The California Constitution also establishes the Judicial Council. (Cal. Const., art. VI, §

---

1. CJER is a Judicial Council Advisory Committee comprised of appellate court justices, judges and others with expertise in judicial education. (See Rule 6.50, Cal. Rules of Court.)

6.) Unlike the Legislature, which has "plenary" authority limited by the California Constitution, the Judicial Council only has the authority expressly granted by the constitution. (*People v. Mendez* (1999) 19 Cal.4th 1084, 1094.) The constitution does, however, vest the Judicial Council with express authority to adopt rules for courts and judges. (See, e.g., Cal. Const., art. VI, § 4 [the Chief Justice shall assign judges to the appellate division of the superior courts for specified terms pursuant to rules adopted by the Judicial Council]; art. VI, § 12, subd. (c) [the Judicial Council shall provide, by rules of court, for the time and procedure for transfer and review by the Supreme Court].) In addition, article VI, section 6, subdivision (d) of the California Constitution provides that to "improve the administration of justice" the Judicial Council shall "adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute." Subdivision (d) further specifies that the rules adopted by the Judicial Council "shall not be inconsistent with statute."[2/]

The language of subdivision (d) -- authorizing the Judicial Council to adopt rules for court administration, practice and procedure -- is quite broad. The question presented to us is whether such broad language encompasses the authority to adopt rules for judicial education. To answer this question, we look to another provision of the constitution for guidance. Article VI, section 23 addresses trial court unification, and subdivision (b) of that section provides: "*Pursuant to Section 6*, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification." (Emphasis added.) The highlighted words suggest that the Judicial Council's authority to prescribe appropriate education and training for judges with regard to trial court unification is "pursuant to" the authority vested in the Judicial Council under Article VI, section 6. Although Section 23 pertains to trial court unification, and although Section 23 is scheduled for repeal on January 1, 2007, it nonetheless indicates that Article VI, section 6 vests the Judicial Council with the power to adopt rules for judicial education and training.[3/]

---

2. Article VI, section 6, subdivision (f) adds that judges "shall cooperate" with the Judicial Council.

3. We understand that on or about June 15, 2006, the Executive Director of the California Judges Association received a memorandum from the law firm Munger, Tolles & Olson discussing the authority of the Judicial Council to adopt rules for judicial education. One portion of the memorandum addressed article VI, section 23 of the California Constitution. The memorandum acknowledged that Section 23 could be interpreted to confirm that the Judicial Council's authority to prescribe rules for judicial education is derived "pursuant to Section 6." But the memorandum also articulated a "counter-argument" that Section 23 instead expands the Judicial Council's authority for the specific purpose of unification training. The memorandum conceded, however, that the counter-argument would render the "pursuant to" language in Section 23 as "probably unnecessary." Of course, rules of construction require courts to avoid interpretations that would render words unnecessary. "If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose."

Article VI, section 6 also vests the Judicial Council with authority to perform "other functions prescribed by statute." The constitutional language is phrased in the conjunctive form: the Judicial Council shall "adopt rules for court administration, practice and procedure, *and* perform other functions prescribed by statute." (Cal. Const., art. VI, § 6, subd. (d); emphasis added.) Thus, it appears that the "other functions prescribed by statute" do not define the scope of the Judicial Council's constitutional authority to adopt rules for court administration, practice and procedure, but instead establish additional duties and responsibilities for the Judicial Council. In any event, the Legislature has also recognized that the Judicial Council is the appropriate entity to adopt rules for the education and training of judges. Government Code section 68088 states: "The Judicial Council may provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training for judges, commissioners, and referees." Moreover, Welfare and Institutions Code section 304.7, subdivision (a), provides in pertinent part that "the Judicial Council shall develop and implement standards for the education and training of all judges" who conduct hearings pursuant to section 300 of the Welfare and Institutions Code (pertaining to the jurisdiction of the juvenile courts). In addition, other statutes recognize that the Judicial Council is the appropriate entity to "establish" or "provide" education and training for judges. (See, e.g., Gov. Code, §§ 68551 [the Judicial Council has authority to "conduct institutes and seminars" for orientation, continuing education, and to promote uniformity in judicial procedure]; 68553 [the Judicial Council "shall establish" judicial training programs for judges, referees, commissioners, mediators and others who perform duties in family law matters]; 68553.5 [the Judicial Council "shall provide" education to judicial officers on mental health and developmental disability issues affecting juveniles in delinquency proceedings]; 68555 [the Judicial Council "shall establish" judicial training programs for judges, referees, commissioners, mediators and others who perform work in domestic violence matters]; Penal Code, §§ 1170.5 [the Judicial Council "shall conduct" annual sentencing institutes for trial court judges]; 13828.1 [the Judicial Council "shall establish and maintain" an ongoing program to provide training for the judicial branch of government relating to child sexual abuse cases].)[4]

The Judicial Council has exercised rule-making authority over judicial education and training for more than a decade. Effective January 1, 1996, the Judicial Council adopted Rule 970 of the California Rules of Court. Rule 970 requires each newly appointed or elected judge to attend a new-judge education program. (Rule 970, subd. (e), Cal. Rules of Court.) The Judicial

---

(*Woosley v. State of California* (1992) 3 Cal.4th 758, 775-776.) "[A] construction making some words surplusage is to be avoided." (*Ibid.*; Code Civ. Proc., § 1858.) In any event, the memorandum ultimately concluded that "it is more likely than not" that a court would hold that the Judicial Council has authority to adopt rules for judicial education.

4. Welfare and Institutions Code section 264 gives additional statutory responsibility to the Judicial Council. Section 264 states that judges from the juvenile courts shall meet from time to time "[a]t the direction and under the supervision of the Judicial Council" for the purpose of improving the administration of justice in the juvenile courts. (Welf. & Inst. Code, § 264.)

Council also adopted Section 25.1 (formerly Section 25) of the Judicial Administration Standards (set forth in the Appendix to the California Rules of Court). Section 25.1 establishes general judicial education standards. The current Section 25 also became effective in 1999, establishing objectives for judicial education. Sections 25.2, 25.3 and 25.4 establish additional judicial education standards. As far as we know, the Legislature has not enacted any statute limiting Rule 970 or Section 25 *et seq.*, and the provisions have not been invalidated by the courts. As the California Supreme Court recently held, the fact that the Judicial Council has interpreted its rule-making authority in a particular way for years without limitation from the Legislature is an appropriate factor to consider in analyzing Judicial Council rule-making authority. (*Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1012, 1014-1015.)

The foregoing discussion establishes that the constitution expressly authorizes the Judicial Council to adopt rules for courts and judges, including rules for court administration, practice and procedure. The constitution further indicates that this broad constitutional language encompasses the authority to adopt rules for judicial education, i.e., that the authority to adopt rules for judicial education is "pursuant to" article VI, section 6. In addition, the Legislature has recognized the Judicial Council as the appropriate entity to adopt rules for judicial education, and the Judicial Council has been acting with such an understanding for years with apparent acquiescence from the Legislature. Under the circumstances, we conclude that the Judicial Council has authority to adopt rules for judicial education.

Of course, even if the Judicial Council has authority to adopt rules in a particular subject area, those rules would nonetheless be invalid if they are "inconsistent with statute." (Cal. Const., art. VI, § 6, subd. (d).) The Supreme Court has explained, however, that just because a rule goes beyond the scope of a statutory provision does not make it "inconsistent" with statute. (*Butterfield v. Butterfield* (1934) 1 Cal.2d 227, 228.) A rule will be upheld if it is "a reasonable provision in furtherance of the statutory purpose." (*Ibid.*)[5] In *People v. Mendez* (1999) 19 Cal.4th 1084, the California Supreme Court upheld Rule 31(d) of the California Rules of Court,

---

5. In the case entitled *In re Robin M.* (1978) 21 Cal.3d 337, the California Supreme Court invalidated a rule that clearly did not further the statutory purpose. That case involved a minor detained in juvenile hall. A detention hearing was held, but when the prosecutor was unable to proceed with a jurisdiction hearing as scheduled, the juvenile court dismissed the petition and ordered the minor released. The prosecutor then filed a second, virtually identical petition and sought to have the minor detained again pursuant to former Rule 1351(e) of the California Rules of Court. The Supreme Court noted that under the Welfare and Institutions Code, the minor was entitled to a jurisdiction hearing within 15 judicial days of his detention hearing. (*Id.*, at p. 346.) The statutory scheme further specified that postponement could occur only under certain limited circumstances. (*Id.* at p. 344.) Moreover, the legislative history expressly identified "excessive and unwarranted detention of children" as a major problem. Based on the foregoing, the Supreme Court held that "[i]nsofar as rule 1351 is inconsistent with this legislative intent, it is disapproved." (*Id.*, at p. 346.)

finding that the Legislature sought to promote judicial economy by enacting Penal Code section 1237.5, and that the Judicial Council evidently had the same purpose in adopting Rule 31(d). The Court said the rule "refined the mechanism that the Legislature established." (*Mendez, supra*, 19 Cal.4th at p. 1098.)[6] And the Supreme Court applied a similar standard in a case involving a local rule of court, explaining that in the absence of "legislative direction" to the contrary, courts may adopt local rules with the force of law. (*Mann v. Cracchiolo* (1985) 38 Cal.3d 18, 29.)[7]

Last year, the California Supreme Court decided *Sara M. v. Superior Court* (2005) 36 Cal.4th 998. In that case, three children were removed from the mother's custody because of the mother's substance abuse. The juvenile court began reunification services to try to reunite the family, but after six months of such services, the court found that the mother had failed to contact or visit the children. (*Id.*, at p. 1005.) Pursuant to Welfare & Institutions Code section 366.21, subdivision (e), and Rule 1460(f)(1)(B) of the California Rules of Court, the juvenile court terminated reunification services and scheduled a hearing to establish a permanent plan for the children. (*Sara M., supra*, 36 Cal.4th at p. 1005.) The mother sought a writ, arguing, among other things, that Rule 1460(f)(1)(B) is inconsistent with Section 366.21(e).

The Supreme Court acknowledged in *Sara M.* that the statute in question was susceptible

---

6. The Supreme Court also upheld a rule that codified case law. *People v. Hester* (2000) 22 Cal.4th 290 involved a review of former Rule 412(b) of the California Rules of Court. Penal Code section 654 precludes multiple punishments for a single act or indivisible course of conduct (*Hester, supra*, 22 Cal.4th at p. 294), but former Rule 412(b) stated that by agreeing to a specified prison term, a defendant abandoned any claim that the sentence violated Section 654. (*Hester, supra*, 22 Cal.4th at p. 293.) The Supreme Court held that "[i]n adopting the rule, the Judicial Council merely codified one of the applications of the case law rule that defendants are estopped from complaining of sentences to which they agreed." (*Id.*, at p. 295.)

7. The California Courts of Appeal have generally applied a consistent standard. (See, e.g., *Trans-Action Commercial Investors, Ltd. v. Firmaterr, Inc.* (1997) 60 Cal.App.4th 352, 363-365, 371 [a rule may go beyond the statute if it reasonably furthers the statutory purpose, but a rule may not deviate from a statutorily prescribed procedure, and in this case the rule is inconsistent with the limits and conditions provided by statute]; *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15, 33 [rule is inconsistent with Legislative intent determined by review of statutory scheme]; *In re Juan C.* (1993) 20 Cal.App.4th 748, 753 [rule is not inconsistent with law]; *Simpson v. Smith* (1989) 214 Cal.App.3d Supp. 7, 10-11 [rule was consistent with statute when adopted, but Legislature's subsequent amendment of statute indicated changed intent, and rendered rule inconsistent with statute]; *People v. Reeder* (1984) 152 Cal.App.3d 900, 919 [although the rule is broader than the statute, it is not irreconcilable with the statutory scheme]; *Hitch v. Superior Court* (1934) 2 Cal.App.2d 406, 409 [the rule is not inconsistent with the statute, but is supplementary].)

to more than one interpretation. But the Supreme Court declined to abruptly change the interpretation previously adopted by the Courts of Appeal and the Judicial Council. (*Sara M., supra*, 36 Cal.4th at pp. 1005, 1011.) The Court stated that the Judicial Council approved the rule pursuant to its constitutional and statutory authority to adopt rules for court administration, practice and procedure, not inconsistent with statute. (*Id.*, at p. 1011.) The Court reaffirmed that rules adopted by the Judicial Council have the force of law to the extent they are not inconsistent with legislative enactments and constitutional provisions. (*Ibid.*)

Recognizing that the interpretation of a statute is ultimately a legal question for the courts, the Supreme Court held in *Sara M.* that rules interpreting statutes are entitled to a measure of judicial deference. (*Sara M., supra*, 36 Cal.4th at p. 1014.) The Court said that when a statute is susceptible to more than one interpretation, the Court will consider an administrative interpretation that is reasonably contemporaneous with its adoption. (*Sara M., supra*, 36 Cal.4th at pp. 1011-1012.) "'Consistent administrative construction of a statute over many years, particularly when it originated with those charged with putting the statutory machinery into effect, is entitled to great weight and will not be overturned unless clearly erroneous.'" (*Id.*, at p. 1012, quoting *Robinson v. Fair Employment & Housing Com.* (1992) 2 Cal.4th 226, 234.)

The Court noted in *Sara M.* that Rule 1460 was adopted contemporaneously with Section 366.21, and its interpretation has never changed. (*Sara M., supra*, 36 Cal.4th at p. 1014.) It was subjected to public comment and internal review (*ibid*), and the Judicial Council has standing advisory committees with experts directed to act in the best interests of the public and the entire court system. (*Sara M., supra*, 36 Cal.4th at p. 1013.) The Judicial Council's membership consists of appellate and trial judges, as well as others, which makes it "uniquely situated to implement the legislative policy." (*Ibid.*) The Court held that all of these circumstances supported the conclusion that Rule 1460's interpretation of Section 366.21 was entitled to great weight and would not be overturned unless it was clearly erroneous. (*Ibid.*)[8]

Furthermore, the Supreme Court added that another reason for not overturning Rule 1460 was legislative acquiescence. (*Sara M., supra*, 36 Cal.4th at p. 1014.) The Legislature amended Section 366.21 and other related dependency statutes after the Judicial Council adopted Rule 1460, but the Legislature did not seek to modify the interpretation adopted by the Judicial Council. (*Id.*, at pp. 1014-1015.) In addition, the Supreme Court said that the rule's interpretation was consistent with the purpose of the statutory scheme. (*Id.*, at p. 1015.)

The foregoing California Supreme Court decisions establish that rules are not inconsistent with statute merely because they expand on statutory directives. Absent legislative direction to

---

8. The Court indicated that judicial review of "quasi-legislative" rules, as opposed to interpretive rules, is very limited. (*Sara M., supra*, 36 Cal.4th at p. 1012.) And the Court suggested that greater deference might be afforded to rules relating to an area that the Judicial Council is "immersed in administering." (*Sara M., supra*, 36 Cal.4th at p. 1014, fn. 5.)

the contrary, rules adopted by the Judicial Council will be upheld if they are not inconsistent with the legislative purpose. In addition, deference will be afforded to the Judicial Council's expertise and process, and legislative acquiescence is also relevant.

Applying these standards to the proposed rules for judicial education, it is clear that the proposed rules would expand on the education and training previously directed by the Legislature. But nothing in the existing statutory language specifically prohibits the Judicial Council from adopting additional rules for judicial education, and nothing in the statutory language expressly indicates that the Legislature intended to prevent the Judicial Council from exercising its unique expertise to adopt rules for more comprehensive education for judges. (See Gov. Code, § 68088 [Judicial Council may adopt rules for racial, ethnic, gender bias, and sexual harassment training]; Welf. & Inst. Code, § 304.7, subd. (a) [Judicial Council shall develop standards for education of judges who conduct hearings pursuant to section 300].) Instead, the existing statutes evince a legislative purpose and intent to ensure that judicial officers maintain professionalism and competence in the law. The proposed rules are not inconsistent with that purpose.

In addition, the Judicial Council has exercised rule-making authority over judicial education and training for more than a decade. The proposed rules expand on rules for judicial education that have existed for some time (see, e.g., Rule 970, Cal. Rules of Court), with apparent acquiescence from the Legislature. Moreover, the proposed rules have been developed over time in an administrative process involving experts in the field and extensive public review and comment. And the Judicial Council remains "uniquely situated to implement the legislative policy." (*Sara M., supra*, 36 Cal.4th at p. 1013.)

Under the circumstances, we conclude that the proposed rules are not inconsistent with statute.

Sincerely,

LOUIS R. MAURO
Senior Assistant Attorney General

For BILL LOCKYER
Attorney General