

**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: Probate and Mental Health Advisory Committee
Hon. Don Edward Green, Chair
Douglas C. Miller, Committee Counsel,
415-865-7535, douglas.miller@jud.ca.gov

DATE: September 10, 2007

SUBJECT: Probate: Education Requirements for Judicial Officers Assigned to Hear Probate Proceedings; Qualifications and Education Requirements for Probate Court Staff Attorneys, Examiners, and Investigators; and Qualifications and Education Requirements for Counsel Appointed in Conservatorships and Guardianships (amend Rule 10.462 of the California Rules of Court; renumber rule 10.463; amend and renumber rules 10.464, and 10.471; and adopt rules 7.1101, 10.468, 10.478, 10.776, and 10.777) (Action Required)

Issue Statement

Legislation effective in 2007 added section 1456 to the Probate Code.¹ The new section requires the Judicial Council to adopt a rule of court, effective on or before January 1, 2008, to:

1. Prescribe mandatory education concerning probate conservatorships and guardianships for judicial officers assigned to hear these matters;
2. Establish qualifications and initial and continuing education requirements concerning probate conservatorships and guardianships for probate department staff positions (probate attorneys, probate examiners, and court investigators);
3. Establish qualifications and continuing education requirements for court-appointed attorneys for conservatees, proposed conservatees, and minors involved in guardianships; and

¹ Section 1456 was added by Stats. 2006, ch. 493, § 3 (Assembly Bill 1363).

4. Impose reporting requirements to ensure compliance with section 1456.

Recommendation

In response to the mandate of Probate Code section 1456, the Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective on January 1, 2008:

1. Adopt rule 10.468 of the California Rules of Court to prescribe initial and continuing education concerning conservatorships and guardianships to be required of judicial officers assigned to hear probate proceedings;
2. Adopt rules 10.478, 10.776, and 10.777 to establish and prescribe initial and continuing education to be required of probate court investigators, probate staff attorneys, and probate examiners; and the qualifications necessary to serve in these probate court staff positions;
3. Adopt rule 7.1101 to establish qualifications and continuing education to be required of counsel appointed by the court to represent conservatees and proposed conservatees in probate conservatorship proceedings and minors in probate guardianship matters; and
4. Amend rule 10.462, renumber rule 10.463, and amend and renumber rules 10.464 and 10.471 to facilitate the addition of the new rules concerning judicial officer and court staff education noted above.²

The text of the rules proposed for amendment, renumbering, and adoption follows this report at pages 21–40.

The combined text of the judicial branch education rules proposed here for amendment, renumbering, and adoption and the education rules changed and adopted by the council on August 31, 2007 follows this report at pages 41–64.

² This proposal follows the council’s August 31, 2007 action on a proposal of the Governing Committee of the Center for Judicial Education and Research, *Judicial Branch Education: Minimum Education Requirements, Expectations, and Recommendations*, agenda item 10, council meeting of August 31, 2007. The Governing Committee’s proposal includes an amendment of rule 10.462; amendments and renumbering of rules 10.463, 10.464, and 10.471; and adoption of new rules 10.469, 10.471, 10.472, 10.479, and 10.491. The changes made by that proposal will be effective on January 1, 2008, the effective date also proposed here. That proposal’s rule text shows only its recommended changes. This report shows rule text as modified only by this proposal, but also includes the full text of the rules amended, renumbered, or adopted in both proposals as they would read effective January 1, 2008 if this proposal is adopted. See pages 21–40 and 41–64.

The text of Probate Code section 1456 follows this report at page 65.

Rationale for Recommendation

Judicial officer education

Proposed rule 10.468 would require judicial officers regularly assigned to hear probate proceedings to complete 6 hours of education on probate conservatorships and guardianships, including court-supervised fiduciary accounting, within six months of beginning the assignment, and also to complete 18 hours of education every three years on these topics while in the probate assignment, with a minimum of 6 hours per year. The initial, or content-based, education required by the rule could be provided by the AOC Education Division/Center for Judicial Education and Research (CJER), the California Judges Association, or the judicial officer's court. Self-study would not be permitted, but the education could be by distance-learning means, including broadcasts, videoconferences, or on-line coursework.

Continuing education for judicial officers could be provided by AOC-sponsored education programs, a provider listed in rule 10.481(a) (current rule 10.471(a)), or a provider approved by the presiding judge of the judicial officer's court as meeting the criteria specified in rule 10.481(b) (current rule 10.471(b)). Other details of this education, including record-keeping and reporting, would be consistent with the rules governing judicial officer education adopted effective January 1, 2007.

Court probate staff education

Probate Code section 1456(a)(3) identifies three specific court probate department staff positions that must participate in initial and continuing education. These are court-employed or -contracted investigators, staff examiners, and staff attorneys.

Proposed rule 10.478 specifies the education requirements for those staff positions, referring to them respectively as court investigators (described in rule 10.478(a)(1)), probate attorneys (described in rule 10.478(a)(2)), and probate examiners (described in rule 10.478(a)(3)).

Court Investigators

Rule 10.478(b)(1) would require 18 hours of education within one year of an investigator's start date after January 1, 2008, in six general topics listed in the rule. Investigators would also be required to complete 12 hours of continuing education each year, beginning the first year after the year they started service, on some or all of the six general topics (rule 10.478(e)(1)).

Probate Staff Attorneys

Rule 10.478(c)(1) would require probate staff attorneys to complete 18 hours of initial education within six months of their start date after January 1, 2008, in probate-related topics, including conservatorships, guardianships, and court-supervised fiduciary accounting. Probate staff attorneys would also be required to complete 12 hours of continuing education each year thereafter in probate-related subjects, of which 6 hours must be in conservatorships, guardianships, and fiduciary accounting (rule 10.478(f)(1)).

Probate Examiners

Rule 10.478(d)(1) would require probate staff examiners to complete 30 hours of education within one year of their start date after January 1, 2008, in probate-related topics, of which 18 hours must be in conservatorships and guardianships, including fiduciary accounting. Examiners would be required in subsequent years to complete 12 hours of education each year, including a total of at least 6 hours of instruction on conservatorships, guardianships, and fiduciary accounting (rule 10.478(g)(1)).

The initial and continuing education for all three of these court positions could be provided by AOC-sponsored programs, an approved organization listed in renumbered rule 10.481(a) (current rule 10.471(a)), or a provider approved by the staff member's supervisor as satisfying the education criteria specified in rule 10.481(b). No self-study education would be permitted, but distance learning, such as broadcasts, videoconferences, or online coursework, would be allowed. (See, e.g., rule 10.478(b)(4).)

Qualifications of probate court staff

Proposed rules 10.776 and 10.777 would establish the qualifications necessary for court investigators, probate staff attorneys, and probate examiners. Rule 10.776 contains definitions only; all substantive provisions are found in rule 10.777.

The qualifications specified in rule 10.777 would apply to investigators, attorneys, and examiners who begin employment or enter into contracts to perform services for courts on or after January 1, 2008; current court staff members and those hired before January 1, 2008, who do not meet the qualifications would not lose their positions.

A court investigator would be required to possess a bachelor of arts or science degree in a science, including a social or behavioral science; liberal arts; or nursing from an accredited institution and two years' employment experience performing casework or investigations in a legal, financial, law enforcement, or social services setting (rule 10.777(a)).

A probate staff attorney would be required to be an active member of the State Bar of California for five years, or a member for two years together with five years' current or former membership in the equivalent organization in another state or admission to practice in the highest court of another state or in a court of the United States, plus a total of at least two years of employment, before or after State Bar admission, in any combination of seven types of employment (rule 10.777(b)(2)(A)–(G)).

A probate examiner would be required to have (1) a bachelor of arts or science degree in any field from an accredited educational institution and a minimum of two years' experience with any combination of a court; a public or private law office; a public administrator, public guardian, or public conservator; or a private professional fiduciary; or (2) a paralegal certificate from an accredited institution and a minimum of four years of the experience listed above; or (3) a juris doctor degree from an institution approved by the American Bar Association or accredited by the Committee of Bar Examiners of the State Bar of California and a minimum of six months employment with one of the employers listed above (rule 10.777(c)).

Small courts, those with eight or fewer judges, could waive the qualifications required for these court staff positions if they cannot find suitable qualified candidates or for other grounds of hardship (rule 10.777(e)).

Qualifications and continuing education of appointed counsel

Probate Code sections 1470 and 1471 authorize, or in some circumstances require, courts to appoint counsel for minors or conservatees or proposed conservatees in guardianship and conservatorship proceedings. Probate Code section 1456 requires the Judicial Council to establish the qualifications and continuing education to be required of attorneys appointed by the court in these proceedings. Rule 7.1101 is proposed for this purpose.

The new rule is divided into two parts. The first would establish qualifications for counsel appointed from private practice; the second would define the qualifications of deputy public defenders directly performing services on court appointments of a county's public defender.

Private counsel appointed by the court on or after January 1, 2008, would have to be active members of the State Bar of California for a period of three years immediately before the date of appointment, with no disciplinary proceedings pending or discipline imposed for the previous 12 months, and:

1. For appointments in guardianships, must have represented at least three minors in guardianships, juvenile court dependency or delinquency proceedings, or

Family Code custody proceedings or must be qualified to be appointed to represent children in juvenile court dependency proceedings or Family Code custody proceedings under applicable local and statewide rules of court.

2. For appointments in conservatorships, must have represented at least three conservatees or proposed conservatees in probate or Lanterman-Petris-Short Act mental-health conservatorships or must have completed any three of five tasks specified in the rule.

3. All private counsel must be covered by professional liability insurance satisfactory to the court in the amount of at least \$100,000 per claim and \$300,000 per year.

A deputy public defender directly responsible for performing legal services for minors, conservatees, or proposed conservatees on appointment of the county public defender would be required under rule 7.1101(c) to be an active member of the State Bar for a minimum of three years immediately before the date of appointment and must either qualify under the provisions applicable to private counsel or have at least three years' experience representing minors in juvenile dependency or delinquency proceedings or mental health patients in postcertification judicial proceedings or conservatorships under the Lanterman-Petris-Short Act. He or she must also be insured for professional liability at the same level as private counsel but may be covered at that level by the county's self-insurance program.

Rule 7.1101(d) contains transitional provisions governing counsel appointed before January 1, 2008, in matters pending after that date.

Rule 7.1101(e) would require counsel to complete 3 hours of education each calendar year that qualifies for mandatory continuing education credit for State Bar-certified specialists in estate planning, trust, and probate law. Beginning in 2009, each appointed counsel would be required to certify to the court before the end of February of each year that he or she has completed the continuing education required for the preceding calendar year (rule 7.1101(g)(3)).

The qualifications and continuing education requirements in rule 7.1101 are minimums. Courts are free to establish higher qualification or continuing education requirements, including higher insurance requirements, or require initial training or education and may impose other requirements, including an application by private counsel (rule 7.1101(f)).

Alternative Actions Considered

Probate Code section 1456 requires the adoption of at least one rule of court establishing qualifications and education requirements for judicial officers, court staff, and appointed counsel. No alternatives to adoption of rules governing these topics were considered. Many specific alternatives to the options selected in these proposed rules were considered at various stages of the rules' development.

Comments From Interested Parties

This proposal was circulated for comment in a special cycle to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters and assistance to unrepresented persons, probate-interest sections of the State Bar and local bar associations, and representatives of other organizations interested in probate matters generally and conservatorships and the problems of the impaired elderly specifically, in addition to court executives, presiding judges, individuals, and organizations more generally interested in court-related issues.

Twenty-seven comments were received. Most were unfavorable or would approve the proposal only if modified. A chart showing the comments received and the committee's responses follows the rule text of this proposal, the combined rule text of this proposal and the related proposal of Governing Committee of CJER, beginning at page 66.

Requests for exemptions from these rules for smaller courts were made by three judges. Although rule 10.777, governing qualifications of probate department staff, contains an exemption for courts with eight or fewer judges, no small-court exemption is provided in the rules governing judicial officer and staff education and qualifications and continuing education of appointed counsel.

Other comments did lead to changes in the rules, including an amendment of rule 7.1101 to provide that attorneys authorized to represent children in juvenile court dependency and family court custody proceedings are eligible for appointment as counsel for minors in guardianships.

Implementation Requirements and Costs

The advisory committee believes that these proposed rules will increase courts' employment and recruiting expenses for court staff. The record-keeping and reporting costs for judicial officer and court staff education should also increase, as will the direct costs incurred by the AOC and the courts to provide or pay for the education. The cost incurred by the estates of conservatees and wards, wards' parents, and counties for appointed counsel with higher than current qualifications should also increase. On the other hand, if more experienced attorneys are appointed in these cases, these higher costs should be offset to some extent by greater efficiency.

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Report

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SUBJECT: Probate: Education Requirements for Judicial Officers Assigned to Hear Probate Proceedings; Qualifications and Education Requirements for Probate Court Staff Attorneys, Examiners, and Investigators; and Qualifications and Education Requirements for Counsel Appointed in Conservatorships and Guardianships (amend rules 10.462, 10.464, and 10.471 of the California Rules of Court; renumber rules 10.463, 10.464, and 10.471; and adopt rules 7.1101, 10.468, 10.478, 10.776, and 10.777) (Action Required)

Issue Statement

In 2006, the Judicial Council adopted rules of court to establish statewide education requirements or expectations for judicial officers and initial and continuing education requirements for court executives and employees.³ This effort followed the council's adoption, effective January 1, 1999, of standards of judicial administration establishing special education standards for judicial officers assigned to hear juvenile dependency proceedings and family law matters.⁴

These rules and standards do not provide for subject-specific initial or continuing education of judicial officers assigned to hear proceedings under the Probate Code, including probate conservatorship and guardianship matters. However, judicial

³ Cal. Rules of Court, rules 10.451, 10.452, 10.461–10.464, and 10.471, adopted effective January 1, 2007, replacing repealed rule 10.501 (rule 970 before the June 30, 2006, reorganization of the California Rules of Court). Some of these rules have been amended or renumbered in the proposal adopted by the council in August of this year, to become effective on January 1, 2008. See footnote 1 above.

⁴ Cal. Stds. Jud. Admin., Stds. 10.12(b) and (c), and 10.13(2) and (3).

officer and court staff subject-matter education in these fields and other significant changes in court operations affecting conservatorships and guardianships will be required beginning in 2008.

Legislation effective in 2007 added section 1456 to the Probate Code. The new section requires the Judicial Council, after consulting with organizations specified in the statute,⁵ to adopt a rule of court, effective on or before January 1, 2008, to:

1. Prescribe mandatory education concerning probate conservatorships and guardianships for judicial officers assigned to hear these matters;
2. Establish qualifications and initial and continuing education requirements concerning probate conservatorships and guardianships for probate department staff positions (probate attorneys, probate examiners, and court investigators);
3. Establish qualifications and continuing education requirements for court-appointed attorneys for conservatees, proposed conservatees, and minors involved in guardianships; and
4. Impose reporting requirements to ensure compliance with section 1456.

Rationale for Recommendation

After consulting with representatives of the organizations mentioned in section 1456, representatives of the Professional Fiduciary Association of California, CJER staff, and the Probate Conservatorship Task Force appointed by the Chief Justice in 2006, the advisory committee has developed and now proposes new rules of court concerning education of judicial officers assigned to hear probate matters, court probate department staff qualifications and education, and qualifications and education requirements for counsel appointed by the court in conservatorship and guardianship matters.

Judicial officer education

Rule 10.468 would be added to chapter 8 of division 2 of title 10 of the California Rules of Court, a chapter added this year to accommodate the judicial branch education rules mentioned in footnote 3 above. This rule would require judicial

⁵ See footnote 1 above. Section 1456 is a small part of a much larger piece of legislation, the Omnibus Conservatorship and Guardianship Reform Act of 2006 (Stats. 2006, chapters 490–493 (respectively, Senate Bill 1116, Senate Bill 1550, Senate Bill 1716, and Assembly Bill 1363).) The organizations mentioned in the statute are the California Judges Association, the California Association of Superior Court Investigators, the California Public Defenders Association, the County Counsels' Association of California, the State Bar of California, the National Guardianship Association, and the National Association of Professional Geriatric Care Managers (section 1456(b)).

officers regularly assigned to hear probate proceedings to complete 6 hours of education on probate conservatorships and guardianships, including court-supervised fiduciary accounting, within six months after beginning the assignment.⁶ These judicial officers would also be required to complete 18 hours of education every three years on these topics, with a minimum of 6 hours per year (rule 10.468(c)(1)). However, the first period of continuing education would be for a two-year period beginning on January 1, 2008, with the total number of hours prorated, to match the first three-year continuing education reporting period for trial court judges under rule 10.462(c), which began on January 1, 2007.

The initial, or content-based, education required by the rule could be provided by CJER, the California Judges Association, or the judicial officer's court. Self-study would not be permitted, but the education could be by distance-learning means, including broadcasts, videoconferences, or on-line coursework (rules 10.468(b)(3) and (4)).

Continuing education could be provided by AOC-sponsored education programs, a provider listed in rule 10.481(a)(current rule 10.471(a)), or a provider approved by the presiding judge of the judicial officer's court as meeting the criteria specified in rule 10.481(b) (current rule 10.471(b)).⁷

⁶ See rule 10.468(b)(1). Initial assignment education is referred to as "content-based" education, continuing education as "hours-based." These terms are used in the existing judicial and court staff education rules 10.462 and 10.464 (renumbered as rule 10.474 in this proposal) and are also used to describe initial and continuing education of probate court staff under proposed rule 10.478, discussed below.

Judicial officers under rule 10.468(a)(1) and (2) are superior court judges and subordinate judicial officers as the latter are defined in rule 10.701(a), including commissioners, referees, and hearing officers.

A judicial officer regularly assigned to hear probate proceedings within the meaning of the rule is a judicial officer who is (1) assigned to a dedicated probate department where probate proceedings are heard on a full-time basis; (2) responsible for hearing most of the probate proceedings filed in a court that does not have a full-time probate department; or (3) responsible for hearing probate proceedings in a regular basis in a branch or other department of the court remote from the main or central courthouse, whether or not he or she hears other types of matters in that department (rule 10.468(a)(5)). Probate proceedings include decedents' estates, guardianships and conservatorships and trust proceedings under divisions 4 and 9 of the Probate Code, and other matters governed by that code and the rules in title 7 of the California Rules of Court (rule 10.468(a)(4)).

⁷ Current rule 10.471(a) lists 22 approved providers of education to judicial officers under rule 10.462 and to court staff under current rule 10.464 (renumbered as rule 10.474 in this proposal). Approved providers include the AOC, California trial and appellate courts, the State Bar, local bar associations, the National Center for State Courts, Continuing Education of the Bar, and accredited colleges and universities.

Rule 10.468 would address the reporting requirements required by Probate Code section 1456(a)(5) by incorporating the participation-tracking and record-keeping requirements for judicial officers under current rules 10.462(f) and (g) and by providing that presiding judges' records of judicial officer participation are subject to audit by the AOC under rule 10.462. This rule would also permit the AOC to require courts to report participation by affected judicial officers to ensure compliance with section 1456. (See rule 10.468(e).)

Court probate staff education

Probate Code section 1456(a)(3) identifies three specific probate department court staff positions for mandatory initial and continuing education. These are court investigators, probate staff attorneys, and probate examiners.

Proposed rule 10.478 specifies the education requirements for these positions, referring to them respectively as court investigators (described in rule 10.478(a)(1)), probate attorneys (described in rule 10.478(a)(2)), and probate examiners (described in rule 10.478(a)(3)). Attorneys and examiners and attorneys covered by this rule are court employees. Court investigators may be court employees or persons working under contracts with courts.⁸

Court Investigators

Rule 10.478(b)(1) would require 18 hours of education within one year of an investigator's start date after January 1, 2008, in six general topics listed in the rule.⁹ Investigators would also be required to complete 12 hours of continuing education each year, beginning the first year after the year they started service on some or all of the six general topics (rule 10.478(e)(1)).

⁸ Probate staff attorneys and examiners are not defined in section 1456 or in any other provision of the Probate Code. Court investigators covered by the proposed rule, however, are referred to in Probate Code section 1454(a) as officers or special appointees of the court and are assigned specific functions in numerous provisions of that code. Representatives of the California Association of Superior Court Investigators, one of the organizations with which the advisory committee consulted in the development of this rule, reported to the committee that although many court investigators are directly employed by courts, many also work under contract. Whether employed or working under contract, court investigators work for courts on a full-time basis; they are not appointed out of private practices on a case-by case basis.

⁹ The six topics are (1) court process and legal proceedings; (2) child abuse and neglect and the effect of domestic violence on children for guardianship investigators or elder and dependent adult abuse for conservatorship investigators; (3) medical issues; (4) access to and use of criminal-record information, confidentiality, ethics, and conflicts of interest; (5) accessing and evaluating community resources for children and mentally-impaired elderly or developmentally disabled adults; and (6) interviewing children and persons with mental function or communication deficits.

Probate Staff Attorneys

Rule 10.478(c)(1) would require probate staff attorneys to complete 18 hours of initial education within six months of their start date after January 1, 2008, in probate-related topics, including conservatorships, guardianships, and court-supervised fiduciary accounting. They would be required to complete 12 hours of continuing education each year thereafter in probate-related subjects, of which 6 hours must be in conservatorships, guardianships, and fiduciary accounting (rule 10.478(f)(1)).

Probate Examiners

Rule 10.478(d)(1) would require examiners to complete 30 hours of education within one year of their start date after January 1, 2008, in probate-related topics, of which 18 hours must be in conservatorships and guardianships, including fiduciary accounting. They would be required in subsequent years to complete 12 hours of education each year, including a total of at least six hours of instruction on conservatorships, guardianships, and accounting (rule 10.478(g)(1)).

The initial and continuing education for all three of these court positions could be provided by AOC-sponsored programs, an approved organization listed in rule current rule 10.471(a)—renumbered in this proposal as rule 10.481(a) and amended by adding the California Association of Superior Court Investigators to the list—or a provider approved by the staff member’s supervisor as satisfying the education criteria specified in amended rule 10.481(b). No self-study education would be permitted, but distance learning, such as broadcasts, videoconferences, or online coursework, would be allowed. (See, e.g., rule 10.478(b)(4).)

Qualifications of probate court staff

Proposed rules 10.776 and 10.777, placed in a new chapter 7 of division 4 of title 10 of the California Rules of Court because the surrounding chapters and the rules contained in them are not closely related to the subject matter of these rules, would establish the qualifications necessary for court investigators, probate staff attorneys, and probate examiners.¹⁰ Rule 10.776 contains definitions only; all substantive provisions are placed in rule 10.777.

The qualifications specified in rule 10.777 would apply to investigators, attorneys, and examiners who begin employment or enter into contracts to perform services for courts on or after January 1, 2008; current court staff members and those hired before January 1, 2008, who do not meet the qualifications would not lose their positions.

¹⁰ Division 4, “Trial Court Administration, commences with rule 10.601. Existing chapters 7–12, commencing with rule 10.780, would be renumbered as chapters 8–13. None of the rules in these chapters would require renumbering.

A court investigator would be required to possess a bachelor of arts or science degree in a science, including a social or behavioral science; liberal arts; or nursing from an accredited institution and two years' employment experience performing casework or investigations in a legal, financial, law enforcement, or social services setting (rule 10.777(a)).

A probate staff attorney would be required to be an active member of the State Bar of California for a period of five years, or a member for two years together with five years' current or former membership in the equivalent organization in another state or admission to practice in the highest court of another state or in a court of the United States, plus a total of at least two years of employment, pre-or post-State Bar admission, in any combination of seven types of employment (rule 10.777(b)(2)(A)–(G)).¹¹

A probate examiner would be required to have (1) a bachelor of arts or science degree in any field from an accredited educational institution and a minimum of two years' experience with any combination of a court; a public or private law office; a public administrator, public guardian, or public conservator; or a private professional fiduciary; or (2) a paralegal certificate from an accredited institution and a minimum of four years of the experience listed above; or (3) a juris doctor degree from an institution approved by the American Bar Association or accredited by the Committee of Bar Examiners of the State Bar of California and a minimum of six months employment with one of the employers listed above (rule 10.777(c)).

Small courts, those with eight or fewer judges, could waive the qualifications required for these court staff positions if they could not find suitable qualified candidates or for other grounds of hardship. These courts would be required to make written findings showing the circumstances supporting the waiver and disclosing all alternatives considered including alternatives not selected (rule 10.777(e)).

¹¹ The seven types of employment are (1) court staff attorney (any field), (2) probate department intern (minimum six-month period), (3) probate examiner or court investigator, (4) attorney in a probate-related public or private legal practice, (5) deputy public guardian or conservator, (6) child or adult protective services worker or juvenile probation officer, or (6) private professional fiduciary appointed by a court or an employee of such a fiduciary or a bank or trust company with significant fiduciary responsibilities, including responsibilities for court accountings.

Qualifications and continuing education of appointed counsel

Probate Code sections 1470 and 1471 authorize, or in some circumstances require, courts to appoint counsel for minors and conservatees or proposed conservatees in guardianship and conservatorship proceedings. Probate Code section 1456 requires the Judicial Council to establish the qualifications and continuing education to be required of attorneys appointed by the court in these proceedings. Rule 7.1101, placed in a new chapter 23 of title 7 of the rules of court, is proposed for this purpose.

The new rule is divided into two parts. The first would establish qualifications for counsel appointed from private practice; the second would define the qualifications of deputy public defenders directly performing services on appointments of a county's public defender.¹²

Private counsel appointed by the court on or after January 1, 2008 would have to be admitted to the State Bar of California for a period of three years immediately before the date of appointment, with no disciplinary proceedings pending or discipline imposed for the previous 12 months, and:

1. For appointments in guardianships, must have represented at least three minors in guardianships, juvenile court dependency or delinquency proceedings, or Family Code custody proceedings, or must be qualified to be appointed to represent children in juvenile court dependency proceedings or Family Code custody proceedings under applicable local and statewide rules of court.¹³

2. For appointments in conservatorships, must have represented at least three conservatees or proposed conservatees in probate or Lanterman-Petris-Short Act

¹² Public defenders may be appointed to represent conservatees or proposed conservatees under Probate Code sections 1471–1472. Section 1470, which authorizes discretionary appointment of counsel in both guardianships and conservatorships, refers to “private legal counsel.” However, an appellate court has interpreted section 1470 to authorize the court to appoint the public defender for an indigent conservatee under section 1470 and Government Code section 27706(d) (*Conservatorship of Berry* (1989) 209 Cal.App.3d 706, 721–723). The court’s analysis in *Berry* would fully apply to appointments of public defenders to represent indigent minors in guardianships because both Probate Code section 1470 and Government Code section 27706(d) refer to guardianships as well as conservatorships.

¹³ For juvenile court dependency proceedings, rule 5.660 of the Cal. Rules of Court and local rules adopted under it; for Family Code custody proceedings, rule 5.242, proposed for adoption by the Judicial Council by the Family and Juvenile Law Advisory Committee at the same time as the rules in this proposal.

mental-health conservatorships, or must have completed any three of five tasks specified in the rule.¹⁴

Private counsel must also be covered by professional liability insurance satisfactory to the court in the amount of at least \$100,000 per claim and \$300,000 per year.

A deputy public defender directly responsible for the performance of legal services for minors or conservatees on appointment of a county's public defender would be required under rule 7.1101(c) to be an active member of the State Bar for a minimum of three years immediately before the date of appointment and qualified under the provisions of the rule applicable to private counsel or must have at least three years' experience representing minors in juvenile dependency or delinquency proceedings or mental health patients in post-certification judicial proceedings or conservatorships under the Lanterman-Petris-Short Act. He or she must also be insured for professional liability at the same level as private counsel, but may be covered at that level by the county's self-insurance program.

Rule 7.1101(d) contains transitional provisions governing counsel appointed before January 1, 2008, in matters pending after that date. These attorneys would be authorized to continue to represent their clients through February 2008, even though they do not meet the qualifications provided in the rule. After February 2008, the court would be authorized to retain or replace them, or appoint qualified co-counsel to assist these attorneys in the pending matters. During the first two months of 2008, the court could appoint counsel in new matters who have not certified their qualifications at the time of appointment, but the court would be required to replace appointed counsel who have not filed their qualification certificates before March 1, 2008.¹⁵

¹⁴ See proposed rule 7.1101(b)(2)(B). The five tasks are (1) representation of three petitioners for the appointment of a conservator; (2) representation of a petitioner, a conservatee, or an interested third party in two contested probate or Lanterman-Petris-Short Act conservatorships; (3) representation of any party for whom the court could appoint counsel under the Probate Code; (4) representation of a fiduciary in three separate cases for settlement of a court-filed account and report in a conservatorship, guardianship, decedent's estate, or trust proceeding; and (5) preparation of five wills or trusts, and five durable powers of attorney for health care and asset management.

¹⁵ Rule 7.1101(g) would require counsel eligible for appointment by the court before January 1, 2008, to certify in writing before March 1, 2008, that they satisfy the qualifications required under the rule to remain eligible for an appointment on or after the latter date. Beginning on March 1, 2008, counsel would be required to certify that they are qualified under the rule before becoming eligible for an appointment. The advisory committee intends to develop and propose for adoption effective July 1, 2008, a form certificate of qualifications under the rule, but the initial certifications due under the rule before that date would be attorney-drafted documents.

Rule 7.1101(e) would require counsel to complete 3 hours of education each calendar year that qualifies for mandatory continuing education credit for State Bar–certified specialists in estate planning, trust, and probate law. Beginning in 2009, each appointed counsel would be required to certify to the court before the end of February of each year that he or she has completed the continuing education required for the preceding calendar year (rule 7.1101(g)(3)).

The qualifications and continuing education requirements in rule 7.1101 are minimums. Courts would be free to establish higher qualification or continuing education requirements, including higher insurance requirements, or require initial training or education and may impose other requirements, including an application by private counsel (rule 7.1101(f)).

Alternative Actions Considered

Probate Code section 1456 requires the adoption of at least one rule of court establishing the qualifications and education requirements for judicial officers, court staff, and appointed counsel. Inaction in the face of this legislative mandate was not an option. However, the statute gave the advisory committee wide latitude in the details. Many specific alternatives at various stages of development of these rules were considered.

Section 1456(b) required the Judicial Council to consult with specified organizations in the formulation of the rules required by the section.¹⁶ A subcommittee of the advisory committee met with representatives designated by each organization mentioned in the statute in working groups dedicated to each subject area of these rules affecting each organization. The committee also solicited the views of experienced senior probate staff attorneys concerning the probate staff attorney portion of these rules. These consultations led to position papers from the working groups that were presented to the advisory committee, from which draft rule proposals were developed.

The advisory committee also presented its rule draft proposals concerning judicial officer and court staff education to the Probate Conservatorship Task Force and senior staff to the task force from CJER. These steps were taken to ensure that the proposed court probate staff education rules are consistent with the new trial court education rules adopted in 2006 and are compatible with the recommendations of the task force concerning judicial branch conservatorship education.¹⁷ Numerous

¹⁶ See footnote 5 above. Although the membership of the advisory committee includes active members of some of these organizations, the designated representatives of the organizations with whom the committee consulted were not advisory committee members.

¹⁷ The Probate Conservatorship Task Force created a subcommittee focusing on judicial branch education, staffed by a representative of CJER experienced in probate matters. Its report to the

alternatives concerning all aspects of these rules were discussed during these deliberations, leading eventually to the proposal that was circulated for public comment and the rules as here proposed, revised in response to the comments received. Included among these alternatives were more continuing education for appointed counsel and less initial and continuing education for some of the court staff positions. The views of distinguished private appointed counsel and public defenders, representative judicial officers with probate experience, and each of the court staff positions were given great weight in the deliberations.

Comments From Interested Parties

This proposal was circulated for comment in a special cycle to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters and assistance to unrepresented persons, probate-interest sections of the State Bar and local bar associations, and representatives of other organizations interested in probate matters generally and conservatorships and the problems of the impaired elderly specifically, in addition to court executives, presiding judges, individuals, and organizations with a more general interest in court-related issues.

Twenty seven comments were received. Most were unfavorable or would approve the proposal only if modified. A chart showing the comments received and the committee's responses follows the rule text, beginning at page 66.

Judges Dennis E. Murray, C. Anders Holmer, and Ira R. Kaufman commented extensively concerning application of these rules to small courts. Judge Murray's comment centers on the qualifications for appointed counsel in rule 7.1101. He advises that small counties would not have enough qualified attorneys for court appointments under the rule because most attorneys rely on appointments for exposure to this type of case but could not satisfy the requirements for the appointments. All three judges also advise that small courts do not have enough probate matters generally, and guardianships and conservatorships specifically, to support the proposed requirement of 18 hours of education in a three-year period for judicial officers. Judge Holmer requests an exemption from the education requirements for judicial officers of courts with seven or fewer judges. He recommends that biannual participation in the AOC's "Cow Counties" programs should be sufficient for compliance with the proposed rule for these courts.

full task force, recently adopted for inclusion in the task force's final report to be presented to the Judicial Council at the same time as this proposal, recommends adoption of the rules proposed here concerning judicial officer, court staff, and appointed counsel education.

The proposed rules do not have small-court exemptions from the judicial officer or court staff education requirements or from the qualifications and education requirements for appointed counsel. The judicial and court staff education rules adopted by the Judicial Council effective January 1, 2007, also do not exempt small courts from the required or recommended education. However, both the new probate education rules and the existing general education rules do have provisions for extensions of time for judicial officers and court staff to complete required or recommended education. Proposed rule 10.777, concerning qualifications of probate court staff, does have an exemption for courts with eight or fewer judges (rule 10.777(e)).¹⁸

The committee, which includes a judicial officer from a two-judge court in Mariposa County, decided against providing exemptions from judicial or court staff education requirements for small courts. All of the education required of judicial officers and court staff by these rules may be taken remotely, and additional time to complete required education may be obtained, so interference with court operations should be minimal. In response to a request from the Rules and Projects Committee, advisory committee staff has communicated with representatives of the Center for Judicial Education and Research about including courses qualified for judicial probate education under rule 10.468 in future “Cow Counties” programs.

The advisory committee also decided against providing an exemption from the qualifications to be required of appointed counsel under proposed rule 7.1101. The possible availability of deputy public defenders for appointments in conservatorships and guardianships and the availability of counsel qualified to represent minors in juvenile court and in family law matters for appointments in guardianships should help in smaller courts.¹⁹ The committee will monitor the operation of this rule in the future to determine if there is a shortage of available qualified appointed counsel in smaller courts.

Executives from the Superior Courts of Orange and Calaveras Counties advise that qualifications for court investigators and examiners in subdivisions (a) and (c) of rule 10.777 are too restrictive. They recommend that the rule be modified to

¹⁸ The rule circulated for comment provided an exemption for courts with four or fewer judges. The Rules and Projects Committee requested the advisory committee to consider expanding the exemption to courts with eight or fewer judges. The advisory committee agreed with the recommendation and revised rule 10.777(e) accordingly. There are 19 courts with four or fewer judges and 27 courts with eight or fewer judges.

¹⁹ Neither existing rule 5.660, concerning qualifications of appointed counsel in juvenile dependency proceedings, nor proposed rule 5.242, concerning qualifications of appointed counsel for children in Family Code custody proceedings, provide an exemption from the qualifications for smaller courts.

permit equivalent employment experience to be considered in lieu of a college education. These recommendations are based on concerns that the pool of qualified candidates might be too small if this change is not made. The advisory committee did not adopt these recommendations and notes that the rule permits a certified paralegal to qualify for an examiner position with four years employment experience instead of the two years of experience required for a college graduate. (Paralegal certification programs are usually two year programs and do not lead to a bachelor's degree.) The proposed substitution of "equivalent experience" for all college work appeared too vague to the advisory committee. The rule was changed, however, to permit a person with a juris doctor degree and only six months of the employment required under the rule to be considered for an examiner position. According to a committee member from the court in Orange County, applicants for examiner positions with that degree are common in that county.

Mr. Michael Harig, a probate investigator from Riverside, recommends that the requirement of five years' membership in the State Bar of California for probate staff attorneys under proposed rule 10.777(b) be modified to permit an attorney with five years' experience in another state to become eligible on admission to the State Bar of California. Mr. Harig also asks that the college-degree requirement be changed to permit a bachelor's degree in biological sciences instead of a degree in liberal arts. The committee agreed in part with these recommendations and modified the rule to permit an attorney to be considered for the probate attorney staff position with two years' membership in the State Bar of California and five years' membership in the equivalent organization of another state or authority to practice in the highest court of another state or in a court of the United States. The committee also amended the rule to permit a degree in any science, not just a behavioral or social science, but elected not to delete the liberal arts degree from the education requirement.

Ms. Jennifer Kelleher, the directing attorney of Legal Advocates for Children and Youth in San Jose, is concerned that the qualifications for appointed counsel should be modified to include attorneys with experience working for an agency representing parties in guardianship proceedings. This recommendation led to a change in proposed rule 7.1101 to provide that attorneys qualified for appointment to represent children in juvenile court dependency proceedings or Family Code custody proceedings would qualify for appointment in guardianships.

Implementation Requirements and Costs

The advisory committee believes that these rules will increase costs incurred by courts for staff recruiting and employment. The record-keeping and reporting costs for judicial officer and court staff education should also increase, as will the direct costs incurred by the AOC and the courts to provide or pay for the education. To

the extent that rule 7.1101 results in the appointment of counsel with higher qualifications, the cost of counsel payable by estates of conservatees and wards, wards' parents, and counties should also increase. On the other hand, if attorneys with higher qualifications and greater experience are appointed in these cases, these higher costs should be offset to some extent by greater efficiency.

Recommendation

In response to the mandate of Probate Code section 1456, the Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2008:

1. Adopt rule 10.468 of the California Rules of Court to prescribe initial and continuing education concerning conservatorships and guardianships to be required of judicial officers assigned to hear probate proceedings;
2. Adopt rules 10.478, 10.776, and 10.777 to establish and prescribe initial and continuing education to be required of probate court investigators, probate attorneys, and probate examiners; and the qualifications necessary to serve in these probate court staff positions;
3. Adopt rule 7.1101 to establish qualifications and continuing education to be required of counsel appointed by the court to represent conservatees and proposed conservatees in probate conservatorship proceedings and minors in probate guardianship matters; and
4. Amend or renumber rules 10.462, 10.463, 10.464, and 10.471 to facilitate the addition of the new rules concerning judicial officer and court staff education noted above.

The text of the rules proposed for amendment, renumbering, and adoption follows this report at pages 21–40.

The combined text of the judicial branch education rules proposed here for amendment, renumbering, and adoption and the education rules changed and adopted by the council on August 31, 2007 follows this report at pages 41–64.

The text of Probate Code section 1456 follows this report at page 65.

Attachments

Rule 10.462 of the California Rules of Court is amended, rule 10.463 is renumbered, rules 10.464, and 10.471 are amended and renumbered; and rules 7.1101, 10.468, 10.478, 10.776, and 10.777 are adopted effective January 1, 2008, to read:

1 Title 7.

2
3 Probate Rules

4
5 Chapter 23. Court-Appointed Counsel in Probate Proceedings

6
7 Rule 7.1101. Qualifications and continuing education required of counsel
8 appointed by the court in guardianships and conservatorships

9
10 (a) Definitions

11
12 As used in this rule, the following terms have the meanings stated below:

- 13
14 (1) “Appointed counsel” or “counsel appointed by the court” are legal
15 counsel appointed by the court under Probate Code sections 1470 or
16 1471, including counsel in private practice and deputy public defenders
17 directly responsible for the performance of legal services under the
18 court’s appointment of a county’s public defender.
- 19
20 (2) A “probate guardianship” or “probate conservatorship” is a
21 guardianship or conservatorship proceeding under division 4 of the
22 Probate Code.
- 23
24 (3) “LPS” and “LPS Act” refer to the Lanterman-Petris-Short Act, Welfare
25 and Institutions Code section 5000 et seq.
- 26
27 (4) An “LPS conservatorship” is a conservatorship proceeding for a
28 gravely disabled person under chapter 3 of the LPS Act, Welfare and
29 Institutions Code sections 5350–5371.
- 30
31 (5) A “contested matter” in a probate or LPS conservatorship proceeding is
32 a matter that requires a noticed hearing and in which written objections
33 are filed by any party or made by the conservatee or proposed
34 conservatee orally in open court.
- 35
36 (6) “AOC” is the Administrative Office of the Courts.

1 **(b) Qualifications of appointed counsel in private practice**
2

3 Except as provided in this rule, each counsel in private practice appointed by
4 the court on or after January 1, 2008, must be an active member of the State
5 Bar of California for at least three years immediately before the date of
6 appointment, with no disciplinary proceedings pending and no discipline
7 imposed within the 12 months immediately preceding the date of first
8 availability for appointment after January 1, 2008; and
9

10 **(1) Appointments to represent minors in guardianships**
11

12 For an appointment to represent a minor in a guardianship:
13

14 **(A) Within the five years immediately before the date of first**
15 **availability for appointment after January 1, 2008, must have**
16 **represented at least three wards or proposed wards in probate**
17 **guardianships, three children in juvenile court dependency or**
18 **delinquency proceedings, or three children in custody proceedings**
19 **under the Family Code; or**
20

21 **(B) At the time of appointment, must be qualified:**
22

23 **(i) For appointments to represent children in juvenile**
24 **dependency proceedings under rule 5.660 and the court's**
25 **local rules governing court-appointed juvenile court**
26 **dependency counsel; or**
27

28 **(ii) For appointments to represent children in custody**
29 **proceedings under the Family Code under rule 5.242,**
30 **including the alternative experience requirements of rule**
31 **5.242(g).**
32

33 **(C) Counsel qualified for appointments in guardianships under (B)**
34 **must satisfy the continuing education requirements of this rule in**
35 **addition to the education or training requirements of the rules**
36 **mentioned in (B).**

1 (2) Appointments to represent conservatees or proposed conservatees

2
3 For an appointment to represent a conservatee or a proposed
4 conservatee, within the five years immediately before the date of first
5 availability for appointment after January 1, 2008, counsel in private
6 practice must have:

7
8 (A) Represented at least three conservatees or proposed conservatees
9 in either probate or LPS conservatorships; or

10
11 (B) Completed any three of the following five tasks:

12
13 (i) Represented petitioners for the appointment of a conservator
14 at commencement of three probate conservatorship
15 proceedings, from initial contact with the petitioner through
16 the hearing and issuance of Letters of Conservatorship;

17
18 (ii) Represented a petitioner, a conservatee or a proposed
19 conservatee, or an interested third party in two contested
20 probate or LPS conservatorship matters. A contested matter
21 that qualifies under this item and also qualifies under (i)
22 may be applied toward satisfaction of both items;

23
24 (iii) Represented a party for whom the court could appoint legal
25 counsel in a total of three matters described in Probate Code
26 sections 1470, 1471, 1954, 2356.5, 2357, 2620.2, 3140, or
27 3205;

28
29 (iv) Represented fiduciaries in three separate cases for settlement
30 of a court-filed account and report, through filing, hearing,
31 and settlement, in any combination of probate
32 conservatorships or guardianships, decedent's estates, or
33 trust proceedings under division 9 of the Probate Code; or

34
35 (v) Prepared five wills or trusts, five durable powers of attorney
36 for health care, and five durable powers of attorney for asset
37 management.

38
39 (3) Private counsel qualified under (1) or (2) must also be covered by
40 professional liability insurance satisfactory to the court in the amount
41 of at least \$100,000 per claim and \$300,000 per year.
42

1 **(c) Qualifications of deputy public defenders performing legal services on**
2 **court appointments of the public defender**
3

4 (1) Except as provided in this rule, beginning on January 1, 2008, each
5 county deputy public defender with direct responsibility for the
6 performance of legal services in a particular case on the appointment of
7 the county public defender under Probate Code sections 1470 or 1471
8 must be an active member of the State Bar of California for at least
9 three years immediately before the date of appointment; and either

10
11 (B) Satisfy the experience requirements for private counsel in (b)(1)
12 for appointments in guardianships or (b)(2) for appointments in
13 conservatorships; or

14
15 (C) Have a minimum of three years' experience representing minors
16 in juvenile dependency or delinquency proceedings or patients in
17 post-certification judicial proceedings or conservatorships under
18 the LPS Act.

19
20 (2) A deputy public defender qualified under (1) must also be covered by
21 professional liability insurance satisfactory to the court in the amount
22 of at least \$100,000 per claim and \$300,000 per year, or be covered for
23 professional liability at an equivalent level by a self-insurance program
24 for the professional employees of his or her county.

25
26 (3) A deputy public defender who is not qualified under this rule may
27 periodically substitute for a qualified deputy public defender with direct
28 responsibility for the performance of legal services in a particular case.
29 In that event, the county public defender or his or her designee, who
30 may be the qualified supervisor, must certify to the court that the
31 substitute deputy is working under the direct supervision of a deputy
32 public defender who is qualified under this rule.

33
34 **(d) Transitional provisions on qualifications**
35

36 (1) Counsel appointed before January 1, 2008, may continue to represent
37 their clients through February 2008, whether or not they are qualified
38 under (b) or (c). After February 2008 through conclusion of these
39 matters, the court may retain or replace appointed counsel who are not
40 qualified under (b) or (c) or may appoint qualified co-counsel to assist
41 them.
42

1 (2) In January and February 2008, the court may appoint counsel in new
2 matters who have not filed the certification of qualifications required
3 under (g) at the time of appointment but must replace counsel
4 appointed under this paragraph who have not filed the certificate before
5 March 1, 2008.

6
7 **(e) Continuing education of appointed counsel**

8
9 Beginning on January 1, 2008, counsel appointed by the court must complete
10 three hours of education each calendar year that qualifies for mandatory
11 continuing legal education credit for State Bar–certified specialists in estate
12 planning, trust, and probate law.

13
14 **(f) Additional court-imposed qualifications, education, and other**
15 **requirements**

16
17 The qualifications in (b) and (c) and the continuing education requirement in
18 (e) are minimums. A court may establish higher qualification or continuing
19 education requirements, including insurance requirements; require initial
20 education or training; and impose other requirements, including an
21 application by private counsel.

22
23 **(g) Certification of qualifications and continuing education**

24
25 (1) Each counsel appointed or eligible for appointment by the court before
26 January 1, 2008, including deputy public defenders, must certify to the
27 court in writing before March 1, 2008, that he or she satisfies the
28 qualifications under (b) or (c) to be eligible for a new appointment on
29 or after that date.

30
31 (2) After February 2008, each counsel must certify to the court that he or
32 she is qualified under (b) or (c) before becoming eligible for an
33 appointment under this rule.

34
35 (3) Beginning in 2009, each appointed counsel must certify to the court
36 before the end of February of each year that he or she has completed
37 the continuing education required for the preceding calendar year.

38
39 (4) Certifications required under this subdivision must be submitted to the
40 court but are not to be filed or lodged in a case file.

1 **(h) Reporting**

2
3 The AOC may require courts to report appointed counsel’s qualifications and
4 completion of continuing education required by this rule to ensure
5 compliance with Probate Code section 1456.
6

7 **Title 10**

8
9 **Judicial Administration Rules**

10
11 **Rule 10.462. Trial court judges and subordinate judicial officers**

12
13 **(a)–(c) * * ***

14
15 **(d) Hours-based continuing education**

16
17 (1) * * *

18
19 (2) The following education applies toward the expected or required 30
20 hours of continuing judicial education:

21
22 (A) * * *

23
24 (B) Any other education offered by a provider listed in rule
25 10.471481(a) and any other education, including education taken
26 to satisfy a statutory or other education requirement, approved by
27 the presiding judge as meeting the criteria listed in rule
28 10.471481(b).

29
30 (3)–(5) * * *

31
32 **(e)–(g) * * ***

33
34 **Rule 10.468. Content-based and hours-based education for superior court**
35 **judges and subordinate judicial officers regularly assigned to hear**
36 **probate proceedings**

37
38 **(a) Definitions**

39
40 As used in this rule, the following terms have the meanings stated below:

41
42 (1) “Judge” means a judge of the superior court.
43

- 1 (2) “Subordinate judicial officer” has the meaning specified in rule
2 10.701(a).
- 3
- 4 (3) “Judicial officer” means a judge or a subordinate judicial officer.
- 5
- 6 (4) “Probate proceedings” are decedents’ estates, guardianships and
7 conservatorships under division 4 of the Probate Code, trust
8 proceedings under division 9 of the Probate Code, and other matters
9 governed by provisions of that code and the rules in title 7 of the
10 California Rules of Court.
- 11
- 12 (5) A judicial officer “regularly assigned to hear probate proceedings” is a
13 judicial officer who is:
- 14
- 15 (A) Assigned to a dedicated probate department where probate
16 proceedings are customarily heard on a full-time basis;
- 17
- 18 (B) Responsible for hearing most of the probate proceedings filed in a
19 court that does not have a dedicated probate department; or
- 20
- 21 (C) Responsible for hearing probate proceedings on a regular basis in
22 a department in a branch or other location remote from the main
23 or central courthouse, whether or not he or she also hears other
24 kinds of matters in that department and whether or not there is a
25 dedicated probate department in the main or central courthouse.
- 26
- 27 (6) “AOC” is the Administrative Office of the Courts.
- 28
- 29 (7) “CJER” is the AOC Education Division/Center for Judicial Education
30 and Research.
- 31
- 32 (8) “CJA” is the California Judges Association.

33

34 **(b) Content-based requirements**

35

- 36 (1) Each judicial officer beginning a regular assignment to hear probate
37 proceedings after the effective date of this rule—unless he or she is
38 returning to this assignment after less than two years in another
39 assignment—must complete, as soon as possible but not to exceed six
40 months from the assignment’s commencement date, 6 hours of
41 education on probate guardianships and conservatorships, including
42 court-supervised fiduciary accounting.

- 1 (2) The education required in (1) is in addition to the New Judge
2 Orientation program for new judicial officers and the B. E. Witkin
3 Judicial College required under rule 10.462(c)(1)(A) and (C) and may
4 be applied toward satisfaction of the 30 hours of continuing education
5 expected of judges and required of subordinate judicial officers under
6 rule 10.462(d).
7
8 (3) The education required in (1) must be provided by CJER, CJA, or the
9 judicial officer’s court. CJER is responsible for identifying content for
10 this education and will share the identified content with CJA and the
11 courts.
12
13 (4) The education required in (1) may be by traditional (face to face) or
14 distance-learning means, such as broadcasts, videoconferences, or
15 online coursework, but may not be by self-study.
16

17 **(c) Hours-based continuing education**
18

- 19 (1) Each judicial officer regularly assigned to hear probate proceedings
20 must complete 18 hours of continuing education every three years, with
21 a minimum of 6 hours per year, on probate guardianships and
22 conservatorships, including court-supervised fiduciary accounting. The
23 three-year period begins on January 1 of the year following the judicial
24 officer’s completion of the education required in (b)(1) or, if he or she
25 is exempt from that education, on January 1 of the year the assignment
26 commenced after the effective date of this rule.
27
28 (2) The first continuing education period for judicial officers who were
29 regularly assigned to hear probate proceedings before the effective date
30 of this rule and who continue in the assignment after that date is two
31 years, from January 1, 2008, through December 31, 2009, rather than
32 three years. The continuing education requirements in (1) are prorated
33 for the first continuing education under this paragraph. The first full
34 three-year period of continuing education for judicial officers under this
35 paragraph begins on January 1, 2010.
36
37 (3) The number of hours of education required in (1) may be reduced
38 proportionately for judicial officers whose regular assignment to hear
39 probate proceedings is for a period of less than three years, but the
40 education required in any full calendar year in the assignment is a
41 minimum of 6 hours.

- 1 (4) The education required in (1) may be applied toward satisfaction of the
2 30 hours of continuing education expected of judges or required of
3 subordinate judicial officers under rule 10.462(d).
4
5 (5) A judicial officer may fulfill the education requirement in (1) through
6 AOC-sponsored education, a provider listed in rule 10.481(a), or a
7 provider approved by the judicial officer’s presiding judge as meeting
8 the education criteria specified in rule 10.481(b).
9
10 (6) The education required in (1) may be by traditional (face-to-face) or
11 distance-learning means, such as broadcasts, videoconferences, or
12 online coursework but may not be by self-study.
13
14 (7) A judicial officer who serves as faculty for a California court-based
15 audience, as defined in rule 10.462(d)(4), for education required in (1)
16 may be credited with 3 hours of participation for each hour of
17 presentation the first time a course is given and 2 hours for each hour of
18 presentation each subsequent time the course is given.

19
20 **(d) Extension of time**

21
22 The provisions of rule 10.462(e) concerning extensions of time apply to the
23 content-based and hours-based education required under (b) and (c) of this
24 rule.

25
26 **(e) Record keeping and reporting**

- 27
28 (1) The provisions of rule 10.462(f) and (g) concerning, respectively,
29 tracking participation, record keeping, and summarizing participation
30 by judges and tracking participation by subordinate judicial officers,
31 apply to the education required under this rule.
32
33 (2) Presiding judges’ records of judicial officer participation in the
34 education required by this rule are subject to audit by the AOC under
35 rule 10.462. The AOC may require courts to report participation by
36 judicial officers in the education required by this rule to ensure
37 compliance with Probate Code section 1456.
38

39 **Rule 10.463-10.473. Trial court executive officers**

40
41 **(a)–(d) * * ***
42

1 (e) ~~{Record of participation; statement of completion}~~

2
3 Each executive officer is responsible for:

4
5 (1)–(3) * * *

6
7 * * *

8
9 **Rule ~~10.464~~10.474. Trial court managers, supervisors, and personnel**

10
11 (a)–(b) * * *

12
13 (c) **Hours-based requirements**

14
15 (1)–(3) * * *

16
17 (4) Any education offered by a provider listed in rule 10.471481(a) and
18 any other education, including education taken to satisfy a statutory,
19 rules-based, or other education requirement, that is approved by the
20 executive officer or the employee’s supervisor as meeting the criteria
21 listed in rule 10.471481(b) applies toward the orientation education
22 required under (b) and the continuing education required under (c)(1)
23 and (2).

24
25 (5)–(7) * * *

26
27 (d)–(e) * * *

28
29 **Rule 10.478. Content-based and hours-based education for court**
30 **investigators, probate attorneys, and probate examiners**

31
32 (a) **Definitions**

33
34 As used in this rule, the following terms have the meanings specified below,
35 unless the context or subject matter otherwise require:

36
37 (1) A “court investigator” is a person described in Probate Code section
38 1454(a) employed by or under contract with a court to provide the
39 investigative services for the court required or authorized by law in
40 guardianships, conservatorships, and other protective proceedings
41 under division 4 of the Probate Code;
42

1 (2) A “probate attorney” is an active member of the State Bar of California
2 who is employed by a court to perform the functions of a probate
3 examiner and also to provide legal analysis, recommendations, advice,
4 and other services to the court pertaining to probate proceedings;
5

6 (3) A “probate examiner” is a person employed by a court to review filings
7 in probate proceedings in order to assist the court and the parties to get
8 the filed matters properly ready for consideration by the court in
9 accordance with the requirements of the Probate Code, the rules in title
10 7 of the California Rules of Court, and the court’s local rules;
11

12 (4) “Probate proceedings” are decedents’ estates, guardianships and
13 conservatorships under division 4 of the Probate Code, trust
14 proceedings under division 9 of the Probate Code, and other matters
15 governed by provisions of that code and the rules in title 7 of the
16 California Rules of Court;
17

18 (5) “AOC” is the Administrative Office of the Courts;
19

20 (6) “CJER” is the AOC Education Division/Center for Judicial Education
21 and Research.
22

23 **(b) Content-based requirements for court investigators**
24

25 (1) Each court investigator must complete 18 hours of education within
26 one year of his or her start date after the effective date of this rule. The
27 education must include the following general topics:
28

29 (A) Court process and legal proceedings;
30

31 (B) Child abuse and neglect and the effect of domestic violence on
32 children (guardianship investigators); elder and dependent adult
33 abuse, including undue influence and other forms of financial
34 abuse (conservatorship investigators);
35

36 (C) Medical issues;
37

38 (D) Access to and use of criminal-record information, confidentiality,
39 ethics, conflicts of interest;
40

41 (E) Assessing and evaluating community resources for children and
42 mentally impaired elderly or developmentally disabled adults; and
43

1 (F) Interviewing children and persons with mental function or
2 communication deficits.

3
4 (2) A court investigator may fulfill the education requirement in (1)
5 through AOC-sponsored education, a provider listed in rule 10.481(a),
6 or a provider approved by the court executive officer or the court
7 investigator's supervisor as meeting the education criteria specified in
8 rule 10.481(b).

9
10 (3) The education required in (1) may be applied to the specific-job portion
11 of the orientation course required for all new court employees under
12 rule 10.474(b)(2)(D) and the continuing education required for all
13 nonmanagerial or nonsupervisory court employees under rule
14 10.474(c)(2).

15
16 (4) The education required in (1) may be by traditional (face-to-face) or
17 distance-learning means, such as broadcasts, videoconferences, or on-
18 line coursework, but may not be by self-study.

19
20 **(c) Content-based education for probate attorneys**

21
22 (1) Each probate attorney must complete 18 hours of education within six
23 months of his or her start date after January 1, 2008, in probate-related
24 topics, including guardianships, conservatorships, and court-supervised
25 fiduciary accounting.

26
27 (2) A probate attorney may fulfill the education requirement in (1) through
28 AOC-sponsored education, a provider listed in rule 10.481(a), or a
29 provider approved by the court executive officer or the probate
30 attorney's supervisor as meeting the education criteria specified in rule
31 10.481(b).

32
33 (3) The education required in (1) may be applied to the specific-job portion
34 of the orientation course required for all new court employees under
35 rule 10.474(b)(2)(D) and the continuing education required for all
36 nonmanagerial or nonsupervisory court employees under rule
37 10.474(c)(2).

38
39 (4) The education required in (1) may be by traditional (face-to-face) or
40 distance-learning means, such as broadcasts, videoconferences, or on-
41 line coursework, but may not be by self-study.

1 **(d) Content-based education for probate examiners**

- 2
- 3 (1) Each probate examiner must complete 30 hours of education within one
4 year of his or her start date after January 1, 2008, in probate-related
5 topics, of which 18 hours must be in guardianships and
6 conservatorships, including court-appointed fiduciary accounting.
- 7
- 8 (2) A probate examiner may fulfill the education requirement in (1)
9 through AOC-sponsored education, a provider listed in rule 10.481(a),
10 or a provider approved by the court executive officer or the probate
11 examiner's supervisor as meeting the education criteria specified in rule
12 10.481(b).
- 13
- 14 (3) The education required in (1) may be applied to the specific-job portion
15 of the orientation course required for all new court employees under
16 rule 10.474(b)(2)(D) and the continuing education required for all
17 nonmanagerial or nonsupervisory court employees under rule
18 10.474(c)(2).
- 19
- 20 (4) The education required in (1) may be by traditional (face-to-face) or
21 distance-learning means, such as broadcasts, videoconferences, or
22 online coursework, but may not be by self-study.
- 23

24 **(e) Hours-based education for court investigators**

- 25
- 26 (1) Each court investigator must complete 12 hours of continuing
27 education on some or all of the general topics listed in (b)(1) each
28 calendar year. For court investigators employed by or performing
29 services under contract with the court before the effective date of this
30 rule, the first calendar year the education is required begins on January
31 1, 2008. For court investigators who begin their employment or
32 performance of services under contract with the court after the effective
33 date of this rule, the first year this education is required begins on
34 January 1 of the year immediately following completion of the
35 education required in (b).
- 36
- 37 (2) A court investigator may fulfill the education requirement in (1)
38 through AOC-sponsored education, a provider listed in rule 10.481(a),
39 or a provider approved by the court executive officer or the court
40 investigator's supervisor as meeting the education criteria specified in
41 rule 10.481(b).
- 42

1 (3) The education required in (1) may be applied to the continuing
2 education required for all nonmanagerial or nonsupervisory court
3 employees under rule 10.474(c)(2).

4
5 (4) The education required in (1) may be by traditional (face-to-face) or
6 distance-learning means, such as broadcasts, videoconferences, or
7 online coursework, but may not be by self-study.

8
9 **(f) Hours-based education for probate attorneys**

10
11 (1) Each probate attorney must complete 12 hours of continuing education
12 each calendar year in probate-related subjects, of which 6 hours per
13 year must be in guardianships and conservatorships, including court-
14 supervised fiduciary accounting. For probate attorneys employed by or
15 performing services under contract with the court before the effective
16 date of this rule, the first calendar year the education is required begins
17 on January 1, 2008. For probate attorneys who begin their employment
18 with the court after the effective date of this rule, the first year this
19 education is required begins on January 1 of the year immediately
20 following completion of the education required in (c).

21
22 (2) A probate attorney may fulfill the education requirement in (1) through
23 AOC-sponsored education, a provider listed in rule 10.481(a), or a
24 provider approved by the court executive officer or the probate
25 attorney's supervisor as meeting the education criteria specified in rule
26 10.481(b).

27
28 (3) The education required in (1) may be applied to the continuing
29 education required for all nonmanagerial or nonsupervisory court
30 employees under rule 10.474(c)(2).

31
32 (4) The education required in (1) may be by traditional (face-to-face) or
33 distance-learning means, such as broadcasts, videoconferences, or
34 online coursework, but may not be by self-study.

35
36 **(g) Hours-based education for probate examiners**

37
38 (1) Each probate examiner must complete 12 hours of continuing education
39 each calendar year in probate-related subjects, of which 6 hours per
40 year must be in guardianships and conservatorships, including court-
41 appointed fiduciary accounting. For probate examiners employed by
42 the court before the effective date of this rule, the first calendar year the
43 education is required begins on January 1, 2008. For probate examiners

1 who begin their employment with the court after the effective date of
2 this rule, the first year this education is required begins on January 1 of
3 the year immediately following completion of the education required in
4 (d).

5
6 (2) A probate examiner may fulfill the education requirement in (1)
7 through AOC-sponsored education, a provider listed in rule 10.481(a),
8 or a provider approved by the court executive officer or the probate
9 examiner's supervisor as meeting the education criteria specified in rule
10 10.481(b).

11
12 (3) The education required in (1) may be applied to the continuing
13 education required for all nonmanagerial or nonsupervisory court
14 employees under rule 10.474(c)(2).

15
16 (4) The education required in (1) may be by traditional (face-to-face) or
17 distance-learning means, such as broadcasts, videoconferences, or
18 online coursework, but may not be by self-study.

19
20 **(h) Extension of time**

21
22 The provisions of rule 10.474(d) concerning extensions of time apply to the
23 content-based and hours-based education required under this rule.

24
25 **(i) Record keeping and reporting**

26
27 (1) The provisions of rule 10.474(e) concerning the responsibilities of
28 courts and participating court employees to keep records and track the
29 completion of educational requirements apply to the education required
30 under this rule.

31
32 (2) The AOC may require courts to report participation by court
33 investigators, probate attorneys, and probate examiners in the education
34 required by this rule as necessary to ensure compliance with Probate
35 Code section 1456.

36
37 **Rule 10.471. 10.481. Approved providers; approved course criteria**

38
39 **(a) Approved providers**

40
41 Any education program offered by any of the following providers that is
42 relevant to the work of the courts or enhances the individual participant's
43 ability to perform his or her job may be applied toward the education

1 requirements and expectations stated in rules 10.461–10.479, except for the
2 requirements stated in rules 10.461(b), 10.462(c), and 10.473(b), for which
3 specific providers are required 10.462(d), 10.463(e), or 10.464(b)(e):

4
5 (1)–(20) * * *

6
7 (21) California Court Association; and

8
9 (22) Superior Court Clerks’ Association of the State of California;

10
11 (29) California Association of Superior Court Investigators.

12
13 **(b) Approved education criteria**

14
15 Education is not limited to the approved providers listed in (a). Any
16 education from a provider not listed in (a) that is approved by the Chief
17 Justice, the administrative presiding justice, or the presiding judge as
18 meeting the criteria listed below may be applied toward the continuing
19 education expectations and requirements for justices, judges, and subordinate
20 judicial officers or requirements for clerk/administrators or court executive
21 officers stated in rule 10.462(d) or 10.463(e), respectively. Similarly, any
22 education from a provider not listed in (a) that is approved by the
23 clerk/administrator, the court executive officer, or by the employee’s
24 supervisor as meeting the criteria listed below may be applied toward the
25 orientation or continuing education requirements for managers, supervisors,
26 and other employees in rule 10.464(b) and (c)(1), (2) or the content-based or
27 continuing education for probate court investigators, probate attorneys, and
28 probate examiners in rule 10.478.

29
30 (1)–(2) * * *

31
32 **Division 4. Trial Court Administration**

33
34 **Chapter 7. Qualifications of Court Investigators, Probate Attorneys, and**
35 **Probate Examiners**

36
37 **Rule 10.776. Definitions**

38
39 As used in the rules in this chapter, the following terms have the meanings stated
40 below:

41
42 (1) A “court investigator” is a person described in Probate Code section 1454(a)
43 employed by or under contract with a court to provide the investigative

1 services for the court required or authorized by law in guardianships,
2 conservatorships, and other protective proceedings under Division 4 of the
3 Probate Code;

4
5 (2) A “probate examiner” is a person employed by a court to review filings in
6 probate proceedings in order to assist the court and the parties to get the filed
7 matters ready for consideration by the court in accordance with the
8 requirements of the Probate Code, title 7 of the California Rules of Court,
9 and the court’s local rules;

10
11 (3) A “probate attorney” is an active member of the State Bar of California who
12 is employed by a court to perform the functions of a probate examiner and
13 also to provide legal analysis, recommendations, advice, and other services to
14 the court pertaining to probate proceedings;

15
16 (4) “Probate proceedings” are decedents’ estates, guardianships and
17 conservatorships under division 4 of the Probate Code, trust proceedings
18 under division 9 of the Probate Code, and other matters governed by
19 provisions of that code and the rules in title 7 of the California Rules of
20 Court;

21
22 (5) An “accredited educational institution” is a college or university, including a
23 community or junior college, accredited by a regional accrediting
24 organization recognized by the Council for Higher Education Accreditation;
25 and

26
27 (6) “AOC” is the Administrative Office of the Courts.

28
29 **Rule 10.777. Qualifications of court investigators, probate attorneys, and**
30 **probate examiners**

31
32 **(a) Qualifications of court investigators**

33
34 Except as otherwise provided in this rule, a person who begins employment
35 with a court or enters into a contract to perform services with a court as a
36 court investigator on or after January 1, 2008, must:

37
38 (1) Have a bachelor of arts or bachelor of science degree in a science, a
39 social science, a behavioral science, liberal arts, or nursing from an
40 accredited educational institution; and

1 (2) Have a minimum of two years' employment experience performing
2 casework or investigations in a legal, financial, law enforcement, or
3 social services setting.

4
5 **(b) Qualifications of probate attorneys**

6
7 Except as otherwise provided in this rule, a person who begins employment
8 with a court as a probate attorney on or after January 1, 2008, must:

9
10 (1) Be an active member of the State Bar of California for:

11 (A) A minimum of five years; or

12 (B) A minimum of two years, plus a minimum of five years' current
13 or former active membership in the equivalent organization of
14 another state or eligibility to practice in the highest court of
15 another state or in a court of the United States; and

16
17
18 (2) Have a minimum of two years' total experience, before or after
19 admission as an active member of the State Bar of California, in one or
20 more of the following positions:

21 (A) Court-employed staff attorney;

22 (B) Intern, court probate department (minimum six-month period);

23 (C) Court-employed probate examiner or court-employed or court-
24 contracted court investigator;

25 (D) Attorney in a probate-related public or private legal practice;

26 (E) Deputy public guardian or conservator;

27 (F) Child protective services or adult protective services worker or
28 juvenile probation officer; or

29 (G) Private professional fiduciary appointed by a court or employee of
30 a private professional fiduciary or bank or trust company
31 appointed by a court, with significant fiduciary responsibilities,
32 including responsibility for court accountings.

1 **(c) Qualifications of probate examiners**

2
3 Except as otherwise provided in this rule, a person who begins employment
4 with a court as a probate examiner on or after January 1, 2008, must have:

5
6 (1) A bachelor of arts or bachelor of science degree from an accredited
7 educational institution and a minimum of two years' employment
8 experience with one or more of the following employers:

9
10 (A) A court;

11
12 (B) A public or private law office; or

13
14 (C) A public administrator, public guardian, public conservator,
15 or private professional fiduciary; or

16
17 (2) A paralegal certificate from an accredited educational institution
18 and a minimum of a total of four years' employment experience with
19 one or more of the employers listed in (1); or

20
21 (3) A juris doctor degree from an educational institution approved by the
22 American Bar Association or accredited by the Committee of Bar
23 Examiners of the State Bar of California and a minimum of six months'
24 employment experience with an employer listed in (1).

25
26 **(d) Additional court-imposed qualifications and requirements**

27
28 The qualifications in (a), (b), and (c) are minimums. A court may establish
29 higher qualification standards for any position covered by this rule and may
30 require applicants to comply with its customary hiring or personal-service
31 contracting practices, including written applications, personal references,
32 personal interviews, or entrance examinations.

33
34 **(e) Exemption for smaller courts**

35
36 The qualifications required under this rule may be waived by a court with
37 eight or fewer judges if it cannot find suitable qualified candidates for the
38 positions covered by this rule or for other grounds of hardship. A court
39 electing to waive a qualification under this subdivision must make express
40 written findings showing the circumstances supporting the waiver and
41 disclosing all alternatives considered, including those not selected.

1 **(f) Record keeping and reporting**

2
3 The AOC may require courts to report on the qualifications of the court
4 investigators, probate attorneys, or probate examiners hired or under contract
5 under this rule, and on waivers made under (e), as necessary to ensure
6 compliance with Probate Code section 1456.

7
8 **Chapter ~~7~~ 8. Alternative Dispute Resolution Programs**

9
10 **Chapter ~~8~~ 9. Trial Court Budget and Fiscal Management**

11
12 **Chapter ~~9~~ 10. Trial Court Records Management**

13
14 **Chapter ~~10~~ 11. Trial Court Automation**

15
16 **Chapter ~~11~~ 12. Trial Court Management of Civil Cases**

17
18 **Chapter ~~12~~ 13. Trial Court Management of Criminal Cases**

Combined Judicial Branch Education Rules

Text of rules 10.462, 10.463, 10.468, 10.469, 10.471, 10.472, 10.473, 10.474, 10.478, 10.479, 10.481, and 10.491 of the California Rules of Court, as amended, renumbered, or adopted effective January 1, 2008 by the Judicial Council on August 31, 2007 (proposal of the Governing Committee of the Center for Judicial Education and Research) and as proposed by the Probate and Mental Health Advisory Committee for amendment, renumbering, or adoption effective January 1, 2008.

1 **Rule 10.462. Minimum education requirements and expectations for Trial**
2 **court judges and subordinate judicial officers**
3

4 **(a) Applicability**
5

6 All California trial court judges must complete the minimum judicial
7 education requirements for new judges under (c)(1) and are expected to
8 participate in continuing education as outlined under (d). All subordinate
9 judicial officers must complete the minimum education requirements for new
10 subordinate judicial officers under (c)(1) and for continuing education as
11 outlined under (d). All trial court judges and subordinate judicial officers
12 who hear family law matters must complete additional education
13 requirements set forth in rule 10.463. All trial court judges and subordinate
14 judicial officers should participate in more judicial education than is required
15 and expected, related to each individual’s responsibilities and particular
16 judicial assignment or assignments and in accordance with the judicial
17 education recommendations set forth in rule 10.469.
18

19 **(b) Definitions**
20

21 Unless the context or subject matter otherwise requires, “subordinate judicial
22 officers” as used in this rule means subordinate judicial officers as defined in
23 rule 10.701.
24

25 **(c) Content-based requirements**
26

27 (1) Each new trial court judge and subordinate judicial officer must
28 complete the following “new judge education” provided by the
29 Administrative Office of the Courts’ Education Division/Center for
30 Judicial Education and Research (CJER) as follows:
31

32 (A) The New Judge Orientation Program within six months of taking
33 the oath as a judge or subordinate judicial officer. For purposes of
34 the New Judge Orientation Program, a judge or subordinate

1 judicial officer is considered “new” only once, and any judge or
2 subordinate officer who has completed the New Judge Orientation
3 Program, as required under this rule or under former rule 970, is
4 not required to complete the program again. A judge or
5 subordinate officer who was appointed, elected, or hired before
6 rule 970 was adopted on January 1, 1996, is not required to
7 complete the program.

8
9 (B)–(C) * * *

10
11 (2)–(3) * * *

12
13 (4) Each judge is expected to and each subordinate judicial officer must, if
14 beginning a new primary assignment— (unless he or she is returning to
15 an assignment after less than two years in another assignment), —
16 complete a course on the new primary assignment, provided by CJER,
17 the California Judges Association (CJA), or the local court, within six
18 months of beginning the new assignment. CJER is responsible for
19 identifying content for these courses and will share the identified
20 content with CJA and the local courts.

21
22 **(d) Hours-based continuing education**

23
24 (1) * * *

25
26 (2) The following education applies toward the expected or required 30
27 hours of continuing judicial education:

28
29 (A) * * *

30
31 (B) Any other education offered by a provider listed in rule
32 10.481471(a) and any other education, including education taken
33 to satisfy a statutory or other education requirement, approved by
34 the presiding judge as meeting the criteria listed in rule
35 10.481471(b).

36
37 (3)–(5) * * *

38
39 **(e) * * ***

40
41 **(f) Records and cumulative histories summaries of participation for judges**

42
43 Each judge is responsible for:
44

1 (1)–(3) * * *

2

3 (g) * * *

4

Advisory Committee Comment

5

6

* * *

7

8 **Rule ~~10.4635.30~~. Judicial Education requirements for family court judges**
9 **and subordinate judicial officers**

10

11 ~~Each~~ Every judge or subordinate judicial officer whose ~~primary principal judicial~~
12 assignment is to hear family law matters or who is the sole judge hearing family law
13 matters must, ~~if funds are available, attend~~ complete the following ~~judicial~~ education
14 programs:

15

16 (a) **{Basic family law education}**

17

18 _____ Within six months of beginning a family law assignment, or within one year
19 of beginning a family law assignment in courts with five or fewer judges, the
20 judge or subordinate judicial officer must ~~attend~~ complete a basic
21 educational program on California family law and procedure designed
22 primarily for judicial officers. A judge or subordinate judicial officer who
23 has completed the basic educational program need not complete ~~attend~~ the
24 basic educational program again. All other judicial officers who hear family
25 law matters, including retired judges who sit on court assignment, must
26 complete ~~participate in~~ appropriate family law educational programs.

27

28 (b) **{Continuing family law education}**

29

30 _____ The judge or subordinate judicial officer must complete ~~attend~~ a periodic
31 update on new developments in California family law and procedure.

32

33 (c) **{Other family law education}**

34

35 _____ To the extent that judicial time and resources are available, the judge or
36 subordinate judicial officer must complete ~~attend~~ additional educational programs
37 on other aspects of family law including interdisciplinary subjects relating to the
38 family.

1 **Rule 10.468. Content-based and hours-based education for superior court**
2 **judges and subordinate judicial officers regularly assigned to hear**
3 **probate proceedings**
4

5 **(a) Definitions**
6

7 As used in this rule, the following terms have the meanings stated below:
8

- 9 (1) “Judge” means a judge of the superior court.
10
11 (2) “Subordinate judicial officer” has the meaning specified in rule
12 10.701(a).
13
14 (3) “Judicial officer” means a judge or a subordinate judicial officer.
15
16 (4) “Probate proceedings” are decedents’ estates, guardianships and
17 conservatorships under division 4 of the Probate Code, trust
18 proceedings under division 9 of the Probate Code, and other matters
19 governed by provisions of that code and the rules in title 7 of the
20 California Rules of Court.
21
22 (5) A judicial officer “regularly assigned to hear probate proceedings” is a
23 judicial officer who is:
24
25 (A) Assigned to a dedicated probate department where probate
26 proceedings are customarily heard on a full-time basis;
27
28 (B) Responsible for hearing most of the probate proceedings filed in a
29 court that does not have a dedicated probate department; or
30
31 (C) Responsible for hearing probate proceedings on a regular basis in
32 a department in a branch or other location remote from the main
33 or central courthouse, whether or not he or she also hears other
34 kinds of matters in that department and whether or not there is a
35 dedicated probate department in the main or central courthouse.
36
37 (6) “AOC” is the Administrative Office of the Courts.
38
39 (7) “CJER” is the AOC Education Division/Center for Judicial Education
40 and Research.
41
42 (8) “CJA” is the California Judges Association.
43

1 **(b) Content-based requirements**
2

3 (1) Each judicial officer beginning a regular assignment to hear probate
4 proceedings after the effective date of this rule—unless he or she is
5 returning to this assignment after less than two years in another
6 assignment—must complete, as soon as possible but not to exceed six
7 months from the assignment’s commencement date, 6 hours of
8 education on probate guardianships and conservatorships, including
9 court-supervised fiduciary accounting.

10
11 (2) The education required in (1) is in addition to the New Judge
12 Orientation program for new judicial officers and the B. E. Witkin
13 Judicial College required under rule 10.462(c)(1)(A) and (C) and may
14 be applied toward satisfaction of the 30 hours of continuing education
15 expected of judges and required of subordinate judicial officers under
16 rule 10.462(d).

17
18 (3) The education required in (1) must be provided by CJER, CJA, or the
19 judicial officer’s court. CJER is responsible for identifying content for
20 this education and will share the identified content with CJA and the
21 courts.

22
23 (4) The education required in (1) may be by traditional (face to face) or
24 distance-learning means, such as broadcasts, videoconferences, or
25 online coursework, but may not be by self-study.

26
27 **(c) Hours-based continuing education**
28

29 (1) Each judicial officer regularly assigned to hear probate proceedings
30 must complete 18 hours of continuing education every three years, with
31 a minimum of 6 hours per year, on probate guardianships and
32 conservatorships, including court-supervised fiduciary accounting. The
33 three-year period begins on January 1 of the year following the judicial
34 officer’s completion of the education required in (b)(1) or, if he or she
35 is exempt from that education, on January 1 of the year the assignment
36 commenced after the effective date of this rule.

37
38 (2) The first continuing education period for judicial officers who were
39 regularly assigned to hear probate proceedings before the effective date
40 of this rule and who continue in the assignment after that date is two
41 years, from January 1, 2008, through December 31, 2009, rather than
42 three years. The continuing education requirements in (1) are prorated
43 for the first continuing education under this paragraph. The first full

1 three-year period of continuing education for judicial officers under this
2 paragraph begins on January 1, 2010.

3
4 (3) The number of hours of education required in (1) may be reduced
5 proportionately for judicial officers whose regular assignment to hear
6 probate proceedings is for a period of less than three years, but the
7 education required in any full calendar year in the assignment is a
8 minimum of 6 hours.

9
10 (4) The education required in (1) may be applied toward satisfaction of the
11 30 hours of continuing education expected of judges or required of
12 subordinate judicial officers under rule 10.462(d).

13
14 (5) A judicial officer may fulfill the education requirement in (1) through
15 AOC-sponsored education, a provider listed in rule 10.481(a), or a
16 provider approved by the judicial officer's presiding judge as meeting
17 the education criteria specified in rule 10.481(b).

18
19 (6) The education required in (1) may be by traditional (face-to-face) or
20 distance-learning means, such as broadcasts, videoconferences, or
21 online coursework but may not be by self-study.

22
23 (7) A judicial officer who serves as faculty for a California court-based
24 audience, as defined in rule 10.462(d)(4), for education required in (1)
25 may be credited with 3 hours of participation for each hour of
26 presentation the first time a course is given and 2 hours for each hour of
27 presentation each subsequent time the course is given.

28
29 **(d) Extension of time**

30
31 The provisions of rule 10.462(e) concerning extensions of time apply to the
32 content-based and hours-based education required under (b) and (c) of this
33 rule.

34
35 **(e) Record keeping and reporting**

36
37 (1) The provisions of rule 10.462(f) and (g) concerning, respectively,
38 tracking participation, record keeping, and summarizing participation
39 by judges and tracking participation by subordinate judicial officers,
40 apply to the education required under this rule.

41
42 (2) Presiding judges' records of judicial officer participation in the
43 education required by this rule are subject to audit by the AOC under

1 rule 10.462. The AOC may require courts to report participation by
2 judicial officers in the education required by this rule to ensure
3 compliance with Probate Code section 1456.
4

5 **Rule 10.469. Judicial education recommendations for justices, judges, and**
6 **subordinate judicial officers**

7
8 **(a) Judicial education recommendations generally**
9

10 Each justice, judge, and subordinate judicial officer, as part of his or her
11 continuing judicial education, should regularly participate in educational
12 activities related to his or her responsibilities and particular judicial
13 assignment or assignments. Minimum education requirements and
14 expectations related to judicial responsibilities and assignments are set forth
15 in rules 10.461–10.462. Additional education requirements related to the
16 specific responsibility of hearing family law matters are set forth in rule
17 10.463. The following recommendations illustrate for some specific
18 responsibilities and assignments how justices, judges, and subordinate
19 judicial officers should participate in more judicial education than is required
20 and expected.
21

22 **(b) Jury trial assignment**
23

24 Each judge or subordinate judicial officer assigned to jury trials should
25 regularly use Center for Judicial Education and Research (CJER) educational
26 materials or other appropriate materials and should regularly complete CJER
27 or other appropriate educational programs devoted to the conduct of jury voir
28 dire and the treatment of jurors.
29

30 **(c) Hearing of juvenile dependency matters**
31

32 Each judge or subordinate judicial officer who hears juvenile dependency
33 matters, including retired judges who sit on court assignment, should
34 regularly use appropriate educational materials and should annually complete
35 appropriate education programs on juvenile dependency law and procedure,
36 consistent with the requirements in Welfare and Institutions Code section
37 304.7.
38

39 **(d) Capital case assignment**
40

41 Each judge assigned to hear a capital case should complete before the
42 commencement of the trial a comprehensive education program on
43 California law and procedure relevant to capital cases provided by CJER. A
44 judge with a subsequent assignment to a capital case should complete a

1 periodic update course within two years before the commencement of the
2 trial. The periodic update may be provided through actual classroom
3 instruction or through video, audio, or other media as determined by CJER.
4

5 **(e) Fairness and access education**
6

7 In order to achieve the objective of assisting judicial officers in preserving
8 the integrity and impartiality of the judicial system through the prevention of
9 bias, each justice, judge, and subordinate judicial officer should regularly
10 participate in education on fairness and access. The education should include
11 the following subjects: race and ethnicity, gender, sexual orientation, persons
12 with disabilities, and sexual harassment.
13

14 **Rule 10.471. Minimum education requirements for Supreme Court and**
15 **Court of Appeal clerk/administrators**
16

17 **(a) Applicability**
18

19 All California Supreme Court and Court of Appeal clerk/administrators must
20 complete these minimum education requirements. All clerk/administrators
21 should participate in more education than is required, related to each
22 individual's responsibilities and in accordance with the education
23 recommendations set forth in rule 10.479.
24

25 **(b) Hours-based requirement**
26

27 (1) Each clerk/administrator must complete 30 hours of continuing
28 education every three years beginning on the following date:
29

30 (A) For a new clerk/administrator, the first three-year period begins
31 on January 1 of the year following his or her hire.
32

33 (B) For all other clerk/administrators, the first three-year period
34 begins on January 1, 2008.
35

36 (2) The following education applies toward the required 30 hours of
37 continuing education:
38

39 (A) Any education offered by a provider listed in rule 10.481(a) and
40 any other education, including education taken to satisfy a
41 statutory or other education requirement, approved by the Chief
42 Justice or the administrative presiding justice as meeting the
43 criteria listed in rule 10.481(b).
44

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

8 (C) A clerk/administrator who serves as faculty for a California court-
9 based audience (i.e., justices, judges, subordinate judicial officers,
10 temporary judges, or court personnel) may apply the following
11 hours of faculty service: 3 hours for each hour of presentation the
12 first time a given course is presented and 2 hours for each hour of
13 presentation each subsequent time that course is presented. The
14 hours applied for faculty service are limited to 15 in each three-
15 year period.
16

17 **(c) Extension of time**
18

19 (1) For good cause, the Chief Justice or the administrative presiding justice
20 may grant a one-year extension of time to complete the education
21 requirements in (b).
22

23 (2) If the Chief Justice or the administrative presiding justice grants a
24 request for an extension of time, the clerk/administrator, in consultation
25 with the Chief Justice or the administrative presiding justice, must also
26 pursue interim means of obtaining relevant educational content.
27

28 (3) An extension of time to complete the hours-based requirement does not
29 affect the timing of the clerk/administrator's next three-year period.
30

31 **(d) Record of participation; statement of completion**
32

33 Each clerk/administrator is responsible for:
34

35 (1) Tracking his or her own participation in education and keeping a record
36 of participation for three years after each course or activity that is
37 applied toward the requirements;
38

39 (2) At the end of each year, giving the Chief Justice or the administrative
40 presiding justice a copy of his or her record of participation in
41 education for that year; and
42

1 (3) At the end of each three-year period, giving the Chief Justice or the
2 administrative presiding justice a signed statement of completion for
3 that three-year period.

4
5 **Rule 10.472. Minimum education requirements for Supreme Court and**
6 **Court of Appeal managing attorneys, supervisors, and other personnel**

7
8 **(a) Applicability**

9
10 All California Supreme Court and Court of Appeal managing attorneys,
11 supervisors, and other personnel must complete these minimum education
12 requirements. All managing attorneys, supervisors, and other personnel
13 should participate in more education than is required related to each
14 individual's responsibilities and in accordance with the education
15 recommendations set forth in rule 10.479.

16
17 **(b) Content-based requirements**

18
19 (1) Each new managing attorney or supervisor must complete orientation
20 courses within six months of becoming a managing attorney or
21 supervisor, unless the individual's supervisor determines that the new
22 managing attorney or supervisor has already completed these
23 orientation courses or courses covering equivalent content. The courses
24 must include orientation about:

25
26 (A) The judicial branch of California;

27
28 (B) The local court; and

29
30 (C) Basic management and supervision.

31
32 (2) Each new court employee who is not a managing attorney or supervisor
33 must complete orientation courses within six months of becoming a
34 court employee, unless the employee's supervisor determines that the
35 new court employee has already completed these orientation courses or
36 courses covering equivalent content. The courses must include
37 orientation about:

38
39 (A) The judicial branch of California;

40
41 (B) The local court;

42
43 (C) Basic employee issues, such as sexual harassment and safety; and
44

1 (D) The employee’s specific job.

2
3 (3) The clerk/administrator, the managing attorney, or the employee’s
4 supervisor may determine the appropriate content, delivery mechanism,
5 and length of orientation based on the needs and role of each individual
6 employee.

7
8 (c) **Hours-based requirements**

9
10 (1) Each managing attorney, supervisor, or appellate judicial attorney must
11 complete 12 hours of continuing education every two years.

12
13 (2) Each court employee who is not a managing attorney, supervisor, or
14 appellate judicial attorney must complete 8 hours of continuing
15 education every two years, with the exception of employees who do not
16 provide court administrative or operational services. Those employees
17 are not subject to the continuing education hours-based requirement but
18 must complete any education or training required by law and any other
19 education required by the clerk/administrator.

20
21 (3) The first two-year period for all managing attorneys, supervisors, and
22 other personnel begins on January 1, 2008. The orientation education
23 required for new managing attorneys, supervisors, and other personnel
24 under (b) does not apply toward the required hours of continuing
25 education because it must be completed before they enter the two-year
26 period. Each new managing attorney, supervisor, or employee enters
27 the two-year continuing education period on the first day of the quarter
28 following his or her completion of the orientation education required
29 under (b); the quarters begin on January 1, April 1, July 1, and October
30 1. Each managing attorney, supervisor, or employee who enters the
31 two-year continuing education period after it has begun must complete
32 a prorated number of continuing education hours for that two-year
33 period, based on the number of quarters remaining in it.

34
35 (4) Any education offered by a provider listed in rule 10.481(a) and any
36 other education, including education taken to satisfy a statutory, rules-
37 based, or other education requirement, that is approved by the
38 clerk/administrator, the managing attorney, or the employee’s
39 supervisor as meeting the criteria listed in rule 10.481(b) applies toward
40 the orientation education required under (b) and the continuing
41 education required under (c)(1) and (2).

- 1 (5) Each hour of participation in traditional (face-to-face) education,
2 distance education such as broadcast and videoconference courses, and
3 online coursework counts toward the requirement on an hour-for-hour
4 basis. The hours applied for participation in online coursework are
5 limited to a total of 4 hours for managers, supervisors, and appellate
6 judicial attorneys and to a total of 3 hours for other personnel in each
7 two-year period; these limits are prorated for individuals who enter the
8 two-year period after it has begun. Self-directed study is encouraged for
9 professional development but does not apply toward the required hours.
- 10
- 11 (6) A managing attorney, supervisor, or other employee who serves as
12 faculty for a California court-based audience (i.e., justices, judges,
13 subordinate judicial officers, temporary judges, or court personnel) may
14 apply the following hours of faculty service: 3 hours for each hour of
15 presentation the first time a given course is presented and 2 hours for
16 each hour of presentation each subsequent time that the course is
17 presented. The hours applied for faculty service are limited to 6 hours
18 for managers, supervisors, and appellate judicial attorneys and to 4
19 hours for other personnel in each two-year period; these limits are
20 prorated for individuals who enter the two-year period after it has
21 begun.
- 22
- 23 (7) The clerk/administrator, the managing attorney, or the employee’s
24 supervisor may require supervisors and other court personnel to
25 participate in specific courses or to participate in education in a specific
26 subject matter area as part of their continuing education.

27

28 **(d) Extension of time**

29

- 30 (1) For good cause, a justice (for that justice’s chambers staff), the
31 managing attorney, the clerk/administrator or a supervisor, if delegated
32 by the clerk/administrator, or the employee’s supervisor may grant a
33 six-month extension of time to complete the education requirements in
34 this rule.
- 35
- 36 (2) If the justice, managing attorney, clerk/administrator, or supervisor
37 grants a request for an extension of time, the managing attorney,
38 supervisor, or employee who made the request, in consultation with the
39 justice, managing attorney, clerk/administrator, or supervisor, must also
40 pursue interim means of obtaining relevant educational content.
- 41
- 42 (3) An extension of time to complete the hours-based requirement does not
43 affect the timing of the next two-year period.

1 **(e) Records of participation**

2
3 (1) Each court is responsible for tracking participation in education and for
4 tracking completion of minimum education requirements for its
5 managing attorneys, supervisors, and other personnel.

6
7 (2) Each managing attorney, supervisor, and employee must keep records
8 of his or her own participation for two years after each course or
9 activity that is applied toward the requirements.

10
11 **Rule 10.47310.463. Minimum education requirements for Trial court**
12 **executive officers**

13
14 **(a)–(d) * * ***

15
16 **(e) {Record of participation; statement of completion}**

17
18 Each executive officer is responsible for:

19
20 **(1)–(3) * * ***

21
22 **Rule 10.47410.464. Trial court managers, supervisors, and other personnel**

23
24 **(a) Applicability**

25
26 All California trial court managers, supervisors, and other personnel must
27 complete these minimum education requirements. All managers, supervisors,
28 and other personnel should participate in more education than is required,
29 related to each individual’s responsibilities and in accordance with the
30 education recommendations set forth in rule 10.479.

31
32 **(b) Content-based requirements**

33
34 (1) Each new manager or supervisor must complete orientation courses
35 within six months of becoming a manager or supervisor, unless the
36 court’s executive officer determines that the new manager or supervisor
37 has already completed these orientation courses or courses covering
38 equivalent content. The courses must include orientation-~~to~~ about:

39
40 **(A)–(C) * * ***

41
42 (2) Each new court employee who is not a manager or supervisor must
43 complete orientation courses within six months of becoming a court
44 employee, unless the employee’s supervisor determines that the new

1 court employee has already completed these orientation courses or
2 courses covering equivalent content. The courses must include
3 orientation ~~to~~ about:

4
5 (A)–(D) * * *

6
7 (3) * * *

8
9 (4) Any education offered by a provider listed in rule 10.471481(a) and
10 any other education, including education taken to satisfy a statutory,
11 rules-based, or other education requirement, that is approved by the
12 executive officer or the employee’s supervisor as meeting the criteria
13 listed in rule 10.471481(b) applies toward the orientation education
14 required under (b) and the continuing education required under (c)(1)
15 and (2).

16
17 (5)–(7) * * *

18
19 (d)–(e) * * *

20
21 **Rule 10.478. Content-based and hours-based education for court**
22 **investigators, probate attorneys, and probate examiners**

23
24 **(a) Definitions**

25
26 As used in this rule, the following terms have the meanings specified below,
27 unless the context or subject matter otherwise require:

28
29 (1) A “court investigator” is a person described in Probate Code section
30 1454(a) employed by or under contract with a court to provide the
31 investigative services for the court required or authorized by law in
32 guardianships, conservatorships, and other protective proceedings
33 under division 4 of the Probate Code;

34
35 (2) A “probate attorney” is an active member of the State Bar of California
36 who is employed by a court to perform the functions of a probate
37 examiner and also to provide legal analysis, recommendations, advice,
38 and other services to the court pertaining to probate proceedings;

39
40 (3) A “probate examiner” is a person employed by a court to review filings
41 in probate proceedings in order to assist the court and the parties to get
42 the filed matters properly ready for consideration by the court in
43 accordance with the requirements of the Probate Code, the rules in title
44 7 of the California Rules of Court, and the court’s local rules;

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(4) “Probate proceedings” are decedents’ estates, guardianships and conservatorships under division 4 of the Probate Code, trust proceedings under division 9 of the Probate Code, and other matters governed by provisions of that code and the rules in title 7 of the California Rules of Court;

(5) “AOC” is the Administrative Office of the Courts;

(6) “CJER” is the AOC Education Division/Center for Judicial Education and Research.

(b) Content-based requirements for court investigators

(1) Each court investigator must complete 18 hours of education within one year of his or her start date after the effective date of this rule. The education must include the following general topics:

(A) Court process and legal proceedings;

(B) Child abuse and neglect and the effect of domestic violence on children (guardianship investigators); elder and dependent adult abuse, including undue influence and other forms of financial abuse (conservatorship investigators);

(C) Medical issues;

(D) Access to and use of criminal-record information, confidentiality, ethics, conflicts of interest;

(E) Accessing and evaluating community resources for children and mentally impaired elderly or developmentally disabled adults; and

(F) Interviewing children and persons with mental function or communication deficits.

(2) A court investigator may fulfill the education requirement in (1) through AOC-sponsored education, a provider listed in rule 10.481(a), or a provider approved by the court executive officer or the court investigator’s supervisor as meeting the education criteria specified in rule 10.481(b).

1 (3) The education required in (1) may be applied to the specific-job portion
2 of the orientation course required for all new court employees under
3 rule 10.474(b)(2)(D) and the continuing education required for all
4 nonmanagerial or nonsupervisory court employees under rule
5 10.474(c)(2).

6
7 (4) The education required in (1) may be by traditional (face-to-face) or
8 distance-learning means, such as broadcasts, videoconferences, or on-
9 line coursework, but may not be by self-study.

10
11 **(c) Content-based education for probate attorneys**

12
13 (1) Each probate attorney must complete 18 hours of education within six
14 months of his or her start date after January 1, 2008, in probate-related
15 topics, including guardianships, conservatorships, and court-supervised
16 fiduciary accounting.

17
18 (2) A probate attorney may fulfill the education requirement in (1) through
19 AOC-sponsored education, a provider listed in rule 10.481(a), or a
20 provider approved by the court executive officer or the probate
21 attorney's supervisor as meeting the education criteria specified in rule
22 10.481(b).

23
24 (3) The education required in (1) may be applied to the specific-job portion
25 of the orientation course required for all new court employees under
26 rule 10.474(b)(2)(D) and the continuing education required for all
27 nonmanagerial or nonsupervisory court employees under rule
28 10.474(c)(2).

29
30 (4) The education required in (1) may be by traditional (face-to-face) or
31 distance-learning means, such as broadcasts, videoconferences, or on-
32 line coursework, but may not be by self-study.

33
34 **(d) Content-based education for probate examiners**

35
36 (1) Each probate examiner must complete 30 hours of education within one
37 year of his or her start date after January 1, 2008, in probate-related
38 topics, of which 18 hours must be in guardianships and
39 conservatorships, including court-appointed fiduciary accounting.

40
41 (2) A probate examiner may fulfill the education requirement in (1)
42 through AOC-sponsored education, a provider listed in rule 10.481(a),
43 or a provider approved by the court executive officer or the probate

1 examiner's supervisor as meeting the education criteria specified in rule
2 10.481(b).

3
4 (3) The education required in (1) may be applied to the specific-job portion
5 of the orientation course required for all new court employees under
6 rule 10.474(b)(2)(D) and the continuing education required for all
7 nonmanagerial or nonsupervisory court employees under rule
8 10.474(c)(2).

9
10 (4) The education required in (1) may be by traditional (face-to-face) or
11 distance-learning means, such as broadcasts, videoconferences, or
12 online coursework, but may not be by self-study.

13
14 **(e) Hours-based education for court investigators**

15
16 (1) Each court investigator must complete 12 hours of continuing
17 education on some or all of the general topics listed in (b)(1) each
18 calendar year. For court investigators employed by or performing
19 services under contract with the court before the effective date of this
20 rule, the first calendar year the education is required begins on January
21 1, 2008. For court investigators who begin their employment or
22 performance of services under contract with the court after the effective
23 date of this rule, the first year this education is required begins on
24 January 1 of the year immediately following completion of the
25 education required in (b).

26
27 (2) A court investigator may fulfill the education requirement in (1)
28 through AOC-sponsored education, a provider listed in rule 10.481(a),
29 or a provider approved by the court executive officer or the court
30 investigator's supervisor as meeting the education criteria specified in
31 rule 10.481(b).

32
33 (3) The education required in (1) may be applied to the continuing
34 education required for all nonmanagerial or nonsupervisory court
35 employees under rule 10.474(c)(2).

36
37 (4) The education required in (1) may be by traditional (face-to-face) or
38 distance-learning means, such as broadcasts, videoconferences, or
39 online coursework, but may not be by self-study.

1 **(f) Hours-based education for probate attorneys**

- 2
- 3 (1) Each probate attorney must complete 12 hours of continuing education
4 each calendar year in probate-related subjects, of which 6 hours per
5 year must be in guardianships and conservatorships, including court-
6 supervised fiduciary accounting. For probate attorneys employed by or
7 performing services under contract with the court before the effective
8 date of this rule, the first calendar year the education is required begins
9 on January 1, 2008. For probate attorneys who begin their employment
10 with the court after the effective date of this rule, the first year this
11 education is required begins on January 1 of the year immediately
12 following completion of the education required in (c).
- 13
- 14 (2) A probate attorney may fulfill the education requirement in (1) through
15 AOC-sponsored education, a provider listed in rule 10.481(a), or a
16 provider approved by the court executive officer or the probate
17 attorney's supervisor as meeting the education criteria specified in rule
18 10.481(b).
- 19
- 20 (3) The education required in (1) may be applied to the continuing
21 education required for all nonmanagerial or nonsupervisory court
22 employees under rule 10.474(c)(2).
- 23
- 24 (4) The education required in (1) may be by traditional (face-to-face) or
25 distance-learning means, such as broadcasts, videoconferences, or
26 online coursework, but may not be by self-study.

27

28 **(g) Hours-based education for probate examiners**

- 29
- 30 (1) Each probate examiner must complete 12 hours of continuing education
31 each calendar year in probate-related subjects, of which 6 hours per
32 year must be in guardianships and conservatorships, including court-
33 appointed fiduciary accounting. For probate examiners employed by
34 the court before the effective date of this rule, the first calendar year the
35 education is required begins on January 1, 2008. For probate examiners
36 who begin their employment with the court after the effective date of
37 this rule, the first year this education is required begins on January 1 of
38 the year immediately following completion of the education required in
39 (d).
- 40
- 41 (2) A probate examiner may fulfill the education requirement in (1)
42 through AOC-sponsored education, a provider listed in rule 10.481(a),
43 or a provider approved by the court executive officer or the probate

1 examiner’s supervisor as meeting the education criteria specified in rule
2 10.481(b).

3
4 (3) The education required in (1) may be applied to the continuing
5 education required for all nonmanagerial or nonsupervisory court
6 employees under rule 10.474(c)(2).

7
8 (4) The education required in (1) may be by traditional (face-to-face) or
9 distance-learning means, such as broadcasts, videoconferences, or
10 online coursework, but may not be by self-study.

11
12 **(h) Extension of time**

13
14 The provisions of rule 10.474(d) concerning extensions of time apply to the
15 content-based and hours-based education required under this rule.

16
17 **(i) Record keeping and reporting**

18
19 (1) The provisions of rule 10.474(e) concerning the responsibilities of
20 courts and participating court employees to keep records and track the
21 completion of educational requirements apply to the education required
22 under this rule.

23
24 (2) The AOC may require courts to report participation by court
25 investigators, probate attorneys, and probate examiners in the education
26 required by this rule as necessary to ensure compliance with Probate
27 Code section 1456.

28
29 **Rule 10.479. Education recommendations for appellate and trial court**
30 **personnel**

31
32 **(a) Education recommendations generally**
33

34 Each appellate and trial court executive or administrative officer, manager,
35 supervisor, and other employee, as part of his or her continuing education,
36 should regularly participate in educational activities related to his or her
37 responsibilities. Minimum education requirements for court personnel are set
38 forth in rules 10.471–10.474. The following recommendations illustrate for
39 some specific responsibilities how executive and administrative officers,
40 managers, supervisors, and other personnel should participate in more
41 education than is required.

1 **(b) Education on treatment of jurors**

2
3 The presiding judge of each trial court should ensure that all court executives
4 and all court employees who interact with jurors are properly trained in the
5 appropriate treatment of jurors. Court executives and jury staff employees
6 should regularly use CJER educational materials or other appropriate
7 materials and should regularly participate in CJER programs or other
8 appropriate programs devoted to the treatment of jurors.
9

10 **(c) Fairness and access education**

11
12 In order to achieve the objective of assisting court employees in preserving
13 the integrity and impartiality of the judicial system through the prevention of
14 bias, all court personnel should regularly participate in education on fairness
15 and access. The education should include instruction on race and ethnicity,
16 gender, sexual orientation, persons with disabilities, and sexual harassment.
17

18 **(d) Education on quality service to court users**

19
20 Employees should regularly participate in education covering appropriate
21 skills and conduct for working with court customers offered locally or by the
22 Judicial Council through CJER.
23

24 **Rule ~~10.471~~. 10.481. Approved providers; approved course criteria**

25
26 **(a) Approved providers**

27
28 Any education program offered by any of the following providers that is
29 relevant to the work of the courts or enhances the individual participant's
30 ability to perform his or her job may be applied toward the education
31 requirements and expectations stated in rules 10.461–10.479, except for the
32 requirements stated in rules 10.461(b), 10.462(c), and 10.473(b), for which
33 specific providers are required ~~10.462(d), 10.463(e), or 10.464(b)(e):~~
34

35 (1)–(20) * * *

36
37 (21) California Court Association; ~~and~~

38
39 (22) Superior Court Clerks' Association of the State of California; ~~;~~

40
41 (29) California Association of Superior Court Investigators.
42

43 **(b) Approved education criteria**

44

1 Education is not limited to the approved providers listed in (a). Any
2 education from a provider not listed in (a) that is approved by the Chief
3 Justice, the administrative presiding justice, or the presiding judge as
4 meeting the criteria listed below may be applied toward the continuing
5 education expectations and requirements for justices, judges, and subordinate
6 judicial officers or requirements for clerk/administrators or court executive
7 officers stated in rule 10.462(d) or 10.463(e), respectively. Similarly, any
8 education from a provider not listed in (a) that is approved by the
9 clerk/administrator, the court executive officer, or by the employee's
10 supervisor as meeting the criteria listed below may be applied toward the
11 orientation or continuing education requirements for managers, supervisors,
12 and other employees in rule 10.464(b) and (c)(1), (2) or the content-based or
13 continuing education for probate court investigators, probate attorneys, and
14 probate examiners in rule 10.478.

15
16 (1)–(2) * * *

17
18 **Rule 10.491. Minimum education requirements for Administrative Office of**
19 **the Courts executives, managers, supervisors, and other employees**

20
21 **(a) Applicability**

22
23 All Administrative Office of the Courts (AOC) executives, managers,
24 supervisors, and other employees must complete these minimum education
25 requirements.

26
27 **(b) Content-based requirements**

- 28
29 (1) Each new manager or supervisor must complete the AOC's New
30 Manager/Supervisor Orientation within six months of being hired or
31 assigned as a manager or supervisor.
32
33 (2) Each new employee, including each new manager or supervisor, must
34 complete the AOC's New Employee Orientation within six months of
35 being hired and should complete it as soon as possible after being hired.
36
37 (3) The Administrative Director of the Courts may require new managers,
38 supervisors, and other employees to complete specific AOC
39 compliance courses in addition to the required orientation courses.

40
41 **(c) Hours-based requirements**

- 42
43 (1) Each executive must complete 30 hours of continuing education every
44 two years.

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- (2) Each manager or supervisor must complete 18 hours of continuing education every two years.
- (3) Each employee who is not an executive, manager, or supervisor must complete 12 hours of continuing education every two years.
- (4) The first two-year period begins on January 1, 2008. The orientation courses and the compliance courses required for new managers, supervisors, and other employees under (b) do not apply toward the required hours of continuing education. Each new executive enters the two-year continuing education period on the first day of the quarter following his or her appointment, and each new manager, supervisor, and employee enters the two-year continuing education period on the first day of the quarter following his or her completion of the orientation courses and the compliance courses required under (b); the quarters begin on January 1, April 1, July 1, and October 1. Each executive, 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.
- (5) Any education offered by a provider listed in rule 10.481(a) and any other education, including education taken to satisfy a statutory, rules-based, or other education requirement, that is approved by the employee's supervisor as meeting the criteria listed in rule 10.481(b) applies toward the continuing education required under (c)(1)–(3).
- (6) 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. The hours applied for participation in online coursework and self-directed study are limited to a total of 10 hours for executives, 6 hours for managers and supervisors, and 4 hours for other employees in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun.
- (7) An executive, manager, supervisor, or employee who serves as faculty teaching courses at the AOC or on behalf of the AOC at another location 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 the course is presented. The hours applied for faculty service are limited to

1 15 hours for executives, 9 hours for managers and supervisors, and 6
2 hours for other personnel in each two-year period; these limits are
3 prorated for individuals who enter the two-year continuing education
4 period after it has begun.

- 5
6 (8) The Administrative Director of the Courts may require executives,
7 managers, supervisors, and other employees to complete specific AOC
8 compliance courses as part of the continuing education requirements.

9
10 **(d) Extension of time**

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12 (1) For good cause, the Administrative Director of the Courts or an
13 executive, manager, or supervisor, if delegated by the Administrative
14 Director, may grant a six-month extension of time to complete the
15 education requirements in this rule.
- 16
17 (2) If the Administrative Director, or an executive, manager, or supervisor,
18 grants a request for an extension of time, the individual who made the
19 request, in consultation with the Administrative Director or the
20 individual's supervisor, must also pursue interim means of obtaining
21 relevant educational content.
- 22
23 (3) An extension of time to complete the hours-based requirement does not
24 affect the timing of the next two-year period.

25
26 **(e) Records of participation**

- 27
28 (1) An employee's completion of any course listed in the Human
29 Resources Education Management System (HREMS) is automatically
30 tracked in HREMS.
- 31
32 (2) An employee's completion of specified online training is automatically
33 tracked in HREMS.
- 34
35 (3) Each employee is responsible for tracking completion of any training
36 that is not automatically tracked in HREMS. After completion of the
37 training, the employee must enter it in the employee's individual record
38 in HREMS.

39
40 **(f) Responsibilities of Administrative Director of the Courts, and of AOC**
41 **executives, managers, and supervisors**

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43 The Administrative Director of the Courts and each AOC executive,
44 manager, and supervisor:

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(1) Must grant sufficient time to all employees to enable them to complete the minimum education requirements stated in (b)–(c);

(2) Should allow and encourage employees, in addition to participating as students in education activities, to serve on employee education committees and as faculty at judicial branch education programs when an employee’s services have been requested for these purposes; and

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

(4) Must ensure that executives, managers, supervisors, and other employees are reimbursed by the AOC in accordance with the travel policies issued by the Administrative Office of the Courts for travel expenses incurred in attending in-state education programs as a participant in order to complete the minimum education requirements in (b)–(c). Provisions for these expenses must be part of the AOC’s budget. The Administrative Director of the Courts may approve reimbursement of travel expenses incurred by executives, managers, supervisors, and other court personnel in attending out-of-state education programs as participants.

Probate Code section 1456

- (a) In addition to any other requirements that are part of the judicial branch education program, on or before January 1, 2008, the Judicial Council shall adopt a rule of court that shall do all of the following:
- (1) Specifies the qualifications of a court-employed staff attorney, examiner, and investigator, and any attorney appointed pursuant to Sections 1470 and 1471.
 - (2) Specifies the number of hours of education in classes related to conservatorships or guardianships that a judge who is regularly assigned to hear probate matters shall complete, upon assuming the probate assignment, and then over a three-year period on an ongoing basis.
 - (3) Specifies the number of hours of education in classes related to conservatorships or guardianships that a court-employed staff attorney, examiner, and investigator, and any attorney appointed pursuant to Sections 1470 and 1471 shall complete each year.
 - (4) Specifies the particular subject matter that shall be included in the education required each year.
 - (5) Specifies reporting requirements to ensure compliance with this section.
- (b) In formulating the rule required by this section, the Judicial Council shall consult with interested parties, including, but not limited to, the California Judges Association, the California Association of Superior Court Investigators, the California Public Defenders Association, the County Counsels' Association of California, the State Bar of California, the National Guardianship Association, and the Association of Professional Geriatric Care Managers.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Therese F. Alvillar Occidental, California	A	N	Agree with proposed changes.	No response necessary.
2.	Ms. Donna R. Bashaw Immediate past President, National Academy of Elder Law Attorneys (NAELA) Laguna Hills, California 92653	AM	Y	<p>Agree with proposed changes if modified.</p> <p>As Elder Law attorneys committed to the safety and preservation of dignity of all dependent and older adults, we applaud the efforts of the Committee to transform the Omnibus Conservatorship and Guardianship Reform Act of 2006 into practical reality. It is clear that such a task required a great deal of dedication, creativity and just plain hard work. Thus, our comments are made not in the spirit of criticism but in <i>the</i> spirit of appreciation, for the enormity of the task to which you were commissioned.</p> <p>While most of our comments address specific issues or suggestions for enhancing the effectiveness of various individual provisions, our overarching concern about this entire enterprise is that in our zeal to prevent deplorable abuses of a few unscrupulous fiduciaries, we will render the conservatorship/guardianship process inaccessible to middle class families who will be unable to afford the increased expense which the new law now mandates. It is also our fear that the complexity of the new requirements and the sophistication of understanding necessary to</p>	

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				<p>perform the additional duties and tasks will preclude conscientious, but non professional, family members from serving on behalf of their vulnerable loved ones. We, therefore, urge you to keep these concerns in mind as you incorporate the various suggestions you receive during this comment period into your final work product.</p> <p>Rule 7.1101 <u>Qualifications and continuing education required of counsel appointed by the court in guardianships and conservatorships</u></p> <p>The education of the probate court judge should be addressed somewhere. Often there is a judge placed on the probate court bench with no probate experience as a practitioner or as a judicial officer.</p> <p>Conclusions:</p> <p>We believe that many of the changes made are unnecessary and merely an over reaction to the L.A. Times articles. The main problem in the past has been a lack of funding for the courts, especially to hire investigators. Increased funding is a beneficial part of the changes. However, we believe that the changes have made it more expensive for the ward and conservatee and have effectively priced the</p>	<p>The education provisions applicable to judicial officers handling probate matters are contained in proposed rule 10.468, also part of this proposal.</p>

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				protection of guardianships and conservatorships out of the middle class market. This is the most serious and detrimental problem with the new laws and needs to be rectified immediately. The second most serious problem is with the new accounting rules which, we believe, are unnecessary. Thank you for your efforts in implementing this new law. We, as Elder Law attorneys, are happy to contribute in anyway to assist you in your work.	
3.	Hon. Ronald L. Bauer Judge of the Superior Court of Orange County; Chair, Rules and Forms Committee Santa Ana, California	AM	N	Agree with proposed changes if modified. I have the following question/comment regarding proposed Rule 10.777(c). The statement of qualifications for a Probate Examiner is ambiguous. Does the rule mean that an applicant must meet standard (1) and must also meet another standard, which can be either (2) or (3)? Or, does the rule mean that an applicant has the choice of either meeting standards (1) and (2) together, or meeting standard (3) alone? I appreciate that standard 3 incorporates a part of standard 2, and some may think that this aids in the interpretation of the rule, but it is still unclear.	The committee has revised rule 10.777(c) to clarify the provisions discussed by this commentator and to add another form of qualification: Possession of a JD degree from an institution approved by the American Bar Association or accredited by the Committee on Bar Examiners of the State Bar of California, plus six months' employment with one of the employers listed in this subdivision of the rule. The new rule text should be clear on the issue raised by Judge Bauer.

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4.	Mr. Joseph L. Chairez President, Orange County Bar Association Irvine, California	AM	Y	The proposed requirements for education requirements for judicial officers regularly assigned to hear probate matters; the qualifications and education requirements for probate court investigators, probate examiners, and probate staff attorneys; and the qualifications and education requirements appointed by the court in probate conservatorship and guardianship proceedings are too stringent and will result in a significant reduction of the number of qualified court personnel, public defenders, and private attorneys available in these proceedings.	The committee disagrees that the qualifications and education requirements are too stringent, after consultation in the development of these rules with judicial officers, private counsel and public defenders with experience as counsel appointed in probate matters, and representatives of each of the court staff positions affected by the requirements.
5.	Ms. Malea Chavez Staff Attorney Superior Court of San Francisco County San Francisco, California	A	Y	Agree with proposed changes.	No response necessary.
6.	Mr. Marc Hall Private Citizen Stockton, California	N	N	Do not agree with proposed changes. The heart of the problem with the protection of the elderly lies in the lack of enforcement of State policy. If the State would punish counties who have blatantly ignored State procedures then the counties would make sure that the people in those positions would execute their duties without exception.	The committee cannot respond to this comment because it does not address this proposal other than to state general disagreement with it.

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				At this time my father and I are involved in a battle with a conservator case in which state mandates have not been followed.	
7.	Mr. Michael Harig Probate Investigator II Superior Court of RiversideCounty Riverside, California	N	N	Do not agree with proposed changes. Regarding proposed rule 10.777(b), Qualifications of Probate Attorneys, appears to preclude immediate employment of an individual licensed in a sister state for a significant period of years and who subsequently is admitted to the California State Bar...under the proposed Rule, that individual would have to wait five years before being eligible for employment as a probate attorney. I am licensed in New York and Louisiana and have over 25 years experience in Probate Law. I have worked in this Court as a Probate Examiner & Investigator for 4 years. When I become a member of the California State Bar, I should not have to then wait five years to be eligible for employment as a Probate Attorney with the Court. There should be a provision for eligibility for such attorneys as myself. I recommend a change of Rule 10.777(b)(1), broken down to subsections (b)(1)(i), as proposed, and (b)(1)(ii)to read "or (ii) Be actively licensed to practice law and in good standing for a minimum of 5 years in a sister	The committee agrees with this comment. It has amended rule 710.777(b) to provide for a five years period of active membership in the State Bar of California, or

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				<p>state, and be a current active member of the State Bar of California." Thank you for your consideration</p> <p>Regarding Proposed Rule 10.777(a)(1) Qualifications of Probate Investigator, from personal experience, I have found my own Bachelor Degree in the Biological Sciences (such as my Pre-Med education and training) to be extremely helpful education and experience in assessing/evaluating physical and mental capacities of an individual, especially in understanding various medications being administered (i.e. psychotropics)--I suggest increasing the range of a BA or BS to include a degree in the Biological Sciences, and striking liberal arts (not necessarily helpful in dealing w/ either Conservatorships or Guardianships). From my own experience as an attorney with more than 25 years experience, it seems that the capability of "interviewing" someone is not an ability that is necessarily cultivated in just "two years employment experience performing...investigations in a legal...setting" Such experience could be limited to drafting discovery documents...</p>	<p>two years's active membership plus five years membership in an equivalent organization or admission to practice before the highest court of another state, or admission to practice before a court of the United States.</p> <p>The committee has modified rule 10.777(b)(1) to permit a bachelor's degree in a "science," in addition to a social science or behavioral science, but declines to be more specific as to the kind of science that would qualify. The committee also declines to eliminate the liberal arts degree. Courts will be able to select investigators from a larger pool of candidates.</p>

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				Proposed Rule 10.777(a)(2) should be expanded to require experience in actually interviewing third parties.	The committee agrees that prior interviewing experience might be valuable, but does not believe that the basic qualifications specified in the rule should expressly require it. An applicant with this experience could certainly emphasize it in the employment process, and a court might value it. In addition, courts are free under rule 10.777(d) to add this or any other specific higher qualification they consider important.
8.	Hon. C. Anders Holmer, Judge of the Superior Court of Nevada County Truckee, California	N	N	Do not agree with proposed changes. I'm a believer in education for judges. The problem here is the fact that I am, like many other judges in small courts, regularly assigned to everything. A small court exception must be created (7 judges or less) allowing bi annual attendance at Cow Counties as satisfactory compliance. P.S. I probably handle no more than 30 Probate cases annually.	The committee respectfully declines to modify the requirements for judicial education in the manner requested. It believes that the mandate of the legislation behind these rules fully applies to smaller courts. All of the probate-related education required of judicial officers under these rules can be taken remotely, so disruption of small-court calendars and other operations should be minimized.

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9.	Hon. Ira Kaufman, Judge of the Superior Court of Plumas County Quincy, California	AM	N	<p>Agree with proposed changes if modified.</p> <p>This will be a disaster for the small courts. My court had based upon the latest statistics only 74 "probate" matters in a year. Included in this number are guardianships which I believe were the majority of the cases. It seems outrageous to me that a judge would have to spend 18 hours over three years in order to handle this small a caseload. Secondly in the small courts a judge could be handling family law, civil, juvenile and probate matters. Think about the educational requirements that would be necessary to fulfill the educational mandates if the judicial officer were to have to attend only mandatory educational sessions? Do we want well educated judges who are continuously in school or judicial officers who are on the bench? I know the goals are laudatory but this rule is impractical for the small courts. Lastly, it will be virtually impossible to find attorneys to handle these matters based upon the educational requirements. Please make an exception for the small courts. Thank you.</p>	See above response.
10.	Ms. Jennifer Kelleher Directing Attorney Legal Advocates for Children & Youth	AM	Y	<p>Agree with proposed changes if modified.</p> <p>Proposed Rule 7.1101 should allow for</p>	The committee has revised rule

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	San Jose, California			<p>attorneys appointed to represent children in guardianships or other probate proceedings to meet the requirements by working for an agency with significant experience representing parties in guardianship proceedings. There should also be provisions allowing for the attorney to handle the cases if supervised by an attorney who meets the requirements. The family law requirements for appointment of counsel to represent children in cases have a similar provision. This rule is particularly important for individuals representing children in guardianship proceedings.</p> <p>Further section (e) requires training in estate planning and trusts. In practice, the attorneys who represent children in guardianship proceedings are often family law practitioners and do not handle complex estate planning, trust, or conservatorship proceedings. It might make sense to separate the requirements between guardianship of the person and other probate proceedings in light of this distinction.</p>	<p>7.1101(b)(2) to permit an attorney who qualifies under court rules governing appointments of counsel for children in juvenile court dependency or Family Code custody actions to be appointed to represent children in guardianships.</p> <p>The committee believes that the three-hour requirement is not onerous, and could be in approved topics of interest in both guardianships and conservatorships.</p>
11.	Ms. Jamie Lamborn Retired Sacramento, California	N	N	<p>Do not agree with proposed changes</p> <p>From personal experience and my personal opinion, I have found the corruption goes all the way back to the Probate Referees. It was my</p>	<p>The committee cannot respond to this comment because it appears directed at specific problems this</p>

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				experience the Probate Referees in Sacramento County "covered up" the Probate Attorney's intent to "steal" the conservatee's property by allowing this attorney to sell the property or trade the property before the appraisals were submitted. As a beneficiary of my parent's estate, I was legally entitled to view the supporting documents of these appraisals but I was refused access to do so by the Probate Referee himself. Education is not the problem. The greed of the individuals involved in our Probate "system" is the problem. We need to set limits for the charges and continually check and balance who is gaining ownership of the conservatee's property. The Probate Referees, the Probate Investigators and all involved with the Probate, including Attorneys and Judges, need to be carefully scrutinized by a disinterested party.	commentator had in a conservatorship case in Sacramento. No comments are directed at the proposal.
12.	Ms. Cristina Llop Director, Access Superior Court of San Francisco County San Francisco, California	A	N	Agree with proposed changes. I'd just like to add that perhaps domestic violence education and elder abuse education should be required as part of the guardianship investigator and conservatorship, respectively.	Rule 10.478(b)(1) requires initial training and, by reference, continuing education, to include effect of domestic violence for guardianship court investigators and elder and dependent adult

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					abuse, including financial abuse, for conservatorship court investigators.
13.	Ms. Keeley C. Luhnnow Associate Attorney Albence & Associates La Jolla, California	A	N	I have no problems with additional education requirements; I just hope there will be cooperation by education providers. Right now there is a dearth of education on conservatorship related topics.	The advisory committee agrees there should be more conservatorship courses. The 2006 legislation and enactment of these rules should create a larger demand for these courses that will cause more of them to be offered.
14.	Ms. Mary Malk Probate/Mental Health Unit Manager Superior Court of Orange County Orange, California	AM	Y	Agree with proposed changes if modified. The Rules required by the Omnibus Conservatorship and Guardianship Reform Act of 2006 include proposed Minimum Qualifications (MQ) for Court Investigators and Probate Examiners. This court's Human Resources Department and the Probate and Mental Health Unit manager and supervisors have reviewed the proposed MQ's and believe the proposed rules are too restrictive, which may negatively impact our ability to fill vacancies in these classifications. <u>Recommendation</u> We suggest that the proposed requirement for a	The qualifications for probate

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				<p>Bachelor's degree for both classes be a desirable qualification not a minimum qualification or that courts have an option of allowing for "or a combination of education and experience that would demonstrate possession of the required knowledge and abilities".</p> <p>The proposed experience for Probate Examiner should be made a desirable qualification (not a minimum) and add an option that states "or a combination of education and experience that would demonstrate possession of the required knowledge and abilities."</p> <p><u>Reasons for Recommendation</u> The Court Investigator qualification standard requires a Bachelor's degree with no alternative substitution of education and experience. This appears to be a potential or actual artificial barrier to employment since many potential candidates in the social services or law enforcement will have entered those fields without a Bachelor's degree. Generally we would consider 24 upper division units, in appropriate subject matter, to be a reasonable substitution for a B.A.</p>	<p>examiner include a paralegal certificate (a 2 year program) plus a longer (4 year) employment history as an alternative to the college degree and two-year employment history requirement, to which a third alternative—a JD degree and six-months' employment—has been added. The committee believes the commentator's proposed combination of education and employment experience standard for both investigators and examiners is not sufficiently specific.</p> <p>The committee believes that "desirable" but not mandatory minimum qualifications would be insufficient for a rule of court required by legislation that requires specification of the qualifications for court investigator positions. The court investigator participants in the rule-drafting process considered the Bachelor's Degree</p>

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				<p>It is difficult to defend the job relatedness of requiring a B.A. degree without a substitution option. The most practical way to meet the needs of all the courts is to make the proposed MQ's "desirable" rather than "minimum" qualifications. Another alternative is to add an option that says "or a combination of education and experience that would demonstrate possession of the required knowledge and abilities".</p> <p>The same analysis applies to the Probate Examiner requirement for a B.A. However, there are additional concerns with the experience requirements for Probate Examiner. Other than "court experience" it will be difficult to find candidates who can meet the experience requirements proposed. Probate law is a niche practice. There are not a large number of probate attorneys compared to other types of practice and there will not be many candidates with experience working for a probate attorney. We suggest that the proposed experience be made a desirable qualification not a minimum qualification or add an option that states "or a combination of education and experience that would demonstrate possession of the required knowledge and abilities".</p>	<p>qualification to be very important.</p> <p>The committee has modified rule 10.777(c) to eliminate probate-specific private or public law office experience as a requirement for examiners. Experience in a public or private law office will continue to qualify, but will not be limited to probate experience.</p>

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				<p>The above suggested changes to the proposed minimum qualifications will expand the labor pool from which the courts can draw qualified candidates. The additional flexibility we suggest will allow courts to operate more successfully within their local labor market and, particularly, at a time when there are labor shortages for knowledge workers.</p> <p>In addition, we would add that out of 79 applicants in our last recruitment, only 4 would have met the minimum requirements as defined in this proposed rule. We had no applicant with paralegal experience specific to probate, however we did have an applicant with a degree and a paralegal certificate, who had worked as a paralegal in the Dept. of Child Support Services for 7 years and who, having been trained on the job, is now performing very adequately as an examiner.</p> <p>The rule should definitely allow other legal experience or education related to the skills and abilities required for the job. Staffs have also proven that applicants with education, such as a law degree, substituted for experience can make for excellent examiners.</p>	<p>The committee has revised rule 10.777(c) to permit a JD degree plus six months' employment experience as an alternative way to qualify for an examiner position.</p>

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15.	Ms. Jackie A. Miller Executive Director Professional Fiduciary Association of California (PFAC) Sacramento, California	A	Y	Agree with proposed changes. General Comments: 1. PFAC is pleased with and strongly supports the establishment of education requirements for Judicial Officers, Probate Department Court Staff, and Attorneys. 2. We hope that this does not reduce the pool of attorneys able to accept court appointments in conservatorships and guardianships.	No response necessary. The advisory committee will monitor the availability of appointed counsel after enactment of this rule.
16.	Hon. Dennis A. Murray Presiding Judge of the Superior Court of Tehama County Red Bluff, California	N	N	Rule 7.1101(b) as proposed simply cannot work in small counties. The first question which arises is how any attorney would acquire the experience needed under the rules to be appointed. It would be difficult in large counties to acquire the needed experience; in small counties, most attorneys in this area are appointed. Consequently, it creates a catch-22, in that attorneys cannot get the appointment until they are experienced and they cannot get the experience until they are appointed.	The committee has modified rule 7.1101(b) to permit attorneys qualified for appointments to represent children in juvenile dependency or Family Code custody proceedings to be appointed as counsel for children in guardianships. However, the committee believes that the 2006 legislation requiring establishment of qualifications for appointed counsel in guardianships and

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				<p>Secondly, small counties are not going to have enough attorneys willing to meet all the requirements, including the continuing education requirements. Three hours a year may not seem unreasonable, but consider, for example, that between June 2005 and June 2006, Mono County had only five probate filings, based upon latest court statistics. There just is not enough work and, therefore, not enough interest by lawyers in small counties to seek out these appointments, and to meet the requirements set by these rules. Frankly, unless the rules are modified to provide the trial court with adequate appointment flexibility, the courts, by necessity, will simply ignore these rules.</p> <p>Rule 10.468(c) creates educational requirements for judges. It applies only to judges who are “regularly assigned to hear probate proceedings.” “Regularly assigned,” as defined in rules 10.468(a)(5)(B), would include a judge responsible for hearing most of thje probate proceedings filed in a court that does not have a dedicated probate department. That judge would then be required to</p>	<p>conservatorships mandates substantially the same standards for smaller and larger counties.</p> <p>The advisory committee will monitor the availability of appointed counsel after enactment of this rule.</p> <p>The committee believes that every court should have at least one judicial officer participate in the probate educaion required under the rule.</p>

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				participate in 18 hours of continuing education every three years. In a two-judge court, there is always going to be at least one judge who is going to hear most of the probate proceedings. In Sierra County, for example, the last statistics indicate they had three cases filed in 2005-2006. The judge who hears two of them, under this proposed rule, would need to attend the mandatory 18 hours. In a small court, where all the judges hear all types of cases, it simply is not cost effective or sensible to have mandatory subject-matter educational programs in other areas where that judge is hearing cases. I suggest appropriate language might be similar to that contained in Standards of Judicial Administration, Standard 10.12(c), which is applicable to dependency cases. It requires each judicial officer whose principal judicial assignment is to hear juvenile dependency matter or <i>who is the sole judicial officer hearing</i> these matters should attend the education recommended by the Standard.	
17.	Ms. Pamela J. Peery Family Law Facilitators Superior Court of California County of Riverside Riverside, California	A	N	Agree with proposed changes.	No response necessary.
18.	Ms. Kathleen U. Poling Attorney	AM	N	Agree with proposed changes if modified.	

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	Poling & Poling Martinez, California			The continuing education requirements for court-appointed private attorneys in conservatorship and guardianship are classes that qualify for certification continuing education for probate, trust, estate certification. As far as I know, conservatorship subject matter is never covered in these classes, because conservatorships are not specifically part of the specialty. Therefore, I have yet to see a class that covers conservatorship issues (which is always what I am looking for when signing up for continuing legal education) that is eligible for the trust, estate, and probate certification.	The requirement of continuing education in specialist-qualified classes was placed in the proposed rule in recognition of the fact that there are few conservatorship-specific courses. We expect there will be more such courses. Even if not, many specialist-qualified courses would provide instruction on topics useful in conservatorship practice.
19.	Mr. Joseph Quattrochi, Jr. Fontana, California	N	N	Do not agree with proposed changes. It is my belief that SP07-09 as represented is a response to huge problem that has been unaddressed in the past and will continue to haunt the elderly community of this state in the future. You offer with SP07-09 an archaic approach to a subject that needs a twenty first century solution. I shall address the experiences that my family has personally realized that are the results of the lack of good laws and well educated court employees which includes judges. As a licensed real estate broker, I have had to comply with more education requirements than what SP07-09 is suggesting. I control no one's	These complaints appear to be directed to a specific conservatorship proceeding, unrelated to the proposed training, education, and qualifications of court staff and judicial officers.

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				<p>estate or real property, no one's person, nor do I have access to one's cash assets or material possessions. I do not have the ability to affect one's liberty. So why it is that the Judicial Council maintains the status-quo? The horrific attitude and enforcement of the laws in courts is extremely suspicious to me; so much so that I feel the good ole boys of the court perjure themselves and commit fraudulent acts of conspiracy against the conservatees. Your system has failed many conservatees and my family. The new educational requirements still fails my family and every elderly citizen of this state.</p> <p>Immediately include a member of the public on the panel so as to get valuable insight and personal experiences of how the system needs improving. Judges, conservators, lawyers and the supporting cast in your so called judicial system are committing questionable acts. So with the hope of creating a promising future I submit for your consideration the following:</p> <p>Judges in the new Probate arena should undergo two intensive years of specialized training and serve an apprenticeship. This to train and certify as to the expertise one has gained in the new laws and the implementation of same. To allow one to become more proficient in the electronic</p>	<p>The advisory committee is not prepared to recommend an education program of the kind proposed here. This program would be longer than all other California judicial training programs</p>

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				<p>medium of transferring information this aspect is critical in decision making and verification. To become attentive in recognizing the exploitation of the elderly and the signs of such. The judge must be taught basic medical theories so the Judge can effectively observe one's state. The judge must have knowledge in the areas of Medicare, Medi-Cal and the fraud that can be realized within that system. He should become so learned that he never allows a conservator to make the ultimate decisions without verification. One's care and process of care should fall upon the courts this to ward off fraud, mistakes and waste. The court must enforce the laws with sanctions.</p> <p>Where elderly persons have concerns of personal hygiene, protection from hazards, or abandonment the court needs to address these issues and replace them with responsible care and custody.</p> <p>Ex Parte' hearings are a thing of the past; Liberties are continually extinguished in most of these cases without legal representation. A judge today must painstakingly review each case and stay assigned to that case as simple logic would dictate. Conservatees' estates must not be burdened with financing both sides of court room disputes, especially when</p>	<p>combined, and there is no prospect of having apprentice judicial officers in probate matters or in any other field.</p>

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				<p>considering actions of the past dubious attorneys. The probate mechanism must have a means to grant a recovery of monetary losses brought forth by those dubious attorneys. Accounting, must be submitted on time so as to properly administer to the estates under the courts scrutiny; no exception. How are you going to accomplish these goals? Through education.</p> <p>These cases of probate law are the most complex and most difficult to litigate. They require an increased level of experience and expertise and as time goes on they will become more complex. A feeble elderly person deserves better than to be embezzled or abused by anyone in the system.</p> <p>A basic universal language must be developed to guarantee justice to the conservatees being conserved. With regard to accounting maybe we need more frequent accounting, monthly, quarterly and annually; these accountings must be verified. The good ole boy way of presenting accounting should be done away with, no more rubber stamping the documents without investigation.</p> <p>The state bar in the past has favored its members by sponsoring so call educational</p>	

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				<p>seminars that include credits. The only problem is that the seminars were on the golf course.</p> <p>A judge no matter how gifted and sincere needs time to study mental health so one can make knowledgeable decisions concerning ones mental health.</p> <p>Any and all supporting court persons should have a minimum of qualified specialized education in the matters previously mentioned. And, it would be great if an apprentice program of such was adopted for all involved in the court business, because to date quite frankly your system does not work.</p> <p>Court bonding requirements should be increased to dollar for dollar of estate value especially in the category of material possessions these are most vulnerable to theft. I personally have knowledge against a certain conservator that a vehicle inventoried in one conservatees case disappeared. Go back to the drawing board and take a good look at the California Real Estate Licensing Education structure that is in effect now and working well. That is the education template that should be mirrored.</p> <p>On a final note do away with political</p>	

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				<p>appointees such as probate referees. They are costing the conservatees estates, underestimating an estate’s real property, and more importantly miss judging the value of material possessions. And if you think of it, it also costs the State of California dearly in lost revenues each and every year.</p> <p>Realize this, the system now is grossly mismanaged and the tracking of assets, go entirely unreported. I ask you do unscrupulous attorneys deserve to be able to manipulate the judicial system because they know its flaws. How does a judge combat this type of criminal behavior if he is not razor sharp mentally and well educated on the implementation of a persons rights according to law?</p> <p>If you want all of my personal findings and suggestions, I would be glad to divulge them to you. But because the system has failed me and family, because I have penalized with monetary expenses to date of over one hundred ten thousand dollars (\$110,000.00) you can pay me for my wisdom. The system took Helen Jones, the system allowed one conservator, and her attorney to fraudulently hold a conservative as hostage illegally. Helen Jones now has past into the next dimension what happens to her injustices and liberties that this system</p>	

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				trammeled upon. Forgotten? I demand more be done than what is suggested in SP07-09. Our elderly, this nation's National Treasures, deserve a better ending to their existence here on earth.	
20.	Ms. Mary Joy Quinn Director, Probate Superior Court of California, County of San Francisco San Francisco, California	A	Y, N	Agree with proposed changes.	No response necessary.
21.	Mr. Michael Roddy Executive Officer of the Superior Court of California County of San Diego San Diego, California	A	Y	Agree with proposed changes.	No response necessary.
22.	Mr. Peter S. Stern Vice-Chair State Bar Trusts and Estates Section Executive Committee Palo Alto, California	AM	Y	Agree with proposed changes if modified. The Executive Committee generally supports the proposed rules as submitted and makes one recommended clarification: at page 28, Rule 10.777 Qualifications of Court Investigators, Probate Attorneys, and Probate Examiners, subd. e., Exemption for Smaller Courts: "Courts with four or fewer judges" should be changed to	Mr. Stern's interpretation of the rule was intended. However, the

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				<p>read "counties with four or fewer Superior Court judges."</p> <p>Rationale for change: The exemption should be based on the size of the judiciary in the county, not in any one court. If it is clear that "court" refers to the county throughout the rule, then the proposed change would not be necessary.</p> <p>Adopted by Executive Committee unanimous vote, June 16, 2007.</p>	<p>committee believes the current rule is not ambiguous. The context clearly refers to the number of judges in an entire court, not the number of judges in a particular courthouse.</p>
23.	<p>Superior Court of California County of Los Angeles Los Angeles, California</p>	A	Y	<p>Agree with proposed changes.</p>	<p>No response necessary.</p>
24.	<p>Ms. Mary Beth Todd Court Executive Officer Superior Court of California, County of Calaveras San Andreas, California</p>	AM	Y	<p>Agree with proposed changes if modified.</p> <p>The qualifications for the Probate Examiner should be modified to allow the substitution of years of increasingly responsible experience working for a Superior Court for the education requirements. A non-related college degree has no bearing on whether or not an employee can perform these duties. These are specialized duties for which training in the trial court will be required. This also allows the court greater flexibility to develop employees that have demonstrated experience, responsibility and the</p>	<p>See the response to the comments from Orange County Superior Court, No. 14 above.</p>

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				ability to fill these specialized positions. A non-related bachelor's degree has no bearing on the position. Court employees who have the experience working in the court should not be denied the opportunity to pursue positions for which they are otherwise qualified.	
25.	Ms. Michelle Uzeta Associate Managing Attorney Protection and Advocacy, Inc. Los Angeles, California	AM	Y	Agree with proposed changes if modified. Our agency asks that education/training in the area of "disability competence" be added to the continuing education requirements for all of the officers and personnel subject to these proposed rules. This includes judicial officers, counsel appointed by the court, court investigators, probate examiners, and probate attorneys. Such an amendment would impact the following proposed rule sections: Rule 10.462(c)(1); Rule 7.1101(e) or (f); and Rule 10.478(b-d). Basic awareness and understanding of disability issues is necessary for court personnel and officers to perform their respective duties free from bias and stereotype.	The advisory committee will pass this comment on to CJER for consideration for judicial education curricula design. The committee does not believe, however, that the rules should be amended to prescribe "disability competence."
26.	Ms. Robin C. Westmiller, J.D. President National Association to Stop Guardian Abuse Thousand Oaks, California	AM	Y	Agree with proposed changes if modified. There is nothing in this proposal regarding what qualifications the people who will teach these classes must have! What agency will organize these classes, who will pay for them or what	The rules enacted this year (January 1, 2007), in which the education rules discussed here will fit, contain provisions that govern the source of the training and education required

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				<p>information will be included in the class.</p> <p>It only stipulates that they would have to complete "specified" education. But does not state exactly what that specified education will be.</p> <p>There is nothing stated as to courses for attorneys who wish to help the victims get out of conservatorships. It seems this education requirement is designed to keep the "wards" in the system with nothing to teach attorneys, judges, or any other party the means to get the victims freed.</p> <p>Can only those in the judicial branch take these classes, or can any concerned citizen? Where are the classes and requirements for the Guardians?</p> <p>What are the consequences if judges refuse to take the classes?</p>	<p>in all judicial branch education rules.</p> <p>Education for appointed counsel would include instruction on defense-related topics.</p> <p>Many courts have training programs for nonprofessional conservators, and more will begin these courses because of the 2006 legislation. That legislation also imposes substantial education requirements for professional conservators.</p> <p>Judicial officers must report their completion of required education to their presiding judges. The courts also must report to the Administrative Office of the Courts.</p>

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				<p>Modifications: Include members of the public in your "interested parties" list to compile the courses necessary to comply with the rule.</p> <p>Make a firm stipulation that no one who does not comply with this rule will be allowed to participate in any probate conservatorship proceedings.</p>	<p>There is no reason to provide this in the rule. Probate matters are a specialty assignment for judicial officers. There is no reason to believe that judicial officers assigned to those matters would not take advantage of all education opportunities relating to the assignment.</p>
27.	Mr. Stuart D. Zimring Attorney at Law North Hollywood, California	A	N	Agree with proposed changes.	No response necessary.

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