

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

W14-09

Title	Action Requested
Judicial Branch Education: AOC Employee Education	Review and submit comments by January 24, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rule 10.491	N/A
Proposed by	Contact
Rules and Projects Committee Hon. Harry E. Hull, Jr., Chair Hon. Judith Ashmann-Gerst, Vice-Chair	Susan R. McMullan, 415-865-7990 susan.mcmullan@jud.ca.gov

Executive Summary and Origin

Rule 10.491 addresses education for employees of the Administrative Office of the Courts. The Judicial Council amended, effective July 1, 2013, rule 10.491 to give the Administrative Director of the Courts greater discretion and flexibility in using the AOC workforce. Due to compelling circumstances, the proposal did not circulate for public comment prior to adoption.

Background

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

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

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

Directive #79: E&P recommends that the Judicial Council direct the Rules and Projects Committee to evaluate relaxation of mandatory education requirements to allow the Administrative Director of the Courts and Court

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 These proposals are circulated for comment purposes only.

Executive Officers greater discretion and flexibility in utilizing their workforces during times of budget constraints.

In considering this recommendation, RUPRO recognized the importance of judicial branch education and did not consider recommending that the education requirements be eliminated. Because of the impending end of the compliance period for AOC staff education on December 31, 2013, RUPRO decided to address immediately the rule pertaining to AOC staff education.¹

The Proposal

At the council's June 28, 2013 business meeting, RUPRO recommended that the council amend rule 10.491, effective July 1, 2013, to allow the Administrative Director of the Courts to (1) grant a one-year extension of time for AOC staff to complete the required education; and (2) determine the number of hours, if any, of live, face-to-face education required to meet the continuing education requirement. The council accepted the recommendation and amended the rule.

The amended rule gives the Administrative Director discretion to grant a one-year, rather than six-month, extension of time to complete required education. (Cal. Rules of Court, rule 10.491(d).)² It provides that the next compliance period begins after the extended compliance period ends, unless the Administrative Director determines otherwise. This allows the Administrative Director to grant an extension to all AOC employees and extend the compliance period one year, if deemed necessary. But it also maintains the authority of the Administrative Director to grant individual extensions based on specific needs, such as for an employee in a unit that is particularly short-staffed or an employee who experienced a prolonged illness, without extending the compliance period.

The amendment of rule 10.491 also gives the Administrative Director the discretion to determine the number of hours, if any, of traditional (live, face-to-face) education required to meet the continuing education requirement.³ Because some education requirements are mandated by statute, an advisory committee comment was added to the rule to provide that "[t]he time frame for completion of compliance courses based on statutory or regulatory mandates is unaffected by the one-year extension in (d)(1)."

This rule amendment did not circulate for public comment prior to taking effect. Under rule 10.22, a proposal need not be circulated for public comment if it presents a nonsubstantive

¹ RUPRO later considered the requirements for trial court staff education and developed a proposal that is circulating simultaneously with this proposal during the winter comment cycle. That proposal is *Judicial Branch Education: Trial Court Employee Education*, W14-08.

² On August 6, 2013, Administrative Director, Judge Steven Jahr, after determining that there is a need for greater flexibility in meeting AOC education requirements during this period of budget constraints and reduced staffing, authorized a one-year extension for all AOC employees to complete their education requirements.

³ Judge Jahr eliminated for the current education period the requirement that 50 percent of education hours must be obtained through live, face-to-face education.

technical change or correction or a minor substantive change that is unlikely to create controversy, or RUPRO finds that compelling circumstances require a different procedure. The compelling circumstances exception provides as follows:

The procedures established in this rule must be followed unless the Rules and Projects Committee finds that compelling circumstances necessitate a different procedure. The committee's finding and a summary of the procedure used must be presented to the council with any recommendation to the council made under this subdivision.

(Cal. Rules of Court, rule 10.22(g).)

RUPRO concluded that there was an urgent need to provide the Administrative Director with the discretion to relax the mandatory education requirements to allow staff to obtain the required education over a longer period of time (three years rather than two) and through delivery methods such as online courses that allow employees to select the course times that work best for them. At the time it recommended amendment of the rule, the then-existing two-year compliance period provided in rule 10.491 for AOC staff was nearly three-quarters completed. The number of AOC staff has been reduced since early 2012, when the current compliance period began, and the number of education courses offered has similarly been reduced.

Circulating the proposal prior to amendment of the rule would have delayed the effective date beyond July 1, 2013, and would have reduced the number of staff benefitting from an extended compliance period. If fewer staff benefitted from the extended compliance period and elimination of the rule requirement for face-to-face education, the overall benefits of increasing staff availability to provide needed services to the courts would have likewise been reduced.

RUPRO now seeks comments on this rule amendment.

Alternatives Considered

RUPRO considered alternative rule amendments that would simply state that the compliance period ending December 31, 2013, is extended one year to December 31, 2014, or that would allow the Administrative Director to grant an extension of the hours-based education requirements, but not the content-based education requirements. RUPRO decided not to recommend these amendments and instead grant the Administrative Director as much flexibility as possible to relax education requirements as needed.

Implementation Requirements, Costs, and Operational Impacts

It is too early to tell what costs and impacts have resulted from the rule amendments. It is expected that there will be some minimal requirements and costs associated with tracking employee education. Similarly, the elimination of face-to-face education requirements is expected to result in some minimal requirements and costs associated with tracking employee education. The proposal, however, is expected to have positive operational impacts by allowing AOC employees additional time to complete educational requirements and flexibility with

respect to alternatives to live training, thereby increasing employee availability to provide needed services to the courts.

Request for Specific Comments

In addition to comments on the proposal as a whole, RUPRO is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should relaxation of the face-to-face education requirements in subdivision (c)(6) have a sunset date? If so, when should it end?
- Should the one-year extension of time proposed in subdivision (d)(1) have a sunset date? If so, when should it end?

Attachments and Links

1. Cal. Rules of Court, rule 10.491, at pages 5–8

Rule 10.491 of the California Rules of Court was amended, effective July 1, 2013, to read:

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

3
4 **(a) Applicability**

5
6 All Administrative Office of the Courts (AOC) executives, managers, supervisors,
7 and other employees must complete these minimum education requirements.

8
9 **(b) Content-based requirements**

10
11 (1) Each new manager or supervisor must complete the AOC's New
12 Manager/Supervisor Orientation within six months of being hired or assigned
13 as a manager or supervisor.

14
15 (2) Each new employee, including each new manager or supervisor, must
16 complete the AOC's New Employee Orientation within six months of being
17 hired and should complete it as soon as possible after being hired.

18
19 (3) The Administrative Director of the Courts may require new managers,
20 supervisors, and other employees to complete specific AOC compliance
21 courses in addition to the required orientation courses.

22
23 **(c) Hours-based requirements**

24
25 (1) Each executive must complete 30 hours of continuing education every two
26 years.

27
28 (2) Each manager or supervisor must complete 18 hours of continuing education
29 every two years.

30
31 (3) Each employee who is not an executive, manager, or supervisor must
32 complete 12 hours of continuing education every two years.

33
34 (4) The orientation courses and the compliance courses required for new
35 managers, supervisors, and other employees under (b) do not apply toward
36 the required hours of continuing education. Each new executive enters the
37 two-year continuing education period on the first day of the quarter following
38 his or her appointment, and each new manager, supervisor, and employee
39 enters the two-year continuing education period on the first day of the quarter
40 following the six-month period provided for his or her completion of the
41 orientation courses and the compliance courses required under (b); the
42 quarters begin on January 1, April 1, July 1, and October 1. Each executive,

1 manager, supervisor, or employee who enters the two-year continuing
2 education period after it has begun must complete a prorated number of
3 continuing education hours for that two-year period, based on the number of
4 quarters remaining in it.

- 5
- 6 (5) Any education offered by an approved provider (see rule 10.481(a)) and any
7 other education, including education taken to satisfy a statutory, rules-based,
8 or other education requirement, that is approved by the employee's
9 supervisor as meeting the criteria listed in rule 10.481(b) applies toward the
10 continuing education required under (c)(1)–(3).
- 11
- 12 (6) Each hour of participation in traditional (live, face-to-face) education;
13 distance education such as broadcasts, videoconference courses, and online
14 coursework; and faculty service counts toward the requirement on an hour-
15 for-hour basis. The Administrative Director of the Courts or an executive,
16 manager, or supervisor, if delegated by the Administrative Director, has
17 discretion to determine the number of hours, if any, of traditional (live, face-
18 to-face) education required to meet the continuing education requirement.
- 19
- 20 (7) An executive, manager, supervisor, or employee who serves as faculty by
21 teaching legal or judicial education to a legal or judicial audience may apply
22 education hours as faculty service. Credit for faculty service counts toward
23 the continuing education requirement in the same manner as all other types of
24 education—on an hour-for-hour basis.
- 25
- 26 (8) The Administrative Director of the Courts may require executives, managers,
27 supervisors, and other employees to complete specific AOC compliance
28 courses as part of the continuing education requirements.

29

30 **(d) Extension of time**

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- 32 (1) For good cause, the Administrative Director of the Courts or an executive,
33 manager, or supervisor, if delegated by the Administrative Director, may
34 grant a one-year extension of time to complete the education requirements in
35 this rule. If an extension is granted, the subsequent two-year compliance
36 period begins immediately after the extended compliance period ends, unless
37 otherwise determined by the Administrative Director.
- 38
- 39 (2) If the Administrative Director, or an executive, manager, or supervisor,
40 grants a request for an extension of time, the individual who made the
41 request, in consultation with the Administrative Director or the individual's
42 supervisor, must also pursue interim means of obtaining relevant educational
43 content.

1 **(e) Records of participation**

- 2
- 3 (1) An employee's completion of any course listed in the learning management
- 4 system is automatically tracked.
- 5
- 6 (2) An employee's completion of specified online training is automatically
- 7 tracked as well.
- 8
- 9 (3) Each employee is responsible for tracking completion of any training that is
- 10 not automatically tracked in the learning management system. After
- 11 completion of the training, the employee must enter it in the employee's
- 12 individual record in the learning management system.
- 13

14 **(f) Responsibilities of Administrative Director of the Courts and of AOC**

15 **executives, managers, and supervisors**

16

17 The Administrative Director of the Courts and each AOC executive, manager, and

18 supervisor:

19

- 20 (1) Must grant sufficient time to all employees to enable them to complete the
- 21 minimum education requirements stated in (b)–(c);
- 22
- 23 (2) Should allow and encourage employees, in addition to participating as
- 24 students in education activities, to serve on employee education committees
- 25 and as faculty at judicial branch education programs when an employee's
- 26 services have been requested for these purposes;
- 27
- 28 (3) Should establish an education plan for their employees to facilitate their
- 29 involvement as both participants and faculty in educational activities, and
- 30 should consult with each employee regarding his or her education needs and
- 31 requirements and professional development; and
- 32
- 33 (4) Must ensure that executives, managers, supervisors, and other employees are
- 34 reimbursed by the AOC in accordance with the travel policies issued by the
- 35 Administrative Office of the Courts for travel expenses incurred in attending
- 36 in-state education programs as a participant in order to complete the
- 37 minimum education requirements in (b)–(c). Provisions for these expenses
- 38 must be part of the AOC's budget. The Administrative Director of the Courts
- 39 may approve reimbursement of travel expenses incurred by executives,
- 40 managers, supervisors, and other employees in attending out-of-state
- 41 education programs as participants.

Advisory Committee Comment

1

2

3 The time frame for completion of compliance courses based on statutory or regulatory mandates

4 is unaffected by the one-year extension in (d)(1).