

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[SPR16-15]

Title	Action Requested
Judicial Branch Education: Minimum Requirements for Judicial Council Staff	Review and submit comments by [deadline]
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rule 10.491	January 1, 2017
Proposed by	Contact
Diane Cowdrey, Director CJER	Bob Lowney bob.lowney@jud.ca.gov 415.865.7833

Executive Summary and Origin

Rule 10.491 addresses education for Judicial Council staff. The overarching goal of amending rule 10.491 is to enable Judicial Council staff to more effectively fulfill their education requirements by eliminating administrative elements that do not directly bear on education, adding flexibility that better reflects the structure and operation of the Judicial Council staff office, and streamlining use of the learning management system, HREMS. The CJER Governing Committee recommends these amendments, which are supported by the Administrative Director.

The Proposal

Rule 10.491 outlines the education requirements for all Judicial Council staff, including the time frames for fulfilling those requirements, and certain administrative responsibilities, such as maintaining records of participation. The rule has a complex model regarding the education requirements which categorizes staff as new, experienced, and newly promoted to management, that can, at times, be counter-productive.

For example, newly hired employees must complete specific courses while experienced ones must complete a minimum number of general education hours during each two-year education period. New employees cannot earn education hours until they complete those specified courses and are reclassified as experienced. As a result, any other education taken prior to completing the required new employee courses will not count toward education hours once the employee is reclassified. This prohibition on new employees earning education hours is actually a disincentive to take relevant education that would enhance their overall performance.

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 These proposals are circulated for comment purposes only.

Under the proposed amended rule, new employees must still complete the required courses within specified time frames but the current distinction between new and experienced employees would otherwise largely disappear, thereby greatly simplifying how education hours are calculated. New employees would earn credit for any appropriate education immediately upon hire and the courses required as new employees would also count towards those credit hours. There would be no re-categorizing of an employee from new to experienced with the attendant recalculation of pro rata education hours due for the remainder of an education period.

Under the proposed rule, the current distinction between live face-to-face education and distance mediated education, and hourly limits for the latter, would be eliminated. Judicial Council staff could fulfill their education requirements using any form of education they chose that their supervisors approve.

Under the current rule, staff, management, and executive employees all have different education hour requirements. Under the proposed revision, all staff, regardless of administrative level, would have ten education hours to complete per year. This amendment acknowledges that professional development is equally critical for all staff regardless of position within the organization.

The current rule also contains several administrative responsibilities in subsections (d), (e), and (f), such as how management must permit employees sufficient time to complete their education, how time extensions may be granted, how records of participation must be maintained, and employees should be encouraged to participate as faculty and develop education plans. These administrative responsibilities, which are not germane to the substance of the education rule, have been eliminated and will be drafted as separate guidelines to accompany the rule. These guidelines will be prominently located in the web page devoted to Judicial Council staff education.

These revisions preserve the overall education requirements for Judicial Council staff while greatly streamlining the procedures and increasing flexibility for administrative aspects of the rule, such as fulfilling the education hours requirement. The revision also reduces Judicial Council staff time to operate and maintain the learning management system, especially to combine and calculate individual and group employee education hours.

Alternatives Considered

The CJER Governing Committee also considered completely revising HREMS, the learning management system which is used to maintain the administrative components of the rule, to more efficiently and effectively administer staff records. The committee concluded that system revisions would be costly and labor intensive yet highly unlikely to overcome many of the current rule's complexities. The final analysis determined the proposed rule amendment would be the most effective method to correct the rule's current deficiencies and introduce efficiencies.

Implementation Requirements, Costs, and Operational Impacts

One-time implementation costs would include minor adjustments to the learning management system to remove several employee categories and other administrative functions, which simplify the software computations required to manage the Judicial Council education program. These changes would, almost immediately, make HREMS more responsive to the administrative needs of Judicial Council staff and the offices charged with managing its education program, specifically the Center for Judicial Education and Research, Information Technology, and Human Resources. Other one-time costs would include communicating the changes and their impact on education requirements and possibly minor training on the new paradigm.

Attachments

Cal. Rules of Court, rule 10.491, at pages 4–7

Rule 10.491 of the California Rules of Court would be amended, effective January 1, 2017, to read:

1 **Rule 10.491. Minimum education requirements for Judicial Council executives,**
2 **managers, supervisors, and other employees**

3
4 (a) **Applicability**

5
6 Orientation and ongoing professional development for Judicial Council staff
7 enables them to effectively provide service, leadership and expertise to the courts
8 and to enhance trust and confidence in the judicial branch. All Judicial Council
9 ~~executives, managers, supervisors, and other~~ employees must complete these
10 minimum education requirements. These education requirements are included as a
11 part of the employee performance evaluation process.

12
13 (b) ~~Content-based requirements~~ **Education requirements for new hires and**
14 **appointments**

15
16 (1) ~~Each new manager or supervisor must complete the New~~
17 ~~Manager/Supervisor Orientation within six months of being hired or assigned~~
18 ~~as a manager or supervisor. Each new employee with supervisory or~~
19 ~~management responsibilities must complete the New Manager/Supervisor~~
20 ~~Orientation within six months of being hired or appointed or as soon as~~
21 ~~possible after being hired or appointed.~~

22
23 (2) ~~Each new employee, including each new manager or supervisor, must~~
24 ~~complete New Employee Orientation within six months of being hired and~~
25 ~~should complete it as soon as possible after being hired. All new Judicial~~
26 ~~Council employees, including those in management, must complete the New~~
27 ~~Employee Orientation within six months of being hired or as soon as possible~~
28 ~~after being hired.~~

29
30 (3) ~~The Administrative Director may require new managers, supervisors, and~~
31 ~~other employees to complete specific compliance courses in addition to the~~
32 ~~required orientation courses. Completion of these two orientation courses~~
33 ~~counts towards the education hours requirements in (c), below.~~

34
35 (c) ~~Hours-based requirements~~ **Education requirements for Judicial Council**
36 **employees**

37
38 (1) ~~Each executive must complete 30 hours of continuing education every two~~
39 ~~years. All Judicial Council employees must complete 20 hours of education~~
40 ~~every two years, beginning on January 1, 2017.~~

41 (2) For new hires beginning employment after July 1 of any year, the education
42 hours may be pro-rated for that year at the discretion of the employee's
43 supervisor.

44 (3) ~~Each manager or supervisor must complete 18 hours of continuing education~~
45 ~~every two years. The Administrative Director may require Judicial Council~~
46 ~~employees to complete specific compliance courses or specific courses for~~

1 management. This compliance education will count towards fulfilling the 20
2 hours requirement in (c)(1) on an hour-for-hour basis.

- 3
- 4 (4) ~~Each employee who is not an executive, manager, or supervisor must~~
5 ~~complete 12 hours of continuing education every two years. Education~~
6 ~~offered by an approved provider described in rule 10.481(a), as well as~~
7 ~~education that is approved by the employee's supervisor as meeting the~~
8 ~~criteria listed in rule 10.481(b), applies toward the employee's education~~
9 ~~requirements.~~
- 10
- 11 (5) Education can be taken live face-to-face or via distance such as webinars,
12 online courses, broadcasts, etc.
- 13
- 14 (6) ~~The orientation courses and the compliance courses required for new~~
15 ~~managers, supervisors, and other employees under (b) do not apply toward~~
16 ~~the required hours of continuing education. Each new executive enters the~~
17 ~~two-year continuing education period on the first day of the quarter following~~
18 ~~his or her appointment, and each new manager, supervisor, and employee~~
19 ~~enters the two-year continuing education period on the first day of the quarter~~
20 ~~following the six-month period provided for his or her completion of the~~
21 ~~orientation courses and the compliance courses required under (b); the~~
22 ~~quarters begin on January 1, April 1, July 1, and October 1. Each executive,~~
23 ~~manager, supervisor, or employee who enters the two-year continuing~~
24 ~~education period after it has begun must complete a prorated number of~~
25 ~~continuing education hours for that two-year period, based on the number of~~
26 ~~quarters remaining in it. Participation in education, both as a learner or as~~
27 ~~faculty, counts towards the employee's education requirements under this~~
28 ~~rule on an hour-for-hour basis.~~
- 29
- 30 (5) ~~Any education offered by an approved provider (see rule 10.481(a)) and any~~
31 ~~other education, including education taken to satisfy a statutory, rules-based,~~
32 ~~or other education requirement, that is approved by the employee's~~
33 ~~supervisor as meeting the criteria listed in rule 10.481(b) applies toward the~~
34 ~~continuing education required under (c)(1)–(3).~~
- 35
- 36 (6) ~~Each hour of participation in traditional (live, face-to-face) education;~~
37 ~~distance education such as broadcasts, videoconference courses, and online~~
38 ~~coursework; and faculty service counts toward the requirement on an hour-~~
39 ~~for-hour basis. The Administrative Director or an executive, manager, or~~
40 ~~supervisor, if delegated by the Administrative Director, has discretion to~~
41 ~~determine the number of hours, if any, of traditional (live, face-to-face)~~
42 ~~education required to meet the continuing education requirement.~~
- 43
- 44 (7) ~~An executive, manager, supervisor, or employee who serves as faculty by~~
45 ~~teaching legal or judicial education to a legal or judicial audience may apply~~
46 ~~education hours as faculty service. Credit for faculty service counts toward~~

1 the continuing education requirement in the same manner as all other types of
2 education — on an hour for hour basis.

3
4 ~~(8) — The Administrative Director of the Courts may require executives, managers,~~
5 ~~supervisors, and other employees to complete specific AOC compliance~~
6 ~~courses as part of the continuing education requirements.~~

7
8 **~~(d) — Extension of time~~**

9
10 ~~(1) — For good cause, the Administrative Director or an executive, manager, or~~
11 ~~supervisor, if delegated by the Administrative Director, may grant a one-year~~
12 ~~extension of time to complete the education requirements in this rule. If an~~
13 ~~extension is granted, the subsequent two-year compliance period begins~~
14 ~~immediately after the extended compliance period ends, unless otherwise~~
15 ~~determined by the Administrative Director.~~

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 individual's~~
20 ~~supervisor, must also pursue interim means of obtaining relevant educational~~
21 ~~content.~~

22
23 **~~(e) — Records of participation~~**

24
25 ~~(1) — An employee's completion of any course listed in the learning management~~
26 ~~system is automatically tracked.~~

27
28 ~~(2) — An employee's completion of specified online training is automatically~~
29 ~~tracked as well.~~

30
31 ~~(3) — Each employee is responsible for tracking completion of any training that is~~
32 ~~not automatically tracked in the learning management system. After~~
33 ~~completion of the training, the employee must enter it in the employee's~~
34 ~~individual record in the learning management system.~~

35
36 **~~(f) — Responsibilities of Administrative Director and of Judicial Council executives,~~**
37 **~~managers, and supervisors~~**

38
39 ~~The Administrative Director and each Judicial Council executive, manager, and~~
40 ~~supervisor:~~

41
42 ~~(1) — Must grant sufficient time to all employees to enable them to complete the~~
43 ~~minimum education requirements stated in (b) – (e);~~

44 ~~(2) — Should allow and encourage employees, in addition to participating as~~
45 ~~students in education activities, to serve on employee education committees~~

1 and as faculty at judicial branch education programs when an employee's
2 services have been requested for these purposes;

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

8
9 ~~(4) Must ensure that executives, managers, supervisors, and other employees are~~
10 ~~reimbursed in accordance with the travel policies issued by the Judicial~~
11 ~~Council for travel expenses incurred in attending in-state education programs~~
12 ~~as a participant in order to complete the minimum education requirements in~~
13 ~~(b) (c). Provisions for these expenses must be part of the Judicial Council's~~
14 ~~budget. The Administrative Director may approve reimbursement of travel~~
15 ~~expenses incurred by executives, managers, supervisors, and other employees~~
16 ~~in attending out-of-state education programs as participants.~~

17
18 **Advisory Committee Comment**

19
20 The time frame for completion of compliance courses based on statutory or regulatory mandates
21 is unaffected by the one-year extension in (d)(1).