



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 25–26, 2016

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Title	Agenda Item Type
Judicial Branch Education: Judicial Council Education	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.491	January 1, 2017
Recommended by	Date of Report
Judicial Council staff	August 4, 2016
Diane E. Cowdrey, Director	Contact
Center for Judicial Education and Research	Diane Cowdrey, 415-865-7795 <a href="mailto:diane.cowdrey@jud.ca.gov">diane.cowdrey@jud.ca.gov</a>

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### Executive Summary

Rule 10.491 addresses education requirements 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 to better serve the structure and operation of the Judicial Council staff office, and streamlining the tracking of employee education in the Human Resources and Education Management System (HREMS). Judicial Council staff recommends these amendments, which are supported by the Administrative Director and by the Governing Committee of the Center for Judicial Education and Research.

### Recommendation

Judicial Council staff recommends that the Judicial Council, effective January 1, 2017, amend rule 10.491 to:

1. Eliminate the distinction between education hours earned through distance education or live, face-to-face education, and allow staff to fulfill their education hours requirement using any form of education they choose and that their supervisors approve;

2. Require the same number of education hours—10 hours per year—for all Judicial Council staff, regardless of their position within the organization;
3. Make new employees eligible to begin earning education hours immediately upon hire; and
4. Eliminate administrative elements from the rule, such as directives to management to encourage employees to participate in education activities or that describe how to maintain training records.

The text of the amended rule is attached at pages 5–8.

### **Previous Council Action**

Effective January 1, 2008, the Judicial Council adopted rule 10.491 as part of a comprehensive set of rules addressing judicial branch education. Subdivision (c) was amended, effective January 1, 2012, to provide more individual choice and flexibility in what and how many hours count toward the continuing education hours requirement. Those amendments provided that an individual must complete at least half of his or her education requirement as a participant in traditional (live, face-to-face) education. In addition, the amendments removed limitations on online course work, self-directed study, and faculty service by counting all education hours in the same way.

In June 2013, the Judicial Council amended subsections (c) and (d), effective July 1, 2013, to provide the Administrative Director more flexibility in utilizing his staff by granting a one-year extension of time for Judicial Council employees to complete the required education, and giving the Administrative Director the discretion to determine the number of hours, if any, of live, face-to-face education needed to meet the requirement. The Rules and Projects Committee brought this amendment to the council.

### **Rationale for Recommendation**

Rule 10.491 outlines the education requirements for all Judicial Council staff, including the time frames for fulfilling those requirements as well as certain administrative responsibilities, such as maintaining records of participation. The rule has a complex model of education requirements for new employees, experienced employees, and employees newly promoted to management positions, and this model can, at times, be counterproductive. These amendments, as a whole, simplify the education requirements for Judicial Council staff.

For example, under the existing rule, a newly hired employee must complete specific, required *courses* within six months of hire, while an experienced employee must complete a specified number of continuing education *hours* during each two-year education period. A new employee may not begin earning continuing education hours until he or she completes the required courses

*and* has been reclassified as an “experienced employee.” As a result, any other education an employee may have taken before completing the required new employee courses would not count toward the employee’s education hours until the employee is reclassified. This prohibition is actually a disincentive for employees to take relevant education that would enhance their overall performance.

Under the proposed amendments to the rule, a new employee must still complete the required courses within a specified time frame but the distinction between “new employee” and “experienced employee” would otherwise largely disappear, greatly simplifying how education hours are calculated. Immediately upon hire, new employees would be eligible to begin earning education hours for any appropriate education, and the courses required of new employees would count toward those hours. There would be no reclassification of an employee from “new employee” to “experienced employee,” with the attendant recalculation of pro rata hours due for the remainder of the employee’s education period.

Under the proposed amendments to the rule, the distinction between distance education and live, face-to-face education, and the limit on the number of hours that may be earned through distance education, would be eliminated. Judicial Council staff could fulfill their education requirement using any form of education they choose and that their supervisors approve.

Under the existing rule, executives, managers, supervisors, and non-management employees all have different hours-based education requirements. The amended rule provides that all employees, regardless of administrative level, must complete 10 education hours each year. This amendment acknowledges that professional development is equally critical for all staff regardless of position within the organization.

Subdivisions (d), (e), and (f) of the existing rule contain several administrative elements: that management must permit employees sufficient time to complete their education hours, that time extensions may be granted, how records of participation must be maintained, and that 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 taken out of the amended rule and will instead be redrafted as guidelines to accompany the rule. These guidelines will be prominently located on the webpage devoted to Judicial Council staff education.

These rule amendments preserve the overall education requirements for Judicial Council staff while greatly streamlining the procedures for meeting them. They also introduce a level of flexibility as to the specifics of how to fulfill the education hours requirement. The changes also reduce the amount of Judicial Council staff time required to operate and maintain the learning management system, especially the task of combining and calculating individual and group employee education hours.

## **Comments, Alternatives Considered, and Policy Implications**

This proposal circulated for public comment as SPR16-15 from April 15, 2016 through June 14, 2016. Only one comment was received: Michael Roddy, Court Executive Officer, Superior Court of San Diego County, supported the proposal. See the chart of comments, attached at page 9.

### **Alternatives**

One alternative considered was to completely revise HREMS, the learning management system that is used to maintain the administrative components of the rule, to more efficiently and effectively administer employee records. Judicial Council staff concluded that system revisions would be costly and labor intensive, yet highly unlikely to overcome many of the complexities imposed by the existing rule. It was therefore determined that amending the rule would be the most effective and efficient method to resolve the issues.

### **Policy implications**

The Governing Committee for the Center for Judicial Education and Research has discussed this rule proposal and approves it. Because they do not oversee Judicial Council staff education, it was determined that they should not be the body bringing this proposed rule amendment to the Judicial Council.

### **Implementation Requirements, Costs, and Operational Impacts**

One-time implementation costs would include those incurred by software adjustments to the learning management system to remove several employee categories and other administrative functions, which would simplify the computations required in tracking employee education. These changes would, almost immediately, make HREMS more responsive to the administrative needs of Judicial Council staff and the offices charged with managing the education program, specifically the Center for Judicial Education and Research, Information Technology, and Human Resources. This proposal is recommended for adoption at the council's August meeting to allow sufficient time for the HREMS changes to be made before the effective date of the rule amendments. Other one-time costs would include communicating the changes and their impact on education requirements, and possibly minor training on the new paradigm.

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.491, at pages 5–8
2. Chart of comments, at page 9

Rule 10.491 of the California Rules of Court is 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 minimum  
10 education requirements. These education requirements are included as a part of the  
11 employee performance evaluation process.

12  
13 (b) ~~Content-based requirements~~ **Education requirements for new employees and**  
14 **new managers and supervisors**

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. Each new employee,~~  
26 ~~including those with supervisory or management responsibilities, must~~  
27 ~~complete the New Employee Orientation within six months of being hired or~~  
28 ~~as soon as possible 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 the orientation courses counts~~  
33 ~~toward the education hours requirement in (c).~~

34  
35 (c) ~~Hours-based requirements~~ **Continuing education requirements**

36  
37 (1) ~~Each executive must complete 30 hours of continuing education every two~~  
38 ~~years. Each employee must complete 20 hours of continuing education every~~  
39 ~~two years, beginning on January 1, 2017.~~

40 (2) For new employees beginning employment after July 1 of any year, the  
41 education hours may be prorated for that year at the discretion of the  
42 employee's supervisor.

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

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

1           This compliance education applies toward the continuing education  
2           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 continuing~~  
9           ~~education requirement.~~
- 10
- 11           (5) Continuing education may be live (face-to-face) or distance education, such  
12           as webinars, videoconferencing, online courses, and broadcasts.
- 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, whether as a learner or as~~  
27           ~~faculty, counts toward an employee's continuing education requirement~~  
28           ~~under this 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~~

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

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

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

~~(d) —~~ **Extension of time**

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

~~(2) — If the Administrative Director, or an executive, manager, or supervisor, grants a request for an extension of time, the individual who made the request, in consultation with the Administrative Director or the individual's supervisor, must also pursue interim means of obtaining relevant educational content.~~

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

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

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

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

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

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

~~(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~~



**SPR16-15****Judicial Branch Education: Minimum Requirements for Judicial Council Staff** (amend rule 10.491)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Superior Court of San Diego County By Michael M. Roddy, Executive Officer	A	No specific comment.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated