



JUDICIAL COUNCIL OF CALIFORNIA

CENTER FOR JUDICIAL EDUCATION AND
RESEARCH ADVISORY COMMITTEE

CJER Advisory Committee Meeting Minutes

August 25, 2020

Teleconference

Open Meeting

Present: Hon. Kimberly A. Gaab, Hon. Darrell S. Mavis, Hon. Carlos M. Cabrera, Hon. Michele M. Castillo, Hon. Michael A. Fagalde, Mr. Jason Galkin, Hon. Michael S. Groch, Hon. Richard D. Huffman, Hon. Mark A. Juhas, Mr. Kevin J. Lane, Hon. Mary Ann O'Malley, Robert J. Trentacosta, Dr. Cindy Van Schooten, Hon. Daniel Zeke Zeidler

Staff: Ms. Karene Alvarado, Dr. Mary Ann Koory, Mr. Jason Mayo, Ms. Lynn Muscat, Mr. Steven Warner, Ms. Hazel Houle

Not Present: Mr. Joseph Ford, Hon. Janet Gaard, Hon. Michael A. Knish, Hon. Gayle L. Peron, Ms. Bonnie Sloan

Welcome

Judge Gaab started the meeting at 12:02 p.m.

Proposed Draft Rule of Court 10.493 [Action Item]

Judge Gaab introduced the two drafts of new California Rule of Court 10.493. Option 1 is the longer version, and Option 2 the shorter version.

Justice Huffman said that at the time the rules were originally passed, judges were assured that there would be a broad range of training available to them. He said that he would hate to pass a rule that makes training requirements more restrictive. He asked whether “instructor led” training includes podcasts. Judge Gaab said that it would not include podcasts. Justice Huffman said in that case, he thinks this proposed rule is unreasonable because people will have fewer opportunities to complete their rule requirements and expectations.

Judge Gaab asked Ms. Alvarado how much “instructor led” training is currently being offered.

Ms. Alvarado responded that since the pandemic began, CJER has offered new remote programming that is instructor led, and that CJER is now in the process of redesigning all its in-

person programs to be offered remotely, and they would be instructor led. Therefore, beginning in October of this year, CJER will have converted to remote “instructor led” delivery all programs that had been on schedule to be offered in-person. In other words, as of October, CJER will offer the same amount of “instructor led” training as it always has in the past prior to the pandemic.

Judge Gaab noted the importance of live in-person education. She said that instructor led training is invaluable and remarked that we ultimately want to return to in-person education when the pandemic is over.

Mr. Mayo clarified the way in which the two versions of the draft rule 10.493 differ: Option 1, the longer version, allows judges to complete the education requirements and expectations using any available delivery method. In contrast, Option 2, the shorter version, still requires real-time communication with faculty for the portion of the education that the rules currently require judges to complete live, face-to-face.

Judge Zeidler recommended that the requirement of “live webinar” be changed to “interactive webinar”.

Mr. Lane recommended that in Option 1, an example of self-study be added.

Ms. Alvarado noted that it might be helpful for the committee to select which Option of the two drafts it prefers before the committee focuses on the language of the draft rule.

Judge Groch said that he advocates for Option 2, the shorter version. He said that given the availability of as much instructor-led training as there is, we should stick with the shorter version, which prioritizes instructor-led training, which we value.

Judge Mavis pointed out that without the pandemic, we would be offering in-person education as we always have, and we would not be having this discussion at all. Therefore, Option 2, the shorter version, which continues to prioritize instructor-led training, is the best option.

Judge Gaab said that she agrees. CJER is offering plenty of instructor-led training, the same level as in-person training, in fact. She noted that instructor-led training is the most effective kind of training, and is preferable to self-study, because it requires people to focus on the education and to devote the time that is required to learning.

Judge Trentacosta said that he too is in favor of Option 2, the shorter version. But, he noted, CJERAC may want to consider adding a sunset provision. If the rule were to sunset in a year or two, we could evaluate and adjust accordingly.

Judge Gaab said it would be possible to add a sunset provision but noted that we do not know when we will be able to return to in-person education.

Ms. Alvarado explained that whether or not a sunset provision is added to this particular rule, there remains a need to overhaul all the education rules to include more current language around delivery modalities. She noted that once the rules are overhauled, this rule could be deleted.

Judge Gaab asked for thoughts around the suggestion to add the word “interactive” before webinars in the draft rule.

Dr. Koory wondered how the interactivity of a particular webinar would be policed.

Mr. Mayo noted that the reason that the word “live” was used in the draft rule was to distinguish between live webinars and recorded webinars, the focus being on the ability to communicate with faculty.

Mr. Galkin asked how this draft rule would be interpreted relative to trial court personnel, noting that the rule requirements for that audience allow for broadcasts and online courses. He emphasized that we would not want to restrict the education requirements for that audience.

Mr. Mayo agreed that the rule requirements for court personnel and for Judicial Council staff are broader than for judges with respect to the delivery methods that can be used for their education. He said that this draft rule 10.493 does not change how court personnel can receive their education, it just broadens the delivery methods for judges and allows judges to be able to use live webinars as a substitute for the in-person education requirements and expectations.

Judge Mavis said that because we want to retain the value we place on live in-person training, we should adopt Option 2, the shorter version, of draft rule 10.493. Further, the addition of the word “interactive” before webinar does not require the training to be live, which is what we value. He said that once we get out of the pandemic, we want to return to in-person training.

Judge Gaab agreed.

Judge Mavis moved to adopt Option 2, the shorter version, of draft rule 10.493. Judge Zeidler seconded the motion.

A vote was taken; Justice Huffman opposed the motion, all others approved. The motion passed and the committee adopted Option 2, the shorter version, of draft rule 10.493.

The meeting adjourned at 12:40 p.m.