



JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND
PLANNING COMMITTEE

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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF OPEN MEETING WITH CLOSED SESSION

Tuesday, August 24, 2021

12:10 to 1:00 p.m.

Videoconference

Advisory Body Members Present: Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Stacy Boulware Eurie, Ms. Nancy CS Eberhardt, Hon. Joyce D. Hinrichs, Mr. Patrick M. Kelly, Hon. Dalila C. Lyons, Hon. Ann C. Moorman, and Hon. David M. Rubin

Advisory Body Members Absent: Hon. Marla O. Anderson and Hon. Harry E. Hull, Jr.

Committee Staff Present: Ms. Amber Barnett and Mr. Cliff Alumno

Staff Present: Ms. Deanna Adams, Ms. Vickie Akers, Ms. Kate Albertus, Ms. Michele Allan, Mr. Nicholas Armstrong, Mr. Alex Bender, Ms. Deirdre Benedict, Ms. Deborah Brown, Ms. Mary Bustamante, Ms. Francine Byrne, Ms. Roma Cheadle, Mr. Oliver Cheng, Ms. Emily Chirk, Ms. Deborah Collier-Tucker, Ms. Jessica Craven, Ms. Nicole Davis, Ms. Charlene Depner, Ms. Marcela Eggleton, Mr. Eric Egner, Ms. Audrey Fancy, Ms. Sarah Fleischer-Ihn, Mr. Michael Giden, Ms. Li Gotch, Ms. Kristin Greenaway, Mr. Jason Haas, Ms. Anne Hadreas, Mr. John Henzl, Ms. Bonnie Hough, Ms. Andrea Jaramillo, Ms. Tracy Kenny, Ms. Camilla Kieliger, Ms. Cheryl King, Mr. Rob Lower, Mr. Charles Martel, Ms. Anna Maves, Ms. Pella McCormick, Ms. Cassie McTaggart, Ms. Fran Mueller, Ms. Brandy Olivera, Mr. Rob Oyung, Ms. Kara Portnow, Mr. Corey Rada, Ms. Anne Ronan, Ms. Leah Rose-Goodwin, Mr. Yassen Roussev, Ms. Christy Simons, Mr. David Smith, Ms. Melanie Snider, Ms. Laura Speed, Ms. Maggie Stern, Mr. Corby Sturges, Mr. Greg Tanaka, Mr. Zlatko Theodorovic, Ms. Millicent Tidwell, Ms. Oksana Tuk, Ms. Cathy Wachter, Mr. Catrayel Wood, Mr. John Wordlaw, Ms. Martha Wright, Ms. Josely Yangco-Frona, and Ms. Carrie Zoller

OPEN MEETING

Call to Order and Roll Call

The chair called the open meeting to order at 12:10 p.m., and Mr. Alumno took roll call and made the opening announcements.

Approval of Minutes

The committee reviewed the draft minutes of its July 8, 2021, open meeting with closed session.

Action: *The committee unanimously approved the minutes of its July 8, 2021, open meeting with closed session.*

DISCUSSION AND ACTION ITEMS

Item 1

Collaborative Justice Courts Advisory Committee: Updating Areas of Focus and Duties (California Rules of Court, Rule 10.56) (Action Required)

The committee reviewed proposed amendments by Collaborative Justice Courts Advisory Committee to rule 10.56 of the California Rules of Court updating the committee's areas of focus and duties by incorporating diversion and other collaborative justice-related programs. The proposed amendments would allow the advisory committee to better address judicial leadership and the court processes of collaborative justice courts and similar programs that affect individuals who are moving through the court system and have mental illnesses, substance use disorders, or co-occurring disorders.

Action: The committee unanimously approved the proposed amendments and placement of the report on the consent agenda of the October 1, 2021, Judicial Council business meeting.

Item 2

Agenda Setting for October 1, 2021, Judicial Council Meeting (Action Required)

The committee reviewed available draft reports and set the agenda for the Judicial Council meeting in October.

Action: The committee set the agenda for the October 1, 2021, Judicial Council meeting by approving reports for placement on the business meeting agenda.

ADJOURNMENT

The open meeting was adjourned at 12:55 p.m.

CLOSED SESSION

Pursuant to California Rules of Court, rule 10.75(d)(5)

Agenda Setting for Closed Session of October 1, 2021, Judicial Council Meeting (Action Required)

The committee reviewed an available draft report and considered it for placement on the closed session agenda of the Judicial Council meeting in October.

Action: The committee unanimously approved placement of the report on the closed session agenda of the October 1, 2021, Judicial Council business meeting.

Adjourned closed session at 1:05 p.m.

Approved by the advisory body on [insert date].



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MINUTES OF ACTION BY E-MAIL

Thursday, September 23, 2021

Advisory Body Members Who Participated: Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Marla O. Anderson, Hon. Stacy Boulware Eurie, Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Hon. Dalila C. Lyons, Hon. Ann C. Moorman, Ms. Gretchen Nelson, Hon. David M. Rubin, and Hon. Theodore C. Zayner

Advisory Body Members Who Did Not Participate: None

Committee Staff: Ms. Amber Barnett and Mr. Cliff Alumno

ACTION BY E-MAIL

As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by e-mail concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2), public notice and the proposal were posted on Wednesday, September 22, 2021, to allow for public comment before the committee took action. No public comments were received.

OPEN DISCUSSION AND ACTION ITEM

Agenda Setting for October 1, 2021, Judicial Council Meeting (Action Required)

The committee reviewed an additional draft report to consider for placement on the consent agenda of the October 1, 2021, Judicial Council business meeting: Item 21-163 (Rules and Forms | Unlawful Detainer, Small Claims, and Pleading Forms to Implement New Laws) contingent upon the Rules Committee's approval of the draft report.

Action: The committee unanimously approved Item 21-163 for placement on the consent agenda of the October 1, 2021, Judicial Council business meeting. The committee's placement of the report is contingent upon the Rules Committee's approval of the draft report.

CLOSURE OF ACTION

The action by e-mail concluded on Friday, September 24, 2021, at 11:00 a.m.

Approved by the committee on [insert date].



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

September 17, 2021

Action Requested

Review and Approve Addition to Annual Agenda

To

Members of the Executive and Planning Committee

Deadline

September 29, 2021

From

Center for Judicial Education and Research
Advisory Committee
Hon. Kimberly A. Gaab, Chair

Contact

Steven Warner, Supervising Attorney
415-865-8703 phone
steven.warner@jud.ca.gov

Subject

Addition of Project to 2021 Annual Agenda
of the Center for Judicial Education and
Research Advisory Committee

Executive Summary

Due to the state of emergency related to the COVID-19 pandemic, the Judicial Council adopted rule 10.492 in November 2020, extending deadlines by 12 months to complete mandatory judicial education programs. The Center for Judicial Education and Research (CJER) Advisory Committee recommends amending rule 10.492 of the California Rules of Court to extend the rule's temporary extension for the B. E. Witkin Judicial College by an additional 12 months to avoid the inability to comply with rule 10.462(c)(1)(C) amongst new judicial officers. The CJER Advisory Committee also proposes amending the rule's expiration date in light of the ongoing nature of the pandemic.

Action Requested

The Center for Judicial Education and Research Advisory Committee asks that the Executive and Planning Committee, effective September 29, 2021, approve adding to the 2021 Annual Agenda

of the Center for Judicial Education and Research Advisory Committee the proposed amendment to rule 10.492 of the California Rules of Court: Extension of time for judicial branch education requirements.

The text of the revised Annual Agenda is attached to this memorandum as Attachment A.

Basis for Request

Background

Even before the adoption of rule 10.492, CJER had redesigned the large majority of its scheduled in-person courses for remote delivery. The sole exceptions thus far have been the judicial college, the Appellate Justice Institute, and the Appellate Judicial Attorney Institute. Of these three programs, only the judicial college is a mandatory program.

The judicial college is ordinarily hosted annually. The last judicial college was held in August 2019. The August 2020 college was postponed to April 2021 and ultimately cancelled due to the pandemic. The July–August 2021 college was postponed three months to October–November 2021, and the decision was made to cancel it in September 2021 due to the ongoing anticipated risk of contagion. The next in-person college is tentatively scheduled for July 2022.

In light of the three years that will pass between colleges, the original 12-month extension for the judicial college will expire, leaving approximately 40 judicial officers unable to comply with rule 10.462(c)(1)(C). If the college is unable to be held in 2022, an additional 80 judicial officers will face noncompliance.

The recently formed 2021–2023 B. E. Witkin Judicial College Steering Committee will meet soon to plan the July 2022 program and consider remote alternatives to meet the needs of judicial officers who have been waiting to attend the college. While this process is underway, the CJER Advisory Committee proposes amending rule 10.492 to (1) extend the compliance deadline solely as it pertains to the judicial college, and (2) delay the rule’s sunset provision.

Annual Agenda

The CJER Advisory Committee proposes that an amendment to rule 10.492, Extension of time for judicial branch education requirements, be added to its 2021 Annual Agenda. The specifications for the items would be:

- ***Project Summary:*** Rule 10.492 currently provides relief for California’s court employees and judicial officers by granting a temporary extension and a prorated reduction of the education requirements in the California Rules of Court. The rule is set to sunset on December 31, 2022. The proposal would amend rule 10.492 to grant an additional 12

months for judicial officers to attend the judicial college; and change the rule's expiration to December 31, 2024.

- ***Fiscal Impact/Resources:*** Not applicable.

The project completion date is January 1, 2022, which is the proposed effective date of the amended rule, if approved by the Judicial Council.

Attachments and Links

Attachment A: Center for Judicial Education and Research Advisory Committee Annual Agenda—2021

Center for Judicial Education and Research Advisory Committee
Annual Agenda¹—2021

Approved by Executive and Planning Committee: [Date]

I. COMMITTEE INFORMATION

Chair:	Hon. Kimberly A. Gaab, Judge, Superior Court of California, County of Fresno
Lead Staff:	Mr. Steven Warner, Supervising Attorney, Center for Judicial Education and Research
Committee's Charge/Membership: <p>Rule 10.50(b) of the California Rules of Court states the charge of the Center for Judicial Education and Research (CJER) Advisory Committee is to make recommendations to the council for improving the administration of justice through comprehensive and quality education and training for judicial officers and other judicial branch personnel. Rule 10.50(c) sets forth additional duties of the committee.</p> <p>The CJER Advisory Committee currently has 15 voting members and 3 advisory members. The current committee roster is available on the committee's webpage.</p>	
Education Subcommittees: <ol style="list-style-type: none">1. Appellate Practice Curriculum Committee;2. Civil Law Curriculum Committee;3. Criminal Law Curriculum Committee;4. Family Law Curriculum Committee;5. Judicial Branch Access, Ethics & Fairness Curriculum Committee;6. Judicial Branch Leadership Development Curriculum Committee;7. Juvenile Law Curriculum Committee;8. Probate Law Curriculum Committee;9. Trial and Appellate Court Operations Curriculum Committee; and10. B. E. Witkin Judicial College Steering Committee.	

¹ The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

Meetings Planned for 2021² (Advisory body and all subcommittees and working groups)

March 4, 2021 (teleconference);
May 27, 2021 (teleconference);
September 2, 2021 (in-person in San Francisco); and
December 2, 2021 (teleconference).

Check here if exception to policy is granted by Executive Office or rule of court.

DRAFT

² Refer to [Operating Standards for Judicial Council Advisory Bodies](#) for governance on in-person meetings.

II. COMMITTEE PROJECTS

#	New or One-Time Projects ³	
1.	Develop the 2022–2024 Education Plan	<p>Priority⁴ 1</p> <p>Strategic Plan Goal⁵ V</p>
<p>Project Summary⁶: Curriculum Committees and workgroups will perform a needs assessment on the current curriculum in their respective assignment areas and draft a two-year education plan ready to submit to the Judicial Council for review and approval.</p> <p>Status/Timeline: A draft of the 2022–2024 Education Plan will be submitted to the Judicial Council for review and approval in November 2021.</p> <p>Fiscal Impact/Resources: Not applicable.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Not applicable.</p> <p>AC Collaboration: Not applicable.</p>		

³ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or previously approved Annual Agenda to this Annual Agenda.

⁴ For nonrules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

⁵ Indicate which goal number of *The Strategic Plan for California’s Judicial Branch* the project most closely aligns.

⁶ A key objective is a strategic aim, purpose, or “end of action” to be achieved for the coming year.

#	New or One-Time Projects ³	
2.	Propose Amendment to California Rules of Court, Rule 10.492	<p><i>Priority⁴ 1</i></p> <p><i>Strategic Plan Goal⁵ V</i></p>
<p>Project Summary⁶: Rule 10.492 currently provides relief for California’s court employees and judicial officers by granting a temporary extension and a prorated reduction of the education requirements in the California Rules of Court. The rule is set to sunset on December 31, 2022. The proposal would amend rule 10.492 to:</p> <ul style="list-style-type: none"> • Grant an additional 12 months for judicial officers to attend the judicial college; and • Change the rule’s expiration to December 31, 2024. <p>Status/Timeline: The proposed effective date would be January 1, 2022.</p> <p>Fiscal Impact/Resources: Not applicable.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Not applicable.</p> <p>AC Collaboration: Not applicable.</p>		

#	Ongoing Projects and Activities³	
1.	Continue to Implement the 2020–2022 Education Plan	Priority⁴ 1
		Strategic Plan Goal⁵ V
	<p>Project Summary⁶: Continue to deliver the classes and products specified by the 2020–2022 Education Plan for judicial branch education, approved by the Judicial Council at its January 17, 2020 meeting, and launched July 1, 2020.</p> <p>Status/Timeline: Ends June 30, 2022.</p> <p>Fiscal Impact/Resources: CJER contact: Karene Alvarado</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Not applicable.</p> <p>AC Collaboration: Not applicable.</p>	
2.	Continue to Expand Bias Education for the Judicial Branch	Priority⁴ 1
		Strategic Plan Goal⁵ V
	<p>Project Summary⁶: Continue the expansion of bias education for both judges and court personnel.</p> <p>Status/Timeline: Ongoing.</p> <p>Fiscal Impact/Resources: CJER contact: Karene Alvarado</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Not applicable.</p> <p>AC Collaboration: Not applicable.</p>	

III. LIST OF 2020 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	Engaged in the rule-making process per the recommendations of the Work Group for the Prevention of Discrimination and Harassment. The CJER Advisory Committee sought feedback on the draft amendment from the Advisory Committee on Providing Access and Fairness, the Appellate Clerk Executive Officers, the Appellate Advisory Committee, the Administrative Presiding Justices Advisory Committee, the Trial Court Presiding Judges Advisory Committee, the Court Executives Advisory Committee, and the California Judges Association on the proposed language. The Advisory Committee then proposed an amendment to California Rules of Court, rule 10.469 to make education on unconscious bias—as well as the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct—mandatory for judicial officers. The amendment was approved by the Judicial Council on September 24, 2020, effective January 1, 2021.
2.	Engaged in the rule-making process to relieve courts from the pressure of education deadlines while focused on operations during the COVID-19 pandemic. Rule 10.492 extends the deadlines to complete all content-based education requirements and expectations contained within the rules of court for 12 months and prorates the number of hours of education to complete hours-based education requirements or expectations. Rule 10.493 clarifies that all “instructor-led training”—including in-person trainings in classrooms, live webinars, and live videoconferences—satisfies any requirement in the rules of court that specific training be taken in a “traditional (live, face-to-face)” or “in-person” learning environment. Both rules were approved by the Judicial Council on November 13, 2020, effective January 1, 2021.
3.	The recommendations from the Work Group for the Prevention of Discrimination and Harassment to expand bias education were implemented as appropriate, including designing and delivering additional bias courses; rearranging the Access, Bias, Ethics, and Fairness Toolkit on the court personnel side of <i>CJER Online</i> in order to make numerous bias education resources easier to find; adding to the <i>Access & Fairness</i> podcast series and the <i>Continuing the Dialogue</i> video series; adding bias content to the PJ/CEO Institute; and offering bias training to the staff of the Supreme Court.
4.	The recommendations from the Mental Health Implementation Task Force were implemented as appropriate.
5.	The Work Group for New Court Executive Officer Education submitted its recommendations for education and resources for new court executive officers (CEO). A new toolkit on <i>CJER Online</i> for CEOs, with a section specifically for new CEOs, was created as a space for relevant existing resources and for new resources as they are developed.
6.	The 2020–2022 Education Plan was launched July 1, 2020.