



Judicial Council of California

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INVITATION TO COMMENT

SPR24-13

Title

Judicial Branch Education: Fairness and Access Requirements

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 10.465; amend rules 10.461, 10.462, and 10.469

Proposed Effective Date

January 1, 2025

Contact

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Proposed by

Center for Judicial Education and Research
Advisory Committee
Hon. Darrell S. Mavis, Chair

Executive Summary and Origin

The Center for Judicial Education and Research Advisory Committee proposes amending rule 10.469 of the California Rules of Court and adopting rule 10.465 to clarify existing fairness and access education requirements for judicial officers.

Background

The Judicial Council adopted a comprehensive set of rules on judicial branch education in two stages in 2006 and 2007, including rule 10.469, which initially contained only nonmandatory education *recommendations* for judicial officers. Effective January 1, 2021, the Judicial Council amended rule 10.469 to include new subdivision (e)(2) mandating new education *requirements* for judicial officers on unconscious bias, as well as on the prevention of discrimination, harassment, retaliation, and other inappropriate workplace conduct, under the umbrella of fairness and access judicial training recommendations.

The Proposal

Since its adoption, rule 10.469(e)(2) of the California Rules of Court has generated confusion by stating two separate mandatory education *requirements* for judicial officers in a subdivision of a rule that had previously contained only education *recommendations*. Additionally, the existence

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of two separate requirements in one subdivision generated further misunderstanding of what training is required.

Without altering the requirements for judicial officers, this proposal clarifies existing education regulation on fairness and access issues by moving both requirements and the recommendation to a new, standalone rule—proposed rule 10.465. In the new rule, however, the recommendation is found in a separate subdivision from the requirements. An added benefit of the proposal is that it emphasizes the essential nature of fairness and access education for all judicial officers and places the requirements on par with mandatory education requirements contained in other rules, including rule 10.463 (family law), rule 10.464 (domestic violence), and rule 10.468 (probate, guardianships, and conservatorships) of the California Rules of Court.

In addition, this proposal clarifies that judicial officers are separately required to participate in education on unconscious bias as well as education on the prevention of discrimination, harassment, retaliation, and inappropriate workplace conduct by placing these requirements in separate paragraphs.

The proposal also incorporates references to statutes providing authorization for the Judicial Council's adoption of a rule on this topic and guidance on the content of implicit bias training for the judicial branch. Finally, the proposal also requires an amendment to rule 10.469 to delete subdivision (e), and amendments to rules 10.461 and 10.462 to include references to rule 10.465.

Alternatives Considered

The committee considered two alternatives to the proposal. The committee initially considered taking no action, leaving the fairness and access requirements in rule 10.469(e). The committee rejected this proposal as it did not address the underlying issue: the confusion caused by including an education recommendation with two education *requirements* within a single subdivision of a rule.

The committee also considered a draft version of the new rule that condensed the current requirements and recommendation on fairness and access into one subdivision with additional clarifying language and references. The committee declined this approach given the potential for it to be misinterpreted as adding additional mandates in this area. The alternative language considered also did not resolve the underlying need to clarify that judicial officers are separately required to participate in education on unconscious bias and education on the prevention of discrimination, harassment, retaliation, and inappropriate workplace conduct.

Fiscal and Operational Impacts

Since the proposal is a reorganization and clarification of existing requirements, the committee does not anticipate that the proposal will have significant fiscal or operational impacts on the judicial branch.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 10.461, 10.462, 10.465, and 10.469, at pages 4–6
2. Link A: Cal. Rules of Court, rule 10.461,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_461
3. Link B: Cal. Rules of Court, rule 10.462,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_462
4. Link C: Cal. Rules of Court, rule 10.469,
www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_469
5. Link D: Gov. Code, § 68088,
leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68088.&lawCode=GOV

Rule 10.465 of the California Rules of Court is adopted and rules 10.461, 10.462, and 10.469 is amended, effective January 1, 2025, to read:

1 **Rule 10.461. Minimum education requirements for Supreme Court and Court of**
2 **Appeal justices**

3
4 **(a) Applicability**

5
6 All California Court of Appeal justices must complete the minimum judicial
7 education requirements for new justices under (b), and all Supreme Court and
8 Court of Appeal justices must complete minimum continuing education
9 requirements as outlined under (c). All justices must complete education
10 requirements on fairness and access as set forth in rule 10.465(a) and should
11 participate in more judicial education than is required, related to each individual's
12 responsibilities and in accordance with the judicial education recommendations set
13 forth in rule 10.469.

14
15 **(b)–(e) * * ***

16
17
18 **Rule 10.462. Minimum education requirements and expectations for trial court**
19 **judges and subordinate judicial officers**

20
21 **(a) Applicability**

22
23 All California trial court judges must complete the minimum judicial education
24 requirements for new judges under (c)(1) and are expected to participate in
25 continuing education as outlined under (d). All subordinate judicial officers must
26 complete the minimum education requirements for new subordinate judicial
27 officers under (c)(1) and for continuing education as outlined under (d). All trial
28 court judges and subordinate judicial officers who hear family law matters must
29 complete additional education requirements set forth in rule 10.463. All trial court
30 judges and subordinate judicial officers who hear certain types of matters must
31 participate in education on domestic violence issues as provided in rule 10.464. All
32 trial court and subordinate judicial officers must complete education requirements
33 on fairness and access as set forth in rule 10.465(a). All trial court judges and
34 subordinate judicial officers regularly assigned to hear probate proceedings must
35 complete additional education requirements set forth in rule 10.468. All trial court
36 judges and subordinate judicial officers should participate in more judicial
37 education than is required and expected, related to each individual's responsibilities
38 and particular judicial assignment or assignments and in accordance with the
39 judicial education recommendations set forth in rule 10.469.

40
41 **(b)–(g) * * ***
42

1
2 **Rule 10.465. Education requirements and recommendations for justices, judges,**
3 **and subordinate judicial officers on fairness and access**
4

5 **(a) Education on unconscious bias and the prevention of harassment,**
6 **discrimination, retaliation, and inappropriate workplace conduct**
7

- 8 (1) Each justice, judge, and subordinate judicial officer must participate in
9 unconscious bias education.
10
11 (2) Each justice, judge, and subordinate judicial officer must participate in
12 education on the prevention of harassment, discrimination, retaliation, and
13 inappropriate workplace conduct.
14
15 (3) The education in (1) and (2) must be taken at least once every three-year
16 continuing education cycle as determined under rules 10.461(c)(1) and
17 10.462(d).
18

19 **(b) Additional education on fairness and access**
20

21 In order to achieve the objective of assisting judicial officers in preserving the
22 integrity and impartiality of the judicial system through the prevention of bias, each
23 justice, judge, and subordinate judicial officer should regularly participate in
24 education on fairness and access in addition to that required in (a). The education
25 should include the following subjects: race and ethnicity; gender; sexual
26 orientation; persons with disabilities; persons with limited economic means; and
27 persons without stable housing.
28
29

30 **Rule 10.469. Education recommendations for justices, judges, and subordinate**
31 **judicial officers**
32

33 **(a)–(d) * * ***
34

35 **~~(e) Education on fairness and access, unconscious bias, and prevention of~~**
36 **~~harassment, discrimination, retaliation, and inappropriate workplace conduct~~**
37

- 38 ~~(1) In order to achieve the objective of assisting judicial officers in preserving~~
39 ~~the integrity and impartiality of the judicial system through the prevention of~~
40 ~~bias, each justice, judge, and subordinate judicial officer should regularly~~
41 ~~participate in education on fairness and access. The education should include~~
42 ~~the following subjects: race and ethnicity; gender; sexual orientation; persons~~

1 with disabilities; persons with limited economic means; and persons without
2 stable housing.

3
4 (2) — Each justice, judge, and subordinate judicial officer must participate in
5 education on unconscious bias, as well as the prevention of harassment,
6 discrimination, retaliation, and inappropriate workplace conduct. This
7 education must be taken at least once every three-year continuing education
8 cycle as determined by rules 10.461(c)(1) and 10.462(d).

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