

Judicial Council of California

Its Governing Committee on Education Has Recently Proposed Minimum Education Requirements for Judicial Officers

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The Judicial Council of California's Administrative Office of the Courts' response as of August 2007

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits (bureau) to review and assess how funds appropriated to the Judicial Council of California (Judicial Council) are used for training judicial officers and to determine the processes and practices used in developing the budget for training judicial officers. We were asked to determine the amount appropriated and spent for training judicial officers over the last three years and to review the purposes and appropriateness of those costs. Finally, the audit committee asked us to review and assess management controls to ensure that funds appropriated for training are used for allowable activities and to select a sample of costs to determine whether they were valid. Specifically, we found:

Finding #1: The Judicial Council's governing committee on education recently proposed minimum education requirements for judicial officers.

The Judicial Council has authorized the governing committee that advises the Judicial Council on education with developing and maintaining education programs for the judicial branch. Additionally, the Judicial Council has authorized the Education Division of the Administrative Office of the Courts (AOC) with implementing the governing committee's comprehensive education program. The Education Division offers training to judicial officers in several legal areas; however, the majority of education programs are not required and judicial officers generally participate in most training at their own discretion. In fact, current requirements established by California Rules of Court and state law apply only to initial education for new judicial officers and initial and continuing education for those hearing certain types of cases. Further, although these judicial officers are required to attend certain courses, the AOC is generally not responsible for tracking or enforcing compliance with the education requirements. Rather, it is the responsibility of each judicial officer and court to ensure that the requirements are followed.

In fact, the Education Division generally cannot identify the individual judicial officers for which a specific training course applies because it does not track judicial officer assignments. At our request the Education Division compiled records demonstrating the number of newly appointed or elected judicial officers in the State for July 2002 through mid-April 2006, and we noted that although nearly all that we reviewed attended the required education programs, some did not do so within the required time.

Audit Highlights . . .

Our review of the Judicial Council of California's (Judicial Council) training programs for judicial officers revealed:

- » *Current education requirements apply only to new judicial officers and those hearing certain types of cases.*
- » *The Judicial Council's governing committee on education recently proposed a Rule of Court that includes minimum education requirements for judicial officers; however, judicial officers have questioned the proposal.*
- » *The Legislature does not appropriate funding specifically for judicial education; rather, the Judicial Council and the Administrative Office of the Courts allocate funds for this purpose.*
- » *Expenditures we tested for the period July 2004 through December 2005 were for appropriate and allowable purposes.*

Additionally, in February 2003 the governing committee began to review the concept of mandatory education and consider whether to submit a proposal to the Judicial Council on minimum education requirements for all judicial officers. As part of its process, the governing committee reviewed other state education models, assessed judicial officers' attendance at programs offered by the Education Division, considered prior efforts to establish minimum education requirements, and surveyed judicial officers in California.

Subsequent to that review process, the governing committee proposed a Rule of Court that included minimum education requirements for judicial officers. The proposed rule generally called for 30 hours of continuing education for all judicial officers in a three-year cycle, or 10 hours per year and required judicial officers to maintain records showing compliance with the requirements. Judicial officers questioned the governing committee's proposal, including the Judicial Council's constitutional authority to establish minimum education requirements. In October 2006 the Judicial Council adopted an alternate proposal that made some revisions to the governing committee's proposal in that the new Rules of Court provide that judges are expected to, and commissioners and referees must, complete 30 hours of continuing education in a three-year cycle.

We recommended that the Judicial Council implement a plan to ensure that there is a system for tracking participation to meet judicial education requirements and that the records kept are accurate and timely.

Judicial Council's Action: Corrective action taken.

The Rules of Court adopted by the Judicial Council require judicial officers to maintain records that show participation in judicial education. Additionally, these rules require each court to track commissioners' and referees' participation in education and completion of the minimum education requirements. Further, each presiding judge is required to retain judges' records of participation, which will be subject to periodic audit by the AOC. The presiding judge must report the data from these records on an aggregate basis to the Judicial Council, on a form provided by the Judicial Council, within six months after the end of each three-year period.

The Judicial Council reported that in December 2006 the governing committee began, with the involvement of the advisory committees for trial court presiding judges and court executives, to develop a form for presiding judges to use to track judges' participation in judicial education. Subsequently, the governing committee submitted its recommendation of the form to the Executive and Planning Committee of the Judicial Council in March 2007, at which time the recommendation for the form was approved. AOC staff created both manual and automated versions of the forms in late July 2007, and requested presiding judges to use the forms to track judges' participation in judicial education for the three-year period beginning January 1, 2007.

Finding #2: The Education Division is in the midst of a lengthy process to change its approach to providing education programs.

The Education Division currently uses an event-based method of prioritizing and planning its education programs. According to the director of the Education Division, event-based planning is a method that focuses on filling a designated time slot with a training event that is recreated each time the event is planned. However, in 2000 the Education Division began a formal curriculum development process that will form the basis of a method for developing and planning its education programs. The Education Division believes this curriculum-based approach, anticipated for completion within a few years, is more stable and can be designed to target specific audiences at entry, intermediate, or advanced career levels.

We recommended that the Education Division continue its efforts in designing curricula to use in developing its judicial education programs. Further, we recommended that, after implementing the curriculum-based planning approach, the Education Division should formally assess whether it has been successful.

Judicial Council's Action: Partial corrective action taken.

The Education Division reported that it is continuing its efforts in designing curricula to use in developing its judicial education programs and is implementing an evaluation process that includes an initial review of each new program developed. Further, the Education Division stated that, it planned to begin conducting annual reviews of all program offerings to ensure the goals of the curriculum-based approach are met.