

Education on Unconscious Bias and Prevention of Inappropriate Workplace Behavior Now Required

On September 25, 2020, the Judicial Council of California approved an amendment to California Rule of Court [10.469](#) to make education on unconscious bias, as well as on the prevention of discrimination and harassment, mandatory for judicial officers.

Impact on Judicial Education

The rule is effective January 1, 2021. The amended rule does not increase the 30 hours of education that judicial officers are required to receive every three years; it adds these two sets of topics to the content-based requirements, without specifying how much time is required for either topic.

Judicial education in California has included education on bias, fairness, and access for decades, including programs for new judges, such as New Judge Orientation and the Judicial College, for experienced judges at every assignment-specific institute, and for experienced judges in leadership positions, such as the Presiding Judges and Court Executive Officers Court Management Institute and the Supervising Judges Institute. CJER has also offered online resources in this area, such the [Continuing the Dialogue](#) video series, and various podcasts in the [Access & Fairness](#) series. The prevention of sexual harassment and inappropriate workplace conduct is included in the curriculum of the Qualifying Ethics core course, and in online resources, as well as a two-hour live webinar exclusively on the topic.

All existing CJER education on these topics will count toward the new requirement. In addition, CJER will continue to expand content in these areas, and, as always, appropriate education offered by [approved providers](#) outside the judicial branch will also meet the new requirement.

The [Bias and Culturally Responsiveness Toolkit](#) on *CJER Online* lists dozens of online resources that count toward judicial education credit. The [Access, Ethics and Fairness Toolkit](#) lists resources on bias and discrimination prevention, impartiality and bias in judicial decision-making, and prevention of sexual harassment. The [Preventing and Responding to Sexual Harassment For Commissioners, Referees, Supervisors, and Managers](#) webinar is also open to judicial officers, and is offered quarterly.

History and Process of the Amendment

The Judicial Council's Center for Judicial Education and Research Advisory Committee proposed the amendment to rule 10.469 to the Judicial Council in response to recommendations by the Work Group on the Prevention of Discrimination and Harassment. The Work Group, co-chaired by Hon. Brad Hill, Presiding Justice, Fifth Appellate District Court, and Hon. Stacy Boulware Eurie, Judge, Superior Court, County of Sacramento, was convened by Chief Justice Tani Cantil-Sakauye in 2018. The Chief Justice appointed the work group to identify and make

recommendations to the Judicial Council to improve how judicial branch entities prevent and address harassing, discriminatory, and inappropriate workplace conduct based on a protected classification.

As it was originally written in 2008, rule 10.469 recommended that judicial officers have education on “race and ethnicity, gender, sexual orientation, persons with disabilities, and sexual harassment.” The CJER Advisory Committee did not believe that simply adding the categories of “retaliation” and “inappropriate workplace conduct” to the rule would adequately meet the work group’s recommendation. Nor would continuing to recommend, rather than require, such education signal a commitment of the judicial branch commensurate to other employers in California that mandate such training for both supervisory and non-supervisory employees. The committee concluded that making the training mandatory would be the optimal approach to demonstrate the judicial branch’s commitment to a workplace free of sexual harassment and discrimination.

Creating and proposing the amendment to rule 10.469 was a 12-month collaborative process among the CJER Advisory Committee and organizations throughout the judicial branch. The chair of the CJER Advisory Committee, Judge Kimberly A. Gaab, Fresno County Superior Court, appeared before numerous Judicial Council bodies, including the Advisory Committee on Providing Access and Fairness, the Appellate Advisory Committee, the Administrative Presiding Justices Advisory Committee, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee, to elicit their input on the proposed amendment. The proposed amendment was also circulated for public comment. It received widespread approval.

Text of Amended Rule 10.469 (effective January 1, 2021)

Rule 10.469. Judicial education recommendations for justices, judges, and subordinate judicial officers, and additional requirements

(a)–(d) * * *

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

- (1) In order to achieve the objective of assisting judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias, each justice, judge, and subordinate judicial officer should regularly participate in education on fairness and access. The education should include the following subjects: race and ethnicity, gender, sexual orientation, and persons with disabilities.
- (2) Each justice, judge, and subordinate judicial officer must participate in education on unconscious bias, as well as the prevention of harassment, discrimination, retaliation, and inappropriate workplace conduct. This education must be taken at least once every three-year continuing education period as determined by rules 10.461(c)(1) and 10.462(d)(1).