

WSR 22-01-104
RULES OF COURT
STATE SUPREME COURT
[December 6, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO GR) NO. 25700-A-1401
26-MANDATORY CONTINUING)
JUDICIAL EDUCATION)

The Board for Judicial Administration Court Education Committee, having recommended the suggested amendments to GR 26—Mandatory Continuing Judicial Education, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2022.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of December, 2021.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR COVER SHEET
Suggested Amendments to GR 26

GR 26
MANDATORY CONTINUING JUDICIAL EDUCATION

Submitted by the Board of Judicial Administration's
Court Education Committee

A. Name of Proponent: The Board of Judicial Administration (BJA), Court Education Committee (CEC).

B. Spokespersons:

[] The Honorable Tam Bui, Chair, CEC, Snohomish County District Court, 3000 Rockefeller Ave, MS 508, Everett, WA 98201 (telephone (425) 388-3331)

[] The Honorable Douglas J. Fair, CEC, Snohomish District Court, 20520 68th Ave W, Lynnwood, WA 98036-7406 (telephone (425) 774-8803)

C. Purpose: "The CEC shall, subject to the approval of the Supreme Court, establish and publish standards for accreditation of continuing judicial education programs and may choose to award continuing judicial education credits for self-study or teaching." [GR 26(c)] The Board for Judicial Administration's Court Education Committee has con-

tinually reviewed GR 26 and the standards and recommended changes to meet the needs of the judiciary. The proposed change was requested by the Superior Court Judges' Association and their Equality and Fairness Committee, and further reviewed and approved by the CEC and the BJA. The purpose of the change is to increase education on issues of diversity, equity, and inclusion (DEI) throughout the judicial system, and ensure this training by mandating a minimum number of hours in this field.

The changes within GR 26 and the standards require judicial officers receive four and one-half (4.5) credits of education in DEI each reporting period.

Additional language includes limits on carry over DEI credits (1.5), and receiving DEI credits via self-study (2.0), and teaching (2.0) for each reporting period.

Additional administrative changes were made regarding offices and divisions within the Administrative Office of the Courts, gender specific language, and the addition of several national bar associations and organizations to approved judicial education sponsors.

D. Hearing: A public hearing is not requested for this change to the rule or the standards.

E. Expedited Consideration: An expedited process is not requested for these changes.

If you need further information or history on GR 26 and the standards, please contact Mr. Phil Zitzelman at Phil.Zitzelman@courts.wa.gov or (360) 259-6618.

GR 26
MANDATORY CONTINUING JUDICIAL EDUCATION

Preamble. The protection of the rights of free citizens depends upon the existence of an independent and competent judiciary. The challenge of maintaining judicial competence requires ongoing education of judges in the application of legal principles and the art of judging in order to meet the needs of a changing society. This rule establishes the minimum requirements for continuing judicial education of judicial officers.

(a) Minimum Requirement. Each judicial officer shall complete a minimum of 45 credit hours of continuing judicial education approved by the Board for Judicial Administration's Court Education Committee (CEC) every three years, commencing January 1 of the calendar year following the adoption of this rule. If a judicial officer completes more than 45 such credit hours in a three-year reporting period, up to 15 hours of the excess credit may be carried forward and applied to the judicial officer's education requirement for the following three-year reporting period. At least six credit hours for each three-year reporting period shall be earned by completing programs in judicial ethics approved by the CEC. At least four and one half credit hours for each three-year reporting period shall be earned by completing programs in diversity, equity, and inclusion issues, as approved by the CEC. The fifteen credit hours that may be carried forward may include two credit hours toward the judicial ethics requirement and one and one half credit hours toward the diversity, equity, and inclusion requirement.

(b) Judicial College Attendance.

1) A judicial officer shall attend and complete the Washington Judicial College program within twelve months of the initial appointment or election to the judicial office.

2) A judicial officer who attended the Washington Judicial College during ~~his or her~~ their term of office in a court of limited jurisdiction shall attend and complete the Washington Judicial College within twelve months of any subsequent appointment or election to the Superior Court. A judicial officer who attended the Washington Judicial College during ~~his or her~~ their term of office in the Superior Court shall attend and complete the Washington Judicial College within twelve months of any subsequent appointment or election as a judicial officer in a court of limited jurisdiction. A judicial officer who attended the Washington Judicial College during ~~his or her~~ their term of office in a superior court or court of limited jurisdiction and is subsequently appointed or elected to an appellate court position is not required to attend the Washington Judicial College.

3) A judicial officer of a District Court, Municipal Court, Superior Court, or an appellate court, who has been a judicial officer at the time of the adoption of this rule for less than four years but has not attended the Washington Judicial College, shall attend and complete the Washington Judicial College program within twelve months of the adoption of this rule.

(c) Accreditation. The CEC shall, subject to the approval of the Supreme Court, establish and publish standards for accreditation of continuing judicial education programs and may choose to award continuing judicial education credits for self-study or teaching. Continuing judicial education credit shall be given for programs the CEC determines enhance the knowledge and skills that are relevant to the judicial office.

(d) Compliance Report. Each judicial officer shall file a report with the Administrative Office of the Courts (AOC) on or before January 31 each year in such form as the Administrative Office of the Courts shall prescribe concerning the judicial officer's progress toward the continuing judicial education requirements of sections (a) and (b) of this rule during the previous calendar year. If a judicial officer does not respond by January 31, their credits will be confirmed by default. Judicial officers who do not have the requisite number of hours at the end of their three-year reporting period will have until March 1 to make up the credits for the previous three-year reporting period. These credits will not count toward their current three-year reporting period. AOC shall publish a report with the names of all judicial officers who do not fulfill the requirements of sections (a) and (b) of this rule. The AOC report shall be disseminated by means that may include, but are not limited to, publishing on the Washington Courts Internet web site, publishing the information as part of any voter's guide produced by or under the direction of the Administrative Office of the Courts, and releasing the information in electronic or printed form to media organizations throughout the Washington State.

(e) Delinquency. Failure to comply with the requirements of this rule may be deemed a violation of the Code of Judicial Conduct that would subject a judicial officer to sanction by the Commission on Judicial Conduct.

(f) Definition. The term "judicial officer" as used in this rule shall not include judges pro tempore but shall otherwise include all full or part time appointed or elected justices, judges, court commissioners, and magistrates.

[Adopted effective July 1, 2002; amended effective November 26, 2002; December 31, 2003; December 31, 2007; January 1, 2013; December 8, 2015.]

WASHINGTON STATE JUDICIAL EDUCATION
MANDATORY CONTINUING JUDICIAL EDUCATION STANDARDS

Section 1: Organization and Administration

1. Supreme Court

The Supreme Court is the rule-making authority for the integrated judicial branch of government in Washington.

2. Board for Judicial Administration (BJA)

The Board for Judicial Administration provides policy review and program leadership for the courts at large, including recommending rules to the Supreme Court that improve the judicial branch of government in our state.

3. Court Education Committee (CEC)

The Court Education Committee is a standing committee of the BJA and assists the Supreme Court and the BJA in developing educational policies and standards for the court system. The CEC provides budget and appropriation support, monitors the quality of educational programs, coordinates in-state and out-of-state educational programs and services, recommends changes in policies and standards, and approves guidelines for accrediting training programs.

4. Mandatory Continuing Judicial Education (MCJE)

The responsibilities of the CEC will be to:

- a) Administer General Rule (GR) 26;
- b) Establish operating procedures consistent with this rule;
- c) Report annually to the Supreme Court and publicly release names of judicial officers who have not complied with the rule.

5. Administrative Office of the Courts (AOC)

a) ~~Administrative Office the Courts.~~ Under the direction of the Supreme Court and CEC, the (AOC) shall develop guidelines for the implementation of the standards, and shall develop, administer, and coordinate judicial education programs throughout the state. The AOC will also track and monitor attendance at continuing judicial education programs accredited by the CEC.

b) ~~Office of Trial Court Services and Judicial Education.~~ The Judicial Education Unit of AOC shall work with the CEC educational committees of the judicial associations and other ad hoc groups to prepare and implement judicial education programs. The ~~unit~~ AOC shall coordinate all CEC judicial education programs, provide staff for the CEC, and evaluate educational programs. Further, the ~~Judicial Education Unit~~ AOC staff shall provide support and assistance to judicial advisory committees in the planning, development, implementation, and evaluation of education programs consistent with established standards and requirements for judicial education.

The AOC shall maintain the official transcript for each judicial officer based on: 1) attendance records at all CEC accredited education programs; 2) the attendance records of accredited sponsors based on their submissions; and 3) the individual education reports. Based on that official record, AOC will report annually to the Supreme Court.

Section 2: General Standards for Continuing Judicial Education

1. Credit for Continuing Judicial Education (CJE)

During ~~his or her~~ their three (3)-year reporting cycle, each judicial officer must complete forty-five (45) hours of CJE credits, six

(6) of which are in the area of judicial ethics, and four and one half (4.5) are in the area of diversity, equity, and inclusion (DEI). This requirement may be met either by attending approved courses or completing other continuing judicial or legal education activity approved for credit by the CEC, as described below.

a) At least thirty (30) hours, of which at least four (4) hours are in the area of judicial ethics, and three (3) hours in the area of DEI, must be completed by attending accredited courses. "Attending" is defined as (1) presenting for, or being present in the audience at, an accredited CJE course when and where the course is being presented; (2) presenting for, or participating through an electronic medium in, an accredited CJE course at the time the course is being presented; or (3) participating through an electronic medium in an accredited CJE course that has been pre-recorded, but for which faculty are available to answer questions while the course is being presented.

b) Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics and two (2) hours in the area of DEI, may be completed through self-study by listening to, or watching, prerecorded accredited CJE courses. Judicial officers completing credits by self-study must report them to the AOC.

c) Up to fifteen (15) hours, of which up to two (2) hours are in the area of judicial ethics, and two (2) hours in the area of DEI, may be completed through teaching at accredited CJE courses and/or publishing legal writing. A judicial officer may complete up to three (3) hours of teaching credits for each hour of presentation. Credits for published legal writing must be approved by the CEC. Judicial officers completing credits by teaching or writing must report them to the AOC.

d) Up to three hours may be completed by visits to correctional and similar institutions. Judicial officers completing credits by institutional visits must report them to the AOC.

e) Judicial officers may attend a combination of approved local, state, or national programs.

f) A judicial officer may complete credits through other courses that directly aid the judicial officer in performing ~~his or her~~ their specific judicial duties and are approved by the CEC.

2. Carry-Over

If a judicial officer completes more than 45 such credit hours in a three-year reporting period, up to 15 hours of excess credits may be carried forward and applied to the judicial officer's education requirement for the following three-year reporting period. The 15 credit hours that may be carried forward may include two (2) credit hours toward the ethics requirement and one and one half (1.5) credits of DEI.

3. Judicial College Attendance

Each judicial officer shall attend and complete the Washington Judicial College program within 12 months of initial appointment or election to the judicial office.

4. Credit Calculation

Credit is calculated on the basis of 1 credit for each 60 minutes of actual subject presentation/participation, not including introductions, overviews, closing remarks, presentation during meals, or keynote addresses unless clearly identified in the agenda as a substantive legal presentation.

Section 3: Program Accreditation

1. Washington State Judicial Branch Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

a) Washington State Supreme Court

- b) Administrative Office of the Courts
- c) Judicial education programs of Court Education Committee (CEC)
- d) Court of Appeals (COA)
- e) Superior Court Judges' Association (SCJA)
- f) District and Municipal Court Judges Association (DMCJA)
- g) Washington State Supreme Court Commissions Minority and Justice Commission
- h) Commission on Gender and Justice

2. Other Judicial Education Sponsors

Attendance at any education program sponsored by the following shall be presumed to meet standards and be accredited:

- a) The National Judicial College in Reno, including the University of Nevada Masters and Ph.D. in Judicial Studies and Web-based programs.
- b) American Academy of Judicial Education
- c) New York University's Appellate Judges Seminar
- d) University of Virginia's Master of Laws in the Judicial Process (LLM)
- e) The National Center for State Courts (NCSC) programs such as those sponsored by the American Judges Association, the Institute for Court Management, National Council of Probate Judges, and the National Association of Women Judges
- f) Programs approved for Tuition Assistance by CEC
- g) The Judicial Division of the American Bar Association (ABA)
- h) The Judicial Divisions of all National Bar Associations
- i) National Asian Pacific Bar Association
- j) National Bar Association
- k) Hispanic National Bar Association.
- l) National Conference of Women's Bar Associations
- m) North American South Asian Bar Association
- n) National Lesbian and Gay Lawyer Association
- o) National Association of Women Lawyers
- p) National Native American Bar Association
- q) Tribal Courts in Washington State and nationally

3. Other Continuing Professional Education Programs

To receive credit for attending or serving as faculty at a program sponsored by an organization other than those listed above, a judicial officer may file with the AOC an agenda of the program, which will be submitted to the CEC for possible accreditation. Courses approved by the Washington State Bar Association for continuing legal education credits that deal with substantive legal topics, statutory, constitutional, or procedural issues that come before the judicial officer will usually qualify for CJE.

4. Basis for Accreditation of Courses

Courses will be approved based upon their content. An approved course shall have significant intellectual or practical content relating to the duties of the judicial officer.

Definitions. The course shall constitute an organized program of learning dealing with matters directly relating to the judicial officer's duties, including but not limited to substantive legal topics, statutory, constitutional and procedural issues that come before

a) The judicial officer, judicial ethics or professionalism, anti-bias and diversity training, and substance abuse prevention training.

b) **Factors in Evaluating.** Factors which should be considered in evaluating a course include:

- 1) The topic, depth, and skill level of the material.

- 2) The level of practical and/or academic experience or expertise of the presenters or faculty.
- 3) The intended audience.
- 4) The quality of the written, electronic, or presentation materials, which should be of high quality, readable, carefully prepared and distributed to all attendees at or before the course is presented.

5. Programs That Do Not Qualify

The following activities will not qualify for CJE credit:

- a) Continuing Professional Education courses that do **not** relate to substantive legal topics, DEI, or ethics, statutory, constitutional or procedural issues that come before the judicial officer when performing ~~his or her~~ their specific judicial duties.
- b) Teaching a legal subject to non-lawyers in an activity or course that would not qualify those attending for CJE/CLE credit.
- c) Jury duty.
- d) Judging or participating in law school or mock trial competitions.
- e) Serving on professional (judicial or legal) committees/associations.

6. Appeals

A judicial officer may appeal the denial of program accreditation by the CEC. The appeal may be in the form of a letter addressed to the Chair of the BJA that outlines the basis for the judicial officer's request. The Chair of the BJA shall notify the judicial officer in writing of its decision to sustain or overrule the decision of the CEC.

Section 4: Responsibilities

1. Sponsors of Accredited Programs

It is the responsibility of the Washington State judicial branch sponsors of a judicial education program to report judicial officer attendance and credits for all approved CJE courses to the AOC.

2. Individuals

- a) It is the responsibility of **individual judicial officers** to file a report of their attendance when it is less than the full program provided, for programs sponsored by Washington State Judicial Branch entities.
- b) It is the responsibility of the judicial officer to request accreditation for attendance for programs of other judicial educational sponsors (see Section 4.2. list of sponsors).
- c) It is the responsibility of the **individual judicial officers** to submit requests for accreditation for other continuing professional education programs, credit for teaching, published judicial legal writing, or selfstudy to the AOC which shall present those to the CEC for review and determination.

3. Deadline

Absent exigent circumstances, sponsors and individual judicial officers must report attendance within 30 days after completion of a CJE activity.

Section 5: Certification

1. Compliance

The AOC will send out a reminder of the end-of-the-year reporting requirement via judicial officers Listservs each year in August. The AOC will provide a progress report to every judicial officer of the programs they have attended during the previous calendar year by January 1. After reviewing that progress report, judicial officers must either:

- a) Confirm it as an accurate record of their progress toward compliance with the rule, or;
- b) Provide additional information on programs attended with accompanying documentation and;
- c) File that report with the AOC on or before January 31 each year. If a judicial officer does not respond by January 31, their credits will be confirmed by default.

AOC shall publish a report with the names of all judicial officers who do not fulfill the requirements of sections (a) and (b) of GR 26. The AOC report shall be disseminated by means that may include, but are not limited to, publishing on the Washington Courts Internet Web site, publishing the information as part of any voter's guide produced by or under the direction of the AOC, and releasing the information in electronic or printed form to media organizations throughout Washington State.

The report will include the names of all judicial officers who fail to obtain the requisite number of education credits during their three-year reporting period, or the requirements of Judicial College attendance.

2. Three-Year Reporting Periods

Three-year reporting periods will be created as follows:

- a) Group 1 are those judicial officers present as of January 1, 2003, and those who begin service every subsequent third year: 2006, 2009, 2012, 2015, 2018, 2021, 2024, 2027, 2030, etc.;
- b) Group 2 are those judicial officers who begin service in 2004, 2007, 2010, 2013, 2016, 2019, 2022, 2025, 2028, 2031, etc.;
- c) Group 3 are those judicial officers who begin service in 2005 and every subsequent third year: 2008, 2011, 2014, 2017, 2020, 2023, 2026, 2029, 2032, etc.

The three-year reporting period for each new judicial officer begins on January 1 nearest their appointment or election.

3. Delinquency

Failure to comply with the requirements of this rule may be deemed a violation of the Code of Judicial Conduct that would subject a judicial officer to sanction by the Commission on Judicial Conduct.

Section 6: Approval

These standards were approved by the Board for Court Education on August 25, 2003, and by Washington Supreme Court in Court Order 786 on December 4, 2003.

Comments or suggestions regarding the application of the standards or revisions of the standards can be sent to the Manager of The Office of Trial Court Services and Judicial Education or the Chair of the CEC.

[Adopted effective July 1, 2002; amended effective November 26, 2002; December 31, 2003; December 31, 2007; January 1, 2013; December 8, 2015.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.