



*Principles
and
Standards
of
Continuing
Judicial
Education*

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INTRODUCTION & FORWARD

Judging is a specialized profession. To do the job well requires extensive legal knowledge and a wide assortment of complex, unique skills. The need of the judiciary for specialized knowledge and skills is universal, transcending state and even national boundaries. How can the judiciary enrich their knowledge as well as acquire and maintain skills? The *Principles and Standards of Continuing Judicial Education* offers insight into requisite educational opportunities and processes.

The *Principles and Standards of Continuing Judicial Education* contains several firsts. It is the initial delineation of a comprehensive judicial education process that will assist judges to meet society's expectations. It is the first to go beyond process by identifying specific skills and subjects that should comprise career judicial education opportunities. It is the first to incorporate extensively in judicial education appropriate adult education practices by focusing on needs assessments, learning objectives, learning activities, adult learning methodologies and faculty development. Finally, it frames continuing adult education activities within an organizational context - in this case, the Judicial Branch of government or courts.

NATIONAL ASSOCIATION OF STATE JUDICIAL EDUCATORS

The field, activity, process, and occupation known as judicial education has burgeoned in all respects over the past nineteen years. The National Association of State Judicial Educators (NASJE) reflects that growth, expanding from a 1973 meeting of six state judicial educators to an organization composed of judicial educators from 44 states, and leading national education providers, working on behalf of more than 20,000 state trial judiciary.

Principles and Standards of Continuing Judicial Education

It is a natural and necessary step for the Association of individuals who work within court systems, and who are thereby directly responsible for judicial branch education, to use its expertise and resources to develop principles and standards that will guide all organizations and individuals responsible for the professional development of the judiciary throughout the United States. It is anticipated the Association soon will undertake a similar effort for management and technical support staff in the courts.

THE COMMITTEE AND ITS WORK

The *Principles and Standards of Continuing Judicial Education* is the result of a difficult, yet rewarding two-year project of NASJE's Standards Committee. The Committee's goal was to describe the characteristics of good continuing education, not only in terms of the educational activity that eventually occurs, but also the structure, organizational commitment, and individual work needed to ensure quality results. The Committee's efforts included an in-depth study of the national standards of more than twenty professions ranging from doctors and accountants to teachers and architects. They also included analysis of existing standards issued by the American Bar Association for judges, the American Law Institute - American Bar Association for continuing legal education (CLE) providers and sponsors, and the seminal work of the Council on the Continuing Education Unit for adult continuing education practitioners.

With the knowledge gained and its understanding of the current stage of development of continuing judicial education in the United States, the Committee began the lengthy drafting process. Drafts were subjected to many critiques by numerous individuals throughout the country. The final draft was approved by the Board of Directors of NASJE in December, 1991 effective January 1, 1992.

USING THE PRINCIPLES AND STANDARDS

The concepts and practices in the *Principles and Standards* are not necessarily expressions of minimums, nor ultimate ideals; they can serve either purpose. They are what one makes them. Objectives they can serve are:

- as a guide to the internal organizational structure, administration, and program development that supports effective continuing judicial education;
- as a guide to national and state sponsors and providers of continuing judicial education programs and activities, suggesting the educational principles, practices, and processes which generally lead to good educational results;
- as a reference for organizations developing their own mission plans or goal statements;
- as a guide to advance the quality and quantity of educational opportunities for the judiciary, from minimums to higher levels of accomplishment;
- as criteria for review of programs and activities seeking approval for the awarding of mandatory judicial education credits.

ACKNOWLEDGEMENT

As any project of this scope requires, numerous individuals have labored diligently in service to their profession. Foremost are the members of the Standards Committee, named below, who contributed their extensive experience and knowledge of state and national

judicial education as well as their personal time during the many weekends and holiday meetings. I thank them for the grace and good spirits with which they tackled the paper mountains of drafts and revisions.

Thanks are also offered to Paul Li, Director, and the staff of the California Center for Judicial Education and Research, for their early assistance, and to Dean V. Robert Payant, National Judicial College, Dean Louis W. McHardy, National Council of Juvenile and Family Court Judges, Geoff Gallas, formerly Vice President of Research & Technical Services, National Center for State Courts (currently Executive Administrator, First Judicial District of Pennsylvania), and Harvey Solomon, Vice President, Institute for Court Management of the National Center for State Courts, for their critiques and thoughtful input.

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PREAMBLE

The National Association of State Judicial Educators (NASJE) has adopted these Principles and Standards of Continuing Judicial Education to meet the goals and objectives of an effective continuing judicial education program.

COMMENTARY

The goal of continuing judicial education is to maintain and improve the professional competency of all persons performing judicial functions, thereby enhancing the performance of the judicial system as a whole. Chief justices, state court administrators, judicial educators, judges, judicial education organizations, education committees, and others who are responsible for continuing judicial education have identified the following objectives:

1. To assist judges to acquire the knowledge, skills, and attitudes required to perform their judicial responsibilities fairly, correctly, and efficiently;
2. To promote judges' adherence to the highest standards of personal and official conduct;
3. To preserve the integrity and impartiality of the judicial system through elimination of bias and prejudice, and the appearance of bias and prejudice;
4. To promote effective court practices and procedures;
5. To improve the administration of justice; and
6. To enhance public confidence in the judicial system.

PRINCIPLE I:

The Need for Continuing Judicial Education

Formal continuing judicial education for trial and appellate court judges and others performing similar judicial functions is essential for the proper performance of the judicial system.

STANDARD 1.1 Responsibility

The responsibility for continuing judicial education properly rests in the judiciary, under the leadership of the Chief Justice of the highest court of the state.

STANDARD 1.2 Availability

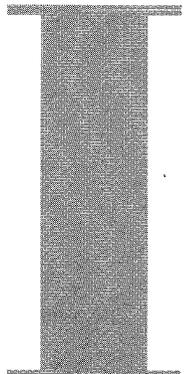
Continuing judicial education opportunities should be available to every individual serving in a judicial capacity.

STANDARD 1.3 Integral Part of Judicial Duties

Participation by judges in continuing judicial education activities should be considered an integral component of judicial duties.

STANDARD 1.4 Educational Leave

Judges should be given leave as needed to attend continuing judicial education activities.



COMMENTARY

- These Principles and Standards of Continuing Judicial Education apply to all persons serving in a judicial capacity or performing judicial functions.
- The professional responsibility of the individual judge includes a duty to attain, maintain, and advance judicial competency (Cf. Code of Judicial Conduct, Canon 3; see also Model Rules of Professional Conduct, Rule 1.1, and Comment, Maintaining Competence.)
- The responsibility for continuing judicial education should rest with the chief justice and a designated oversight committee which includes the judicial education director as a member. Written continuing judicial education standards or administrative rules should include such issues as mandatory judicial education, criteria for approval of qualified activities, reporting requirements, sanctions for non-compliance, exemptions, and confidentiality of records. The judicial education organization or entity responsible for the professional development of persons performing judicial functions should receive the resources necessary to develop and manage the continuing judicial education program and to provide judges with sufficient opportunities to attend judicial education activities.
- An August, 1991 survey conducted by the National Association of Judicial Educators identified thirty-one states that have some form of mandatory judicial education. The mandatory element

may be expressed by statute, rule, or supreme court order, or it may be a longstanding practice. Requirements vary from a minimum number of hours per year to attendance at an annual seminar or participation in orientation. For states which require a minimum number of hours, the standard normally is fifteen hours annually or forty-five hours over a three-year period.

- Judicial education is an integral component of judicial duties. Judges should be granted educational leave for participation in state, regional, and national judicial education programs. Recognizing that resources are limited and heavy caseloads are endemic, it may not be feasible for the judicial system always to grant full leave or full reimbursement. Any reimbursement, in accordance with applicable rules, should be for actual and necessary travel and subsistence expenses.

PRINCIPLE II: Organization and Resources

Each state judiciary should have an organization dedicated to meeting its continuing judicial education needs.

STANDARD 2.1 Mission Statement

Each state's continuing judicial education organization should have a clear, written statement of its mission, goals, and objectives.

STANDARD 2.2 Staff

Each state's continuing judicial education organization should have a full-time director, assisted by full-time staff in order to meet continuing judicial education needs. The director should be responsible for the management and administration of the organization.

STANDARD 2.3 Staff Development

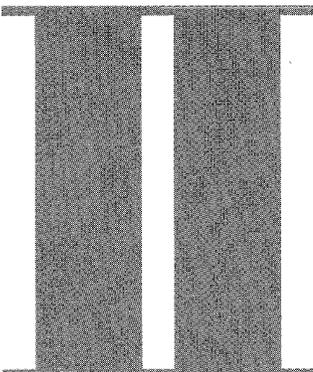
The continuing judicial education organization should provide staff with opportunities to maintain and improve their professional skills.

STANDARD 2.4 Advisory Committee

The continuing judicial education organization should work with an advisory education committee appointed by the Chief Justice or the appropriate appointing authority.

STANDARD 2.5 Fairness

All judicial organization activities should support fairness to all persons regardless of race, religion, gender, sexual orientation, age, disabilities, or ethnicity.



STANDARD 2.6 Adequate Resources

Each state's continuing judicial education organization should possess appropriate resources to plan for and provide effective education over an extended period of time.

COMMENTARY

- A continuing judicial education organization is any entity with the responsibility for the professional development of persons performing judicial functions.
- The effective management of a continuing judicial education organization or entity requires a comprehensive assortment of diverse, yet specialized skills and knowledge ranging from an understanding of the judicial role and emerging legal trends and court administration issues to the utilization of highly-refined interpersonal skills. Educational leave and reimbursement should be provided to permit the attainment, maintenance, and improvement of such skills and knowledge.
- Advisory committees are important to the judicial education function for such activities as planning, resource allocation, publications, needs assessments, curriculum development, programming, and evaluation. Advisory committees can take several forms. One form may be a single committee of judges with responsibility to determine all aspects of judicial education, ranging from administration to the number and content of programs and materials. Another form may be separate committees composed of judges and non-judges to provide advice or

determine more narrow issues, such as the subject matter of a seminar. Most judicial education committees fall between these two examples. The composition of advisory education committees is determined by their responsibilities. In general, judges should comprise a majority of the membership. Terms of members should be staggered.

- Appropriate resources include human, fiscal, and physical resources necessary to achieve the organization's goals and objectives. Long term and appropriate resource allocation demonstrate commitment to maintaining and improving the career performance of the individual judge and the judicial system as a whole. It also is required to attain the high ideals expressed within this document. Quality programming in continuing education is seldom achieved in "one-shot" efforts. The organization should have both a plan and the resources to meet short and long term goals.

PRINCIPLE III:

Education to Meet Career Needs of Judges

Commencing with orientation, continuing judicial education should meet the changing career needs of judges.

STANDARD 3.1 Orientation

New judges, including experienced judges with new judicial assignments, should participate in a multi-faceted orientation process which includes substantive instruction, written materials, and an advisor judge process.

STANDARD 3.2 Continuing Education

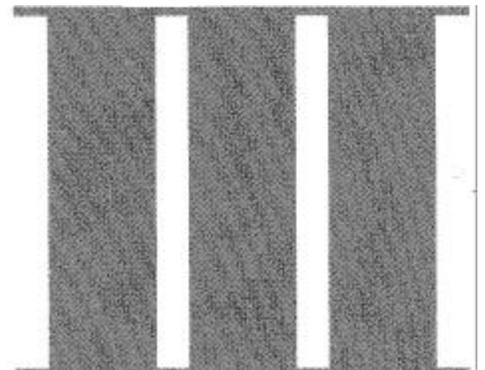
Throughout his or her career, a judge should participate in a comprehensive series of continuing judicial education activities, whether basic, advanced or specialized, at least once a year, and for a minimum of fifteen (15) hours annually, exclusive of orientation.

STANDARD 3.3 Curricula

Curricula for continuing judicial education should include, at a minimum, offerings in the following areas: Legal Ability; Comportment and Demeanor; Judicial Management Skills; Contemporary and Interdisciplinary Issues, and Personal Development.

STANDARD 3.4 Regional and National Education

Judges should have opportunities to participate in regional and national continuing judicial education in order to obtain a broader perspective on judicial functions and to share judicial knowledge, skills, and attitudes with judges from other areas of the United States.



COMMENTARY

- The orientation should include such matters as the transition to the bench, the Code of Judicial Conduct, fairness issues, the effective use of court staff and resources, court system management, case management techniques, overviews of substantive law, courtroom communication skills, demeanor, community and media relations, and meetings with administrators of various court-related agencies and programs.
- New judges should receive written materials whose scope, content, and format are specifically designed to promote the orientation process. These materials should include such quick reference items as checklists, sample procedural language, forms, model instructions, and directories of support resources and agencies.
- Crucial to the orientation process are the appointment and role of an advisor or mentor judge for each new judge . The advisor judge should be the primary responsibility for assisting the new judge upon election or appointment to the bench. Typical duties should include offering advice and suggestions on ethical issues, providing opportunities for the new judge to conduct court, observing and critiquing the new judge, introducing the new judge to local court agencies and personnel, and providing support and guidance as necessary.
- Advisor judges should be carefully selected and should be provided with materials and training in order to perform their duties.

- Many judicial educators believe that new judges should devote a minimum of several weeks to in-state judicial education during their first year on the bench. An orientation program held four to six months after the judge assumes the bench, when the judge has had some judicial experience, is the method chosen by several states. A multi-week pre-bench orientation is the route chosen by a few other states. Both methods are very helpful. The ideal orientation would include sessions both before and after new judges assume the bench.

- As an orientation process is crucial to a new judge, so too a formal, structured continuing education process is crucial to a judge throughout subsequent stages of a career. The goal of a continuing education process therefore should be to meet needs that change, as the individual judge's knowledge and skills change with increased experience and as court systems, court organizations and society itself change.

- Continuing judicial education should include at least the following topics within the five major areas enunciated in Standard 3.3. Legal Ability - updates on law, court rules, and court procedures; in-depth analysis of complex legal issues; examination of judicial decision-making practices and philosophies; and effective opinion writing through identification, analysis and clarity in expressing legal issues, reasoning and conclusions. Comportment and Demeanor - judicial code of conduct; fostering fairness through the recognition and elimination of bias or prejudice; cultural awareness; decisiveness; and judicial temperament. Judicial Management Skills - case management; effective trial and jury management; settlement skills; personnel management; skills to

cope with the growth of litigation and the increasing complexity of legal issues and proceedings; and, when appropriate, court system planning administration. Contemporary and Interdisciplinary Issues - updates on scientific and behavioral sciences relevant to any judicial practice; knowledge of contemporary social issues; and the law and the humanities. Personal Development - revitalization and rededication to public service; awareness of the need to maintain high levels of personal well-being; and stress management.

- Each state has primary responsibility for the education of its judges. If appropriate, several states may wish jointly to conduct regional judicial education programs. Nevertheless, the instruction should be particularized to each state's laws, procedures, and organizational needs. Regional programs, and programs offered by national providers, should complement but not replace ongoing in-state continuing judicial education efforts.

PRINCIPLE IV:

Use of Adult Education Methods

Continuing judicial education programming should be the result of the application of adult education methods to assess needs, design and implement curricula, and evaluate results.

STANDARD 4.1 Needs Assessment

Continuing judicial education should be based on the periodic systematic assessment and analysis of the participants' learning needs, responsibilities, and performance.

STANDARD 4.2 Learning Objectives

Each continuing judicial education activity, and its related instructional materials, should have a clear, concise, written statement of intended learning objectives and should be specifically designed and implemented to achieve the objectives. Learning objectives should specify the performance level at which each participant should be able to express or demonstrate intended changes in knowledge, skills, or attitudes.

STANDARD 4.3 Learning Activities

Learning activities should be designed and implemented to promote active participation.

STANDARD 4.4 Learning Environment

The physical environment for continuing judicial education activities should be conducive to learning and appropriate for intended learning objectives, and should provide appropriate instructional aids and support services.



STANDARD 4.5 Evaluation

The evaluation method should determine whether the stated learning objectives and the expectations of the participants were achieved. Education activities should be evaluated during and after the activity.

COMMENTARY

- A needs assessment is a process used to define the gap between existing and desired knowledge, skills, and attitudes. It is an integral part of the education cycle. From this, learning objectives can be established, curriculum designed, instructional methods selected, and pre- and post-evaluation conducted. Other benefits of conducting an assessment are: to facilitate change; to gain support for and increase participation in education activities; to validate areas of strength; and to complement other internal review processes.
- There are various types of needs assessments, some formal, some informal, each of which has advantages and limitations. Some common needs assessment techniques are: group or individual interviews; open and closed-ended questionnaires; observation or task analysis; group performance analysis; records and reports; and superior or subordinate competency studies. Ideally, several approaches should be used.
- Assessment should be an ongoing process that considers the changing needs of judges, thereby ensuring that education activities are relevant and timely.

- Learning objectives describe what participants should achieve as a result of participating in judicial education activities. The objectives for each activity will determine the selection of instructional methods, faculty, instructional materials, the use of specialized and other learning technologies, and appropriate learning environments.
- Judicial education committees, judicial educators, and faculty need to be actively involved in developing measurable learning objectives for each activity. The statement of learning objectives should be provided to participants prior to or at the beginning of the education activity.
- Adults often learn best by participation. Educational formats should be designed to promote active participation, which stimulates interest, prevents boredom, and enhances learning. A variety of adult education methods can be used to encourage participation. Some methods include panels, workshops, simulations, use of case studies, discussion groups, problem-solving sessions, audience reaction teams, demonstrations, question and answer periods, and group tasks.
- Judges attending continuing judicial education programs should be given ample opportunities to test their acquisition of knowledge, skills, and attitudes.
- Evaluation is necessary to determine whether objectives have been achieved and participants' expectations met, and to assess whether additional education is needed.

- To assess the impact of education activities on the participants' performance, evaluations should be based on written or oral exit interviews and, if feasible, follow-up questionnaires distributed three to six months after the activity. Evaluation may include assessments by persons other than the participants. Open-ended or fixed response questionnaires, interviews, and observational rating scales can be used to determine if the topics were satisfactorily covered, the faculty knowledgeable and prepared, the learning environment appropriate, the materials useful, and the educational methods effective.

PRINCIPLE V: Faculty

Faculty for continuing judicial education activities should be qualified by education or experience to effectively facilitate the attainment of the learning objectives.

STANDARD 5.1 Qualifications

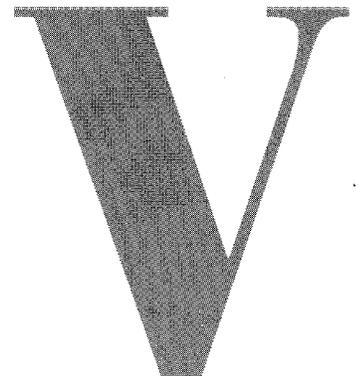
Faculty should be able to plan and conduct education activities for adult learners. They should use adult education methods to provide a forum for participative learning.

STANDARD 5.2 Selection and Development

The core of continuing judicial education faculty should be drawn from the judiciary. Faculty development training should be provided to all judicial education faculty.

STANDARD 5.3 Educational Leave

Courts should make special efforts to grant educational leave to judges who serve as faculty, when their services have been requested by a continuing judicial education organization. Judges serving as faculty should be reimbursed for actual and necessary expenses.



COMMENTARY

- In addition to knowledge and experience, faculty members should possess the following essential skills: fluency in verbal communication; effectiveness in two-way communication; adaptiveness and creativity; and competence in the use of adult education methods.
- Opportunities to serve as faculty should be open to all qualified individuals. Newer judges, and those who have not participated in the past, should be encouraged to become faculty. Opportunities should be rotated commensurate with experience, skills, training, and interests.
- Judicial education faculty should commit the necessary time to participate in faculty development training and to prepare supporting written materials and audiovisual aids. Judicial faculty should be supported in their research, writing, and teaching by the continuing judicial education organization.
- Judges who serve as faculty members in their own state continuing judicial education program should not be paid an honorarium, but should receive reimbursement for their necessary expenses. Teaching at judicial education activities should be recognized as an appropriate judicial responsibility, and judicial faculty should be accorded adequate time from their regular judicial duties.
- Under the ABA Code of Judicial Conduct, judges may receive a reasonable amount of compensation (see Canon 4 H (1) and Commentary) for extra judicial activities permitted under the Code of Judicial Conduct, such as teaching (see Canon 4 C (3)). Individual states may prohibit such compensation.

PRINCIPLE VI:

Resource Materials

The continuing judicial education organization should provide all judges with educational resources to enable them to perform their judicial duties in a knowledgeable, effective, and efficient manner.

STANDARD 6.1 Written Materials

Judges should receive well-researched written material, including benchbooks, deskbooks, manuals, benchguides, and other publications that assist their performance of normal duties in knowledgeable, effective, efficient, and correct manner.

STANDARD 6.2 Program Materials

Judges should receive well-researched written materials produced in conjunction with orientation, continuing education, and advanced/specialty programs as a method of increasing the attainment of learning objectives.

STANDARD 6.3 Lending Library

The judicial education organization should maintain a lending library of written materials and audio and video tapes.

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COMMENTARY

- Educational materials should be the responsibility of the judicial education organization, thereby promoting the coordination of education programs with education materials. Materials should be updated regularly, at least biennially.
- Separate judicial committees should have responsibility for advising the development and maintenance of written materials. A standing committee could be established to advise and monitor ongoing publications such as benchbooks and manuals. The materials may be written by judges or persons with knowledge and experience in not only legal research but judicial practices. Written materials should include checklists, forms, and scripts for everyday use on the bench.
- A lending library should include education materials in addition to recent publications and tapes regarding any matters affecting judicial responsibilities.

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