

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Judicial Council of California:**

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



August 2006  
2005-131

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# CALIFORNIA STATE AUDITOR

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August 29, 2006

2005-131

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning California's current education requirements for judicial officers, a recent proposal on expanding these requirements, and how the Judicial Council of California (Judicial Council) and the Administrative Office of the Courts (AOC) allocate, monitor, and use the judicial branch's appropriation to provide training to judicial officers.

This report concludes that the AOC's Education Division, authorized by the Judicial Council to implement a comprehensive education program for the judicial branch, offers a broad variety of courses to judicial officers. However, much of the training is not required, and judicial officers take most courses at their discretion as current education requirements apply only to new judicial officers and those hearing certain types of cases. The governing committee that advises the Judicial Council on education has proposed education requirements that would generally require judicial officers to attain 30 hours of training over a three-year cycle. However, judicial officers have questioned the proposal, including the Judicial Council's constitutional authority to establish minimum education requirements. In mid-August 2006, after further review, the governing committee voted to move forward the proposal with slight modifications. The proposal is scheduled to be considered by the Judicial Council in October 2006. Additionally, the Legislature does not appropriate funding specifically for judicial education; rather, the Judicial Council and the AOC allocate funding to the Education Division, which collaborates with the federally funded Violence Against Women Education Project to provide judicial education. Finally, our review of selected expenditures for the period July 2004 through December 2005 found they were for appropriate and allowable purposes.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE  
State Auditor

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# SUMMARY

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## 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.*
- 

## RESULTS IN BRIEF

The Judicial Council of California (Judicial Council), empowered by the California Constitution, is the policy-making body of California's court system and is charged with improving the administration of justice. It makes recommendations to the courts as well as annual recommendations to the governor and Legislature. Further, it adopts and revises California Rules of Court, which have the force of law, in the areas of court administration, practice, and procedure, including education. The Judicial Council has authorized the Education Division of the Administrative Office of the Courts (AOC) to implement a comprehensive education program for the judicial branch.

Although the Education Division offers a broad variety of courses to judicial officers, much of the education offered is not required, and judicial officers take most courses at their discretion. Current education requirements, set forth in state law and Rules of Court, apply only to new judicial officers and those hearing certain types of cases. Further, neither statute nor Rules of Court generally require the AOC to track compliance with the education requirements; rather, it is the responsibility of each judicial officer and court to comply.

In February 2003 the governing committee that advises the Judicial Council on education began to review the concept of mandatory education and to 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 includes minimum education requirements for judicial officers. The proposed rule generally calls for 30 hours of continuing education for all judicial officers in a three-year cycle, or 10 hours per year. If approved by the Judicial Council, judicial officers will be

responsible for maintaining records that show compliance with the requirements. Judicial officers have questioned the governing committee's proposal, including the Judicial Council's constitutional authority to establish minimum education requirements. In mid-August 2006, after further review, the governing committee voted to move forward the proposal with slight modifications. The governing committee's recommendation on the proposal is scheduled for submission to the Judicial Council for its consideration in October 2006.

The Education Division provides training to judicial officers through various methods, but traditional delivery education—in which faculty and participants interact in the same place and time—represents the largest percentage of the Education Division's direct operating expenses and equipment for judicial education. In addition, staff responsible for administering the federally funded Violence Against Women Education Project (VAWEP) collaborate with the Education Division to provide education to judicial officers in the areas of domestic violence, sexual assault, and stalking. State law requires, and the Standards of Judicial Administration Recommended by the Judicial Council prescribe, that the Judicial Council and Education Division provide education programs to judicial officers in certain subject areas. However, many education programs focus on a specific area of law and apply to judicial officers assigned to hearing cases involving that area, so only some programs apply to all judicial officers. Moreover, 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. We noted that nearly all the judicial officers we reviewed attended the required education programs, although some did not do so within the required time.

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 focuses on filling a designated time slot with a training event that is recreated each time the event is planned. However, the Education Division began a formal curriculum development process in 2000 that will form the basis of a method for developing 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.

The Legislature does not appropriate funding specifically for judicial education; rather, it appropriates funding for the State's judicial branch. The Judicial Council and the AOC's administrative director of the courts allocate most of the judicial branch's appropriation to the various courts, with a smaller piece going to the AOC. The AOC's executive management and its Finance Division develop the Education Division's annual budget by considering the priorities of the Judicial Council and Education Division as well as the Education Division's budget and actual expenditures from the prior year.

The State's General Fund is the primary source of money for the Education Division and is used largely for personnel costs and education program expenses. The State's Office of Emergency Services funds the VAWEP with resources from the federal Office on Violence Against Women, and funds are used for judicial branch education programs on domestic violence, sexual assault, and stalking. We examined selected expenditures from the Education Division and the VAWEP for the period July 2004 through December 2005 and noted the expenditures were for appropriate and allowable purposes and that each transaction had undergone the AOC's established approval process.

However, the AOC faced obstacles in fully expending its grant awards for the first two years that the VAWEP was funded. VAWEP staff point to various factors that contributed to the AOC not using all the grant awards it received, including its inability to hire staff initially because of the state hiring freeze in effect at the time. Additionally, the AOC experienced delays in receiving grant awards in the first two years of the project. VAWEP staff also assert that the first two years of the grant were developmental, devoted in part to assessing the educational needs of the judicial branch. Since that time, according to VAWEP staff, the AOC has been able to align its expenditures more closely with the awarded amounts.

## **RECOMMENDATIONS**

The Judicial Council should 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.

The Education Division should continue its efforts in designing curricula to use in developing its judicial education programs. After implementing the curriculum-based planning approach, the Education Division should formally assess whether it has been successful.

#### **AGENCY COMMENTS**

The AOC states that it appreciates the recommendations and notes that the report will contribute to the continued improvement of the California courts. ■

# INTRODUCTION

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## BACKGROUND

The Judicial Council of California (Judicial Council) is the policy-making body of California's court system, which is the largest of its kind in the nation. Established in 1926 by the California Constitution, the Judicial Council is charged with improving the administration of justice by performing certain duties. The duties include making recommendations to the courts, making annual recommendations to the governor and Legislature, and adopting and revising California Rules of Court, which have the force of law, in the areas of court administration, practice, and procedure. These rules establish a decentralized system of trial court management, under which the courts have the authority and responsibility to, among other things, manage their daily operations and personnel system, as well as develop and implement processes and procedures to improve court operations. Chaired by the chief justice and comprising 28 members,<sup>1</sup> the Judicial Council is responsible for setting the direction and providing leadership for improving quality and advancing the consistent, independent, impartial, and accessible administration of justice. The Judicial Council performs these functions with the support of its staff agency, the Administrative Office of the Courts (AOC).

As shown in Figure 1 on the following page, most of the \$2.8 billion appropriation received by the Judicial Council for the judicial branch in fiscal year 2004–05 went to the various courts. Moreover, the appropriation does not include funding specifically for education programs; rather, the Judicial Council and the AOC allocate funds that are used for training judicial officers.

## BASIS OF EDUCATION REQUIREMENTS AND RECOMMENDATIONS

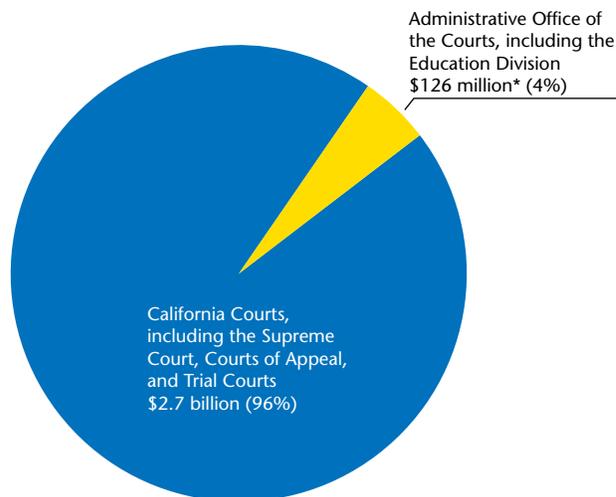
The California Constitution gives the Judicial Council the authority to adopt rules for court administration, practice, and procedure that are not inconsistent with statute. Under this authority, the

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<sup>1</sup> The nominating procedure used to select members of the Judicial Council is intended to attract applicants from across the legal system and to result in a membership that is diverse in experience, gender, background, and geography. The 21 voting members of the Judicial Council consist of the chief justice, 14 justices and judges appointed by the chief justice, four attorney members appointed by the State Bar Board of Governors, and two members from the Legislature.

**FIGURE 1**

**Distribution of the Judicial Branch's  
Appropriation for Fiscal Year 2004–05**



Sources: The Administrative Office of the Courts' Finance Division and California Department of Finance budget reports.

\* The \$126 million includes \$35 million that was primarily for court facilities construction, of which \$18 million was ultimately expended.

Judicial Council has adopted Rules of Court, which have the force of law for practices and procedures in the courts. In addition, the Judicial Council has adopted the Standards of Judicial Administration Recommended by the Judicial Council (judicial standards), in which it makes recommendations on practices and procedures, expresses goals that courts and judicial officers are urged to try to attain, and sets guidelines for discretionary action. Courts and judicial officers are not obligated to comply with the judicial standards' recommendations, goals, and guidelines but should consider them as highly desirable standards of good practice. In the judicial standards, the Judicial Council authorizes the governing committee that advises it on education with developing and maintaining a comprehensive and quality education program for the judicial branch. These standards also authorize the Education Division to implement the governing committee's comprehensive education program.

**Elected Officials or Court  
Employees Defined as Judicial Officers**

**Judge**—An elected official authorized to decide lawsuits brought before the courts.

**Commissioner**—An employee of the court given the power to hear and make decisions in certain legal matters, such as those heard in family court and small claims court.

**Referee**—An employee of the court appointed to hear and make decisions on limited legal matters, such as traffic offenses or certain juvenile matters.

The judicial standards acknowledge that education for all judicial officers is essential to enhancing the fair, effective, and efficient administration of justice. They recommend that judicial officers consider participation in education activities an official duty. Our report focuses on education offered to judicial officers who, as defined in the text box, are elected officials or court employees who make court decisions in lawsuits or other legal matters but are not engaged in the practice of law.

Education requirements that apply to attorneys do not apply to judicial officers. In California an attorney must be certified by the Supreme Court and be an active member of the State Bar of California (state bar) to practice law. Among other things, the State Bar Act contains provisions requiring the state bar to request the California Supreme Court to adopt a Rule of Court authorizing the state bar to establish and administer a mandatory continuing legal education program for its members.<sup>2</sup> Thus, the California Supreme Court adopted a Rule of Court that requires members of the state bar, except those who are specifically exempt from those continuing education requirements, such as judicial officers, to receive 25 hours of continuing education over a 36-month period.

The California Constitution prohibits a judicial officer from practicing law, and the State Bar Act and the California Code of Judicial Ethics mirror this prohibition. Accordingly, judicial officers are not subject to regulation by the state bar. Instead, the Commission on Judicial Performance (commission) oversees the conduct of judicial officers. With regard to judicial officers who are commissioners or referees, the commission has shared authority with the courts that employ them. Among the commission's various powers is its ability to censure, remove, retire, or privately admonish judicial officers for their misconduct or inability to perform their duties because of permanent disability. Rather than being subject to the continuing education requirements applicable to members of the state bar, judicial officers are subject to the education requirements described in Chapter 1.

<sup>2</sup> The California Supreme Court is responsible for overseeing the state bar in its administration of the State Bar Act and is authorized to adopt Rules of Court related to the state bar.

## EDUCATION PROGRAMS AND SERVICES OFFERED

The AOC offers education programs to the more than 2,000 judicial officers and 21,000 court personnel in California's court system. It also administers the Judicial Council's budget and works with advisory committees, task forces, and working groups to help the Judicial Council shape its policies and create programs for administering justice in California's courts. With its headquarters in San Francisco and three regional offices located throughout the State, the AOC is organized based on functional responsibilities rooted in judicial administration and court operations. Although these responsibilities are carried out across the AOC, certain roles and activities are division specific, including the provision of education for the judicial branch.

### Five Units of the Education Division

1. Curriculum and Course Development
2. Design, Consulting, and Systems Development
3. Operations
4. Production, Delivery, and Educational Technologies
5. Publications and Resources

The Judicial Council has authorized the AOC's Education Division to implement the governing committee's comprehensive education program for the judicial branch. The Education Division was formed in 1994 when the Center for Judicial Education and Research merged with the Administrative Education Unit of the AOC.<sup>3</sup> Staff and volunteer subject-matter experts and faculty provide professional training as well as legal education for judicial officers and court personnel. The Education Division is composed of five units, as shown in the text box.

The Education Division offers a year-round series of education programs and services for judicial officers, including orientation programs for new judicial officers, continuing education programs, publications, videotapes, and other educational aids. The Education Division also offers programming and services for court personnel and AOC staff in the areas of orientation, management and supervision, and leadership.

The AOC's Center for Families, Children, and the Courts (CFCC) also provides some educational and professional training opportunities for the judicial branch. The CFCC's mission is to improve the quality of justice and services to meet the diverse needs of children, youth, families, and self-represented litigants in the state courts. In carrying out this mission, the CFCC provides courts with legal and court services, research, educational and training opportunities, and print and

<sup>3</sup> The Center for Judicial Education and Research was established in 1973 as a joint enterprise of the Judicial Council and the California Judges Association.

electronic publications. Additionally, the CFCC collaborates with the Education Division in implementing the federal Violence Against Women Education Project (VAWEP), which is an initiative designed to provide information, educational materials, technical assistance, and training to the courts on their role in responding to issues of domestic violence, sexual assault, and stalking.

## **SCOPE AND METHODOLOGY**

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits to review and assess how funds appropriated to the 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 past 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.

We reviewed state law and Rules of Court to determine the education provisions applicable to California's judicial officers. We learned that the governing committee had recently proposed enhancing education requirements for judicial officers. We interviewed staff from the Education Division and reviewed relevant documentation to determine the processes the governing committee employed to establish the proposal. Additionally, we assessed the extent to which requirements under the proposal differ from those currently in place. We also interviewed the manager of the AOC's Internal Audit Services Unit to determine whether the scope of its periodic audits of courts includes procedures related to judicial education requirements.

To determine how funds appropriated to the Judicial Council are used for training judicial officers, we interviewed key personnel in the AOC's Education and Finance divisions and the CFCC. We also determined the training courses offered to judicial officers in fiscal years 2002–03 through 2004–05 by reviewing course materials, descriptions, training methods, and attendance rosters. We focused our review on traditional delivery education programs—in which faculty and participants interact in the same place and time—because these courses represent the largest percentage of the Education Division's direct operating expenses

and equipment for judicial education. Further, we determined whether new judicial officers attended the required training programs within the specified periods by reviewing the dates they were appointed as well as attendance rosters. Additionally, we interviewed key personnel in the Education Division and staff assigned to the VAWEP as well as reviewed relevant documentation to determine the AOC's process for developing training programs. As we did so, we learned that the AOC was in the process of changing its approach to developing training programs. We examined that development process and what the AOC hopes to accomplish.

To assess the controls the AOC has in place to ensure that training funds are used for allowable activities, we interviewed key personnel from the Finance Division and selected a sample of costs from the Education Division and the VAWEP for the period July 2004 through December 2005. To determine the processes and practices used in developing the budget for training judicial officers, we interviewed key personnel from the Finance and Education divisions as well as VAWEP staff within the CFCC. We also reviewed periodic financial reports for fiscal years 2002–03 through 2004–05 to determine that the training budgets were monitored appropriately and expenditures did not exceed budgeted amounts.

Although we were asked to determine the amount appropriated for training judicial officers over the past three years, the Judicial Council's appropriation does not include funding specifically for education programs. To identify the amount allocated by the AOC for education, we reviewed budgetary reports from the Finance Division. To identify the amounts awarded for the VAWEP, we reviewed grant award agreements for the past three federal fiscal years. Further, to determine the amount spent on education, we obtained electronic data from the AOC's database and expenditure reports from its Finance Division.

Generally accepted government auditing standards require us to assess the reliability of computer-processed data. We assessed the reliability of the data by performing electronic testing of required data elements, reviewing existing information about the data and the system that produced them, interviewing agency officials knowledgeable about the data, and testing the accuracy and completeness of the data. Based on our analysis, we determined that the data were sufficiently reliable for the purposes of our report. ■

# CHAPTER 1

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## ***The Judicial Council of California's Governing Committee on Education Is Proposing Expanded Education Requirements for Judicial Officers***

### CHAPTER SUMMARY

The Judicial Council of California (Judicial Council), empowered by the California Constitution, 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, 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 compliance with the education requirements. Rather, it is the responsibility of judicial officers and the courts to ensure that the requirements are followed.

The governing committee has proposed expanding education requirements that generally would require judicial officers to attain 30 hours of training over a three-year cycle. If the proposed change is adopted, judicial officers will be required to annually submit records of participation in education programs to their applicable presiding judges. Judicial officers have questioned the governing committee's proposal, including the Judicial Council's constitutional authority to establish minimum education requirements. In mid-August 2006, after further review, the governing committee voted to move forward the proposal with slight modifications. The governing committee's recommendation on the proposal is scheduled for submission to the Judicial Council for its consideration in October 2006.

Among the various methods the Education Division uses to provide training to judicial officers, traditional delivery education—in which faculty and participants interact in the same place and time—represents the largest percentage of the Education Division’s direct operating expenses and equipment for judicial education. Some training is offered by the federally funded Violence Against Women Education Project (VAWEP); staff responsible for administering the VAWEP collaborate with the Education Division to provide education to judicial officers in the areas of domestic violence, sexual assault, and stalking.

Because many education programs focus on a specific area of law and apply to certain judicial officers, only some education programs are general in content and apply to all judicial officers. Moreover, 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. Using records provided by the Education Division for July 2002 through mid-April 2006, compiled at our request, we found that nearly all newly appointed or elected judicial officers that we reviewed attended the required education programs, although some did not do so within the required time frame.

To design and develop its programs, the Education Division uses an event-based method that focuses on filling a designated time slot with a training event. Although the Education Division is using this method, in 2000 it began a formal curriculum development process that, when completed in a few years, will form the basis of a method for developing its education programs.

### **THE STATE’S CURRENT EDUCATION REQUIREMENTS APPLY ONLY TO JUDICIAL OFFICERS IN LIMITED CIRCUMSTANCES**

As part of its comprehensive education program for judicial officers, the Education Division offers training in areas such as ethics, family law, criminal law, and juvenile dependency law. Because much of the education offered is not required, judicial officers participate in most training at their own discretion. In fact, current requirements established by 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. In its Standards of Judicial Administration Recommended by

the Judicial Council (judicial standards), the Judicial Council only recommends certain educational goals but does not require them. Table 1 summarizes the current requirements.

**TABLE 1**

**Current Education Requirements for Judicial Officers as Established by Rules of Court or State Law**

<b>Rule of Court or State Law</b>	<b>Participants</b>	<b>Program</b>	<b>Time Frame</b>
Rule 970	Newly appointed or elected	One-week orientation program and a two-week judicial college provided by the Education Division	Within six months of taking the oath of office for the orientation program and within two years for the judicial college
Rule 5.30	New to hearing family law cases	Basic education program on California family law	Within six months of assignment, or one year of assignment in courts with five or fewer judicial officers, based on availability of funds
Rule 5.30	Assigned principally to hear family law matters	Periodic update on new developments in California family law and procedure	Not specified and based on availability of funds
Rule 5.340	New to hearing child support cases	Basic education program on California child support law	Within six months of assignment
Rule 5.340	Assigned principally to hear child support matters	Update on new developments in child support law and procedure	At least once each calendar year
Welfare and Institutions Code, Section 304.7	New to hearing juvenile dependency cases	Basic education program on juvenile dependency law	Within one year of assignment, as specified by the judicial standards (Section 304.7 requires the Judicial Council to implement education standards in this area)
Welfare and Institutions Code, Section 304.7	Assigned to conduct juvenile dependency hearings	A training session on California juvenile dependency law	Annually

Sources: California Rules of Court, state law, and the judicial standards as they relate to the Welfare and Institutions Code, Section 304.7.

State law requires the Judicial Council to submit an annual report to the Legislature on judicial officer compliance with the juvenile dependency overview course requirement. The Education Division develops the report using information submitted by the courts in each county. For calendar year 2005

the Education Division reported that 178 (94 percent) of the 190 judicial officers assigned to hear dependency cases attended the required course.<sup>4,5</sup>

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***Although judicial officers are required to attend certain courses, the AOC generally is not required to track judicial officers' compliance with the training requirements.***

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According to the assistant director of the Education Division, the motivation for requiring training in certain areas of law, such as family and juvenile dependency law, is the perception that these assignments are very difficult and involve some of the most critical issues and vulnerable parties in the court system. He added that the judicial officers given these assignments often have less seniority and experience and therefore have a greater need for education in these areas. However, although judicial officers are required to attend certain education courses, neither state law nor the Rules of Court require the AOC to track judicial officers' compliance with the training requirements (except for the juvenile dependency overview course for which it has to submit an annual report, as discussed earlier). Rather, it is the responsibility of judicial officers and the courts to ensure compliance with the requirements.

Additionally, Audit Services conducts periodic audits of the courts primarily to ensure court compliance with the Trial Court Financial Policies and Procedures Manual. It does not include testing to ensure whether judicial officers are complying with the education requirements described previously. The current scope of the audits includes, but is not limited to, financial, performance, and compliance tests and includes testing of transactions and balances, financial procedures, internal controls, compliance with rules and regulations, and certain performance criteria. Further, the judicial standards recommend that judicial officers participate in eight days of education annually. As part of its testing, Audit Services determines whether the applicable presiding judge for each court has established a system that allows judicial officers sufficient time away from their duties if they choose to take the recommended number of days of education.

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<sup>4</sup> Some counties reported more judicial officers completing the juvenile dependency overview course than were assigned to hear juvenile dependency cases. According to the assistant director of the Education Division, some judicial officers not currently assigned to these types of cases may take the course in preparation for a future assignment to hear juvenile dependency cases.

<sup>5</sup> Our review revealed that the Education Division reported on three years of data (2003 through 2005) when it submitted its report in March 2006. According to its assistant director, the Education Division discovered in November 2005 that it had not submitted reports for 2003 and 2004. He states that the division now has a better tracking system for the annual report.

## THE GOVERNING COMMITTEE CONSIDERED VARIOUS FACTORS IN DETERMINING WHETHER TO PROPOSE MINIMUM EDUCATION REQUIREMENTS

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*The governing committee began to review the concept of mandatory education in February 2003.*

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In February 2003 the governing committee began to review the concept of mandatory education and to consider whether to submit a proposal to the Judicial Council on education requirements for all judicial officers. The governing committee studied other state education models, assessed judicial officers' attendance at programs offered by the Education Division, considered prior efforts to establish minimum education requirements, and conducted surveys of judicial officers in California.

At the February 2003 meeting Education Division staff and the governing committee discussed the findings of a 2002 survey conducted by an organization that serves as a national clearinghouse for information on education for judicial officers and other court personnel. Education Division staff noted that of the 48 states that responded to the survey, 36 had education requirements that applied to judicial officers and 12 had none. Further, the survey found that 23 of the 36 states mandating judicial officer education required a specific number of education hours annually, ranging from 10 hours in some states to 30 or more hours in one, with the majority of states requiring 11 to 20 hours per year. Additionally, the governing committee reviewed participation figures reported by the Education Division for the programs it offered during 2002. According to Education Division data, 1,122 (56 percent) of California's 2,021 judicial officers in 2002 attended the Education Division's judicial education programs.<sup>6</sup>

At its July 2003 meeting the governing committee discussed the likelihood of resistance by judicial officers to establishing additional education requirements given the response to an earlier attempt to enhance those requirements. In 1994 the governing committee at that time proposed Rule of Court 970, which included not only education requirements for newly appointed or elected judicial officers, which ultimately were adopted, but also a requirement mandating judicial officers to attain a minimum of 40 hours of continuing education annually. The proposed Rule of Court was submitted for public comment in June 1994, and the governing committee received

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<sup>6</sup> The Education Division also reported that 698 judicial officers attended the Qualifying Ethics Program, but it did not identify the extent to which they already had been counted as participants in other education programs.

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***In 1994 the governing committee proposed a Rule of Court that included a mandate for judicial officers to attain a minimum of 40 hours of continuing education annually; however, the mandate was ultimately removed from the proposal.***

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numerous responses from judicial officers expressing concerns about the proposal. At that time the judicial officers questioned the Judicial Council's constitutional authority for requiring education for judicial officers and voiced concerns about various other issues, including enforcement and compliance. After further examination, the governing committee reported at a June 1995 meeting that the California Judges Association (CJA) refused to support a Rule of Court requiring continuing education for judicial officers. Subsequently, the governing committee removed the continuing education requirement of 40 hours per year from the proposed rule, and the Judicial Council adopted Rule of Court 970 effective January 1996.

Another topic of discussion at the July 2003 meeting was whether a mandatory education model similar to that of the State Bar of California (state bar) should be adopted for the entire judiciary. As mentioned in the Introduction, state bar members, unless they are exempt from the requirement, are required to receive 25 hours of continuing education over a 36-month period. The governing committee indicated that adopting this type of model would ensure that every judicial officer participates in some form of education regularly, which would enhance judicial performance and elevate education as an essential component of each judicial officer's career. Further, the governing committee noted that if no additional education were required for judicial officers, the current level of voluntary participation for most areas of continuing education likely would remain unchanged. Specifically, the governing committee stated that although a large number of judicial officers currently take part in education programs, a significant percentage of the judiciary does not participate and probably would continue not participating.

The governing committee also considered the many forms that additional education requirements could take, ranging from specifying mandated courses to requiring a minimum number of education hours over a given period, with the latter giving judicial officers wide discretion in choosing the content of their training. The governing committee concluded the July 2003 meeting by indicating that it would develop a survey to canvass judicial officers about the issue before proposing minimum education requirements for judicial officers.

Later that summer, in an initial effort to gather opinions on mandatory education, the governing committee conducted a telephone survey of nine presiding judges representing both large and small courts in Northern and Southern California. The

governing committee reported that all but one of the presiding judges it contacted strongly supported the idea of mandatory judicial education. However, the responses of some judges to a follow-up question regarding the possibility of enforcing education requirements significantly reduced the level of support for mandatory judicial education. The governing committee reported that it distributed additional surveys at an October 2003 meeting of the trial court presiding judges advisory committee and received several more responses, all of which strongly supported the idea of mandatory judicial education. At a November 2003 meeting the governing committee decided to begin developing various models for mandatory judicial education and to begin engaging various stakeholders in reviewing, commenting on, and evaluating the merits of these models.

As a result, in February 2004 the governing committee met to discuss mandatory judicial education in preparation for a meeting scheduled with the Judicial Council in April 2004. At that meeting the committee described the education models it had considered: expanding existing education requirements that focus on specific subjects, implementing a model similar to the state bar's, elevating existing education provisions recommended in the judicial standards to requirements in the Rules of Court, and modifying existing models based on a review of mandatory education in other states. Additionally, the governing committee considered whether to implement the education model immediately or phase it in over a period of years and decided that it would not make any recommendations regarding compliance because the matter of enforcement is beyond the scope of its responsibility. At the April 2004 meeting the Judicial Council gave a favorable response to the governing committee's presentation on education requirements and directed it to continue its study and research and report back with recommendations on how to move forward.

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***The 16 percent of California judicial officers responding to a 2004 survey conducted by the governing committee reported participating in an average of 26 hours of continuing education each year.***

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As its next step, the governing committee sent out surveys in August and September 2004 to gather data on continuing education requirements in the judicial branch. The survey aimed to determine judicial officers' current level of participation in education programs. Based on a response rate of 16 percent, or 324 responses from California's 2,043 judicial officers as of July 2004, judicial officers reported participating in an average of 26 hours of continuing education each year. According to the assistant director of the Education Division, which provided staff to support the governing committee's survey effort, the low survey response rate was not a concern. In fact, the assistant

director commented that the Education Division was pleased to receive the number of responses it did because judicial officers are very busy and the survey may not be as high a priority as other matters.

### **THE GOVERNING COMMITTEE RECENTLY PROPOSED MINIMUM EDUCATION REQUIREMENTS FOR JUDICIAL OFFICERS**

The governing committee considered two overarching goals as it began developing a recent proposal on minimum education requirements for judicial officers. The first goal was to preserve the ability of each judicial officer and court, through the presiding judge, to determine the content and means by which an individual would participate in continuing education. Second, the governing committee sought to establish broad educational parameters for judicial officers newly appointed to the bench or those with experience but new to a particular role or an assignment. The governing committee believed these parameters would ensure that judicial officers receive the information they need to succeed in their new assignments.

***In 2005 the governing committee presented to the Judicial Council an example of how current education requirements might be enhanced, which included a proposed requirement that judicial officers attain 30 hours of education over a three-year period.***

In February 2005 the governing committee presented to the Judicial Council a conceptual example of how current education requirements might be enhanced. The example included adding an assignment-based overview course for judicial officers new to an assignment. Additionally, the example outlined an individualized three-year cycle judicial officers could follow to satisfy the proposed 30-hour continuing education requirement. Based on this presentation, the Judicial Council directed the governing committee to continue gathering feedback, refining the example, and developing a proposal.

The governing committee presented the example to presiding judges at regional meetings in San Francisco, Sacramento, and Burbank in April 2005, and it reported that the feedback it received was generally favorable. Additionally, in May 2005 the governing committee asked members of the CJA executive board to express its collective opinion on the conceptual example. According to the governing committee, the CJA submitted a statement commenting that it was strongly in favor of enhanced voluntary educational opportunities for judicial officers, and it requested that adequate resources be made available to permit

officers to use these opportunities. The CJA's statement did not specifically comment on continuing education requirements for judicial officers.

In May 2005 the governing committee conducted a survey of California's judicial officers to determine support for the example. It subsequently reported that it received 160 responses,<sup>7</sup> with 75 percent supporting the example, 19 percent opposing it, and 6 percent answering the questions ambiguously. In September 2005 the governing committee formally recommended that the Judicial Council approve the following proposed model of minimum education requirements for judicial officers:<sup>8</sup>

- In addition to the existing orientation and judicial college requirements, newly appointed or elected judicial officers would be required to take an assignment-based overview course within the first year of taking the bench. Beginning on January 1 of the year following completion of these requirements, judicial officers would participate in an individualized cycle of education and be required to receive 30 hours of continuing education during a three-year cycle, or 10 hours per year (much less than the eight days a year the judicial standards recommend).
- Beginning January 1, 2007, all other judicial officers would be required to participate in an individualized cycle of education and to receive 30 hours of continuing education during a three-year cycle.
- Judicial officers would receive an overview course whenever changing primary assignments unless they return to an assignment within two years.
- Judicial officers could receive continuing education from several approved providers, including the CJA and the state bar. Local courts could approve other education providers.
- Tracking of compliance with the proposed education requirements would continue to be the responsibility of the individual and the court. Judicial officers would be required

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<sup>7</sup> The 160 responses represent 8 percent of the California judicial officer population of 2,037 as of July 2005.

<sup>8</sup> The proposed requirements focus on trial courts. The governing committee commented that if the proposal is adopted, it will assess whether to recommend enhancing minimum education requirements for appellate courts. Further, although there are specific proposed requirements for new presiding judges or new supervising judges, we do not list these here.

to give their presiding judges copies of their records of participation in education at the end of each year and submit statements of completion at the end of each three-year period.<sup>9</sup>

Additionally, in its September 2005 report to the Judicial Council, the governing committee stated that data provided by the National Center for State Courts in 2005 indicated that 42 states required continuing education for judicial officers, ranging from 10 hours per year in Florida to 64 hours per year in Vermont. The table in Appendix A lists the states that do not require continuing education for judicial officers and the states that do, specifying the number of education hours judicial officers are required to attain annually.<sup>10</sup> We asked the assistant director of the Education Division why the governing committee proposed a model requiring judicial officers to attain 10 hours of education annually, the minimum level noted in the survey. He stated that the governing committee believed that a higher hourly requirement—for example, 40 hours—would likely increase resistance to the model. Further, he commented that given the amount that judicial officers are currently participating and the amount of programs the Education Division offers, the governing committee believed this level would not have a significant fiscal impact at the state and local levels.

The governing committee reported to the Judicial Council information related to implementation costs at the state and local levels. The Education Division analyzed the amount of education delivered and attended by California judicial officers in 2003 and determined that it provided enough education for judicial officers to attend an average of 15 hours annually. Given that the proposed model calls for 10 hours of education per year, the governing committee reported that the additional cost of delivering enough content to meet the requirement would be minimal. Further, in relation to local costs, although state funds currently cover lodging and group meals at Education Division training programs, in most cases travel is the responsibility of the court or the judicial officer. However, the governing committee believes that, because some judicial officers attend many training sessions and some attend none, costs will likely be redistributed among the courts if all judicial officers are required to meet minimum education requirements.

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***The governing committee reported that the additional cost of delivering enough content to meet the proposed education requirement would be minimal.***

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<sup>9</sup> When it submitted the proposed minimum education requirements for judicial officers, the governing committee also submitted proposed education requirements for court administrators and other court personnel.

<sup>10</sup> Table A in Appendix A, which lists 43 states as having continuing education requirements, is based on updated data from the Court Statistics Project of the National Center for State Courts.

In April 2006 the Judicial Council's Rules and Projects Committee, which directs and oversees the development and approval of Rules of Court, approved the release for public comment of the proposed minimum education requirements for the judicial branch, including judicial officers. As discussed further in the next section, in mid-August 2006, after considering public comments, the governing committee voted to move forward the proposed rules with slight modifications. It intends to submit its recommendation on the proposed rules to the Rules and Projects Committee for its review in September 2006 and to the Judicial Council for its consideration in October 2006.

### **JUDICIAL OFFICERS HAVE RAISED CONCERNS ABOUT THE PROPOSAL**

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*Judicial officers have questioned the governing committee's proposal, including the Judicial Council's authority to mandate education.*

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Judicial officers have questioned the governing committee's proposal, including the Judicial Council's authority to mandate education. In March 2006 two judicial officers wrote a letter to the CJA questioning the legal authority of the Judicial Council to adopt a Rule of Court mandating educational standards for judicial officers. The two judicial officers also indicated that they believe there is a reasonable probability that the proposed Rule of Court, if adopted and subjected to a legal challenge, would be found to be outside the Judicial Council's authority to adopt rules for court administration, practice, and procedure. Subsequently, at its midyear conference in May 2006, CJA board members voted to seek outside counsel's opinion of whether the Judicial Council has the authority to establish education requirements.

In response to these concerns, in April 2006 the AOC's Office of the General Counsel (general counsel) issued a legal opinion concluding that the Judicial Council does have the authority to establish minimum education requirements. The opinion explains that the general counsel's conclusion is based on the belief that requiring judicial officers to acquire a certain level of education is within the Judicial Council's authority to adopt rules for court administration, is not inconsistent with statute, and does not add a qualification for holding judicial office that is not otherwise required by the California Constitution. Additionally, the general counsel pointed out that many states have adopted continuing education requirements for judicial officers, and in doing so some have relied on constitutional provisions related to rule-making authority over the court administration that are similar to those found in the California Constitution. With respect to its conclusion that the rules would

not be inconsistent with statute, the general counsel indicated in its written legal opinion that relevant case law provides support for the Judicial Council to adopt rules that go beyond statutes if the rules reasonably further the purpose of the statutes and that the proposed rules do not conflict with any of the current statutes addressing judicial education. In addition, the general counsel explained that it is its belief that the current statutory scheme regarding judicial education reflects a broad legislative intent that the Judicial Council address judicial education in a comprehensive manner, and there is no indication of any legislative intent to limit the Judicial Council's authority to require minimum judicial education.

In June 2006 the CJA's outside counsel provided its opinion on the Judicial Council's authority to enact the proposed minimum education requirements for judicial officers. The outside counsel concluded that the proposed minimum education requirements may fall within the Judicial Council's authority to adopt rules for court administration; however, it noted that there is at least a substantial argument that the proposal is "inconsistent with statute" and thus exceeds the Judicial Council's rule-making authority. The outside counsel stated in its written legal opinion that the current statutory scheme in California permits, and in some instances requires, the Judicial Council to provide training and education programs for judicial officers that deal with specific areas of law. Further, the outside counsel expressed its belief that this pattern suggests that the Legislature, although it has never expressly prohibited education requirements, did not contemplate that the Judicial Council would be able to create such requirements for the entire judiciary without statutory approval or authorization. The outside counsel stated that it seems reasonable to conclude that the Legislature intended that the judiciary be subject to mandatory training and education only when such programs were specifically authorized by statute. From this perspective, the outside counsel believes that the proposed minimum education requirements could not align with the implicit intent of the Legislature and therefore would be inconsistent with the statutory scheme.

The public comment period on the proposal closed in late July 2006. According to the assistant director of the Education Division, as of late July 2006 the governing committee had received more than 200 public comments from groups and individuals, of which the majority disagreed with the proposed education requirements. He explained the comments that disapprove of the proposal follow certain themes, such as stating

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*As of late July 2006 the governing committee had received more than 200 public comments, of which the majority disagreed with the proposed education requirements.*

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the Judicial Council does not have the constitutional authority to adopt education requirements and claiming that the rules would be an infringement on judicial officers' independence. Additionally, the assistant director of the Education Division explained that the governing committee received some comments approving of the proposed education requirements, including statements that the public deserves and expects no less of its judicial officers, and that the education requirements would not be overly burdensome because most judicial officers already participate in as much or more than the 10 hours per year the proposal would require.

In late July 2006, in response to the AOC's request, the Office of the Attorney General provided informal legal advice regarding whether the Judicial Council is vested with authority to adopt rules for judicial education. The Office of the Attorney General concluded that the Judicial Council has such legal authority. Further, it concluded that if the rules for judicial education currently proposed by the governing committee are adopted by the Judicial Council, the rules would not be inconsistent with statute. In mid-August 2006, after considering the informal legal advice and the public comments, the governing committee voted to move forward the proposed rules with slight modifications. According to the governing committee, the modifications included some simplifications of the language that made no substantive change and an amendment to the education criteria that local courts use to approve education programs that would give them more flexibility to approve those programs. The Judicial Council is scheduled to consider the proposed rules in October 2006.

#### **THE EDUCATION DIVISION COORDINATES WITH THE VIOLENCE AGAINST WOMEN EDUCATION PROJECT TO PROVIDE EDUCATION PROGRAMS TO JUDICIAL OFFICERS**

The Education Division provides education programs to California's judicial officers in accordance with several requirements in state law and recommendations made by the Judicial Council in its judicial standards. In addition, staff administering the federally funded Violence Against Women Education Project (VAWEP) collaborate with the Education Division to provide education to judicial officers in the areas of domestic violence, sexual assault, and stalking.

### Training Methods Used by the Education Division

- **Traditional delivery education:** Faculty and participants are face-to-face in both time and place.
- **Distance education:** Faculty and participants are separated by time and/or geography, as in satellite broadcasts and online courses.
- **Practice-oriented publications and other print resources:** These books, handbooks, and loose-leaf guides cover court procedures, include judicial practice tips, and are intended to provide a balanced presentation of the law.

The Education Division provides training through traditional delivery education, distance education, and practice-oriented publications and other print resources, as shown in the text box. It offers a year-round series of education programs and services for judicial officers, including orientation programs for new judicial officers, continuing education programs, videotapes, and other educational aids. In addition, state law requires and the judicial standards recommend that the Judicial Council and the Education Division provide education programs for judicial officers in certain subject areas, as shown in Table 2.

As indicated in Table 2, the Education Division offers training programs that comply with state law requirements and the judicial standards' recommendations. The traditional delivery education programs offered by the Education Division represent the largest percentage of the Education Division's expenditures for direct operating expenses and equipment for judicial education. As shown in Figure 2 on page 26, 66 percent of the Education Division's judicial education program expenditures for direct operating expenses and equipment in fiscal year 2004–05 were for traditional delivery education programs. An additional 28 percent of education program expenditures were for distance education, and 6 percent were for various practice-oriented publications and print resources.

Among the distance education courses the Education Division offers is an annual series of two-hour broadcasts on sexual harassment prevention and online courses that cover areas such as child support and juvenile dependency for judicial officers to access at their discretion. Practice-oriented publications and other print resources include information related to a particular area of the law or judicial proceedings. For example, publications and print resources on court procedures are intended to provide a balanced presentation of the law to avoid taking an advocacy position.

**TABLE 2**

**Education Programs for Judicial Officers as Required by State Law or Recommended by the Judicial Standards**

Provision	Area of Law	Summary of Education Provisions	Programs Offered by the Education Division That Satisfy the Provision*
<b>State Law Requirements</b>			
Government Code, Section 68553	Family law	The Judicial Council shall establish training that includes a family law session in any orientation conducted for newly appointed or elected judicial officers and an annual training session in family law.	B.E. Witkin Judicial College and Family Law Institute
Government Code, Section 68553.5	Juvenile delinquency	To the extent resources are available, the Judicial Council shall provide education to judicial officers on mental health and developmental disability issues affecting juveniles in delinquency proceedings.	Juvenile Law Institute <sup>†</sup>
Government Code, Section 68555	Domestic violence	The Judicial Council shall establish training that includes a domestic violence session in any orientation conducted for newly appointed or elected judicial officers and an annual training session in domestic violence.	B.E. Witkin Judicial College, Domestic Violence Institute, and multiple Violence Against Women Education Project (VAWEP) programs
Penal Code, Section 1170.5	Criminal	The Judicial Council shall conduct annual criminal sentencing institutes.	Criminal Law Institute
Welfare and Institutions Code, Section 304.7	Juvenile dependency	The Judicial Council shall establish training that includes, but is not limited to, a component related to juvenile dependency proceedings for newly appointed or elected judicial officers and an annual training session in juvenile dependency proceedings.	B.E. Witkin Judicial College and Juvenile Law Institute
<b>Judicial Standards Recommendations</b>			
Judicial Standards, Section 25.3	General	The Education Division should provide a comprehensive educational curriculum for judicial officers in the following assignments: jury trials, family court, and juvenile dependency court.	B.E. Witkin Judicial College, Criminal Law Institute, Civil Law Institute, Continuing Judicial Studies Program, Family Law Institute, and Juvenile Law Institute
Judicial Standards, Section 25.4	Capital cases	The Education Division should provide a comprehensive educational curriculum and updates for training on the law and procedure relevant to capital cases. Judicial officers assigned to capital cases should attend this training before commencing the case.	Criminal Law Institute and Continuing Judicial Studies Program

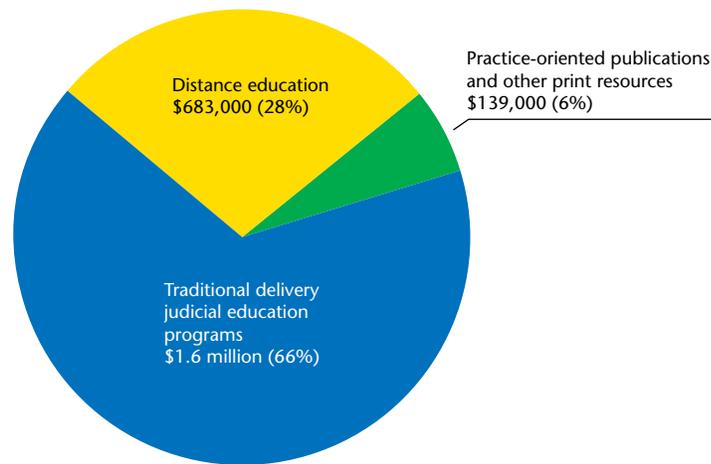
Sources: State law, the judicial standards, and the Education Division.

\* Three-day institutes and one- to five-day programs are offered by the Education Division or VAWEP generally on an annual basis. The B.E. Witkin Judicial College is a two-week residency program offered annually by the Education Division for newly appointed or elected judicial officers.

<sup>†</sup> The assistant director of the Education Division explained that it has not yet had an opportunity to design a course specifically meeting the provisions of Government Code, Section 68553.5, which took effect on January 1, 2006. However, he explained that mental health and developmental disability issues are topics that have been included in its recent juvenile law education programs.

**FIGURE 2**

**Judicial Education Expenditures by Training Method  
for Fiscal Year 2004–05  
(Direct Operating Expenses and Equipment Only)**



Source: Bureau of State Audits' analysis of the Administrative Office of the Courts' expenditure database.

Note: The expenses presented do not include indirect costs of \$1.2 million, which represent such items as rent and various support costs. The expenses presented do include costs of \$900,000, which, according to the assistant director of the Education Division, primarily include payments for lodging and meals incurred by judicial officers participating in Education Division trainings.

Appendix B lists the traditional delivery education programs for judicial officers the Education Division offered in fiscal years 2002–03 through 2004–05. The expenditures listed in Appendix B represent direct operating and equipment expenses associated with each program, as discussed in Chapter 2. In addition, the Education Division works with staff administering the VAWEP, an initiative designed to provide information, educational materials, technical assistance, and training on the role of the courts in responding to cases involving domestic violence, sexual assault, and stalking. The VAWEP is funded with an annual grant from the federal Office on Violence Against Women and is described further in Chapter 2.

As shown in Appendix B, most of the judicial education programs funded by the VAWEP are offered concurrently with the Education Division's programs. For example, the Education Division annually conducts the B. E. Witkin Judicial College of California (Judicial College), a two-week residency program. All new judicial officers are required to attend the course within two years of taking office. As part of the Judicial College, VAWEP funds are used to conduct three training sessions covering the

topics of criminal domestic violence, criminal sexual assault, and domestic violence awareness. In fiscal year 2004–05, the Education Division and VAWEP offered a total of 35 traditional delivery programs for judicial officers at a combined cost of \$1.7 million. The AOC believes that collaborating with the VAWEP ensures that programs relating to domestic violence, sexual assault, and stalking are integrated into the Education Division’s regularly offered programs. Additionally, the AOC believes that collaboration reduces costs, such as those associated with participants’ lodging and meals, that it would otherwise incur if it offered programs independent of the Education Division.

### **FEW EDUCATION PROGRAMS APPLY TO ALL JUDICIAL OFFICERS, AND NOT ALL NEW JUDICIAL OFFICERS TAKE REQUIRED COURSES PROMPTLY**

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*Many education programs focus on a specific area of law and apply to certain judicial officers; only some programs are general in content and apply to all judicial officers.*

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As mentioned previously, judicial officers in California participate in most education programs at their own discretion. Further, many judicial education programs focus on a specific area of law and apply to certain judicial officers. Only some programs offered are general in content and apply to all judicial officers. Moreover, 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. However, at our request the Education Division compiled records demonstrating the number of newly appointed or elected judicial officers in the State for the period 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 time period required.

Some programs offered by the Education Division do not focus on a specific area of law and apply to all judicial officers regardless of the types of cases they are assigned to hear. Despite the broad content of these programs, participation as a percentage of the total judicial officer population in California varies. For example, the Continuing Judicial Studies Program is a conference offered three times each year and covers topics such as jury issues and settlement. According to the Education Division’s records, attendance at this conference ranged from 21 percent of California’s judicial officers in fiscal year 2002–03 to 50 percent in fiscal year 2004–05, when several institutes were presented within the Continuing Judicial Studies Program.

Staff at the Education Division and the VAWE track the attendance for each program they offer. However, they generally cannot identify the number of judicial officers for whom specific program requirements apply, such as family law, because the Education Division does not track judicial officer assignments. According to the assistant director of the Education Division, it is not currently able to track judicial officers assigned to family law matters and other assignments because the trial courts do not inform the Judicial Council of judicial officer assignments.

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*Six of the 40 newly appointed or elected judicial officers we reviewed did not attend the required judicial orientation within the specified time period.*

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As discussed previously, newly appointed or elected judicial officers must attend an orientation and the Judicial College within six months and two years, respectively, of taking the oath of office. Although nearly all newly appointed or elected judicial officers we reviewed attended the required training programs, some did not do so within the required period. According to records provided by the Education Division, 361 judicial officers were appointed or elected in the State from July 2002 through mid-April 2006. We reviewed the records of 40 newly appointed or elected judicial officers to determine whether they attended the Judicial College and noted that each judicial officer who had held the position for at least two years had taken the course within the required two-year period. However, six of the 40 judicial officers did not attend the required judicial orientation within six months of taking the oath of office. One judicial officer had not yet attended the required judicial orientation as of the time of our review in early April 2006, which was more than five months after the deadline. Two judicial officers attended the orientation two to five months late. The remaining three were less than a month late, with two missing their deadlines by only 11 days or less.

When newly appointed judicial officers do not attend the required training courses within the specified times, they may run the risk of lacking necessary information to perform their duties adequately. As discussed previously, generally neither state law nor the Rules of Court require the AOC to track judicial officers' compliance with education requirements. Currently, the courts and judicial officers bear the responsibility for maintaining compliance with judicial education requirements. However, if the Judicial Council implemented a plan to ensure that there is a system for tracking participation to meet judicial education requirements, it could gain assurance that judicial officers are attending the training sessions as required.

## THE EDUCATION DIVISION IS IN THE MIDST OF A LENGTHY PROCESS TO CHANGE ITS APPROACH TO PROVIDING EDUCATION PROGRAMS

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*In 2000 the Education Division began a formal curriculum development process that, once completed in a few years, it will use in developing its education programs.*

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The Education Division uses a method of designing and planning its education programs referred to as event-based planning. According to the director of the Education Division, event-based planning focuses on filling a distinct time slot with a training event that tends to be recreated each time the event is planned. Although the Education Division continues to use this method, it began a formal curriculum development process in 2000 that, once completed in a few years, it will use in developing its education programs. According to the director of the Education Division, a curriculum-based approach is much more stable than event-based planning and can be designed to meet the needs of specific audiences at entry, intermediate, or advanced levels of their careers.

As described by the assistant director of the Education Division, the event-based planning approach begins with the Education Division establishing a time frame for a training program and then assigning a committee to organize the event. Prior to 2000, planning committees were responsible for designing and developing training for a particular event. The program manager overseeing a particular event began roughly six months before the scheduled training program by compiling a list of possible volunteer members of the planning committee. Possible committee members were selected from a listing of people who had expressed interest in participating and those who had served as faculty for previous education programs. After the program manager compiled the list of possible members, the chair of the governing committee appointed the members of the planning committee, who served as volunteers in the sense that they were not paid, except for their out-of-pocket expenses in serving on the planning committee. Members generally served for just one year,<sup>11</sup> and there were roughly 10 to 12 planning committees organized annually, depending on what education programs were planned for the particular subject areas in the respective year.

According to the director of the Education Division, to organize an education program, members of the respective planning committees would meet and decide what programs to provide, including main topics and time frames for each topic. She said

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<sup>11</sup> According to the assistant director of the Education Division, the planning committees for the B. E. Witkin Judicial College and the Continuing Judicial Studies Program had standing committees that served for three-year terms because of the need for more continuity on these committees.

that the planning committees could choose topics at their own discretion based on ease of access to faculty or general or specific interest in a topic. The director noted, however, that education programs do not necessarily complement one another with this type of planning. She commented that some programs may be offered only once and programs do not fit into a long-range strategy to meet ongoing educational needs.

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*While developing the new curricula, the education committees continue to develop and design programs using the event-based approach, which focuses on designing training for a particular event.*

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In 2000 the governing committee asked Education Division staff and members of its numerous education committees to design, develop, and implement a new educational delivery approach, referred to as curriculum-based planning, for their respective target audiences. The Education Division began its first application process for members of the new education committees in February 2000, converting its event-based planning committees to education committees focused on developing subject matter and audience-specific curriculum. However, while developing the new curricula, the education committees continue to develop and design education programs using the event-based approach, which focuses on designing training for a particular event.

The director of the Education Division explained that, in some cases, curricula have been developed that the education committees use as a resource sporadically within the event-based planning model. She said that if an education committee decides to include in a training event certain content for which curriculum is available, the committee uses the curriculum to develop the program. However, she noted that many courses are developed for various training events without using any curriculum work and that implementing the event continues to be the main objective. According to the director, not until the education committees finalize their curricula can the education programs be planned using the curriculum-based approach. This will be a very different approach in which the education committees will begin their planning by considering what is in the curriculum and how to deliver the content. She explained that the curriculum will be more than a resource used sporadically; it will be the foundation for planning training events.

**Education Committees That Primarily Develop and Design Training for Judicial Officers**

1. Appellate Justices
2. Civil Law
3. Continuing Judicial Studies
4. Criminal Law
5. Family Law
6. Judicial Ethics
7. Judicial Technology
8. Juvenile Law
9. New Judge Education
10. Probate and Mental Health
11. Rural Courts
12. Science and the Law

As listed in the text box, 12 education committees primarily develop and design education programs for judicial officers. Nine other committees develop and design programs for court personnel, participants of which in a few cases are judicial officers. In May 2000 the Education Division reviewed applications for education committees and appointed members to two-year terms. During the subsequent application process in May 2002, the Education Division filled vacant positions and appointed members to serve three-year staggered terms to ensure consistency in program content from year to year.

Members of these education committees, as assisted by Education Division staff, are developing the curricula for their respective education areas by examining the tasks, skills, abilities, and

information needed by judicial officers to perform their work. The education committees also are determining how best to deliver the curricula to their respective target audiences. For example, according to the director of the Education Division, if the target audience needs to access the content on an ongoing basis, it likely would be placed on the Internet, and if the content is needed on a one-time basis, it may be delivered through a conference or seminar. She explained that content under curriculum-based planning ideally would be delivered in several ways to ensure that the target audience has several opportunities to access it. Further, the director stated that with this type of planning, content is consistent, essential content is offered regularly, and all delivery is designed to meet the ongoing educational needs of judicial officers.

In developing the curriculum each education committee is focusing on numerous goals, including providing relevant content to individuals at all levels of their careers, ensuring consistency of content over time, and developing flexible curricula that can be used in various situations by various individuals. Further, the education committees, with the assistance of Education Division staff, are developing curricula in three phases, as shown in the text box on the following page. According to the director of the Education Division, as of July 2005 each of the judicial education committees completed and submitted for approval phases I and II of their curricula. The director stated that in January 2007 the education committees are scheduled to begin their phase III work, which she explained

**Three Phases of Curriculum Development Followed by the Education Committees**

**Phase I**—Assess the work, including the tasks, skills, and abilities of individuals in a target audience.

**Phase II**—Develop educational designs based on work done in phase I, including creating content for beginning, experienced, and advanced audience members.

**Phase III**—Create a series of lesson plans outlining the basic information needed to deliver the content.

will likely take a few years to complete. When we asked the director of the Education Division why this process has taken as long as it has, she stated that each committee works at a pace dependent on many variables, including the complexity of the content and the ability of the education committee members and Education Division staff to devote the necessary time to develop the content.

**RECOMMENDATIONS**

The Judicial Council should 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.

The Education Division, in conjunction with the education committees, should continue its efforts in designing curricula to use in developing its judicial education programs. After implementing the curriculum-based planning approach, the Education Division should formally assess whether it has been successful. ■

# CHAPTER 2

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## ***The Judicial Council of California and the Administrative Office of the Courts Allocate and Monitor Funds for Judicial Education***

### CHAPTER SUMMARY

The Legislature does not appropriate funding specifically for judicial education; rather, it appropriates funding for the State's judicial branch, which includes entities such as the Judicial Council of California (Judicial Council) and the Administrative Office of the Courts (AOC). The Judicial Council and the AOC's administrative director of the courts allocate most of the judicial branch's appropriation to the courts, with a smaller amount given to the AOC. The executive management and Finance Division of the AOC allocate funding to its other divisions, including the Education Division and the Center for Families, Children, and the Courts (CFCC), which collaborate in administering the federally funded Violence Against Women Education Project (VAWEP).

The AOC's executive management and Finance Division develop the Education Division's annual budget by considering the previous year's budget and actual expenditures as well as the current priorities of the Judicial Council and the Education Division. The State's General Fund is the primary source of money for the Education Division and is used largely for personnel and education program costs, including travel, lodging, and meal costs for Education Division staff and education committee members.

Funded by the State's Office of Emergency Services (Emergency Services) with resources from the federal Office on Violence Against Women, the VAWEP provides judicial branch education programs on domestic violence, sexual assault, and stalking. The process for developing the budget for the VAWEP involves input from several parties. For the first two years that the VAWEP was funded, the AOC faced obstacles in fully spending its grant awards. VAWEP staff point to various factors that limited the AOC's ability to use its grant awards completely, including a state hiring freeze that initially prevented it from hiring staff.

Additionally, the AOC experienced delays in receiving the grant awards during the first two years. VAWEF staff explained further that the first two years of the grant were developmental, focused on assessing the educational needs of the judicial branch and that since that time the AOC has been able to align its expenditures more closely with the awarded amounts.

The majority of operating and equipment costs for traditional delivery education programs—in which participants and faculty interact in the same time and place—are for travel, lodging, and meals. We examined 40 expenditures from the Education Division and 10 from the VAWEF for the period July 2004 through December 2005 and noted that the expenditures were for appropriate and allowable purposes and that each transaction had undergone the AOC's established approval process.

### **THE EDUCATION DIVISION IS FUNDED PRIMARILY BY THE GENERAL FUND, AND ITS EXPENDITURES ARE LARGELY FOR PERSONNEL COSTS**

The General Fund is the primary funding source for the Education Division. The General Fund is the principal operating fund for most governmental activities and consists of all money received in the state treasury that is not required by law to be credited to any other fund. The General Fund represents 81 percent of the money budgeted for the Education Division for fiscal year 2004–05 and is used primarily to cover the costs of personnel and education programs for judicial officers. Travel, lodging, and meal costs for Education Division staff and education committee members, as well as expenses for hotel conference rooms and audio-video equipment rental, are paid for with money from the General Fund.

The Judicial Administration Efficiency and Modernization Fund (Modernization Fund) also provides funding for the Education Division. The Modernization Fund exists to promote improved access, efficiency, and effectiveness in trial courts and to implement projects approved by the Judicial Council. The major revenue sources for the Modernization Fund are transfers from the General Fund. In fiscal year 2004–05, the Modernization Fund amounted to 18 percent of the Education Division's allocation and was used for costs incurred on behalf of education program participants, including lodging and group meals, and in some cases travel. The remaining money the Education Division receives, representing less than 1 percent of its total allocation, is from the Trial Court Improvement Fund.

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*The General Fund represents 81 percent of the money budgeted for the Education Division for fiscal year 2004–05.*

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The amount allocated from the General Fund to the Education Division increased from \$7.5 million for fiscal year 2002–03 to \$8.9 million for fiscal year 2004–05. However, the amounts allocated from the Modernization Fund decreased from \$2 million for fiscal year 2002–03 to \$1.6 million for fiscal year 2003–04 before returning to \$2 million for fiscal year 2004–05. The amounts allocated for fiscal year 2005–06 from the General Fund and Modernization Fund were \$9.1 million and \$3.3 million, respectively. Table 3 presents the Education Division’s allocations and expenditures for fiscal years 2002–03 through 2004–05 and shows that expended amounts from each fund in all fiscal years did not exceed the respective allocations. The Education Division has three fiscal years from the initial fiscal year of allocation to spend these funds; thus, the amounts presented as expenditures for fiscal years 2003–04 and 2004–05 are subject to change until their respective three-year spending periods are complete. The assistant director of the Education Division pointed to various budgetary and other matters that contributed to the division not fully expending its allocations. For example, he commented that the Education Division presented fewer education programs in fiscal years 2002–03 and 2003–04 because tight budgets affected the ability of trial courts to send individuals to programs. Additionally, a state hiring freeze affected staffing within the Education Division.

**TABLE 3**

**Comparison of Amounts Allocated and Expended for the State’s  
General Fund and the Judicial Administration Efficiency and  
Modernization Fund for Fiscal Years 2002–03 Through 2004–05**

Fiscal Year	General Fund			Modernization Fund		
	Allocated	Expended	Difference	Allocated	Expended	Difference
2002–03	\$7,495,090	\$6,878,284*	\$616,806	\$1,989,890	\$1,759,619*	\$230,271
2003–04	8,433,223	7,435,573†	997,650	1,560,500	1,343,531†	216,969
2004–05	8,900,963	8,382,693†	518,270	2,000,000	1,562,880†	437,120

Sources: Bureau of State Audits’ analysis of the Administrative Office of the Courts’ expenditure database and information from its Education and Finance divisions.

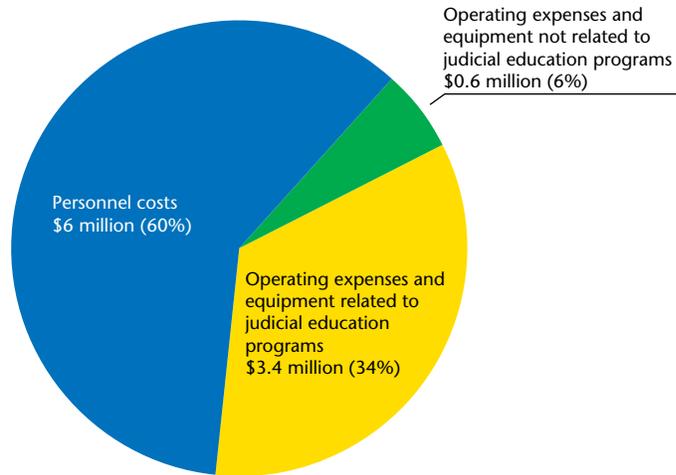
\* Actual costs for fiscal year 2002–03 represent final expenditures charged as of June 30, 2005, the end of the spending period for monies allocated that year.

† Actual costs for these two fiscal years represent final expenditures (including encumbrances) charged as of December 31, 2005, for which recorded expenditures may not ultimately occur against the encumbrances.

Education Division expenditures are primarily for personnel costs such as salaries and benefits for its staff in its five units, including the Curriculum and Course Development Unit and the Production, Delivery, and Educational Technologies Unit. Figure 3 displays the Education Division’s expenditures in fiscal year 2004–05 by personnel costs; operating expenses and equipment related to judicial education; and miscellaneous operating expenses and equipment not related to judicial education programs, such as training programs for court personnel.

**FIGURE 3**

**Education Division Expenditures by  
Type of Expenditure for Fiscal Year 2004–05**



Sources: Bureau of State Audits’ analysis of the Administrative Office of the Courts’ expenditure database and information from its Education Division.

**THE EDUCATION DIVISION ESTABLISHES ITS  
BUDGETARY PRIORITIES TO SUPPORT THE JUDICIAL  
COUNCIL’S STRATEGIC AND OPERATIONAL PLANS**

The AOC’s executive management and Finance Division consider two elements when developing the Education Division’s annual budget: the priorities of the Judicial Council and Education Division and the Education Division’s budget and actual expenditures for the prior year. The Judicial Council identifies goals for education in its six-year strategic plan, which was issued in 2000, and identifies specific objectives in its operational plans, issued every three years, to achieve those goals. Additionally, beginning in 2004 and on an annual basis, the governing committee that advises the Judicial Council on education creates work plans that address the activities the

**Six Activities Identified in the Education Division's 2006 Work Plan to Support the Strategic and Operational Plans of the Judicial Council**

1. Develop a proposed Rule of Court to implement the model for minimum education requirements for judicial officers and court personnel and ensure that the proposed rule is entered into the Judicial Council's rule-making process.
2. Oversee short-term implementation projects for improving public trust and confidence in the courts as delegated to Education Division staff and education committees.
3. Explore options for potential partnering with institutions of higher learning, associations, and national organizations to develop a systemic approach to judicial education.
4. Oversee development of curricula and education programs for temporary judicial officers.
5. Develop a handbook or document to clarify the roles of those members who serve on and support the governing committee.
6. Oversee a study conducted by Education Division staff to determine how to improve the effectiveness of information provided to the judicial branch regarding education programs.

Education Division will employ to support the achievement of the Judicial Council's strategic and operational plans. For example, as shown in the text box, the 2006 work plan submitted by the governing committee identified six activities to support the Judicial Council's strategic and operational plans. According to the assistant director of the Education Division, before 2004 the governing committee was not required to submit work plans; rather, it used its own strategic plans to guide its activities.

Additionally, as previously mentioned, the AOC's executive management and Finance Division develop the budget for the Education Division based on its budget and expenditures in the previous year. The Finance Division distributes to the Education Division an initial budget allocation report at the beginning of each fiscal year. This report details the Education Division's allocation and actual expenditures from the previous fiscal year. According to a manager in the Finance Division, the initial allocation report enables Education Division management to make decisions on fine-tuning the budget and to provide feedback to the Finance

Division, including any necessary changes or questions regarding the allocation.

Next, the Education Division receives a final approved budget from the Finance Division. Subsequently, the Finance Division produces one of several periodic reports, referred to as financial forecast reports, used throughout the fiscal year by Education Division management and the Finance Division to monitor and track expenditures to ensure that they do not exceed budgeted amounts. The financial forecast report consists of three sections on the division's initial allocation, personnel costs, and position vacancies. These sections provide Education Division management the information they need to monitor salaries, benefits, and position vacancies, thus assisting them in tracking the allocated budget and plan for any unexpected or sudden budgetary needs. In reviewing the budget process for the Education Division for fiscal years 2002-03 through 2004-05, we noted its budget was monitored in accordance with the AOC's established procedures.

## THE AOC INITIALLY FACED OBSTACLES IN SPENDING ALL ITS GRANT AWARDS FOR THE VAWEP

The VAWEP is an initiative designed to provide the courts with information, educational materials, technical assistance, and training on the courts' role in responding to cases involving

### Selected VAWEP Project Goals

- Identify the primary educational and informational needs of the courts on issues of domestic violence, sexual assault, and stalking.
- Initiate new and enhance existing judicial branch education programs pertaining to domestic violence, sexual assault, and stalking.
- Institutionalize inclusion of domestic violence, sexual assault, and stalking issues in all relevant judicial education curricula, programs, and publications.

violence against women. As mentioned earlier, Emergency Services funds the project with resources from the federal Office on Violence Against Women. The VAWEP has several project goals, including those shown in the text box. According to the supervising attorney for the VAWEP, the Education Division administered the VAWEP at the time the AOC received its first grant award; however, the majority of the staff working on the project was assigned to the CFCC. In August 2003 AOC executive management transferred the project to the CFCC for administrative purposes. The supervising attorney noted that VAWEP staff continue to work collaboratively with the Education Division by

attending governing committee, education committee, and staff meetings and by developing education plans and training materials in conjunction with the Education Division.

Table 4 displays the grant award amounts and expenditures for the VAWEP for the first three years of the grant. The grant requires a 25 percent matching contribution of the total award amount, which the AOC complies with partly by using in-kind services, including personnel costs. As shown in Table 4, the AOC did not fully spend the grant awards it received, with the larger differences occurring in the first two years of the grant.

The supervising attorney for the VAWEP described several factors that prevented the AOC from spending all the awarded amounts. She explained that in the first year of the grant, the project was unable to hire critical staff to work on grant projects because of the state hiring freeze in effect at the time. She stated that, as a result, it was not possible to expend the entire award, and the remaining funds were returned to the Office of Criminal Justice Planning for redistribution to other entities. The Office of Criminal Justice Planning, which was abolished in January 2004, was the state agency responsible for administering the grant at that time. In fact, the Office of Criminal Justice Planning and the AOC ultimately agreed to decrease the amount of the first year's grant award by \$100,000. The supervising attorney for the VAWEP stated further that programmatically, the first two years

**TABLE 4**

**Comparison of Amounts Awarded and Expended for  
Violence Against Women Education Project for the  
Federal Fiscal Years 2002–03 Through 2004–05**

Federal Fiscal Year	Awarded	Expended	Difference
2002–03*	\$383,503 <sup>†</sup>	\$338,318	\$ 45,185
2003–04	582,208	467,175	115,033
2004–05	504,308	491,493	12,815

Sources: Bureau of State Audits' analysis of the Administrative Office of the Courts' (AOC) expenditure database, grant award letters, and expenditure reports.

\* The first grant award period was April 2002 through September 2003 rather than October 2002 through September 2003, which is the actual federal fiscal year.

<sup>†</sup> The awarded amount for this year reflects the \$100,000 decrease that was agreed upon because AOC recognized it could not spend all the funds it had been awarded.

of the grant were developmental in nature, focusing on assessing the educational needs of the judicial branch. She explained that the grant is strictly limited to judicial branch education programs on domestic violence, sexual assault, and stalking. She said these programs take at least six months to plan, so the AOC's ability to spend the entire grant awards was further limited.

Additionally, the AOC experienced delays in receiving the grant awards for the first two years. The Office of Criminal Justice Planning awarded the first year's grant two and a half months after the beginning of the grant award period of April 2002 through September 2003. Similarly, Emergency Services, which assumed responsibilities for the grant after the Office of Criminal Justice Planning disbanded, awarded the grant for the second year nearly four months after the grant period started. According to the supervising attorney for the VAWEF, the late issuance of the grant award caused a delay in spending, preventing VAWEF staff from conducting meetings or education programs during that time.

According to the chief of the Victim Services Branch of Emergency Services, who is a former employee of the Office of Criminal Justice Planning, an extension to the first year's grant was not considered because the Office of Criminal Justice Planning wanted to close out the grant award and avoid the overlap in grant periods that would occur when the AOC received its grant for the second year. She explained that Emergency Services did not allow an extension to the period for the second year's grant because it wanted to have all grant awards

closed by the end of the federal fiscal year. She noted further that the federal government previously had denied some grant extension requests, and Emergency Services prefers to redirect unexpended funds to other entities rather than requesting the federal government to extend a grant award period.

The supervising attorney for the VAWEP cited several factors causing expenditures for federal fiscal year 2004–05 to align more closely with the grant award amount. As examples, she noted that Emergency Services has broadened the scope of the grant to provide technical assistance and related equipment and services to the courts, it has issued the awards more promptly, and the AOC has not experienced another hiring freeze.

### **VARIOUS PARTIES ARE INVOLVED IN DEVELOPING THE BUDGET FOR THE VAWEP**

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*The Education Division and education committees are also part of the budget process for the VAWEP.*

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Developing the budget for the VAWEP involves input from several parties: Emergency Services, through its grant application process; the Education Division; education committees; and the VAWEP planning committee, which is composed of judicial officers, attorneys, victim advocates, and other experts who guide the project staff in identifying key training issues and developing appropriate education programs. Emergency Services' application process mandates that certain objectives be addressed during the year and that funding be spent to develop and provide training, technical assistance, publications, and other programs dedicated to increasing the knowledge of judicial officers and court personnel in cases involving violence against women. Most judicial education programs funded by the VAWEP are integrated with regular Education Division programming, so the Education Division and education committees are also part of the budget process for the VAWEP.

With input from the VAWEP planning committee, staff develop a grant application requesting funding for judicial training programs in the areas of domestic violence, sexual assault, and stalking. When AOC management approves the application, it is submitted to Emergency Services for its approval and its subsequent notification to the AOC of the grant award amount. The AOC's Finance Division monitors the budget for the VAWEP using the same process described previously for the Education Division. Similarly, we noted in reviewing the VAWEP's budget for fiscal years 2002–03 through 2004–05 that its budget was monitored in accordance with the AOC's established procedures.

## THE MAJORITY OF EXPENDITURES FOR TRADITIONAL DELIVERY EDUCATION PROGRAMS ARE FOR TRAVEL, LODGING, AND MEALS

The expenditures for traditional delivery education programs offered by the Education Division and the VAWEF, listed in Appendix B, include operating expenses and equipment costs for each program. Operating expenses include program materials, lodging, and meal costs for faculty and participants,<sup>12</sup> meeting room rental costs, and audio-video equipment rental fees. Other expenses include direct costs incurred by the Education Division and VAWEF staff, such as airfare, vehicle rental, mileage reimbursement, staff meals, and miscellaneous incidentals. However, these program costs do not include personnel costs for the Education Division or the VAWEF that we described previously. Additionally, the AOC has internal controls and procedures in place to ensure that the Education Division's and the VAWEF's expenditures are for allowable activities. Specifically, the AOC requires documentation with approval for expenditures, such as travel expense claims, contracts, and invoices.

In reviewing its internal control structure, we examined 40 expenditures from the Education Division and 10 from the VAWEF for the period July 2004 through December 2005, and

### Four Policy Directions for Judicial Branch Education Established by the Judicial Council's Strategic Plan

1. Provide for comprehensive education programs for judicial officers and court personnel that address essential needs and requirements, including ethics training.
2. Develop education standards for judicial officers and court personnel that promote professional development and continuing education programs.
3. Enhance the use of alternative approaches to delivering judicial branch education.
4. Establish incentives and offer recognition for participation in judicial branch education.

noted the expenditures were for appropriate and allowable purposes. The expenditures we reviewed included those for traditional delivery education programs as well as those for other training methods such as distance education. Additionally, each transaction underwent the AOC's established approval process. Further, the expenditures aligned with the Judicial Council's education priorities as described in its strategic plan, which identifies four policy directions for judicial education in general, as shown in the text box. The overarching goal for education, as stated in the Judicial Council's strategic plan, is to enhance the effectiveness of judicial officers, court personnel, and other judicial branch staff through high-quality continuing education and professional development.

<sup>12</sup> Emergency Services' grant manual prohibits the use of VAWEF funds for the cost of food or beverages at grant-sponsored conferences, meetings, or office functions. To provide for these costs, the AOC uses other funds such as the Modernization Fund discussed previously, and these costs cannot be claimed as part of the 25 percent matching contribution required by the grant.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE  
State Auditor

Date: August 29, 2006

Staff: Karen L. McKenna, CPA, Audit Principal  
Laura G. Kearney  
Justin McDaid  
Valerie Richard  
Ben Ward

# APPENDIX A

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## ***Continuing Education Requirements for Judicial Officers by State***

**T**able A on the following page presents the continuing education requirements for judicial officers by state in three categories, as reported by the National Center for State Courts (center) for its Court Statistics Project in 2006. As discussed in Chapter 1, the governing committee, which advises the Judicial Council of California on education matters, reviewed the center's 2005 data when it developed its proposal on minimum education requirements for judicial officers.

The first section of Table A on the following page presents the 38 states that the center reported as requiring judicial officers to attain a specific number of hours of continuing education annually (unless otherwise specified). The second section presents the five states that the center reported as requiring judicial officers to participate in continuing education but that have no established hourly requirement. Finally, the third section lists the seven states that the center reported as having no continuing education requirements for judicial officers.

**TABLE A****Continuing Education Requirements  
for Judicial Officers by State**

States Requiring Judicial Officers to Participate in a Specific Number of Continuing Education Hours Annually		
	State	Required Hours if Applicable
1	Arizona	16
2	Arkansas	12
3	Colorado	15
4	Connecticut	16
5	Delaware	23
6	Florida	10
7	Georgia	12
8	Hawaii	32
9	Indiana	36
10	Iowa	15
11	Kansas	12
12	Kentucky	25*
13	Maryland	28
14	Minnesota	45 <sup>†</sup>
15	Mississippi	12
16	Missouri	15
17	Montana	15
18	Nevada	26
19	New Hampshire	12
20	New Jersey	15
21	New Mexico	15
22	New York	24*
23	North Carolina	30*
24	North Dakota	15
25	Ohio	20
26	Oklahoma	12
27	Oregon	45
28	Rhode Island	10
29	South Carolina	15
30	Tennessee	15
31	Texas	16
32	Utah	30
33	Vermont	64
34	Virginia	12
35	Washington	15
36	West Virginia	15
37	Wisconsin	30
38	Wyoming	15

States Requiring Participation in Continuing Education, but Not Requiring Judicial Officers to Attain a Specific Number of Hours		
	State	Required Hours if Applicable
39	Alabama	NA
40	Alaska	NA
41	Idaho	NA
42	Louisiana	12.5 <sup>‡</sup>
43	South Dakota	NA
States Not Requiring Judicial Officers to Participate in Continuing Education		
44	California <sup>§</sup>	NA
45	Illinois	NA
46	Maine	NA
47	Massachusetts	NA
48	Michigan	NA
49	Nebraska	NA
50	Pennsylvania	NA

Source: The Court Statistics Project of the National Center for State Courts 2006 update.

Note: The continuing education requirements in this table do not include those applicable to judicial officers serving on the courts of appeal or those serving limited jurisdictions.

NA = Not applicable.

\* Judicial officers are required to participate in this amount of education hours every two years.

† Judicial officers are required to participate in this amount of education hours every three years.

‡ Although Louisiana requires judicial officers to participate in education, the hours specified are not mandatory but strongly encouraged.

§ Although California does not have an overall requirement for judicial officers to participate in continuing education, it does require continuing education for those hearing certain types of cases as discussed in Chapter 1.

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# APPENDIX B

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## ***Summary of Traditional Delivery Education Programs Provided by the Education Division of the Administrative Office of the Courts and the Violence Against Women Education Project***

The Joint Legislative Audit Committee requested that the Bureau of State Audits review the purposes and costs of programs related to the professional training and development of judicial officers for the last three fiscal years. We reviewed education programs offered in fiscal years 2002–03 through 2004–05 by the Education Division of the Administrative Office of the Courts (AOC). Additionally, we reviewed education programs offered to judicial officers by the Violence Against Women Education Project (VAWEP) within the AOC’s Center for Families, Children, and the Courts, the only other significant education programs for judicial officers that were offered consistently.

For each traditional delivery education program—in which faculty and participants interact in the same time and place—Table B beginning on page 49 lists the name, description, number of judicial officer and other participants, and expenditures by fiscal year if available. In the table, programs in bold type are offered by the Education Division or are offered by the VAWEP exclusive of the Education Division, and programs in regular type are offered by the VAWEP in collaboration with the Education Division.

Table B summarizes education programs by the following categories: training for new trial court judicial officers, programs and conferences covering legal topics, training related to court administration, training for judicial officers serving as faculty for other judicial education programs, and VAWEP programs independent of the Education Division’s programs. The table generally does not present individual costs for VAWEP programs for fiscal years 2002–03 through 2004–05. That information is not available because the AOC typically does not account for costs by individual VAWEP programs.

In some instances, the Education Division's program costs are shared with other programs. These costs are not available because the AOC does not always account for costs by individual education programs. As a result, we have presented the shared costs in Table B by fiscal year in the following three categories: (1) shared costs for program participants, (2) shared costs for program faculty, and (3) shared costs for Education Division staff and education committee members.

**TABLE B**

**Traditional Delivery Education Programs for Judicial Officers**

Program	Description	Fiscal Year 2002-03			Fiscal Year 2003-04			Fiscal Year 2004-05		
		Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures
<b>Training for New Trial Court Judicial Officers</b>										
<b>B.E. Witkin Judicial College of California</b>	Two-week residency program offered annually and required of all new judicial officers within two years of taking the oath of office. Topics include courses in all the substantive areas of the law.	130	0	\$321,995	112	0	\$252,927	132	0	\$139,063
	<i>Includes the following Violence Against Women Education Project (VAWEP) education programs:</i>									
Criminal Domestic Violence: Trying the Domestic Violence Case	Workshop presenting a broad overview of criminal procedure in domestic violence criminal matters. Topics include state laws relating to witnesses who fail to appear in court, speedy trial, and the credibility of witnesses.	Not offered*	NA	NA	Not offered*	NA	NA	20	0	†
Criminal Sexual Assault	Information on the criminal courts' response to sexual assault cases.	23	0	†	51	0	†	7	0	†
Domestic Violence Awareness	Required workshop presenting a broad overview of issues relating to the dynamics of domestic violence as well as selected topics for decision making, including an overview of key criminal procedure issues and family law restraining orders.	131	0	†	112	0	†	63	0	†
<b>Orientation for New Trial Court Judicial Officers</b>	Week-long course offered nine to 10 times annually and required of all new judicial officers within six months of taking the bench. Topics include ethics, demeanor, and trial management.	148	0	116,150	98	0	66,637	58	0	42,507
<b>Programs and Conferences Covering Legal Topics</b>										
<b>Brown v. Board of Education Symposium</b>	One-time, one-day symposium offered on the 50 <sup>th</sup> anniversary of <i>Brown v. Board of Education</i> . Included presentations on the history, long-term effects, and implications of the decision for the future.	Not offered	NA	2,227‡	72	244	\$	Not offered	NA	NA
<b>Civil Law Institute</b>	Three-day institute offered annually that includes topics such as arbitration, disqualification, settlement, and special jury instructions.	88	4	30,672	Not offered	NA	8,924‡	71 <sup>II</sup>	4	49,289
<b>Complex Civil Litigation Workshop</b>	One-day workshop offered twice a year. Topics include discovery in complex cases, creative case-management techniques, and settlement of class actions.	16	0	\$	12	0	\$	33	0	\$

*continued on the next page*

Program	Description	Fiscal Year 2002-03			Fiscal Year 2003-04			Fiscal Year 2004-05		
		Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures
<b>Continuing Judicial Studies Program</b>	Five-day event offered three times per year. Courses vary and include issues related to the death penalty, juries, and settlement. The courses are targeted at experienced judicial officers, but also include substantive law overview courses for judicial officers new to or changing an assignment.	427	88	\$284,542	515	104	\$229,497 <sup>#</sup>	1,017	192	\$266,668
<i>Includes the following VAWEP education programs:</i>										
Family Law Overview	Topics include custody, visitation, and the effects of domestic violence on child development.	Not offered	NA	NA	Not offered	NA	NA	38	9	†
Selected Issues in Sexual Assault Cases	Topics include forensic DNA typing, offender characteristics and risk assessment, and procedures unique to sex crimes.	Not offered	NA	NA	Not offered	NA	NA	54	5	†
Immigration Issues in Domestic Violence Cases	Topics include basic immigration issues, barriers affecting access to the courts for immigrant victims of domestic violence, and immigration options for domestic violence victims.	Not offered	NA	NA	Not offered	NA	NA	20	0	†
Advanced Custody and Domestic Violence Issues	Topics include issues of differential assessment of domestic violence, outcomes for children exposed to domestic violence, and interrelationships of substance abuse and domestic violence.	Not offered	NA	NA	40	10	†	Not offered	NA	NA
Beyond the Basics: Special Issues in Restraining Orders and Risk Assessment	Topics include an overview of the law related to protective orders, technicalities of firearms restrictions and relinquishment in domestic violence cases, and applying risk assessment to judicial decision making related to the danger in domestic violence fact patterns.	Not offered	NA	NA	36	8	†	Not offered	NA	NA
Judicial Decision Making in Sexual Assault Cases	Topics include an introduction to sexual assault cases, jury issues, the role of expert witnesses, special protections for victims, and prior bad acts and other special evidentiary issues.	Not offered	NA	NA	72	7	†	14	0	†
<b>Cow County (Rural) Judges Institute</b>	Three-day institute offered annually. Topics include Native American issues, fairness and accessibility, advanced dependency and delinquency, and summary judgments and demurrers.	69	12	16,577	72	0	17,006	103	27	22,975
<i>Includes the following VAWEP education programs:</i>										
Overview of Domestic Violence Cases and Protective Orders	Topics include ideas on how to craft clear and enforceable protective orders; firearms restrictions; and problems relating to the issuance, effects, and enforcement of protective orders.	Not offered	NA	NA	Not offered	NA	NA	22	0	†
Judicial Decision Making in Sexual Assault Cases	Topics include an introduction to sexual assault cases, jury issues, the role of expert witnesses, special protections for victims, and prior bad acts and other special evidentiary issues.	Not offered	NA	NA	19	6	†	11	5	†
Protective Orders	An in-depth discussion on how to craft protective orders, including emergency protective orders, temporary restraining orders, criminal protective orders, and civil harassment orders.	Not offered	NA	NA	Not offered	NA	NA	28	0	†

Program	Description	Fiscal Year 2002-03			Fiscal Year 2003-04			Fiscal Year 2004-05		
		Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures
<b>Criminal Law Institute</b>	Three-day institute offered annually. Topics include criminal domestic violence, stalking cases, court security, evidence, trial management, and innovative jury practices.	117	1	\$ 50,775	Not offered	NA	\$ 6,369 <sup>†</sup>	38 <sup>  </sup>	0	\$ 52,308
<b>Family Law Institute</b>	Three-day institute offered annually that provides a family law update. Topics include domestic violence, children in the courtroom, electronic evidence, child support, and attorney fees and sanctions.	150	8	41,943 <sup>†</sup>	79	31	48,917 <sup>†</sup>	Included in Continuing Judicial Studies Program—Spring Session	NA	47,602 <sup>†</sup>
<i>Includes the following VAWEP education program:</i>										
Domestic Violence Protective Orders: Issuance, Effects, and Enforcement	The course focuses on how to craft clear and enforceable protective orders with an emphasis on problems relating to the issuance, effects, and enforcement of protective orders.	Not offered	NA	NA	Not offered	NA	NA	19	0	†
<b>Genetics and the Courts Conference</b>	A four-day conference that includes topics related to case law and legislation, genetics and behavior, stem cell research, and genetic testing and gene therapy.	36	34	\$	Not offered	NA	NA	Not offered	NA	NA
<b>Juvenile Law Institute</b>	Three-day institute offered annually that provides a juvenile law update. Topics include restraining orders, immigration issues in delinquency, domestic violence, and child sexual abuse.	127	25	12,237 <sup>†</sup>	104	3	30,489	Included in Continuing Judicial Studies Program—Spring Session	NA	42,007
<i>Includes the following VAWEP education program:</i>										
Domestic Violence, Child Sexual Abuse, and Addiction: Is There a Continuum?	Topics include whether victims of child abuse later become victims or perpetrators of domestic violence and whether they have problems with addiction.	Not offered	NA	NA	Not offered	NA	NA	57	0	†
<b>Probate and Mental Health Institute</b>	Three-day institute offered annually that provides a mental health law update. Topics include conservatorships, dementia/capacity/competency, trusts, and special needs trusts.	Not offered	NA	19 <sup>†</sup>	19	45	19,815	28	42	24,625
<b>Proposition 36 Symposium</b>	One-day symposium offered twice annually. Includes an introduction to Proposition 36 and provides methods on how to motivate the drug-involved offender.	Not offered	NA	NA	67	107	673 <sup>**</sup>	Not offered	NA	NA
<b>Qualifying Ethics Program</b>	Numerous half-day and day-long courses offered annually across California that judges participating in the Commission on Judicial Performance insurance program are required to attend.	270	0	55,501	1,136	0	24,020	810	0	29,520
<b>Training Related to Court Administration</b>										
<b>Advanced Legal Writing and Electronic Research Workshop</b>	Two-day workshop offered intermittently. Topics include elements of good writing, the writing process, and electronic research.	10	0	\$	Not offered	NA	NA	Not offered	NA	NA

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Program	Description	Fiscal Year 2002-03			Fiscal Year 2003-04			Fiscal Year 2004-05		
		Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures
Appellate Justices Institute	Three-day annual institute. Topics include civil rights in times of national security; the right of confrontation; and court of appeal sanctions, practice, and procedure.	Not offered	NA	\$ 28*	90	0	\$ 909**	84	0	\$ 12,058**
A - Assigned Judges Ethics Conference	Half-day to one-day program offered periodically that includes ethics issues relevant to assigned judges.	Not offered	NA	NA	89	0	424,795**	Not offered	NA	NA
B - Assigned Judges Institute	Topics relevant to judicial practice and procedure for retired judges temporarily assigned to hear cases, including motions, jury instructions, and sentencing.	155	0	280,166	127	0		105	0	313,910
California Judicial Administration Conference	Two-and-one-half-day annual conference on judicial branch administration issues for branch leadership.	106	168	81,418	121	175	52,223	Not offered	NA	76,361
Churchill Leadership Pilot Program	Two-day course offered periodically. Topics include visionary leadership, the power of communication, change and innovation, and building alliances.	Not offered	NA	NA	Not offered	NA	NA	6	8	\$
Computer Class for Judicial Officers	Courses ranging from two hours to two days in length offered either as a stand-alone class or as courses at other programs. Topics include basic computer and search skills and general information on the Internet and court-related software.	42	0	10,780	44	0	14,442	18	0	9,201
Orientation for New Supervising Judges	Two-day pilot course first offered in 2005. Topics include supervisory and administrative responsibilities as well as calendar management.	Not offered	NA	NA	Not offered	NA	NA	24	25	\$
Presiding Judges Orientation and Court Management Program	Two-and-one-half-day conference offered annually. Topics include statutory duties and responsibilities, team building, and leadership.	63	32	\$	40	47	\$	60	56	\$
Statewide Conference on Race and Ethnic Bias	Two-day conference covering racial profiling, cultural differences in management styles, and institutional bias.	Not offered	NA	NA	Not offered	NA	NA	17	163	50,381
<b>Training for Judicial Officers Serving as Faculty for Other Judicial Education Programs</b>										
Faculty Development for Presiding Judges and Court Executive Officers Serving as Faculty in This Program	Faculty development for presiding judges and court executive officers. Topics include ethics and judicial leadership, access and fairness, and media relations.	3	3	\$	Not offered	NA	NA	3	3	\$
Faculty Development for Summary Judgments Program	Faculty development for a training video on summary judgments including topics such as sexual harassment and racial stereotyping.	15	13	3,357#	5	22	\$	Not offered	NA	NA
Faculty Training and Development for the Qualifying Ethics Program	Faculty preparation for the Qualifying Ethics Program.	Not offered	NA	NA	55	0	\$	Not offered	NA	NA

Program	Description	Fiscal Year 2002-03			Fiscal Year 2003-04			Fiscal Year 2004-05		
		Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures	Judicial Officer Participants	Other Participants	Total Expenditures
Faculty Training for New Judicial Officer Orientation	Faculty preparation for the Orientation for New Trial Court Judicial Officers.	23	0	\$	Not offered	NA	NA	27	0	\$
Faculty and Seminar Leader Training for the B.E. Witkin Judicial College	Information provided to faculty and seminar leaders that includes the function of their roles at the college and how to promote networking and team building.	25	10	\$ 3,690 <sup>#</sup>	25	0	\$ 735 <sup>#</sup>	38	0	\$ 1,713 <sup>#</sup>
<b>VAVEP Programs Independent of the Education Division's Programs</b>										
Domestic Violence Judicial Institute: Enhancing Judicial Skills in Domestic Violence Cases	A three-and-one-half-day institute. Topics include victim and perpetrator behavior, fairness and culture issues, and decision-making skills.	45	14	†	33	20	†	40	20	46,180
Family Violence and the Courts: 10 <sup>th</sup> Anniversary Conference	One-time event that provided a process for assessing courts' responses to family violence.	Not offered	NA	NA	Not offered	NA	NA	102	189	†
<b>Shared Costs</b>										
Shared Costs for Program Participants	Lodging and meal costs incurred by participants at various courses.	—	—	145,764	—	—	91,952	—	—	124,566
Shared Costs for Program Faculty	Travel, lodging, and meal costs for program faculty at various courses.	—	—	310,448	—	—	200,699	—	—	236,942
Shared Costs for Education Division Staff and Education Committee Members	Lodging, travel, and meal costs incurred by education committee members and Education Division staff, as well as program supplies and meeting room rental for various courses.	—	—	39,262	—	—	27,765	—	—	89,046
<b>Totals for Traditional Delivery Education Programs for Judicial Officers</b>		<b>2,219</b> participants	<b>412</b> participants	<b>\$1,988,192</b>	<b>3,245</b> participants	<b>829</b> participants	<b>\$1,770,845</b>	<b>3,167</b> participants	<b>748</b> participants	<b>\$1,712,032</b>
			<b>23 programs<sup>§§</sup></b>			<b>27 programs<sup>§§</sup></b>			<b>35 programs<sup>§§</sup></b>	

Sources: Bureau of State Audits' analysis, the Administrative Office of the Courts' (AOC) Education Division and the Center for Families, Children, and the Courts.

Note: Programs in bold are offered by the Education Division or are offered by VAVEP exclusive of the Education Division. All other programs are offered by VAVEP in collaboration with the respective Education Division programs.

NA = Not applicable.

\* Although this course was not offered by VAVEP in fiscal years 2002-03 and 2003-04, the Education Division offered the course in those same fiscal years and participants and costs for this program are included in the totals for the B.E. Witkin Judicial College of California.

† Individual program costs are not available for this VAVEP-funded program because the AOC does not account for these costs individually. As a result, we present the total costs incurred for all programs at the end of this table.

‡ Although this program was not offered in the respective fiscal year, planning costs were incurred for the program related to the following fiscal year.

§ All costs of this program are included in the shared costs categories at the end of this table.

|| Program participants do not include those who attended the institute offered at the Continuing Judicial Studies Program summer session during fiscal year 2004-05.

# Some of the costs of this program are included in the shared costs category at the end of this table.

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\*\* Funding for this program was also provided by other entities, including other divisions within the AOC.

†† Costs for these programs are not accounted for separately.

## Although some programs are offered multiple times during a respective fiscal year, such as the Orientation for New Trial Court Judicial Officers and the Qualifying Ethics Program, for purposes of this table we count these programs only once. The participants listed represent all those who attended during the fiscal year.

*Agency's comments provided as text only.*

Judicial Council of California  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

August 15, 2006

Ms. Elaine M. Howle  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Ms. Howle:

I am responding to the audit report prepared by your office which examines issues related to how funds appropriated to the Judicial Council are used for training judicial officers and the processes and practices used in developing the budget for training judicial officers. We appreciate the time and effort expended by your staff in preparing this report that will contribute to the continued improvement of the California courts.

The discussion below responds to the two recommendations included in the audit report:

Recommendation on Development of System for Tracking Participation to Meet Education Requirements

The audit report recommends:

The Judicial Council should 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.

We appreciate the recommendation regarding development of a system for tracking participation to meet any judicial education requirements and acknowledge the importance of and need for accurate and timely records of this use of public funds. The Judicial Council may consider several approaches to ensure a system is in place that is efficient, effective, and administratively feasible.

Recommendation on Curriculum Development Process

The audit report recommends:

The Education Division should continue its efforts in designing curricula to use in developing its judicial education programs. After implementing the curriculum-based planning approach, the Education Division should formally assess whether it has been successful.

Ms. Elaine M. Howle  
August 15, 2006  
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We appreciate the recommendation to continue with the transition from event-based planning to curriculum-based planning and to evaluate its success. The following outlines some of the steps toward this recommendation:

- Each participating education committee will continue to develop the curriculum for their target audiences;
- Each participating committee will before the end of 2006 identify the essential content from its curriculum work so resources can be applied to those areas;
- Each participating committee will initiate the Phase III work (developing delivery plans) no later than January, 2007;
- Each participating committee will implement an evaluation process that includes an initial review of each new course developed through the curriculum (underway now) and an annual review of all course offerings to ensure the goals of curriculum-based planning are met (beginning in 2007).

As noted in the audit report, each committee works with a unique set of variables and thus will be at varying levels of implementation for the next couple of years.

We recognize the challenges ahead and will keep you informed of significant milestone achievements. Your support is greatly appreciated.

Sincerely,

*(Signed by William C. Vickrey)*

William C. Vickrey  
Administrative Director of the Courts

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press