

## NOTICE OF COMMENT PERIOD

On January 19, 2018, the Judicial Branch Education Advisory Committee submitted to the Nebraska Supreme Court proposed rules governing public access to Judicial Branch Education records. The Supreme Court published the proposed rules for a public comment period which ended on March 1, 2018. Thereafter, the Nebraska Supreme Court directed further amendments to Neb. Ct. R. §§ 1-501 and 1-513 be published for an additional public comment period.

The Nebraska Supreme Court invites interested persons to comment on the proposed rules and amendments. Anyone desiring to comment on the proposed rules and amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to [wendy.wussow@nebraska.gov](mailto:wendy.wussow@nebraska.gov), no later than July 16, 2018.

The full text of the proposed rules and amendments is available below, or a hard copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

### **CHAPTER 1: ADMINISTRATIVE OPERATIONS**

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#### **Article 5: Mandatory Continuing Judicial Education; Advisory Committee Provisions.**

##### **§ 1-501. Introduction.**

It is essential to the public that judges and judicial branch employees continue their education in order to maintain and increase their professional competence, to fulfill their obligations under the Nebraska Revised Code of Judicial Conduct, and to ensure the delivery of quality judicial services to the people of the State of Nebraska. These rules establish minimum requirements for judicial branch education for all Nebraska judges and judicial branch employees and allow for the education of those serving the courts as directed by the Supreme Court and Judicial Branch Education Advisory Committee.

Nothing in these rules shall impinge upon judicial independence. The content of educational programs and presentations is advisory only and not binding on the judiciary.

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##### **§ 1-513. Public access to Judicial Branch Education (JBE) records.**

(A) Unless otherwise provided in this section, JBE records shall be deemed to be public records within the meaning of Neb. Rev. Stat. § 84-712.01 and shall be available to the public in accordance with the Nebraska Public Records Act.

(B) JBE public records shall include the following:

- (1) Records showing the agenda for education or training programs or presentations.
- (2) Records showing the identity of presenters at education or training programs or presentations.
- (3) Contracts or records for payment for the provision of education or training programs or presentations.

(4) Records showing the content of education or training programs or presentations given by outside or private presenters, including all handouts, presentations, and recordings, except such portions of any recordings governed by subsection (C)(7) below, and as long as express written consent is granted by the author for the release of the materials.

(C) For purposes of this section, all other JBE records not identified in subsection (B) above shall be deemed confidential and not public records, including but not limited to:

(1) Records that may be withheld from the public pursuant to Neb. Rev. Stat. § 84-712.05.

(2) Records showing persons who registered or attended education or training programs or presentations.

(3) Records showing the content of education or training programs or presentations, including all handouts, presentations, and recordings when the presenter is an officer or employee of the Nebraska judicial branch.

(4) Examinations, worksheets, evaluations, or other material completed by persons attending education or training programs or presentations.

(5) Notes taken by persons attending education or training programs or presentations.

(6) Communications, including emails, regarding the selection and hiring of presenters, and the content to be presented.

(7) Questions or comments by the persons attending education or training programs or presentations, whether in written form or as part of a recording.

(8) Records showing credits or hours received or claimed by persons attending education or training programs or presentations.

(9) Files, records, and proceedings as set forth in § 1-507(D).

(D) Portions of a record that qualify as a JBE public record may nonetheless be given confidential treatment if the State Court Administrator finds that keeping such portions confidential is necessary to preserve the essential functions of the judicial branch.

(E) In no event shall this section be construed to infringe upon the judicial deliberations privilege, which covers a judge's mental impressions and thought processes in reaching a judicial decision, whether harbored internally or memorialized in other nonpublic materials. The privilege also protects confidential communications among judges and between judges and court staff made in the course of and related to their deliberative processes in particular cases.