

## NOTICE OF COMMENT PERIOD

On January 19, 2018, the Judicial Branch Education Advisory Committee submitted to the Nebraska Supreme Court a proposed new rule governing public access to Judicial Branch Education records. The Nebraska Supreme Court directed the proposed rule to be published for a public comment period.

The Nebraska Supreme Court invites interested persons to comment on proposed rule Neb. Ct. R. § 1-513. Anyone desiring to comment on the proposed rule 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 [ashley.nolte@nebraska.gov](mailto:ashley.nolte@nebraska.gov), no later than March 1, 2018.

The full text of the proposed rule 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.**

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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.

(C) For purposes of this section, all other documents 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 unless expressed written consent is granted by the author for the release of the requested materials, and the recordings do not violate subsection (C)(7) below.

(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.

(D) Portions of a record that qualify as a JBE public record may nonetheless be given confidential treatment if the Director of Judicial Branch Education 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.