LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT AND STANDARDS OF JUDICIAL ADMINISTRATION

Adopted by the Judicial Council of California on November 4, 2005, effective January 1, 2006 and January 1, 2007

Effective January 1, 2006

Effective January 1, 2006

Rule 12.5. Sealed records

(a) Application

This rule applies to sealed records and records proposed to be sealed on appeal and in original proceedings ~~under rule 56,~~ but does not apply to records required to be kept confidential by law.

(Subd (a) amended effective January 1, 2006.)

(b)–(g) ***

Rule 12.5 amended effective January 1, 2006; repealed and adopted effective January 1, 2002; previously amended effective July 1, 2002, and January 1, 2004.

Rule 14. Contents and form of briefs

(a) Contents

(1) Each brief must:

(A) Begin with a table of contents and a table of authorities separately listing cases, constitutions, statutes, court rules, and other authorities cited;

(B) State each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority; and

(C) Support any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears. If any part of the record is submitted in an electronic format, citations to that part must identify, with the same specificity required for the printed record, the place in the record where the matter appears.

(2) An appellant's opening brief must:

(A) State the nature of the action, the relief sought in the trial court, and the judgment or order appealed from;

(B) State that the judgment appealed from is final, or explain why the order appealed from is appealable; and

(C) Provide a summary of the significant facts limited to matters in the record.

(Subd (a) amended effective January 1, 2006.)

(b) Form

(1) A brief may be reproduced by any process that produces a clear, black image of letter quality. The paper must be white or unbleached, recycled, 8½ by 11 inches, and of at least 20-pound weight.

(2) Any conventional typeface may be used. The typeface may be either proportionally spaced or monospaced.

(3) The type style must be roman; but for emphasis, italics or boldface may be used, or the text may be underscored. Case names must be italicized or underscored. Headings may be in uppercase letters.

(4) Except as provided in (11), the type size, including footnotes, must not be smaller than 13-point, and both sides of the paper may be used.

(5) The lines of text must be unnumbered and at least one-and-a-half-spaced. Headings and footnotes may be single-spaced. Quotations may be block-indented and single-spaced. Single-spaced means six lines to a vertical inch.

(6) The margins must be at least 1½ inches on the left and right and 1 inch on the top and bottom.

(7) The pages must be consecutively numbered. The tables and the body of the brief may have different numbering systems.

(8) The brief must be bound on the left margin. If the brief is stapled, the bound edge and staples must be covered with tape.

(9) The brief need not be signed.

(10) The cover, preferably of recycled stock, must be in the color prescribed by rule 44(c) and must state:

(A) The title of the brief;

(B) The title, trial court number, and Court of Appeal number of the case;

(C) The names of the trial court and each participating trial judge;

(D) The name, address, telephone number, and California State Bar number of each attorney filing or joining in the brief, but the cover need not state the bar number of any supervisor of the attorney responsible for the brief; and

(E) The name of the party that each attorney on the brief represents.

(11) If the brief is produced on a typewriter:

(A) A typewritten original and carbon copies may be filed only with the presiding justice's permission, which will ordinarily be given only to unrepresented parties proceeding in forma pauperis. All other typewritten briefs must be filed as photocopies.

(B) Both sides of the paper may be used if a photocopy is filed; only one side may be used if a typewritten original and carbon copies are filed.

(C) The type size, including footnotes, must not be smaller than standard pica, 10 characters per inch. Unrepresented incarcerated litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(Subd (b) amended effective January 1, 2006; previously amended effective July 1, 2004, and January 1, 2004.)

(c)–(d) ***

(e) Noncomplying briefs

If a brief does not comply with this rule:

(1) The reviewing court clerk may decline to file it, but must mark it "received but not filed" and return it to the party; or

(2) If the brief is filed, the reviewing court may, on its own or a party's motion, with or without notice:

(A) Order the brief returned for corrections and refiling within a specified time;

(B) Strike the brief with leave to file a new brief within a specified time; or

(C) Disregard the noncompliance.

(Subd (e) amended effective January 1, 2006.)

Rule 14 amended effective January 1, 2006; repealed and adopted effective January 1, 2002; previously amended effective January 1, 2004, and July 1, 2004.

Rule 20. Settlement, abandonment, voluntary dismissal, and compromise

(a) Notice of settlement

(1) If a civil case settles after a notice of appeal has been filed, either as a whole or as to any party, the appellant who has settled must immediately serve and file a notice of settlement in the Court of Appeal. If the parties have designated a clerk's or a reporter's transcript and the record has not been filed in the Court of Appeal, the appellant must also immediately serve a copy of the notice on the superior court clerk.

(2) If the case settles after the appellant receives a notice setting oral argument or a prehearing conference, the appellant must also immediately notify the Court of Appeal of the settlement by telephone or other expeditious method.

(3) Within 45 days after filing a notice of settlement—unless the court has ordered a longer time period on a showing of good cause—the appellant who filed the notice of settlement must file either an abandonment under (b), if the record has not yet been filed in the Court of Appeal or a request to dismiss under (c), if the record has already been filed in the Court of Appeal.

(4) If the appellant does not file an abandonment, a request to dismiss, or a letter stating good cause why the appeal should not be dismissed within

the time period specified under (3), the court may dismiss the appeal as to that appellant and order each side to bear its own costs on appeal.

(5) This subdivision does not apply to settlements requiring findings to be made by the Court of Appeal under Code of Civil Procedure section 128(a)(8).

(Subd (a) amended effective January 1, 2006.)

(b)–(d) ***

Rule 20 amended effective January 1, 2006; repealed and adopted effective January 1, 2003.

Rule 37. Appeals in juvenile cases generally

(a)–(d) ***

(e) Receipt by mail from custodial institution

If the superior court clerk receives a notice of appeal by mail from a custodial institution after the period specified in (d) has expired but the envelope shows that the notice was mailed or delivered to custodial officials for mailing within the period specified in (d), the notice is deemed timely. The clerk must retain in the case file the envelope in which the notice was received.

(Subd (e) adopted effective January 1, 2006.)

~~(e)~~(f) Premature or late notice of appeal

(1)–(2) *******

(Subd (f) relettered effective January 1, 2006; adopted as subd (e) effective January 1, 2005.)

~~(f)~~(g) Superior court clerk's duties

(1)–(7) *******

(Subd (g) relettered effective January 1, 2006; adopted as subd (f) effective January 1, 2005.)

Rule 37 amended effective January 1, 2006; adopted effective January 1, 2005.

Rule 38. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26

(a) Application

Rules 38–38.1 and 1436.5 govern writ petitions to review order setting a hearing under Welfare and Institutions Code section 366.26. Rule 56 does not apply to petitions governed by these rules.

(Subd (a) amended effective January 1, 2006.)

(b)–(e) ***

(f) Sending the notice of intent

(1) When the notice of intent is filed, the superior court clerks must immediately mail a copy of the notice to:

(A) each counsel of record;

(B) each party, including the ~~minor~~ child, if the child is 10 years of age or older;~~,~~ the mother; the father; the presumed and alleged parents; the ~~present custodian of a dependent~~ child's present caregiver;~~,~~ any legal guardian;~~,~~ and any person who has been declared a de facto parent and given standing to participate in the juvenile court proceedings;

(C) the probation officer or social worker; ~~and~~

(D) any Court Appointed Special Advocate;~~.~~

(E) the grandparents of the child, if their address is known and if the parents' whereabouts are unknown; and

(F) the Indian custodian and tribe of the child or the Bureau of Indian Affairs if the identity or location of the parent or Indian custodian and the tribe cannot be determined.

(2) *******

(Subd (f) amended effective January 1, 2006.)

(g) Preparing the record

When the notice of intent is filed, the superior court clerk must:

(1) immediately notify the reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at the hearing that resulted in the order under review and deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; and

(2) within 20 days ~~after the notice of intent is filed,~~ prepare a clerk's transcript that includes the notice of intent, proof of service, and all items listed in rule 37.1(a).

(Subd (g) amended effective January 1, 2006.)

(h)–(i) ***

Rule 38 amended effective January 1, 2006; adopted effective January 1, 2005.

Rule 38.1 Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26 and rule 1436.5

(a)–(c) ***

(d) Sending the writ

Petitioner must send the writ to all parties entitled to receive notice under Welfare and Institutions Code section 294, the child's Court Appointed Special Advocate (CASA) volunteer, the child's present caregiver, and any de facto parent given standing to participate in the juvenile court proceedings.

(Subd (d) adopted effective January 1, 2006.)

~~(d)~~(e) Order to show cause or alternative writ

If the court intends to determine the petition on the merits, it must issue an order to show cause or alternative writ.

(Subd (e) relettered effective January 1, 2006; adopted as subd (d) effective January 1, 2005.)

~~(e)~~(f) Augmenting or correcting the record in the reviewing court

(1)–(4) ***

(Subd (f) relettered effective January 1, 2006; adopted as subd (e) effective January 1, 2005.)

~~(f)~~(g) Stay

The reviewing court may stay the hearing set under Welfare and Institutions Code section 366.26, but must require an exceptional showing of good cause.

(Subd (g) relettered effective January 1, 2006; adopted as subd (f) effective January 1, 2005.)

~~(g)~~(h) Oral argument

(1)–(2) ***

(Subd (h) relettered effective January 1, 2006; adopted as subd (g) effective January 1, 2005.)

~~(h)~~(i) Decision

(1)–(4) ***

(Subd (i) relettered effective January 1, 2006; adopted as subd (h) effective January 1, 2005.)

Rule 38.1 amended effective January 1, 2006; adopted effective January 1, 2005.

Rule 38.2. Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights

(a)–(e) ***

(f) Premature or late notice of intent to file writ petition

(1) A notice of intent to file a writ petition under section 366.28 is premature if filed before a date for a postdetermination placement order has been made. The reviewing court may treat the notice as filed immediately after the postdetermination order has been made.

(2) The superior court clerk must mark a late notice of intent to file a writ petition under 366.28 "Received [date] but not filed," notify the party that the notice was not filed because it was late, and send a copy of the marked notice to the party's counsel of record, if applicable.

(Subd (f) adopted effective January 1, 2006.)

~~(f)~~(g) Sending the notice of intent

(1) When the notice of intent is filed, the superior court clerk must immediately mail a copy of the notice to:

(A) each counsel of record;

(B) each relevant party, including the child, if the child is 10 years of age or older~~,~~; the ~~present custodian of the dependent~~ child's present caregiver, any legal guardian, and any person who has been declared a de facto parent and given standing to participate in the juvenile court proceedings;

(C) the probation officer or social worker;

(D) ~~any~~ the child's Court Appointed Special Advocate volunteer~~,~~ and

(E) the tribe of an Indian child and the Indian custodian.

(2) ***

(Subd (g) relettered effective January 1, 2006; adopted as subd (f) effective January 1, 2005.)

~~(g)~~(h) Preparing the record

When the notice of intent is filed, the superior court clerk must:

(1) immediately notify the reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at the hearing that resulted in the order under review and deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; and

(2) within 20 days ~~after the notice of intent is filed~~, prepare a clerk's transcript that includes the notice of intent, proof of service, and all items listed in rule 37.1(a).

(Subd (h) relettered and amended effective January 1, 2006; adopted as subd (g) effective January 1, 2005.)

~~(h)~~(i) Sending the record

When the transcripts are certified as correct, the superior court clerk must immediately send:

(1)–(2) ***

(Subd (i) relettered effective January 1, 2006; adopted as subd (h) effective January 1, 2005.)

~~(i)~~(j) Reviewing court clerk's duties

(1)–(2) ***

(Subd (j) relettered effective January 1, 2006; adopted as subd (i) effective January 1, 2005.)

Rule 38.2 amended effective January 1, 2006; adopted January 1, 2005.

Rule 38.3. Writ petition under Welfare and Institutions Code section 366.28 and rule 1436.5 to review order designating specific placement of a dependent child after termination of parental rights

(a)–(b) ***

(c) Time to file petition and response

(1) The petition must be served and filed within 10 days after the record is filed in the reviewing court. Petitioner must give notice to all parties entitled to receive notice under rule 38.2.

(2) ***

(Subd (c) amended effective January 1, 2006.)

(d) Sending the writ

Petitioner must send the writ to all parties entitled to receive notice under Welfare and Institutions Code section 294, any Court Appointed Special Advocate (CASA) volunteer, the child's present caregiver, the child's prospective adoptive parents, and any de facto parent given standing to participate in the juvenile court proceedings.

(Subd (d) adopted effective January 1, 2006.)

~~(d)~~(e) Order to show cause or alternative writ

If the court intends to determine the petition on the merits, it must issue an order to show cause or alternative writ.

(Subd (e) relettered effective January 1, 2006; adopted as subd (d) effective January 1, 2005.)

~~(e)~~(f) Augmenting or correcting the record in the reviewing court

(1)–(4) *******

(Subd (f) relettered effective January 1, 2006; adopted as subd (e) effective January 1, 2005.)

~~(f)~~(g) Stay

The reviewing court may stay the hearing set under Welfare and Institutions Code section 366.26, but must require an exceptional showing of good cause.

(Subd (g) relettered effective January 1, 2006; adopted as subd (f) effective January 1, 2005.)

~~(g)~~(h) Oral argument

(1)–(2) *******

(Subd (h) relettered effective January 1, 2006; adopted as subd (g) effective January 1, 2005.)

~~(h)~~(i) Decision

(1)–(4) *******

(Subd (i) relettered effective January 1, 2006; adopted as subd (h) effective January 1, 2005.)

~~(i)~~(j) Right to appeal other orders

This section does not affect the right of a parent, a legal guardian, or the child to appeal any order that is otherwise appealable and that is issued at a hearing held under Welfare and Institutions Code section 366.26.

(Subd (j) relettered effective January 1, 2006; adopted as subd (i) effective January 1, 2005.)

Rule 38.3 amended effective January 1, 2006; adopted effective January 1, 2005.

Rule 44. Form, number, and cover of documents filed in the reviewing court

(a) ***

(b) Number of copies

Except as these rules provide otherwise, the following number of copies must be filed of every brief, petition, motion, or other document, except the record, filed in a reviewing court:

(1) If filed in the Supreme Court:

(A) Except as provided in (D), an original and 13 copies of a petition for review, an answer, a reply, a brief on the merits, an amicus curiae brief, an answer to an amicus curiae brief, a petition for rehearing, or an answer to a petition for rehearing;

(B) Unless the court orders otherwise, an original and 10 copies of a petition for a writ within the court's original jurisdiction, an opposition or other response to the petition, or a reply;

(C) Unless the court orders otherwise, an original and 2 copies of any supporting document accompanying a petition for writ of habeas corpus, an opposition or other response to the petition, or a reply;

(D) An original and 8 copies of a petition for review to exhaust state remedies under rule 33.3, an answer, or a reply, or an amicus curiae letter under rule 28(g);

(E) An original and 8 copies of a motion or an opposition or other response to a motion; and

(F) An original and 1 copy of an application, including an application to extend time, or any other document.

(2) If filed in a Court of Appeal:

(A) An original and 4 copies of a brief, an amicus curiae brief, or an answer to an amicus curiae brief, and, in civil appeals, proof of delivery of 4 copies to the Supreme Court;

(B) An original of a petition for writ of habeas corpus filed under rule 60 by a person who is not represented by an attorney and 1 set of any supporting documents;

~~(B)~~(C) An original and 4 copies of any other petition, an answer, opposition or other response to a petition, or a reply;

~~(C)~~(D) An original and 3 copies of a motion or an opposition or other response to a motion; and

(E) Unless the court orders otherwise by local rule or in the specific case, 1 set of any separately bound supporting documents accompanying a document filed under (C) or (D);

~~(E)~~(F) An original and 1 copy of ~~an~~ any application~~, including~~ other than an application to extend time, or any other document~~.~~; and

(G) An original and 1 copy of an application to extend time. In addition, 1 copy for each separately represented or unrepresented party must be provided to the court.

~~(3) Unless the court orders otherwise by local rule or in the specific case, only one set of any separately bound supporting documents accompanying a document filed under (2)(B) or (C) need be filed.~~

(Subd (b) amended effective January 1, 2006.)

(c)–(d) ***

Rule 44 amended effective January 1, 2006; repealed and adopted effective January 1, 2005.

Rule 56. Original proceedings

(a) Application

(1) *******

(2) This rule does not apply to petitions for writs of habeas corpus, except as provided in rule ~~60~~ 60.5, or to petitions for writs of review under rules 57–59.

(Subd (a) amended effective January 1, 2006.)

(b) Petition

(1)–(2) ***

(3) If the petition seeks review of trial court proceedings that are also the subject of a pending appeal, the notice "Related Appeal Pending" must appear on the cover of the petition and the first paragraph of the petition must state:

(A) The appeal's title, trial court docket number, and any reviewing court docket number, and

(B) If the petition is filed under Penal Code section 1238.5, the date the notice of appeal was filed.

(4)–(7) ***

(Subd (b) amended effective January 1, 2006.)

(c) Contents of supporting documents

(1) A petition that seeks review of a trial court ruling must be accompanied by an adequate record, including copies of:

(A) The ruling from which the petition seeks relief;

(B) All documents and exhibits submitted to the trial court supporting and opposing the petitioner's position;

(C) Any other documents or portions of documents submitted to the trial court that are necessary for a complete understanding of the case and the ruling under review; and

(D) A reporter's transcript of the oral proceedings that resulted in the ruling under review.

(2) If a transcript under (1)(D) is unavailable, the record must include a declaration by counsel:

(A) Explaining why the transcript is unavailable and fairly summarizing the proceedings, including counsel's arguments and any statement by the court supporting its ruling; or

(B) Stating that the transcript has been ordered, the date it was ordered, and the date it is expected to be filed, which must be a date prior to any action requested of the reviewing court other than issuance of a temporary stay supported by other parts of the record.

(3)–(5) ***

(Subd (c) amended effective January 1, 2006.)

(d) Form of supporting documents

(1)–(2) ***

(3) Rule ~~44(b)(3)~~ 44(b)(1) governs the number of copies of supporting documents to be filed in the Supreme Court; rule 44(b)(2) governs the number of copies of supporting documents to be filed in the Court of Appeal.

(Subd (d) amended effective January 1, 2006.)

(e)–(*l*) ***

Rule 56 amended effective January 1, 2006; repealed and adopted effective January 1, 2005.

Rule 60. Petition for writ of habeas corpus filed by petitioner not represented by an attorney

(a) Required Judicial Council form

(1) A person who is not represented by an attorney and who ~~A~~ petitions ~~to~~ a reviewing court for a writ of habeas corpus~~—or other writ within its original jurisdiction—that seeks~~ seeking release from, or modification of the conditions of, custody of a person confined in a state or local penal institution, hospital, narcotics treatment facility, or other institution, must ~~be filed~~ file the petition on Judicial Council form MC-275, *Petition for Writ of Habeas Corpus*. For good cause the court may permit the filing of a petition that is not on form MC-275.

(2) A petition ~~on form MC-275~~ filed under (1) need not comply with the provisions of rules 14, 44, or 56 that prescribe the form and content of a

petition and require the petition to be accompanied by points and authorities.

(3) In the Court of Appeal, the petitioner must file the original of the petition under (1) and 1 set of any supporting documents. In the Supreme Court, the petitioner must file an original and 10 copies of the petition and an original and 2 copies of any supporting document accompanying the petition unless the court orders otherwise.

(Subd (a) amended effective January 1, 2006.)

~~**(b) Petition filed by attorney**~~

~~If the petition is filed by an attorney:~~

~~(1) The petition need not be filed on form MC-275 but must contain the information requested in that form and must comply with rule 14(a)–(b).~~

~~(2) Any memorandum of points and authorities accompanying the petition must comply with rule 14(a)–(b).~~

~~(3) The petition must be accompanied by a copy of any petition—excluding exhibits—pertaining to the same judgment and petitioner that was previously filed in any lower state court or any federal court. If such documents have previously been filed in the Supreme Court, the petition need only so state.~~

~~(4) Any supporting documents accompanying the petition must comply with rules 44(b)(1)(C) and 56(d).~~

~~(5) The petition and any memorandum of points and authorities must support any reference to a matter in the supporting documents by a citation to its index tab and page.~~

~~(6) If the petition asserts a claim that was the subject of an evidentiary hearing, the petition must be accompanied by a certified transcript of that hearing.~~

~~(7) The clerk must file an attorney's petition not complying with (1)–(6) if it otherwise complies with the rules of court, but the court may notify the attorney that it may strike the petition or impose a lesser sanction if the petition is not brought into compliance within a stated reasonable time of not less than five days.~~

(Subd (b) repealed effective January 1, 2006.)

~~(c)~~(b) ***

(Subd (b) relettered effective January 1, 2006; adopted as subd (c) effective January 1, 2005.)

~~(d)~~(c) ***

(Subd (c) relettered effective January 1, 2006; adopted as subd (d) effective January 1, 2006.)

~~(e)~~ (d) Petition unrelated to appellate district

(1) A Court of Appeal may deny without prejudice a petition for writ of habeas corpus that is based primarily on facts occurring outside the court's appellate district, including petitions that question:

(A) The validity of judgments or orders of trial courts located outside the district~~,~~; or

(B) The conditions of confinement or conduct of correctional officials outside the district.

(2) *******

(Subd (d) amended and relettered effective January 1, 2006; adopted as subd (e) effective January 1, 2005.)

Rule 60 amended effective January 1, 2006; repealed and adopted effective January 1, 2005.

Rule 60.5. Petition for writ of habeas corpus filed by an attorney for a party

(a) General application of rule 60

Except as provided in this rule, rule 60 applies to any petition for a writ of habeas corpus filed by an attorney.

(b) Special requirements for petition filed by attorney

(1) A petition for a writ of habeas corpus filed by an attorney need not be on form MC-275 but must contain the information requested in that form and must comply with rules 14(a)–(b), 44(c)–(d), and 56(b)(6).

(2) Any memorandum of points and authorities accompanying the petition must comply with rule 14(a)–(b).

(3) The petition must be accompanied by a copy of any petition—excluding exhibits—pertaining to the same judgment and petitioner that was previously filed in any lower state court or any federal court. If such documents have previously been filed in the Supreme Court, the petition need only so state.

(4) If the petition asserts a claim that was the subject of an evidentiary hearing, the petition must be accompanied by a certified transcript of that hearing.

(5) Any supporting documents accompanying the petition must comply with rule 56(d).

(6) The petition and any memorandum of points and authorities must support any reference to a matter in the supporting documents by a citation to its index tab and page.

(7) If the petition is filed in the Supreme Court, the attorney must file the number of copies of the petition and supporting documents required by rule 44(b)(1). If the petition is filed in the Court of Appeal, the attorney must file the number of copies of the petition and supporting documents required by rule 44(b)(2).

(8) The clerk must file an attorney's petition not complying with (1)–(7) if it otherwise complies with the rules of court, but the court may notify the attorney that it may strike the petition or impose a lesser sanction if the petition is not brought into compliance within a stated reasonable time of not less than five days.

Rule 60.5 adopted effective January 1, 2006.

Rule 201. Form of papers presented for filing

(a)–(e) ***

(f) [Format of first page] The first page of each paper must be in the following form:

(1) In the space commencing 1 inch from the top of the page with line 1, to the left of the center of the page, the name, office address or, if none, residence address, telephone number, fax number and e-mail address (if ~~provided~~ available), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person~~; but the name, office address, telephone number, and State Bar membership number of the attorney printed on the page is sufficient~~. The inclusion of a fax number or e-mail address on any document ~~is optional, and its inclusion~~ does not constitute consent to service by fax or e-mail unless otherwise provided by law.

(2)–(11) *******

(Subd (f) amended effective January 1, 2006; previously amended effective July 1, 1993, January 1, 1994, and January 1, 2003.)

(g)–(i) ***

(j) [Acceptance for filing] The clerk of the court must not accept for filing or file any papers that do not comply with this rule, except:

(1) The clerk must not reject a paper for filing solely on the ground that it is handwritten or handprinted or that the handwriting or handprinting is in a color other than blue-black or black~~.~~;

(2) The clerk must not reject a paper for filing solely on the ground that it does not contain an attorney's or a party's fax number or e-mail address on the first page; and

~~(2)~~(3) For good cause shown, the court may permit the filing of papers that do not comply with this rule.

(Subd (j) amended effective January 1, 2006; previously relettered as subd (h) effective January 1, 1966; previously amended and relettered as subd (g) effective January 1, 1984; previously relettered as subd (i) effective July 1, 1993; previously relettered as subd (j)

effective January 1, 1999; previously amended effective July 1, 1974; January 1, 1978, and January 1, 2003.)

(k) ***

Rule 201 amended effective January 1, 2006; adopted effective January 1, 1949; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, January 1, 1966, July 1, 1969, July 1, 1971, January 1, 1973, July 1, 1974, January 1, 1976, January 1, 1978, May 6, 1978, January 1, 1984, April 1, 1990, July 1, 1990, January 1, 1992, July 1, 1992, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2000, January 1, 2001, and January 1, 2003.

Rule 201.1. Judicial Council forms

(a) Judicial Council forms are either mandatory or optional.

(b) [Mandatory forms]

(1) Forms adopted by the Judicial Council for mandatory use are forms prescribed under Government Code section 68511. Wherever applicable, they must be used by all parties and must be accepted for filing by all the courts.

(2) Each mandatory Judicial Council form is identified as mandatory by an asterisk (*) on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court. The list is available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.

(3) Forms adopted by the Judicial Council for mandatory use bear the words "Form Adopted for Mandatory Use" or "Mandatory Form" in the lower left corner of the first page.

(4) Publishers and courts reprinting a mandatory Judicial Council form in effect before July 1, 1999, must add the words "Mandatory Form" to the bottom of the first page.

(5) The court may not alter a mandatory Judicial Council form and require the altered form's use in place of the Judicial Council form.

(6) The court may not require that any mandatory Judicial Council form be submitted on any color paper other than white.

(7) An otherwise legally sufficient court order for which there is a mandatory Judicial Council form is not invalid or unenforceable because the order is not prepared on a Judicial Council form or the correct Judicial Council form.

(Subd (b) amended effective January 1, 2006; adopted as subd (a) effective November 10, 1969; previously amended effective July 1, 1990; amended and relettered effective January 1, 2003.)

(c)–(*l*) ***

Rule 201.1 amended effective January 1, 2006; adopted as rule 982 effective November 10, 1969; previously amended effective November 23, 1969, July 1, 1970, November 23, 1970, January 1, 1971, January 1, 1972, March 4, 1972, July 1, 1972, March 7, 1973, January 1, 1975, July 1, 1975, July 1, 1976, January 1, 1977, July 1, 1977, January 1, 1978, October 1, 1978, January 1, 1979, July 1, 1980, January 1, 1981, July 1, 1983, July 1, 1988, January 1, 1997, July 1, 1999; amended and renumbered effective January 1, 2003.

Rule 224. Duty to notify court and others of stay

(a)–(b) ***

(c) [Contents of notice] The notice must state whether the case is stayed with regard to all parties or only certain parties. If it is stayed with regard to only ~~to~~ certain parties, the notice must specifically identify those parties. The notice must also state the reason that the case is stayed.

(Subd (c) amended effective Janaury 1, 2006.)

(d) [Notice that stay is ~~vacated~~ terminated or modified] When a stay is vacated, ~~or~~ is no longer in effect, or is modified, the party who filed the notice of the stay must immediately serve and file a notice ~~that the stay is vacated or is no longer in effect~~ of termination or modification of stay. If that party fails to do so, any other party in the action who has knowledge of the termination or modification of the stay must serve and file a notice of termination or modification of stay. Once one party in the action has served and filed a notice of termination or modification of stay, other parties in the action are not required to do so.

(Subd (d) amended effective January 1, 2006.)

Rule 224 amended effective January 1, 2006; adopted effective January 1, 2004.

Rule 225. Duty to notify court and others of settlement <u>of entire case</u>

(a) [Notice of settlement]

(1) If a<u>n</u> <u>entire</u> case is settled or otherwise disposed of, each plaintiff or other party seeking affirmative relief must immediately file written notice of the settlement or other disposition with the court and serve the notice on all parties and any arbitrator or other court-connected alternative dispute resolution (ADR) neutral involved in the case. Each plaintiff or other party seeking affirmative relief must also immediately give oral notice to all of the above if a hearing, conference, or trial is scheduled to take place within 10 days.

(2) If the plaintiff or other party seeking affirmative relief does not notify an arbitrator or other court-connected ADR neutral involved in the case of a settlement at least 2 days before the scheduled hearing or session with that arbitrator or neutral, the court may order the party to compensate the arbitrator or other neutral for the scheduled hearing time. The amount of compensation ordered by the court must not exceed the maximum amount of compensation the arbitrator would be entitled to receive for service as an arbitrator under Code of Civil Procedure section 1141.18(b) or that the neutral would have been entitled to receive for service as a neutral at the scheduled hearing or session.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 1989, July 1, 2001, July 1, 2002, and January 1, 2004.)

(b) [Dismissal of case] Except as provided in (c), each plaintiff or other party seeking affirmative relief must serve and file a request for dismissal <u>of the entire case</u> within 45 days after the date of settlement <u>of the case</u>. If the plaintiff or other party required to serve and file the request for dismissal does not do so, the court must dismiss the <u>entire</u> case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

(Subd (b) amended effective January 1, 2006; adopted effective January 1, 1989; previously amended effective July 1, 2002, and January 1, 2004.)

(c) [Conditional settlement] If the settlement agreement conditions dismissal on the satisfactory completion of specified terms that are not to be performed within 45 days of the settlement, the notice of conditional settlement served and filed by each plaintiff or other party seeking affirmative relief must specify the date by which the dismissal is to be filed. If the plaintiff or other party

required to serve and file a request for dismissal within 45 days after the dismissal date specified in the notice does not do so, the court must dismiss the entire case unless good cause is shown why the case should not be dismissed.

(Subd (c) amended effective January 1, 2006; adopted effective January 1, 1989; previously amended effective July 1, 2002, and January 1, 2004.)

Rule 225 amended effective January 1, 2006; adopted effective January 1, 1985; previously amended effective January 1, 1989, January 1, 1992, July 1, 2001, July 1, 2002, and January 1, 2004.

Rule 870.2. Claiming attorney fees

(a) ***

(b) [Attorney fees before trial court judgment]

(1) A notice of motion to claim attorney fees for services up to and including the rendition of judgment in the trial court—including attorney fees on an appeal before the rendition of judgment in the trial court—shall be served and filed within the time for filing a notice of appeal under rules 2 and 3.

(2) The parties may, by stipulation filed before the expiration of the time allowed under subdivision (b)(1), extend the time for filing a motion for attorney fees (i) until 60 days after the expiration of the time for filing a notice of appeal; or (ii) if a notice of appeal is filed, until the time within which a memorandum of costs must be served and filed under rule ~~26(d)~~ 27(d).

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 1999.)

(c) [Attorney fees on appeal]

(1) A notice of motion to claim attorney fees on appeal—other than the attorney fees on appeal claimed under subdivision (b)—under a statute or contract requiring the court to determine entitlement to the fees, the amount of the fees, or both, shall be served and filed within the time for serving and filing the memorandum of costs under rule ~~26(d)~~ 27(d).

(2) The parties may by stipulation filed before the expiration of the time allowed under subdivision (c)(1) extend the time for filing the motion up to an additional 60 days.

(Subd (c) amended effective January 1, 2006; previously amended effective January 1, 1999.)

(d)–(e) ***

Rule 870.2 amended effective January 1, 2006; adopted effective January 1, 1994; previously amended effective January 1, 1999.

Rule 980. Photographing, recording, and broadcasting in court

(a) ***

(b) [Definitions] For purposes of this rule,

(1)–(4) *******

(5) "Photographing" means recording a likeness, regardless of the method used, including by digital or photographic methods. As used in this rule, photographing does not include drawings or sketchings of the court proceedings.

(6) "Recording" means the use of any analog or digital device to aurally or visually preserve court proceedings. As used in this rule, recording does not include handwritten notes or the court record, whether by court reporter or by digital or analog preservation.

(7) "Broadcasting" means a visual or aural transmission or signal, by any method, of the court proceedings, including any electronic transmission or transmission by sound wave.

(Subd (b) amended effective January 1, 2006; adopted as subd (a) effective July 1, 1984; previously amended and relettered effective January 1, 1997.)

(c) [Photographing, recording, and broadcasting prohibited] Except as provided in this rule, court proceedings ~~shall~~ may not be photographed, recorded, or broadcast. This rule does not prohibit courts from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel.

(Subd (c) amended effective January 1, 2006; adopted effective January 1, 1997.)

(d) [Personal recording devices] The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device ~~shall~~ must obtain permission from the judge in advance. The recordings ~~shall~~ must not be used for any purpose other than as personal notes.

(Subd (d) amended effective January 1, 2006; adopted as subd (c) effective July 1, 1984; previoulsy amended and relettered effective January 1, 1997.)

(e) [Media coverage] Media coverage ~~shall~~ may be permitted only on written order of the judge as provided in this subdivision. The judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report court proceedings.

(1) (*Request for order*) The media may request an order on ~~a form approved by the Judicial Council~~ Media Request to Photograph, Record, or Broadcast (form MC-500). The form ~~shall~~ must be filed at least five court days before the portion of the proceeding to be covered unless good cause is shown. A completed, proposed order on ~~a form approved by the Judicial Council~~ *Order on Media Request to Permit Coverage* (form MC-510) ~~shall~~ must be filed with the request. The judge assigned to the proceeding ~~shall~~ must rule upon the request. If no judge has been assigned, the request ~~shall~~ will be submitted to the judge supervising the calendar department, and thereafter be ruled upon by the judge assigned to the proceeding. The clerk ~~shall~~ must promptly notify the parties that a request has been filed.

(2) *******

(3) (*Factors to be considered by the judge*) In ruling on the request, the judge ~~shall~~ is to consider the following factors:

~~(i)~~(A) Importance of maintaining public trust and confidence in the judicial system;

~~(ii)~~(B) Importance of promoting public access to the judicial system;

~~(iii)~~(C) Parties' support of or opposition to the request;

~~(iv)~~(D) Nature of the case;

~~(v)~~(E) Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims;

~~(vi)~~(F) Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding;

~~(vii)~~(G) Effect on the parties' ability to select a fair and unbiased jury;

~~(viii)~~(H) Effect on any ongoing law enforcement activity in the case;

~~(ix)~~(I) Effect on any unresolved identification issues;

~~(x)~~(J) Effect on any subsequent proceedings in the case;

~~(xi)~~(K) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;

~~(xii)~~(L) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;

~~(xiii)~~(M) Scope of the coverage and whether partial coverage might unfairly influence or distract the jury;

~~(xiv)~~(N) Difficulty of jury selection if a mistrial is declared;

~~(xv)~~(O) Security and dignity of the court;

~~(xvi)~~(P) Undue administrative or financial burden to the court or participants;

~~(xvii)~~(Q) Interference with neighboring courtrooms;

~~(xviii)~~(R) Maintaining orderly conduct of the proceeding; and

~~(xix)~~(S) Any other factor the judge deems relevant.

(4) (*Order permitting media coverage*) The judge ruling on the request to permit media coverage is not required to make findings or a statement of decision. The order may incorporate any local rule or order of the presiding or supervising judge regulating media activity outside of the courtroom. The judge may condition the order permitting media coverage on the media agency's agreement to pay any increased court-incurred

costs resulting from the permitted media coverage (for example, for additional court security or utility service). Each media agency ~~shall be~~ is responsible for ensuring that all its media personnel who cover the court proceeding know and follow the provisions of the court order and this rule.

(5) (*Modified order*) The order permitting media coverage may be modified or terminated on the judge's own motion or upon application to the judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application ~~shall~~ must be given to the parties and each media agency permitted by the previous order to cover the proceeding.

(6) (*Prohibited coverage*) The judge ~~shall~~ may not permit media coverage of the following:

~~(i)~~(A) Proceedings held in chambers;

~~(ii)~~(B) Proceedings closed to the public;

~~(iii)~~(C) Jury selection;

~~(iv)~~(D) Jurors or spectators; and

~~(v)~~(E) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the judge at the bench.

(7) (*Equipment and personnel*) The judge may require media agencies to demonstrate that proposed personnel and equipment comply with this rule. The judge may specify the placement of media personnel and equipment to permit reasonable media coverage without disruption of the proceedings.

Unless the judge in his or her discretion orders otherwise, the following rules shall apply:

~~(i)~~(A) One television camera and one still photographer ~~shall~~ will be permitted.

~~(ii)~~(B) The equipment used ~~shall~~ may not produce distracting sound or light. Signal lights or devices to show when equipment is operating ~~shall~~ may not be visible.

~~(iii)~~(C) An order permitting or requiring modification of existing sound or lighting systems is deemed to require that the modifications be installed, maintained, and removed without public expense or disruption of proceedings. Microphones and wiring ~~shall~~ must be unobtrusively located in places approved by the judge and ~~shall~~ must be operated by one person.

~~(iv)~~(D) Operators ~~shall~~ may not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.

~~(v)~~(E) Equipment or clothing ~~shall~~ must not bear the insignia or marking of a media agency.

(8) (*Media pooling*) If two or more media agencies of the same type request media coverage of a proceeding, they ~~shall~~ must file a statement of agreed arrangements. If they are unable to agree, the judge may deny media coverage by that type of media agency.

(Subd (e) amended effective January 1, 2006; adopted as subd (b) effective July 1, 1984; previously amended and relettered effective January 1, 1997.)

(f) ***

Rule 980 amended effective January 1, 2006; adopted effective July 1, 1984; previously amended effective January 1, 1997.

Rule 989.3. Requests for accommodations by persons with disabilities

(a) [Policy] It ~~shall be~~ is the policy of the courts of this state to ~~assure~~ ensure that ~~qualified individuals~~ persons with disabilities have equal and full access to the judicial system. To ensure access to the courts for persons with disabilities, each superior and appellate court must designate at least one person to be the ADA coordinator, also known as the access coordinator, or designee to address requests for accommodations. ~~Nothing in this rule shall be construed~~ This rule is not intended to impose limitations or to invalidate the remedies, rights, and procedures accorded to ~~any qualified individuals~~ persons with disabilities under state or federal law.

(Subd (a) amended effective January 1, 2006.)

(b) [Definitions] The following definitions ~~shall~~ apply under this rule:

(1) "~~Qualified individuals~~ Persons with disabilities" means ~~persons~~ individuals covered by California Civil Code section 51 et seq., the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.)~~;, Civil Code section 51 et seq.~~; ~~and~~ or other ~~related~~ applicable state and federal law~~s; and~~. This definition includes ~~individuals~~ persons who have a physical or mental impairment that ~~substantially~~ limits one or more of the major life activities~~;,~~ have a record of such an impairment~~;,~~ or are regarded as having such an impairment.

(2) "Applicant" means any lawyer, party, witness, juror, or ~~any~~ other ~~individual~~ person with an interest in attending any proceeding before any court of this state.

(3) "Accommodations~~(s)~~" means actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include, but are not limited to, making reasonable modifications in policies, practices, and procedures; furnishing, at no charge~~,~~ to ~~the qualified individuals~~ persons with disabilities, auxiliary aids and services, ~~which are not limited to~~ equipment, devices, materials in alternative formats, ~~and qualified interpreters or~~ readers~~;~~ or certified interpreters for persons with hearing impairments; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation. ~~and making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations. While not requiring that each existing facility be accessible, this standard, known as "program accessibility," must be provided by methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate sites.~~

(4) ~~The~~ "Rule" means this rule regarding requests for accommodations in any state courts by ~~qualified individuals~~ persons with disabilities.

~~(5) Confidentiality applies to the identity of the applicant in all oral or written communications, including all files and documents submitted by an applicant as part of the application process.~~

(Subd (b) amended effective January 1, 2006.)

(c) [Process] The following process for requesting accommodations is established:

(1) ~~Applications requesting~~ Requests for accommodations~~(s) pursuant to~~ under this rule may be presented ex parte ~~in writing,~~ on a form approved by the Judicial Council, in another written format, ~~and provided by the court,~~ or orally ~~as the court may allow~~. ~~Applications~~ Requests ~~should~~ must be ~~made~~ forwarded ~~at the designated Office of the Clerk, or to the courtroom clerk or judicial assistant where the proceeding will take place, or to the judicial officer who will preside over the proceeding~~ to the ADA coordinator, also known as the access coordinator, or designee, within the time frame provided in subdivision (c)(3).

(2) ~~All applications~~ Requests for accommodations ~~shall~~ must include a description of the accommodation sought, along with a statement of the impairment that necessitates such accommodation. The court, in its discretion, may require the applicant to provide additional information about the ~~qualifying~~ impairment.

(3) ~~Applications~~ Requests for accommodations ~~should~~ must be made as far in advance ~~of the requested accommodations implementation date~~ as possible, and in any event ~~should~~ must be made no ~~less~~ fewer than five court days ~~prior to~~ before the requested implementation date. The court may, in its discretion, waive this requirement.

(4) ~~Upon request,~~ The court ~~shall~~ must ~~place under seal the identity of the applicant as designated on the application form and all other identifying information provided to the court pursuant to the application~~ keep confidential all information of the applicant concerning the request for accommodation, unless confidentiality is waived in writing by the applicant or disclosure is required by law. The applicant's identity and confidential information may not be disclosed to the public or to persons other than those involved in the accommodation process. Confidential information includes all medical information pertaining to the applicant, and all oral or written communication from the applicant concerning the request for accommodation.

(Subd (c) amended effective January 1, 2006.)

(d) [Permitted communication] ~~An applicant may make ex parte communications with the court; such~~ Communications under this rule ~~shall~~ must ~~deal~~ address only ~~with~~ the accommodation~~(s)~~ requested by the applicant~~'s~~

~~disability requires~~ and ~~shall~~ must not ~~deal~~ address, in any manner, ~~with~~ the subject matter or merits of the proceedings before the court.

(Subd (d) amended effective January 1, 2006.)

(e) [~~Grant of~~ Response to accommodation request] A court ~~shall~~ must ~~grant~~ respond to a request for ~~an~~ accommodation as follows:

(1) ~~In determining whether to grant an accommodation and what accommodation to grant,~~ The court ~~shall~~ must consider, but is not limited by, California Civil Code section 51 et seq., the provisions of the Americans With Disabilities Act of 1990, and other ~~related~~ applicable state and federal laws in determining whether to provide an accommodation or an appropriate alternative accommodation.

(2) The court ~~shall~~ must inform the applicant in writing ~~of findings of fact and orders,~~ as may be appropriate, and if applicable, in an alternative format, of the following: (a) that the request for accommodation~~s~~ is granted or denied, in whole or in part~~,~~; and if the request for accommodation is denied, the reason therefor; or that an alternative accommodation is granted; (b) the nature of the accommodation~~s(s)~~ to be provided, if any; and (c) the duration of the accommodation to be provided.

(Subd (e) amended effective January 1, 2006.)

(f) [Denial of accommodation request] ~~An application~~ A request for an accommodation may be denied only ~~if~~ when the court ~~finds~~ determines that:

(1) The applicant has failed to satisfy the requirements of this rule; or

(2) The requested accommodation~~s(s)~~ would create an undue financial or administrative burden on the court; or

(3) The requested accommodation~~s(s)~~ would fundamentally alter the nature of ~~the~~ a service, program, or activity.

(Subd (f) amended effective January 1, 2006.)

(g) [Review procedure]

(1) An applicant or any participant in the proceeding in which an accommodation request has been denied or granted may seek review of a

determination made by nonjudicial court personnel within 10 days of the date of the ~~notice of denial or grant~~ response by submitting, in writing, a request for review to the ~~judicial officer~~ presiding judge or designated judicial officer ~~who will preside over the proceeding or to the presiding judge if the matter has not been assigned~~.

(2) An applicant or any participant in the proceeding in which an accommodation request has been denied or granted may seek review of a determination made by a presiding judge or ~~any~~ another judicial officer ~~of a court~~ within 10 days of the date of the notice of ~~denial or grant~~ determination by filing a petition for extraordinary relief in a court of superior jurisdiction.

(Subd (g) amended effective January 1, 2006.)

(h) [Duration of accommodations] The accommodation~~s~~ by the court ~~shall~~ must ~~commence~~ be provided for the duration ~~on the date~~ indicated in the ~~notice of~~ response to the request for accommodation and ~~shall~~ must remain in effect for the period specified ~~in the notice of accommodation~~. The court may ~~grant~~ provide an accommodation~~s~~ for an indefinite period~~s~~ of time, for a limited period of time, or for a particular matter or appearance.

(Subd (h) amended effective January 1, 2006.)

Rule 989.3 amended effective January 1, 2006; adopted effective January 1, 1996.

Chapter 2. ~~Transfer and~~ Change of Venue

Rule 4.150. ~~Transfer of criminal actions or proceedings~~ Change of venue: application and general provisions

(a) [Application] Rules 4.150 to ~~4.154, inclusive, shall~~ 4.155 govern the ~~transfer of~~ change of venue in criminal ~~actions or proceedings~~ cases under Penal Code section 1033.

(Subd (a) adopted effective January 1, 2006.)

(b) [General provisions] When a change of venue has been ordered, the case remains a case of the transferring court. Except upon good cause to the contrary, the court must follow the provisions below:

(1) Proceedings before trial must be heard in the transferring court.

(2) Proceedings that are not to be heard by the trial judge must be heard in the transferring court.

(3) Postverdict proceedings, including sentencing, if any, must be heard in the transferring court.

(Subd (b) adopted effective January 1, 2006.)

(c) [Appellate review] Review by the Court of Appeal, either by an original proceeding or by appeal, must be heard in the appellate district in which the transferring court is located.

(Subd (c) adopted effective January 1, 2006.)

Rule 4.150 amended effective January 1, 2006; adopted as rule 840 effective March 4, 1972; previously renumbered and amended effective January 1, 2001.

Advisory Committee Comment

Subdivision (b)(1) is based on Penal Code section 1033(a), which provides that all proceedings before trial are to be heard in the transferring court, except when a particular proceeding must be heard by the trial judge.

Subdivision (b)(2) addresses motions heard by a judge other than the trial judge, such as requests for funds under Penal Code section 987.9 or a challenge or disqualification under Code of Civil Procedure section 170 et seq.

Reflecting the local community interest in the case, subdivision (b)(3) clarifies that after trial the case is to return to the transferring court for any posttrial proceedings. There may be situations where the local interest is outweighed, warranting the receiving court to conduct posttrial hearings. Such hearings may include motions for new trial where juror testimony is necessary and the convenience to the jurors outweighs the desire to conduct the hearings in the transferring court.

Subdivision (c) ensures that posttrial appeals and writs are heard in the same appellate district as any writs that may have been heard before or during trial.

Rule 4.151. ~~Application and hearing~~ Motion for change of venue

(a) [Motion procedure] ~~Application~~ A motion for ~~the transfer of~~ change of venue in a criminal ~~action or proceeding pursuant to~~ case under Penal Code section 1033 ~~or 1034 of the Penal Code shall~~ must be ~~by notice of motion~~ supported by an affidavit or a declaration ~~filed with the court~~ setting forth the facts ~~upon which~~ supporting the application ~~is based~~. Except for good cause shown, the

~~application shall~~ motion must be filed at least 10 days ~~prior to~~ before the date set for trial, ~~and~~ with a copy ~~shall be~~ served ~~up~~on the adverse party at least 10 days ~~prior to~~ before the hearing ~~on the application~~. At the hearing counteraffidavits may be filed.

(Subd (a) adopted effective January 1, 2006; formerly part of an untitled subd.)

(b) [Policy considerations in ruling on motion] Before ordering a change of venue in a criminal case, the transferring court should consider impaneling a jury that would give the defendant a fair and impartial trial.

(Subd (b) adopted effective January 1, 2006.)

Rule 4.151 amended effective January 1, 2006; previously renumbered and amended effective January 1, 2001; adopted as rule 841 effective March 4, 1972.

Advisory Committee Comment

Rule 4.151(b) is not intended to imply that the court should attempt to impanel a jury in every case before granting a change of venue in every case.

Rule 4.152. Selection of court and trial judge

When a judge grants a motion for change of venue, he or she must inform the presiding judge of the transferring court. The presiding judge, or his or her designee, must:

(1) ~~When the court in which the action is pending determines that it should be transferred pursuant to section 1033 or 1034 of the Penal Code, it shall advise~~ Notify the Administrative Director of the Courts of the ~~pending transfer~~ change of venue. ~~Upon being advised,~~ After receiving the transferring court's notification, the Administrative Director ~~shall~~, in order to expedite judicial business and equalize the work of the judges, must advise the transferring court which ~~suggest a court or~~ courts ~~that~~ would not be unduly burdened by the trial of the case. ~~Thereafter, the court in which the case is pending shall transfer the case to a proper court as it determines to be in the interest of justice.~~

(2) Select the judge to try the case, as follows:

(A) The presiding judge, or his or her designee, must select a judge from the transferring court, unless he or she concludes that the transferring court does not have adequate judicial resources to try the case.

(B) If the presiding judge, or his or her designee, concludes that the transferring court does not have adequate judicial resources to try the case, he or she must request that the Chief Justice of California determine whether to assign a judge to the transferring court. If the Chief Justice determines not to assign a judge to the transferring court, the presiding judge, or his or her designee, must select a judge from the transferring court to try the case.

Rule 4.152 amended effective January 1, 2006; adopted as rule 842 effective March 4, 1972; previously renumbered and amended effective January 1, 2001.

Rule 4.153. Order ~~of transfer~~ on change of venue

After receiving the list of courts from the Administrative Director of the Courts, the presiding judge, or his or her designee, must:

(1) Determine the court in which the case is to be tried. In making that determination, the court must consider, under Penal Code section 1036.7, whether to move the jury rather than to move the pending action. In so doing, the court should give particular consideration to the convenience of the jurors.

(2) Transmit to the receiving court a certified copy of the order of transfer and any pleadings, documents, or other papers or exhibits necessary for trying the case.

(3) Enter the order ~~of transfer shall be entered upon the~~ for change of venue in the minutes of the transferring court ~~or the docket and the clerk shall immediately make out and transmit to the court to which the action is transferred a certified copy of the order of transfer record, pleadings and proceedings in the action including the undertakings for the appearance of the defendant and of the witnesses~~. The order must include the determinations in (1).

Rule 4.153 amended effective January 1, 2006; adopted as rule 843 effective March 4, 1972; previously renumbered and amended effective January 1, 2001.

Advisory Committee Comment

Rule 4.152 and 4.153 recognize that, although the determination of whether to grant a motion for change of venue is judicial in nature, the selection of the receiving court and the decision whether the case should be tried by a judge of the transferring court are more administrative in nature. Thus, the rule

provides that the presiding judge of the transferring court is to make the latter decisions. He or she may delegate those decisions to the trial judge, the supervising judge of the criminal division, or any other judge the presiding judge deems appropriate. If, under the particular facts of the case, the latter decisions are both judicial and administrative, those decisions may be more properly made by the judge who heard the motion for change of venue.

Rule 4.154. Proceedings in the receiving court ~~receiving case~~

The receiving court ~~to which the action is transferred shall~~ must conduct the trial ~~proceed~~ as if the ~~action~~ case had been commenced in ~~such~~ the receiving court. If it is necessary to have any of the original pleadings or other papers before ~~such~~ the receiving court, the transferring court f~~rom which the action is transferred shall~~ must ~~at any time, upon application of the district attorney or the defendant, order~~ transmit such papers or pleadings ~~to be transmitted by the clerk, a certified copy thereof being retained~~. If, during the trial, any original papers or pleadings are submitted to the receiving court, the receiving court is to file the original. After sentencing, all original papers and pleadings are to be retained by the transferring court.

Rule 4.154 amended effective January 1, 2006; adopted as rule 844 effective March 4, 1972; previously renumbered and amended effective January 1, 2001.

~~Rule 4.160. Policies to be considered before ordering and transferring a criminal case on change of venue~~

~~**(a) [Attempt to impanel jury]** Before ordering a change of venue in a criminal case, the court should consider impaneling a jury that would give the defendant a fair and impartial trial.~~

~~**(b) [Moving the jury]** After a change of venue has been ordered, the court should determine, pursuant to Penal Code section 1036.7, whether it would be in the interests of the administration of justice to move the jury rather than to move the pending action. In so doing, the court should give particular consideration to the convenience of the jurors.~~

Rule 4.160 repealed effective January 1, 2006; adopted as Sec. 4 effective July 1, 1989; previously renumbered and amended effective January 1, 2001. The repealed rule related to policies to be considered before ordering and transferring a criminal case on change of venue.

~~**Advisory Committee Comment**~~

~~Section 4(a) is not intended to imply that the court should attempt to impanel a jury in every case before granting a change of venue. If there is clear evidence of a reasonable likelihood that a fair and impartial trial cannot be had in the county, a change of venue should be ordered.~~

~~**Rule 4.161. Change of venue case to be tried by judge from county in which the case originated—criminal cases**~~

~~A criminal case in which a change of venue has been ordered should be tried in the court receiving the case by a judge from the court in which the case originated, unless the originating and receiving courts agree otherwise.~~

Rule 4.161 repealed effective January 1, 2006; adopted as Sec. 4.1 effective July 1, 1989; previously renumbered effective January 1, 2001. The repealed rule related to change of venue case to be tried by judge from county in which the case originated—criminal cases.

Rule ~~4.162~~4.155. Guidelines for reimbursement of costs in change of venue cases—criminal cases

(a) [General] Consistent with Penal Code section 1037(c), the ~~county~~ court in which an action originated ~~shall~~ must reimburse the ~~county~~ court receiving a case after an order for change of venue for any ordinary expenditure and any extraordinary but reasonable-and-necessary expenditure ~~which~~ that would not have been incurred by the receiving ~~county~~ court but for the change of venue.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 2001.)

(b) [Reimbursable ordinary expenditures—court related] Court-related reimbursable ordinary expenses include:

(1) For prospective jurors on the panel from which the jury is selected and for the trial jurors and alternates seated:

~~(i)~~(A) Normal juror per diem and mileage at the rates of the receiving ~~county~~ court. The cost of the juror should only be charged to a change of venue case if the juror was not used in any other case on the day that juror was excused from the change of venue case.

~~(ii)~~(B) If jurors are sequestered, actual lodging, meals, mileage, and parking expenses up to state Board of Control limits.

~~(iii)~~(C) If jurors are transported to a different courthouse or county, actual mileage and parking expenses.

(2) For court reporters:

~~(i)~~(A) The cost of pro tem reporters, even if not used on the change of venue trial, but not the salaries of regular official reporters who would have been paid in any event. The rate of compensation for pro tem reporters should be that of the receiving ~~county~~ court.

~~(ii)~~(B) The cost of transcripts requested during trial and for any new trial or appeal, using the folio rate of the receiving ~~county~~ court.

~~(iii)~~(C) The cost of additional reporters necessary to allow production of a daily or expedited transcript.

(3) For assigned judges: The assigned judge's per diem, travel, and other expenses, up to state Board of Control limits, if the judge is assigned to the receiving court because of the change of venue case, regardless of whether the assigned judge is hearing the change of venue case.

(4) For interpreters and translators:

~~(i)~~(A) The cost of the services of interpreters and translators, not on the court staff, if those services are required under Evidence Code sections 750 through 754. Using the receiving ~~county~~ court's fee schedule, this cost should be paid whether the services are used in a change of venue trial or to cover staff interpreters and translators assigned to the change of venue trial.

~~(ii)~~(B) Interpreters' and translators' actual mileage, per diem, and lodging expenses, if any, which were incurred in connection with the trial, up to state Board of Control limits.

(5) For maintenance of evidence: The cost of handling, storing, or maintaining evidence beyond the expenses normally incurred by the receiving ~~county~~ court.

(6) For services and supplies: The cost of services and supplies incurred only because of the change of venue trial, for example, copying and printing charges (~~e.g.,~~ such as for juror questionnaires), long-distance telephone calls, and postage. A pro rata share of the costs of routine services and supplies should not be reimbursable.

(7) For court or county employees:

~~(i)~~(A) Overtime expenditures and compensatory time for staff incurred because of the change of venue case.

~~(ii)~~(B) Salaries and benefit costs of extra help or temporary help incurred either because of the change of venue case or to replace staff assigned to the change of venue case.

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 1998.)

(c) [Reimbursable ordinary expenses—defendant related] Defendant-related reimbursable ordinary expenses include the actual costs incurred for guarding, keeping, and transporting the defendant, including:

(1) Expenses related to health care: Costs incurred by or on behalf of the defendant such as doctors, hospital expenses, medicines, therapists, and counseling for diagnosis, evaluation, and treatment.

(2) Cost of food and special clothing for an in-custody defendant.

(3) Transportation: Nonroutine expenses, such as transporting an in-custody defendant from the ~~originating county~~ transferring court to the receiving ~~county~~ court. Routine transportation expenses if defendant is transported by usual means used for other receiving ~~county~~ court prisoners should not be reimbursable.

(Subd (c) amended effective January 1, 2006.)

(d) [Reimbursable ordinary expenditures—defense expenses] Reimbursable ordinary expenses related to providing defense for the defendant include:

(1) Matters covered by Penal Code section 987.9 as determined by the transferring court ~~in which the action originated~~ or by a judge designated under that section.

(2) Payment of other defense costs in accordance with policies of the ~~county~~ court in which the action originated, unless good cause to the contrary is shown to the trial court.

(3) Unless Penal Code section 987.9 applies, the ~~trial~~ receiving court ~~in the receiving county~~ may, in its sound discretion, approve all trial-related expenses including:

~~(i)~~(A) Attorney fees for defense counsel and, if any, co-counsel~~,~~ and actual travel-related expenses, up to state Board of Control limits, for staying in the ~~receiving~~ county of the receiving court during trial and hearings.

~~(ii)~~(B) Paralegal and extraordinary secretarial or office expenditures of defense counsel.

~~(iii)~~(C) Expert witness costs and expenses.

~~(iv)~~(D) The cost of experts assisting in preparation before trial or during trial, for example, persons preparing demonstrative evidence.

~~(v)~~(E) Investigator expenses.

~~(vi)~~(F) Defense witness expenses, including reasonable-and-necessary witness fees and travel expenses.

(Subd (d) amended effective January 1, 2006; previously amended effective January 1, 1998.)

(e) [Extraordinary but reasonable-and-necessary expenses] Except in emergencies or unless it is impracticable to do so, a receiving ~~county~~ court should give notice before incurring any extraordinary expenditures to the ~~county in which the action originated~~ transferring court, in accordance with Penal Code section 1037(d). Extraordinary but reasonable-and-necessary expenditures include:

(1) Security-related expenditures: The cost of extra security precautions taken because of the risk of escape or suicide or threats of, or the potential for, violence during the trial. These precautions might include, for example, extra bailiffs or correctional officers, special transportation to the courthouse for trial, television monitoring, and security checks of those entering the courtroom.

(2) Facility remodeling or modification: Alterations to buildings or courtrooms to accommodate the change of venue case.

(3) Renting or leasing of space or equipment: Renting or leasing of space for courtrooms, offices, and other facilities, or equipment to accommodate the change of venue case.

(Subd (e) amended effective January 1, 2006; previously amended effective January 1, 1998.)

(f) [Nonreimbursable expenses] Nonreimbursable expenses include:

(1) Normal operating expenses including the overhead of the receiving ~~county~~ court, for example:

~~(i)~~(A) Salary and benefits of existing ~~county or~~ court staff ~~which~~ that would have been paid even if there were no change of venue case.

~~(ii)~~(B) The cost of operating the jail, for example, detention staff costs, normal inmate clothing, utility costs, overhead costs, and jail construction costs. These expenditures would have been incurred whether or not the case was transferred to the receiving ~~county~~ court. It is, therefore, inappropriate to seek reimbursement from the ~~county in which the action originated~~ transferring court.

(2) Equipment ~~which~~ that is purchased and then kept by the receiving ~~county~~ court and ~~which~~ that can be used for other purposes or cases.

(Subd (f) amended effective January 1, 2006.)

(g) [Miscellaneous]

(1) Documentation of costs: No expense should be submitted for reimbursement without supporting documentation, such as a claim, invoice, bill, statement, or time sheet. In unusual circumstances, a declaration under penalty of perjury may be necessary. The declaration should describe the cost and state it was incurred because of the change of venue case. Any required court order or approval of costs also should be sent to the ~~originating~~ transferring court.

(2) Timing of reimbursement: Unless both ~~counties~~ courts agree to other terms, reimbursement of all expenses ~~which~~ that are not questioned by the ~~originating county~~ transferring court should be made within 60 days of receipt of the claim for reimbursement. Payment of disputed amounts should be made within 60 days of the resolution of the dispute.

(Subd (g) amended effective January 1, 2006.)

Rule 4.155 amended effective January 1, 2006; adopted as Sec. 4.2 effective July 1, 1989; renumbered and amended as rule 4.162 effective January 1, 2001; previously amended January 1, 1998.

Rule 4.200. Pre–voir dire conference in criminal cases

(a) [The conference] Before jury selection begins in criminal cases, the court ~~shall~~ must conduct a conference with counsel to determine:

(1) A brief outline of the nature of the case, including a summary of the criminal charges;

(2) The names of persons counsel intend to call as witnesses at trial;

(3) The People's theory of culpability and the defendant's theories;

(4) The procedures for deciding requests for excuse for hardship and challenges for cause; ~~and~~

(5) The areas of inquiry and specific questions to be asked by the court and~~,~~ ~~as permitted by the court,~~ by counsel and any time limits on counsel's examination;

(6) The schedule for the trial and the predicted length of the trial;

(7) The number of alternate jurors to be selected and the procedure for selecting alternate jurors; and

(8) The procedure for making *Wheeler/Batson* objections.

The judge ~~shall~~ must, if requested, excuse the defendant from then disclosing any defense theory.

(Subd (a) amended effective January 1, 2006.)

(b) [Written questions] The court may require counsel to submit in writing, and before the conference, ~~that~~ all questions that counsel requests the court to ~~be~~ ask~~ed~~ of prospective jurors. This rule applies to questions to be asked~~,~~ either orally or by written questionnaire~~, shall be submitted to the court and opposing counsel in writing before the conference~~. The *Juror Questionnaire for Criminal Cases* (form MC-002) may be used.

(Subd (b) amended effective January 1, 2006.)

Rule 4.200 amended effective January 1, 2006; adopted as rule 228.1 effective June 6, 1990; previously renumbered and amended effective January 1, 2001.

Advisory Committee Comment

Use in conjunction with standard 8.5.

Rule 4.201. ~~Supplemental v~~Voir dire in criminal cases

~~In criminal jury trials,~~ To select a fair and impartial jury, the judge must conduct an initial examination of the prospective jurors orally, or by written questionnaire, or by both methods. The *Juror Questionnaire for Criminal Cases* (form MC-002) may be used. After completion of the initial examination, the court ~~shall~~ must permit counsel to conduct supplemental questioning as provided in Code of Civil Procedure section 223.

Rule 4.201 amended effective January 1, 2006; adopted as rule 228.2 effective June 6, 1990; renumbered and amended effective January 1, 2001.

Rule 4.300. Commitments to nonpenal institutions

When a defendant is convicted of a crime for which sentence could be imposed under section 1170 and the court orders that he or she be committed to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice ~~pursuant to~~ under Welfare and Institutions Code section 1731.5, the order of commitment ~~shall~~ must specify the term of imprisonment to which the defendant would have been sentenced. The term ~~shall be~~ is determined as provided by sections 1170 and 1170.1 and these rules, as though a sentence of imprisonment were to be imposed.

Rule 4.300 amended effective January 1, 2006; adopted as rule 453 effective July 1, 1977; previously amended effective July 28, 1977; amended and renumbered effective January 1, 2001.

Rule 4.453. Commitments to nonpenal institutions

When a defendant is convicted of a crime for which sentence could be imposed under section 1170 and the court orders that he or she be committed to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice ~~pursuant to~~ under Welfare and Institutions Code section 1731.5, the order of commitment ~~shall~~ must specify the term of imprisonment to which the defendant would have been sentenced. The term ~~shall be~~ is determined as provided by sections 1170 and 1170.1 and these rules, as though a sentence of imprisonment were to be imposed.

Rule 4.453 amended effective January 1, 2006; adopted as rule 453 effective July 1, 1977; previously amended effective July 28, 1977; renumbered and amended effective January 1, 2001.

Rule 5.120. Appearance

(a) Except as provided in Code of Civil Procedure section 418.10, a ~~A~~ respondent or defendant is deemed to have appeared ~~appears~~ in a proceeding when he or she files:

(1) A response or answer~~, except as provided in section 418.10 of the Code of Civil Procedure~~;

(2)–(4) *******

(Subd (a) amended effective January 1, 2006; amended and lettered effective January 1, 2003.)

(b)–(c) ***

Rule 5.120 amended effective January 1, 2006; adopted as rule 1236 effective January 1, 1970; previously amended and renumbered effective January 1, 2003; previously amended effective January 1, 1972, January 1, 1999, and January 1, 2004.

Rule 5.121. Motion to quash proceeding or responsive relief

(a) Within the time permitted to file a response, the respondent may move to quash the proceeding, in whole or in part, for any of the following reasons:

(1)–(4) *******

(Subd (a) amended effective January 1, 2006.)

(b) ~~The hearing for any notice of motion to quash must be scheduled not more than 20 days from the date the notice is filed.~~ The motion to quash must be served in compliance with Code of Civil Procedure section 1005(b). If the respondent files a notice of motion to quash, no default may be entered, and the time to file a response will be extended until 15 days after service of the court's order.

(Subd (b) amended effective January 1, 2006.)

(c)–(e) ***

Rule 5.121 amended effective January 1, 2006; adopted effective January 1, 2004.

Rule 5.154. Persons who may seek joinder

(a) The petitioner or the respondent may apply to the court for an order joining a person as a party to the proceeding who has or claims custody or physical control of any of the minor children subject to the action, ~~of the marriage~~ or visitation rights with respect to such children, or who has in his or her possession or control or claims to own any property subject to the jurisdiction of the court in the proceeding.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 2003.)

(b) A person who has or claims custody or physical control of any of the minor children subject to the action, ~~of the marriage~~ or visitation rights with respect to such children, may apply to the court for an order joining himself or herself as a party to the proceeding

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 2003.)

(c) A person served with an order temporarily restraining the use of property that is in his or her possession or control or that ~~which~~ he or she claims to own, or affecting the custody of minor children subject to the action, ~~of the marriage~~ or visitation rights with respect to such children, may apply to the court for an order joining himself or herself as a party to the proceeding.

(Subd (c) amended effective January 1, 2006; previously amended effective January 1, 2003.)

Rule 5.154 amended effective January 1, 2006; adopted as rule 1252 effective November 23, 1970; previously amended effective July 1, 1975; amended and renumbered effective January 1, 2003.

Rule 5.350. Procedures for hearings to set aside voluntary declarations of paternity when no previous action has been filed

(a) ***

(b) **[Filing of request for hearing]** A person who has signed a voluntary declaration of paternity, or a local child support agency, may ask that the declaration be set aside by filing a completed *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (form FL-280).

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 2003.)

(c)–(f) ***

Rule 5.350 amended effective January 1, 2006; adopted as rule 1280.10 effective July 1, 2000; previously amended and renumbered effective January 1, 2003.

Rule 5.475. Custody and visitation orders following termination of a juvenile court proceeding or probate court guardianship proceeding (Fam. Code, § 3105; Welf. & Inst. Code, § 362.4; Prob. Code, § 1602)

(a) [Custody and visitation orders from other court divisions] A juvenile court or probate court may transmit a custody or visitation order to a family court for inclusion in a pending family law proceeding or to open a new family law case file, upon termination of a juvenile court proceeding or a probate guardianship proceeding under rules 1457 and 7.1008.

(1) (*Procedure for filing custody or visitation orders from juvenile or probate court*)

(A) The custody or visitation order of a juvenile court or the visitation order of a former guardian must be filed in any pending nullity, dissolution, paternity, or other family law proceeding, or in any probate guardianship proceeding which affects custody or visitation of the child.

(B) If no dependency, family law, or probate guardianship proceeding affecting custody or visitation of the child is pending, the order may be used as the sole basis to open a file and assign a family law case number.

(C) The clerk must immediately file the custody or visitation order, without a filing fee, in the file of any family law proceeding affecting the custody and visitation of the child.

(2) (*Endorsed filed copy—clerk's certificate of mailing*) Within 15 court days after receiving the order, the clerk must send, by first-class mail, an endorsed filed copy of the order showing the receiving court case number to:

(A) The persons whose names and addresses are listed on the order; and

(B) The court that issued the order, with a completed clerk's certificate of mailing, for inclusion in the sending court's file.

(b) [Modification of former guardian visitation orders—Custodial parent] When a parent of the child has custody of the child following termination of a probate guardianship, proceedings for modification of the probate court visitation order, including an order denying visitation, must be determined in a proceeding under the Family Code.

(c) [Independent action for former guardian visitation]

(1) If the court terminated a guardianship under the Probate Code and did not issue a visitation order, the former guardian may maintain an independent action for visitation if a dependency proceeding is not pending. The former guardian may bring the action without the necessity of a separate joinder action.

(2) If the child has at least one living parent and has no guardian, visitation must be determined in a proceeding under the Family Code. If the child does not have at least one living parent, visitation must be determined in a guardianship proceeding, which may be initiated for that purpose.

(3) Judicial Council form FL-105/GC-120, *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* must be filed with a petition or motion for visitation by a former guardian.

Rule 5.475 adopted effective January 1, 2006.

Rule 1402. Judicial Council forms

(a) ***

(b) [~~Word processor~~ Electronically produced forms] The forms applicable to the juvenile court may be produced entirely by computer, word-processor printer, or similar process, or may be produced by the California State Department of Social Services Child Welfare Systems Case Management System.

(Subd (b) amended effective January 1, 2006; adopted as subd (c) effective July 1, 1991; previously amended effective January 1, 1993, and January 1, 1998; amended and relettered effective January 1, 2001.)

(c) [Implementation of new and revised mandatory forms] New and revised mandatory forms produced by computer, word-processor printer, or similar

process must be implemented within one year of the effective date of the form. During that one-year period the court may authorize the use of a legally accurate alternative form, including any existing local form or the immediate prior version of the Judicial Council form.

(Subd (c) adopted effective January 1, 2006.)

Rule 1402 amended effective January 1, 2006; adopted effective January 1, 1991; previously amended effective July 1, 1991, January 1, 1992, July 1, 1992, January 1, 1993, January 1, 1994, January 1, 1998, and January 1, 2001.

Rule 1407. Form of petition; notice of hearing

(a) [Form of petition—dependency (§§ 332, 333~~, 656, 656.1, 656.5, 661~~)] The petition to declare a child a dependent of the court ~~shall~~ must be verified and may be dismissed without prejudice if not verified. The petition ~~shall~~ must contain ~~all of the following:~~ the information set forth in Welfare and Institutions section 332.

~~(1) The name of the court;~~

~~(2) The title of the proceeding;~~

~~(3) Each code section and subdivision under which the petition is filed, and if under section 602, the specific code sections and subdivisions alleged to have been violated, and as to each count, whether it is a misdemeanor or felony;~~

~~(4) The name, age, and address of the child;~~

~~(5) If known, the names and addresses of the parents and guardians; if not known, or if no parent or guardian resides in California, the names and addresses of any adult relative known to reside within the county, or of the adult relative residing nearest the county;~~

~~(6) A concise statement of facts, separately stated, supporting the allegation that the child is described by each section and subdivision under which the petition is filed;~~

~~(7) Whether the child is detained and, if so, the date and the precise time the child was taken into custody;~~

~~(8) A notice of the financial obligations under sections 903, 903.1, and 903.2;~~

~~(9) If a violation of Penal Code section 640.5 or 640.6 is alleged, notice to the parent or guardian that the child may be required to perform community service and to be supervised by the parent or guardian, and that the parent or guardian may be liable for payment of a fine;~~

~~(10) Notice to the parent or guardian that the parent or guardian may be liable for payment of court-ordered restitution;~~

~~(11) If applicable, the intent to aggregate other offenses under section 726; and~~

~~(12) If the petition is filed under section 601:~~

~~(A) A notice that failure to comply with compulsory school attendance is an infraction for which the parent, guardian, or caretaker of the child may be prosecuted before the juvenile court sitting as a municipal court, subject to the right of the parent, guardian, or caretaker to have the infraction charge heard by a judicial officer other than the one who is to hear the 601 proceeding; and~~

~~(B) An explanation of the provisions of section 170.6 of the Code of Civil Procedure.~~

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 1995.)

(b) [Form of petition—delinquency (§§ 656, 656.1, 656.5, 661)] The petition to declare a child a ward of the court must be verified and may be dismissed without prejudice if not verified. The petition must contain the information set forth in Welfare and Institutions Code sections 656, 656.1, 656.5, 661, and, if applicable, the intent to aggregate other offenses under section 726.

(Subd (b) adopted effective January 1, 2006.)

~~(b)~~(c) [~~Form of petition § 300~~Use of forms] Dependency petitions must be filed on a Judicial Council form. The filing party must use *Juvenile Dependency Petition (Version One)* (form JV-100) with the *Additional Children Attachment* (form JV-101) when appropriate, or *Juvenile Dependency Petition (Version Two)* (form JV-110) as prescribed by local rule or practice.

~~(1) Effective January 1, 1991, the following Judicial Council forms are approved for optional use:~~

~~(A) Juvenile Dependency Petition (Version One) (JV-100)~~

(B) Additional Children Attachment (JV-101)

(C) Juvenile Dependency Petition (Version Two) (JV-110)

(D) Serious Physical Harm (JV-120)

(E) Failure to Protect (JV-121)

(F) Serious Emotional Damage (JV-122)

(G) Sexual Abuse (JV-123)

(H) Severe Physical Abuse (Child Under Five) (JV-124)

(I) Conviction of Another Child's Death (JV-125)

(J) No Provision for Support (JV-126)

(K) Freed for Adoption (JV-127)

(L) Cruelty (JV-128)

(M) Abuse of Sibling (JV-129)

(N) Supplemental Petition Attachment (JV-150)

(2) Effective July 1, 1991, the forms described in subdivision (1) are adopted for mandatory use.

(3) (Use of forms)

(A) Counties that file a separate petition for each child shall use the Juvenile Dependency Petition (Version One) (JV-100).

(B) Counties that file a joint petition for siblings with the same mother and father shall use either:

(i) Juvenile Dependency Petition (Version Two) (JV-110); or

(ii) Juvenile Dependency Petition (Version One) (JV-100), with Additional Children Attachment (JV-101). Petitioner shall

~~check the box on the petition marked "Other children are listed on Additional Children Attachment."~~

~~(C) Counties that file a joint petition for half-siblings shall use Juvenile Dependency Petition (Version One) (JV-100), with Additional Children Attachment (JV-101). Petitioner shall check the box on the petition marked "Other children are listed on Additional Children Attachment."~~

~~(4) (Combining forms) Judicial Council forms JV-120, JV-121, JV-122, JV-123, JV-124, JV-125, JV-126, JV-127, JV-128, and JV-129 may be combined if the headings and language in the body of the forms are included as they appear. (The footer may be deleted.)~~

~~(5) (Word processor-produced forms)~~

~~(A) The forms in subdivision (b)(1) may be produced entirely by word processor printer or similar process.~~

~~(B) Before a county files a word processor version of a form with the court, the county shall submit a copy of the proposed form to the Administrative Office of the Courts and obtain approval.~~

(Subd (c) amended and relettered effective January 1, 2006; adopted as subd (b) effective January 1, 1991.)

~~(c)~~(d) [Amending the petition (§§ 348, 678)] Chapter 8 of title 6 of part 2 of the Code of Civil Procedure, beginning at section 469, ~~shall~~ appl~~y~~ies to variances and amendments of petitions and proceedings in the juvenile court.

(Subd (d) amended and relettered effective January 1, 2006; adopted as subd (c) effective January 1, 1991.)

~~(d)~~(e) [~~Contents of n~~Notice of hearing—dependency (§§ ~~335~~ 290.1, ~~336~~ 290.2, 297~~658, 659~~)] When the petition is filed, the probation officer or social worker ~~clerk shall~~ must ~~issue~~ serve a notice of hearing under Welfare and Institutions Code section 290.1, with a copy of the petition attached. Upon filing of the petition, the clerk must issue and serve notice as prescribed in section 290.2, along with a copy of the petition. Court Appointed Special Advocates are entitled to the same notice as set forth in sections 290.1 and 290.2. ~~The notice shall contain all of the following:~~

~~(1) The name and address of the person notified;~~

~~(2) The date, time, and place of the hearing set;~~

~~(3) The name of the child;~~

~~(4) Each code section and subdivision under which the petition has been filed;~~

~~(5) A statement that:~~

~~(A) The child and the parent or guardian, or noticed adult relative, are entitled to have an attorney present at the hearing;~~

~~(B) If the child or parent or guardian or noticed adult relative is indigent and wishes to be represented by an attorney, the court should be notified promptly;~~

~~(C) If an attorney is appointed to represent the child, the parent or guardian shall be liable for all or a part of the costs, to the extent of the ability to pay;~~

~~(D) If an attorney is appointed to represent the parent or guardian or noticed adult relative, the represented person shall be liable for all or a part of the costs, to the extent of the ability to pay.~~

~~(6) A statement that the parent or guardian or adult relative may be liable for the costs of support of the child in a county institution.~~

(Subd (e) amended and relettered effective January 1, 2006; adopted as subd (d) effective January 1, 1991.)

(f) [Notice of hearing—delinquency (§§ 630, 630.1, 658, 659, 660)]

(1) Immediately upon the filing of a petition to detain a child, the probation officer or the prosecuting attorney must issue and serve notice as prescribed in Welfare and Institutions Code section 630.

(2) When a petition is filed, the clerk must issue and serve a notice of hearing in accordance with sections 658, 659, and 660 with a copy of the petition attached.

(3) Upon reasonable notification by minor's counsel or his or her parent or guardian, the clerk must provide notice to the minor's attorney as stated in section 630.1.

(Subd (f) adopted effective January 1, 2006.)

~~(e) [Persons entitled to notice (§§ 335, 658, 660)] The clerk shall cause the notice and attached copy of the petition to be served on each of the following:~~

~~(1) The child, if 10 years or older and the petition is filed under section 300;~~

~~(2) The child, if the child is eight years or older and the petition is filed under section 601 or 602;~~

~~(3) Each person described in subsection (a)(5) whose address is in the petition or becomes known to the clerk before the hearing;~~

~~(4) The following persons, if applicable and if their addresses are known to the clerk before the hearing:~~

~~(A) The child's foster parent;~~

~~(B) The child's preadoptive parents;~~

~~(C) The child's present caregiver; and~~

~~(D) Any court-appointed special advocate; and~~

~~(5) The district attorney; if the district attorney has requested notice.~~

(Subd (e) repealed effective January 1, 2006.)

~~(f) [Service of notice- child detained (§§ 337, 660)] If the child is detained, the notice and a copy of the petition shall be served on the persons described in subdivision (e) personally or by certified mail, return receipt requested:~~

~~(1) As soon as possible after the petition is filed and at least five days before the hearing; or~~

~~(2) At least 24 hours before the hearing if the hearing is set less than five days after the petition is filed.~~

(Subd (f) repealed effective January 1, 2006.)

~~(g) [Service of notice- child not detained (§§ 337, 660)]~~ ~~If the child is not detained, the notice and a copy of the petition shall be served on the persons designated in subdivision (e) personally or by first-class mail at least 10~~

~~calendar days before the hearing. If a person fails to appear after service by mail, the court shall order personal service.~~

(Subd (g) repealed effective January 1, 2006.)

~~(h)~~(g) [Waiver of service (§§ 290.2, ~~337,~~ 660)] A person may waive service of notice by a voluntary appearance noted in the minutes of the court, or by a written waiver of service filed with the clerk.

(Subd (g) amended and relettered effective January 1, 2006; adopted as subd (h) effective January 1, 1991.)

~~(i) [Service on child's attorney (§ 660)]~~ ~~For the purposes of time requirements under subdivisions (f) and (g) in proceedings under section 601 or 602, service on the child's attorney is equivalent to service on the parent or guardian.~~

(Subd (i) repealed effective January 1, 2006.)

~~(j)~~(h) [Oral notice (§§ 290.1, 311, 630)] ~~Then~~ Notice required by Welfare and Institutions Code sections 290.1 and 630 ~~subdivision (e)~~ may be given orally. The social worker or probation officer must file a declaration stating that oral notice was given and to whom.

~~(1) In a matter under section 300, notice shall be given orally if it appears that the parent, guardian, or adult relative does not read.~~

~~(2) The social worker or probation officer shall file a declaration stating that oral notice was given and to whom.~~

(Subd (h) amended and relettered effective January 1, 2006; adopted as subd (j) effective January 1, 1991.)

Rule 1407 amended effective January 1, 2006; adopted effective January 1, 1991; previously amended effective January 1, 1992, January 1, 1995, and January 1, 2001.

Rule 1408. Citation to appear; warrants of arrest; subpoenas

(a) [Citation to appear (§§ 338, 661)] In addition to the notice required under rule 1407~~(d)~~, the court may issue a citation directing a parent or guardian to appear at a hearing.

(1) The citation ~~shall~~ must state that the parent or guardian may be required to participate in a counseling program, and the citation may direct the

~~present custodian of the~~ child~~'s present caregiver~~ to bring the child to court.

(2) The citation ~~shall~~ must be personally served at least 24 hours before the time stated for the appearance.

(Subd (a) amended effective January 1, 2006.)

(b)–(c) ***

(d) [Subpoenas (§§ 341, 664)] On the court's own motion or at the request of the petitioner, child, parent, guardian, or present caregiver ~~custodian~~, the clerk ~~shall~~ must issue subpoenas requiring attendance and testimony of witnesses and the production of papers at a hearing. If a witness appears in response to a subpoena, the court may order the payment of witness fees as a county charge in the amount and manner prescribed by statute.

(Subd (d) amended effective January 1, 2006.)

Rule 1408 amended effective January 1, 2006; adopted effective January 1, 1991.

Rule 1413. ~~Paternity~~ Parentage

(a) [Authority to declare; duty to inquire (§§ 316.2, 726.4)] The juvenile court has a duty to inquire about and, if not otherwise determined, to attempt to determine the parentage of each child who is the subject of a petition filed under section 300, 601, or 602. The court may establish and enter a judgment of ~~paternity~~ parentage.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 2001.)

(b) [~~Paternity~~ Parentage inquiry (§§ 316.2, 726.4)] At the initial hearing on a petition filed under section 300, 601, or 602, and at hearings thereafter until or unless ~~paternity~~ parentage has been established, the court ~~shall~~ must inquire of the child's ~~mother~~ parents present at the hearing and of any other appropriate person present as to the identity and address of any and all presumed or alleged ~~fathers~~ parents of the child. Questions, at the discretion of the court, may include the following and others that may provide information regarding parentage:

(1) Has there been a judgment of ~~paternity~~ parentage?

(2)–(5) *******

(6) Have ~~paternity~~ genetic tests been administered, and if so, what were the results?

(Subd (b) amended effective January 1, 2006; adopted effective January 1, 2001.)

(c) [Voluntary declaration] If a voluntary declaration as described in Family Code section 7570 et seq. has been executed and filed with the California Department of Social Services, the declaration will establish the paternity of a child and will have the same force and effect as a judgment of paternity by a court.

(d) [Issue raised; inquiry] If, at any proceeding regarding the child, the issue of ~~paternity~~ parentage is addressed by the court, ~~the court shall proceed as follows:~~

(1) The court must ask ~~Make inquiry of~~ the ~~mother~~ parent or the person alleging ~~paternity~~ parentage, and ~~of~~ others present, ~~as to~~ whether any ~~paternity~~ parentage finding has been made, and if so, what court made it, or whether a voluntary declaration has been executed and filed under the Family Code.

(2) The court must direct ~~Direct~~ the court clerk to prepare and transmit Judicial Council form ~~*Paternity*~~ *Parentage Inquiry—Juvenile* (JV-500) to the ~~office of child support enforcement~~ local child support agency requesting an inquiry regarding whether or not ~~paternity~~ parentage has been established through any superior court order or judgment or through the execution and filing of a voluntary declaration under the Family Code.

(3) The office of child support enforcement must prepare and return the completed Judicial Council form ~~*Paternity*~~ *Parentage Inquiry—Juvenile* (JV-500) within 25 judicial days, with certified copies of such order or judgment or proof of the filing of a voluntary declaration attached.

(4) The juvenile court must take judicial notice of the prior determination of ~~paternity~~ parentage.

(Subd (d) amended effective January 1, 2006; adopted as subd (b) effective July 1, 1995; previously relettered and amended effective January 1, 2001.)

(e) [No prior determination] If the ~~office of child support enforcement~~ local child support agency states, or if the court determines through statements of the parties or other evidence, that there has been no prior determination of

~~paternity~~ parentage of the child, the juvenile court may make such a determination.

(1) To determine ~~paternity~~ parentage, the juvenile court may order the child~~,~~ ~~the mother, and any alleged father~~ and any alleged parents to submit to blood tests and proceed under Family Code section 7550 et seq.; or

(2) The court may make its determination of ~~paternity~~ parentage or ~~nonpaternity~~ nonparentage based on the testimony, declarations, or statements of the ~~mother and alleged father~~ alleged parents. The court ~~shall~~ must advise any alleged ~~father~~ parent indicating ~~he wishes~~ a wish to be declared the ~~father~~ parent of the child that if ~~he is~~ parentage is declared, the ~~father he~~ declared parent will have responsibility for the financial support of the child, and if the child receives welfare benefits, the ~~father~~ declared parent may be subject to an action to obtain support payments.

(Subd (e) amended effective January 1, 2006; adopted as subd (c) effective July 1. 1995; previously relettered and amended effective January 1, 2001.)

(f) [Notice to office of child support enforcement] If the court establishes ~~paternity~~ parentage of the child, the court ~~shall~~ must sign and then direct the clerk to transmit Judicial Council form ~~*Paternity*~~ *Parentage—Finding and Judgment ~~[~~(Juvenile~~]~~)* (JV-501) to the ~~office of child support enforcement.~~ local child support agency.

(Subd (f) amended effective January 1, 2006; adopted as subd (d) effective July 1 1995; previously relettered and amended effective January 1, 2001.

(g) [Dependency and delinquency; notice to alleged fathers] If, upon inquiry by the court, or through other information obtained by the county welfare department or probation department, one or more men are identified as alleged fathers of a child for whom a petition under section 300, 601, or 602 has been filed, the clerk ~~shall~~ must provide to each named alleged father, at the last known address, by certified mail, return receipt requested, a copy of the petition, notice of the next scheduled hearing, and Judicial Council form *Statement Regarding Paternity ~~[~~(Juvenile Dependency~~]~~)* (JV-505) unless:

(1)–(4) ***

(Subd (g) amended effective January 1, 2006; adopted as subd (e) effective July 1, 1995; previously relettered and amended effective January 1, 2001.)

(h) [Dependency and delinquency; alleged fathers (§§ 316.2, 726.4)] The court must make the following determinations:

(1) If a man appears at a hearing in a dependency matter, or at a hearing under section 601 or 602, and files an action under Family Code section 7630 or 7631, the court must determine if he is the presumed father of the child.

(2) If a man appears at a hearing in a dependency matter or at a hearing under section 601 or 602 and ~~or~~ requests a finding of paternity on form JV-505 in a dependency matter or by written request in a section 601 or 602 matter, the court ~~shall~~ must determine whether ~~or not~~ he is the biological father of the child.

(Subd (h) amended effective January 1, 2006; adopted as subd (f) effective January 1, 1999; previously relettered and amended effective January 1, 2001.)

Rule 1413 amended effective January 1, 2006; adopted effective July 1, 1995; previously amended effective January 1, 1999, and January 1, 2001.)

Rule 1430. General provisions

(a) ***

(b) [Subsequent petitions (§§ 297, 342, 360(b), 364)] All procedures and hearings required for an original petition ~~shall be~~ are required for a subsequent petition. Petitioner ~~shall~~ must file a subsequent petition if:

(1)–(3) *******

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 2001.)

(c) [Supplemental petition (§§ 297, 387)] A supplemental petition ~~shall~~ must be used if petitioner concludes that a previous disposition has not been effective in the protection of a child declared a dependent under section 300 and seeks a more restrictive level of physical custody. For purposes of this chapter, a more restrictive level of custody, ~~shall be,~~ in ascending order, is

(1)–(5) *******

(Subd (c) amended effective January 1, 2006; previously amended effective January 1, 2001.)

(d) [Petition for modification hearing (§§ 297, 388)] A petition for modification hearing ~~shall~~ must be used if there is a change of circumstances or new evidence that may require the court to:

(1)–(2) ***

(Subd (d) amended effective January 1, 2006; adopted as subd (e) effective January 1, 1991; previously relettered and amended effective January 1, 2001.)

(e) [Filing of petition (§§ 297, 388)] A petition for modification hearing may be filed by:

(1)–(3) ***

(Subd (e) amended effective January 1, 2006; adopted as subd (f) effective January 1, 1991; previously relettered and amended effective January 1, 2001.)

Rule 1430 amended effective January 1 2006; adopted effective January 1, 1991; previously amended effective January 1, 2001.

Rule 1431. Hearing on subsequent and supplemental petitions (§§ 342, 364, 386, 387)

(a) [Contents of subsequent and supplemental petitions (§§ 342, 364, 387)] A subsequent petition and a supplemental petition ~~shall~~ must be verified and contain the information required in an original petition as described in rule 1407. A supplemental petition ~~shall~~ must also contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the protection of the child, or in the case of a dependent child placed with a relative, that the placement is not appropriate in view of the criteria in section 361.3.

(Subd (a) amended effective January 1, 2006; repealed and adopted effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1999, and January 1, 2001.)

(b) [Setting the hearing~~; notice of hearing~~ (§§ 334, 342, 364, 386, 387)] When a subsequent or supplemental petition is filed, the clerk ~~shall~~ must immediately set it for hearing within 30 days of the filing date. The hearing ~~shall~~ must begin within the time limits prescribed for jurisdiction hearings on original petitions under rule ~~1447~~ 1442. ~~Petitioner shall cause notice of the hearing to be served on the persons and in the same manner prescribed by rule 1407. The present custodian of a dependent child and the tribe of a dependent Indian child shall be similarly notified.~~

(Subd (b) amended effective January 1, 2006; adopted as subd (c) effective January 1, 1990; previously amended effective January 1, 1992, and July 1, 1995; relettered and amended effective January 1, 2001.)

(c) [Notice of hearing (§§ 290.1, 290.2, 292, 297)] For petitions filed under sections 342 or 387, notice must be provided in accordance with sections 290.1, 290.2, and 291. Notice for petitions filed under section 364 must be provided as stated in section 292.

(Subd (c) adopted effective January 1, 2006.)

~~(c)~~(d) [Initial hearing (§ 387)] Chapter 8, part III of these rules ~~shall~~ apply to the case of a child who is the subject of a supplemental or subsequent petition.

(Subd (d) relettered and amended effective January 1, 2006; adopted as subd (d) effective January 1, 1990; relettered and amended as subd (c) effective January 1, 2001.)

~~(d)~~(e) [Requirement for bifurcated hearing] The hearing on a subsequent or supplemental petition ~~shall~~ must be conducted as follows:

(1) The procedures relating to jurisdiction hearings prescribed in chapter 8 ~~shall~~ apply to the determination of the allegations of a subsequent or supplemental petition. At the conclusion of the hearing on a subsequent petition the court ~~shall~~ must make a finding that the allegations of the petition are or are not true. At the conclusion of the hearing on a supplemental petition the court ~~shall~~ must make findings that:

(A) The factual allegations are or are not true; and

(B) The allegation that the previous disposition has not been effective is or is not true.

(2) The procedures relating to disposition hearings prescribed in chapter 8 ~~shall~~ apply to the determination of disposition on a subsequent or supplemental petition. If the court finds under a subsequent petition the child is described by section 300(a), (d), or (e), the court ~~shall~~ must remove the child from the physical custody of the parent or guardian, if removal was not ordered under the previous disposition.

(Subd (e) relettered and amended effective January 1, 2006; adopted as subd (e) effective January 1, 1990; relettered and amended as subd (d) effective January 1, 2001.)

~~(e)~~(f) [Supplemental petition (§ 387)—permanency planning] If a dependent child was returned to the custody of a parent or guardian at the 12-month review or the 18-month review or at an interim review between 12 and 18 months and a 387 petition is sustained and the child removed once again, the court ~~shall~~ must set a hearing under section 366.26 unless the court finds there is a substantial probability of return within the next six months or, if more than 12 months had expired at the time of the prior return, within whatever time remains before the expiration of the maximum 18-month period.

(Subd (f) relettered and amended effective January 1, 2006; adopted as subd (f) effective January 1, 1990; relettered as subd (e) effective January 1, 2001.)

Rule 1431 amended effective January 1, 2006; adopted effective January 1, 1990; previously amended effective January 1, 1992, July 1, 1995, January 1, 1999, July 1, 1999, and January 1, 2001.

Rule 1433. Hearing on violation of probation (§ 777)

(a) [Notice of hearing (§§ 656, 658, 660)] Notice of a hearing to be held under section 777 ~~shall~~ must be issued and served as provided in Welfare and Institutions Code sections 658, 660, and 777 and prepared:

(1)–(2) *******

(Subd (a) amended effective January 1, 2006; adopted effective January 1, 2001.)

(b) ***

~~**(c) [Notice of hearing; contents]** Notice of a hearing to be held under section 777 shall be served as provided in rule 1407. The notice shall contain the following:~~

~~(1) The name of the child;~~

~~(2) The date, time, and place of the hearing;~~

~~(3) The purpose and scope of the hearing;~~

~~(4) A statement of the right of the child to be represented by counsel at the hearing and, if applicable, of the right to appointed counsel; and~~

~~(5) A concise statement of the facts in support of the allegation.~~

(Subd (c) repealed effective January 1, 2006; adopted as subd (a) effective January 1, 1990; previously amended effective January 1, 1992; relettered and amended effective January 1, 2001.)

~~(d)~~(c) [Detention hearing] If the child has been brought into custody, the procedures described in rules 1407, and ~~1470~~ 1471 through 1476 must be followed.

(Subd (c) relettered and amended effective January 1, 2006; adopted as subd (d) effective January 1, 2001.)

~~(e)~~(d) [Report of probation officer] Before every hearing the probation officer ~~shall~~ must prepare a report on those matters relevant to a determination of whether the child has violated a condition of probation. The report ~~shall~~ must be furnished to all parties at least 48 hours, excluding ~~non-court~~ noncourt days, before the beginning of the hearing unless the child is represented by counsel and waives the right to service of the report.

(Subd (d) relettered and amended effective January 1, 2006; adopted as subd (b) effective January 1, 1990; relettered and amended as subd (e) effective January 1, 2001.)

~~(f)~~(e) [Evidence considered] The court ~~shall~~ must consider the report prepared by the probation officer and other relevant and material evidence offered by the parties to the proceeding.

(1)–(2) ***

(Subd (e) relettered and amended effective January 1, 2006; adopted as subd (e) effective January 1, 1990; relettered and amended as subd (f) effective January 1, 2001.)

Rule 1433 amended effective January 1, 2006; adopted effective January 1, 1990; previously amended effective January 1, 1992, and January 1, 2001.

Rule 1434. Joinder

(a) ***

(b) [Notice] Upon application by a party, counsel, or Court Appointed Special Advocate (CASA), or on the court's own motion, the court may set a hearing and require notice to the agency or provider subject to joinder.

(1)–(2) ***

(3) The clerk of the juvenile court must cause the notice to be served on the agency or provider and the persons prescribed by Welfare and Institutions Code sections 291 and 658 ~~rule 1407~~ either personally or by first-class mail within five days after the signing of the notice.

(4) *******

(Subd (b) amended effective January 1, 2006.)

(c) ***

Rule 1434 amended effective January 1, 2006; adopted effective January 1, 2002.

Rule 1436. Review by extraordinary writ—section 300 proceedings

If review by petition for extraordinary writ is sought regarding judgments, orders, or decrees other than those described in rules 38, 38.1, 38.2, 38.3, ~~39.1B~~ and 1436.5, ~~Judicial Council form *Writ*~~ a *Petition for Extraordinary Writ (~~—Juvenile~~ Juvenile Dependency)* (form JV-825) may be ~~utilized~~ used.

Rule 1436 amended effective January 1, 2006; adopted effective January 1, 1993; previously amended effective January 1, 1994, and January 1, 1995.

Rule 1436.5. Writ petition after orders setting hearing under section 366.26; appeal

(a) [Applicability of rule] This rule and rules 38 and 38.1 describe~~s~~ how a party including the petitioner, child, and parent or guardian shall proceed if seeking appellate court review of findings and orders of the juvenile court made at a hearing at which the court orders that a hearing under section 366.26 be held.

(Subd (a) amended effective January 1, 2006.)

(b) [Failure to file writ petition; precludes appeal] Failure by a party to file a petition for extraordinary writ as specified by this rule and rules ~~39.1B shall~~ 38 and 38.1 preclude~~s~~ that party from obtaining subsequent review on appeal of the findings and orders of the court in setting a hearing under section 366.26.

(Subd (b) amended effective January 1, 2006.)

(c) [Appeal from orders at hearing under 366.26] An appeal of a judgment, order, or decree under section 366.26 may challenge the findings and orders

made by the court at that hearing. The findings and orders setting a hearing under section 366.26 may be reviewed on appeal following the order of the 366.26 hearing only if the following have occurred:

(1) An extraordinary writ was sought by the timely filing of ~~Judicial Council form:~~ a *Petition for Extraordinary Writ (Juvenile Dependency)* ~~Writ Petition—Juvenile~~ (form JV-825) or other petition for extraordinary writ; and

(2) *******

Review on appeal of the order setting a hearing under section 366.26 is limited to issues raised in a previous petition for extraordinary writ that were supported by an adequate record.

Failure to file a petition for extraordinary writ review within the period specified by this rule and rules 38 and 38.1 ~~39.1B shall~~ precludes subsequent review on appeal of the findings and orders made by the juvenile court in setting the hearing under section 366.26.

(Subd (c) amended effective January 1, 2006.)

(d) ***

(e) [Time for filing the notice of intent to file writ petition and request for record; service; jurisdiction] To permit determination of the writ petition ~~prior to~~ before the scheduled date for the hearing under ~~section 366.26 of the~~ Welfare and Institutions Code section 366.26 on the selection of the permanent plan, a notice of intent to file a writ petition and request for record ~~shall~~ must be filed with the clerk of the juvenile court within ~~7~~ seven days of the date of the order setting a hearing under section 366.26. The period for filing a notice of intent to file a writ petition and request for record ~~shall~~ will be extended ~~5~~ five days~~,~~ if the party received notice of the order setting the hearing under ~~section 366.26 of the~~ Welfare and Institutions Code section 366.26 only by mail. ~~Judicial Council form~~ A *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule 38)* (form JV-820) may be used. ~~The notice of intent to file a writ petition shall include, if known, all dates of the hearing that resulted in the order setting the hearing under section 366.26 of the Welfare and Institutions Code. The clerk shall serve a copy of the notice of intent to file a writ petition on each party, including the child, parent, legal guardian, and any person who has been declared a de facto parent and given standing to participate in the juvenile court proceedings, and on the probation officer or social worker, each counsel of record, present custodian of~~

~~a dependent child, and any court-appointed child advocate, as prescribed by rule 1407. The clerk shall also serve, by first class mail or fax, on the clerk of the reviewing court, a copy of the notice of intent to file a writ petition and a proof of service list. Upon receipt of the notice of intent to file a writ petition, the clerk of the reviewing court shall lodge the notice, whereupon the reviewing court acquires jurisdiction of the writ proceedings.~~

(Subd (e) amended effective January 1, 2006; previously amended effective July 1, 1995, and January 1, 1996.)

(f) [Contents of the notice of intent to file writ petition] The notice of intent to file a writ petition must include, if known, all dates of the hearing that resulted in the order setting the hearing under Welfare and Institutions Code section 366.26.

(Subd (f) adopted effective January 1, 2006.)

(g) [Notice and service] The clerk must serve a copy of the notice of intent to file a writ petition on each person listed in Welfare and Institutions Code section 294, the child's Court Appointed Special Advocate (CASA) volunteer, the child's present caregiver, and any de facto parent. The clerk must also serve, by first-class mail or fax, on the clerk of the reviewing court, a copy of the notice of intent to file a writ petition and a proof of service list. On receipt of the notice of intent to file a writ petition, the clerk of the reviewing court must lodge the notice, whereupon the reviewing court acquires jurisdiction of the writ proceedings.

(Subd (g) adopted effective January 1, 2006.)

~~(f)~~(h) [Record] Immediately on the filing of the notice of intent to file a writ petition and request for record, the clerk of the juvenile court ~~shall~~ must assemble the record

(1)–(2) *******

The record ~~shall~~ must include all reports and minute orders contained in the juvenile court file, a reporter's transcript of all sessions of the hearing at which the order setting a hearing under section 366.26 was made, and any additional evidence or documents considered by the court at that hearing.

Immediately on completion of the transcript, the clerk ~~shall~~ must certify the record as correct, and deliver it by the most expeditious means to the reviewing court, and transmit copies to the petitioner and parties or counsel of record, by any method as fast as the express mail service of the United States Postal

Service. Upon receipt of the transcript and record, the clerk of the reviewing court ~~shall~~ must notify all parties that the record has been filed and indicate the date on which the 10-day period for filing the writ petition will expire.

(Subd (h) relettered and amended effective January 1, 2006; adopted as subd (f) effective January 1, 1995; previously amended effective January 1, 1996.)

~~(g)~~(i) [Petitioner; trial counsel] Trial counsel for the petitioning party, or in the absence of trial counsel, the party, is responsible for filing the petition for extraordinary writ. Trial counsel is encouraged to seek assistance from, or consult with, attorneys experienced in writ procedures.

(Subd (i) relettered effective January 1, 2006; adopted as subd (g) effective January 1, 1995.)

~~(h)~~(j) [Petition for extraordinary writ; Form JV-825] The petition for extraordinary writ may be filed on ~~Judicial Council form Writ Petition—Juvenile~~ a *Petition for Extraordinary Writ (Juvenile Dependency)* (form JV-825) or other petition for extraordinary writ. Petitions for extraordinary writ submitted on ~~Judicial Council form Writ Petition—Juvenile~~ a *Petition for Extraordinary Writ (Juvenile Dependency)* (form JV-825) ~~shall~~ must be accepted for filing by the appellate court. All petitions ~~shall~~ must be liberally construed in favor of their sufficiency.

(Subd (j) relettered and amended effective January 1, 2006; adopted as subd (h) effective January 1, 1995.)

~~(i)~~(k) [Time for filing petition] The petition for extraordinary writ ~~shall~~ must be served and filed within 10 days after filing any record in the reviewing court.

(Subd (k) relettered and amended effective January 1, 2006; adopted as subd (i) effective January 1, 1995)

~~(j)~~(*l*) [Contents of petition for writ; service] The petition for extraordinary writ ~~shall~~ must summarize the factual basis for the petition. Petitioner need not repeat facts as they appear in any attached or submitted record, provided, however, that references to specific portions of the record, their significance to the grounds alleged, and disputed aspects of the record will assist the reviewing court and ~~shall~~ must be noted. Petitioner ~~shall~~ must attach applicable points and authorities. ~~Petitioner shall give notice to all parties entitled to receive notice under rule 1407.~~

(Subd (l) relettered and amended effective January 1, 2006; adopted as subd (j) effective January 1, 1995.)

Rule 1436.5 amended effective January 1, 2006; adopted effective January 1, 1995; previously amended effective July 1, 1995, and January 1, 1996.

Rule 1438. Attorneys for parties (§§ 317, 317.6, 16010.6)

(a)–(b) ***

(c) [Conflict of interest guidelines for attorneys representing siblings]

(1) (*Appointment*)

(A) The court may appoint a single attorney to represent a group of siblings involved in the same dependency proceeding.

(B) An attorney must decline to represent one or more siblings in a dependency proceeding, and the court must appoint a separate attorney to represent the sibling or siblings, if, at the outset of the proceedings:

(i) An actual conflict of interest exists among those siblings; or

(ii) Circumstances specific to the case present a reasonable likelihood that an actual conflict of interest will arise among those siblings.

(C) The following circumstances, standing alone, do not necessarily demonstrate an actual conflict of interest or a reasonable likelihood that an actual conflict of interest will arise:

(i) The siblings are of different ages;

(ii) The siblings have different parents;

(iii) There is a purely theoretical or abstract conflict of interest among the siblings;

(iv) Some of the siblings appear more likely than others to be adoptable; or

(v) The siblings may have different permanent plans.

(2) (*Withdrawal from appointment or continued representation*)

(A) An attorney representing a group of siblings has an ongoing duty to evaluate the interests of each sibling and assess whether there is an actual conflict of interest.

(B) The following circumstances, standing alone, do not necessarily demonstrate an actual conflict of interest:

(i) The siblings are of different ages;

(ii) The siblings have different parents;

(iii) There is a purely theoretical or abstract conflict of interest among the siblings;

(iv) Some of the siblings are more likely than others to be adoptable;

(v) The siblings have different permanent plans;

(vi) The siblings express conflicting desires or objectives, but the issues involved are not material to the case; or

(vii) The siblings give different or contradictory accounts of the events, but the issues involved are not material to the case.

(C) It is not necessary for an attorney to withdraw from representing some or all of the siblings if there is merely a reasonable likelihood that an actual conflict of interest will develop.

(D) If an attorney believes that an actual conflict of interest existed at appointment or developed during representation, the attorney must take any action necessary to ensure that the siblings' interests are not prejudiced, including:

(i) Notifying the juvenile court of the existence of an actual conflict of interest among some or all of the siblings; and

(ii) Requesting to withdraw from representation of some or all of the siblings.

(E) If the court determines that an actual conflict of interest exists, the court must relieve an attorney from representation of some or all of the siblings.

(F) After an actual conflict of interest arises, the attorney may continue to represent one or more siblings whose interests do not conflict only if:

(i) The attorney has successfully withdrawn from the representation of all siblings whose interests conflict with those of the sibling or siblings the attorney continues to represent;

(ii) The attorney has exchanged no confidential information with any sibling whose interests conflict with those of the sibling or siblings the attorney continues to represent; and

(iii) Continued representation of one or more siblings would not otherwise prejudice the other sibling or siblings.

(Subd (c) adopted effective January 1, 2006.)

~~(c)~~(d) [Competent counsel] Every party in a dependency proceeding who is represented by an attorney is entitled to competent counsel.

(1)–(4) *******

(5) *(Attorney contact information)* The attorney for a ~~dependent~~ child for whom a dependency petition has been filed must provide his or her contact information to the child's caregiver no later than 10 days after receipt of the name, address, and telephone number of the child's caregiver. If the child is 10 years of age or older, the attorney must also provide his or her contact information to the ~~dependent~~ child for whom a dependency petition has been filed no later than 10 days after receipt of the caregiver's contact information. The attorney may give contact information to a ~~dependent~~ child for whom a dependency petition has been filed who is under 10 years of age.

(6) *******

(Subd (d) relettered and amended effective January 1, 2006; adopted as subd (b) effective January 1, 1996; amended and relettered as subd (c) effective July 1, 2001; previously amended effective July 1, 1999, and January 1, 2005.)

~~(d)~~(e) ***

(Subd (e) relettered effective January 1, 2006; adopted as subd (c) effective January 1, 1996; previously amended and relettered as subd (d) effective July 1, 2001.)

~~(e)~~(f) ***

(Subd (f) relettered effective January 1, 2006; adopted as subd (e) effective July 1, 2001; previously amended effective January 1, 2003.)

~~(f)~~(g) ***

(Subd (g) relettered effective January 1, 2006; adopted as subd (d) effective January 1, 1996; previously amended and relettered as subd (f) effective July 1, 2001; amended effective January 1, 2003.)

Rule 1438 amended effective January 1, 2006; adopted effective January 1, 1996; previously amended effective July 1, 1999, July 1, 2001, January 1, 2003, and January 1, 2005.

Advisory Committee Comment

The court should initially appoint a single attorney to represent all siblings in a dependency matter unless there is an actual conflict of interest or a reasonable likelihood that an actual conflict of interest will arise. (*In re Celine R.* (2003) 31 Cal.4th 45, 58.) After the initial appointment, the court should relieve an attorney from representation of multiple siblings only if an actual conflict of interest arises. *(Ibid.)* Attorneys have a duty to use their best judgment in analyzing whether, under the particular facts of the case, it is necessary to decline appointment or request withdrawal from appointment due to a purported conflict of interest.

Nothing in this rule is intended to expand the permissible scope of any judicial inquiry into an attorney's reasons for declining to represent one or more siblings or requesting to withdraw from representation of one or more siblings, due to an actual or reasonably likely conflict of interest. (See Cal. Bar Rules, Prof. Conduct R 3-310, subd. (C).) While the court has the duty and authority to inquire as to the general nature of an asserted conflict of interest, it cannot require an attorney to disclose any privileged communication, even if such information forms the basis of the alleged conflict. (*In re James S.* (1991) 227 Cal.App.3d 930, 934; *Aceves v. Superior Court* (1996) 51 Cal.App.4th 584, 592–593.)

Rule 1440. Service and notice

(a) [~~Petition and notice of hearing~~ In court order of notice (§ ~~311~~ 296)]

~~Immediately upon the filing of a petition, the social worker shall serve each parent or guardian whose whereabouts can be ascertained by due diligence, the child if the child is 10 years of age or older, and each attorney of record with a copy of the petition and written or oral notice of the detention hearing or initial appearance hearing. If there is no parent or guardian residing in California, or if the residence is unknown, the social worker shall serve the petition and notify any adult relative residing within the county, or if none, the adult~~

~~relative residing nearest the court.~~ The court may order the child, or any parent or guardian or Indian custodian of the child who is present in court, to appear again before the court, social worker, probation officer, or county financial officer at a specified time and place as stated in the order.

(Subd (a) amended effective January 1, 2006.)

(b) [Language of notice] If it appears that the parent or guardian does not read English, the social worker ~~shall~~ must provide notice in the language believed to be spoken by the parent or guardian.

(Subd (b) amended effective January 1, 2006.)

Rule 1440 amended effective January 1, 2006; repealed and adopted January 1, 1998.

Rule 1456. Orders of the court

(a)–(d) ***

(e) [Reasonable efforts finding] The court must consider whether reasonable efforts to prevent or eliminate the need for removal have been made and make one of the following findings:

(1) Reasonable efforts have been made; or

(2) Reasonable efforts have not been made~~; or~~.

~~(3) The failure to make efforts was reasonable.~~

(Subd (e) amended effective January 1, 2006; adopted as subd (d) effective January 1, 1991; relettered effective July 1, 1995; amended effective July 1, 2002.)

(f)–(j) ***

Rule 1456 amended effective January 1, 2006; adopted effective January 1, 1991; previously amended effective January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, January 1, 1996, January 1, 1997, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July 1, 2002, and January 1, 2004.

Rule 1460. Six-month review hearing

(a) ***

(b) [Notice of hearing; service; contents (§§ 293, 366.21)] Not earlier than 30 nor less than 15 calendar days before the hearing date, the petitioner or the clerk must serve written notice, on Judicial Council form *Notice of Review Hearing—Juvenile* (JV-280), on all persons required to receive notice under ~~rule 1407,~~ Welfare and Institutions Code section 293 ~~to the child's present custodian,~~ and to any Court-Appointed Special Advocate~~,~~ (CASA) volunteer ~~and to counsel of record~~. The notice must contain the information set forth in section 293. The notice of hearing must be served by personal service or by first-class mail or certified mail addressed to the last known address of the person to be notified.

~~(1) The notice must contain the information required by rule 1407, the nature of the hearing, and any recommended change in custody or status, and include a statement that the child and the parent or guardian have a right:~~

~~(A) To be present at the hearing;~~

~~(B) To be represented by counsel at the hearing and, where applicable, of the right to and the procedure for obtaining appointed counsel; and~~

~~(C) To present evidence regarding the proper disposition of the case.~~

~~(2) The notice to the present custodian of the child must indicate that the custodian may:~~

~~(A) Be present at the hearing; and~~

~~(B) Submit written material the custodian considers relevant.~~

(Subd (b) amended effective January 1, 2006; repealed and adopted effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1999, July 1, 1999, and July 1, 2002.)

(c) [Report (§§ 366.1, 366.21)] Before the hearing, petitioner must investigate and file a report describing the services offered the family and progress made and, if relevant, the prognosis for return of the child to the parent or guardian.

(1) The report must contain:

(A)–(B) *******

(C) A factual discussion of each item listed in sections 366.1 and 366.21(c).

(2) At least 10 calendar days before the hearing, the petitioner must file the report, provide copies to the parent or guardian and his or her counsel, ~~and~~ to counsel for the child, and ~~provide a summary of the recommendations to the present custodians of the child and~~ to any Court Appointed Special Advocate (CASA) volunteer. The petitioner must provide a summary of the recommendations to any foster parents, relative caregivers, or certified foster parents who have been approved for adoption.

(Subd (c) amended effective January 1, 2006; previously amended effective January 1, 2000, July 1, 2002, and January 1, 2005.)

(d)–(e) ***

(f) [Conduct of hearing (§ 366.21)] If the court does not return custody of the child,

(1)–(2) *******

(3) A judgment~~,~~ or an order~~, or decree~~ setting a hearing under section 366.26 is not ~~an~~ immediately appealable ~~order~~. Review may be sought only by filing Judicial Council form ~~*Writ*~~ *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party must seek an extraordinary writ under rules 38, 38.1, ~~39.1B~~ and 1436.5.

(4)–(5) *******

(6) Failure to file a petition for extraordinary writ review within the period specified by rules 38, 38.1, ~~39.1B~~ and 1436.5, to substantively address the issues challenged, or to support the challenge by an adequate record, precludes subsequent review on appeal of the findings and orders made under this rule.

(7) When the court orders a hearing under section 366.26, the court must advise all parties that, to preserve any right to review on appeal of the order setting the hearing, a party must seek an extraordinary writ by filing:

(A) A notice of the party's intent to file a writ petition and a request for the record, which may be submitted on form JV-820, *Notice of Intent to File Writ Petition and Request for Record, Rule ~~39.1B~~ 38;* and

(B) A petition for an extraordinary writ, which may be submitted on form JV-825, *Petition for Extraordinary Writ (Juvenile Dependency).*

(8) *******

(9) Copies of Judicial Council form *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) and Judicial Council form *Notice of Intent to File Writ Petition and Request for Record, Rule ~~39.1B~~ 38* (JV-820) must be available in the courtroom and must accompany all mailed notices of the advice.

(10)–(11) *******

(Subd (f) amended effective January 1, 2006; repealed and adopted as subd (e) effective January 1, 1990; previously amended and relettered effective January 1, 1992; previously amended effective January 1, 1993, January 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004, and January 1, 2005.)

(g)–(i) ***

Rule 1460 amended effective January 1, 2006; adopted effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004, and January 1, 2005.

Rule 1461. Twelve-month review hearing

(a) [Requirement for 12-month review; setting of hearing; notice (§§ 293, 366.21)] The case of any dependent child whom the court has removed from the custody of the parent or guardian must be set for review hearing within 12 months of the date the child entered foster care, as defined in rule 1401, and no later than 18 months from the date of the initial removal. Notice of the hearing must be given as provided in ~~rule 1460~~ Welfare and Institutions Code section 293.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 2001, and January 1, 2004.)

(b) [Reports (§§ 366.1, 366.21)] Before the hearing the petitioner must prepare a report describing services offered to the family and progress made. ~~The report must include:~~

(1) The report must include:

(A) Recommendations for court orders and the reasons for those recommendations;

~~(2)~~(B) A description of the efforts made to achieve legal permanence for the child if reunification efforts fail; and

~~(3)~~(C) A factual discussion of each item listed in sections 366.1 and 366.21(c).

(2) At least 10 calendar days before the hearing, the petitioner must file the report, provide copies to the parent or guardian and his or her counsel, to counsel for the child, and to any Court Appointed Special Advocate (CASA) volunteer. The petitioner must provide a summary of the recommendations to any foster parents, relative caregivers, or certified foster parents who have been approved for adoption.

(Subd (b) amended effective January 1, 2006; adopted as subd (c) effective January 1, 2000; relettered effective January 1, 2001; previously amended effective January 1, 2004, and January 1, 2005.)

(Former subd (b) repealed effective January 1, 2001; repealed and adopted as subd (c)(1) effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, and January 1, 1999; amended and relettered effective July 1, 1999.)

(c) ***

(d) [Determinations and orders] The court must proceed as follows:

(1) *******

(2) Order that the child remain in foster care if it finds by clear and convincing evidence already presented that a 366.26 hearing is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. If the court orders that the child remain in foster care, it must identify the foster care

setting by name and identify a specific permanency goal for the child. The court may order that the name and address of the foster home remain confidential. If the child is 10 years of age or older and is placed in a group home for six months or longer from the date the child entered foster care, the court:

(A)–(C) ***

(3) Order a hearing under section 366.26 within 120 days, if the court finds there is no substantial probability of return within 18 months of the date of initial removal and finds by clear and convincing evidence that reasonable services have been provided to the parent or guardian.

(A)–(B) ***

(C) A judgment~~,~~ or an order~~, or decree~~ setting a hearing under section 366.26 is not ~~an~~ immediately appealable ~~order~~. Review may be sought only by filing Judicial Council form *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party must seek an extraordinary writ under rules ~~39.1B~~ 38, 38.1, and 1436.5.

(D)–(E) ***

(F) Failure to file a petition for extraordinary writ review within the period specified by rules ~~39.1B~~ 38, 38.1, and 1436.5, to substantively address the issues challenged, or to support the challenge by an adequate record, precludes subsequent review on appeal of the findings and orders made under this rule.

(G) When the court orders a hearing under section 366.26, the court must advise all parties that, to preserve any right to review on appeal of the order setting the hearing, a party must seek an extraordinary writ by filing:

(i) A notice of intent to file a writ petition and a request for the record, which may be submitted on form JV-820, *Notice of Intent to File Writ Petition and Request for Record*, *Rule ~~39.1B~~ 38;* and

(ii) A petition for an extraordinary writ, which may be submitted on form JV-825, *Petition for Extraordinary Writ (Juvenile Dependency)*.

(H) *******

(I) Copies of Judicial Council form *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) and Judicial Council form *Notice of Intent to File Writ Petition and Request for Record, Rule ~~39.1B~~ 38* (JV-820) must be available in the courtroom~~,~~ and must accompany all mailed notices of the advice.

(J) *******

(Subd (d) amended effective January 1, 2006; repealed and adopted as subd (c)(3) effective January 1, 1990; amended and relettered as subd (d) effective July 1, 1999, as subd (e) effective January 1, 2000, and as subd (d) effective January 1, 2001; previously amended effective January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999; January 1, 2004, and January 1, 2005.)

(e) ***

Rule 1461 amended effective January 1, 2006; adopted effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2000, January 1, 2001, January 1, 2004, and January 1, 2005.

Rule 1462. Eighteen-month review hearing

(a) [Setting for hearing; notice (§§ 293, 366.22)] If a child was not returned at the 6- or 12-month review hearing, a permanency review hearing must be held no later than 18 months from the date of the initial removal. Notice of the hearing must be given as provided in ~~rule 1460~~ Welfare and Institutions Code section 293.

(Subd (a) amended effective January 1, 2006; adopted as subd (b)(1) effective January 1, 1990; repealed and adopted effective July 1, 1999; previously amended effective January 1, 1992, January 1, 1993, January 1, 1994, January 1, 2001, and January 1, 2005.)

(b) [Reports (§§ 366.1, 366.21)] Before the hearing the petitioner must prepare a report describing services offered to the family and progress made. ~~The report must include:~~

(1) The report must include:

(A) Recommendations for court orders and the reasons for those recommendations;

~~(2)~~(B) A description of the efforts made to achieve legal permanence for the child if reunification efforts fail; and

~~(3)~~(C) A factual discussion of each item listed in sections 366.1 and 366.21(c).

(2) At least 10 calendar days before the hearing, the petitioner must file the report and provide copies to the parent or guardian and his or her counsel, to counsel for the child, and to any Court Appointed Special Advocate (CASA) volunteer. The petitioner must provide a summary of the recommendations to any foster parents, relative caregivers, or certified foster parents who have been approved for adoption.

(Subd (b) amended effective January 1, 2006; adopted effective January 1, 2005.)

(c) [Conduct of hearing (§ 366.22)] At the hearing the court must state on the record that the court has read and considered the report of petitioner, the report of any Court Appointed Special Advocate (CASA) volunteer, any report submitted by the child's caregiver ~~pursuant to~~ under section 366.21(d), and other evidence, and must proceed as follows:

(1)–(2) *******

(3) If the court does not order return, the court must specify the factual basis for its finding of risk of detriment, terminate reunification services, and:

(A) Order that the child remain in foster care, if it finds by clear and convincing evidence already presented that a section 366.26 hearing is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship. If the court orders that the child remain in foster care, it must identify the foster care setting by name and identify a specific permanency goal for the child. The court may order that the name and address of the foster home remain confidential. If the child is 10 years of age or older and is placed ~~with a nonrelative,~~ in a group home for six months or longer from the date the child entered foster care, the court:

(i)–(iii) *******

(B) ***

(4)–(5) ***

(6) If the court orders a hearing under section 366.26, the court must terminate reunification services and direct that an assessment be prepared as stated in section 366.22(b). Visitation must continue unless the court finds it would be detrimental to the child. The court must enter any other appropriate orders to enable the child to maintain relationships with other individuals who are important to the child, consistent with the child's best interest.

(7) A judgment~~,~~ or an order~~, or decree~~ setting a hearing under section 366.26 is not an immediately appealable ~~order~~. Review ~~shall~~ may be sought only by filing Judicial Council form ~~*Writ*~~ *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party is required to seek an extraordinary writ under rules ~~39.1B~~ 38, 38.1, and 1436.5.

(8) ***

(9) Failure to file a petition for extraordinary writ review within the period specified by rules ~~39.1B~~ 38, 38.1, and 1436.5, to substantively address the issues challenged, or to support the challenge by an adequate record~~, shall~~ precludes subsequent review on appeal of the findings and orders made under this rule.

(10)–(11) ***

(Subd (c) amended effective January 1, 2006; repealed and adopted as subd (b) effective January 1, 1990; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, and July 1, 1999; amended and relettered effective January 1, 2005.)

(d) *

Rule 1462 amended effective January 1, 2006; repealed and adopted effective January 1, 1990; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, and January 1, 2005.

Rule 1463. Selection of permanent plan (§ 366.26)

(a) ***

(b) [Notice of hearing (§ ~~366.23~~ 294)] In addition to the requirements set forth in Welfare and Institutions Code section 294, notice must be given ~~to the child if 10 years or older, the mother, presumed and alleged fathers,~~ to any Court Appointed Special Advocate (CASA) volunteer, the child's present caregiver, and any de facto parent ~~and counsel of record,~~ on Judicial Council form *Notice of Hearing on Selection of a Permanent Plan—Juvenile ~~(~~Welfare and Institutions Code, § 366.26~~)~~* (JV-300).

~~(1) (Time for notification) Notice by publication must be completed at least 30 days before the date of the hearing. All other notice must be completed at least 45 days before the date of the hearing.~~

~~(2) (Recommendation for termination of parental rights) If petitioner recommends termination of parental rights and did not include the recommendation in the notice under subdivision (b)(1), all those entitled to notice must also be so notified by first-class mail at least 15 days before the hearing.~~

~~(A) [Form of notice to parent] If the parent is present at the hearing at which the court schedules the hearing under section 366.26, the court must advise the parent of the time and place of the hearing, order the parent to appear, and direct that the parent receive notice by first-class mail at the parent's usual place of residence or business. Otherwise, notice to the parent must be:~~

~~(i) by personal service;~~

~~(ii) by delivery to a competent adult at the parent's usual place of residence or business, followed by notice to the parent by first-class mail at that address;~~

~~(iii) by certified mail, return receipt requested, if the parent's usual place of residence or business is outside the state;~~

~~(iv) by certified mail to the parent's counsel of record, return receipt requested, ordered by the court after a determination by the court, based on an affidavit prepared and filed by petitioner at the hearing at which the court schedules the hearing under 366.26 or thereafter, that there has been due diligence in attempting to locate and serve the parent; or~~

~~(v) by publication ordered by the court after a determination by the court, based on an affidavit prepared and filed by the petitioner at the hearing at which the court schedules the hearing under section 366.26, or at least 75 days before the hearing, that there has been due diligence in attempting to locate and serve the parent and that the parent has no counsel of record.~~

~~(B) [Notice to the child] Notice to the child, 10 years or older, must be by first-class mail.~~

~~(C) [Notice to counsel of record] Notice to counsel of record must be by first-class mail.~~

~~(D) [Notice to grandparents] If the court orders notice by certified mail to the parent's counsel of record, or by publication, the court must order that notice by first-class mail be given to grandparents whose names and addresses are known.~~

~~(E) [Notice to tribe] Notice to the tribe of an Indian child must be by first-class mail.~~

~~(3) (Recommendation for guardianship or long-term care) If the recommendation is limited to legal guardianship or long-term foster care, notice may be served as described in subdivision (b)(2) of this rule, or by first-class mail to the parent's usual residence or place of business. If the court determines that there has been due diligence in attempting to locate and serve the parent, the court must order that notice by first-class mail be given to the grandparents whose names and addresses are known, and without further notice to the absent parent.~~

~~(4) (Parent located) If the residence of a parent becomes known to the court or the petitioner, notice must be served immediately under subdivision (b)(2) of this rule.~~

(Subd (b) amended effective January 1, 2006; previously amended effective January 1, 1992, July 1, 1992, July 1, 1995, July 1, 2002, and January 1, 2005.)

(c) ***

(d) [Presence of child] The child must be present in court if the child or the child's attorney so requests or the court so orders. If the child is 10 years of age or older and is not present at the hearing, the court must determine whether

the child was properly notified of his or her right to attend the hearing and ask why the child is not present. ~~If the child is under 10 years of age, the child may not be present in court unless the child or the child's counsel so requests or the court so orders.~~

(Subd (d) amended effective January 1, 2006; adopted effective January 1, 2005.)

(e) [Conduct of hearing] At the hearing, the court must state on the record that the court has read and considered the report of petitioner, the report of any Court Appointed Special Advocate (CASA) volunteer, any report submitted by the child's caregiver pursuant to section 366.21(d), and other evidence, and must proceed as follows:

(1)–(4) ***

(5) If termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption because the child (i) is a member of a sibling group that should stay together or (ii) has a diagnosed medical, physical, or mental handicap or (iii) is seven years of age or older and no prospective adoptive parent is identified or available, the court may, without terminating parental rights, identify adoption as a permanent placement goal and order the public agency responsible for seeking adoptive parents to make efforts to locate an appropriate adoptive family for a period not to exceed 180 days. <u>During the 180-day period, in order to identify potential adoptive parents, the agency responsible for seeking adoptive parents for each child must, to the extent possible, ask each child who is 10 years of age or older and who is placed in a group home for six months or longer from the date he or she entered foster care to identify any individuals who are important to the child. The agency may ask any other child to provide that information, as appropriate.</u> After that period the court must hold another hearing and proceed according to paragraph (1)~~,~~ <u>or</u> (6)~~, or (7)~~ of this subdivision.

(6) If the court finds that paragraph (1)(A) or (1)(B) of this subdivision applies, the court must appoint the present custodian or other appropriate person to become the child's legal guardian or must order the child to remain in foster care. If the court orders that the child remain in foster care, it must identify the foster care setting by name and identify a specific permanency goal for the child. The court may order that the name and address of the foster home remain confidential. Legal guardianship must be given preference over foster care when it is in the interest of the child and a suitable guardian can be found. A child who is 10 years of age or older who is placed in a group home <u>for six months or longer from the</u>

date the child entered foster care must be asked to identify any adults who are important to him or her in order for the agency to investigate and the court to determine whether any of those adults would be appropriate to serve as legal guardians. ~~Younger~~ Other children may be asked for this information, as appropriate. The child must not be removed from the home of a foster parent or relative who is not willing to become a legal guardian but is willing and capable of providing a stable and permanent home for the child, and with whom the child has substantial psychological ties, if the court finds that the removal would be seriously detrimental to the emotional well-being of the child. The court must make an order for visitation with the parent or guardian unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the child.

(7) *******

(Subd (e) amended effective January 1, 2006; repealed and adopted as subd (c) effective January 1, 1991; previously amended and relettered as subd (d) effective January 1, 1992; previously amended effective July 1, 1994, January 1, 1999, July 1, 1999, and July 1, 2002; amended and relettered as subd (e) effective January 1, 2005.)

(f) [Procedures—termination of parental rights]

(1) *******

(2) An order of the court terminating parental rights under section 366.26 is conclusive and binding upon the child, the parent, and all other persons who have been served under the provisions of section ~~366.23~~ 294. The order may not be set aside or modified by the court, except as provided in rules 1416, 1417, and 1418 with regard to orders by a referee.

(3) If the court declares the child free from custody and control of the parents, the court must at the same time order the child referred to a licensed county adoption agency for adoptive placement. A petition for adoption of the child may be filed and heard in the juvenile court, but may not be ~~heard~~ granted until the appellate rights of the natural parents have been exhausted.

(Subd (f) amended effective January 1, 2006; adopted as subd (d) effective January 1, 1991; relettered as subd (e) effective January 1, 1992; previously amended effective July 1, 1992, January 1, 1995, and July 1, 2002; relettered effective January 1, 2005.)

(g)–(h) ***

(i) [Advice of appeal rights] The court must advise all parties of their appeal rights as provided in rule 1435 and section 366.26(*l*).

(Subd (i) amended effective January 1, 2006; repealed and adopted as subd (f) effective January 1, 1991; previously relettered as subd (g) effective January 1, 1992, and as subd (h) effective July 1, 1997; amended effective July 1, 2002; relettered as subd (i) effective January 1, 2005.)

Rule 1463 amended effective January 1, 2006; repealed and adopted effective January 1, 1991; previously amended effective January 1, 1992, July 1, 1992, January 1, 1994, July 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, July 1, 2002, and January 1, 2005.

Rule 1465. Legal guardianship

(a) [Proceedings in juvenile court (§ 366.26)] The proceedings for the appointment of a legal guardian for a dependent child ~~shall~~ must be in the juvenile court. The request for appointment of a guardian ~~shall~~ must be included in the social study report prepared by the county welfare department or in the assessment prepared for the hearing under section 366.26. Neither a separate petition nor a separate hearing ~~shall be~~ is required.

(Subd (a) amended effective January 1, 2006; previously amended effective July 1, 1997, and July 1, 1999.)

(b) [Notice; hearing] Notice for the guardianship hearing ~~shall~~ must be given under section ~~366.23~~ 294, and the hearing ~~shall~~ must proceed under section 366.26.

(Subd (b) amended effective January 1, 2006; previously amended effective July 1, 1999.)

(c) [Conduct of hearing]

(1) Before appointing a guardian, the court ~~shall~~ must read and consider the social study report specified in section 366.26 and note its consideration in the minutes of the court.

(2) *******

(Subd (c) amended effective January 1, 2006; previously amended effective July 1, 1999.)

(d) [Findings and orders]

(1) If the court finds that legal guardianship is the appropriate permanent plan, the court ~~shall~~ must appoint the guardian and order the clerk to issue letters of guardianship, which ~~shall~~ will not be subject to the confidentiality protections of juvenile court documents as described in section 827.

(2)–(3) *******

(Subd (d) amended effective January 1, 2006; previously amended effective July 1, 1999.)

(e) [Advice of rights] The court ~~shall~~ must advise all parties of their appeal rights as provided in rule 1435.

(Subd (e) amended effective January 1, 2006.)

Rule 1465 amended effective January 1, 2006; adopted as rule 1464 effective January 1, 1991; renumbered effective July 1, 1995; previously amended effective July 1, 1999.

Rule 1466. Hearings subsequent to a permanent plan (§§ 366.26, 366.3, 391)

(a) [Review hearings—adoption and guardianship] Following an order for termination of parental rights or a plan for the establishment of a guardianship under section 366.26, the court must retain jurisdiction and conduct review hearings every six months to ensure the expeditious completion of the adoption or guardianship.

(1)–(3) *******

(4) Notice of the hearing must be given as provided in section 295. ~~rule 1460 and to the guardian if one has been appointed. Parents are to be given notice of all hearings unless their parental rights have been terminated.~~

(Subd (a) amended effective January 1, 2006; repealed and adopted effective January 1, 1991; previously amended effective January 1, 1992, January 1, 1993, July 1, 1999, and January 1, 2005.)

(b) [Review hearings—foster care] Following the establishment of a plan other than those provided for in ~~subdivision~~ (a) ~~of this rule~~, review hearings must be conducted every six months by the court or by a local review board.

(1)–(3) *******

(4) Notice of the hearing must be given as provided in section 295. ~~rule 1460. Parents are to be given notice of all hearings unless their parental rights have been terminated.~~

(5)–(8) *******

(Subd (b) amended effective January 1, 2006; repealed and adopted effective January 1, 1991; previously amended effective January 1, 1992, January 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, and January 1, 2005.)

(c)–(d) ***

Rule 1466 amended effective January 1, 2006; adopted as rule 1465 effective January 1, 1991; renumbered effective July 1, 1995; previously amended effective January 1, 1992, January 1, 1993, January 1, 1994, July 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2002, and January 1, 2005.

~~Rule 1470. Service and notice~~

~~**(a) [Child detained (§§ 656, 658, 660)]** Immediately upon the filing of a petition or notice of probation violation hearing, the clerk, the probation officer, or the district attorney shall attempt to provide written or oral notice of the detention hearing at least 24 hours prior to the time set for the hearing to the child and to each parent or guardian whose whereabouts can be ascertained by due diligence. If there is no parent or guardian residing in California, or if the residence is unknown, notice shall be provided to any adult relative residing within the county, or if none, to the adult relative residing nearest to the court. If the court has ordered the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to section 727(a), the clerk shall also issue a copy of the notice of the detention hearing to any foster parents, preadoptive parents, legal guardian, and any relatives providing care to the minor whose residence addresses become known to the clerk.~~

~~The petition or notice of probation violation hearing shall be served at least 24 hours prior to the detention hearing, or at the detention hearing to those present. Service on the child's attorney shall constitute service on the child.~~

~~**(b) [Child not detained (§§ 656, 658, 660)]** If the child is not detained, the clerk of the juvenile court shall cause the petition or notice of probation violation and notice of initial hearing to be served personally or by first-class mail on the child, each parent or guardian, and the attorney of record at least 10 days prior to the time set for the initial hearing.~~

~~(1) Failure to appear or respond to the notice shall not cause the child to be detained or arrested.~~

~~(2) If, after notice by first class mail, the child fails to appear at the hearing, the court shall order personal service and notice.~~

~~(3) Service may be waived by any person by a voluntary appearance reported in the court minutes or orders, or by a written waiver filed with the court prior to the hearing.~~

~~(4) Service on the child's attorney shall constitute service on the child's parent or guardian.~~

Rule 1470 repealed effective January 1, 2006; previously repealed and adopted effective January 1, 1998; amended effective January 1, 2001. The repealed rule related to service and notice.

Rule 1475. Detention report; grounds; determinations; findings; orders; factors to consider for detention; restraining orders

(a)–(f) ***

(g) Factors—escape from commitment

Regarding ground for detention (b)(2), the court must consider whether or not the child:

(1) Was committed to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice~~,~~; a county juvenile home~~,~~; ranch~~,~~; camp~~,~~; forestry camp~~,~~; or juvenile hall; and

(2) Escaped from the facility or the lawful custody of any officer or person in which the child was placed during commitment.

(Subd (g) amended effective January 1, 2006; adopted as subd (d) effective January 1, 1998; previously relettered as subd (e) effective January 1, 2001; amended and relettered as subd (g) effective July 1, 2002.)

(h)–(k) ***

Rule 1475 amended effective January 1, 2006; repealed and adopted effective January 1, 1998; previously amended effective January 1, 2001, and July 1, 2002.

Rule 1493. Orders of the court

(a)–(e) ***

(f) ~~Youth Authority~~ California Department of Corrections and Rehabilitation, Division of Juvenile Justice

If, at the time of the disposition hearing, the child is a ward of the ~~Youth Authority~~ California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ) under a prior commitment, the court may either recommit or return the child to the ~~Youth Authority~~ DJJ. If the child is returned to the ~~Youth Authority~~ DJJ, the court may:

(1) Recommend that the ward's parole status be revoked;

(2) Recommend that the ward's parole status not be revoked; or

(3) Make no recommendation regarding revocation of parole.

(Subd (f) amended effective January 1, 2006; adopted as subd (e) effective January 1, 1991; previously amended and relettered effective July 1, 2002.)

(g) ***

Rule 1493 amended effective January 1, 2006; adopted effective January 1, 1991; previously amended effective January 1, 1998, July 1, 2002, and January 1, 2004.

Rule 1494.5. ~~Youth Authority~~ California Department of Corrections and Rehabilitation, Division of Juvenile Justice commitments

If the court orders the youth committed to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ):

(a) The court must complete ~~Judicial Council form JV-732,~~ *Commitment to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice* (form JV-732).

(Subd (a) amended effective January 1, 2006.)

(b) The court must specify whether the offense is one listed in section 707(b) of the Welfare and Institutions Code.

(c) The court must order ~~that~~ the probation department to forward~~s~~ to the ~~Youth Authority~~ DJJ all required medical information, including previously executed medical releases.

(Subd (c) amended effective January 1, 2006.)

(d) If the youth is taking a prescribed psychotropic medication, the ~~Youth Authority~~ DJJ may continue to administer the medication for up to 60 days, provided that the youth is examined by a physician ~~upon~~ on arrival at the facility, and the physician recommends that the medication continue.

(Subd (d) amended effective January 1, 2006.)

(e) The court must provide to the ~~Youth Authority~~ DJJ information regarding the youth's educational needs, including the youth's current individualized education program if one exists. To facilitate this process, the court must ensure that the probation officer communicates with appropriate educational staff.

(Subd (e) amended effective January 1, 2006.)

Rule 1494.5 amended effective January 1, 2006; adopted effective January 1, 2003.

Rule 1495. Deferred entry of judgment

(a) Eligibility (§ 790)

A child 14 years or older who is the subject of a petition under section 602 alleging violation of at least one felony offense may be considered for a deferred entry of judgment if all of the following apply:

(1) The child is 14 years or older at the time of the hearing on the application for deferred entry of judgment;

(2) The offense alleged is not listed in section 707(b);

(3) The child has not been previously declared a ward of the court based on the commission of a felony offense;

(4) The child has not been previously committed to the California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice;

(5) If the child is presently or was previously a ward of the court, probation has not been revoked ~~prior to~~ before completion; and

(6) The child meets the eligibility standards ~~set forth~~ stated in Penal Code section 1203.06.

(Subd (a) amended effective January 1, 2006.)

(b)–(h) ***

Rule 1495 amended effective January 1, 2006; adopted effective January 1, 2001.

Rule 1496.3. Termination of parental rights for child in foster care for 15 of the last 22 months

(a) ***

(b) Calculating time in foster care (§ 727.32(b))

The following guidelines must be used to determine if the child has been in foster care for 15 of the most recent 22 months:

(1) Determine the date the child entered foster care, as defined in rule 1401(a)(7). In some cases, this will be the date the child entered foster care as a dependent.

(2) Calculate the total number of months since the date in (1) that the child has spent in foster care. Do not start over if a new petition is filed or for any other reason.

(3) If the child is in foster care for a portion of a month, calculate the total number of days in foster care during that month. Add one month to the total number of months for every 30 days the child is in foster care.

(4) Exclude time during which the child was detained in the home of a parent or guardian; the child was living at home on formal or informal probation, at home on a trial home visit, or at home with no probationary status; the child was a runaway or "absent without leave" (AWOL); or the child was

out of home in a non–foster care setting, including juvenile hall~~,~~; California ~~Youth Authority~~ Department of Corrections and Rehabilitation, Division of Juvenile Justice~~,~~; a ranch~~,~~; a camp~~,~~; a school~~,~~; or any other locked facility.

(5) Once the total number of months in foster care has been calculated, determine how many of those months occurred within the most recent 22 months. If that number is 15 or more, the requirement in (a) applies.

(6) If the requirement in (a) has been satisfied once, there is no need to take additional action or provide additional documentation after any subsequent 22-month period.

(Subd (b) amended effective January 1, 2006.)

Rule 1496.3 amended effective January 1, 2006; adopted effective January 1, 2003.

Rule 1496. Reviews and permanency planning hearings

(a)–(c) ***

(d) [Notice of hearings; service; contents (§ 727.4)] Not earlier than 30 nor ~~less~~ later than 15 calendar days before each hearing date the ~~petitioner or the clerk~~ probation officer must serve written notice on all persons required to receive notice under ~~rule 1407~~ section 727.4, as well as the child's present ~~custodian~~ caregiver, any Court-Appointed Special Advocate (CASA) volunteer, and the counsel of record. ~~The notice of hearing must be served by personal service or by first class mail or certified mail, addressed with the last known address of the person to be notified. Judicial Council form~~ A *Notice of Hearing—Juvenile Wardship Proceeding (Welfare and Institutions Code, §§ 601 and 602)* (form JV-625) ~~may~~ must be used. ~~Proof of notice must be filed with the court.~~

~~(1) The notice must contain the information required by rule 1407, the nature of the hearing, and any recommended change in custody or status.~~

~~(2) The notice must include a statement that the child and the parent or guardian have a right:~~

~~(A) To be present at the hearing;~~

~~(B) To be represented by counsel at the hearing and, where applicable, to be notified of the right to and the procedure for obtaining appointed counsel; and~~

~~(C) To present evidence regarding the proper disposition of the case.~~

~~(3) The notice to the present custodian of the child must indicate that the custodian may:~~

~~(A) Be present at the hearing; and~~

~~(B) Submit written material the custodian considers relevant.~~

(Subd (d) amended effective January 1, 2006; adopted effective January 1, 2001; previously amended effective January 1, 2003.)

(e)–(f) ***

Rule 1496 amended effective January 1, 2006; adopted effective January 1, 1991; previously amended effective January 1, 1998, January 1, 2001, January 1, 2003, and January 1, 2004.

Rule 1496.5. Freeing wards for adoption

(a) [Applicable law (§§ 294, 366.26, ~~366.23~~, 727.3, 727.31)] Except as provided in section 727.31, the procedures for termination of parental rights to free children described in that section for adoption are ~~set forth~~ stated in sections 294 and 366.26 ~~and 366.23~~. Rules 1463 and 1464 are applicable to these proceedings.

(Subd (a) amended effective January 1, 2006.)

(b) ***

Rule 1496.5 amended effective January 1, 2006; adopted effective January 1, 2001.

Rule 1621. Attendance sheet and agreement to disclosure

(a) [Attendance sheet] In each mediation to which these rules apply under rule 1620.1(a), the mediator must request that all participants in the mediation complete an attendance sheet stating their names, mailing addresses, and

telephone numbers; retain the attendance sheet for at least two years; and submit it to the court on request.

(b) **[Agreement to disclosure]** The mediator must agree, in each mediation to which these rules apply under rule 1620.1(a), that if an inquiry or a complaint is made about the conduct of the mediator, mediation communications may be disclosed solely for purposes of a complaint procedure conducted pursuant to rule 1622 to address that complaint or inquiry.

Rule 1621 adopted effective January 1, 2006.

Rule 1622. Complaint procedure required

(a) Each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in the court must establish procedures for receiving, investigating, and resolving complaints ~~against the~~ that mediators who are on the court's list or who are recommended, selected, appointed, or compensated by the court failed to comply with the rules of conduct for mediators set forth in this part, when applicable.

(Subd (a) amended effective January 1, 2006.)

(b) The court may impose additional mediation training requirements on a mediator, reprimand a mediator, remove a mediator from the court's panel or list, or otherwise prohibit a mediator from receiving future mediation referrals from the court if the mediator fails to comply with the rules of conduct for mediators in this part, when applicable.

(Subd (b) amended effective January 1, 2006.)

Rule 1622 amended effective January 1, 2006; adopted effective January 1, 2003.

Advisory Committee Comment

Section 16 of the Standards of Judicial Administration sets out recommendations concerning the procedures that a court should use in receiving, investigating, and resolving complaints against commissioners and referees and may serve as guidance in adopting procedures for receiving, investigating, and resolving complaints against mediators.

Rule 1622.1. Designation of person to receive inquiries and complaints

In each superior court that is required to establish a complaint procedure under rule 1622, the presiding judge must designate a person who is knowledgeable about mediation to receive and coordinate the investigation of any inquiries or complaints about the conduct of mediators who are subject to rule 1622.

Rule 1622.1 adopted effective January 1, 2006.

Rule 1622.2. Confidentiality of complaint procedures, information, and records

(a) This rule's requirement that rule 1622 complaint procedures be confidential is intended to:

(1) Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115–1128;

(2) Promote cooperation in the reporting, investigation, and resolution of complaints about mediators on court panels; and

(3) Protect mediators against damage to their reputations that might result from unfounded complaints against them.

(b) All procedures for receiving, investigating, and resolving inquiries or complaints about the conduct of mediators must be designed to preserve the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

(c) All communications, inquiries, complaints, investigations, procedures, deliberations, and decisions about the conduct of a mediator under rule 1622 must occur in private and must be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint under rule 1622 may be open to the public or disclosed outside the course of the rule 1622 complaint procedure except as provided in (d) or as otherwise required by law.

(d) The presiding judge or a person designated by the presiding judge for this purpose may, in his or her discretion, authorize the disclosure of information or records concerning rule 1622 complaint procedures that do not reveal any mediation communications, including the name of a mediator against whom action has been taken under rule 1622, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge

or designee should consider the purposes of the confidentiality of rule 1622 complaint procedures stated in (a)(2) and (a)(3).

(e) In determining whether the disclosure of information or records concerning rule 1622 complaint procedures is required by law, courts should consider the purposes of the confidentiality of rule 1622 complaint procedures stated in (a). Before the disclosure of information or records concerning procedures under rule 1622 is ordered, notice should be given to any persons whose mediation communications may be revealed.

Rule 1622.2 adopted effective January 1, 2006.

Advisory Committee Comment

See Evidence Code sections 1115 and 1119 concerning the scope and types of mediation communications protected by mediation confidentiality.

Subdivision (b). Private meetings, or "caucuses," between a mediator and subgroups of participants are common in court-connected mediations, and it is frequently understood that these communications will not be disclosed to other participants in the mediation. (See Cal. Rules of Court, rule 1620.4(c).) It is important to protect the confidentiality of these communications in rule 1622 complaint procedures, so that one participant in the mediation does not learn what another participant discussed in confidence with the mediator.

Subdivisions (c)–(e). The provisions of (c)–(e) that authorize the disclosure of information and records related to rule 1622 complaint procedures do not create any new exceptions to mediation confidentiality. Information and records about rule 1622 complaint procedures that would reveal mediation communications should only be publicly disclosed consistent with the statutes and case law governing mediation confidentiality.

Evidence Code sections 915 and 1040 establish procedures and criteria for deciding whether information acquired in confidence by a public employee in the course of his or her duty is subject to disclosure. These sections may be applicable or helpful in determining whether the disclosure of information or records acquired by judicial officers, court staff, and other persons while receiving, investigating, or resolving complaints under rule 1622 is required by law or should be authorized in the discretion of the presiding judge.

Rule 1622.3. Disqualification from subsequently serving as an adjudicator

A person who has participated in or received information about the receipt, investigation or resolution of an inquiry or a complaint under rule 1622 must not subsequently hear or determine any contested issue of law, fact, or procedure concerning the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation, as a judge, an arbitrator, a referee, or a juror, or in any other adjudicative capacity, in any court action or proceeding.

Rule 1622.3 adopted effective January 1, 2006.

Rule 2050. Definitions

As used in this chapter, unless the context requires otherwise:

(a) ***

(b) [Document] A "document" is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party's behalf. A document may be in paper or electronic form.

(Subd (b) amended effective January 1, 2006.)

(c) [Electronic filer] An "electronic filer" is a party filing a document in electronic form with the court.

(Subd (c) amended effective January 1, 2006.)

(d) [Electronic filing] "Electronic filing" is the electronic transmission to a court of a document in electronic form.

(Subd (d) amended effective January 1, 2006.)

(e) [Electronic filing service provider] An "electronic filing service provider" is a person or entity that receives an electronic filing from a party for re-transmission to the court. In submission of filings the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.

(Subd (e) adopted effective January 1, 2006.)

~~(e)~~(f) [Electronic service] "Electronic service" is the electronic transmission of a document to a party's electronic notification address, either directly or through an electronic filing service provider, for the purpose of effecting service.

(Subd (f) relettered and amended effective January 1, 2006; adopted as subd (e) effective January 1, 2003.)

~~(f)~~(g) [Party] A "party" is a person appearing in any action or proceeding in pro per or an attorney of record for a party in any action or proceeding.

(Subd (g) relettered and amended effective January 1, 2006; adopted as subd (f) effective January 1, 2003.)

~~(g)~~(h) [Regular filing hours] "Regular filing hours" are the hours during which a court accepts documents for filing.

(Subd (h) relettered and amended effective January 1, 2006; adopted as subd (g) effective January 1, 2003.)

~~(h)~~(i) [These rules] "These rules" are the rules in this chapter.

(Subd (i) relettered effective January 1, 2006; adopted as subd (h) effective January 1, 2003.)

Rule 2050 amended effective January 1, 2006; adopted effective January 1, 2003.

Rule 2056. Responsibilities of electronic filer

(a) ***

(b) [Format of documents to be filed electronically] A document that is filed electronically with the court must be in a format specified by the court unless it cannot be created in that format. The format adopted by a court must meet the following requirements:

(1) *******

(2) By January 1, ~~2007~~2010, any format adopted by the court must allow for full text searching. Documents not available in a format that permits full text searching must be scanned or imaged as required by the court, unless the court orders that scanning or imaging would be unduly burdensome. By January 1, ~~2007~~2010, such scanning or imaging must allow for full text searching to the extent feasible.

(3) The printing of documents must not result in the loss of document ~~content~~ text, format, or appearance.

(Subd (b) amended effective January 1, 2006.)

Rule 2056 amended effective January 1, 2006; adopted effective January 1, 2003.

Rule 6.603. Authority and Duties of Presiding Judge

(a)–(b) ***

(c) [Duties]

(1)–(3) *******

(4) *(Oversight of judicial officers)* The presiding judge shall:

(A) [*Judges*] Notify the Commission on Judicial Performance of

(i) A judge's substantial failure to perform judicial duties, including but not limited to any habitual neglect of duty, persistent refusal to carry out assignments as assigned ~~but~~ the presiding judge, or persistent refusal to carry out the directives of the presiding judge as authorized by the rules of court; or

(ii) Any absences caused by disability totaling more than 90 court days in a 12-month period, excluding absences authorized under subdivision (c)(2) of this rule.

(B) [*Notice*] Give the judge a copy of the notice to the commission under subdivision (A) if appropriate. If a copy is not given to the judge, the presiding judge shall inform the commission of the reasons why so notifying the judge was deemed inappropriate;

(C) [*Commissioners*] Prepare and submit to the judges for consideration and adoption procedures for receiving, inquiring into, and resolving complaints lodged against court commissioners and referees, consistent with rule 6.655~~,; giving due consideration to section 16 of the Standards of Judicial Administration~~;

(D)–(E) *******

(5)–(11) *******

(Subd (c) amended effective January 1, 2006; previously amended effective January 1, 2001, and January 1, 2002.)

(d) ***

Rule 6.603 amended effective January 1, 2006; adopted and amended effective January 1, 2001; previously amended effective January 1, 2002.

Rule 6.608. Duties of all judges

Each judge ~~shall~~ must:

(1) Hear all assigned matters unless: (a) he or she is disqualified; or (b) he or she has stated in writing the reasons for refusing to hear a cause assigned for trial, and the presiding judge, supervising judge, or master calendar judge has concurred;

(2) Immediately notify the master calendar judge or the presiding judge upon the completion or continuation of a trial or any other matter assigned for hearing;

(3) Request approval of the presiding judge for any intended absence of one-half day or more, within a reasonable time before the intended absence;

(4) Follow the court's personnel plan in dealing with employees; and

(5) Follow directives of the presiding judge in matters of court management and administration, as authorized by the rules of court and the local rules and internal policies of the court.

Rule 6.608 amended effective January 1, 2006.

Rule 6.655. Complaints against subordinate judicial officers

(a)–(h) ***

(i) [Complaints requiring preliminary investigation]

(1) If after an initial review of the complaint the presiding judge finds a basis for further inquiry, the presiding judge shall conduct a preliminary investigation appropriate to the nature of the complaint.

(2) The investigation may include interviews of witnesses and a review of court records.

(3) The presiding judge may give the subordinate judicial officer a copy of the complaint or a summary of its allegations and allow him or her an opportunity to respond. The presiding judge must give the subordinate

judicial officer a copy of the complaint or a summary of its allegations and allow the subordinate judicial officer an opportunity to respond before the presiding judge takes appropriate informal action as described in subdivision (i)(4)(B).

(4)–(5) ***

(Subd (i) amended effective January 1, 2006.)

(j)-(*l*) ***

Rule 6.655 amended effective January 1, 2006; adopted effective November 20, 1998; previously amended effective April 29, 1999, and July 1, 2002.

Rule 7.1008. Visitation by former guardian after termination of guardianship

(a) **[Visitation order at time of termination of guardianship]** Subject to the provisions of Welfare and Institutions Code section 304, a guardian may request the court to order visitation with the child under guardianship at the time of termination of the guardianship either in the guardian's petition for termination or in the guardian's objections or other pleading filed in response to the petition of another party for termination. The court may then order visitation if it is in the best interest of the child.

(b) **[Request for visitation after termination of guardianship]** If no order was entered under (a) concerning visitation between the former guardian and the former ward at termination of the guardianship and no dependency proceedings for the child are pending, the former guardian may request the court to order visitation with the former ward after termination of the guardianship as provided in Family Code section 3105, Probate Code section 1602, rule 5.475, and this rule, as follows:

(1) If either parent of the former ward is living, in an independent action for visitation under the Family Code; or

(2) If neither parent of the former ward is living, in a guardianship proceeding under the Probate Code, including a proceeding commenced for that purpose.

(c) **[Declaration under UCCJEA]** A guardian or former guardian requesting visitation under this rule must file Judicial Council form FL-105/GC-120, *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)*, with his or her request for visitation.

(d) [Transmission of visitation order] Following the termination of the guardianship the clerk of the superior court issuing the visitation order concerning the guardian or former guardian and the ward or former ward must promptly transmit an endorsed filed copy of the order to the superior court of the county where a custody proceeding under the Family Code is pending or, if none, to the superior court of the county in which the custodial parent resides. An order transmitted to the court in the county where the custodial parent resides may be sent to the receiving court's Court Operations Manager, Family Division, or similar senior manager or clerk responsible for the operations of the family law departments of the court. If the receiving court has more than one location, the order may be sent to the main or central district of the court.

Rule 7.1008 adopted effective January 1, 2006.

Rule 7.1010. Qualifications and continuing education requirements for private professional guardians

(a) [Definitions] For purposes of this rule:

(1) An "accredited educational institution" is a college or university, including a community or junior college, accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.

(2) The term "developmental disability" has the meaning specified in Probate Code section 1420.

(3) Unless the context otherwise requires, the term "guardian" refers to a guardian of the person, of the estate, or of both, appointed by a court in a guardianship proceeding under Division 4 of the Probate Code (commencing with section 1400).

(4) A "Lanterman-Petris-Short conservatorship" is a conservatorship of a person who is gravely disabled as the result of a mental disorder or impairment by chronic alcoholism under Welfare and Institutions Code section 5350 et seq.

(5) The term "private professional guardian" has the meaning specified in Probate Code section 2341(b), including a guardian of one unrelated minor whom an appointing court has required to comply with article 4 of chapter 4 of part 4 of division 4 of that code (commencing with section 2340).

(6) An "unrelated minor" is a person under the age of majority who is not related to a private professional guardian by blood, marriage, or domestic partnership.

(b) [Qualifications for appointment] Except as otherwise provided in this rule, effective January 1, 2006, a court may not appoint a private professional guardian as guardian of the estate or guardian of the person and estate of an unrelated minor unless on the date of the order of appointment, the private professional guardian:

(1) Is at least 21 years of age;

(2) Satisfies one or more of the following subparagraphs:

(A) Has a four-year undergraduate degree or equivalent from an accredited educational institution and one of the following:

(i) Two or more years' employment experience in a position with responsibility for the care or management of the persons or estates of children or dependent, developmentally disabled, or mentally ill adults, or supervision of those caring for or assisting them, (1) in a nonprofit corporation or public agency of the federal government or any state, city, or county; (2) in a bank or corporation authorized under the law of any state to engage in the business of a trust company; or (3) in a nonprofit corporation or with a professional fiduciary or organization of professional fiduciaries acting as a court-appointed fiduciary under the law of any state;

(ii) Two or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or

(iii) A certificate as a paralegal from an accredited educational institution and two or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice.

(B) Has a two-year undergraduate degree or equivalent in a behavioral science, business, nursing, or accounting from an accredited educational institution and one of the following:

(i) Five or more years' employment experience in a position and with an entity or individual described in (A)(i);

(ii) Five or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or

(iii) A certificate as a paralegal from an accredited educational institution and five or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;

(C) Has been appointed, qualified, and acted as guardian of the estate or of the person and estate, or as conservator of the person, of the estate, or of both, of 10 or more persons in the state of California in the five-year period immediately preceding January 1, 2006;

(D) Has a current, active license in good standing, or an inactive license that was current, active, and in good standing within five years of the later of the effective date of this rule or the date of appointment as a private professional guardian and was neither revoked, nor resigned or surrendered with proceedings for revocation pending, to practice one of the following professions in the State of California:

(i) Attorney at law,

(ii) Certified public accountant,

(iii) Educational psychologist,

(iv) Licensed clinical social worker,

(v) Marriage and family therapist,

(vi) Physician or surgeon,

(vii) Psychologist, or

(viii) Registered nurse; or

(E) Is one of the following retired judicial officers of a California trial or appellate court:

(i) A judge or justice of a trial or appellate court, or

(ii) A commissioner or juvenile court referee who was employed by a court in that capacity on a full-time basis at the time of his or her retirement;

(3) Has either:

(A) Satisfied the requirements of (2)(C), or

(B) Successfully completed a program of education approved by the Administrative Office of the Courts and received a certificate or its equivalent in professional fiduciary management for guardians or conservators; and

(4) Has not:

(A) Been convicted of any felony, or of a misdemeanor involving abuse or neglect of a child or an elderly or dependent adult;

(B) Been determined to be liable in a civil action or proceeding for conversion, embezzlement, fraud, misappropriation, misrepresentation, or theft; or

(C) Been removed as a fiduciary by a court for actions involving breach of fiduciary duty, conversion, fraud, misappropriation, misrepresentation, or theft.

(c) [Discretionary exception for small counties]

(1) Notwithstanding any other provision of this rule, a court in a county that has five or fewer private professional guardians or conservators, as determined under (2), who have been appointed as a private professional fiduciary in at least one guardianship or conservatorship matter that is then open and active in that court may, in the exercise of the court's discretion, appoint a private professional guardian who does not meet any of the requirements of (b)(2) and (3) on conditions satisfactory to the court, if the court determines that it is necessary to appoint a private professional guardian in a particular case.

(2) The court must determine the number of private professional guardians or conservators active in its county at the time of the proposed discretionary appointment authorized under (1) by checking the latest annual

information statements required by Probate Code section 2342 that are on file with the court as of the date of the proposed appointment, and reviewing the guardianship or conservatorship matters listed in the statements to confirm their status as open and active on that date.

(d) [Transitional provisions for qualifications]

(1) *(Completion of education requirements in 2006)*

(A) During 2006, the court may, in the exercise of its discretion, appoint as guardian of the estate, or of the person and estate, of an unrelated minor a private professional guardian who does not satisfy the prior experience requirement of (b)(2)(C) or the education requirement of (b)(3)(B) on the date of appointment.

(B) A private professional guardian appointed under (A) must complete the education requirement of (b)(3)(B) and provide a certificate or other proof of completion satisfactory to the court before January 1, 2007.

(C) The court must remove a private professional guardian appointed under (A) who fails to timely comply with (B).

(2) *(Guardianships pending on January 1, 2006)*

(A) The court may, in the exercise of its discretion, permit a private professional guardian who was appointed and qualified as a guardian of the estate, or the person and estate, of an unrelated minor before January 1, 2006, to continue as guardian after that date on conditions approved by the court, although the guardian does not on that date satisfy the qualifications specified in (b)(2)(A)–(E).

(B) A private professional guardian permitted to continue as guardian under (A) may apply to the court for removal of any conditions imposed by the court at any time after January 1, 2006 that he or she becomes qualified under (b)(2)(A), (B), or (D) and satisfies the education requirement of (b)(3)(B).

(e) [Continuing education]

(1) *(Annual time requirements)* Beginning on January 1, 2007, except as provided in (i) and (j), every private professional guardian must complete

during each calendar year a minimum of 15 hours of continuing education from eligible providers under this rule.

(A) A maximum of 4 of the 15 hours required by this paragraph may be by self-study under the supervision of an eligible continuing education provider that provides evidence of completion.

(B) A private professional guardian may complete continuing education courses that satisfy the requirements of this subdivision offered by eligible continuing education providers by means of video presentations or other delivery means at remote locations. Such courses are not self-study within the meaning of this rule.

(C) A private professional guardian who serves as an instructor in a continuing education course that satisfies the requirements of this rule may receive 1.5 hours of course participation credit for each hour of course instruction.

(2) *(Annual subject matter requirements)*

(A) At least 5 hours of continuing education each year must be in subjects appropriate for a guardian of the person.

(B) At least 5 hours of continuing education each year must be in subjects appropriate for a guardian of the estate.

(C) At least 1 hour of continuing education each year must be in fiduciary ethics.

(3) *(Subject matter for guardians of the person)* "Subjects appropriate for a guardian of the person" under (2) include the following:

(A) Assessment of child abuse issues;

(B) Child custody and visitation issues in guardianships;

(C) Community resources;

(D) Developmental disabilities;

(E) Interfamilial relationships and conflict resolution, with emphases on parent-child relationships and on blended and extended families;

(F) Interstate issues in guardianships of the person of minors;

(G) Involuntary mental health evaluation and additional treatment for mentally ill children;

(H) Lanterman-Petris-Short conservatorships;

(I) Mandatory reporting requirements for child abuse;

(J) Medical decision making by guardians;

(K) Minors' rights to mental health treatment or counseling services;

(L) Probate Code and other California legal requirements for guardianships of the person;

(M) Psychological and developmental needs of children;

(N) Recognizing and evaluating mental illnesses in children; and

(O) Significance of culture and religion in the lives of children.

(4) *(Subject matter for guardians of the estate)* "Subjects appropriate for a guardian of the estate" under (2) include the following:

(A) Asset recovery;

(B) Court accounting;

(C) Economics of fiduciary services;

(D) Enforcing a child's right to support;

(E) Evaluation of investment securities;

(F) Fiduciary liability;

(G) Fiduciary office management and technology;

(H) Income taxation;

(I) Interstate issues in guardianships of the estate of minor children;

(J) Investment and other advisors for fiduciaries;

(K) Liability insurance;

(L) Litigation by and against guardians;

(M) Medi-Cal, Supplemental Security Income, and other public benefits;

(N) Medical insurance;

(O) Personal property asset management;

(P) Probate Code and other California legal requirements for probate guardianships of the estate;

(Q) Prudent Investor Act and authorized investments by guardians;

(R) Real property asset management;

(S) Recordkeeping;

(T) Risk management;

(U) Settlement of the claim or disposition of the proceeds of a judgment for a minor;

(V) Special needs trusts; and

(W) Any subject not listed in this paragraph that is identified as appropriate for a conservator of the estate in rule 7.1060(d)(4).

(5) *(Continuing education for dual-status private professional fiduciaries)* Notwithstanding any other provision of this rule and rule 7.1060, a private professional guardian under this rule who also is a private professional conservator under rule 7.1060 may satisfy the minimum-hours requirements of both rules by completing a total of at least 15 hours of continuing education annually from eligible providers under either rule.

(f) [Approved eligible continuing education providers]

(1) Eligible continuing education providers may include accredited education institutions, professional associations, professional continuing education

groups, public or private for-profit or not-for-profit groups, and court-connected groups.

(2) Effective January 1, 2008, continuing education providers and courses must be approved by the Administrative Office of the Courts.

(3) Continuing education completed in calendar 2007 complies with the requirements of this rule if it addresses the subjects required by this rule, is certified for continuing education credit by the provider in accordance with the requirements of subdivision (g), and is provided by:

(A) An accredited educational institution;

(B) An accountancy organization or a private education provider, if the education qualifies with the California State Board of Accountancy for continuing education credit for renewal of an individual license as a Certified Public Accountant;

(C) The Administrative Office of the Courts;

(D) The American Bar Association;

(E) California Continuing Education of the Bar;

(F) A local bar association or private education provider, if the education qualifies with the California State Bar for continuing legal education credit for a member of the California bar;

(G) The National Association of Social Workers;

(H) The National Guardianship Association; or

(I) The Professional Fiduciary Association of California.

(g) [Requirements for continuing education providers] Each continuing education provider must:

(1) Ensure that the instructors teaching continuing education courses are qualified to teach the subject matter of the courses they teach;

(2) Monitor and evaluate the quality of courses, curricula, instructors, and instructor training;

(3) Keep records of attendance or self-study and distribute to each participant a certificate of completion that identifies the education provider and documents the subject taught, the number of hours of education offered, and the number of hours the participant completed; and

(4) Be approved under (f)(2).

(h) [Proof of compliance]

(1) *(Qualifications)* Every private professional guardian must demonstrate, under penalty of perjury, his or her qualifications under (b) in his or her information statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after the effective date of this rule and annually thereafter.

(2) *(Continuing education)*

(A) Every private professional guardian must declare, under penalty of perjury, that he or she has complied with the continuing education requirements under (e) for the previous calendar year in his or her annual statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after December 31, 2007, and annually thereafter.

(B) Every private professional guardian must retain certificates of attendance or other proof of participation in continuing education required by this rule for a period of three years after the end of each year of education completed. An appointing court may require a private professional guardian to produce, in a manner determined by the court, proof of compliance with the requirement for any year at any time within that three-year period.

(3) *(Report of noncompliance to the Statewide Registry)* If an appointing court determines that a private professional guardian has failed to comply with the qualification or continuing education requirements of this rule, the court clerk must forward a copy of the court's determination to the Statewide Registry under Probate Code section 2850(d).

(i) [Waiver of continuing education] Notwithstanding any other provision of this rule, a court may, on the ground of hardship, waive the continuing education requirements of (e), in whole or in part and under conditions satisfactory to the court, for any private professional guardian appointed by the court.

(j) [Exemption of guardians of the person] Notwithstanding any other provision of this rule, a private professional guardian of the person only of two or more unrelated minors is exempt from the requirements of this rule.

Rule 7.1010 adopted effective January 1, 2006.

Rule 7.1060. Qualifications and continuing education requirements for private professional conservators

(a) [Definitions] For purposes of this rule:

(1) An "accredited educational institution" is a college or university, including a community or junior college, accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.

(2) Unless the context otherwise requires, the term "conservator" refers to a conservator of the person, of the estate, or of both, appointed by a court in a conservatorship proceeding under division 4 of the Probate Code (commencing with section 1400).

(3) The term "developmental disability" has the meaning specified in Probate Code section 1420.

(4) A "Lanterman-Petris-Short conservatorship" is a conservatorship of a person who is gravely disabled as the result of a mental disorder or impairment by chronic alcoholism under Welfare and Institutions Code section 5350 et seq.

(5) A "limited conservatorship" is a conservatorship of a developmentally disabled adult found by the court to lack the capacity to perform some but not all of the tasks necessary to provide for his or her own personal needs for physical health, food, clothing, or shelter, or manage his or her own financial resources.

(6) The term "private professional conservator" has the meaning specified in Probate Code section 2341(a), including a conservator of one unrelated person whom an appointing court has required to comply with article 4 of chapter 4 of part 4 of division 4 of that code (commencing with section 2340).

(7) An "unrelated person" is a person who is not related to a private professional conservator by blood, marriage, or domestic partnership.

(b) [Qualifications for appointment] Except as otherwise provided in this rule, effective January 1, 2006, a court may not appoint a private professional conservator as conservator of an unrelated person unless on the date of the order of appointment the private professional conservator:

(1) Is at least 21 years of age;

(2) Satisfies one or more of the following subparagraphs:

(A) Has a four-year undergraduate degree or equivalent from an accredited educational institution and one of the following:

(i) Two or more years' employment experience in a position with responsibility for the care or management of the persons or estates of children or dependent, developmentally disabled, or mentally ill adults, or supervision of those caring for or assisting them, (1) in a nonprofit corporation or public agency of the federal government or any state, city, or county; (2) in a bank or corporation authorized under the law of any state to engage in the business of a trust company; or (3) in a nonprofit corporation or with a professional fiduciary or organization of professional fiduciaries acting as a court-appointed fiduciary under the law of any state;

(ii) Two or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or

(iii) A certificate as a paralegal from an accredited educational institution and two or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;

(B) Has a two-year undergraduate degree or equivalent in a behavioral science, business, nursing, or accounting from an accredited educational institution and one of the following:

(i) Five or more years' employment experience in a position and with an entity or individual described in (A)(i);

(ii) Five or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or

(iii) A certificate as a paralegal from an accredited educational institution and five or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;

(C) Has been appointed, qualified, and acted as guardian of the estate, or of the person and estate, or conservator of the person, of the estate, or of both, of 10 or more persons in the State of California in the five-year period immediately preceding January 1, 2006;

(D) Has a current, active license in good standing, or an inactive license that was current, active, and in good standing within five years of the later of the effective date of this rule or the date of appointment as a private professional conservator and was neither revoked, nor resigned or surrendered with proceedings for revocation pending, to practice one of the following professions in the State of California:

(i) Attorney at law,

(ii) Certified public accountant,

(iii) Educational psychologist,

(iv) Licensed clinical social worker,

(v) Marriage and family therapist,

(vi) Physician or surgeon,

(vii) Psychologist, or

(viii) Registered nurse; or

(E) Is one of the following retired judicial officers of a California trial or appellate court:

(i) A judge or justice of a trial or appellate court, or

(ii) A commissioner or juvenile court referee who was employed by a court in that capacity on a full-time basis at the time of his or her retirement;

(3) Has either:

(A) Satisfied the requirements of (2)(C), or

(B) Successfully completed a program of education approved by the Administrative Office of the Courts and received a certificate or its equivalent in professional fiduciary management for guardians or conservators; and

(4) Has not:

(A) Been convicted of any felony, or of a misdemeanor involving abuse or neglect of a child or an elderly or dependent adult;

(B) Been determined to be liable in a civil action or proceeding for conversion, elder or dependent adult abuse or neglect, embezzlement, fraud, misappropriation, misrepresentation, or theft; or

(C) Been removed as a fiduciary by a court for actions involving breach of fiduciary duty, conversion, fraud, misappropriation, misrepresentation, or theft.

(c) [Discretionary exception for small counties]

(1) Notwithstanding any other provision of this rule, a court in a county that has five or fewer private professional guardians or conservators, as determined under (2), who have been appointed as a private professional fiduciary in at least one guardianship or conservatorship matter that is then open and active in that court may, in the exercise of the court's discretion, appoint a private professional conservator who does not meet any of the requirements of (b)(2) and (3) on conditions satisfactory to the court, if the court determines that it is necessary to appoint a private professional conservator in a particular case.

(2) The court must determine the number of private professional guardians or conservators active in its county at the time of the proposed discretionary appointment authorized under (1) by checking the latest annual information statements required by Probate Code section 2342 that are on

file with the court as of the date of the proposed appointment, and reviewing the guardianship or conservatorship matters listed in the statements to confirm their status as open and active on that date.

(d) [Transitional provisions for qualifications]

(1) (*Completion of education requirements in 2006*)

(A) During 2006, the court may, in the exercise of its discretion, appoint as conservator of an unrelated person a private professional conservator who does not satisfy the prior experience requirement of (b)(2)(C) or the education requirement of (b)(3)(B) on the date of appointment.

(B) A private professional conservator appointed under (A) must complete the education requirement of (b)(3)(B) and provide a certificate or other proof of completion satisfactory to the court before January 1, 2007.

(C) The court must remove a private professional conservator appointed under (A) who fails to timely comply with (B).

(3) (*Conservatorships pending on January 1, 2006*)

(A) The court may, in the exercise of its discretion, permit a private professional conservator who was appointed and qualified as a conservator of an unrelated person before January 1, 2006, to continue as conservator after that date on conditions approved by the court, although the conservator is not on that date qualified under subparagraph (b)(2).

(B) A private professional conservator permitted to continue as conservator under (A) may apply to the court for removal of any conditions imposed by the court at any time after January 1, 2006, that he or she becomes qualified under (b)(2)(A), (B), or (D) and satisfies the education requirement of (b)(3)(B).

(e) [Continuing education]

(1) (*Annual time requirements*) Beginning on January 1, 2007, except as provided in (i), every private professional conservator must complete during each calendar year a minimum of 15 hours of continuing education from eligible providers under this rule.

(A) A maximum of 4 of the 15 hours required by this paragraph may be by self-study under the supervision of an eligible continuing education provider that provides evidence of completion.

(B) A private professional conservator may complete continuing education courses that satisfy the requirements of this subdivision offered by eligible continuing education providers by means of video presentations or other delivery means at remote locations. Such courses are not self-study within the meaning of this rule.

(C) A private professional conservator who serves as an instructor in a continuing education course that satisfies the requirements of this rule may receive 1.5 hours of course participation credit for each hour of course instruction.

(2) (*Annual subject matter requirements*)

(A) At least 5 hours of continuing education each year must be in subjects appropriate for a conservator of the person.

(B) At least 5 hours of continuing education each year must be in subjects appropriate for a conservator of the estate.

(C) At least 1 hour of continuing education each year must be in fiduciary ethics.

(3) (*Subject matter for conservators of the person*) "Subjects appropriate for a conservator of the person" under (2) include the following:

(A) Advance directives and end-of-life decisions;

(B) Assessment of living situations;

(C) Communicating with adults with diminished capacity;

(D) Community resources;

(E) Dementia assessment;

(F) Dementia powers;

(G) Developmental disabilities;

(H) Due Process in Competency Determinations Act;

(I) Elder and dependent adult abuse or neglect and legal remedies;

(J) Evaluation of residential care facilities;

(K) Family dynamics and conflict resolution;

(L) Home care of adults with diminished capacity;

(M) Interstate issues in conservatorships of the person;

(N) Involuntary mental health evaluation and intensive treatment for gravely disabled adults;

(O) Lanterman-Petris-Short conservatorships;

(P) Limited conservatorships of the person of developmentally disabled persons;

(Q) Mandatory reporting requirements for elder and dependent adult abuse;

(R) Medical decision making by conservators;

(S) Medications for adults with diminished capacity;

(T) Physical and cognitive functional assessments;

(U) Probate Code and other California legal requirements for probate conservatorships of the person;

(V) Reading and understanding medical charts;

(W) Recognizing and evaluating mental illnesses;

(X) Regulation of residential care facilities;

(Y) Rights of residents and patients in residential, board-and-care, group living, and long-term care facilities; and

(Z) Working with other professionals.

(4) (*Subject matter for conservators of the estate*) "Subjects appropriate for a conservator of the estate" under (2) include the following:

(A) Asset recovery;

(B) Court accounting;

(C) Economics of fiduciary services;

(D) Elder and dependent adult financial abuse and legal remedies;

(E) Evaluation of investment securities;

(F) Fiduciary liability;

(G) Fiduciary office management and technology;

(H) Income taxation;

(I) Interstate issues in conservatorships of the estate;

(J) Investment and other advisors for fiduciaries;

(K) Liability insurance;

(L) Limited conservatorships of the estate of developmentally disabled adults;

(M) Litigation by and against conservators;

(N) Marital and domestic partnership property issues in conservatorships;

(O) Medi-Cal, Supplemental Security Income, and other public benefits;

(P) Medicare and medical insurance;

(Q) Personal property asset management;

(R) Powers of attorney, abuses and remedies;

(S) Probate Code and other California legal requirements for probate conservatorships of the estate;

(T) The Prudent Investor Act and authorized investments by conservators;

(U) Real property asset management;

(V) Record keeping;

(W) Risk management;

(X) Special needs trusts; and

(Y) Substituted judgment.

(5) (*Continuing education for dual-status private professional fiduciaries*) Notwithstanding any other provision of this rule and rule 7.1010, a private professional conservator under this rule who is also a private professional guardian under rule 7.1010 may satisfy the minimum-hours requirements of both rules by completing a total of at least 15 hours of continuing education annually from eligible providers under either rule.

(f) [Approved eligible continuing education providers]

(1) Eligible continuing education providers may include accredited educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups.

(2) Effective January 1, 2008, continuing education providers and courses must be approved by the Administrative Office of the Courts.

(3) Continuing education completed in calendar 2007 complies with the requirements of this rule if it addresses the subjects required by this rule, is certified for continuing education credit by the provider in accordance with the requirements of subdivision (g), and is provided by:

(A) An accredited educational institution;

(B) An accountancy organization or private education provider, if the education qualifies with the California State Board of Accountancy

for continuing education credit for renewal of an individual license as a Certified Public Accountant;

(C) The Administrative Office of the Courts;

(D) The American Bar Association;

(E) The American Society of Aging;

(F) California Continuing Education of the Bar;

(G) The Gerontological Society of America;

(H) A local bar association or private education provider, if the education qualifies with the California State Bar for continuing legal education credit for a member of the California bar;

(I) The National Association of Professional Geriatric Care Managers;

(J) The National Association of Social Workers;

(K) The National Guardianship Association; or

(L) The Professional Fiduciary Association of California.

(g) [Requirements for continuing education providers] Each continuing education provider must:

(1) Ensure that the instructors teaching continuing education courses are experts in the subject matter;

(2) Monitor and evaluate the quality of courses, curricula, instructors, and instructor training;

(3) Keep records of attendance or self-study and distribute to each participant a certificate of completion that identifies the education provider and documents the subject taught, the number of hours of education offered, and the number of hours the participant completed; and

(4) Be approved under (f)(2).

(h) [Proof of compliance]

(1) (*Qualifications*) Every private professional conservator, under penalty of perjury, must demonstrate his or her qualifications under (b) in his or her information statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after the effective date of this rule and annually thereafter.

(2) (*Continuing education*)

(A) Every private professional conservator must declare, under penalty of perjury, that he or she has complied with the continuing education requirements under (e) for the previous calendar year in his or her annual statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after December 31, 2007, and annually thereafter.

(B) Every private professional conservator must retain certificates of attendance or other proof of participation in continuing education required by this rule for a period of three years after the end of each year of education completed. An appointing court may require a private professional conservator to produce proof, in a manner determined by the court, of compliance with the requirement for any year at any time within that three-year period.

(3) (*Report of noncompliance to the Statewide Registry*) If an appointing court determines that a private professional conservator has failed to comply with the qualification or continuing education requirements of this rule, the court clerk must forward a copy of the court's determination to the Statewide Registry under Probate Code section 2850(d).

(i) [Waiver of continuing education] Notwithstanding any other provision of this rule, a court may, on ground of hardship, waive the continuing education requirements of (e), in whole or in part and under conditions satisfactory to the court, for any private professional conservator appointed by the court.

Rule 7.1060 adopted effective January 1, 2006.

California Standards of Judicial Administration

Sec. 8.5. Examination of prospective jurors in criminal cases

(a) [In general]

(1) This standard applies in all criminal cases.

(2) The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.

~~The trial judge may, upon a showing of good cause, permit supplemental examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case, relevant to a challenge for cause.~~

(3) The court may consider conducting sequestered voir dire on issues that are sensitive to the prospective jurors, on questions concerning media reports of the case, and on any other issue the court deems advisable.

(Subd (a) amended effective January 1, 2006; previously amended effective January 1, 1988, January 1, 1990, and June 6, 1990.)

(b) [Examination of jurors] The trial judge's examination of prospective jurors in criminal cases should include the ~~following~~ areas of inquiry listed below and any other matters affecting their qualifications to serve as jurors in the case.~~:~~ The trial judge may want to use the *Juror Questionnaire for Criminal Cases* (form MC-002) to assist in the examination of prospective jurors. Form MC-002 is an optional form and is not intended to constitute the complete examination of prospective jurors. Form MC-002 is a tool for trial judges to use to make the initial examination of prospective jurors more efficient. If the court chooses to use form MC-002, its use and any supplemental questions submitted by counsel must be discussed at the pre–voir dire conference required by rule 4.200. Excusing jurors based on questionnaire answers alone is generally not advisable.

(1) (*Address to entire jury panel*): Do any of you have any vision, hearing, or medical difficulties that may affect your jury service? (*Response.*)

(2)~~(3)~~ (*In particular, for lengthy trials. Address to entire jury panel*): This trial will likely take _____ days to complete, but it may take longer. (*State the days and times during the day when the trial will be in session.*) Will any of you find it difficult or impossible to participate for this period of time? (*After the entire panel has been screened for time hardships, direct the excused jurors to return to the jury assembly room for possible reassignment to other courtrooms for voir dire.*)

(3)~~(1)~~ (*At this point the court may wish to submit any juror questionnaire that has been developed to assist in voir dire. The court should remind*

panel members that their answers on the questionnaire are given under penalty of perjury. In addition, if a questionnaire is used, the court and counsel may wish to question individual prospective jurors further based on their responses to particular questions, and a procedure for doing so should be established at the pre–voir dire conference. Therefore, it may not be necessary to ask all of the prospective jurors questions 5 through 25 that follow, although the text may assist the court with following up with individual jurors about answers given on the questionnaire.)

(*To the entire jury panel ~~after it has been sworn and seated~~*): I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All the remaining members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

(4)~~(2)~~ (*To the prospective jurors seated in the jury box*): In the trial of this case each side is entitled to have a fair, unbiased, and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

(5) (*To the prospective jurors seated in the jury box*): Do any of you know anyone else on this jury panel? (*Response*.)

(6)~~(4)~~ Ladies and gentlemen of the jury: This is a criminal case entitled The People of the State of California v. _____. The (defendant is) (defendants are) seated _____.

a. (Mr.) (Ms.) (defendant), please stand and face the prospective jurors in the jury box and in the audience seats. (*Defendant complies.*) Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his) (her) name prior to today? If your answer is yes, please raise your hand.

b. The defendant, _____, is represented by (his) (her) attorney, _____, who is seated _____. (Mr.) (Ms.) (defense attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.) (Ms.) _____ prior to today?

c. (If there is more than one defendant, repeat (a) and (b) for each codefendant.)

(7)~~(5)~~ The People are represented by _____, Deputy District Attorney, who is seated _____. (Mr.) (Ms.) (district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.) (Ms.) _____ prior to today?

(8)~~(6)~~ The defendant is charged by an (information) (indictment) filed by the district attorney with having committed the crime of _____, in violation of section _____ of the _____ Code, it being alleged that on or about _____ in the County of _____, the defendant did (*describe the offense*). To (this charge) (these charges) the defendant has pleaded not guilty, and ~~it will be the question of~~ the jury will have to decide whether the defendant's guilt has been proved beyond a reasonable doubt. ~~that you will be asked to decide if you are selected as a trial juror in this case~~. Having heard the charge(s) that (has)(have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him)(her)?

(9)~~(7)~~ Have any of you heard of, or have you any prior knowledge of, the facts, or events in this case?

(10) Do any of you have any ethical, religious, political, or other beliefs that would prevent you from serving as a juror in this case?

(11)~~(8)~~ During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties or their names may be mentioned in evidence: _____ (~~The defendant may be excused from disclosing the name of any witness.~~ (*Do not identify the side on whose behalf the witness might be called*.) Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(12)~~(9) Do any of you have any belief or feeling toward any of the parties, attorneys or witnesses that would make it impossible, or difficult, for you to act fairly and impartially, both as to the defendant and the People?~~ Do any of you have any financial or personal interest in the outcome of this case?

(13)~~(10)~~ How many of you have served previously as jurors in a criminal case?

(*To each person whose hand is raised*):

a. (Mr.) (Ms.) _____ (or Juror ID number), you indicated you have been a juror in a criminal case. What were the charges ~~was the nature of the charge~~ in that case? (*Response*.)

b. Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be presented and the law as I ~~shall~~ will state it to you? (*Response*.)

(14)~~(11)~~ May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? (*Response*.) You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof ~~which~~ that is placed ~~up~~on the People. In a civil case we say that the plaintiff must prove his case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before (he) (she) may be found guilty, the People must prove (his) (her) guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions ~~which~~ that you received in your previous cases and try this case on the instructions given by me in this case?

(15)~~(12)~~ The fact that the defendant is in court for trial, or that charges have been made against (him) (her), is no evidence whatever of (his) (her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has ~~been arraigned and has~~ entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. ~~Until and unless this is done, the presumption of innocence prevails~~ If the evidence does not convince you of the truth of the charges beyond a reasonable doubt, the defendant is entitled to a verdict of not guilty.

In the following questions I will be using the terms ~~"family,"~~ "relative," "close friend," and "anyone with whom you have a significant personal relationship." The term~~,~~ "anyone with whom you have a significant personal relationship" means a

domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

(16)~~(14)~~ Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, ever been the victim of any crime? ~~a complaining witness or a victim in a case of this kind?~~ (*Response*.)

(17)~~(13)~~ Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, ever ~~been arrested for or charged with an offense similar to that in this case?~~ had any contact with law enforcement, including, but not limited to, being: (a) stopped by the police? (b) accused of misconduct, whether or not it was a crime? (c) investigated as a suspect in a criminal case? (d) charged with a crime? or (e) a criminal defendant? (*Response*.)

(18)~~(15)~~ Have you, or to your knowledge, any ~~member of your family,~~ relative, close friend, or anyone with whom you have a significant personal relationship, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff's office, highway patrol, district attorney's office, city attorney's office, attorney general's office, United States attorney's office, FBI, ~~etc.~~and others. (*If so, elicit the details of the experience or connection.*)

(19)~~(16)~~ Would you be able to listen to the testimony of a police or other peace officer and measure it ~~by~~ the same way you would ~~standards that you use to test the credibility of~~ any other witness?

~~(17) Would you have any difficulty or embarrassment in returning a verdict for or against the side which had a police or other peace officer as a witness?~~

(20)~~(18)~~ (*When appropriate*) It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial, or religious group (or may have a life style different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(21)~~(19)~~ It is important that I have your assurance that you will~~, without reservation,~~ follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You must accept and

follow my instructions even if you disagree with the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(22)~~(20)~~ Each of you should now state your:

(i) (Name) (or juror ID number);

(ii) Children's ages and the number of children, if any;

(iii) Occupation;

(iv) Occupational history; and

(v) Present employer.

And for your spouse or anyone with whom you have a significant personal relationship, their:

~~(vi) Names;~~

(vi)~~(vii)~~ Occupations;

(vii)~~(viii)~~ Occupational histories; and

(viii)~~(ix)~~ Present employers.

And for your adult children, their:

(ix) Occupations;

(x) Occupational histories; and

(xi) Present employers.

(Please begin with juror number one.)

(23)~~(21)~~ Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time~~?~~.

(24)~~(22)~~ (~~*At this point*~~ *After the court conducts the initial examination, Code of Civil Procedure section 223 allows counsel to ask supplemental questions for the purposes of uncovering possible bias or prejudice relevant to challenges for cause. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.*)

(*After the conclusion of counsel questioning, the court asks each side to exercise any challenges for cause.*)

(~~*At this point*~~ *After ruling on challenges for cause, if any, the court calls on each side, alternately, to exercise any peremptory challenges.*)

(25)~~(23)~~ (~~*When*~~ *If a new prospective juror is seated, the court should ask (~~him/her~~ him or her*):

(i) Have you heard my questions to the other prospective jurors?

(ii) Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?

(iii) Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?

(iv) Give us the personal information requested concerning your occupation, that of your spouse or anyone with whom you have a significant personal relationship, that of your adult children, and your prior jury experience.

(Thereupon, as to each new juror seated, the court should ask counsel whether it has adequately covered the proper subjects of inquiry, ask such additional questions as the court determines are proper, and permit counsel to ask supplemental questions, and proceed with challenges as above.)

(Subd (b) amended effective January 1, 2006; adopted as subd (c) effective July 1, 1974; amended and relettered effective June 6, 1990; previously amended effective January 1, 1997, and January 1, 2004.)

(c) [Improper questions] When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. ~~Nor should (he) (she) allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to ensure the selection of a fair and impartial jury.~~

(Subd (c) amended effective January 1, 2006; adopted as subd (e) effective July 1, 1974; previously amended and relettered as subd (d) effective June 6, 1990; relettered as subd (c) effective January 1, 1997.)

Sec. 8.5 amended effective January 1, 2006; adopted effective July 1, 1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, January 1, 1997, and January 1, 2004.

~~Sec. 16. Procedures for handling complaints against court commissioners and referees~~

~~In establishing procedures for receiving and resolving complaints against court commissioners and referees a court should consider the following suggested guidelines:~~

~~(1) A complaint received on the conduct of a subordinate judicial officer should be directed to the presiding judge. When the complaint is not in writing, a memorandum that includes the pertinent information should be made.~~

~~(2) A file should be maintained showing each complaint and its disposition.~~

~~(3) The presiding judge or a judge or judges designated by the presiding judge should review each complaint promptly. A complaint that is frivolous or unfounded on its face may be disposed of without further action, but the complainant should be informed of the disposition and a memorandum should be placed in the file.~~

~~(4) A preliminary inquiry should be made on any complaint that has possible validity. A copy of the complaint should be supplied to the commissioner or referee, who should be allowed an opportunity to respond. The preliminary inquiry may be terminated if the complaint is found to be lacking in merit or an acceptable explanation is offered.~~

~~(5) When the preliminary inquiry indicates that a complaint not minor in nature appears to have validity or there is other good cause including other complaints, the presiding judge should appoint a committee of judges to conduct further investigation. The commissioner or referee should be presented a written statement of the allegations and provided an opportunity to respond either orally or in writing.~~

~~(6) At the conclusion of the investigation the committee should make a written report and recommendation for action to be taken by the court. The committee may recommend that no further action be taken on the complaint, that a reprimand be given the commissioner or referee, or that further proceedings be conducted to consider suspension or termination of employment. The court in determining the disposition of the complaint should given due consideration to the committee's recommendation.~~

~~(7) Each complainant should be notified promptly in writing of the receipt and of the disposition of the complaint.~~

~~(8) The complaint at all stages should be handled as promptly as due process allows.~~

~~(9) Except as provided in paragraphs (3) and (7), all papers filed and proceedings conducted on a complaint against a commissioner or referee should be confidential until disciplinary action is ordered by the court.~~

Sec. 16 repealed effective January 1, 2006; adopted effective July 1, 1978. The repealed section related to procedures for handling complaints against court commissioners and referees.

Sec. 32. Implementation and coordination of mediation and other alternative dispute resolution (ADR) programs

(a) [Implementation of mediation programs for civil cases] Superior courts should implement mediation programs for civil cases as part of their core operations.

(Subd (a) adopted effective January 1, 2006.)

(b) [Promotion of ADR programs] ~~Trial~~ Superior courts should ~~coordinate~~ promote the development, implementation, maintenance, and expansion of successful mediation and other alternative dispute resolution (ADR) programs, through activities that include ~~as follows~~:

(1) ~~Jointly establish~~ Establishing appropriate criteria for determining which cases should be referred to ADR, and ~~which types of~~ what ADR processes are appropriate for those cases. These criteria should include whether the parties are likely to benefit from the use of the ADR process.

(2) ~~Jointly develop~~ Developing, ~~refine~~ refining, and ~~use~~ using lists of qualified ADR ~~providers~~ neutrals.

(3) ~~Jointly adopt~~ Adopting appropriate criteria for referring ~~appropriate~~ cases to qualified ADR neutrals ~~providers and coordinate referrals~~.

(4) ~~Jointly develop~~ Developing ADR information and ~~provide~~ providing educational programs for parties who are not represented by counsel.

(5) ~~Coordinate~~ Providing ADR education for ~~judges~~ judicial officers.

~~(6) Explore joint funding of ADR.~~

(Subd (b) lettered and amended effective January 1, 2006; adopted as unlettered sibdivion effective July 1, 1992.)

(c) [Coordination of ADR programs] Superior courts should coordinate ADR promotional activities and explore joint funding and administration of ADR programs with each other and with professional and community-based organizations.

(Subd (c) adopted effective January 1, 2006.)

Section 32 amended effective January 1, 2006; adopted effective July 1, 1992.

Sec. 32.1. ADR committees

Courts that are not required and that do not elect to have an ADR administrative committee as provided in rule 1580.3 of the California Rules of Court should form committees of judges, attorneys, alternative dispute resolution (ADR) neutrals, and county ADR administrators, if any, to oversee the court's ADR programs and panels of neutrals for general civil cases.

Section 32.1 adopted effective January 1, 2006.

Sec. 33. Criteria for referring cases to dispute resolution ~~providers~~ neutrals

(a) [~~Initial considerations~~ Training, experience, and skills] ~~Initially,~~ Courts should ~~form committees of judges, attorneys, alternative dispute resolution (ADR) providers, and county ADR administrators, if any, to~~ evaluate the ADR training~~,~~ ~~and~~ experience, and skills of potential ~~providers of~~ ADR ~~services~~ neutrals.

(Subd (a) amended effective January 1, 2006.)

(b) [~~Long term criteria~~ Additional considerations for continuing referrals] After a court has sufficient experience with an ADR ~~provider~~ neutral, ~~continuing referrals to that provider should be based on~~ the court should also consider indicators of client satisfaction, settlement rate, ~~and~~ continuing ADR education~~, of the provider~~ and adherence to applicable standards of conduct in determining whether to continue referrals to that neutral. ~~Performance-based testing should be considered.~~

(Subd (b) amended effective January 1, 2006.)

Section 33 amended effective January 1, 2006; adopted effective July 1, 1992.

Advisory Committee Comment

Although settlement rate is an important indicator of a ~~provider's~~ neutral's effectiveness, it should be borne in mind that some disputes will not resolve, despite the best efforts of a skilled ~~provider~~ neutral. ~~Providers~~ Neutrals should not feel pressure to achieve a high settlement rate through resolutions that may not be in the interest of one or more parties. Accordingly, settlement rate should be used with caution as a criterion for court referral of disputes to ~~providers~~ neutrals.

Effective January 1, 2007

Rule 1580.1. Court-related ADR neutrals

(a) ***

(b) [Requirements to be on lists] In order to be included on a court list of ADR neutrals, an ADR neutral must sign a statement or certificate agreeing to:

(1) ~~Sign a certificate agreeing to~~ Comply with all applicable ~~ethical~~ ethics requirements and rules of court; and

(2) ~~Agree to~~ Serve as an ADR neutral on a pro bono or modest-means basis in at least one case per year, not to exceed eight hours, if requested by the

court. The court shall establish the eligibility requirements for litigants to receive, and the application process for them to request, ADR services on a pro bono or modest-means basis.

(Subd (b) amended effective January 1, 2007.)

Rule 1580.1 amended effective January 1, 2007; adopted effective January 1, 2001.