LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT AND STANDARDS OF JUDICIAL ADMINISTRATION
Adopted by the Judicial Council of California on October 20, 2006, effective January 1, 2007

Rule 1.21. Service

(a) Service on a party or attorney

Whenever a ~~notice or other paper~~ document is required to be served on ~~or given to~~ a party, the service ~~or notice~~ must be made on the party's attorney if ~~there is one~~ the party is represented.

(Subd (a) amended effective January 1, 2007.)

(b) ~~Proof of Service~~ "Serve and file"

As used in these rules, unless a statute or rule provides for a different method for filing or service, a requirement to "serve and file" a document means that ~~a document filed in a court must be accompanied by a proof of service, in a manner permitted by law, of one~~ a copy of ~~a~~ the document must be served on the attorney for each party separately represented~~, and~~ on each self-represented party, and on any other person or entity when required by statute, rule, or court order ~~in a manner permitted by law~~, and that the document and a proof of service of the document must be filed with the court.

(Subd (b) amended effective January 1, 2007.)

(c) "Proof of service"

As used in these rules, "proof of service" means a declaration stating that service has been made as provided in (a) and (b). If the proof of service names attorneys for separately represented parties, it must also state which party or parties each of the attorneys served is representing.

(Subd (c) adopted effective January 1, 2007.)

Rule 1.21 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 1.37. Use of forms

A person serving and filing a Judicial Council form must use the current version of the form adopted or approved by the council, unless a rule in the California Rules of Court allows the use of a different form.

Rule 1.37 adopted effective January 1, 2007.

Rule 1.42. Forms not to be rejected

A court must not reject for filing a Judicial Council form for any of the following reasons:

(1) The form lacks the preprinted title and address of the court;

(2) The form lacks the name of the clerk;

(3) The preprinted title and address of another court or its clerk's name is legibly modified;

(4) The form lacks the court's local form number;

(5) The form lacks any other material added by a court, unless the material is required by the Judicial Council;

(6) The form is printed by a publisher or another court;

(7) The form is imprinted with the name or symbol of the publisher, unless the name or symbol replaces or obscures any material on the printed form; ~~or~~

(8) The form is legibly and obviously modified to correct a code section number or to comply with the law under which the form is filed~~.~~; or

(9) The form is not the latest version of the form adopted or approved by the Judicial Council.

Rule 1.42 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 2.150. Authorization for computer-generated or typewritten forms for proof of service of summons and complaint

(a) Computer-generated or typewritten forms; conditions

Notwithstanding the adoption of mandatory form Proof of Service of Summons (form POS-010), a form for proof of service of a summons and complaint prepared entirely by word processor, typewriter, or similar process may be used for proof of service in any applicable action or proceeding if the following conditions are met:

(1)–(2) *******

(3) The title and all the text of form POS-010 that is not accompanied by a check box must be copied word for word except for any instructions, which ~~must~~ need not be copied. In addition, ~~All~~ the ~~relevant~~ optional text describing ~~that is optional (that is, accompanied by a check box)~~ the particular method of service used must be copied word for word, except that the check boxes must not be copied. Any optional text not describing such service need not be included.

(4)–(9) *******

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1985, January 1, 1986, January 1, 1987, July 1, 1999, January 1, 2004, and July 1, 2004.)

(b) ***

Rule 2.150 amended and renumbered effective January 1, 2007; adopted as rule 982.9 previously amended effective January 1, 1989, July 1, 1999, January 1, 2004, and July 1, 2004.

Advisory Committee Comment

This rule is intended to permit process servers and others to prepare their own shortened versions of *Proof of Service of Summons* (form POS-010) containing only the information that is relevant to show the method of service used.

Rule 2.893. Appointment of noncertified interpreters in criminal cases and juvenile delinquency proceedings

(a) ***

(b) Appointment of noncertified interpreters

An interpreter who is not certified by the Judicial Council to interpret a language designated by the Judicial Council under Government Code section 68560 et seq. may be appointed under Government Code section 68561(c) in a proceeding if:

(1) *******

(2) *Noncertified interpreter not provisionally qualified*

(A) To prevent burdensome delay or in other unusual circumstances, at the request of the defendant, or of the minor in a juvenile delinquency proceeding, the judge in the

proceeding may appoint a noncertified interpreter who is not provisionally qualified under ~~subdivision~~ (b)(1) to interpret a brief, routine matter provided the judge, on the record:

(i) Indicates that the defendant or minor has waived the appointment of a certified interpreter and the appointment of an interpreter found provisionally qualified by the presiding judge;

(ii) Finds that good cause exists to appoint an interpreter who is neither certified nor provisionally qualified; and

(iii) Finds that the interpreter is qualified to interpret that proceeding.

(B) The findings and appointment under (b)(2)(A) made by the judge in the proceeding are effective only in that proceeding. The appointment must not be extended to subsequent proceedings without an additional waiver, findings, and appointment.

(Subd (b) amended effective January 1, 2007.)

(c)–(e) ***

Rule 2.893 amended and renumbered effective January 1, 2007; adopted as rule 984.2 effective January 1, 1996.

Rule 2.1010. Juror motion to set aside sanctions imposed by default

(a)–(g) ***

(h) Sunset date

This rule is effective until January 1, ~~2007~~2010.

(Subd (h) amended effective January 1, 2007.)

Rule 2.1010 amended and renumbered effective January 1, 2007; adopted as rule 862 effective January 1, 2005.

Chapter 3. Attorneys

Rule 3.35. Definition of limited scope representation; application of rules

(a) Definition

"Limited scope representation" is a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services will be limited to specific tasks that the attorney will perform for the person.

(b) Application

Rules 3.35 through 3.37 apply to limited scope representation in civil cases, except in family law cases. Rules 5.70 and 5.71 apply to limited scope representation in family law cases.

(c) Types of limited scope representation

These rules recognize two types of limited scope representation:

(1) *Noticed representation*

Rule 3.36 provides procedures for cases in which an attorney and a party notify the court and other parties of the limited scope representation.

(2) *Undisclosed representation*

Rule 3.37 applies to cases in which the limited scope representation is not disclosed.

Rule 3.35 adopted effective January 1, 2007.

Rule 3.36. Notice of limited scope representation and application to be relieved as attorney

(a) Notice of limited scope representation

A party and an attorney may provide notice of their agreement to limited scope representation by serving and filing a *Notice of Limited Scope Representation* (form MC-950).

(b) Notice and service of papers

After the notice in (a) is received and until either a substitution of attorney or an order to be relieved as attorney is filed and served, papers in the case must be served on both the attorney providing the limited scope representation and the client.

(c) Procedures to be relieved as counsel on completion of representation

Notwithstanding rule 3.1362, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form MC-950) may use the procedures in this rule to request that he or she be relieved as attorney in cases in which the attorney has appeared before the court as an attorney of record and the client has not signed a *Substitution of Attorney—Civil* (form MC-050).

(d) Application

An application to be relieved as attorney on completion of limited scope representation under Code of Civil Procedure section 284(2) must be directed to the client and made on the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955).

(e) Filing and service of application

The application to be relieved as attorney must be filed with the court and served on the client and on all other parties or attorneys for parties in the case. The client must also be served with a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956).

(f) No objection

If no objection is served and filed with the court within 15 days from the date that the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) is served on the client, the attorney making the application must file an updated form MC-955 indicating the lack of objection, along with a proposed *Order on Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-958). The clerk must then forward the order for judicial signature.

(g) Objection

If an objection to the application is served and filed within 15 days, the clerk must set a hearing date on the *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956). The hearing must be scheduled no later than 25 days from the date the objection is filed. The clerk must send the notice of the hearing to the parties and the attorney.

(h) Service of the order

If no objection is served and filed and the proposed order is signed under (f), the attorney who filed the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) must serve a copy of the signed order on the client and on all parties or the attorneys for all parties who have appeared in the case. The court may delay the effective date of the order relieving the attorney until proof of service of a copy of the signed order on the client has been filed with the court.

Rule 3.36 adopted effective January 1, 2007.

Rule 3.37. Nondisclosure of attorney assistance in preparation of court documents

(a) Nondisclosure

In a civil proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the documents that he or she was involved in preparing the documents.

(b) Attorney's fees

If a litigant seeks a court order for attorney's fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of the attorney's fees, including:

(1) The name of the attorney who assisted in the preparation of the documents;

(2) The time involved or other basis for billing;

(3) The tasks performed; and

(4) The amount billed.

(c) Application of rule

This rule does not apply to an attorney who has made a general appearance in a case.

Rule 3.37 adopted effective January 1, 2007.

Rule 3.51. Method of application and filing of papers

(a) Mandatory application forms

An application to proceed in forma pauperis must be made on *Application for Waiver of Court Fees and Costs* (form ~~982(a)(17)~~FW-001). An application for waiver of additional court fees and costs under rule 3.62 must be made on *Application for Waiver of Additional Court Fees and Costs ~~(In Forma Pauperis)~~* (~~form 982(a)(20)~~FW-002). The clerk must provide either form without charge to any person who requests it or indicates that he or she is unable to pay any court fee or cost.

(Subd (a) amended effective January 1, 2007.)

(b) ***

Rule 3.51 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 3.56. Procedure for determining application

The procedure for determining an application is as follows:

(1) The court must consider and determine the application as required by Government Code section 68511.3.

(2) An order determining an application to proceed in forma pauperis must be made on *Order on Application for Waiver of Court Fees and Costs ~~(In Forma Pauperis)~~* (form ~~982(a)(18)~~FW-003).

(3)–(5) *******

Rule 3.56 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 3.57. Application granted unless acted on by the court

The application to proceed in forma pauperis is deemed granted unless acted on by the court within five court days after it is filed. If the application is deemed granted under this provision, the clerk must execute a *Notice of Waiver of Court Fees and Costs ~~(In Forma Pauperis)~~* (form ~~982(a)(19)~~FW-005) five court days after the application is filed.

Rule 3.57 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 3.220. Case Cover Sheet

(a) ***

(b) List of cover sheets

(1) Civil Case Cover Sheet (form CM-010) must be filed in each civil action or proceeding, except those filed in small claims court or filed under the Probate Code, Family ~~Law~~ Code, or Welfare and Institutions Code.

(2) [Note: Case cover sheets will be added for use in additional areas of the law as the data collection program expands.]

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2002, and July 1, 2003.)

(c) ***

Rule 3.220 amended and renumbered effective January 1, 2007; adopted as rule 982.2 effective July 1, 1996; previously amended and renumbered as rule 201.8 effective July 1, 2002; previously amended January 1, 2000, January 1, 2002, and July 1, 2003.

Rule 3.300. ~~Notice of~~ Related cases

(a) Definition of "related case"

A pending civil case is related to another pending civil case, or to a civil case that was dismissed with or without prejudice, or to a civil case that was disposed of by judgment, if the cases:

(1) Involve the same parties and are based on the same or similar claims;

(2) Arise from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact;

(3) Involve claims against, title to, possession of, or damages to the same property; or

(4) Are likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(Subd (a) adopted effective January 1, 2007.)

~~(a)~~(b) Duty to provide notice

Whenever a party in a civil action knows or learns that the action or proceeding is related to another action or proceeding pending, dismissed, or disposed of by judgment in any state or federal court in California, the party must ~~promptly~~ serve and file a Notice of Related Case. ~~The notice must also be served on all known parties in each related action or proceeding. It must state the court, title, case number, and filing date of each related action or proceeding, together with a brief statement of their relationship. If the case is pending in the same court, the notice must also give reasons why assignment to a single judge is or is not likely to effect economies.~~

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective January 1, 1996.)

(c) Contents of the notice

The Notice of Related Case must:

(1) List all civil cases that are related by court, case name, case number, and filing date;

(2) Identify the case that has the earliest filing date and the court and department in which that case is pending; and

(3) Describe the manner in which the cases are related.

(Subd (c) adopted effective January 1, 2007.)

(d) Service and filing of notice

The Notice of Related Case must be filed in all pending cases listed in the notice and must be served on all parties in those cases.

(Subd (d) adopted effective January 1, 2007.)

(e) Time for service

The Notice of Related Case must be served and filed as soon as possible, but no later than 15 days after the facts concerning the existence of related cases become known.

(Subd (e) adopted effective January 1, 2007.)

~~(b)~~(f) Continuing duty to provide notice

The duty under ~~(a)~~ (b)–(e) is a continuing duty that applies when a party files a case with knowledge of a related action or proceeding, and that applies thereafter whenever a party learns of a related action or proceeding.

(Subd (f) amended and relettered effective January 1, 2007; adopted as part of subd (a).)

~~(c) Definition of "related case"~~

~~An action or proceeding is "related" to another when both:~~

~~(1) Involve the same parties and are based on the same or similar claims; or~~

~~(2) Involve the same property, transaction, or event; or~~

~~(3) Involve substantially the same facts and the same questions of law.~~

~~(d)~~(g) Response

Within ~~10~~ 5 days after service ~~upon~~ on a party of a Notice of Related Case, the party may serve and file a response supporting or opposing the notice. The response must state why one or more of the cases listed in the notice are not related or why other good cause exists for the court not to transfer the cases to or from a particular court or department. The response must be filed in all pending cases listed in the notice and must be served on all parties in those cases. ~~A timely response will be considered when the court determines what action may be appropriate to coordinate the cases formally or informally.~~

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (c).)

~~(e)~~(h) Judicial action

(1) *Related cases pending in one superior court*

If all the related cases have been filed in one superior court, the court, on notice to all parties, may order that the cases, including probate and family law cases, be related and may assign them to a single judge or department. In a superior court where there is a master calendar, the presiding judge may order the cases related. In a court in which cases are assigned to a single judge or department, cases may be ordered related as follows:

(A) Where all the cases listed in the notice are unlimited civil cases, or where all the cases listed in the notice are limited civil cases, the judge who has the earliest filed case must determine whether the cases must be ordered related and assigned to his or her department;

(B) Where the cases listed in the notice include both unlimited and limited civil cases, the judge who has the earliest filed unlimited civil case must determine whether the cases should be ordered related and assigned to his or her department;

(C) Where the cases listed in the notice contain a probate or family law case, the presiding judge or a judge designated by the presiding judge must determine whether the cases should be ordered related and, if so, to which judge or department they should be assigned;

(D) In the event that any of the cases listed in the notice are not ordered related under (A), (B), or (C), any party in any of the cases listed in the notice may file a motion to have the cases related. The motion must be filed with the presiding judge or the judge designated by the presiding judge; and

(E) If the procedures for relating pending cases under this rule do not apply, the procedures under Code of Civil Procedure section 1048 and rule 367 must be followed to consolidate cases pending in the same superior court.

(2) *Related cases pending in different superior courts*

(A) If the related cases are pending in more than one superior court on notice to ~~the~~ all parties, the judge to whom the earliest filed case is assigned may confer informally with the parties and with the judges to whom each related case is assigned, to determine the feasibility and desirability of joint discovery orders and other informal or formal means of coordinating proceedings in the cases.

(B) If it is determined that related cases pending in different superior courts should be formally coordinated, the procedures in Code of Civil Procedure section 403 and rule 3.500 must be followed for noncomplex cases, and the procedures in Code of Civil Procedure section 404 et seq. and rules 3.501 et seq. must be followed for complex cases.

(3) *Complex cases*

The provisions in (1) of this subdivision do not apply to cases that have been designated as complex by the parties or determined to be complex by the court.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (d).)

(i) Ruling on related cases

The court, department, or judge issuing an order relating cases under this rule must either:

(1) File a notice of the order in all pending cases and serve a copy of the notice on all parties listed in the Notice of Related Case; or

(2) Direct counsel for a party to file the notice in all pending cases and serve a copy on all parties.

(Subd (i) adopted effective January 1, 2007.)

(j) Cases not ordered related

If for any reason a case is not ordered related under this rule, that case will remain assigned to the court, judge, or department where it was pending at the time of the filing and service of the Notice of Related Case.

(Subd (j) adopted effective January 1, 2007.)

(k) Exception

A party is not required to serve and file Notice of Related Case under this rule if another party has already filed a notice and served all parties under this rule on the same case.

(Subd (k) adopted effective January 1, 2007.)

Rule 3.300 amended and renumbered effective January 1, 2007; adopted as rule 804 effective January 1, 1996.

Rule 3.403. Action by court

(a) Decision on complex designation

Except as provided in rule 3.402, if a *Civil Case Cover Sheet* (form CM-010) ~~designating~~ that has been filed and served designates an action as a complex case ~~has been filed and served~~ or checks a case type described as provisionally complex civil litigation, the court must decide as soon as reasonably practicable, with or without a hearing, whether the action is a complex case.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(b) Court's continuing power

With or without a hearing, the court may decide on its own motion, or on a noticed motion by any party, that a civil action is a complex case or that an action previously declared to be a complex case is not a complex case.

Rule 3.403 amended and renumbered effective January 1, 2007; adopted as rule 1812 effective January 1, 2000; previously amended effective July 1, 2004.

Rule 3.513. Service of memorandums and declarations

Unless otherwise provided in the rules in this chapter or directed by the assigned judge, all memorandums and declarations in support of or opposition to any petition, motion, or application must be served and submitted at least nine ~~calendar~~ court days before any hearing on the matter at issue.

Rule 3.513 amended and renumbered effective January 1, 2007; adopted as rule 1512 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.521. Petition for coordination

(a) ***

(b) Submit proof of filing and service

Within five ~~calendar~~ court days of submitting the petition for coordination, the petitioner must submit to the Chair of the Judicial Council proof of filing of the notice of submission of petition required by rule 3.522, and proof of service of the notice of submission of petition and of the petition required by rule 3.523.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(c)–(d) ***

Rule 3.521 amended and renumbered effective January 1, 2007; adopted as rule 1521 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.522. Notice of submission of petition for coordination

(a) Contents of notice of submission

In each included action, the petitioner must file a "Notice of Submission of Petition for Coordination" and the petition for coordination. Each notice must bear the title of the court in which the notice is to be filed and the title and case number of each included action that is pending in that court. Each notice must include:

(1)–(3) *******

(4) The statement that any written opposition to the petition must be submitted and served at least nine ~~calendar~~ court days before the hearing date.

(Subd (a) amended effective January 1, 2007; adopted as part of unlettered subd; previously amended and lettered effective January 1, 2005; previously amended effective January 1, 2006.)

(b) Copies of notice

The petitioner must submit the notice and proof of filing in each included action to the Chair of the Judicial Council within five ~~calendar~~ court days of submitting the petition for coordination.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd; previously amended and lettered effective January 1, 2005.)

Rule 3.522 amended and renumbered effective January 1, 2007; adopted as rule 1522 effective January 1, 1974; previously amended effective January 1, 2005, and January 1, 2006.

Rule 3.523. Service of notice of submission on party

The petitioner must serve the notice of submission of petition for coordination that was filed in each included action, the petition for coordination, and supporting documents on each party appearing in each included action and submit the notice to the Chair of the Judicial Council within five ~~calendar~~ court days of submitting the petition for coordination.

Rule 3.523 amended and renumbered effective January 1, 2007; adopted as rule 1523 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.525. Response in opposition to petition for coordination

Any party to an included action that opposes coordination may serve and submit a memorandum and declarations in opposition to the petition. Any response in opposition must be served and filed at least nine ~~calendar~~ court days before the date set for hearing.

Rule 3.525 amended and renumbered effective January 1, 2007; adopted as rule 1525 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.526. Response in support of petition for coordination

Any party to an included action that supports coordination may serve and submit a written statement in support of the petition. Any response in support must be served and filed at least nine ~~calendar~~ court days before the date set for hearing. If a party that supports coordination does not support the particular site or sites requested by the petitioner for the hearing on the petition for coordination, that party may request that a different site or sites be selected and include in his or her response the facts relied on in support thereof.

Rule 3.526 amended and renumbered effective January 1, 2007; adopted as rule 1526 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.867. Confidentiality of complaint procedures, information, and records

(a)–(d) ***

(e) In determining whether the disclosure of information or records concerning rule ~~1622~~ 3.865 complaint procedures is required by law, courts should consider the purposes of the confidentiality of rule ~~1622~~ 3.865 complaint procedures stated in (a). Before the disclosure of records concerning procedures under rule ~~1622~~ 3.865 is ordered, notice should be given to any person whose mediation communications may be revealed.

(Subd (e) amended effective January 1, 2007.)

Rule 3.867 amended and renumbered effective January 1, 2007; adopted as rule 1622.2 effective January 1, 2006.

Rule 3.874. ~~Appearance at mediation sessions~~ Attendance, participant lists, and mediation statements

(a) Attendance

(1) ~~The~~ All parties and attorneys of record must ~~personally appear at the first~~ attend all mediation sessions in person ~~and at any subsequent session~~ unless excused ~~by the mediator~~ or permitted to attend by telephone as provided in (3). ~~When a party is other than~~ If a party is not a natural person, ~~it must appear by~~ a representative of that party with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or a legislative body, ~~by~~ a representative with authority to recommend such agreement, must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).

(2) If any party is insured under a policy of insurance that provides or may provide coverage for a claim that is a subject of the action, a representative of the insurer with authority to settle or recommend settlement of the claim must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).

(3) The mediator may excuse a party, attorney, or representative from the requirement to attend a mediation session under (1) or (2) or permit attendance by telephone. The party, attorney, or representative who is excused or permitted to attend by telephone must promptly send a letter

or an electronic communication to the mediator and to all parties confirming the excuse or permission.

(4) Each party may have counsel present at all mediation sessions that concern ~~it~~ the party. ~~Counsel and an insurance representative of each covered party must also be present or available at all mediation sessions that concern the covered party, unless excused by the mediator.~~

(Subd (a) amended and lettered effective January 1, 2007; adopted as untitled subd.)

(b) Participant lists and mediation statements

(1) At least five court days before the first mediation session, each party must serve a list of its mediation participants on the mediator and all other parties. The list must include the names of all parties, attorneys, representatives of a party that is not a natural person, insurance representatives, and other persons who will attend the mediation with or on behalf of that party. A party must promptly serve a supplemental list if the party subsequently determines that other persons will attend the mediation with or on behalf of the party.

(2) The mediator may request that each party submit a short mediation statement providing information about the issues in dispute and possible resolutions of those issues and other information or documents that may appear helpful to resolve the dispute.

(Subd (b) adopted effective January 1, 2007.)

Rule 3.874 amended and renumbered effective January 1, 2007; adopted as rule 1634 effective March 1, 1994.

Rule 3.1182. Monthly reports

(a) Content of reports

The receiver must provide monthly reports to the parties and, if requested, to nonparty client lien holders. These reports must include:

(1) A narrative report of events;

(2) A financial report; and

(3) A statement of all fees paid to the receiver, employees, and professionals showing:

~~(i)~~(A) Itemized services;

~~(ii)~~(B) A breakdown of the services by 1/10 hour increments;

~~(iii)~~(C) If the fees are hourly, the hourly fees; and

~~(iv)~~(D) If the fees are on another basis, that basis.

(Subd (a) amended effective January 1, 2007.)

(b) ***

Rule 3.1182 amended and renumbered effective January 1, 2007; adopted as rule 1906 effective January 1, 2002.

Rule 3.1202. Contents of application

(a)–(b) ***

(c) Affirmative factual showing required

An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.

(Subd (c) amended effective January 1, 2007.)

Rule 3.1202 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 3.1354. Written objections to evidence

~~**(a) Form of written objections**~~

~~A written objection to evidence in support of or in opposition to a motion for summary judgment must state:~~

~~(1) The page and line number of the document to which objection is made,; and~~

~~(2) State the ground of objection with the same specificity as a motion to strike evidence made at trial.~~

~~(b)~~ (a) Time for filing and service of objections

Unless otherwise excused by the court on a showing of good cause, all written objections to evidence in support of or in opposition to a motion for summary judgment or summary adjudication must be ~~filed and~~ served and filed ~~no later than 4:30 p.m. on the third court day before the hearing~~ at the same time as the objecting party's opposition or reply papers are served and filed.

(Subd (a) amended and relettered effective January 1, 2007; adopted as untitled subd effective January 1, 1984; previously lettered as subd (b) effective January 1, 2007.)

(b) Format of objections

All written objections to evidence must be served and filed separately from the other papers in support of or in opposition to the motion. Objections on specific evidence may be referenced by the objection number in the right column of a separate statement in opposition or reply to a motion, but the objections must not be restated or reargued in the separate statement. Each written objection must be numbered consecutively and must:

(1) Identify the name of the document in which the specific material objected to is located;

(2) State the exhibit, title, page, and line number of the material objected to;

(3) Quote or set forth the objectionable statement or material; and

(4) State the grounds for each objection to that statement or material.

Written objections to evidence must follow one of the following two formats:

(First Format):

Objections to Jackson Declaration

Objection Number 1

"Johnson told me that no widgets were ever received." (Jackson declaration, page 3, lines 7–8.)

Grounds for Objection 1: Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

Objection Number 2

"A lot of people find widgets to be very useful." (Jackson declaration, page 17, line 5.)

Grounds for Objection 2: Irrelevant (Evid. Code, §§ 210, 350–351).

(Second Format):

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**
1. Jackson declaration, page 3, lines 7–8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).
2. Jackson declaration, page 17, line 5: "A lot of people find widgets to be very useful."	Irrelevant (Evid. Code, §§ 210, 350–351).

(Subd (b) adopted effective January 1, 2007.)

(c) Proposed order

A party submitting written objections to evidence must submit with the objections a proposed order. The proposed order must include places for the court to indicate whether it has sustained or overruled each objection. It must also include a place for the signature of the judge. The proposed order must be in one of the following two formats:

(First Format):

Objections to Jackson Declaration

Objection Number 1

"Johnson told me that no widgets were ever received." (Jackson declaration, page 3, lines 7–8.)

Grounds for Objection 1: Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

Court's Ruling on Objection 1: Sustained:_____
Overruled:_____

Objection Number 2

"A lot of people find widgets to be very useful." (Jackson declaration, page 17, line 5.)

Grounds for Objection 2: Irrelevant (Evid. Code, §§ 210, 350–351).

Court's Ruling on Objection 2: Sustained:_____
Overruled:_____

(Second Format):

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**	**Ruling on the Objection**
1. Jackson declaration, page 3, lines 7–8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).	Sustained: _____ Overruled:_____
2. Jackson declaration, page 17, line 5: "A lot of people find widgets to be very useful."	Irrelevant (Evid. Code, §§ 210, 350–351).	Sustained: _____ Overruled:_____

Date: _____ _____
Judge

(Subd (c) adopted effective January 1, 2007.)

Rule 3.1354 amended and renumbered effective January 1, 2007; adopted as rule 345 effective January 1, 1984; previously amended effective January 1, 2002.

Rule 3.1590. Announcement of tentative decision, statement of decision, and judgment

(a) ***

(b) Tentative decision not binding

The tentative decision does not constitute a judgment and is not binding on the court. If the court subsequently modifies or changes its announced tentative decision, the clerk must mail a copy of the modification or change to all parties ~~who~~ that appeared at the trial.

(Subd (b) lettered and amended effective January 1, 2007; adopted as part of subd (a) effective January 1, 1949.)

(c)–(k) ***

Rule 3.1590 amended and renumbered effective January 1, 2007; adopted as rule 232 effective January 1, 1949; previously amended effective January 1, 1969, July 1, 1973, January 1, 1982, and January 1, 1983.

Rule 3.2107. Request for court order

(a) Request before trial

If a party files a written request for a court order before the hearing on the claim, the requesting party must mail or personally deliver a copy to all other parties in the case. The other parties must be given an opportunity to answer or respond to the request before or at the hearing. This subdivision does not apply to a request to postpone the hearing date if the plaintiff's claim has not been served.

(b) Request after trial

If a party files a written request for a court order after notice of entry of judgment, the clerk must mail a copy of the request to all other parties in the action. A party has 10 calendar days from the date on which the clerk mailed the request to file a response before the court makes an order. The court may schedule a hearing on the request, except that if the request is to vacate the judgment for lack of appearance by the plaintiff, the court must hold a hearing. The court may give notice of any scheduled hearing with notice of the request, but the hearing must be scheduled at least 11 calendar days after the clerk has mailed the request.

Rule 3.2107 adopted effective January 1, 2007.

Rule 4.104. Procedures and eligibility criteria for attending traffic violator school

(a) ***

(b) Authority of a court clerk to grant pretrial diversion

(1) *Eligible offenses*

Except as provided in (2), a court clerk is authorized to grant a request to attend traffic violator school when a defendant with a valid driver's license requests to attend an 8-hour traffic violator school as pretrial diversion under Vehicle Code sections 41501~~(b)~~(a) and 42005 for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.

(2) *Ineligible offenses*

A court clerk is not authorized to grant a request to attend traffic violator school for a misdemeanor or any of the following infractions:

(A) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810 or ~~more than~~ one and one-half points or more under Vehicle Code section 12810.5(b)(2);

(B) A violation that occurs within 18 months after the date of a previous violation and the defendant either attended or elected to attend a traffic violator school for the previous violation (Veh. Code, § 1808.7);

(C) A violation of Vehicle Code section 22406.5 (tank vehicles);

(D) A violation related to alcohol use or possession or drug use or possession;

(E) A violation on which the defendant failed to appear under Vehicle Code section 40508(a) unless the failure-to-appear charge has been adjudicated and any fine imposed has been paid;

(F) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid;

(G) A speeding violation in which the speed alleged is more than 25 miles over a speed limit as stated in Chapter 7 (commencing with section 22348) of Division 11 of the Vehicle Code;

(H) A violation that occurs in a commercial vehicle as defined in Vehicle Code section 15210(b); and

(I) A violation by a defendant having a class A, class B, or commercial class C driver's license.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2003, and September 20, 2005.)

(c) Judicial discretion

(1) A judicial officer may in his or her discretion order attendance at a traffic violator school in an individual case for diversion under Vehicle Code section 41501(a)~~, 41501(b),~~ or 42005(b); sentencing under Vehicle Code section 42005(a); or any other purpose permitted by law. A violation by a defendant having a class A, class B, or commercial class C driver's license or that occurs in a commercial vehicle, as defined in Vehicle Code section 15210(b), is not eligible for diversion under Vehicle Code sections 41501 or 42005.

(2) If a violation occurs within 18 months of a previous violation that was dismissed under Vehicle Code section 41501(a), a judicial officer may order a continuance and dismissal in consideration for completion of a ~~licensed~~ program at a licensed school for traffic violators as specified in Vehicle Code section 41501(a). The program must consist of at least 12 hours of instruction as specified in section 41501(a). Under Vehicle Code section 1808.7, a dismissal for completion of the 12-hour program under this subdivision is not confidential.

(3) A defendant who is otherwise eligible for traffic violator school is not made ineligible by entering a plea other than guilty or by exercising his or her right to trial. A traffic violator school request must be considered based on the individual circumstances of the specific case. The court is not required to state on the record a reason for granting or denying a traffic violator school request.

(Subd (c) amended effective January 1, 2007; amended and relettered as part of subd (b) effective January 1, 2003; previously amended effective January 1, 1998, and September 20, 2005.)

Rule 4.104 amended and renumbered effective January 1, 2007; adopted as rule 851 effective January 1, 1997; previously amended effective January 1, 1998, July 1, 2001, January 1, 2003, and September 20, 2005.

Advisory Committee Comment

Subdivision (c)(3). Rule 4.104(c)(3) reflects court rulings in cases where defendants wished to plead not guilty and have the court order attendance of traffic violator school if found guilty after trial. A court has discretion to grant or not grant traffic violator school. (People v. Schindler (1993) 20 Cal.App.4th 431, 433; People v. Levinson (1984) 155 Cal.App.3d Supp. 13, 21.) However, the court may not arbitrarily refuse to consider a request for traffic violator school because a defendant pleads not guilty. (Schindler, supra, at p. 433; People v. Wozniak (1987) 197 Cal.App.3d Supp. 43, 44; People v. Enochs (1976) 62 Cal.App.3d Supp. 42, 44.) If a judicial officer believes that a defendant's circumstances indicate that a defendant would benefit from attending school, such attendance should be authorized and should not be affected by the order in which the plea, explanation, and request for traffic violator school are presented. (Enochs, supra, at p. 44.) A court is not required to state its reasons for granting or denying traffic violator school following a defendant's conviction for a traffic violation. (Schindler, supra, at p. 433.)

Rule 4.130. Mental competency proceedings

(a) Application

This rule applies to proceedings in the superior court under Penal Code section 1367 et seq. to determine the mental competency of a criminal defendant.

(b) Initiation of mental competency proceedings

(1) The court must initiate mental competency proceedings if the judge has a reasonable doubt, based on substantial evidence, about the defendant's competence to stand trial.

(2) The opinion of counsel, without a statement of specific reasons supporting that opinion, does not constitute substantial evidence. The court may allow defense counsel to present his or her opinion regarding the defendant's mental competency in camera if the court finds there is reason to believe that attorney-client privileged information will be inappropriately revealed if the hearing is conducted in open court.

(3) In a felony case, if the judge initiates mental competency proceedings prior to the preliminary examination, counsel for the defendant may request a preliminary examination as provided in Penal Code section 1368.1(a).

(c) Effect of initiating mental competency proceedings

(1) If mental competency proceedings are initiated, criminal proceedings are suspended and may not be reinstated until a trial on the competency of the defendant has been concluded and the defendant either:

(A) Is found mentally competent; or

(B) Has his or her competency restored under Penal Code section 1372.

(2) In misdemeanor cases, speedy trial requirements are tolled during the suspension of criminal proceedings for mental competency evaluation and trial. If criminal proceedings are later reinstated and time is not waived, the trial must be commenced within 30 days after the reinstatement of the criminal proceedings, as provided by Penal Code section 1382(a)(3).

(3) In felony cases, speedy trial requirements are tolled during the suspension of criminal proceedings for mental competency evaluation and trial. If criminal proceedings are reinstated, unless time is waived, time periods to commence the preliminary examination or trial are as follows:

(A) If criminal proceedings were suspended before the preliminary hearing had been conducted, the preliminary hearing must be commenced within 10 days of the reinstatement of the criminal proceedings, as provided in Penal Code section 859b.

(B) If criminal proceedings were suspended after the preliminary hearing had been conducted, the trial must be commenced within 60 days of the reinstatement of the criminal proceedings, as provided in Penal Code section 1382(a)(2).

(d) Examination of defendant after initiation of mental competency proceedings

(1) On initiation of mental competency proceedings, the court must inquire whether the defendant, or defendant's counsel, seeks a finding of mental incompetence.

(A) If the defense informs the court that the defendant is seeking a finding of mental incompetence, the court must appoint at least one expert to examine the defendant.

(B) If the defense informs the court that the defendant is not seeking a finding of mental incompetence, the court must appoint two experts to examine the defendant. The defense and the prosecution may each name one expert from the court's list of approved experts.

(2) Any court-appointed experts must examine the defendant and advise the court on the defendant's competency to stand trial. Experts' reports are to be submitted to the court, counsel for the defendant, and the prosecution.

(3) Statements made by the defendant during the examination to experts appointed under this rule, and products of any such statements, may not be used in a trial on the issue of the defendant's guilt or in a sanity trial should defendant enter a plea of not guilty by reason of insanity.

(e) Trial on mental competency

(1) Regardless of the conclusions or findings of the court-appointed expert, the court must conduct a trial on the mental competency of the defendant if the court has initiated mental competency proceedings under (b).

(2) At the trial, the defendant is presumed to be mentally competent, and it is the burden of the party contending that the defendant is not mentally competent to prove the defendant's mental incompetence by a preponderance of the evidence.

(3) In addition to the testimony of the experts appointed by the court under (d), either party may call additional experts or other relevant witnesses.

(4) After the presentation of the evidence and closing argument, the trier of fact is to determine whether the defendant is mentally competent or mentally incompetent.

(A) If the matter is tried by a jury, the verdict must be unanimous.

(B) If the parties have waived the right to a jury trial, the court's findings must be made in writing or placed orally in the record.

(f) Posttrial procedure

(1) If the defendant is found mentally competent, the court must reinstate the criminal proceedings.

(2) If the defendant is found to be mentally incompetent, the criminal proceedings remain suspended and the court must follow the procedures stated in Penal Code section 1370 et seq.

Rule 4.130 adopted effective January 1, 2007.

Advisory Committee Comment

The case law interpreting Penal Code section 1367 et seq. established a procedure for judges to follow in cases where there is a concern whether the defendant is legally competent to stand trial, but the concern does not necessarily rise to the level of a reasonable doubt based on substantial evidence. Before finding a reasonable doubt as to the defendant's competency to stand trial and initiating competency proceedings under Penal Code section 1368 et seq., the court may appoint an expert to assist the court in determining whether such a reasonable doubt exists. As noted in *People v. Visciotti* (1992) 2 Cal.4th 1, 34–36, the court may appoint an expert when it is concerned about the mental competency of the defendant, but the concern does not rise to the level of a reasonable doubt, based on substantial evidence, required by Penal Code section 1367 et seq. Should the results of this examination present substantial evidence of mental incompetency, the court must initiate competency proceedings under (b).

Once mental competency proceedings under Penal Code section 1367 et seq. have been initiated, the court is to appoint at least one expert to examine the defendant under (d). Under no circumstances is the court obligated to appoint more than two experts. (Pen. Code, § 1369(a).) The costs of the experts appointed under (d) are to be paid for by the court as the expert examinations and reports are for the benefit or use of the court in determining whether the defendant is mentally incompetent. (See Cal. Rules of Court, rule 10.810, function 10.)

Subdivision (d)(3), which provides that the defendant's statements made during the examination cannot be used in a trial on the defendant's guilt or a sanity trial in a not guilty by reason of sanity trial, is based on the California Supreme Court holdings in *People v. Arcega* (1982) 32 Cal.3d 504 and *People v. Weaver* (2001) 26 Cal.4th 876.

Although the court is not obligated to appoint additional experts, counsel may nonetheless retain their own experts to testify at a trial on the defendant's competency. (See *People v. Mayes* (1988) 202 Cal.App.4th 908, 917–918.) These experts are not for the benefit or use of the court, and their costs are not to be paid by the court. (See Cal. Rules of Court, rule 10.810, function 10.)

The expert reports, unless sealed under rule 2.550, are publicly accessible court documents.

Both the prosecution and the defense have the right to a jury trial. (See *People v. Superior Court (McPeters)* (1995) 169 Cal.App.3d 796.) Defense counsel may waive this right, even over the objection of the defendant. (*People v. Masterson* (1994) 8 Cal.4th 965, 970.)

Either defense counsel or the prosecution (or both) may argue that the defendant is not competent to stand trial. (*People v. Stanley* (1995) 10 Cal.4th 764, 804 [defense counsel may advocate that defendant is not competent to stand trial and may present evidence of defendant's mental incompetency regardless of defendant's desire to be found competent].) If the defense declines to present evidence of the defendant's mental incompetency, the prosecution may do so. (Pen. Code, § 1369(b)(2).) If the prosecution elects to present evidence of the defendant's mental incompetency, it is the prosecution's burden to prove the incompetency by a preponderance of the evidence. (*People v. Mixon* (1990) 225 Cal.App.3d 1471, 1484, fn. 12.)

Should both parties decline to present evidence of defendant's mental incompetency, the court may do so. In those cases, the court is not to instruct the jury that a party has the burden of proof. "Rather, the proper approach would be to instruct the jury on the legal standard they are to apply to the evidence before them without allocating the burden of proof to one party or the other." (*People v. Sherik* (1991) 229 Cal.App.3d 444, 459–460.)

Rule 4.330. Misdemeanor hate crimes

(a) Application

This rule applies to misdemeanor cases where the defendant is convicted of either (1) a substantive hate crime under section 422.6 or (2) a misdemeanor violation and the facts of the crime constitute a hate crime under section 422.55.

(b) Sentencing consideration

In sentencing a defendant under (a), the court must consider the goals for hate crime sentencing stated in rule 4.427(e).

Rule 4.330 adopted effective January 1, 2007.

Rule 4.421. Circumstances in aggravation

Circumstances in aggravation include:

(a) Facts relating to the crime, whether or not charged or chargeable as enhancements, including the fact that:

(1)–(11) *******

(12) The crime constitutes a hate crime under section 422.55 and:

(A) No hate crime enhancements under section 422.75 are imposed; and

(B) The crime is not subject to sentencing under section 1170.8.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1991.)

(b) ***

Rule 4.421 amended effective January 1, 2007; adopted as rule 421 effective July 1, 1977; previously amended effective January 1, 1991; previously renumbered effective January 1, 2001.

Rule 4.427. Hate crimes

(a) Application

This rule is intended to assist judges in sentencing in felony hate crime cases. It applies to:

(1) Felony sentencing under section 422.7;

(2) Convictions of felonies with a hate crime enhancement under section 422.75; and

(3) Convictions of felonies that qualify as hate crimes under section 422.55.

(b) Felony sentencing under section 422.7

If one of the three factors listed in section 422.7 is pled and proved, a misdemeanor conviction that constitutes a hate crime under section 422.55 may be sentenced as a felony. The punishment is imprisonment in state prison as provided by section 422.7.

(c) Hate crime enhancement

If a hate crime enhancement is pled and proved, the punishment for a felony conviction must be enhanced under section 422.75 unless the conviction is sentenced as a felony under section 422.7.

(1) The following enhancements apply:

(A) An enhancement of a term in state prison as provided in section 422.75(a). Personal use of a firearm in the commission of the offense is an aggravating factor that must be considered in determining the enhancement term.

(B) An additional enhancement of one year in state prison for each prior felony conviction that constitutes a hate crime as defined in section 422.55.

(2) The court may strike enhancements under (c) if it finds mitigating circumstances under rule 4.423 and states those mitigating circumstances on the record.

(3) The punishment for any enhancement under (c) is in addition to any other punishment provided by law.

(d) Hate crime as aggravating factor

If the defendant is convicted of a felony, and the facts of the crime constitute a hate crime under section 422.55, that fact must be considered a circumstance in aggravation in determining the appropriate punishment under rule 4.421 unless:

(1) The court imposed a hate crime enhancement under section 422.75; or

(2) The defendant has been convicted of an offense subject to sentencing under section 1170.8.

(e) Hate crime sentencing goals

When sentencing a defendant under this rule, the judge must consider the principal goals for hate crime sentencing.

(1) The principal goals for hate crime sentencing, as stated in section 422.86, are:

(A) Punishment for the hate crime committed;

(B) Crime and violence prevention, including prevention of recidivism and prevention of crimes and violence in prisons and jails; and

(C) Restorative justice for the immediate victims of the hate crimes and for the classes of persons terrorized by the hate crimes.

(2) Crime and violence prevention considerations should include educational or other appropriate programs available in the community, jail, prison, and juvenile detention facilities. The programs should address sensitivity or similar training or counseling intended to reduce violent and antisocial behavior based on one or more of the following actual or perceived characteristics of the victim:

(A) Disability;

(B) Gender;

(C) Nationality;

(D) Race or ethnicity;

(E) Religion;

(F) Sexual orientation; or

(G) Association with a person or group with one or more of these actual or perceived characteristics.

(3) Restorative justice considerations should include community service and other programs focused on hate crime prevention or diversity sensitivity. Additionally, the court should consider ordering payment or other compensation to programs that provide services to violent crime victims and reimbursement to the victim for reasonable costs of counseling and other reasonable expenses that the court finds are a direct result of the defendant's actions.

Rule 4.427 adopted effective January 1, 2007.

Advisory Committee Comment

Multiple enhancements for prior convictions under subdivision (c)(1)(B) may be imposed if the prior convictions have been brought and tried separately. (Pen. Code, § 422.75(d).

Rule 5.20. Applica~~bility~~tion of rules

The rules in this division apply to every action and proceeding as to which the Family Code applies and, unless these rules elsewhere explicitly make them applicable, do not apply to any other action or proceeding.

Rule 5.20 amended and renumbered effective January 1, 2007; adopted as rule 1205 effective January 1, 1970; previously amended effective January 1, 1979, January 1, 1994, and January 1, 1999.

Rule 5.134. Notice of entry of judgment

(a) Notwithstanding Code of Civil Procedure section 664.5, the clerk must give notice of entry of judgment, using Notice of Entry of Judgment (form FL-190), to the attorney for each party or to the party if ~~unrepresented~~ self-represented, of the following:

(1)–(5) *******

(Subd (a) amended effective January 1, 2007; previously amended and lettered effective January 1, 2003.)

(b) ***

Rule 5.134 amended effective January 1, 2007; adopted as rule 1247 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1982, and January 1, 1999; previously amended and renumbered effective January 1, 2003.

Rule 5.225. ~~Education, training, and experience standards for court-appointed child custody investigators and evaluators~~ Appointment requirements for child custody evaluators

~~**(a) Authority**~~

~~This rule is adopted under Family Code sections 211 and 3110.5.~~

~~**(b)**~~**(a) Purpose**

~~As required by Family Code section 3110.5, this rule establishes education, experience, and training~~ This rule provides the licensing, education and training, and experience requirements for child custody evaluators who are appointed ~~only~~ to conduct full or partial child custody evaluations under Family Code section~~s~~ 3111 and 3118, Evidence Code section 730, or chapter 15 (commencing with section 2032.010) of title 4 of part 4 of the Code of Civil Procedure ~~section 2032~~. ~~Additional training requirements for these child custody evaluators are contained in rule 5.230.~~ This rule is adopted as mandated by Family Code section 3110.5.

(Subd (a) amended and relettered effective January 1, 2007; adopted as subd (b).)

~~(c)~~(b) Definitions

For purposes of this rule:

(1) A "child custody evaluator" is a court-appointed investigator as defined in Family Code section 3110.

(2) A "child custody evaluation" is ~~an expert~~ an investigation and analysis of the health, safety, welfare, and best interest of a child with regard to disputed custody and visitation issues~~.~~ conducted under Family Code sections 3111 and 3118, Evidence Code section 730, or Code of Civil Procedure section 2032.010 et seq.

(3) A "full evaluation, investigation, or assessment" is a child custody evaluation that is a comprehensive examination of the health, safety, welfare, and best interest of the child.

(4) A "partial evaluation, investigation, or assessment" is ~~an examination of the health, safety, welfare, and best interest of the child~~ a child custody evaluation that is limited by the court ~~order~~ in ~~either~~ terms of its ~~time or~~ scope.

(5)–(6) *******

(7) A "court-connected evaluator" is a superior court employee or a person under contract with a superior court who conducts child custody evaluations.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (c).)

~~(d) Requirements for evaluators' qualifications: education, training, and experience~~

~~Persons appointed as child custody evaluators must:~~

~~(1) Complete a total of 40 hours of initial education and training as described in (e);~~

~~(2) Comply with the training requirements described in rule 5.230;~~

~~(3) Fulfill the experience requirements described in (f); and~~

~~(4) Meet the continuing education, training, and experience requirements described in (h).~~

(c) Licensing requirements

A person appointed as a child custody evaluator meets the licensing criteria established by Family Code section 3110.5(c)(1)–(5), if:

(1) The person is licensed as a:

(A) Physician and is either a board certified psychiatrist or has completed a residency in psychiatry;

(B) Psychologist;

(C) Marriage and family therapist; or

(D) Clinical social worker.

(2) A person may be appointed as an evaluator even if he or she does not have a license as described in (c)(1) if:

(A) The court certifies that the person is a court-connected evaluator who meets all the qualifications specified in (i); or

(B) The court finds that all the following criteria have been met:

(i) There are no licensed or certified evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;

(ii) The parties stipulate to the person; and

(iii) The court approves the person.

(Subd (c) adopted effective January 1, 2007.)

~~(e)~~(d) Education and training requirements

~~Only education and training acquired after January 1, 2000, from providers described in (m) meets the requirements of this rule. Serving as the instructor in a course meeting the requirements described in (m) in one or more of the subjects listed in paragraphs (1) through (21) below can be substituted for~~

~~completion of the requisite number of hours specified in (d) on an hour-per-hour basis, but each subject taught may be counted only once. The hours required by this rule must include, but are not limited to, all of the following subjects:~~ Before appointment, a child custody evaluator must complete 40 hours of education and training, which must include all the following topics:

(1)–(3) *******

(4) The assessment of child sexual abuse issues required by ~~Family Code section 3110.5(b)(2)(A)–(F) and~~ Family Code section 3118; local procedures for handling child sexual abuse cases; ~~and~~ the effect that court procedures may have on the evaluation process when there are allegations of child sexual abuse; and the areas of training required by Family Code section 3110.5(b)(2)(A)–(F), as listed below:

(A) Children's patterns of hiding and disclosing sexual abuse in a family setting;

(B) The effects of sexual abuse on children;

(C) The nature and extent of sexual abuse;

(D) The social and family dynamics of child sexual abuse;

(E) Techniques for identifying and assisting families affected by child sexual abuse; and

(F) Legal rights, protections, and remedies available to victims of child sexual abuse;

(5)–(21) *******

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (e); previously amended effective January 1, 2005.)

(e) Additional training requirements

In addition to the requirements described in this rule, before appointment, child custody evaluators must comply with the basic and advanced domestic violence training requirements described in rule 5.230.

(Subd (e) adopted effective January 1, 2007.)

(f) Authorized education and training

The education and training described in (d) must be completed:

(1) After January 1, 2000;

(2) Through an eligible provider under this rule; and

(3) By either:

(A) Attending and participating in an approved course; or

(B) Serving as an instructor in an approved course. Each course taught may be counted only once. Instructors may claim and receive credit for only actual classroom time.

(Subd (f) adopted effective January 1, 2007.)

~~(f)~~(g) Experience requirements

~~Persons appointed as child custody evaluators must satisfy initial experience requirements by:~~ To satisfy the experience requirements of this rule, persons appointed as child custody evaluators must have participated in the completion of at least four partial or full court-appointed child custody evaluations within the preceding three years, as described below. Each of the four child custody evaluations must have resulted in a written or an oral report.

(1) ~~Completing or supervising three court-appointed partial or full child custody evaluations including a written or an oral report between January 1, 2000, and July 1, 2003; or~~ The child custody evaluator participates in the completion of the child custody evaluations if the evaluator:

(A) Independently conducted and completed the child custody evaluation; or

(B) Materially assisted another child custody evaluator who meets all the following criteria:

(i) Licensing or certification requirements in (c);

(ii) Education and training requirements in (d);

(iii) Basic and advanced domestic violence training in (e);

(iv) Experience requirements in (g)(1)(A) or (g)(2); and

(v) Continuing education and training requirements in (h).

(2) ~~Conducting six child custody evaluations in consultation with another professional who meets the education, experience, and training requirements of this rule.~~ For purposes of appointment:

(A) An evaluator is deemed to be in compliance with the experience requirements of this rule until December 31, 2009, if he or she:

(i) Completed or supervised three court-appointed partial or full child custody evaluations, including a written or an oral report between January 1, 2000, and July 1, 2003; or

(ii) Conducted six child custody evaluations in consultation with another professional who met the experience requirements of the rule.

(B) Effective January 1, 2010, an evaluator who is deemed to be in compliance with the experience requirements described in (A) must participate in the completion of at least four partial or full court-appointed child custody evaluations in the preceding three years as described in (g)(1) to remain in compliance with the experience requirements of this rule.

(3) The court may appoint an individual to conduct the child custody evaluation who does not meet the experience requirements described in (1), if the court finds that all the following criteria have been met:

(A) There are no evaluators who meet the experience requirements of this rule who are willing and available, within a reasonable period of time, to perform child custody evaluations;

(B) The parties stipulate to the person; and

(C) The court approves the person.

(4) Those who supervise court-connected evaluators:

(A) Meet the experience requirements of this rule by conducting or materially assisting in the completion of at least four partial or full court-connected child custody evaluations in the preceding three years; or

(B) If employed as of January 1, 2007, are deemed to comply with the experience requirements of this rule until December 31, 2009. Effective January 1, 2010, these persons meet the experience requirements by conducting or materially assisting in the completion of at least four partial or full court-connected child custody evaluations in the preceding three years.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f).)

~~(g) Court-connected evaluators~~

~~A court-connected evaluator who does not meet the education and training requirements in (d) and (e) may conduct child custody evaluations:~~

~~(1) If he or she has completed 20 of the 40 hours of initial education and training required by (d);~~

~~(2) If he or she completes the additional 20 hours of education and training required by (d) within 12 months of beginning practice as a child custody evaluator;~~

~~(3) If he or she complies with the experience requirements in (f); and~~

~~(4) If, during the period in which the evaluator does not meet the requirements of the rule, he or she is supervised by a court-connected~~

~~evaluator who has complied with the education, training, and experience requirements of this rule.~~

(h) Continuing education and training requirements

After completing the ~~initial 40 hours of training, persons appointed as child custody evaluators must annually complete 8 hours of update training covering subjects described in (e). This requirement is in addition to the annual 4 hours of domestic violence update training described in rule 5.230.~~ education and training requirements described in (d) and (e), persons appointed as child custody evaluators must annually complete the:

(1) Domestic violence update training described in rule 5.230; and

(2) Eight hours of update training covering the subjects described in (d).

(Subd (h) amended effective January 1, 2007; adopted as subd (g) effective January 1, 2002; previously amended and relettered effective January 1, 2005.)

(i) ~~Ongoing clinical consultation~~ Court-connected evaluators

~~When conducting evaluations, persons appointed as child custody evaluators should, where appropriate, seek guidance from professionals who meet the requirements of this rule.~~ A court-connected evaluator who does not meet the education and training requirements in (d) may conduct child custody evaluations if, before appointment, he or she:

(1) Completed at least 20 of the 40 hours of education and training required by (d);

(2) Completes the remaining hours of education and training required by (d) within 12 months of conducting his or her first evaluation as a court-connected child custody evaluator;

(3) Complied with the basic and advanced domestic violence training requirements under Family Code sections 1816 and 3110.5 and rule 5.230;

(4) Complies with the experience requirements in (g); and

(5) Is supervised by a court-connected child custody evaluator who meets the requirements of this rule.

(Subd (i) amended effective January 1, 2007; adopted as subd (h) effective January 1, 2002; previously relettered effective January 1, 2005.)

~~**(j) Appointment criteria**~~

~~(1) On or after January 1, 2005, persons appointed as child custody evaluators must meet the criteria stated in Family Code section 3110.5(c)(1)–(5).~~

~~(2) If there are no child custody evaluators available locally who meet the criteria of Family Code section 3110.5(c)(1)–(5), the parties may, under Family Code section 3110.5(d), stipulate to an individual who does not~~

~~meet the criteria described in Family Code section 3110.5(c)(1)–(5), subject to approval by the court. Any evaluator chosen must, at a minimum, have complied with the education, training, and experience requirements in (d), (e), and (f).~~

~~(k)~~(j) Responsibility of the courts

Each court:

(1) Must develop local court rules that:

(A) Provide for acceptance of and response to complaints about an evaluator's performance~~.~~; and

(B) Establish a process for informing the public about how to find qualified evaluators in that jurisdiction;

(2) Must use ~~the Judicial Council form~~ an *Order Appointing Child Custody Evaluator* (form FL-327) to appoint a private child custody evaluator or a court-connected evaluation service. Form FL-327 may be supplemented with local court forms;

(3) Must provide the Judicial Council with a copy of any local court forms used to implement this rule; ~~and,~~

(4) As feasible and appropriate, may confer with education and training providers to develop and deliver curricula of comparable quality and relevance to child custody evaluations for both court-connected and private child custody evaluators~~.~~; and

(5) Must use form *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to certify that court-connected evaluators have met all the qualifications for court-connected evaluators under this rule for a given year. Form FL-325 may be supplemented with local court rules or forms.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (l); previously amended and relettered as subd (k) effective January 1, 2005.)

~~(l)~~(k) Child custody evaluator

A person appointed as a child custody evaluator must:

(1) Submit to the court a declaration indicating compliance with all applicable education, training, and experience requirements:

(A) Court-connected child custody evaluators practicing as of January 1 of ~~the~~ a given year must submit ~~Judicial Council form~~ a *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to the ~~local family court services office or administrator~~ court executive officer or his or her designee by January 30 of that year. Court-connected evaluators beginning practice after January 1 must file form FL-325 before any work on the first child custody evaluation has begun and by January 30 of every year thereafter; and

(B) Private child custody evaluators must complete a ~~Judicial Council form~~ *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL-326) and file it with the clerk's office no later than 10 days after notification of each appointment and before any work on each child custody evaluation has begun;

(2)–(3) *******

(4) Have a license in good standing if licensed at the time of appointment, except as described in (c)(2) and Family Code section 3110.5(d);

(5)–(6) *******

(Subd (k) amended and relettered effective January 1, 2007; adopted as subd (m); previously amended and relettered as subd (l) effective January 1, 2005.)

(*l*) Use of interns

Court-connected and court-appointed child custody evaluators may use interns to assist with the child custody evaluation, if:

(1) The evaluator:

(A) Before or at the time of appointment, fully discloses to the parties and attorneys the nature and extent of the intern's participation in the evaluation;

(B) Obtains the written agreement of the parties and attorneys as to the nature and extent of the intern's participation in the evaluation after disclosure;

(C) Ensures that the extent, kind, and quality of work performed by the intern being supervised is consistent with the intern's training and experience;

(D) Is physically present when the intern interacts with the parties, children, or other collateral persons in the evaluation; and

(E) Ensures compliance with all laws and regulations governing the professional practice of the supervising evaluator and the intern.

(2) The interns:

(A) Are enrolled in a master's or doctorate program or have obtained a graduate degree qualifying for licensure or certification as a clinical social worker, marriage and family therapist, psychiatrist, or psychologist;

(B) Are currently completing or have completed the coursework necessary to qualify for their degree in the subjects of child abuse assessment and spousal or partner abuse assessment; and

(C) Comply with the applicable laws related to the practice of their profession in California when interns are:

(i) Accruing supervised professional experience as defined in the California Code of Regulations; and

(ii) Providing professional services for a child custody evaluator that fall within the lawful scope of practice as a licensed professional.

(Subd (l) adopted effective January 1, 2007.)

(m) ***

(n) ~~Eligible training~~ Program approval required

~~Effective July 1, 2003,~~ All ~~eligible~~ education and training programs must be approved by the Administrative Office of the Courts. Education and training

courses that were taken between January 1, 2000, and July 1, 2003, may be applied toward the requirements of this rule if they addressed the subjects listed in ~~(e)~~ (d) and ~~were~~ either were certified or approved for continuing education credit by a professional provider group or were offered as part of a related postgraduate degree or licensing program.

(Subd (n) amended effective January 1, 2007; adopted as subd (o) effective January 1, 2002; previously amended and relettered effective January 1, 2005.)

Rule 5.225 amended effective January 1, 2007; adopted as rule 1257.4 effective January 1, 2002; renumbered effective January 1, 2003; previously amended effective January 1, 2005.

Rule 5.365. Procedure for consolidation of child support orders

(a) When an order of consolidation of actions has been made under section 1048(a) of the Code of Civil Procedure in cases in which a local child support agency is appearing under section 17400 of the Family Code, or when a motion to consolidate or combine two or more child support orders has been made under section 17408 of the Family Code, the cases in which those orders were entered must be consolidated as follows:

(1) *Priority of consolidation*

The order consolidating cases that contain child support orders must designate the primary court file into which the support orders must be consolidated and must also designate the court files that are subordinate. Absent an order upon showing of good cause, the cases or child support orders must be consolidated into a single court file according to the following priority, including those cases or orders initiated or obtained by a local child support agency under division 17 of the Family Code that are consolidated under either section 1048(a) of the Code of Civil Procedure or section 17408 of the Family Code:

~~(i)~~(A) If one of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation brought under division 6 of the Family Code, all cases and orders so consolidated must be consolidated into that action, which must be the primary file.

~~(ii)~~(B) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation, but one of the child support orders to be consolidated has been issued in an action under the Uniform Parentage Act

(Fam. Code, div. 12, pt. 3), all orders so consolidated must be consolidated into that action, which must be the primary file.

~~(iii)~~(C) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation or in an action under the Uniform Parentage Act, but one of the child support orders to be consolidated has been issued in an action commenced by a *Petition for Custody and Support of Minor Children* (form FL-260), all orders so consolidated must be consolidated into that action, which must be the primary file.

~~(iv)~~(D) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation or in an action under the Uniform Parentage Act, the case or cases with the higher number or numbers must be consolidated into the case with the lowest number, which must be the primary file. Child support orders in cases brought under the Domestic Violence Protection Act (Fam. Code, div. 10, pt. 4) or any similar law may be consolidated under this rule. However, a domestic violence case must not be designated as the primary file.

(2) *Notice of consolidation*

Upon issuance of the consolidation order, the local child support agency must prepare and file in each subordinate case a *Notice of Consolidation* (form FL-920), indicating that the support orders in those actions are consolidated into the primary file. The notice must state the date of the consolidation, the primary file number, and the case number of each of the cases so consolidated. If the local child support agency was not a participant in the proceeding in which the consolidation was ordered, the court must designate the party to prepare and file the notice.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2003.)

(b) ***

Rule 5.365 amended effective January 1, 2007; adopted as rule 1285.13 effective January 1, 2001; previously amended and renumbered as rule 5.365 effective January 1, 2003.

Rule 5.375. Procedure for a support obligor to file a motion regarding mistaken identity

(a) ***

(b) Procedure for filing motion in superior court

The support obligor's motion in superior court to establish mistaken identity must be filed on~~,~~ *Notice of Motion* (form FL-301), with appropriate attachments. The support obligor must also file as exhibits to the notice of motion a copy of the claim of mistaken identity that he or she filed with the local child support agency and a copy of the local child support agency's denial of the claim.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2003.)

Rule 5.375 amended effective January 1, 2007; adopted as rule 1280.15 effective January 1, 2001; previously amended and renumbered effective January 1, 2003.

Rule 5.501. Preliminary provisions

(a) Applica~~bility~~tion of rules (§§ 200–945)

The rules in this division solely apply to every action and proceeding to which the juvenile court law (Welf. & Inst. Code, div. 2, pt. 1, ch. 2, § 200 et seq.) applies, unless they are explicitly made applicable in any other action or proceeding. The rules in this division do not apply to an action or proceeding heard by a traffic hearing officer, nor to a rehearing or appeal from a denial of a rehearing following an order by a traffic hearing officer.

(Subd (a) amended effective January 1, 2007.)

(b)–(d) ***

Rule 5.501 amended and renumbered effective January 1, 2007; adopted as rule 1400 effective January 1, 1990.

Rule 5.518. Court-connected child protection/dependency mediation

(a)–(d) ***

(e) Education, experience, and training requirements for dependency mediators

Dependency mediators must meet the following minimum qualifications:

(1)–(2) *******

(3) Completion of at least 40 hours of initial dependency mediation training before or within 12 months of beginning practice as a dependency mediator. Currently practicing dependency mediators must complete the required 40 hours of initial training by January 1, 2006. The training must cover the following subject areas as they relate to the practice of dependency mediation:

(A) Multiparty, multi-issue, multiagency, and high-conflict cases, including~~, but not limited to~~:

(i)–(vi) *******

(B)–(G) *******

(i)–(ii) *******

(H)–(K) *******

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(f)–(j) ***

Rule 5.518 amended and renumbered effective January 1, 2007; adopted as rule 1405.5 effective January 1, 2004; previously amended effective January 1, 2005.

Rule 5.536. General provisions—proceedings held before referees

(a) Referees—appointment; powers (~~§ 247;~~ Cal. Const., art. VI, § 22)

One or more referees may be appointed under section 247 to perform subordinate judicial duties assigned ~~to the referee~~ by the presiding judge of the juvenile court.

(Subd (a) amended effective January 1, 2007.)

(b) Referee as temporary judge (Cal. Const., art. VI, § 21)

If the referee is an attorney admitted to practice in this state, the parties' ~~litigant~~ may stipulate under rule 2.816 that the referee is acting as a temporary judge with the same powers as a judge of the juvenile court. An official court reporter or other authorized reporting procedure must record all proceedings.

(Subd (b) amended effective January 1, 2007.)

~~**(c) Challenge of referee (§ 247.5; Code Civ. Proc., §§ 170, 170.6)**~~

~~Code of Civil Procedure sections 170 and 170.6 are applicable to referees. If a motion under those sections is granted, the presiding judge of the juvenile court may reassign the matter to another referee or judge.~~

Rule 5.536 amended and renumbered effective January 1, 2007; adopted as rule 1415 effective January 1, 1990.

Rule 5.552. Confidentiality of records (§§ 827, 828)

(a) ***

(b) Inspection

(1) Only those persons specified in sections 827 and 828 may inspect, but may not copy, juvenile court records without authorization from the court.

(A) Counsel who are entitled to inspect juvenile court records include any trial court or appellate attorney representing a party in the juvenile court proceeding.

(B) Authorization for any other person to inspect, obtain, or copy juvenile court records ~~must~~ may be ordered only by the juvenile court presiding judge or a judicial officer of the juvenile court. ~~designated by the juvenile court presiding judge.~~

(C) The child, the child's attorney, the child's parents and their attorneys, the child's social worker, the county counsel, and a child's identified Indian tribe, can obtain a copy of a juvenile case file document that was previously disseminated during the proceedings, while the case is pending.

(D) Juvenile court records may not be obtained or inspected by civil or criminal subpoena.

(E) In determining whether to authorize inspection or release of juvenile court records, in whole or in part, the court must balance the interests of the child and other parties to the juvenile court proceedings, the interests of the petitioner, and the interests of the public.

(F) The court may permit disclosure of, discovery of, or access to juvenile court records or proceedings only insofar as is necessary, and only if there is a reasonable likelihood that the records in question will disclose information or evidence of substantial relevance to the pending litigation, investigation, or prosecution.

(G) The court may issue protective orders to accompany authorized disclosure, discovery, or access.

(2) When a petition is sustained for any offense listed in section 676, the charging petition, the minutes of the proceeding, and the orders of adjudication and disposition that are contained in the court file must be available for public inspection, unless the court has prohibited disclosure of those records under that section.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(c)–(i) ***

Rule 5.552 amended and renumbered effective January 1, 2007; adopted as rule 1423 effective July 1, 1992; previously amended effective January 1, 1994, July 1, 1995, July 1, 1997, January 1, 2001, and January 1, 2004.

Rule 5.570. ~~Petition for modification~~ Request to change court order

(a) Contents of petition (§§ 388, 778)

A petition for modification must be liberally construed in favor of its sufficiency. The petition must be verified and, to the extent known to the petitioner, must contain the following:

(1) The name of the court to which the petition is addressed;

(2) The title and action number of the original proceeding;

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

(4) The address of the child, unless confidential under (b);

~~(4)~~(5) The name and residence address of the parent or guardian or an adult relative of the child, if appropriate under circumstances described in rule 5.524;

~~(5)~~(6) The date and general nature of the order sought to be modified;

~~(6)~~(7) A concise statement of any change of circumstance or new evidence that requires changing the order;

~~(7)~~(8) A concise statement of the proposed change of the order;

~~(8)~~(9) A statement of the petitioner's relationship or interest in the child, if the application is made by a person other than the child; and

~~(9)~~(10) A statement whether or not all parties agree to the proposed change.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2002.)

(b) 388 petition

A petition under Welfare and Institutions Code section 388 must be made on form *Request to Change Court Order* (form JV-180).

(Subd (b) adopted effective January 1, 2007.)

(c) Confidentiality

The addresses and telephone numbers of the person requesting to change the court order, the child, and the child's caregiver may be kept confidential by filing form *Confidential Information (Request to Change Court Order)* (form JV-182)with form JV-180. Form JV-182 must be kept in the court file under seal, and only the court, the agency, and the child's attorney may have access to this information.

(Subd (c) adopted effective January 1, 2007.)

~~(b)~~(d) Denial of hearing

If the petition fails to state a change of circumstance or new evidence that ~~might~~ may require a change of order or termination of jurisdiction, or that the requested modification would promote the best interest of the child, the court may deny the application ex parte.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (b).)

~~(c)~~(e) Grounds for grant of petition (§§ 388, 778)

If the petition states a change of circumstance or new evidence and it appears that the best interest of the child may be promoted by the proposed change of order or termination of jurisdiction, the court may grant the petition after following the procedures in ~~(d) and (e)~~ (f) and (g).

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (c).)

~~(d)~~(f) ***

(Subd (f) relettered effective January 1, 2007; adopted as subd (d) previously amended effective July 1, 2002.)

~~(e)~~(g) ***

(Subd (g) amended and relettered effective January 1, 2007; repealed and adopted as subd (e); previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, and July 1, 2002.)

~~(f)~~(h) ***

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (f); previously amended effective July 1, 2000, July 1, 2002, and January 1, 2003.)

~~(g)~~ (i) ***

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (g); previously amended effective July 1, 2002.)

Rule 5.570 amended and renumbered effective January 1, 2007; adopted as rule 1432 effective January 1, 1991; previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, July 1, 2002, and January 1, 2003.

Rule 5.585. Review by appeal

(a)–(d) ***

(e) Notice of trial rights; section 366.26

When the court orders a hearing under section 366.26, the court must advise orally all parties present, and by first class mail for parties not present, that if the party wishes to preserve any right to review on appeal of the order setting the hearing under section 366.26, the party is required to seek an extraordinary writ by filing a *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) or other notice of intent to file a writ petition and request for record and a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ.

(1) *******

(2) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

(Subd (e) amended effective January 1, 2007; adopted effective January 1, 1995.)

(f) Time for filing notice of appeal

Notice of appeal must be filed within 60 days after the making of an appealable order or, if the matter was heard by a referee who was not sitting as a temporary judge, within 60 days after the order becomes final under rule 5.540(c). Notice of appeal may be filed on *Notice of Appeal—Juvenile (California Rules of Court, Rule ~~37~~ 8.400)* (form JV-800).

(Subd (f) amended effective January 1, 2007; adopted as subd (e) effective January 1, 1992, previously amended effective January 1, 1993; previously relettered effective January 1, 1995.)

(g) ***

Rule 5.585 amended and renumbered effective January 1, 2007; adopted as rule 1435 effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, and July 1, 1999.

Rule 5.595. 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 8.450, 8.452, 8.454, 8.456, and 5.600, a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) may be used.

Rule 5.595 amended and renumbered effective January 1, 2007; adopted as rule 1436 effective January 1, 1993; previously amended effective January 1, 1994, January 1, 1995, and January 1, 2006.

Rule 5.600. Writ petition after orders setting hearing under section 366.26; appeal

(a) ***

(b) Notice of trial rights; section 366.26

When the court orders a hearing under section 366.26, the court must advise orally all parties present, and by first-class mail for parties not present, that if the party wishes to preserve any right to review on appeal of the order setting the hearing under section 366.26, the party is required to seek an extraordinary writ by filing a *Notice of Intent to File Writ Petition and Request for Record, (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) or other notice of intent to file a writ petition and request for record and a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452 ,~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ.

(1) *******

(2) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 1995.)

(c) Time for filing the notice of intent to file writ petition and request for record

To permit determination of the writ petition before the scheduled date for the hearing under section 366.26 on the selection of the permanent plan, a notice

of intent to file a writ petition and request for record must be filed with the clerk of the juvenile court within 7 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 will be extended 5 days if the party received notice of the order setting the hearing under section 366.26 only by mail. A *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) may be used.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (e) effective January 1, 1995; previously amended effective July 1, 1995, January 1, 1996, and January 1, 2006.)

(d)–(g) ***

(h) Petition for extraordinary writ; form JV-825

The petition for extraordinary writ may be filed on a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ. Petitions for extraordinary writ submitted on a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) must be accepted for filing by the appellate court. All petitions must be liberally construed in favor of their sufficiency.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (j) effective January 1, 1995; previously amended and relettered as subd (j) effective January 1, 2006.)

(i)–(j) ***

Rule 5.600 amended and renumbered effective January 1, 2007; adopted as rule 1436.5 effective January 1, 1995; previously amended effective July 1, 1995, January 1, 1996, and July 1, 2006.

Rule 5.610. Transfer-out hearing

(a)–(e) ***

(g) Modification of form JV-550

Juvenile Court Transfer Orders (form JV-550) may be modified as follows:

(1) Notwithstanding the mandatory use of form JV-550, the form may be modified for use by a formalized regional collaboration of courts to facilitate the efficient processing of transfer cases among those courts if

the modification has been approved by the Judicial Council of California, Administrative Office of the Courts.

(2) The mandatory form must be used by a regional collaboration when transferring a case to a court outside the collaboration or when accepting a transfer from a court outside the collaboration.

(Subd (g) adopted January 1, 2007.)

~~(g)~~(h) ***

(Subd (d) amended and relettered effective January 1, 2007; repealed and adopted as subd (g) effective, January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, July 1, 1999, and January 1, 2004.)

~~(h)~~(i) ***

(Subd (i) amended and relettered effective January 1, 2007; repealed and adopted as subd (h) effective January 1, 1990; previously amended effective January 1, 1992, and January 1, 2004.)

Rule 5.610 amended and renumbered effective January 1, 2007; adopted as rule 1425 effective January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, July 1, 1999, and January 1, 2004.

Rule 5.630. Restraining orders

(a)–(c) ***

(d) Other protected persons (§ 213.5(a))

~~If the court grants ex parte orders or post hearing orders that protect any child listed in (c)(1) or (2), then~~ The court may also issue orders protecting any parent, legal guardian, or current caregiver of the child listed in (c)(1), whether or not that child resides with that parent, legal guardian, or current caregiver.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 2003.)

(e)–(l) ***

Rule 5.630 amended and renumbered effective January 1, 2007; adopted as rule 1429.5 effective January 1, 2000; previously amended effective January 1, 2003, and January 1, 2004.

Rule 5.635. Parentage

(a) ***

(b) 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 parentage has been established, the court must inquire of the child's 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 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 parentage?

(2) Was the mother married or did she have a registered domestic partner at or after the time of conception?

(3) Did the mother believe she was married or believe she had a registered domestic partner at or after the time of conception?

~~(3)~~(4) Was the mother cohabiting with ~~a man~~ another adult at the time of conception?

~~(4)~~(5) Has the mother received support payments or promises of support for the child or for herself during her pregnancy or after the birth of the child?

~~(5)~~(6) Has a man formally or informally acknowledged paternity, including the execution and filing of a voluntary declaration of paternity under Family Code section 7570 et seq., and agreed to have his name placed on the child's birth certificate?

~~(6)~~(7) Have genetic tests been administered, and, if so, what were the results?

(8) Has the child been raised jointly with another adult or in any other co-parenting arrangement?

(Subd (b) amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2006.)

(c)–(f) ***

(g) Dependency and delinquency; notice to alleged ~~fathers~~ parents

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

(1) The petition has been dismissed;

(2) Dependency or wardship has been terminated;

(3) The ~~man~~ parent has previously filed a form JV-505 denying ~~paternity~~ parentage and waiving further notice; or

(4) The ~~man~~ parent has relinquished custody of the child to the county welfare department.

(Subd (g) amended effective January 1, 2007; adopted as subd (e) effective July 1, 1995; previously amended and relettered effective January 1, 2001; previously amended effective January 1, 2006.)

(h) Dependency and delinquency; alleged ~~fathers~~ parents (§§ 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~~ person appears at a hearing in dependency matter or at a hearing under section 601 or 602 and requests a ~~finding~~ judgment of ~~paternity~~ parentage on form JV-505 ~~in a dependency matter or by written request in a section 601 or 602 matter~~, the court must determine:

(1) Whether ~~he~~ that person is the biological ~~father~~ parent of the child~~.~~; and

(2) Whether that person is the presumed parent of the child, if that finding is requested.

(Subd (h) amended effective January 1, 2007; adopted as subd (f) effective January 1, 1999; previously amended and relettered effective January 1, 2001; previously amended effective January 1, 2006.)

Rule 5.635 amended effective January 1, 2007; adopted as rule 1413 effective July 1, 1995; previously amended effective January 1, 1999, January 1, 2001, January 1, 2006, and July 1, 2006.

Rule 5.682. Commencement of jurisdiction hearing—advisement of trial rights; admission~~;~~, no contest~~;~~, submission

(a)–(g) ***

Rule 5.682 amended and renumbered effective January 1, 2007; adopted as rule 1449 effective January 1, 1991; previously amended effective January 1, 2005.

Rule 5.690. General conduct of disposition hearing

(a) ***

(b) Evidence considered (§§ 358, 360)

The court must receive in evidence and consider the social study, a guardianship assessment, the report of any CASA volunteer, the case plan, and any relevant evidence offered by petitioner, the child, or the parent or guardian. The court may require production of other relevant evidence on its own motion. In the order of disposition, the court must state that the social study and the study or evaluation by the CASA volunteer, if any, have been read and considered by the court.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1995.)

(c) Case plan (§ 16501.1)

Whenever child welfare services are provided, the social worker must prepare a case plan.

(1) A written case plan much be completed and filed with the court by the date of disposition or within 60 calendar days of initial removal or of the in-person response required under section 16501(f) if the child has not been removed from his or her home, whichever occurs first.

(2) The court must consider the case plan and must find as follows:

(A) The social worker solicited and integrated into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties; or

(B) The social worker did not solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties. If the court finds that the social worker did not solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties, the court must order that the social worker solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties, unless the court finds that each of these participants was unable, unavailable, or unwilling to participate.

(3) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.

(Subd (c) adopted effective January 1, 2007.)

Rule 5.690 amended and renumbered effective January 1, 2007; adopted as rule 1455 effective January 1, 1991; previously amended effective July 1, 1995, and January 1, 2000.

Rule 5.695. Orders of the court

(a)–(e) ***

(f) Provision of reunification services (§ 361.5)

(1)–(13) *******

(14) A judgment, order, or decree setting a hearing under section 366.26 is not an immediately appealable order. Review may be sought only by filing *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form 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 8.450, 8.452, and 5.600.

(15) A judgment, order, or decree 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:

(A) An extraordinary writ was sought by the timely filing of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ; and

(B) *******

(16)–(17) *******

(18) When the court orders a hearing under section 366.26, the court must advise orally all parties present, and by first-class mail for parties not present, that if the party wishes to preserve any right to review on appeal of the order setting the hearing under section 366.26, the party must seek an extraordinary writ by filing a *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) or other notice of intent to file a writ petition and request for record and a *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ.

(A) *******

(B) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

(Subd (f) amended effective January 1, 2007; adopted as subd (e) effective January 1, 1991; relettered effective July 1, 1995; previously amended effective January 1, 1993, July

1, 1993, January 1, 1994, January 1, 1995, January 1, 1996, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, and July 1, 2002.)

(g)–(h) ***

(i) ~~15~~Fifteen-day reviews (§ 367)

If a child is detained pending the execution of the disposition order, the court must review the case at least every 15 calendar days to determine whether the delay is reasonable. During each review the court must inquire about the action taken by the probation or welfare department to carry out the court's order, the reasons for the delay, and the effect of the delay on the child.

(Subd (i) amended effective January 1, 2007; adopted as subd (h) effective January 1, 1991; relettered effective July 1, 1995; previously amended effective July 1, 2002.)

(j) ***

Rule 5.695 amended and renumbered effective January 1, 2007; adopted as rule 1456 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, January 1, 2004, and January 1, 2006.

Rule 5.710. Six-month review hearing

(a)–(c) ***

(d) Reports

The court must consider the report prepared by petitioner, the report of any CASA volunteer, the case plan submitted for this hearing, and any report submitted by the child's caregiver under section 366.21(d).

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1992; previously amended effective July 1, 2002, and January 1, 2005.)

(e) Determinations—burden of proof (§§ 366, 366.1, 366.21, 364)

(1)–(5) *******

(6) The court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; and

(C) Each parent was actively involved in the development of the case plan and plan for permanent placement; or

(D) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate.

(7) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.

(Subd (e) amended effective January 1, 2007; repealed and adopted as subd (d) effective January 1, 1990; relettered effective January 1, 1992; previously amended effective January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2002, January 1, 2004, and January 1, 2005.)

(f) Conduct of hearing (§ 366.21)

If the court does not return custody of the child:

(1) *******

(2) If the court orders a hearing under section 366.26:

(A)–(C) ***

(D) ~~The court must make 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.~~ If the child is 10 years of age or older and is placed in out-of-home placement for six months or longer, the court:

(i) Must determine whether the agency has identified individuals, in addition to the child's siblings, who are important to the child and will maintain caring, permanent relationships with the child, consistent with the child's best interest;

(ii) Must determine whether the agency has made reasonable efforts to nurture and maintain the child's relationships with those individuals, consistent with he child's best interest; and

(iii) May make any appropriate order to ensure that those relationships are maintained.

(3)–(9) ***

(10) If the court orders a hearing under section 366.26, the court must order that notice of the hearing under section 366.26 must not be provided to any of the following:

(A) A ~~mother~~ parent, presumed ~~father~~ parent, or alleged ~~father~~ parent who has relinquished the child for adoption and whose relinquishment has been accepted and filed with notice under Family Code section 8700; or

(B) An alleged ~~father~~ parent who has denied ~~paternity~~ parentage and has ~~executed~~ completed section 1 of *Statement Regarding ~~Paternity~~ Parentage (Juvenile ~~Dependency~~)* (form JV-505).

(11) ***

(Subd (f) amended and renumbered effective January 1, 2007; 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, January 1, 2005, and January 1, 2006.)

(g)–(i) ***

Rule 5.710 amended and renumbered effective January 1, 2007; adopted as rule 1460 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, January 1, 2005, and January 1, 2006.

Rule 5.710. Six-month review hearing

(a)–(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 setting a hearing under section 366.26 is not immediately appealable. Review may be sought only by filing *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form 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 8.450, 8.452, and 5.600.

(4) A judgment, order, or decree 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:

(A) An extraordinary writ was sought by the timely filing of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ; and

(B) *******

(5)–(6) *******

(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, the 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 *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820); and

(B) A petition for an extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825).

(8) *******

(9) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

(10)–(11) *******

(Subd (f) amended effective January 1, 2007; 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, January 1, 2005 and January 1, 2006.

(g)–(i) ***

Rule 5.710 amended and renumbered effective January 1, 2007; adopted as rule 1460 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, January 1, 2005, and January 1, 2006.

Rule 5.715. Twelve-month review hearing

(a)–(b) ***

(c) 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 CASA volunteer, the case plan submitted for this hearing, any report submitted by the child's caregiver under section 366.21(d), and any other evidence, and must proceed as follows:

(1)–(6) *******

(7) The court must consider the case plan and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate. If the court makes such a finding, the court must order the agency to involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; and

(C) Each parent was actively involved in the development of the case plan and plan for permanent placement; or

(D) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate.

(8) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.

(Subd (c) amended effective January 1, 2007; repealed and adopted as subd (c)(2) effective January 1, 1990; previously amended and relettered as subd (c) effective July 1, 1999, as subd (d) effective January 1, 2002, and as subd (c) 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.)

(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 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.

(A) 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.

(B) If the child is 10 years of age or older and is placed in ~~a group home~~ out-of-home placement for six months or longer ~~from the date the child entered foster care~~, the court:

~~(A)~~(i) Must determine whether the agency has identified individuals, in addition to the child's siblings, who are important to the child and will maintain caring, permanent relationships with the child, consistent with the child's best interest;

~~(B)~~(ii) Must determine whether the agency has made reasonable efforts to nurture and maintain the child's relationships with those individuals, consistent with he child's best interest; and

~~(C)~~(iii) May make any appropriate order to ensure that those relationships are maintained; or

(3) If the court does not find that there is a substantial probability of return within 18 months of the initial removal, and finds that reasonable

services have been offered or provided to the parent or guardian, the court must order a hearing under section 366.26 within 120 days.

(A)–(I) ***

(J) If the court orders a hearing under section 366.26, the court must order that notice of the hearing under section 366.26 must not be provided to any of the following:

(i) A ~~mother~~ parent, presumed ~~father~~ parent, or alleged ~~father~~ parent who has relinquished the child for adoption and the relinquishment has been accepted and filed with notice under Family Code section 8700; or

(ii) An alleged ~~father~~ parent who has denied ~~paternity~~ parentage and has ~~executed~~ completed section 1 of *Statement Regarding ~~Paternity~~ Parentage (Juvenile ~~Dependency)~~* (form JV-505).

(Subd (d) amended effective January 1, 2007; repealed and adopted as subd (c)(3) effective January 1, 1990; previously 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, January 1, 2005, and January 1, 2006.)

(e) ***

Rule 5.715 amended and renumbered effective January 1, 2007; adopted as rule 1461 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, January 1, 2005, and January 1, 2006.

Rule 5.715. Twelve-month review hearing

(a)–(c) ***

(d) Determinations and orders

The court must proceed as follows:

(1)–(2) ***

(3) If the court does not find that there is a substantial probability of return within 18 months of the initial removal, and finds that reasonable

services have been offered or provided to the parent or guardian, the court must order a hearing under section 366.26 within 120 days.

(A)–(B) ***

(C) A judgment or an order setting a hearing under section 366.26 is not immediately appealable. Review may be sought only by filing *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form 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 8.450, 8.452, and 5.600.

(D) A judgment, order, or decree setting a hearing under section 366.26 may be reviewed on appeal following the order of the section 366.26 hearing only if the following have occurred:

(i) An extraordinary writ was sought by the timely filing of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ; and

(ii) ***

(E)–(F) ***

(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, the 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 *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820); and

(ii) A petition for an extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825).

(H) ***

(I) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their trial rights.

(J) *******

(Subd (d) amended effective January 1, 2007; 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, January 1, 2005, and January 1, 2006.)

(e) ***

Rule 5.715 amended and renumbered effective January 1, 2007; adopted as rule 1461 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, January 1, 2005, and January 1, 2006.

Rule 5.720. Eighteen-month review hearing

(a)–(b) ***

(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 CASA volunteer, the case plan submitted for this hearing, any report submitted by the child's caregiver under section 366.21(d), and any 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 in ~~a group home~~ out-of-home placement for six months or longer ~~from the date the child entered foster care~~, the court:

(i) Must determine whether the agency has identified individuals, in addition to the child's siblings, who are important to the child and will maintain caring, permanent relationships with the child, consistent with the child's best interest;

(ii) Must determine whether the agency has made reasonable efforts to nurture and maintain the child's relationships with those individuals, consistent with the child's best interest; and

(iii) May make any appropriate order to ensure that those relationships are maintained; or

(B) Order a hearing under section 366.26 within 120 days.

(4)–(5) *******

(6) The court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate. If the court makes such a finding, the court must order the agency to involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; and

(C) Each parent was actively involved in the development of the case plan and plan for permanent placement; or

(D) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate.

(7) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy, unless the court finds that the child is unable, unavailable, or unwilling to participate.

~~(6)~~(8) 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)~~(9) A judgment or an order setting a hearing under section 366.26 is not immediately appealable. Review may be sought only by filing *Petition for Extraordinary Writ (California Rules of Court, Rules 38.1, 38.3)* (form 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 8.450, 8.452, and 5.600.

~~(8)~~(10) A judgment, order, or decree 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:

(A) An extraordinary writ was sought by the timely filing of *Petition for Extraordinary Writ (California Rules of Court, Rules 38.1, 38.3)* (form JV-825) or other petition for extraordinary writ; and

(B) The petition for extraordinary writ was summarily denied or otherwise not decided on the merits.

~~(9)~~(11) 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.

~~(10)~~(12) Failure to file a petition for extraordinary writ review within the period specified by rules 8.450, 8.452, and 5.600, 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.

~~(11)~~(13) When the court orders a hearing under section 366.26, the court must advise orally all parties that to preserve any right to review on appeal of the order setting the hearing, the party is required to seek an extraordinary writ by filing:

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

(B) A petition for an extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (California Rules of Court, Rules 38.1, 38.3)* (form JV-825).

~~(12)~~ (14) Within 24 hours of the review hearing, the clerk of the court must provide notice by first-class mail to the last known address of any party who is not present when the court orders the hearing under section 366.26. The notice must include the advisement required by (b)(11).

~~(13)~~(15) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules 38.1, 38.3)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule 38)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

~~(14)~~(16) If the court orders a hearing under section 366.26, the court must order that notice of the hearing under section 366.26 must not be provided to any of the following:

(A) A ~~mother~~ parent, presumed ~~father~~ parent, or alleged ~~father~~ parent who has relinquished the child for adoption and whose relinquishment has been accepted and filed with notice under Family Code section 8700; or

(B) An alleged ~~father~~ parent who has denied ~~paternity~~ parentage and has ~~executed~~ completed section 1 of *Statement Regarding ~~Paternity~~ Parentage (Juvenile ~~Dependency)~~* (form JV-505).

(Subd (c) amended effective January 1, 2007; repealed and adopted as subd (b) effective January 1, 1990; previously amended and relettered effective January 1, 2005; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, January 1, 2006, and July 1, 2006.)

(d) ***

Rule 5.720 amended and renumbered effective January 1, 2007; repealed and adopted as rule 1462 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, January 1, 2005, January 1, 2006, and July 1, 2006.

Rule 5.720. Eighteen-month review hearing

(a)–(b) ***

(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 CASA volunteer, any report submitted by the child's caregiver under section 366.21(d), and any other evidence, and must proceed as follows:

(1)–(6) *******

(7) A judgment or an order setting a hearing under section 366.26 is not immediately appealable. Review may be sought only by filing *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form 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 8.450, 8.452, and 5.600.

(8) A judgment, order, or decree 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:

(A) An extraordinary writ was sought by the timely filing of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) or other petition for extraordinary writ; and

(B) *******

(9)–(10) *******

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

(A) A notice of the party's intent to file writ petition and request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820); and

(B) A petition for an extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825).

(12) Within 24 hours of the review hearing, the clerk of the court must provide notice by first-class mail to the last known address of any party who is not present when the court orders the hearing under section 366.26. The notice must include the advisement required by ~~(b)~~(c)(11).

(13) Copies of *Petition for Extraordinary Writ (California Rules of Court, Rules ~~38.1~~ 8.452, ~~38.3~~ 8.456)* (form JV-825) and *Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule ~~38~~ 8.450)* (form JV-820) must be available in the courtroom and must accompany all mailed notices informing the parties of their rights.

(14) *******

(Subd (c) amended effective January 1, 2007; repealed and adopted as subd (b) effective January 1, 1990; amended and relettered effective January 1, 2005; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, January 1, 2006, and July 1, 2006.

(d) ***

Rule 5.720 amended and renumbered effective January 1, 2007; repealed and adopted as rule 1461 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 19, 1999, July 1, 1999, January 1, 2001, January 1, 2005, January 1, 2006, and July 1, 2006.

Rule 5.725. Selection of permanent plan (§ 366.26)

(a) Application of rule

This rule applies to children who have been declared dependents ~~after January 1, 1989~~.

(1) For those dependents, only section 366.26 and division 12, part 3, chapter 5 (commencing with section 7660) of the Family Code or Family Code sections 8604, 8605, 8606, and 8700 apply for the termination of parental rights. Part 4 (commencing with section 7800) of division 12 of the Family Code, or former Civil Code section 232, does not apply.

(2) The court may not terminate the rights of only one parent under section 366.26 unless that parent is the only surviving parent; or unless the rights of the other parent have been terminated under former Civil Code section 224, 224m, 232, or 7017, or division 12, part 3, chapter 5 (commencing with section 7660), or part 4 (commencing with section 7800) of division 12 of the Family Code, or Family Code section 8604, 8605, or 8606; or unless the other parent has relinquished custody of the child to the welfare department.

(3) Only section 366.26 applies for establishing legal guardianship.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1994 and July 1, 2002.

(b)–(d) ***

(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 CASA volunteer, the case plan submitted for this hearing, any report submitted by the child's caregiver under section 366.21(d), and any 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 (1) is a member of a sibling group that should stay together; (2) has a diagnosed medical, physical, or mental handicap; or (3) is 7 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. 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~~ out-of-home placement 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. After that period the court must hold another hearing and proceed according to (1) or (6).

(6) If the court finds that (1)(A) or (1)(B) 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.

(A) 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.

(B) 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.

(C) A child who is 10 years of age or older who is placed in a ~~group home~~ out-of-home placement for six months or longer ~~from the 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. Other children may be asked for this information, as age and developmentally appropriate.

(D) If the court finds that removal of the child from the home of a foster parent or relative who is not willing to become a legal guardian for the child would be seriously detrimental to the emotional well-being of the child, then the child must not be removed. The foster parent or relative must be willing to provide, and capable of providing, a stable and permanent home for the child and must have substantial psychological ties with the child.

(E) The court must make an order for visitation with each parent or guardian unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the child.

(7) The court must consider the case plan submitted for this hearing and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate, including being asked for a statement regarding his or her permanent placement plan, and the case plan contains the social worker's assessment of those stated wishes; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement, including being asked for a statement regarding his or her permanent placement plan and the case plan does not contain the social worker's assessment of those stated wishes. If the court makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, including asking the child for a statement regarding his or her permanent plan, unless the court finds that the child is unable, unavailable, or unwilling to participate. If the court finds that the case plan does not contain the social worker's assessment of the child's stated wishes, the court must order the agency to submit the assessment to the court.

(8) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.

~~(7)~~(9) If no adult is available to become legal guardian, and no suitable foster home is available, the court may order the care, custody, and control of the child transferred to a licensed foster family agency, subject to further orders of the court.

(Subd (e) amended effective January 1, 2007; repealed and adopted as subd (c) effective January 1, 1991; previously amended and relettered as subd (d) effective January 1, 1992, and as subd (e) effective January 1, 2005; previously amended effective July 1, 1994, January 1, 1999, July 1, 1999, July 1, 2002, and January 1, 2006.)

(f)–(i) ***

Rule 5.725 amended and renumbered effective January 1, 2007; repealed and adopted as rule 1463 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, January 1, 2005, and January 1, 2006.

Rule 5.726. Prospective adoptive parent designation (§ 366.26(n))

(a)–(b) ***

(c) Hearing on request for prospective adoptive parent designation

The court must evaluate whether the caregiver meets the criteria in (b).

(1)–(3) *******

(4) If it appears to the court that the request for designation as a prospective adoptive parent will be contested, or if the court wants to receive further evidence on the request, the court must set a hearing.

(A) *******

(B) If the request for designation is made before a request for removal is filed or before an emergency removal has occurred, the court

must order that the hearing be set at a time within 30 calendar days after the filing of the request for designation.

(5) ***

(Subd (c) amended effective January 1, 2007.)

(d)–(f) *

Rule 5.726 amended and renumbered effective January 1, 2007; adopted as rule 1463.1 effective July 1, 2006.

Rule 5.728. Emergency removal (§ 366.26(n))

(a)–(d) *

(e) Notice of emergency removal hearing

After the court has ordered a hearing on an emergency removal, notice of the hearing must be as follows:

(1)–(3) ***

(4) Proof of notice on ~~form~~ *Notice of Emergency Removal, Objection to Removal, and Order After Hearing* (form JV-324) must be filed with the court before the hearing on the emergency removal.

(Subd (e) amended effective January 1, 2007.)

(f)–(g) *

Rule 5.728 amended and renumbered effective January 1, 2007; adopted as rule 1463.5 effective July 1, 2006.

Rule 5.740. 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 at least every 6 months to ensure the expeditious completion of the adoption or guardianship.

(1) At the review hearing, the court must consider the report of the petitioner, as required by section 366.3(f), the report of any CASA volunteer, the case plan submitted for this hearing, and any report submitted by the child's caregiver under section 366.21(d); inquire about the progress being made to provide a permanent home for the child; consider the safety of the child; and enter findings as required by section 366.3(e).

(2)–(4) *******

(Subd (a) amended effective January 1, 2007; repealed and adopted effective January 1, 1991; previously amended effective January 1, 1992, January 1, 1993, July 1, 1999, January 1, 2005, and January 1, 2006.)

(b) Review hearings—foster care

Following the establishment of a plan other than those provided for in (a), review hearings must be conducted at least every 6 months by the court or by a local ~~review board~~ administrative review panel.

(1) At the review hearing, the court or ~~review board~~ administrative review panel must consider the report of the petitioner, the report of any CASA volunteer, the case plan submitted for this hearing, and any report submitted by the child's caregiver under section 366.21(d); inquire about the progress being made to provide a permanent home for the child; consider the safety of the child; and enter findings regarding each item listed in section 366.3(e).

(2) The court or administrative review panel must consider the case plan submitted for this hearing and must find as follows:

(A) The child was actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate; or

(B) The child was not actively involved in the development of his or her own case plan and plan for permanent placement as age and developmentally appropriate. If the court or administrative review panel makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate.

(3) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not given the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the agency to give the child the opportunity to review the case plan, sign it, and receive a copy.

~~(2)~~(4) ***

~~(3)~~(5) ***

~~(4)~~(6) ***

~~(5)~~(7) ***

~~(6)~~(8) ***

~~(7)~~(9) ***

~~(8)~~(10) If the court makes the findings in ~~(7)~~(9), the court may order that the child remain in foster care.

(Subd (b) amended effective January 1, 2007; 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, January 1, 2005, and January 1, 2006.)

(c) Hearing on petition to terminate guardianship or modify guardianship orders

A petition to terminate a guardianship established by the juvenile court, to appoint a successor guardian, or to modify or supplement orders concerning the guardianship must be filed in juvenile court. The procedures described in rule 5.570 must be followed, and ~~*Juvenile Dependency Petition (Version One)* (form JV-100) and~~ *Request to Change Court Order* (form JV-180) must be used.

(1)–(4) ***

(5) If the court terminates a guardianship established in another county, the clerk of the county of current dependency jurisdiction must transmit a certified copy of the order terminating guardianship within 15 days to the court that established the original guardianship.

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 1993, July 1, 1994, and July 1, 1999.)

(d) Hearings on termination of jurisdiction—child reaching age of majority (§ 391)

Petitioner must file *Termination of Dependency Jurisdiction—Child Attaining Age of Majority (Juvenile)* (form JV-365) with the court at least 10 calendar days before the hearing to terminate dependency jurisdiction based on the child's age and must provide copies to the child, the parents or guardians, any CASA volunteer, and all counsel of record at least 10 calendar days before the hearing.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2002; previously amended effective January 1, 2005.)

Rule 5.740 amended and renumbered effective January 1, 2007; adopted as rule 1465 effective January 1, 1991; renumbered as rule 1466 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, January 1, 2005, and January 1, 2006.

Rule 5.785. General conduct of hearing

(a)–(b) ***

(c) Case plan (§§ 636.1, 706.6, 16501.1)

When a child is detained and is at risk of entering foster care placement, the probation officer must prepare a case plan.

(1) The plan must be completed and filed with the court by the date of disposition or within ~~30~~ 60 calendar days of initial removal, whichever occurs first.

(2) The court must consider the case plan and must find as follows:

(A) The probation officer solicited and integrated into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties; or

(B) The probation officer did not solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties. If the court finds that the probation officer did not solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties, the court must order that the probation officer solicit and integrate into the case plan the input of the child, the child's family, the child's identified Indian tribe, and other interested parties, unless the court finds that each of these participants was unable, unavailable, or unwilling to participate.

(3) For a child 12 years of age or older and in a permanent placement, the court must consider the case plan and must find as follows:

(A) The child was given the opportunity to review the case plan, sign it, and receive a copy; or

(B) The child was not give the opportunity to review the case plan, sign it, and receive a copy. If the court makes such a finding, the court must order the probation officer to give the child the opportunity to review the case plan, sign it, and receive a copy, unless the court finds that the child was unable, unavailable, or unwilling to participate.

~~(1)~~(4) If the probation officer believes that the child will be able to return home through reasonable efforts by the child, the parents or guardian, and the probation officer, the case plan must include the elements described in section 636.1(b).

~~(2)~~(5) If the probation officer believes that foster care placement is the most appropriate disposition for the child, the case plan must include all of the information required by section 706.6.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 2002.)

Rule 5.785 amended and renumbered effective January 1, 2007; adopted as rule 1492 effective January 1, 1991; previously amended effective July 1, 2002.

Rule 5.810. Reviews, hearings, and permanency planning

(a) Six-month status review hearings (§§ 727.2, 11404.1)

For any ward removed from the custody of his or her parent or guardian under section 726 and placed in a home under section 727, the court must conduct a status review hearing no less frequently than once every six months from the date the ward entered foster care. The court may consider the hearing at which the initial order for placement is made as the first status review hearing.

(1) *Consideration of reports (§ 727.2(d))*

The court must review and consider the social study report and updated case plan submitted by the probation officer and the report submitted by any CASA volunteer, ~~as well as~~ and any other reports filed with the court under section 727.2(d).

(2) *******

(3) *Findings and orders (§ 727.2(d))*

The court must consider the safety of the ward and make findings and orders that determine the following:

(A)–(D)

(E) The likely date by which the child may return to and be safely maintained in the home or placed for adoption, legal guardianship, or another permanent plan; ~~and~~

(F) In the case of a child who is 16 years of age or older, the court must determine the services needed to assist the child in making the transition from foster care to independent living~~.~~; and

(G) Whether or not the child was actively involved in the development of his or her own case plan and plan for permanent placement. If the court makes such a finding, the court must order the probation department to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; and

(H) Each parent was actively involved in the development of the case plan and plan for permanent placement; or

(I) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate.

(4) The determinations required by (a)(3) must be made on a case-by-case basis, and the court must reference, in its written findings, the probation officer's report and any other evidence relied on in reaching its decision.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1998, January 1, 2001, January 1, 2003, and January 1, 2004.)

(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)

A permanency planning hearing for any ward who has been removed from the custody of a parent or guardian and not returned at a previous review hearing must be held within 12 months of the date the ward entered foster care and periodically thereafter, but no less frequently than once every 12 months while the ward remains in placement. However, when no reunification services are offered to the parents or guardians under section 727.2(b), the first permanency planning hearing must occur within 30 days of disposition.

(1) *Consideration of reports (§ 727.3)*

The court must review and consider the social study report and updated case plan submitted by the probation officer and the report submitted by any CASA volunteer, ~~as well as~~ and any other reports filed with the court under section 727.3(a)(2).

(2) *Findings and orders*

At each permanency planning hearing, the court must consider the safety of the ward and make findings and orders regarding the following:

(A)–(B) *******

(C) The extent of progress that has been made by the child and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care; ~~and~~

(D) The permanent plan for the child, as described in (3)~~.~~;

(E) Whether or not the child was not actively involved in the development of his or her own case plan and plan for permanent placement. If the court finds that the child was not actively involved in the development of his or her own case plan and plan for permanent placement, the court must order the probation officer to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate; and

(F) Each parent was actively involved in the development of the case plan and plan for permanent placement; or

(G) Each parent was not actively involved in the development of the case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve each parent in the development of the case plan and plan for permanent placement, unless the court finds that each parent is unable, unavailable, or unwilling to participate.

(3)–(4) *******

(Subd (b) amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2003.)

(c) Postpermanency status review hearings (§ 727.2)

A postpermanency status review hearing must be conducted for wards in placement annually, 6 months after each permanency planning hearing.

(1) *Consideration of reports (§ 727.2(d))*

The court must review and consider the social study report and updated case plan submitted for this hearing by the probation officer and the report submitted by any CASA volunteer, ~~as well as~~ and any other reports filed with the court under section 727.2(d).

(2) *Findings and orders*

At each postpermanency status review hearing, the court must consider the safety of the ward and make findings and orders regarding the following:

(A) *******

(B) The continuing necessity for and appropriateness of the placement; ~~and~~

(C) The extent of the probation department's compliance with the case plan in making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan for the child~~.~~; and

(D) Whether or not the child was actively involved in the development of his or her own case plan and plan for permanent placement. If the court makes such a finding, the court must order the agency to actively involve the child in the development of his or her own case plan and plan for permanent placement, unless the court finds that the child is unable, unavailable, or unwilling to participate.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2003.)

(d)–(f) *******

Rule 5.810 amended and renumbered effective January 1, 2007; adopted as rule 1496 effective January 1, 1991; previously amended effective January 1, 1998, January 1, 2001, January 1, 2003, January 1, 2004, and January 1, 2006.

Rule 7.101. Use of Judicial Council forms

(a) Use of mandatory forms

If a petition, an order, or another document to be submitted to the court is one for which the Judicial Council has adopted a mandatory form, that form must be used. Except as provided in this rule, if the Judicial Council has adopted a mandatory form in more than one alternative version, one of the alternative versions must be used. If that form is inadequate in a particular situation, an addendum may be attached to it.

(Subd (a) amended and lettered effective January 1, 2007; adopted as untitled subd effective January 1, 2001.)

(b) Alternative mandatory forms

The following forms have been adopted by the Judicial Council as alternative mandatory forms for use in probate proceedings:

(1) Petition for Appointment of Guardian of Minor (form GC-210) and Petition for Appointment of Guardian of the Person (form GC-210(P);

(2) Petition for Appointment of Temporary Guardian or Conservator (form GC-110) and Petition for Appointment of Temporary Guardian of the Person (form GC-110(P).

(Subd (b) adopted effective January 1, 2007.)

(c) Use of guardianship petitions

Notwithstanding any other provision of this rule, a party petitioning for appointment of a temporary guardian of the person of a minor may file either form GC-110 or form GC-110(P). A party petitioning for appointment of a general guardian of the person of a minor may file either form GC-210 or form GC-210(P). A party petitioning for appointment of a temporary guardian of the estate or the person and estate of a minor must file form GC-110. A party petitioning for appointment of a general guardian of the estate or the person and estate of a minor must file form GC-210.

(Subd (c) adopted effective January 1, 2007.)

Rule 7.101 amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2002.

Rule 8.18. Documents violating rules not to be filed

Except as these rules provide otherwise, the reviewing court clerk must not file any record~~, brief,~~ or other document that does not conform to these rules.

Rule 8.18 amended and renumbered effective January 1, 2007; repealed and adopted as rule 46 effective January 1, 2005.

Advisory Committee Comment

~~The proviso~~ The exception in this rule acknowledges that ~~there are exceptions to this rule~~ there are different rules that apply to certain non-conforming documents. For example, this rule does

not apply to nonconforming or late briefs, which are addressed by ~~(e.g.,~~ rules 8.204 (e) and 8.220(a), respectively, ~~and~~ or to nonconforming supporting documents accompanying a writ petition under rule 8.490, which are addressed by rule 8.490(d)(2)~~)~~.

Rule 8.25. Service and filing

(a) Service

(1) Before filing any document ~~in a court~~, a party must serve, by any method permitted by the Code of Civil Procedure, one copy of the document on the attorney for each party separately represented, on each unrepresented party, and on any other person or entity when required by statute or rule.

(2) The party must attach ~~a proof of service~~ to the document presented for filing a proof of service showing service on each person or entity required to be served under (1). The proof must name each party represented by each attorney served.

(Subd (a) amended effective January 1, 2007.)

(b) ***

Rule 8.25 amended and renumbered effective January 1, 2007; adopted as rule 40.1 effective January 1, 2005.

Rule 8.32. Address and telephone number of record; notice of change ~~of address or telephone number~~

(a) Address and telephone number of record

In any case pending before the court, the court will use the address and telephone number that an attorney or unrepresented party provides on the first document filed in that case as the address and telephone number of record unless the attorney or unrepresented party files a notice under (b).

(Subd (a) adopted effective January 1, 2007.)

~~(a)~~ (b) ~~Serving and filing~~ Notice of change

(1) An attorney or unrepresented party whose address or telephone number changes while a case is pending ~~in a reviewing court~~ must promptly serve and file ~~in that court~~ a written notice of the change in the court in which the case is pending.

(2) The notice must specify the title and number of the case or cases to which it applies. If an attorney gives the notice, the notice must include the attorney's California State Bar number.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective January 1, 2005.)

~~(b)~~ (c) Matters affected by notice

~~Unless the person giving~~ If the notice ~~advises the reviewing court clerk otherwise in writing~~ under (b) does not identify the case or cases in which the new address or telephone number applies, the clerk may use the new address or telephone number as the person's address and telephone number of record in all pending and concluded cases.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective January 1, 2005.)

~~(c)~~ (d) ~~Appearance not conforming to address of record;~~ Multiple offices

~~(1) The clerk must enter a proposed appearance in a new matter even if it shows an attorney's address different from the address of record; but the appearance is subject to being struck if, after inquiry by the court, the attorney does not promptly confirm the address or serve and file a change of address.~~

~~(2)~~ If an attorney has ~~Attorneys with two or~~ more than one office~~s may have a corresponding number of addresses of record~~, ~~but~~ only one office address may be ~~associated with~~ used in a given case.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c) effective January 1, 2005.)

Rule 8.32 amended and renumbered effective January 1, 2007; repealed and adopted as rule 40.5 effective January 1, 2005.

Rule 8.40. Form of filed documents

(a) ***

(b) Cover color

(1)–(2) *******

(3) A brief or petition not conforming to (1) or (2) must be accepted for filing, but in case of repeated violations by an attorney or party the court may proceed as provided in rule 8.204(e)(2).

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (c) effective January 1, 2005.)

(c) ***

Rule 8.40 amended and renumbered effective January 1, 2007; repealed and adopted as rule 44 effective January 1, 2005; previously amended effective January 1, 2006.

Rule 8.44. Number of copies of filed documents

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

(a)–(b) ***

Rule 8.44 amended effective January 1, 2007; adopted effective January 1, 2007.)

Advisory Committee Comment

The initial sentence of this rule acknowledges that there are exceptions to this rule's requirements concerning the number of copies; see, for example, rule 8.150, which specifies the number of copies of the record that must be filed.

Rule 8.50. Applications

(a) ***

(b) Contents

The application must state facts showing good cause–or making an exceptional showing of good cause, when required by these rules–for granting the application and must identify any previous application filed by any party.

(Subd (b) amended effective January 1, 2007.)

(c)–(d) ***

Rule 8.50 amended and renumbered effective January 1, 2007; repealed and adopted as rule 43 effective January 1, 2005.

Advisory Committee Comment

Rule 8.50 addresses applications generally. Rules 8.60, 8.63, and 8.68 address applications to extend or shorten time.

Subdivision (b): An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.60. Extending time

(a) ***

(b) Extending time

~~For good cause or exceptional good cause, when required by these rules and~~ Except as these rules provide otherwise, for good cause–or on an exceptional showing of good cause, when required by these rules–the Chief Justice or presiding justice may extend the time to do any act required or permitted under these rules.

(Subd (b) amended effective January 1, 2007.)

(c) Application for extension

(1) *******

(2) The application must state:

(A)–(C) *******

(D) Good cause–or an exceptional showing of good cause, when required by these rules–for granting the extension, consistent with the factors in rule 8.63(b).

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 2005.)

(d)–(e) ***

(f) Notice to party

(1) In a civil case, counsel must deliver to ~~the~~ his or her client or clients a copy of any stipulation or application to extend time that counsel files. Counsel must attach evidence of such delivery to the stipulation or application, or certify in the stipulation or application that the copy has been delivered.

(2)–(3) ***

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (g) effective January 1, 2005.)

Rule 8.60 amended and renumbered effective January 1, 2007; repealed and adopted as rule 45 effective January 1, 2005.

Advisory Committee Comment

Subdivisions(b and (c): An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.63. Policies and factors governing extensions of time

(a) Policies

(1)–(2) ***

(3) For a variety of legitimate reasons, counsel may not always be able to prepare briefs or other documents within the time specified in the rules of court. To balance the competing policies stated in (1) and (2), applications to extend time in the reviewing courts must demonstrate good cause–or an exceptional showing of good cause, when required by these rules–under (b). If good cause is shown, ~~time~~ the court must ~~be extended~~ extend the time.

(Subd (a) amended effective January 1, 2007.)

(b) Factors considered

In determining good cause–or an exceptional showing of good cause, when required by these rules–the court must consider the following factors when applicable:

(1)–(11) ***

(Subd (b) amended effective January 1, 2007.)

Rule 8.63 amended and renumbered effective January 1, 2007; repealed and adopted as rule 45.5 effective January 1, 2005.

Advisory Committee Comment

An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.66. Extending time because of public emergency

(a)–(c) ***

Rule 8.66 amended and renumbered effective January 1, 2007; repealed and adopted as rule 45.1 effective January 1, 2005.

Advisory Committee Comment

The Chief Justice of California is the Chair of the Judicial Council (see rule 10.2).

Rule 8.112. Petition for writ of supersedeas

(a)–(b) ***

(c) Temporary stay

(1) *******

(2) ~~Except when the custody of a minor is involved,~~ A separately filed request for a temporary stay ~~need not~~ must be served on the respondent. For good cause, the Chief Justice or presiding justice may excuse advance service.

(Subd (c) amended effective January 1, 2007.)

(d) ***

Rule 8.112 amended and renumbered effective January 1, 2007; repealed and adopted as rule 49 effective January 1, 2005.

Rule 8.120. Clerk's transcript

(a) Notice of designation

(1)-(4) *******

(5) Except as provided in (b)(4), all exhibits admitted in evidence, refused, or lodged are deemed part of the ~~clerk's transcript~~ record, but a party wanting a copy of an exhibit ~~copied~~ included in the transcript must specify that exhibit by number or letter in its notice of designation. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must promptly deliver it to the superior court clerk.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b)–(d) ***

Rule 8.120 amended and renumbered effective January 1, 2007; repealed and adopted as rule 5 effective January 1, 2002; previously amended effective January 1, 2003, and January 1, 2005.

Rule 8.124. Appendixes instead of clerk's transcript

(a) ***

(b) Contents of appendix

(1)–(4) *******

(5) All exhibits admitted in evidence, ~~or~~ refused, or lodged are deemed part of the ~~appendix~~ record, whether or not ~~it~~ the appendix contains copies of them.

(6)–(7) *******

(Subd (b) amended effective January 1, 2007.)

(c)–(g) ***

Rule 8.124 amended and renumbered effective January 1, 2007; repealed and adopted as rule 5.1 effective January 1, 2002; previously amended effective January 1, 2005.

Rule 8.130. Reporter's transcript

(a) Notice

(1)–(2) *******

(3) If the appellant elects to proceed without a reporter's transcript, the respondent cannot require that a reporter's transcript be prepared. But the reviewing court, on its own or the respondent's motion, may order the record augmented under rule 8.155 to prevent a miscarriage of justice. Unless the court orders otherwise, the appellant is responsible for the cost of any reporter's transcript the court may order under this subdivision.

(4)–(6) *******

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b)–(e) ***

(f) Filing the transcript; copies; payment

(1)–(3) *******

(4) On request, and unless the superior court orders otherwise, the reporter must provide any party with a copy of the reporter's transcript in computer-readable format. Each computer-readable copy must comply with the format, labeling, content, and numbering requirements of Code of Civil Procedure section 271(b).

(Subd (f) amended effective January 1, 2007.)

Rule 8.130 amended and renumbered effective January 1, 2007; repealed and adopted as rule 4 effective January 1, 2002; previously amended effective January 1, 2005.

Rule 8.155. Augmenting and correcting the record

(a) Augmentation

(1) At any time, on motion of a party or its own motion, the reviewing court may order the record augmented to include:

(A) Any document filed or lodged in the case in superior court; or

(B) A certified transcript—or agreed or settled statement—of oral proceedings not designated under rule 8.130. Unless the court orders otherwise, the appellant is responsible for the cost of any additional transcript the court may order under this subdivision.

(2)–(3) ***

(Subd (a) amended effective January 1, 2007.)

(b)–(d) *

Rule 8.155 amended and renumbered effective January 1, 2007; repealed and adopted as rule 12 effective January 1, 2002.

Rule 8.160. Sealed records

(a)–(f) *

(g) ~~References to~~ Disclosure of nonpublic material in public records prohibited

A record filed publicly in the reviewing court must not disclose material contained in a record that is sealed, lodged conditionally under seal, or otherwise subject to a pending motion to file under seal.

(Subd (g) amended effective January 1, 2007.)

Rule 8.160 amended and renumbered effective January 1, 2007; repealed and adopted as rule 12.5 effective January 1, 2002; previously amended effective July 1, 2002, January 1, 2004, and January 1, 2006.

Rule 8.160. Sealed records

(a)–(e) *

(f) Unsealing a record in the reviewing court

(1) A sealed record must not be unsealed except on order of the reviewing court.

(2) Any person or entity may serve and file a motion, application, or petition in the reviewing court to unseal a record. If necessary to preserve confidentiality, the motion, application, or petition~~,~~; any opposition~~,~~; and any supporting documents must be filed in both a public redacted version and a sealed complete version.

(3)–(6) ***

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(g) ***

Rule 8.160 amended and renumbered effective January 1, 2007; repealed and adopted as rule 12.5 effective January 1, 2002; previously amended effective July 1, 2002, January 1, 2004, and January 1, 2006.

Rule 8.204. Contents and form of briefs

(a)–(c) ***

(d) Attachments to briefs

A party filing a brief may attach copies of exhibits or other materials in the appellate record or copies of relevant local, state, or federal regulations or rules, out-of-state statutes, or other similar citable materials that are not readily accessible. ~~The~~ These attachments must not exceed a combined total of 10 pages, but on application the presiding justice may permit ~~a longer attachment~~ additional pages of attachments for good cause. A copy of an opinion required to be attached to the brief under rule 8.1115(c) does not count toward this 10-page limit.

(Subd (d) amended effective January 1, 2007.)

(e) ***

Rule 8.204 amended and renumbered effective January 1, 2007; repealed and adopted as rule 14 effective January 1, 2002; previously amended effective January 1, 2004, July 1, 2004, and January 1, 2006.

Rule 8.216. Appeals in which a party is both appellant and respondent

(a) ***

(b) Contents of briefs

(1) A party that is both an appellant and a respondent must combine its respondent's brief with its appellant's opening brief or its reply brief, if any, whichever is appropriate under the briefing sequence that the reviewing court orders.

~~(3)~~ (2) A combined brief must address each appeal separately.

~~(2)~~ (3) A party must confine a reply brief, or the reply portion of a combined brief, to points raised in its ~~own~~ appeal.

(Subd (b) amended effective January 1, 2007.)

Rule 8.216 amended and renumbered effective January 1, 2007; repealed and adopted as rule 16 effective January 1, 2002.

Rule 8.224. Transmitting exhibits

(a) Notice of designation

(1) Within 10 days after the last respondent's brief is filed or could be filed under rule 8.220, a party wanting the reviewing court to consider any original exhibits that were admitted in evidence, refused, or lodged but that were not copied in the clerk's transcript under rule 8.120 or the appendix under rule 8.124 must serve and file a notice in superior court designating such exhibits.

(2)–(3) *******

(Subd (a) amended effective January 1, 2007.)

(b)–(d) ***

Rule 8.224 amended and renumbered effective January 1, 2007; repealed and adopted as rule 18 effective January 1, 2002.

Rule 8.240. Calendar preference

A party ~~claiming~~ seeking calendar preference must promptly serve and file a motion for preference in the reviewing court. As used in this rule, "calendar preference" means an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.

Rule 8.240 amended and renumbered effective January 1, 2007; repealed and adopted as rule 19 effective January 1, 2003.

Rule 8.252. Judicial notice; findings and evidence on appeal

(a)–(b) ***

(c) Evidence on appeal

(1) ***

(2) An order granting the motion must:

(A)–(C) ***

(3) ***

Rule 8.252 amended and renumbered effective January 1, 2007; repealed and adopted as rule 22 effective January 1, 2003.

Advisory Committee Comment

Subdivisions (b) and (c). Although appellate courts are authorized to take evidence and make findings of fact on appeal by Code of Civil Procedure section 909 and this rule, this authority should be exercised sparingly. (See In re Zeth S. (2003) 31 Cal.4th 396.)

Rule 8.300. Appointment of appellate counsel by the Court of Appeal

(a)–(e) ***

Rule 8.300 amended and renumbered effective January 1, 2007; repealed and adopted as rule 76.5 effective January 1, 2005.

Advisory Committee Comment ~~[revised version]~~

Subdivision (b). The "designated oversight committee" referred to in subdivision (b)(2) is currently the Appellate Indigent Defense Oversight Advisory Committee.

Rule 8.300. Appointment of appellate counsel by the Court of Appeal

(a) ***

(b) List of qualified attorneys

(1) ***

(2) Each ~~The~~ court's ~~must divide its~~ appointments ~~list into at least two levels~~ must be based on ~~the attorneys' experience and qualifications, using~~ criteria approved by the Judicial Council or its designated oversight committee.

(Subd (b) amended effective January 1, 2007.)

(c)–(e) ***

Rule 8.300 amended and renumbered effective January 1, 2007; repealed and adopted as rule 76.5 effective January 1, 2005.

Advisory Committee Comment

Subdivision (b). The "designated oversight committee" referred to in subdivision (b)(2) is currently the Appellate Indigent Defense Oversight Advisory Committee. The criteria approved by this committee can be found on the judicial branch's public website at www.courtinfo.ca.gov.

Rule 8.304. Filing the appeal; certificate of probable cause

(a) Notice of appeal

(1) *******

(2) As used in (1), "felony case" means any criminal action in which a felony is charged, regardless of the outcome. A felony is "charged" when an information or indictment accusing the defendant of a felony is filed or a complaint accusing the defendant of a felony is certified to the superior court under Penal Code section 859a. ~~It~~A felony case includes an action in which the defendant is charged with:

(A)–(C) *******

(3)–(4) *******

(Subd (a) amended effective January 1, 2007.)

(b)–(c) ***

Rule 8.304 amended and renumbered effective January 1, 2007; repealed and adopted as rule 30 effective January 1, 2004.

Rule 8.308. Time to appeal

(a) Normal time

~~Unless~~ Except as provided in (b) or as otherwise provided by law, a notice of appeal must be filed within 60 days after the rendition of the judgment or the making of the order being appealed. Except as provided in rule 8.66, no court may extend the time to file a notice of appeal.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Cross-appeal

If the defendant or the People timely appeals from a judgment or appealable order, the time for any other party to appeal from the same judgment or order is extended until 30 days after the superior court clerk mails notification of the first appeal.

(Subd (b) adopted effective January 1, 2007.)

~~(b)~~(c) Premature notice of appeal

A notice of appeal filed before the judgment is rendered or the order is made is premature, but the reviewing court may treat the notice as filed immediately after the rendition of judgment or the making of the order.

(Subd (c) relettered effective January 1, 2007; adopted as subd (b) effective January 1, 2004.)

~~(c)~~(d) Late notice of appeal

The superior court clerk must mark a late notice of appeal "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 of appeal to the district appellate project.

(Subd (d) relettered effective January 1, 2007; adopted as subd (c) effective January 1, 2004.)

~~(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 (a) has expired but the envelope shows that the notice was mailed or delivered to custodial officials for mailing within the period specified in (a), the notice is deemed timely. The clerk must retain in the case file the envelope in which the notice was received.

(Subd (e) relettered effective January 1, 2007; adopted as subd (d) effective January 1, 2004.)

Rule 8.308 amended and renumbered effective January 1, 2007; adopted as rule 30.1 effective January 1, 2004; previously amended effective January 1, 2005.

Rule 8.320. Normal record; exhibits

(a) ***

(b) Clerk's transcript

The clerk's transcript must contain:

(1)–(12) *******

(13) And if the appellant is the defendant:

(A) Any written defense motion denied in whole or in part, with supporting and opposing memoranda and attachments;

(B) If related to a motion under (A), any search warrant and return and the reporter's transcript of any preliminary examination or grand jury hearing;

(C) Any ~~certified record of a court or the Department of Corrections~~ document admitted in evidence to prove a prior juvenile adjudication, criminal conviction, or prison term. If a record was closed to public inspection in the trial court because it is required to be kept confidential by law, it must remain closed to public inspection in the reviewing court unless that court orders otherwise; and

(D) The probation officer's report.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(c) Reporter's transcript

The reporter's transcript must contain:

(1)–(7) *******

(8) The oral proceedings at sentencing, granting or ~~denial~~ denying of probation, or other dispositional hearing;

(9) And if the appellant is the defendant:

(A) The oral proceedings on any defense motion ~~under Penal Code section 1538.5~~ denied in whole or in part except motions for disqualification of a judge and motions under Penal Code section 995;

(B) The closing arguments; and

(C) Any comment on the evidence by the court to the jury.

(Subd (c) amended effective January 1, 2007.)

(d) Limited normal record in certain appeals

If the People appeal from a judgment on a demurrer to the accusatory pleading, or if the defendant or the People appeal from an appealable order other than a ruling on a motion for new trial, the normal record is composed of a reporter's transcript of any oral proceedings incident to the judgment or order being appealed and a clerk's transcript containing:

(1)–(2) *******

(3) Any written motion or notice of motion granted or denied by the order appealed from, with supporting and opposing memoranda and attachments;

(4)–(6) *******

(Subd (d) amended effective January 1, 2007.)

(e)–(g) ***

Rule 8.320 amended and renumbered effective January 1, 2007; repealed and adopted as rule 31 effective January 1, 2004; previously amended effective January 1, 2005.

Rule 8.324. Application in superior court for addition to normal record

(a) ***

(b) Application by either party

Either the People or the defendant may apply to the superior court for inclusion in the record of any of the following items:

(1) In the clerk's transcript: any written defense motion granted in whole or in part or any written motion by the People, with supporting and opposing memoranda and attachments;

(2) *******

(Subd (b) amended effective January 1, 2007.)

(c)–(d) ***

Rule 8.324 amended and renumbered effective January 1, 2007; adopted as rule 31.1 effective January 1, 2004.

Rule 8.328. ~~Sealed~~ Confidential records

(a) Application

This rule applies to records required to be kept confidential by law but does not apply to records sealed under rules 2.550–2.551 or records proposed to be sealed under rule 8.160.

(Subd (a) adopted effective January 1, 2007.)

~~(a)~~ (b) *Marsden* hearing

(1) The reporter's transcript of any hearing held under *People v. Marsden* (1970) 2 Cal.3d 118 must be ~~sealed~~ kept confidential. The chronological index to the reporter's transcript must include the *Marsden* hearing but list it as "~~SEALED~~ CONFIDENTIAL" or the equivalent.

(2) The superior court clerk must send the original and one copy of the ~~sealed~~ confidential transcript to the reviewing court with the record.

(3) The superior court clerk must send one copy of the ~~sealed~~ confidential transcript to the defendant's appellate counsel or, if the defendant is not yet represented by appellate counsel ~~has not yet been retained or appointed~~, to the appellate project for the district.

(4) If the defendant raises a *Marsden* issue in the opening brief, ~~the reviewing court clerk must send a copy of the sealed transcript to the People on written application, unless~~ the defendant ~~has~~ must serve~~d~~ and file~~d~~ with the brief a notice stating whether ~~that~~ the confidential transcript contains any confidential material not relevant to the issues on appeal. If the defendant states that the transcript contains confidential material not relevant to the issues on appeal, the notice must identify the page and line numbers of the transcript containing this irrelevant material.

(5) If the defendant serves and files a notice under (4), stating that the transcript contains confidential material not relevant to the issues on appeal, the People may move to obtain a copy of any relevant portion of the ~~sealed~~ confidential transcript. If the defendant serves and files a notice under (4), stating that no such irrelevant material is contained in the transcript, the reviewing court clerk must send a copy of the confidential transcript to the People.

(6) If the defendant raises a *Marsden* issue in the opening brief but does not serve and file a notice under (4), on written application the People may request a copy of the confidential transcript. Within 10 days after the application is filed, the defendant may serve and file opposition to this application on the basis that the transcript contains confidential material not relevant to the issues on appeal. Any such opposition must identify the page and line numbers of the transcript containing this irrelevant material. If the defendant does not timely serve and file opposition to the application, the reviewing court clerk must send a copy of the confidential transcript to the People.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a) effective January 1, 2004.)

~~(b)~~ (c) Other in-camera proceedings and confidential records

(1) Any party may apply to the superior court for an order that the record include:

(A) A ~~sealed~~ confidential, separately paginated reporter's transcript of any in-camera proceeding at which a party was not allowed to be represented; and

(B) Any item that the trial court withheld from a party on the ground that it was confidential.

(2) The application and any ruling under (1) must comply with rule 8.324.

(3) If the court grants ~~the~~ an application for a reporter's transcript of any in-camera proceeding, it may order the reporter who attended the in-camera proceeding to personally prepare the transcript. The chronological index to the reporter's transcript must include the proceeding but list it as ~~"SEALED"~~ "CONFIDENTIAL–MAY NOT BE EXAMINED WITHOUT COURT ORDER" or the equivalent.

(4) The superior court clerk must send the transcript of the in-camera proceeding or the confidential item to the reviewing court in a sealed envelope labeled "CONFIDENTIAL—MAY NOT BE EXAMINED WITHOUT COURT ORDER." The reviewing court clerk must file the envelope and store it separately from the remainder of the record.

(5) The superior court clerk must prepare an index of any material sent to the reviewing court under (4), except confidential material relating to a request for funds under Penal Code section 987.9, showing the date and the names of all parties present at each proceeding, but not disclosing the substance of the sealed matter, and send the index:

(A) To the People; and

(B) To the defendant's appellate counsel or, if the defendant is not yet represented by appellate counsel ~~has not yet been retained or appointed~~, to the appellate project for the district.

(6) Unless the reviewing court orders otherwise, confidential material ~~sealed~~ sent to the reviewing court under (4) may be examined only by a reviewing court justice personally; but parties and their attorneys who had access to the material in the trial court may also examine it.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective January 1, 2004; previously amended effective January 1, 2005.)

~~(c)~~ (d) Omissions

If at any time the superior court clerk or the reporter learns that the record omits material that any rule requires to be included and that this rule requires ~~sealed~~ to be kept confidential:

(1) The clerk and the reporter must comply with rule 8.340(b); and

(2) The clerk must comply with the provisions of this rule requiring ~~sealing~~ that the record be kept confidential and prescribing which party's counsel, if any, must receive a copy of sealed material.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c) effective January 1, 2004.)

Rule 8.328 amended and renumbered effective January 1, 2007; adopted as rule 31.2 effective January 1, 2004; previously amended effective January 1, 2005.

Advisory Committee Comment

Subdivision ~~(b)~~ (c). Subdivision ~~(b)~~ (c)(5) requires the clerk to prepare and send to the parties an index of any confidential materials sent to the reviewing court, showing the date and the names of all parties present. The purpose of this provision is to assist the parties in making–and the court in adjudicating–motions to unseal portions of the record. To protect confidentiality until a record is unsealed, however, the index must endeavor to identify the sealed matter without disclosing its substance.

Rule 8.332. Juror-identifying information

(a) Applica~~bility~~tion

A clerk's transcript, a reporter's transcript, or any other document in the record that contains juror-identifying information must comply with this rule.

(Subd (a) amended effective January 1, 2007.)

(b)–(c) ***

Rule 8.332 amended and renumbered effective January 1, 2007; adopted as rule 31.3 effective January 1, 2004.

Rule 8.336. Preparing, certifying, and sending the record

(a)–(b) ***

(c) Clerk's transcript

(1) Except as provided in (a) or (b), the clerk must begin preparing the clerk's transcript immediately after the notice of appeal is filed.

(2) Within 20 days after the notice of appeal is filed, the clerk must complete preparation of an original and two copies of the clerk's

transcript, one for defendant's counsel and one for the Attorney General or the district attorney, whichever is the counsel for the People on appeal.

(3) On request, the clerk must prepare an extra copy for the district attorney or the Attorney General, whichever is not counsel for the People on appeal.

(4) If there is more than one appealing defendant, the clerk must prepare an extra copy for each additional appealing defendant represented by separate counsel.

(5) The clerk must certify as correct the original and all copies of the clerk's transcript.

(Subd (c) amended effective January 1, 2007.)

(d) ***

(e) Extension of time

(1) The superior court may not extend the time for preparing the record.

(2) The reviewing court may order one or more extensions of time for preparing the record, not exceeding a total of 60 days, on receipt of:

(A) An affidavit showing good cause~~,~~; and

(B) In the case of a reporter's transcript, certification by the superior court presiding judge, or a court administrator designated by the presiding judge, that an extension is reasonable and necessary in light of the workload of all reporters in the court.

(Subd (e) amended effective January 1, 2007.)

(f) Sending the transcripts

(1) When the clerk's and reporter's transcripts are certified as correct, the clerk must promptly send:

(A) The original transcripts to the reviewing court, noting the sending date on each original;

(B) One copy of each transcript to ~~each defendant's~~ appellate counsel for each defendant represented by separate counsel and to the Attorney General or the district attorney, whichever is counsel for the People on appeal; and

(C) One copy of each transcript to the district attorney or Attorney General if requested under (c)(3).

(2) If the defendant~~'s~~ is not represented by appellate counsel ~~has not been retained or appointed~~ when the transcripts are certified as correct, the clerk must send that defendant's counsel's copy of the transcripts to the district appellate project.

(Subd (f) amended effective January 1, 2007.)

(g)–(h) ***

Rule 8.336 amended and renumbered effective January 1, 2007; repealed and adopted as rule 32 effective January 1, 2004.

Rule 8.340. Augmenting or correcting the record in the Court of Appeal

(a) Subsequent trial court orders

(1) If, after the record is certified, the trial court amends or recalls the judgment or makes any other order in the case, including an order affecting the sentence or probation, the clerk must promptly certify and send a copy of the amended abstract of judgment or other order—as an augmentation of the record—to:

(A) The reviewing court;, the probation officer, the defendant,

(B) The defendant's appellate counsel for each defendant represented by separate counsel, and the Attorney General or the district attorney, whichever is counsel for the People on appeal; and

(C) The district attorney or Attorney General, whichever is not counsel for the People on appeal, if he or she requested a copy of the clerk's transcript under 8.336(c)(3).

(2) If there is any additional document or transcript related to the amended judgment or new order that any rule or order requires be included in the record, the clerk must send this document or transcript with the

amended abstract of judgment or other order. The clerk must promptly copy and certify any such document, and the reporter must promptly prepare and certify any such transcript.

(Subd (a) amended effective January 1, 2007.)

(b) Omissions

(1) If, after the record is certified, the superior court clerk or the reporter learns that the record omits a document or transcript that any rule or order requires to be included, the clerk must promptly copy and certify the document or the reporter must promptly prepare and certify the transcript. Without the need for a court order, the clerk must promptly send the document or transcript—as an augmentation of the record—to the reviewing court, the defendant's appellate counsel, and the Attorney General to all those who are listed under (a)(1).

(Subd (b) amended effective January 1,2007.)

(c) Defendant's appellate counsel not yet retained or appointed

If the defendant's appellate counsel has not yet been retained or appointed, the clerk must send to the district appellate project any document or transcript added to the record under (a) or (b).

(d) (c) Augmentation or correction by the reviewing court

At any time, on motion of a party or on its own motion, the reviewing court may order the record augmented or corrected as provided in rule 8.155. The clerk must send any document or transcript added to the record to all those who are listed under (a)(1).

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 2004.)

(d) Defendant not yet represented

If the defendant is not represented by appellate counsel when the record is augmented or corrected, the clerk must send that defendant's counsel's copy of the augmentations or corrections to the district appellate project.

(Subd (d) adopted effective January 1, 2007.)

Rule 8.340 amended and renumbered effective January 1, 2007; adopted as rule 32.1 effective January 1, 2004.

Advisory Committee Comment

Subdivision (b). The words "or order" in the first sentence of (b) are intended to refer to any court order to include additional material in the record, e.g., an order of the superior court ~~pursuant to~~ under rule 8.324(d)(1).

Rule 8.340. Augmenting or correcting the record in the Court of Appeal

(a)–(d) ***

Rule 8.340 amended and renumbered effective January 1, 2007; adopted as rule 32.1 effective January 1, 2004.

Advisory Committee Comment

Subdivision (b). The words "or order" in the first sentence of (b) are intended to refer to any court order to include additional material in the record, e.g., an order of the superior court ~~pursuant to~~ under rule 8.324(d)(1).

Rule 8.360. Briefs by parties and amici curiae

(a)–(b) ***

(c) Time to file

(1)–(4) *******

(5) ~~Rule 8.220 applies~~ If a party fails to timely file an appellant's opening brief or a respondent's brief, ~~but the period specified in the notice required by that rule must be 30 days.~~ the reviewing court clerk must promptly notify the party by mail that the brief must be filed within 30 days after the notice is mailed, and that failure to comply may result in one of the following sanctions:

(A) If the brief is an appellant's opening brief:

(i) If the appellant is the People, the court will dismiss the appeal;

(ii) If the appellant is the defendant and is represented by appointed counsel on appeal, the court will relieve that appointed counsel and appoint new counsel;

(iii) If the appellant is the defendant and is not represented by appointed counsel, the court will dismiss the appeal; or

(B) If the brief is a respondent's brief, the court will decide the appeal on the record, the opening brief, and any oral argument by the appellant.

(6) If a party fails to comply with a notice under (5), the court may impose the sanction specified in the notice.

(Subd (c) amended effective January 1, 2007.)

(d)–(f) ***

Rule 8.360 amended and renumbered effective January 1, 2007; repealed and adopted as rule 33 effective January 1, 2004.

Rule 8.404. Record on appeal

(a) Normal record: clerk's transcript

The clerk's transcript must contain:

(1)–(4) *******

(5) The jurisdictional and dispositional findings and orders;

(6)–(11) *******

(Subd (a) amended effective January 1, 2007.)

(b) ***

(c) Application in superior court for addition to normal record

(1) Any party or tribe may apply to the superior court for inclusion in the record of any of the following items:

(A) ***

(B) In the reporter's transcript: ~~the~~ any oral proceedings. ~~on any prehearing motions.~~

(2) ~~The application and order are governed by rule 8.324(c)–(d).~~ An application for additional record must describe the material to be included and explain how it may be useful in the appeal.

(3) The application must be filed in the superior court with the notice of appeal or as soon thereafter as possible, and will be treated as denied if it is filed after the record is sent to the reviewing court.

(4) The clerk must immediately present the application to the trial judge.

(5) Within five days after the application if filed, the judge must order that the record include as much of the additional material as the judge finds proper to fully present the points raised by the applicant. Denial of the application does not preclude a motion in the reviewing court for augmentation under rule 8.155.

(6) If the judge does not rule on the application within the time prescribed by (5), the requested material–other than exhibits–must be included in the clerk's transcript or the reporter's transcript without a court order.

(7) The clerk must immediately notify the reporter if additions to the reporter's transcript are required under (5) or (6).

(Subd (c) amended effective January 1, 2007.)

(d)–(f) ***

Rule 8.404 amended and renumbered effective January 1, 2007; adopted as rule 37.1 effective January 1, 2005.

Rule 8.406. Record in multiple appeals in the same case

If more than one appeal is taken from the same judgment or related order, only one appellate record need be prepared, which must be filed within the time allowed for filing the record in the latest appeal.

Rule 8.406 adopted effective January 1, 2007.

Rule 8.412. Briefs by parties and amici curiae

(a) ***

(b) Time to file

(1) Except in cases governed by rule 8.416(e), the appellant must serve and file the appellant's opening brief within 40 days after the record is filed in the reviewing court.

(2) The respondent must serve and file the respondent's brief within 30 days after the appellant's opening brief is filed.

(3) The appellant must serve and file any reply brief within 20 days after the respondent's brief is filed.

(4) In dependency cases in which the ~~minor~~ child is not an appellant but has appellate counsel, the ~~minor~~ child must serve and file any brief within 10 days after the respondent's brief is filed.

(Subd (b) amended effective January 1, 2007.)

(c) ***

(d) Failure to file a brief

(1) Except in dependency appeals in Orange, Imperial, and San Diego Counties, and in appeals from the termination of parental rights, if a party fails to timely file an appellant's opening brief or a respondent's brief the reviewing court clerk must promptly notify the party's counsel, or if not represented, the party, by mail that the brief must be filed within 30 days after the notice is mailed, and that failure to comply may result in one of the following sanctions:

(A) If the brief is an appellant's opening brief:

(i) If the appellant is the county, the court will dismiss the appeal;

(ii) If the appellant is other than the county and is represented by appointed counsel on appeal, the court will relieve that appointed counsel and appoint new counsel;

(iii) If the appellant is other than the county and is not represented by appointed counsel, the court will dismiss the appeal.

(B) If the brief is a respondent's brief, the court will decide the appeal on the record, the opening brief, and any oral argument by the appellant.

(2) If a party fails to comply with a notice under (1), the court may impose the sanction specified in the notice.

(3) Within the period specified in the notice under (1), a party may apply to the presiding justice for an extension of that period for good cause. If an extension is granted beyond the 30-day period and the brief is not filed within the extended period, the court may impose the sanction under (2) without further notice.

(Subd (d) adopted effective January 1, 2007.)

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

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 2005.)

Rule 8.412 amended and renumbered effective January 1, 2007; adopted as rule 37.3 effective January 1, 2005.

Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties

(a)–(f) *******

(g) Failure to file a brief

Rule 8.412 applies if a party fails to timely file an appellant's opening brief or a respondent's brief, but the period specified in the notice required by that rule must be 15 days.

(Subd (g) adopted effective January 1, 2007.)

~~(g)~~(h) *******

(Subd (h) relettered effective January 1, 2007; adopted as subd (g) effective January 1, 2005.)

Rule 8.416 amended and renumbered effective January 1, 2007; adopted as rule 37.4 effective January 1, 2005.

Advisory Committee Comment

Subdivision (g). Effective January 1, 2007, revised rule 8.416 incorporates a new subdivision (g) to address a failure to timely file a brief in all termination of parental rights cases and in dependency appeals in Orange, Imperial, and San Diego Counties. Under the new subdivision, appellants would not have the full 30-day grace period given in rule 8.412(d) in which to file a late brief, but instead would have the standard 15-day grace period that is given in civil cases. The intent of this revision is to balance the need to determine the appeal within 250 days with the need to protect appellants' rights in this most serious of appeals.

Subdivision ~~(g)~~(h). Subdivision ~~(g)~~(h)(1) recognizes certain reviewing courts' practice of requiring counsel to file any request for oral argument within a time period other than 15 days after the appellant's reply brief is filed or due to be filed. ~~It is not a substantive change.~~ The reviewing court is still expected to determine the appeal "within 250 days after the notice of appeal is filed." (*Id.*, Subd 8.416(e).)

Rule 8.450. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26

(a)–(d) ***

(e) Notice of intent

(1)–(2) *******

(3) The notice must be signed by the party intending to file the petition or, if filed on behalf of ~~the~~ a ~~minor~~ child, by the attorney of record for the ~~minor~~ child. The reviewing court may waive this requirement for good cause on the basis of a declaration by the attorney of record explaining why the party could not sign the notice.

(4) ~~The notice must be filed within 7 days after the date of the order setting the hearing or, if the order was made by a referee not acting as a temporary judge, within 7 days after the referee's order becomes final under rule 5.540(c).~~ The date of the order setting the hearing is the date on which the court states the order on the record orally, or issues an order in writing, whichever occurs first. The notice of intent must be filed according to the following timeline requirements:

(A) If the party was present at the hearing when the court ordered a hearing under Welfare and Institutions Code section 366.26, the notice of intent must be filed within 7 days after the date of the order setting the hearing.

~~(5)~~(B) If the party was notified of the order setting the hearing only by mail, the notice of intent must be filed within 12 days after the date the clerk mailed the notification.

(C) If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside California but within the United States, the notice of intent must be filed within 17 days after the date the clerk mailed the notification.

(D) If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside the United States, the notice of intent must be filed within 27 days after the date the clerk mailed the notification.

(E) If the order was made by a referee not acting as a temporary judge, the party has an additional 10 days to file the notice of intent as provided in rule 5.540(c).

(5) If the superior court clerk receives a notice of intent by mail from a party in a custodial institution after the time specified in (4) has expired but the envelope containing the notice of intent shows that it was mailed or delivered to custodial officials for mailing within the time specified in (4), the notice is deemed timely. The clerk must retain in the case file the envelope in which the notice was received.

(Subd (e) amended effective January 1, 2007.)

(f)–(i) ***

Rule 8.450 amended and renumbered effective January 1, 2007; adopted as rule 38 effective January 1, 2005; previously amended effective January 1, 2006, and July 1, 2006.

Rule 8.452. Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26 and rule 5.600

(a)–(e) ***

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

(1) Except as provided in (2) and (3), rule 8.155 governs any augmentation or correction of the record.

(2) The petitioner must serve and file any request for augmentation or correction within 5 days—or, if the record exceeds 300 pages, within 7 days; or, if the record exceeds 600 pages, within 10 days—after receiving the record. A respondent must serve and file any such request within 5 days after the petition is filed or an order to show cause has issued, whichever is later.

(3) An order augmenting or correcting the record may grant no more than 15 days for compliance. The clerk and the reporter must give the order the highest priority.

(4) The clerk must certify and send any supplemental transcripts as required by rule 8.450(h). If the augmentation or correction is ordered, the time to file any petition or response is extended by the number of additional days granted to augment or correct the record.

(Subd (f) amended effective January 1, 2007; adopted as subd (e) effective January 1, 2005; previously relettered effective January 1, 2006.)

(g)–(i) ***

Rule 8.452 amended and renumbered effective January 1, 2007; adopted as rule 38.1 effective January 1, 2005; previously amended effective January 1, 2006.

Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 ~~and rule 5.600~~ to review order designating or denying specific placement of a dependent child after termination of parental rights

(a)–(e) ***

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

(1) Except as provided in (2) and (3), rule 8.155 governs augmentation or correction of the record.

(2) The petitioner must serve and file any request for augmentation or correction within 5 days—or, if the record exceeds 300 pages, within 7 days; or, if the record exceeds 600 pages, within 10 days—after receiving the record. A respondent must serve and file any such request within 5 days after the petition is filed or an order to show cause has issued, whichever is later.

(3) An order augmenting or correcting the record may grant no more than 15 days for compliance. The clerk and the reporter must give the order the highest priority.

(4) The clerk must certify and send any supplemental transcripts as required by rule 8.454(i). If the augmentation or correction is ordered, the time to file any petition or response is extended by the number of additional days granted to augment or correct the record.

(Subd (f) amended effective January 1, 2007; adopted as subd (e) effective January 1, 2005; previously relettered effective January 1, 2006.)

(g)–(j) ***

Rule 8.456 amended and renumbered effective January 1, 2007; adopted as rule 38.3 effective January 1, 2005; previously amended effective January 1, 2006, and February 24, 2006.

Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 and rule 5.600 to review order designating specific placement of a dependent child after termination of parental rights

(a)–(i) ***

~~(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) amended effective January 1, 2007; adopted as subd (i) effective January 1, 2005; previously relettered effective January 1, 2006.)

Rule 8.456 amended and renumbered effective January 1, 2007; adopted as rule 38.3 effective January 1, 2005; previously amended effective January 1, 2006, and February 24, 2006.

Rule 8.482. Appeal from judgment authorizing conservator to consent to sterilization of conservatee

(a)–(b) ***

(c) Superior court clerk's duties

After entering the judgment, the clerk must immediately:

(1) Begin preparing a clerk's transcript and notify the reporter to prepare a reporter's transcript~~,~~; and

(2) Mail certified copies of the judgment to the Court of Appeal and the Attorney General.

(Subd (c) amended effective January 1, 2007.)

(d)–(i) ***

Rule 8.482 amended and renumbered effective January 1, 2007; repealed and adopted as rule 39.1 effective January 1, 2005.

Rule 8.490. Petitions for writ of mandate, certiorari, or prohibition

(a)–(e) ***

(f) Service

(1)–(2) *******

(3) In addition to complying with the requirements of rule 8.25, the proof of service must give the telephone number of each attorney served ~~and name each party represented by each attorney~~.

(4)–(6) *******

(Subd (f) amended effective January 1, 2007.)

(g)–(m) ***

Rule 8.490 amended and renumbered effective January 1, 2007; repealed and adopted as rule 56 effective January 1, 2005; previously amended effective July 1, 2005, January 1, 2006, and July 1, 2006.

Advisory Committee Comment

Subdivision (a) Rule 8.25, which generally governs service and filing in reviewing courts, also applies to the original proceedings covered by this rule

Rule 8.494. Review of Workers' Compensation Appeals Board cases

(a) Petition

(1) A petition to review an order, award, or decision of the Workers' Compensation Appeals Board must include:

(A) The order, award, or decision to be reviewed~~,~~; and

(B) The workers' compensation judge's minutes of hearing and summary of evidence, findings and opinion on decision, and report and recommendation on the petition for reconsideration.

(2) If the petition claims that the board's ruling is not supported by substantial evidence, it must fairly state and attach copies of all the relevant material evidence.

(3) The petition must be accompanied by proof of service of two copies of the petition on the Secretary of the Workers' Compensation Appeals Board in San Francisco and one copy on each party who appeared in the action and whose interest is adverse to the petitioner. Service on the board's local district office is not required.

(Subd (a) amended effective January 1, 2007.)

(b)–(c) ***

Rule 8.494 amended and renumbered effective January 1, 2007; repealed and adopted as rule 57 effective January 1, 2005; previously amended effective July 1, 2006.

Rule 8.500. Petition for review

(a)–(e) ***

(f) Additional requirements

(1) ~~The proof of service must name each party represented by each attorney served.~~

~~(2)~~ The petition must also be served on the superior court clerk and the Court of Appeal clerk.

~~(3)~~ (2) A copy of each brief must be served on a public officer or agency when required by statute or by rule 8.29.

~~(4)~~ (3) The Supreme Court clerk must file the petition even if its proof of service is defective, but if the petitioner fails to file a corrected proof of service within 5 days after the clerk gives notice of the defect the court may strike the petition or impose a lesser sanction.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(g) ***

Rule 8.500 amended and renumbered effective January 1, 2007; repealed and adopted as rule 28 effective January 1, 2003; previously amended effective January 1, 2004, and July 1, 2004.

Advisory Committee Comment

Subdivision (f). The general requirements relating to service of documents in the appellate courts are established by rule 8.25. Subdivision (f)~~(2)~~(1) requires that the petition (but not an answer or reply) be served on the Court of Appeal clerk. To assist litigants, (f)~~(2)~~(1) also states explicitly what is impliedly required by rule 8.212(c), i.e., that the petition must also be served on the superior court clerk (for delivery to the trial judge).

Rule 8.504. Form and contents of petition, answer, and reply

(a)–(c) ***

(d) Length

(1) If produced on a computer, a petition or answer must not exceed 8,400 words, including footnotes, and a reply must not exceed 4,200 words, including footnotes. ~~Such a~~ Each petition, answer, or reply must include a certificate by appellate counsel or an unrepresented party stating the number of words in the document. The person certifying may rely on the word count of the computer program used to prepare the document.

(2) *******

(3) The tables, the Court of Appeal opinion, a certificate under (1), and any attachment under ~~(f)~~(e)(1) are excluded from the limits stated in (1) and (2).

(4) ***

(Subd (d) amended effective January 1, 2007; adopted as subd (e) effective January 1, 2003; previously relettered effective January 1, 2004.)

(e) Attachments and incorporation by reference

(1) No attachments are permitted except:

(A) An opinion or order from which the party seeks relief ~~and~~;

(B) Exhibits or orders of a trial court or Court of Appeal that the party considers unusually significant ~~and~~;

(C) Copies of relevant local, state, or federal regulations or rules, out-of-state statutes, or other similar citable materials that are not readily accessible; and

(D) An opinion required to be attached under rule 8.1115(c).

(2) The attachments under (1)(A)–(C) ~~do~~ must not exceed a combined total of 10 pages.

~~(2)~~ (3) No incorporation by reference is permitted except a reference to a petition, an answer, or a reply filed by another party in the same case or filed in a case that raises the same or similar issues and in which a petition for review is pending or has been granted.

(Subd (e) amended effective January 1, 2007; adopted as subd (f) effective January 1, 2003; previously relettered effective January 1, 2004.)

Rule 8.504 amended and renumbered effective January 1, 2007; adopted as rule 28.1 effective January 1, 2003; previously amended effective January 1, 2004.

Rule 8.520. Briefs by parties and amici curiae; judicial notice

(a)–(b) ***

(c) Length

(1) If produced on a computer, a brief on the merits must not exceed 14,000 words, including footnotes, and a reply brief on the merits must not exceed 4,200 words, including footnotes. ~~Such a~~ Each brief must include a certificate by appellate counsel or an unrepresented party

stating the number of words in the brief. The person certifying may rely on the word count of the computer program used to prepare the brief.

(2) *******

(3) The tables, a certificate under (1), any attachment under (h), and any quotation of issues required by (b)(2) are excluded from the limits stated in (1) and (2).

(4) *******

(Subd (c) amended effective January 1, 2007.)

(d) Supplemental briefs

(1) ***

(2) A supplemental brief must not exceed 2,800 words, including footnotes, if produced on a computer or 10 pages if typewritten, and must be served and filed no later than 10 days before oral argument.

(Subd (d) amended effective January 1, 2007.)

(e)–(g) ***

(h) Attachments

A party filing a brief may attach copies of relevant local, state, or federal regulations or rules, out-of-state statutes, or other similar citable materials that are not readily accessible. These attachments must not exceed a combined total of 10 pages. A copy of an opinion required to be attached to the brief under rule 8.1115(c) does not count toward this 10-page limit.

(Subd (h) adopted effective January 1, 2007.)

Rule 8.520 amended and renumbered effective January 1, 2007; adopted as rule 29.1 effective January 1, 2003.

Rule 8.532. Filing, finality, and modification of decision

(a)–(c) ***

Rule 8.532 amended and renumbered effective January 1, 2007; repealed and adopted as rule 29.4 effective January 1, 2003.

Advisory Committee Comment

Subdivision (b). Subdivision (b)(2)(A) recognizes the general rule that the denial of a petition for review of a Court of Appeal decision is final on filing. Subdivision (b)(2)(B)–(D) recognizes several additional types of Supreme Court decisions that are final on filing. Thus (b)(2)(B) recognizes that a dismissal, a transfer, and a retransfer under ~~subdivisions~~ (b), (d), and (e), respectively, of rule 8.528 are decisions final on filing. A remand under rule 8.528(c) is not a decision final on filing because it is not a separately filed order; rather, as part of its appellate judgment at the end of its opinion in such cases the Supreme Court simply orders the cause remanded to the Court of Appeal for disposition of the remaining issues in the appeal.

Subdivision (b)(2)(C) recognizes that an order denying a petition for a writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause is final on filing. The provision reflects the settled Supreme Court practice, since at least 1989, of declining to file petitions for rehearing in such matters. (See, e.g., *In re Hayes* (S004421) Minutes, Cal. Supreme Ct., July 28, 1989 ["The motion to vacate this court's order of May 18, 1989 [denying a petition for habeas corpus without opinion] is denied. Because the California Rules of Court do not authorize the filing of a petition for rehearing of such an order, the alternate request to consider the matter as a petition for rehearing is denied."].)

Subdivision (b)(2)(D) recognizes that an order denying a petition for writ of supersedeas is final on filing.

Rule 8.605. Qualifications of counsel in death penalty appeals and habeas corpus proceedings

(a)–(k) ***

Rule 8.605 amended and renumbered effective January 1, 2007; repealed and adopted as rule 76.6 effective January 1, 2005.

Advisory Committee Comment ~~[revised version]~~

Subdivision (c). The definition of "associate counsel" in (c)(3) is intended to make it clear that although appointed lead counsel has overall and supervisory responsibility in a capital case, appointed associate counsel also has casewide responsibility to perform the duties for which he or she was appointed, whether they are appellate duties, habeas corpus duties, or appellate *and* habeas corpus duties.

Rule 8.610. Contents and form of the record

(a) Contents of the record

(1) The record must include a clerk's transcript containing:

(A) ~~All items listed in rule 8.320(b), except item (10)~~ The accusatory pleading and any amendment;

(B) ~~All items listed in rule 8.324(b)(1), whether or not requested; and~~ Any demurrer or other plea;

(C) All court minutes;

(D) All instructions submitted in writing, each one indicating the party requesting it;

(E) Any written communication between the court and the jury or any individual juror;

(F) Any verdict;

(G) Any written opinion of the court;

(H) The judgment or order appealed from and any abstract of judgment or commitment;

(I) Any motion for new trial, with supporting and opposing memoranda and attachments;

(J) Any transcript of a sound or sound-and-video recording furnished to the jury or tendered to the court under rule 2.1040;

(K) Any application for additional record and any order on the application;

(L) Any written defense motion or any written motion by the People, with supporting and opposing memoranda and attachments;

(M) If related to a motion under (L), any search warrant and return and the reporter's transcript of any preliminary examination or grand jury hearing;

(N) Any document admitted in evidence to prove a prior juvenile adjudication, criminal conviction, or prison term;

(O) The probation officer's report; and

~~(C)~~ (P) Any other document filed or lodged in the case, including each juror questionnaire, whether or not the juror was selected.

(2) The record must include a reporter's transcript containing:

(A) ~~All items listed in rule 8.320(c)~~ The oral proceedings on the entry of any plea other than a not guilty plea;

(B) The oral proceedings on any motion in limine;

~~(B)~~ (C) ~~All items listed in rule 8.324(b)(2), whether or not requested~~ The voir dire examination of jurors;

(D) Any opening statement;

(E) The oral proceedings at trial;

(F) All instructions given orally;

(G) Any oral communication between the court and the jury or any individual juror;

(H) Any oral opinion of the court;

(I) The oral proceedings on any motion for new trial;

(J) The oral proceedings at sentencing, granting or denying of probation, or other dispositional hearing;

(K) The oral proceedings on any motion under Penal Code section 1538.5 denied in whole or in part;

(L) The closing arguments;

(M) Any comment on the evidence by the court to the jury;

(N) The oral proceedings on motions in addition to those listed above; and

~~(C)~~ (O) Any other oral proceedings in the case, including any proceedings that did not result in a verdict or sentence of death because the court ordered a mistrial or a new trial.

(3)–(4) *******

(Subd (a) amended effective January 1, 2007.)

(b)–(d) ***

Rule 8.610 amended and renumbered effective January 1, 2007; adopted as rule 34.1 effective January 1, 2004; previously amended effective January 1, 2005.

Rule 8.613. Preparing and certifying the record of preliminary proceedings

(a)–(f)

(g) Declaration and request for corrections or additions

(1) Within 30 days after the clerk delivers the transcript, each trial counsel must serve and file a declaration stating that counsel or another person under counsel's supervision has performed the tasks required by (f), and must serve and file either:

(A) A request for corrections or additions to the reporter's transcript or court file~~,~~; or

(B) A statement that counsel does not request any corrections or additions.

(2)–(4) *******

(Subd (g) amended effective January 1, 2007.)

(h)–(i) ***

(j) Delivery to the superior court

Within five days after the reporter delivers the computer-readable copies, the clerk must deliver to the responsible judge, for inclusion in the record:

(1) The certified original reporter's transcript of the preliminary proceedings and the copies that have not been distributed to counsel, including the computer-readable copies~~,~~; and

(2) The complete court file of the preliminary proceedings or a certified copy of that file.

(Subd (j) amended effective January 1, 2007.)

(k)–(l) ***

Rule 8.613 amended and renumbered effective January 1, 2007; adopted as rule 34.2 effective January 1, 2004.

Rule 8.616. Preparing the trial record

(a)–(d) ***

Rule 8.616 renumbered effective January 1, 2007; repealed and adopted as rule 35 effective January 1, 2004.

Advisory Committee Comment ~~[revised version]~~

Rule 8.616 implements Penal Code section 190.8(b).

Rule 8.619. Certifying the trial record for completeness

(a)–(h) ***

Rule 8.619 amended and renumbered effective January 1, 2007; adopted as rule 35.1 effective January 1, 2004.

Advisory Committee Comment

Rule 8.619 implements Penal Code section 190.8(c)–(e).

Subdivision (e)(4) restates a provision of former rule 35(b), second paragraph, as it was in effect on December 31, 2003.

Rule 8.754. Clerk's transcript and original papers

(a)–(c) ***

(d) Preparation of clerk's transcript

Within 10 days after the appellant has arranged for payment of the cost of the transcript, as provided in (c), the clerk shall prepare and certify a transcript consisting of either copies or originals, as specified in (e), of:

The following whether designated in the notices or stipulations or referred to in the statements of the parties or not:

(1)–(2) ***

(3) The judgment appealed from with an endorsement by the clerk showing the date notice of entry thereof was mailed by the clerk or served by a party; and

(4) Any notice of intention to move for a new trial or motion to vacate the judgment, and the ruling thereon, if any~~.~~; and

The following, if they have been designated by any of the parties:

(5) The judgment roll, or such parts thereof as have been designated by the parties; and

(6) ***

(Subd (d) amended effective January 1, 2007; previously amended effective January 1, 1953, July 1, 1968, and July 1, 1971.)

(e)–(f) ***

Rule 8.754 amended and renumbered effective January 1, 2007; adopted as rule 125; previously amended effective January 1, 1953, January 5, 1953, July 1, 1964, July 1, 1968, and July 1, 1971.

Rule 8.765. Definitions

In this chapter, unless the context or subject matter otherwise requires:

~~(a)~~(1) The past, present and future tenses shall each include the other; the masculine, feminine and neuter gender shall each include the other; and the singular and plural number shall each include the other.

~~(b)~~(2) "Trial court" means the municipal or justice court from which an appeal is taken pursuant to these rules; "reviewing court" applies to the court in which an appeal is pending, and means the appellate department of the superior court.

~~(c)~~(3) The party appealing is known as the "appellant," and the adverse party as the "respondent."

~~(d)~~(4) "Shall" is mandatory and "may" is permissive.

~~(e)~~(5) "Party," "appellant," "respondent," "petitioner," or other designation of a party include such party's attorney of record. Whenever under these rules a notice is required to be given to or served on a party, such notice or service shall be made on his attorney of record, if he has one.

~~(f)~~(6) "Serve and file" mean that a document filed in a court is to be accompanied by proof of prior service in a manner permitted by law of one copy of the document on counsel for each adverse party who is represented by separate counsel.

~~(g)~~(7) "Judgment" includes any judgment, order or decree from which an appeal lies.

~~(h)~~(8) "Judgment roll" with respect to a justice court consists of the same papers as in the municipal court.

~~(i)~~(9) "Presiding judge" includes the acting presiding judge.

~~(j)~~(10) "Clerk" with respect to a justice court means the judge if there be no clerk.

~~(k)~~(11) "Written," "writing," "typewriting" and "typewritten" include other methods of duplication equivalent in legibility to typewriting.

~~(l)~~(12) Rule and subdivision headings do not in any manner affect the scope, meaning or intent of the provisions of these rules.

Rule 8.765 amended and renumbered effective January 1, 2007; adopted as rule 136; previously amended effective January 5, 1953, July 1, 1964, and January 1, 1977.

Rule 8.766. Applications on routine matters

Except as otherwise provided in these rules, applications to extend time for filing briefs, applications to shorten time, and applications relating to other matters of routine shall be served and filed; but the presiding judge of the reviewing court may require an additional showing to be made and for good cause may excuse advance service. The application shall set forth facts showing:

(1) Good cause for granting the application~~,~~; and

(2) Any previous applications granted or denied to any party after filing of the notice of appeal.

The application may be granted or denied by the presiding judge, unless the court otherwise determines. The applicant shall provide to the clerk addressed, postage-prepaid envelopes and sufficient additional copies of the application for later mailing by the clerk to all other parties of a copy of the order granting or denying the application, together with a copy of the application.

Rule 8.766 amended and renumbered effective January 1, 2007; adopted as rule 137; previously amended effective January 1, 1974, January 1, 1975, and July 1, 1996.

Rule 8.1105. Publication of appellate opinions

(a)–(d) ***

(e) Editing

(1) Computer versions of all opinions of the Supreme Court and Courts of Appeal must be provided to the Reporter of Decisions on the day of filing. Opinions of superior court appellate divisions certified for publication must be provided as prescribed in rule ~~106~~ 8.707.

(2) The Reporter of Decisions must edit opinions for publication as directed by the Supreme Court. The Reporter of Decisions must submit edited opinions to the courts for examination, correction, and approval before finalization for the Official Reports.

(Subd (e) amended effective January 1, 2007.)

Rule 8.1105 amended and renumbered effective January 1, 2007; repealed and adopted as rule 976 effective January 1, 2005.

Rule 10.15. Interim Court Facilities Panel

(a)–(d) ***

(e) Applica~~bility~~tion of rule 10.10

Except as otherwise specifically provided in this rule, rule 10.10 applies to this panel.

(Subd (e) amended effective January 1, 2007.)

(f) ***

Rule 10.15 amended and renumbered effective January 1, 2007; adopted as rule 6.15 effective June 23, 2004.

Rule 10.46. Trial Court Presiding Judges Advisory Committee

(a)–(e) ***

(f) Chair

~~Following its last scheduled committee meeting of the year,~~ The advisory committee must annually submit to the Chief Justice three nominations for the chair of the advisory committee. The Chief Justice will select a chair from among the names suggested. The chair of the advisory committee serves as chair of any Executive Committee established under (d) and as an advisory member of the Judicial Council.

(Subd (f) amended effective January 1, 2007; adopted as subd (d) effective January 1, 1999; previously relettered and amended effective September 1, 2000; previously amended effective April 18, 2003.)

Rule 10.46 amended and renumbered effective January 1, 2007; adopted as rule 6.46 effective January 1, 1999; previously amended effective September 1, 2000, and April 18, 2003.

Rule 10.48. Court Executives Advisory Committee

(a)–(e) ***

(f) Chair and vice-chair

The Chief Justice may appoints the chair and vice-chair of the committee for up to a two-year term from the current membership of the Court Executives Advisory Committee.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 2004.)

Rule 10.48 amended and renumbered effective January 1, 2007; adopted as rule 6.48 effective January 1, 1999; previously amended effective January 1, 2004.

Chapter 8. Minimum Education Requirements and Expectations

Rule 10.451. Judicial branch education

(a) Purpose

Judicial branch education for all justices, judges, subordinate judicial officers, and court personnel is essential to enhance the fair, effective, and efficient administration of justice. Participation in education activities is part of the official duties of judicial officers and court personnel. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial Council's Long-Range Strategic Plan, which include access, fairness, and diversity; branch independence and accountability; modernization of management and administration; and quality of justice and service to the public. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch.

(b) Education objectives

Justices, judges, subordinate judicial officers, court personnel, education committees, and others who plan and deliver education will endeavor to achieve the following objectives:

(1) To provide justices, judges, subordinate judicial officers, and court personnel with the knowledge, skills, and abilities required to perform their responsibilities competently, fairly, and efficiently;

(2) To ensure that education, including opportunities for orientation, continuing education, and professional development, is available to all justices, judges, subordinate judicial officers, and court personnel;

(3) To assist justices, judges, subordinate judicial officers, and court personnel in preserving the integrity and impartiality of the judicial system through their efforts to ensure that all members of the public have equal access to the courts and equal ability to participate in court proceedings and are treated in a fair and just manner;

(4) To promote the adherence of justices, judges, subordinate judicial officers, and court personnel to the highest ideals of personal and official conduct, as set forth in the California Code of Judicial Ethics and the Code of Ethics for the Court Employees of California;

(5) To improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;

(6) To promote standardized court practices and procedures; and

(7) To implement the recommendations adopted by the Judicial Council in the California Standards of Judicial Administration.

Rule 10.451 adopted effective January 1, 2007.

Rule 10.452. Minimum education requirements and expectations

(a) Purpose

Justices, judges, and subordinate judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect the freedom, livelihood, and happiness of the people involved. Court personnel assist justices, judges, and subordinate judicial officers in carrying out their responsibilities and must provide accurate and timely services to the public. Each justice, judge, and subordinate judicial officer and each court staff member is responsible for maintaining and improving his or her professional competence. To assist them in enhancing their professional competence, the judicial branch will develop and maintain a comprehensive and high-quality education program, including minimum education requirements and expectations, to provide educational opportunities for all justices, judges, subordinate judicial officers, and court personnel.

(b) Goals

The minimum education requirements and expectations set forth in rules 10.461–10.464 are intended to achieve two complementary goals:

(1) To ensure that both individuals who are new to the bench or the court and those who are experienced on the bench or court but are beginning a new assignment or role obtain education on the tasks, skills, abilities, and knowledge necessary to be successful in the new roles; and

(2) To establish broad parameters, based on time, for continuing education for individuals who are experienced both on the bench or court and in their assignments or roles, preserving the ability of the individual, working with the presiding judge or court executive officer, to determine the appropriate content and provider.

(c) Relationship to education standards

The education requirements and expectations set forth in rules 10.461–10.464 are minimums. Justices, judges, and subordinate judicial officers should participate in more judicial education than is required and expected, in accordance with the judicial education standards set forth in standards 10.10–10.14 of the California Standards of Judicial Administration. Court

executive officers and other court personnel should participate in more education than is required, in accordance with the education standards set forth in standard 10.15 of the California Standards of Judicial Administration.

(d) Responsibilities of administrative presiding justices

Each administrative presiding justice:

(1) Must grant sufficient leave to new Court of Appeal justices to enable them to complete the minimum education requirements stated in rule 10.461;

(2) To the extent compatible with the efficient administration of justice, must grant to all justices sufficient leave to participate in education programs consistent with standard 10.11 of the California Standards of Judicial Administration;

(3) Should establish an education plan for his or her court to facilitate the involvement of justices as both participants and faculty in judicial education activities; and

(4) Must ensure that Court of Appeal justices are reimbursed by their court in accordance with the travel policies issued by the Administrative Office of the Courts for travel expenses incurred in attending in-state education programs as a participant, except to the extent that: (i) certain expenses are covered by the Administrative Office of the Courts; or (ii) the education provider or sponsor of the program pays the expenses. Provisions for these expenses must be part of every court's budget. The administrative presiding justice may approve reimbursement of travel expenses incurred by Court of Appeal justices in attending out-of-state education programs as a participant.

(e) Responsibilities of presiding judges

Each presiding judge:

(1) Must grant sufficient leave to all judges and subordinate judicial officers and to the court executive officer to enable them to complete the minimum education requirements and expectations stated in rules 10.462 and 10.463, respectively;

(2) To the extent compatible with the efficient administration of justice, must grant to all judges and subordinate judicial officers and to the court executive officer sufficient leave to participate in education programs consistent with standards 10.11–10.14 and 10.15 of the California Standards of Judicial Administration;

(3) Should establish an education plan for his or her court to facilitate the involvement of judges, subordinate judicial officers, and the executive officer as both participants and faculty in education activities and should consult with each judge, each subordinate judicial officer, and the executive officer regarding their education needs and requirements related to their current and future assignments;

(4) Should use his or her assignment powers to enable all judges and subordinate judicial officers, particularly those assigned to specific calendar courts, to participate in educational activities;

(5) Must ensure that judges, subordinate judicial officers, and the court executive officer are reimbursed by their court in accordance with the Trial Court Financial Policies and Procedures Manual for travel expenses incurred in attending in-state education programs as a participant, except to the extent that: (i) certain expenses are covered by the Administrative Office of the Courts; or (ii) the education provider or sponsor of the program pays the expenses. Provisions for these expenses must be part of every court's budget. The presiding judge may approve reimbursement of travel expenses incurred by judges, subordinate judicial officers, and the court executive officer in attending out-of-state education programs as a participant; and

(6) Must retain the records and cumulative histories of participation provided by judges. These records and cumulative histories are subject to periodic audit by the Administrative Office of the Courts (AOC). The presiding judge must report the data from the records and cumulative histories on an aggregate basis to the Judicial Council, on a form provided by the Judicial Council, within six months after the end of each three-year period.

(f) Responsibilities of court executive officers, managers, and supervisors

Each court's executive officer, managers, and supervisors:

(1) Must grant sufficient leave to all court personnel to enable them to complete the minimum education requirements stated in rule 10.464;

(2) To the extent compatible with the efficient administration of justice, must grant to all court personnel sufficient leave to participate in education programs consistent with standard 10.15 of the California Standards of Judicial Administration; and

(3) Should establish an education plan for their court to facilitate the involvement of court personnel as both participants and faculty in educational activities, and should consult with each court staff member regarding his or her education needs and requirements and professional development.

(4) Must ensure that managers, supervisors, and other court personnel are reimbursed by their court in accordance with the Trial Court Financial Policies and Procedures Manual for travel expenses incurred in attending in-state education programs as a participant, except to the extent that: (i) certain expenses are covered by the Administrative Office of the Courts; or (ii) the education provider or sponsor of the program pays the expenses. Provisions for these expenses must be part of every court's budget. The court executive officer may approve reimbursement of travel expenses incurred by managers, supervisors, and other court personnel in attending out-of-state education programs as a participant.

Rule 10.452 adopted effective January 1, 2007.

Rule 10.461. New Court of Appeal justices

Each new Court of Appeal justice, within two years of confirmation of appointment, must attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research.

Rule 10.461 adopted effective January 1,2007.

Advisory Committee Comment

The requirements formerly contained in subdivision (e)(2) of rule 970, which has been repealed, are carried forward without change in rule 10.461.

Rule 10.462. Trial court judges and subordinate judicial officers

(a) Applicability

All California trial court judges must complete the minimum judicial education requirements for new judges under (c)(1) and are expected to participate in continuing education as outlined under (d). All subordinate judicial officers must complete the minimum education requirements for new subordinate judicial officers under (c)(1) and for continuing education as outlined under (d).

(b) Definitions

Unless the context or subject matter otherwise requires, "subordinate judicial officers" as used in this rule means subordinate judicial officers as defined in rule 10.701.

(c) Content-based requirements

(1) Each new trial court judge and subordinate judicial officer must complete the following "new judge education" provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER):

(A) The New Judge Orientation program within six months of taking the oath as a judge or subordinate judicial officer;

(B) An orientation course in his or her primary assignment (civil, criminal, family, juvenile delinquency or dependency, probate, or traffic) within one year of taking the oath as a judge or subordinate judicial officer; and

(C) The B. E. Witkin Judicial College of California within two years of taking the oath as a judge or subordinate judicial officer.

(2) Each new supervising judge is expected to complete the following education:

(A) For a judge who has administrative responsibility, CJER's Supervising Judges Overview course within one year of beginning the supervising judge role, preferably before beginning the role;

(B) For a judge who has calendar management responsibility, a calendar management overview course, provided either by the

local court or by CJER, within one year of beginning the supervising judge role, preferably before beginning the role;

(C) For a judge who has both administrative and calendar management responsibility, both overview courses within one year of beginning the role.

(3) Each new presiding judge is expected to complete CJER's Presiding Judges Orientation and Court Management Program within one year of beginning the presiding judge role, preferably before beginning the role.

(4) Each judge is expected to and each subordinate judicial officer must, if beginning a new primary assignment—unless he or she is returning to an assignment after less than two years in another assignment—complete a course on the new primary assignment, provided by CJER, the California Judges Association (CJA), or the local court, within six months of beginning the new assignment. CJER is responsible for identifying content for these courses and will share the identified content with CJA and the local courts.

(d) Hours-based continuing education

(1) Each judge is expected to and each subordinate judicial officer must complete 30 hours of continuing judicial education every three years, beginning on the dates outlined:

(A) A new judge or new subordinate judicial officer enters the three-year continuing education period on January 1 of the year following completion of the required new judge education; continuing education expectations for judges and requirements for subordinate judicial officers are prorated based on the number of years remaining in the three-year period.

(B) For all other judges and subordinate judicial officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the expected or required 30 hours of continuing judicial education:

(A) The content-based courses under (c)(2), (3), and (4) for a new supervising judge, a new presiding judge, and a judge or

subordinate judicial officer beginning a new primary assignment; and

(B) Any other education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.471(b).

(3) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the continuing education expectation or requirement on an hour-for-hour basis. The hours applied for participation in online coursework and self-directed study are limited to a combined total of 7 hours in each three-year period; this limit is prorated for individuals who enter the three-year period after it has begun.

(4) A judge or subordinate judicial officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period; this limit is prorated for individuals who enter the three-year period after it has begun.

(5) The presiding judge may require subordinate judicial officers to participate in specific courses or participate in education in a specific subject matter area as part of their continuing education.

(e) Extension of time

(1) For good cause, a presiding judge may grant an extension of time to complete the education expectations or requirements in (c)(2)–(4) and the continuing education expectation or requirement in (d) as follows:

(A) A time extension to complete the content-based expectations or requirements in (c)(2)–(4) is limited to the original time period provided for completion—that is, one year, one year, or six months, respectively.

(B) A time extension to complete the hours-based continuing education expectation or requirement in (d) is limited to one year.

(2) If the presiding judge grants a request for an extension of time, the judge or subordinate judicial officer, in consultation with the presiding judge, should also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based continuing education expectation or requirement does not affect what is expected or required in the next three-year period.

(f) Records and summaries of participation for judges

Each judge is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation, on a form provided by the Judicial Council, for three years after each course or activity that is applied toward the requirements and expectations;

(2) At the end of each year, giving the presiding judge a copy of his or her record of participation in education for that year, on a form provided by the Judicial Council; and

(3) At the end of each three-year period, giving the presiding judge a copy of his or her record of participation in education for that year and a cumulative history of participation for that three-year period, on a form provided by the Judicial Council.

(g) Records of participation for subordinate judicial officers

(1) Each court is responsible for tracking participation in education and for tracking completion of minimum education requirements for its subordinate judicial officers.

(2) Each subordinate judicial officer must keep records of his or her own participation for three years after each course or activity that is applied toward the requirements.

Rule 10.462 adopted effective January 1, 2007.

Advisory Committee Comment

The minimum judicial education requirements in rule 10.462 do not apply to retired judges seeking to sit on regular court assignment in the Assigned Judges Program. Retired judges who seek to serve in the Assigned Judges Program must comply with the Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment, which includes education requirements.

Rule 10.463. Trial court executive officers

(a) Applicability

All California trial court executive officers must complete these minimum education requirements.

(b) Content-based requirement

(1) Each new executive officer must complete the Presiding Judges Orientation and Court Management Program provided by the Administrative Office of the Courts' Education Division/Center for Judicial Education and Research (CJER) within one year of becoming an executive officer and should participate in additional education during the first year.

(2) Each executive officer should participate in CJER's Presiding Judges Orientation and Court Management Program each time a new presiding judge from his or her court participates in the course and each time the executive officer becomes the executive officer in a different court.

(c) Hours-based requirement

(1) Each executive officer must complete 30 hours of continuing education every three years beginning on the following date:

(A) For a new executive officer, the first three-year period begins on January 1 of the year following completion of the required education for new executive officers.

(B) For all other executive officers, the first three-year period begins on January 1, 2007.

(2) The following education applies toward the required 30 hours of continuing education:

(A) Any education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a

statutory or other education requirement, approved by the presiding judge as meeting the criteria listed in rule 10.471(b).

(B) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, online coursework, and self-directed study counts toward the requirement on an hour-for-hour basis. The hours applied for participation in online coursework and self-directed study are limited to a combined total of 7 hours in each three-year period.

(C) An executive officer who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 15 in each three-year period.

(d) Extension of time

(1) For good cause, a presiding judge may grant a one-year extension of time to complete the education requirements in (b) and (c).

(2) If the presiding judge grants a request for an extension of time, the executive officer, in consultation with the presiding judge, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the executive officer's next three-year period.

(e) [Record of participation; statement of completion]

Each executive officer is responsible for:

(1) Tracking his or her own participation in education and keeping a record of participation for three years after each course or activity that is applied toward the requirements;

(2) At the end of each year, giving the presiding judge a copy of his or her record of participation in education for that year; and

(3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.

Rule 10.463 adopted effective January 1, 2007.

Rule 10.464. Trial court managers, supervisors, and personnel

(a) Applicability

All California trial court managers, supervisors, and personnel must complete these minimum education requirements.

(b) Content-based requirements

(1) Each new manager or supervisor must complete orientation courses within six months of becoming a manager or supervisor, unless the court's executive officer determines that the new manager or supervisor has already completed these orientation courses or courses covering equivalent content. The courses must include orientation to:

(A) The judicial branch of California;

(B) The local court; and

(C) Basic management and supervision.

(2) Each new court employee who is not a manager or supervisor must complete orientation courses within six months of becoming a court employee, unless the employee's supervisor determines that the new court employee has already completed these orientation courses or courses covering equivalent content. The courses must include orientation to:

(A) The judicial branch of California;

(B) The local court; and

(C) Basic employee issues, such as sexual harassment and safety; and

(D) The employee's specific job.

(3) The court executive officer may determine the appropriate content, delivery mechanism, and length of orientation based on the needs and role of each individual employee.

(c) Hours-based requirements

(1) Each court manager or supervisor must complete 12 hours of continuing education every two years.

(2) Each court employee who is not a manager or supervisor must complete 8 hours of continuing education every two years, with the exception of employees who do not provide court administrative or operational services. Those employees are not subject to the continuing education hours-based requirement but must complete any education or training required by law and any other education required by the court executive officer.

(3) The first two-year period for all court managers, supervisors, and personnel begins on January 1, 2007. The orientation education required for new managers, supervisors, and personnel under (b) does not apply toward the required hours of continuing education because it must be completed before they enter the two-year period. Each new manager, supervisor, or employee enters the two-year continuing education period on the first day of the quarter following his or her completion of the orientation education required under (b); the quarters begin on January 1, April 1, July 1, and October 1. Each manager, supervisor, or employee who enters the two-year continuing education period after it has begun must complete a prorated number of continuing education hours for that two-year period, based on the number of quarters remaining in it.

(4) Any education offered by a provider listed in rule 10.471(a) and any other education, including education taken to satisfy a statutory, rules-based, or other education requirement, that is approved by the executive officer or the employee's supervisor as meeting the criteria listed in rule 10.471(b) applies toward the orientation education required under (b) and the continuing education required under (c)(1) and (2).

(5) Each hour of participation in traditional (face-to-face) education, distance education such as broadcast and videoconference courses, and online coursework counts toward the requirement on an hour-for-hour basis. The hours applied for participation in online coursework are

limited to a total of 4 hours for managers and supervisors and to a total of 3 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun. Self-directed study is encouraged for professional development but does not apply toward the required hours.

(6) A manager, supervisor, or employee who serves as faculty for a California court-based audience (i.e., justices, judges, subordinate judicial officers, temporary judges, or court personnel) may apply the following hours of faculty service: 3 hours for each hour of presentation the first time a given course is presented and 2 hours for each hour of presentation each subsequent time that course is presented. The hours applied for faculty service are limited to 6 hours for managers and supervisors and to 4 hours for other personnel in each two-year period; these limits are prorated for individuals who enter the two-year period after it has begun.

(7) The court executive officer may require managers, supervisors and other court personnel to participate in specific courses or to participate in education in a specific subject matter area as part of their continuing education.

(d) Extension of time

(1) For good cause, the executive officer or a supervisor, if delegated by the executive officer, may grant a six-month extension of time to complete the education requirements in this rule.

(2) If the executive officer or supervisor grants a request for an extension of time, the manager, supervisor, or employee who made the request, in consultation with the executive officer or supervisor, must also pursue interim means of obtaining relevant educational content.

(3) An extension of time to complete the hours-based requirement does not affect the timing of the next two-year period.

(e) Records of participation

(1) Each court is responsible for tracking participation in education and for tracking completion of minimum education requirements for its managers, supervisors, and other personnel.

(2) Each manager, supervisor, and employee must keep records of his or her own participation for two years after each course or activity that is applied toward the requirements.

Rule 10.464. adopted effective January 1, 2007.

Rule 10.471. Approved providers; approved course criteria

(a) Approved providers

Any education program offered by any of the following providers that is relevant to the work of the courts or enhances the individual participant's ability to perform his or her job may be applied toward the education requirements stated in rule 10.462(d), 10.463(c), or 10.464(b)–(c):

(1) California Administrative Office of the Courts;

(2) California Judges Association;

(3) Supreme Court of California;

(4) California Courts of Appeal;

(5) Superior Courts of California;

(6) State Bar of California;

(7) National Judicial College;

(8) National Center for State Courts;

(9) National Council of Juvenile and Family Court Judges;

(10) National Association of Women Judges;

(11) American Bar Association;

(12) National Association for Court Management;

(13) American Judges Association;

(14) American Academy of Judicial Education;

(15) Dwight D. Opperman Institute of Judicial Administration;

(16) National Institute of Justice;

(17) Law schools accredited by the American Bar Association;

(18) Accredited colleges and universities;

(19) Continuing Education of the Bar—California;

(20) Local California bar associations;

(21) California Court Association; and

(22) Superior Court Clerks' Association of the State of California.

(b) Approved education criteria

Education is not limited to the approved providers listed in (a). Any education from a provider not listed in (a) that is approved by the presiding judge as meeting the criteria listed below may be applied toward the continuing education expectations and requirements for judges and subordinate judicial officers or requirements for court executive officers stated in rule 10.462(d) or 10.463(c), respectively. Similarly, any education from a provider not listed in (a) that is approved by the court executive officer or by the employee's supervisor as meeting the criteria listed below may be applied toward the orientation or continuing education requirements for managers, supervisors, and employees in rule 10.464(b) and (c)(1), (2).

(1) The education must meet the following three criteria:

(A) The subject matter is relevant to the work of the courts or the judicial branch;

(B) The education is at least one hour in length; and

(C) Anticipated learning outcomes (how new knowledge, skills, or abilities will be applied, demonstrated, or used) are identified prior to the education work.

(2) The education must also meet at least two of the following five criteria:

(A) The learning environment is educationally sound (e.g., distractions are limited and the physical location is conducive to learning the subject matter);

(B) The participant receives or has access to all the reference tools and other materials and resources (such as handouts) that are required for learning and applying the content (such as job aids or scripts);

(C) The participant has an opportunity to practice using or applying the new information or skill (through direct experience, role play, or case studies/hypothetical situations) as part of the learning experience;

(D) The participant has the opportunity to interact with knowledgeable faculty or other experts in the topical area to pose questions or clarify understanding;

(E) An assessment tool or activity (such as the development of an action plan to apply the newly gained knowledge or skill) enables the participant to determine whether the skills, abilities, or knowledge gained through the education can be used in the future in his or her work.

Rule 10.471 adopted effective January 1,2007.

Rule 10.602. Selection and term of presiding judge

(a)–(b) ***

(c) Term

A presiding judge in a court with two judges must be elected for a term of not less than one year. A presiding judge in a court with three or more judges must be elected for an initial term of not less than two years. The presiding judge may be elected for additional terms. The court may change the duration of the initial or additional term by local rule or policy so long as the initial term is not less than the duration specified in this rule. ~~The presiding judge may serve additional terms of such duration as set by internal local rule or policy~~. A presiding judge may be removed by a majority vote of the judges of the court.

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(d)–(e) ***

Rule 10.602 amended and renumbered effective January 1, 2007; adopted as rule 6.602 effective January 1, 2001; previously amended effective January 1, 2005.

Rule 10.625. Certain demographic data relating to regular grand jurors

(a) Definitions

The following definitions apply under this rule:

(1) "Regular grand jury" means a body of citizens of a county selected by the court to investigate matters of civil concern in the county, whether or not that body has jurisdiction to return indictments.

(2) "Race or ethnicity" reflects the concept of race used by the United States Census Bureau and reflects self-identification by people according to the race or races with which they most closely identify. These categories are sociopolitical constructs and should not be interpreted as being scientific or anthropological in nature. The categories include both racial and national-origin groups.

(3) "Prospective regular grand juror" means those citizens who (a) respond in person to the jury summonses or questionnaires from the court for the purposes of grand jury service and are eligible to serve as regular grand jurors, or (b) either submit applications, are recruited, or are nominated by judicial officers and are eligible to serve as regular grand jurors.

(4) "Eligible to serve" means that the prospective regular grand juror meets each of the criteria set forth in Penal Code section 893(a) and is not disqualified by any factor set forth in section 893(b).

(b) Jury commissioner duties and responsibilities

(1) The jury commissioner or designee must create a method to capture the following data from prospective regular grand jurors:

(A) Age range, specifically:

(i) 18–25

(ii) 26–34

(iii) 35–44

(iv) 45–54

(v) 55–64

(vi) 65–74

(vii) 75 and over

(B) Gender; and

(C) Race or ethnicity from the following categories (candidates may select more than one category):

(i) American Indian or Alaska Native

(ii) Asian

(iii) Black or African American

(iv) Hispanic/Latino

(v) Native Hawaiian or other Pacific Islander

(vi) White

(vii) Other race or ethnicity (please state:)

(viii) Decline to answer

(2) Develop and maintain a database containing the following information regarding prospective regular grand jurors, the candidates who are ultimately selected by the court to serve as grand jurors, and any carry-over grand jurors: name, age range, occupation, gender, race or ethnicity, and the year(s) served on the regular grand jury. The database should indicate how the juror initially became a candidate (by random draw, application, or nomination).

(c) Annual summary

(1) The court must develop and maintain an annual summary of the information in the database maintained under (b)(2). The summary must not include the names of the candidates and must be made available to the public.

Rule 10.625 adopted effective January 1, 2007.

Advisory Committee Comment

This rule is intended to facilitate the courts' continued efforts to achieve the goals stated in standard 10.50 [formerly section 17] of the Standards of Judicial Administration, which encourages courts to employ various methods of soliciting prospective candidates to serve on regular grand juries that reflect a representative cross-section of the community they serve. Those methods include obtaining recommendations for grand jurors who encompass a cross-section of the county's population base, solicited from a broad representation of community-based organizations, civic leaders, and superior court judges, referees, and commissioners subdivision (b)(2)); having the court consider carry-over grand jury selections under Penal Code section 901(b) to ensure broad-based representation (Subd (c)); and encouraging judges who nominate persons for grand jury service under Penal Code section 903.4 to select candidates from the list returned by the jury commissioner or otherwise employing a nomination procedure to ensure broad-based representation from the community.

This rule is also intended to assist the courts in establishing a formal mechanism whereby they can monitor the extent to which they achieve the goal of seating representative regular grand juries through a process comparable to that stated in Penal Code section 904.6(e), which requires that persons selected for the "criminal grand jury shall be selected at random from a source or sources reasonably representative of a cross section of the population which is eligible for jury service in the county."

Rule 10.670. Trial court personnel plans

(a)–(c) ***

(d) Optional provisions

A personnel plan may contain additional provisions, including~~, but not limited to,~~ the following:

(1)–(3) *******

(Subd (d) amended effective January 1, 2007.)

(e) ***

Rule 10.670 amended and renumbered effective January 1, 2007; adopted as rule 2520 effective July 1, 1998; previously renumbered as rule 6.650 effective January 1, 1999.

Rule 10.781. 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 must 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 10.781 amended and renumbered effective January 1, 2007; adopted as rule 1580.1 effective January 1, 2001.

Rule 10.810. Court operations

(a)–(c) ***

(d) Functional budget categories

Trial court budgets and financial reports shall identify all allowable court operations in the following eleven (11) functional budget categories. Costs for salary, wages, and benefits of court employees are to be shown in the appropriate functions provided the individual staff member works at least 25 percent time in that function. Individual staff members whose time spent in a function is less than 25 percent are reported in Function 10, All Other Court Operations. The functions and their respective costs are as follows:

Function 1. – Function 10. ***

Function 11. County General Services ("Indirect Costs")

General county services are defined as all eligible accounting, payroll, budgeting, personnel, purchasing, and county administrator costs rendered in support of court operations. Costs for included services are allowable to the extent the service is provided to the court. The following costs, regardless of how characterized by the county or by which county department they are performed, are reported in this function only and are subject to the statutory maximum for indirect costs as specified in Government Code § 77003. To the extent costs are allowable under this rule, a county's approved Cost Plan may be used to determine the specific cost although the cost categories, or functions, may differ.

Cost items within the meaning of rule 10.810(a)(7) and the county departments often performing the service may include, for example,

- County Administrator
  - budget development and administration
  - interdepartmental budget unit administration and operations
  - personnel (labor) relations and administration
- Auditor-Controller
  - payroll
  - financial audits
  - warrant processing
  - fixed asset accounting
  - departmental accounting for courts, e.g., fines, fees, forfeitures, restitutions, penalties, and assessments; accounting for the Trial Court Special Revenue Fund
  - accounts payable
  - grant accounting
  - management reporting
  - banking
- Personnel
  - recruitment and examination of applicants
  - maintenance and certification of eligible lists
  - position classification
  - salary surveys
  - leave accounting
  - employment physicals
  - handling of appeals
- Treasurer/Tax Collector
  - warrant processing
  - bank reconciliation
  - retirement system administration
  - receiving, safeguarding, investing, and disbursing court funds
- Purchasing Agent
  - process departmental requisitions

issue and analyze bids
make contracts and agreements for the purchase or rental of personal property
store surplus property and facilitate public auctions

Unallowable costs
Unallowable court-related costs are those
(a) in support of county operations,
(b) expressly prohibited by statute,
(c) facility-related, or
(d) exceptions of the nature referenced in Functions 1-11.

Unallowable cost items, including any related data processing costs, are not reported in Functions 1-11 and may include, for example,

Communications
central communication control and maintenance for county emergency and general government radio equipment

Central Collections
processing accounts receivable for county departments (not courts)

County Administrator
legislative analysis and activities
preparation and operation of general directives and operating procedures
responses to questions from the Board, outside agencies, and the public
executive functions: Board of Supervisors
county advisory councils

Treasurer/Tax Collector
property tax determination, collection, etc.

General Services
rental and utilities support
coordinate county's emergency services

Property Management
negotiations for the acquisition, sale, or lease of property, except for space rented for storage of court records
making appraisals
negotiating utility relocations
assisting County Counsel in condemnation actions
preparing deeds, leases, licenses, easements
collecting rents
building lease management services (except for storage of court records)

Facility-related
construction services
right-of-way and easement services
purchase of land and buildings
construction
depreciation of buildings/use allowance

space rental/building rent (except for storage of court records)
building maintenance and repairs (except interior painting and to replace/repair flooring)
purchase, installation, and maintenance of H/V/A/C equipment
maintenance and repair of utilities
utility use charges (e.g., heat, light, water)
elevator purchase and maintenance
alterations/remodeling
landscaping and grounds maintenance services
exterior lighting and security
insurance on building damages (e.g., fire, earthquake, flood, boiler and machinery)
grounds' liability insurance
parking lot or facility maintenance
juror parking

(Subd (d) amended effective January 1, 2007; previously amended and relettered effective July 1, 1995.)

Rule 10.810 amended and renumbered effective January 1, 2007; adopted as rule 810 effective July 1, 1988; previously amended effective July 1, 1989, July 1, 1990, July 1, 1991, and July 1, 1995.

Rule 10.815. Fees to be set by the court

(a) ***

(b) Approved fees

The Judicial Council authorizes courts to charge a reasonable fee not to exceed costs for the following products and services unless courts are prohibited by law from charging a fee for, or providing, the product or service:

(1)–(13) *******

(14) Direct fax filing under rule ~~2006~~ 2.304 (fee per page);

(15)–(17) *******

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2006.)

(c)–(g) ***

Rule 10.815 amended and renumbered effective January 1, 2007; adopted as rule 6.712 effective January 1, 2006; previously amended effective July 1, 2006.

Rule 10.820. Acceptance of credit cards by the superior courts

(a) ***

(b) Standards for use of credit cards

The Administrative Director of the Courts is authorized to approve requests under (a) for acceptance of credit cards if all of the following are true:

(1) The court (A) imposes a fee for the use of the credit card, or (B) demonstrates that the cost of acceptance of credit cards is not greater than the cost of acceptance of other means of payment of fees, or (C) demonstrates that it can absorb the cost of the acceptance of the credit card~~.~~;

(2) The court has obtained a credit card acceptance contract that is competitive with other possible contracts the court could obtain~~.~~; and

(3) The court provides alternative means for a person to pay court fees.

(Subd (b) amended effective January 1, 2007.)

(c)–(e) ***

Rule 10.820 amended and renumbered effective January 1, 2007; adopted as rule 6.703 effective January 1, 2000.

Standard 3.25. Examination of prospective jurors in civil cases

(a)–(b) ***

(c) Examination of jurors

Except as otherwise provided in (d), the trial judge's examination of prospective jurors should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1)–(19) *******

(20) Each of you should now state your:

(A)–(D) ***

(E) Present employer~~.~~;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)–(I) ***

(21) ***

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1972; previously amended effective January 1, 1974, and January 1, 2004.)

(d) Examination of jurors in eminent domain cases

In eminent domain cases, the trial judge's examination of prospective jurors should include, in the areas of inquiry in (c)(1) through (c)(12), the following matters, and any other matters affecting their qualifications to serve as jurors in the case:

(1)–(27) ***

(28) Each of you should now state your:

(A)–(D) ***

(E) Present employer~~.~~;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)–(I)***

(29)–(30) ***

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1974; previously amended effective January 1, 1989, and January 1, 2004.)

(e)–(f) ***

Standard 3.25 amended and renumbered effective January 1, 2007; adopted as Sec. 8 effective January 1, 1972; previously amended effective January 1, 1974, January 1, 1989, July 1, 1993, and January 1, 2004.

Standard 4.30. Examination of prospective jurors in criminal cases

(a) ***

(b) Examination of jurors

The trial judge's examination of prospective jurors in criminal cases should include the 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)–(21) *******

(22) Each of you should now state your:

(A)–(D) *******

(E) Present employer~~.~~;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F)–(G) *******

(H) Present employers~~.~~;

And for your adult children, their:

(I)–(K) *******

(23)–(27) *******

(Subd (b) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1974; amended and relettered effective June 6, 1990; previously amended effective January 1, 1997, January 1, 2004, and January 1, 2006.)

(c) ***

Standard 4.30 amended and renumbered effective January 1, 2007; adopted as Sec. 8.5 July 1, 1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, January 1, 1997, January 1, 2004, and January 1, 2006.

Standard 5.30. Family court matters

(a) Judicial assignments to family court

In a court with a separate family court, the presiding judge of the superior court should assign judges to the family court to serve for a minimum of three years. In selecting judges for family court assignments, the presiding judge should consider, in addition to rule 10.603(c)(1)(A) of the California Rules of Court, the judge's prior experience in family law litigation and mediation, as well as whether the judge prefers to serve in a family law department.

(b) Case assignment to same department

To the extent possible, family law actions related to the same family should be assigned to the same judicial officer for all purposes, so that all decisions that are made in a case through final judgment are issued by the same judicial officer.

(c) Importance of family court

The supervising judge in the family court, in consultation with the presiding judge of the superior court, should:

(1) Motivate and educate other judges regarding the significance of family court; and

(2) Work to ensure that sufficient judicial officers, court staff, family law facilitators, child custody mediators and evaluators, interpreters, financial resources, and adequate facilities are assigned to the family court to allow adequate time to hear and decide the matters before it.

(d) Compensation for court-appointed attorneys

The supervising judge of the family court should ensure that court-appointed attorneys in the family court are compensated at a level equivalent to attorneys appointed by the court in comparable types of cases.

(e) Training and education

Family court law is a specialized area of the law that requires dedication and study. The supervising judge of the family court has a responsibility to maintain high-quality services in family court. The quality of services provided by judicial officers and court staff depends, in significant part, on appropriate training and education, from the beginning of the family court assignment and on a continuing basis thereafter.

(1) Family court judicial officers, family law facilitators, child custody mediators and evaluators, interpreters, other court staff, and court-appointed attorneys should have sufficient training to perform their jobs competently.

(2) The supervising judge of the family court should promote access to printed, electronic, Internet, and other family law resources.

(f) Unique role of a family court

Under the direction of the presiding judge of the superior court, the family court, to the extent that it does not interfere with the adjudication process or violate any ethical constraints, is encouraged to:

(1) Provide active leadership within the community in determining the needs of, and obtaining and developing resources and services for children and families who participate in the family law court system;

(2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for families who come before the family courts;

(3) Take an active role in helping the court develop rules and procedures that will result in the ordering of appropriate treatment and services for children and families;

(4) Exercise a leadership role in the development and maintenance of services for self-represented and financially disadvantaged litigants;

(5) Take an active part in the formation of a community-wide network to promote and coordinate private- and public-sector efforts to focus attention and resources on the needs of family law litigants;

(6) Educate the community and its institutions, including the media, concerning the role of the family court in meeting the complex needs of families;

(7) Encourage the development of community services and resources to assist families and children in the family court system, including self-help information; supervised visitation; substance abuse and drug prevention, intervention, and treatment; services for families with domestic violence issues; counseling; parenting education; vocational training; mediation; alternative dispute resolution options; and other resources to support families;

(8) Manage cases more efficiently and effectively to avoid conflicting orders;

(9) Take an active role in promoting completion of cases in a timely manner;

(10) Appoint counsel for children in appropriate family law custody cases; and

(11) Ensure that the best interest of children is served throughout the family court process.

(g) Appointment of attorneys and other persons

A court should follow the guidelines of standard 10.21 of the California Standards of Judicial Administration when appointing attorneys, arbitrators, mediators, referees, masters, receivers, and other persons.

Standard 5.30 adopted effective January 1, 2007.

Advisory Committee Comment

Standard 5.30. Family court matters include proceedings under the Family Code for dissolution of marriage, nullity of marriage, legal separation, custody and support of minor children; or actions under the Domestic Violence Prevention Act, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, Domestic Partner Registration Act, and the Uniform Interstate Family Support Act; local child support agency actions under the Family Code; and contempt proceedings relating to family law or local child support agency actions.

Subdivision (a). This subdivision implements the legislative mandate of Family Code section 2330.3(b) requiring the Judicial Council to adopt a standard of judicial administration prescribing a minimum length of a judge's family law assignment. Standard 5.30 sets a standard in family court that is similar to the juvenile court standards stated in standard 5.40, Juvenile Court Matters.

Family law is complex and constantly evolving. The laws concerning child custody, support, domestic violence, and property division are always changing. Not only does the family law judge have to understand family law and procedure but also issues that involve bankruptcy, estate planning, insurance, state and federal tax law, business, immigration, and criminal law, which can frequently arise in the context of a family law case. Because of the complexity and long-range impact of the judicial determinations, the presiding judge should strive to place experienced judges in family law assignments.

Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in family court, the family court judge should be willing to commit to a minimum tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the complexity of the family court process, but it also provides continuity to a system that demands it.

Subdivision (b) This subdivision implements the legislative mandate of Family Code section 2330.3(a), which requires that dissolution actions, to the greatest extent possible, be assigned to the same superior court department for all purposes, so that all decisions in a case are made by the same judicial officer. This subdivision expands the Legislature's requirement by including other related family court matters, such as those filed under the Uniform Parentage Act, Domestic Violence Prevention Act, in recognition that the same families may enter the family court through a variety of actions.

The committee recognizes that having the same judicial officer hear all actions involving the same family may not be practical in all cases for reasons that include funding limitations, assignment rotations, illness, vacations, and retirements. In some courts, one judge does not hear all aspects of a family's legal problems because of multiple courthouse locations or specifically designated funding of certain issues (e.g., Title IV-D child support issues). However, the committee agrees with the legislative intent in enacting section 2330.3(a), which was to expedite and simplify the dissolution process, reduce the litigation expenses and costs, and encourage greater judicial supervision of cases involving dissolution of marriage. Family law actions often involve a succession of hearings to resolve the various issues that arise. A single judge's involvement over this period of time allows the judge to be more familiar with the particular actions and issues, which creates judicial efficiencies that expedite their handling. One judge hearing all actions involving a family also helps avoid conflicting orders, alleviates the need to hold multiple hearings on the same issue, improves the court process, promotes consistency, and enhances fairness in family proceedings.

Subdivision (c). The family court is an integral part of the justice system. Decisions made by family law judges can have significant and lasting impacts on the lives of the parties and their children. The work of the family court has a significant impact on the health of families and ultimately on the strength of the community. The parties deserve to have adequate time to present their cases, and the judges should have the resources they need to enable them to make informed decisions. It is only through the constant exertion of pressure to maintain resources and the

continuous education of court-related personnel and administrators that the historic trend to give less priority and provide fewer resources to the family court can be changed.

Subdivision (d). Fees paid to court-appointed attorneys who represent children in family court are sometimes less than the fees paid attorneys doing other comparable legal work thereby demeaning the work of the family court and leading many to believe that such work is less important. It may also discourage attorneys from accepting these appointments. Compensation for legal work in the family court should reflect the importance of the work.

Subdivision (e)(2). A significant barrier to having well-trained attorneys and educated self-represented litigants is a lack of current educational materials relating to family court practice. Law libraries, law offices, and court systems traditionally have not devoted adequate resources to purchase such educational materials. With advances in technology, resources can be accessed, shared, developed, or made available through electronic/computer-based, online, and multimedia means, audiotape and videotape, DVD, CD, Web-based audiocasts and videocasts, and other media to supplement print materials.

Subdivision (f). In addition to the traditional role of fairly and efficiently resolving disputes before the court, a family court judge occupies a unique position within California's judiciary. California law empowers the family court judge not only to order relief related to the needs of families under its jurisdiction but also to enforce and review the compliance with such orders. This oversight function includes the obligation to understand and work with those public and private agencies that provide services for families. As such, the family court assignment requires a dramatic shift in emphasis from judging in the traditional sense. Active and public judicial support and encouragement of programs serving children and families in family court poses no conflict with traditional concepts of judicial ethics and is an important function of the family court judge. These efforts enhance the overall administration of justice for families.

Standard 10.50. Selection of regular grand jury

(a)–(d) ***

(e) Disfavored nominations

Judges should not nominate to the grand jury a spouse or immediate family member (within the first degree of consanguinity) of any superior court judge, commissioner, or referee~~,~~; elected official~~,~~; or department head of any city, county, or governmental entity subject to grand jury scrutiny.

(Subd (e) amended effective January 1, 2007.)

Standard 10.50 amended and renumbered effective January 1, 2007; adopted as Sec. 17 effective July 1, 1992.

~~Rule 10.501. Judicial education~~

~~(a) [Judicial education responsibility] Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.~~

~~(b) [Judicial education objectives] Judicial officers, educational committees, approved providers, and others who plan educational programs shall endeavor to achieve the following objectives:~~

~~(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;~~

~~(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;~~

~~(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as set forth in the Code of Judicial Ethics;~~

~~(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;~~

~~(5) Promote standardized court practices and procedures; and~~

~~(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.~~

~~(c) [Applicability] All California judicial officers shall comply with these judicial education requirements.~~

~~(d) [Definitions] As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are full-time court employees not engaged in the practice of law.~~

~~(e) [Educational requirements for new judicial officers]~~

~~(1) Each newly appointed or elected trial court judicial officer shall complete three weeks of new judge education provided by the Center~~

~~for Judicial Education and Research (CJER) within the following time frames:~~

~~(i) A one-week orientation program shall be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are excluded from this requirement if they have previously attended the one-week program.~~

~~(ii) The two-week Judicial College shall be completed within two years of taking the oath as a judicial officer.~~

~~(2) Each new Court of Appeal justice shall attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.~~

~~(f) [Budget] Each presiding judge shall include as part of the court's budget request adequate funding to provide annual judicial education consistent with Standards of Judicial Administration section 25.~~

~~(g) [Educational leave] Each presiding judge shall grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (e). To the extent compatible with the efficient administration of justice, all presiding judges shall grant to all judicial officers sufficient leave to participate in educational programs consistent with Standards of Judicial Administration section 25.~~

Rule 10.501 renumbered and repealed effective January 1, 2007; adopted effective January 1, 1996.