

Invitation to Comment

Title	<p>Juvenile Law: Ensuring Foster Children’s Educational and Disability Rights (amend Cal. Rules of Court, rules 5.502, 5.516, 5.518, 5.534, 5.650, 5.668, 5.695 and 5.790; adopt rule 5.652; revise forms JV-225, JV-365, and JV-535, and JV-536; and approve forms JV-537 and JV-538)</p>
Summary	<p>The proposal would incorporate applicable federal and state education and disability law into juvenile rules and forms that govern foster children’s educational and disability rights and would provide procedural guidance on implementation of these laws.</p>
Source	<p>Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs</p>
Staff	<p>Chantal M. Sampogna, 415-865-7729, chantal.sampogna@jud.ca.gov</p>
Discussion	<p>Existing law provides educational rights for children with physical, mental, and learning disabilities and for all children in the foster care system. These rights are codified in many different federal and state laws and regulations, few of which appear in our juvenile laws or rules of court. This makes it difficult for juvenile courts and practitioners to know where to look to find these laws, and this leaves these courts and practitioners without any procedural guidance regarding how to ensure these rights.</p> <p>In addition to the day-to-day educational and disability needs that children may have, children who come before the juvenile court often have a greater need for educational and disability services. This can often be due to the effects of any abuse or neglect children have experienced as well as to the effects of the children’s separation from their families and home environments. In some instances, the educational or disability needs of the children who come before the juvenile court have been determined and services may already be in place; in others, the children’s needs have yet to be identified. The custody and permanent placement of these children can be uncertain for a year or more because of pending jurisdictional, disposition, reunification, and placement hearings and because of frequent placement and school changes. During this time, it can be unclear who has the responsibility for identifying children with exceptional needs, who holds educational rights, and who is responsible for ensuring that the children’s service and educational needs are met.</p> <p>This proposal incorporates the federal and state statutory and regulatory language, and adds limited procedural guidance, into the</p>

rules of court to provide the courts and practitioners the tools they need to ensure the educational and disability rights of these children are met. The legal sources for this proposal are identified below:

- Assembly Bill 490¹ protects a foster child’s right to remain in his or her school of origin and delineates general educational rights.
- The Individuals With Disabilities Education Act (IDEA), the Americans With Disabilities Act (ADA), and section 504 of the Rehabilitation Act of 1973 also define the rights of children with disabilities to education and participation in activities.² If a child qualifies, these rights include the provision of continuing services and accommodations.
- Section 5.40(g) and (h) of the California Standards of Judicial Administration encourage juvenile judges to provide oversight in meeting children’s educational needs, including assessing whether a child has a disability and requiring that relevant information be brought to the court so it can address the child’s educational entitlements.
- In compliance with the Individuals With Disabilities Education Act, California has adopted a “child-find” program requiring local school districts to actively seek out individuals with exceptional needs. (Ed. Code, §§ 56000, 56100(i), 56128.) This child-find requirement applies to children 0 to 3 years old who may be eligible for early intervention services and regional center services and to all children over 3 years old.
- The IDEA and the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, provide a definition of, and an explanation of the rights and responsibilities associated with, a *surrogate parent*. Education Code section 56060 mirrors the IDEA. These laws apply to all children who are eligible under

¹ Assembly Bill 490 (Steinberg; Stats. 2003, ch. 862), relating to foster children’s education rights, amended Welfare and Institutions Code sections 361, 366.27, 726, 727.2, 4570, 16000, and 16501.1; amended Education Code sections 48645.5, 48850, 48859, 49061, 49069.5, 49076, and 56055; and added sections 48853 and 48853.5 to the Education Code.

² The Individuals With Disabilities Education Improvement Act of 2004 (20 U.S.C.A. § 1400 et seq.); the Americans With Disabilities Act 42 U.S.C. 12101 et seq.; the Rehabilitation Act of 1973, § 504 (29 U.S.C.A. § 701 et seq.).

IDEA and are not limited to children before the juvenile court. Welfare and Institutions Code sections 319(g), 361, and 726 allow the court to limit the educational rights of parents or guardians for all foster children, regardless of a disability. However, juvenile law does not provide a definition of *educational representative* as it applies to children who are not eligible for services under the IDEA. Similarly, the IDEA and its regulations provide clear timelines and processes for the appointment of a surrogate parent and the provision of services, but juvenile law does not provide a structure for incorporating these requirements into the review process for children before the juvenile court.

The following proposed rule amendments, new rules, and revised and new forms will assist the court in its oversight role of ensuring that the educational and disability rights of children before the court are upheld. The changes fall into the following categories:

1. The role of *educational representative*, including the educational representative's rights and responsibilities, and the ability to appear in court and inform the court of the child's educational needs;
2. The procedures for limiting educational rights and appointing an educational representative;
3. The educational rights of children before the court; and
4. The court's role in monitoring compliance with ensuring a child's rights associated with a proposed change of school placement, including considering, at most stages of the proceedings, a child's disability, or suspected disability, and any necessary referrals, assessments, or services.

The Role of the Educational Representative

Rule 5.502(13) defines the term *educational representative* for the purposes of dependency and delinquency proceedings. Before 2003, when a court limited a parent's rights to make educational decisions, it did not have authority to appoint a responsible adult to make those decisions. The local education agency made such appointments and could do so only in IDEA cases; the person appointed was called the *surrogate parent*. The 2003 amendments to Welfare and Institutions Code section 361(a) and the 2004

revisions to rule 1499 (now rule 5.650) allow the court to limit a parent's educational rights and then require the court to appoint a responsible adult as the child's educational representative. This appointment is required in all cases in which a parent's educational rights are limited; it is not confined to IDEA cases. Section 361(a) provides that the educational representative has all the authority and responsibilities that a surrogate has in IDEA cases.

For juvenile law purposes, when educational rights are limited, an education representative is appointed. The available IDEA process of utilizing the local education agency (LEA) to locate an educational representative if the court cannot locate someone to appoint is an additional tool that the juvenile court can access in these cases. But the authority and responsibility of the person appointed in IDEA cases is the same as the authority and responsibility of anyone appointed to represent a child's educational rights. Unfortunately, the use of both terms *educational representative* and *surrogate parent* has caused more confusion than it has served as a helpful tool. For this reason, rule 5.502 clarifies that the educational representative has the same authority and responsibility as that of a surrogate parent and that the term *educational representative* will be used throughout the rules of court regarding juvenile law.

Rule 5.534(j) explains the educational representative's role in dependency and delinquency proceedings.

Rules 5.695(c)(3) and 5.790(f)(5) clarifies the procedures for limiting educational rights and appointing of an educational representative.

Procedures for Limiting Parent's or Guardian's Educational Rights

Rule 5.650 establishes the following procedures: (1) limiting a parent's or guardian's educational rights and appointing an educational representative; (2) referring to and noticing the LEA; and (3) transferring educational rights to the educational representative. This rule also delineates an educational representative's authority and responsibilities, education and training, term of service, right to notice, and participation in hearings.

Limiting a parent or guardian's educational rights

Rule 5.650(a) explains that under Welfare and Institutions Code

section 319(g), the court may temporarily limit a parent's or guardian's right to make educational decisions and requires the court to determine if the child needs any assessments, evaluations, or services related to education and to make any necessary orders to initiate this process if appropriate. Rule 5.650(b) provides a procedure for limiting educational rights and appointing a responsible adult as educational representative. Rule 5.650(c) clarifies that an otherwise qualified foster parent may act as educational representative only if the court has ordered a permanent plan for the child and has limited educational rights, and clarifies that if the court cannot find a responsible adult the court may make educational decisions for the child with input from any interested person.

Referral to local educational agency

Rule 5.650(d) explains the process for referring a child who is or may be eligible for special education and related services to the local educational agency for appointment of a surrogate parent. The rule amendments make this subdivision consistent with the proposed definition of *educational representative* in rule 5.502 by replacing the term *surrogate parent* with *educational representative*. Rule 5.650(d) also adds the 2005 amendments to title 20 United States Code section 1415(b)(2)(B), which requires the state to make reasonable efforts to appoint a surrogate within 30 days after the agency determines that the child needs a surrogate and requires the agency to notify the court if such appointment does not occur within 30 days.

Transfer of educational rights to educational representative

Rule 5.650(e) clarifies that upon appointment of an educational representative the parent's or guardian's rights to make educational decisions transfer to the educational representative. This transfer of rights includes education decision-making authority and the right to notice of, and participation in, educational meetings and activities. Rule 5.650 also clarifies that educational rights are restored to the parent or guardian when the child is returned to the parent or guardian and provides that educational rights transfer to an appointed legal guardian unless the court determines that the guardian is not able to act in the child's best interest regarding education.

Authority and responsibilities of educational representative

Rule 5.650(f) specifies the authority and responsibilities of an educational representative which includes the following rights and

responsibilities related to the child's education: representing the child in, providing consent for, and making decisions regarding all matters related to the child's general and special education; being culturally sensitive to the child; and complying with laws pertaining to confidentiality.

Term of service

Rule 5.650(b), which specifies the educational representative's term of service, is moved to proposed rule 5.650(g).

Education and training

Rule 5.650(j) explains that the educational representative may obtain education and training in laws relating to a child's educational and disability rights. The rule requires that if the educational representative asks for assistance with this education or training, the court, social worker, and probation officer must direct the educational representative to resources to obtain such education or training.

Notice and participation in hearings

Rule 5.650(k) provides that the educational representative must receive notice of, and is entitled to participate in, all juvenile hearings regarding or affecting the child's education and that the educational representative may use form JV-557, *Educational Representative Information*, to explain the child's educational needs. This rule does not create a right for the educational representative to have counsel or representation at these hearings.

Educational Rights of Children Before the Juvenile Court

Rule 5.652 provides procedures for complying with the educational rights of children in foster care by establishing the following: the rule's applicability to dependency and delinquency proceedings; a procedure for the conduct of hearings that may affect a child's education; requirements for reports on the child's education; clarification that during any continuance or stay of jurisdiction, services must continue to be provided to the child; and a process for informing the parties of, and setting a hearing regarding, a proposed change of placement that may affect the child's school placement.

Conduct of hearings related to, or that may affect, a child's education

Rule 5.652(b) would require the court to determine the child's educational needs, to identify a plan for meeting those needs, to make any necessary orders to initiate services, and to specify who holds educational rights. Rule 5.652(c) would require reports for regularly scheduled hearings and joint assessment hearings to include information regarding the child's general and special education and whether the child is receiving, or may qualify for, services. Rule 5.652(d) would require that all educational and disability services not be interrupted if a case is continued or jurisdiction is stayed. Rule 5.652(e) would require the court to consider any proposed change of placement and whether this proposed change may cause the child to be removed from the child's school of origin. This rule would also require the court to determine if the child's federal and state educational and disability rights, and rights regarding placement stability, have been observed.

Change of placement that may affect the child's right to attend the school of origin

Rule 5.652(e) would incorporate the requirements for a change from the school of origin specified in Assembly Bill 490 (Steinberg; Stats. 2003, ch. 862), and would add notification, reporting, and monitoring procedures for proposed changes of placement that may affect the child's right to attend the school of origin.

Advisory committee comments

Rule 5.652 would include two advisory committee comments. The first comment would summarize the intent of Assembly Bill 490. The second advisory committee comment would explain that the intent of rule 5.652 is to provide the juvenile court and its participants with a procedure that would support and encourage the observation of children's educational and disability rights.

Monitoring Compliance and Consideration of Child's Disability

Rule 5.516 requires consideration of a child's disability when considering settlement and informal supervision of the child. Subdivision (a) would more accurately include the requirements of Welfare and Institutions Code section 653.5(a).

Rule 5.518(b)(2), concerning court-connected dependency mediation, adds the child's education and placement to the topics that must be considered when determining the child's safety and

best interest. Rule 5.518(e)(3)(A)(vi) would add training on the disability and educational requirements of the IDEA, section 504 of the Rehabilitation Act of 1973 and Assembly Bill 490, to the mandatory training requirements for dependency mediators.

Rule 5.650(j)(2) allows educational representatives to participate in mediation.

Rule 5.668(c) would add the court to the persons who must be provided with form JV-225, *Health and Education Questionnaire*, and would require the social worker and probation officer to maintain the accuracy of this health and education information by providing current information in the court reports.

Revised Forms

This proposal would revise the following four forms:

1. JV-225, *Health and Education Questionnaire*, to include questions to satisfy federal and state child-find requirements and AB 490's requirements for moving a child from the school of origin.
2. Form JV-365 *Termination of Dependency Jurisdiction—Child Attaining Age of Majority—Juvenile* to require the social worker or probation officer to provide the child with a proof of dependency or wardship card because regulations require that the child be given proof of such status. (Child Welfare Services Manual of Policies and Procedures, Section 31-236(i)(4)(F).) The form is also revised to require the court to identify the holder of educational rights so that a child who continues to be eligible for services under the IDEA will continue to obtain those services, and to make sure the child receives a current transition service plan and assistance in maintaining relationships with important individuals in the child's life.
3. Form JV-535, *Order Limiting Parent's Right to Make Educational Decisions for the Child and Appointing Responsible Adult as Educational Representative* to delete reference to parent because the form can also be used when limiting a guardian's educational rights, to add a confidentiality provision regarding whether the parent or guardian should receive information regarding the child's education, to provide that the court can temporarily limit educational rights, to

address circumstances when no one holds educational rights, to add inquiries to ensure compliance with federal and state child-find requirements, to add the child's attorney to the list of persons who may serve the form on the LEA, and to add the proposed rule 5.650 notice requirement specifying that the clerk provide a copy of the form within two business days of the court's order to all listed persons.

4. Form JV-536, *Local Education Agency Response to form JV-535—Appointment of Educational Representative* to replace the term *surrogate parent* with *educational representative* and to require that the court consider whether the person appointed might have a conflict of interest with the child.

New Forms

The proposal would adopt the following two new forms:

1. New form JV-537 *Educational Representative Information* will provide the educational representative with a means of informing the court of the child's educational and disability needs, requesting assistance to meet these needs, and summarizing actions taken.
2. New form JV-568 *Findings and Orders Regarding Transfer From School of Origin* will allow the court to monitor compliance with AB 490's requirements for moving a child from the school of origin.

The text of the proposed amended rules is attached at pages 10-29.

The text of the proposed revised forms is attached at pages 30-42.

Attachments

Rules 5.502, 5.516, 5.518, 5.534, 5.650, 5.668, 5.695, and 5.790 of the California Rules of Court would be amended, and rule 5.652 would be adopted, effective January 1, 2008, to read:

1 **Rule 5.502. Definitions and use of terms**

2
3 Definitions (§§ 202(e), 319, 361, 361.5(a)(3), 366(a)(1)(B), 628.1, 636,
4 727.3(c)(2), 727.4(d), 726)

5
6 As used in these rules, unless the context or subject matter otherwise requires:

7
8 (1)–(12) ***

9
10 (13) “Educational representative” means the responsible adult who holds the
11 educational rights for a child when the parent’s or guardian’s educational
12 rights have been limited. The educational representative acts as the child’s
13 spokesperson, educational decisionmaker, and parent as defined in title 20
14 United States Code §§ 1232g(b) and 1401(23). For purposes of this chapter,
15 the term “educational representative” refers to both educational
16 representatives appointed by the juvenile court and to educational surrogates
17 as defined under title 20 (commencing with section 1400) of the United
18 States Code.

19
20 ~~(13)~~(14) ***

21
22 ~~(14)~~(15) ***

23
24 ~~(15)~~(16) ***

25
26 ~~(16)~~(17) ***

27
28 ~~(17)~~(18) “Initial removal” means the date on which the child, who is the
29 subject of a petition filed under section 300 or 600, was taken into custody
30 by the social worker or a peace officer, or deemed to be taken into custody
31 under section 309(b) or 628(c), if removal results in the filing of the petition
32 before the court.

33
34 ~~(18)~~(19) ***

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36 ~~(19)~~(20) ***

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38 ~~(20)~~(21) ***

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40 ~~(21)~~(22) ***

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2 ~~(22)(23)~~ ***
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4 ~~(23)(24)~~ ***
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6 ~~(24)(25)~~ ***
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8 ~~(25)(26)~~ ***
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10 ~~(26)(27)~~ ***
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12 ~~(27)(28)~~ ***
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14 ~~(28)(29)~~ ***
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16 ~~(29)(30)~~ ***
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18 ~~(30)(31)~~ ***
19
20 ~~(31)(32)~~ ***
21
22 ~~(32)(33)~~ ***
23

24 **Rule 5.516. Factors to consider**

25
26 **(a) Settlement at intake (§ 653.5)**

27
28 ~~In determining whether a matter not described in rule 5.514(d) should be~~
29 ~~settled at intake, the social worker or probation officer must consider:~~
30 Whenever any person applies to commence proceedings in the juvenile
31 court, the probation officer or social worker must determine whether a
32 proceeding should be commenced by investigating:
33

34 (1)–(5) ***

35
36 (6) The child's age, and maturity, and the extent of the child's capabilities,
37 including

38
39 (A) any physical, mental, or learning disabilities of the child; and

40
41 (B) whether the child may be entitled to services to meet the child's
42 needs, including the services of a regional center, the child's local
43 education agency, a placing agency other than the county welfare

1 department or probation department, or mental health services
2 available through Government Code section 7576.

3
4 (7)–(9) ***

5
6 (b)–(d) ***

7
8 **Rule 5.518. Court-connected child protection/dependency mediation**

9
10 (a) ***

11
12 (b) **Definitions**

13
14 (1) ***

15
16 (2) “Safety and best interest of the child” refers to the child’s physical,
17 psychological, and emotional well-being. Determining the safety and
18 best interest of the child includes consideration of all of the following:

19
20 (A)–(B) ***

21
22 (C) The child’s need for safety, stability, and permanency; ~~and~~

23
24 (D) The ongoing need of the child to cope with the issues that caused
25 his or her involvement in the juvenile dependency system;

26
27 (E) The child’s need for continuity of care and the effect that removal
28 and subsequent placements have had, or may have, on the child;
29 and

30
31 (F) The child’s education, which includes the child’s participation,
32 progress, need for assistance, cognitive development and, if
33 applicable, early childhood education and care, and special
34 education needs.

35
36 (3)–(5) ***

37
38 (c)–(d) ***

39
40 (e) **Education, experience, and training requirements for dependency**
41 **mediators**

42
43 Dependency mediators must meet the following minimum qualifications:

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(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:

(i)–(v) ***

(vi) The requirements of the ~~Americans With Disabilities Act~~ laws incorporated in rule 5.652(a) and strategies for handling situations involving disability issues or special needs;

(B)–(K) ***

~~(f)–(j)~~ ***

Rule 5.534. General provisions—all proceedings

~~(a)–(i)~~ ***

(j) Appointment of responsible adult as educational representative (§§ 319, 361, 366, 366.27, 726; Gov. Code, § 7579.5)

If the court limits the right of a parent or guardian to make educational decisions for the child, the court must proceed under rule 5.650(b) to appoint a responsible adult as an educational representative for the child.

~~(j)(k)~~ ***

~~(k)(l)~~ ***

~~(l)(m)~~ ***

~~(m)(n)~~ ***

1 ~~(n)~~(o) ***

2
3 **Rule 5.650. Appointment of responsible adult as educational representative**

4
5 **(a) Parent's educational rights limited (§§ 319, 361, 366, 366.27, 726)**

6
7 The juvenile court may specifically limit a parent's or guardian's right to
8 make educational decisions for a child who is declared a dependent or ward
9 of the court under section 300, 601, or 602, but the limitations may not
10 exceed those necessary to protect the child. Before disposition, the court may
11 temporarily limit a parent's or guardian's right to make educational decisions
12 under section 319(g). The court must order any limitation on *Order Limiting*
13 *Parent's Right to Make Educational Decisions for the Child and Appointing*
14 *Responsible Adult as Educational Representative—Juvenile* (form JV 535).
15 The court may limit a parent's or guardian's educational rights regardless of
16 whether the child is, or may be eligible for, special educational services.

17
18 (1) If the court temporarily limits the parent's or guardian's rights to make
19 educational decisions under section 319(g), the court must reconsider
20 the need, if any, to limit educational rights at the subsequent disposition
21 hearing.

22
23 (2) If the court determines that the child is in need of any assessments,
24 evaluations, or services, the court must make the necessary orders to
25 initiate those assessments, evaluations, or services.

26
27 (3) The court, social worker, probation officer, and local education agency
28 must communicate about the child's educational needs and the
29 information required, including the whereabouts of the parents or
30 guardian, to initiation assessments, evaluations, or services. The child's
31 initial evaluation for special education services does not need to be
32 postponed to await parental or guardian consent or appointment of an
33 educational representative if one or more of the following
34 circumstances are met:

35
36 (A) The court has limited or temporarily limited the educational
37 rights of the parent or guardian, and consent for an initial
38 assessment has been given by an individual appointed by the
39 judge to represent the child.

40
41 (B) Despite reasonable efforts to do so, the local education agency
42 cannot discover the whereabouts of the parent or guardian, or
43

1 (C) The parent’s rights have been terminated or the guardianship has
2 been set aside.

3
4 **(b) Appointment of responsible adult as educational representative (§§ 319,**
5 **361, 366, 366.27, 726**)

6
7 ~~Whenever~~ If the court limits the right of a parent or guardian to make
8 educational decisions for the child, the court must at the same time use Order
9 Regarding Educational Decision Making (form JV—535), ~~to appoint a~~
10 ~~responsible adult as an educational representative to make educational~~
11 ~~decisions for the child until~~ to document the following findings and orders:

12
13 (1) ~~The child reaches 18 years of age, unless the child then chooses not to~~
14 ~~make educational decisions or is deemed incompetent by the court; The~~
15 ~~court has ordered appointment of a responsible adult to serve as an~~
16 ~~educational representative for the child;~~

17
18 (2) ~~The court appoints another responsible adult to make educational~~
19 ~~decisions for the child under this rule; The court has ordered a~~
20 ~~permanent plan for the child, and the foster parent, relative caregiver,~~
21 ~~or nonrelative extended family member may exercise educational rights~~
22 ~~as provided in Education Code section 56055 and is not prohibited~~
23 ~~from exercising educational rights by 34 Code of Federal Regulations~~
24 ~~sections 300.519 (2006) or 303.19 (1999); or~~

25
26 (3) ~~The court restores the right of the parent or guardian to make~~
27 ~~educational decisions for the child; The court cannot identify a~~
28 ~~responsible adult to serve as the child’s educational representative; and~~

29
30 (A) The child is or may be eligible for special educational and related
31 services, and the court is referring the child to the responsible
32 local educational agency for appointment of an educational
33 representative under rule 5.650(d); or

34
35 (B) The court will make educational decisions for the child with input
36 from any interested person.

37
38 (4) ~~The court appoints a successor guardian or conservator; or~~

39
40 (5) ~~The child is placed in a planned permanent living arrangement under~~
41 ~~section 366.21(g)(3), 366.22, 366.26, 727.3(b)(5), or 727.3(b)(6), in~~
42 ~~which case the foster parent, relative caregiver, or nonrelative extended~~

1 family member has the right to make educational decisions for the child
2 under Education Code section 56055(a) unless excluded by the court.

3
4 (c) **Limits on appointment (§§ 361, 726; Ed. Code, § 56055; 34 C.F.R. §§**
5 **300.519 (2006), 303.19 (1999)**

6
7 (1) ***

8
9 (2) The court may not appoint any individual as the educational
10 representative if that person would have a conflict of interest as defined
11 by section 361(a) or 726(b), Education Code section 56055, or 34 Code
12 of Federal Regulations §§ 300.519 (2006) or 303.19 (1999).

13
14 (d) **Appointment of surrogate parent Referral to local educational agency to**
15 **appoint educational representative for a child who is or may be eligible**
16 **for special education and related services (20 U.S.C. § 1415; (Gov. Code,**
17 **§ 7579.5)**

18
19 (1) If the court has specifically limited a parent's or guardian's right to
20 make educational decisions for a child but cannot identify a responsible
21 adult to make educational decisions for the child and the child may be
22 eligible for special education and related services or already has an IEP,
23 the court must use form JV-535 to refer the child to the responsible
24 local educational agency for prompt appointment of ~~a surrogate parent~~
25 an educational representative under Government Code section 7579.5.

26
27 (2) If the court refers a child to the local educational agency for
28 appointment of ~~a surrogate parent~~ an educational representative, the
29 court must order that *Local Educational Agency Response to JV-535—*
30 *Appointment of ~~Surrogate Parent~~ Educational Representative* (form
31 JV-536) be served by first-class mail on the local educational agency
32 along with form JV-535.

33
34 (3) When the local education agency receives form JV-535 requesting
35 prompt appointment of an educational representative, the local
36 education agency must assign an educational representative no more
37 than 30 days after receipt of the form.

38
39 (A) Whenever the local educational agency appoints ~~a surrogate~~
40 parent an educational representative for a dependent or ward
41 under Government Code section 7579.5(a)(1), it must notify the
42 court on form JV-536 within ~~24~~ 5 calendar days of the date of the
43 appointment.

1
2 (B) If the local education agency does not make this appointment
3 within 30 days, it must notify the court in writing within two
4 calendar days of the following:

5
6 (i) Its inability to assign an educational representative; and

7
8 (ii) Its continuing reasonable efforts to assign an educational
9 representative within 30 days of receipt of form JV-535.

10
11 (4) Whenever the local education agency terminates the appointment of a
12 surrogate parent an educational representative for a dependent or ward
13 under Government Code section 7579.5(h) or replaces the surrogate
14 parent educational representative for any other reason, it must notify
15 the court on form JV-536 within ~~21~~ 5 calendar days of the date of the
16 termination or replacement.

17
18 (e) **Unavailability of responsible adult (§§ 361, 726) Transfer of parent's or**
19 **guardian's educational rights to educational representative**

20
21 ~~If the court cannot identify a responsible adult to make educational decisions~~
22 ~~for the child, the appointment of a surrogate parent is not legally warranted,~~
23 ~~and there is no foster parent to exercise the authority granted by section~~
24 ~~56055 of the Education Code section 56055, the court may, with the input of~~
25 ~~any interested person, make educational decisions for the child. When an~~
26 ~~educational representative is appointed, the educational rights of the parent~~
27 ~~or guardian—including the right to notice of educational meetings and~~
28 ~~activities, participation in educational meetings and activities, and~~
29 ~~decisionmaking authority regarding the child's education—are transferred to~~
30 ~~the educational representative.~~

31
32 (1) If the court orders custody returned to a parent or guardian whose
33 educational rights have been limited, the parent's or guardian's
34 educational rights are automatically reinstated. When returning the
35 child to the parent or guardian, the court must still consider the child's
36 educational needs and must make any findings and orders that are
37 required in this rule and rule 5.652.

38
39 (2) If the court appoints a guardian to the child under rule 5.735 or 5.815,
40 all of the parent's or guardian's educational rights transfer to the newly
41 appointed guardian unless the court determines that the guardian is not
42 able to act in the child's best interest regarding education.
43

1 **(f) Authority and responsibilities of educational representative (34 C.F.R. §**
2 **300.519 (2006); Ed. Code, § 56055; Gov. Code, § 7579.5; §§ 319, 360,**
3 **361, 635, 706.5, 726)**
4

5 (1) The educational representative is responsible for representing the child
6 in matters relating to the child’s general education including:
7

8 (A) The stability of the child’s school placement;
9

10 (B) Placement in the least restrictive educational program;
11

12 (C) The child’s access to academic resources, services, and
13 extracurricular and enrichment activities;
14

15 (D) The child’s access to educational supports necessary to meet state
16 academic achievement standards; and
17

18 (E) Other aspects of the provision of a free and appropriate education.
19

20 (2) The educational representative has the following additional
21 responsibilities:
22

23 (A) Meeting with the child at least once;
24

25 (B) Being culturally sensitive to the child;
26

27 (C) Complying with federal and state confidentiality laws and using
28 discretion when sharing information with appropriate persons for
29 the purpose of furthering the interest of the child; and
30

31 (D) Participating in, and making decisions regarding, all matters
32 affecting the child’s educational needs in a manner consistent
33 with the child’s best interest.
34

35 (3) The educational representative has a right to the following:
36

37 (A) To view and obtain the child’s educational records and to consent
38 to the release of those records;
39

40 (B) To the rights afforded the parent under the Family Education
41 Rights and Privacy Act under title 20 section 1232g of the United
42 States Code;
43

- 1 (C) To the rights of a parent relating to school-discipline issues,
2 meetings, and proceedings;
3
4 (B) To represent a child with exceptional needs in matters relating to
5 identification and assessment of those needs, instructional
6 planning and development, educational placement, reviewing and
7 revising the individualized education program, and other aspects
8 of the provision of a free and appropriate education;
9
10 (C) To attend the child’s individualized education program and other
11 educational meetings, to review the child’s educational records, to
12 consult with persons involved in the child’s education, and to sign
13 any consents to education-related services and plans; and
14
15 (D) Notwithstanding any other provision of law, to consent to the
16 child’s individualized education program, nonemergency medical
17 services, mental health treatment services, and occupational or
18 physical therapy services provided under chapter 26.5 of title 1 of
19 the Government Code.
20

21 **(g) Educational representative term of service (§§ 361, 726)**
22

- 23 (1) The educational representative must make educational decisions for the
24 child until:
25
26 (A) The court restores the right of the parent or guardian to make
27 educational decisions for the child;
28
29 (B) The child reaches 18 years of age, unless the child then chooses
30 not to make his or her own educational decisions or is deemed
31 incompetent by the court;
32
33 (C) The court appoints another responsible adult to make educational
34 decisions for the child under this rule;
35
36 (D) The court appoints a successor guardian or conservator; or
37
38 (E) The foster parent, relative caregiver, or nonrelative extended
39 family member has the right to make educational decisions for the
40 child under Education Code section 56055(a) because
41

- 1 (i) the child is placed in a planned permanent living
2 arrangement under section 366.21(g)(3), 366.22, 366.26,
3 727.3(b)(5), or 727.3(b)(6);
4
5 (ii) the court has limited the parent’s or guardian’s educational
6 rights; and
7
8 (iii) this person is not otherwise excluded by the court or by 34
9 Code of Federal Regulations section §§ 300.519 (2006) or
10 303.19 (1999).

11
12 (2) The educational representative may resign from the appointment only
13 after he or she gives notice to the local educational agency, court,
14 parties, and attorneys.

15
16 **(h) Service of order**

17
18 The clerk will provide a copy of the completed form JV-535 to the parents or
19 guardian (unless otherwise indicated on the form), to all other persons
20 required by section 293, to the CASA volunteer, and to the educational
21 representative within two business days of the order.

22
23 **(i) Education and training of educational representative**

24
25 The educational representative may obtain education and training in the
26 rights specified in the laws incorporated in rule 5.652(a). If the educational
27 representative asks for assistance with obtaining such education or training,
28 the court, social worker, and probation officer must direct the educational
29 representative to all available resources of such education and training.

30
31 **(j) Notice and participation in juvenile court hearings**

32
33 (1) The educational representative must receive notice of, and is entitled to
34 participate in, all juvenile court hearings regarding or affecting the
35 child’s education. This includes the notice and participation provided in
36 rule 5.530 for all regularly scheduled juvenile hearings, rule 5.512 for
37 joint assessment hearings, and rule 5.575 for joinder proceedings.

38
39 (2) The educational representative may use *Educational Representative*
40 *Information* (form JV-537), to explain the child’s educational needs.
41 The educational representative may be present for the purposes of
42 participating in the portions of the juvenile court hearing affecting the
43 child’s education, including school placement, and of responding to

1 questions or issues raised by this form. As appropriate, the educational
2 representative may also participate in any mediation as provided in rule
3 5.518.
4

5 **Rule 5.652. Educational rights of children before the juvenile court**
6

7 **(a) Applicability (20 U.S.C. § 1400 et seq.; 42 U.S.C. § 12101 et seq.; 29**
8 **U.S.C. § 794; Gov. Code, § 7579.1; §§ 213.5, 319, 358, 358.1, 366.21,**
9 **366.22, 366.23, 366.26, 366.28, 366.3, 727.2, 11404.1)**

10 This rule has the following applicability and incorporates the rights
11 established by the following laws:
12

- 13 (1) This rule applies to all children before the juvenile court, including
14 children for whom petitions have been filed under section 300 or 600
15 and children subject to voluntary placement agreements;
16
17 (2) The rule applies to every hearing before the court affecting or related to
18 the child’s education, including detention, jurisdictional, disposition,
19 and all regularly scheduled review hearings; and
20
21 (3) This rule incorporates the rights established by the following laws: the
22 Individuals With Disabilities Education Act (20 U.S.C.A. § 1400 et
23 seq.), the Americans With Disabilities Act (42 U.S.C. § 12101 et seq.),
24 section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 701 et
25 seq.), the education rights of foster children as provided in Assembly
26 Bill No. 490 (Stats. 2003, ch. 862) and Assembly Bill No. 1858 (Stats.
27 2004, ch. 914).
28

29 **(b) Conduct of hearings related to, or that may affect, a child’s education**
30

31 The juvenile court must address and determine the child’s general and
32 special educational needs, identify a plan for meeting those needs, make any
33 necessary orders to initiate or continue services, and, at the end of each
34 hearing, provide a clear, written statement specifying the person who holds
35 the educational rights for the child.
36

- 37 (1) If the reports do not specifically and individually address the child’s
38 educational, social, and developmental needs, the court must solicit
39 information from all persons present at the hearing regarding the issues
40 in (c). At the end of the hearing, the court must state in the written
41 order who holds educational rights.
42

- 43 (2) At the initial or detention hearing the court must determine:

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- (A) Who holds educational rights;
 - (B) If the child was enrolled in, and is attending, the child’s school of origin;
 - (C) If the child is no longer attending the school of origin, whether,
 - (i) In accordance with the child’s best interest, the educational liaison, as defined in Education Code section 48853.5(b), in consultation and with the agreement of, the child and the parent or other educational representative, recommends that the child’s right to attend the school of origin be waived; and
 - (ii) The child was immediately enrolled in the new school; and
 - (D) Whether the parent’s educational rights should be temporarily limited; and
 - (E) If the child is temporary placed, whether it is a safe setting that:
 - (i) Is the least restrictive or most familylike;
 - (ii) Is the most appropriate setting available;
 - (iii) Is close to the parent’s or guardian’s home or tribe;
 - (iv) Is the environment best suited to meet the child’s special needs and serve his or her best interest; and
 - (v) Promotes educational stability through proximity to the child’s school.
- (3) At the disposition hearing and at all subsequent hearings provided for in (a), the court’s findings and orders must address the following:
- (A) Whether the social worker or probation officer has or has not complied with the reporting requirements of (c);
 - (B) Whether the child’s educational, physical, and developmental needs are being met;

- 1 (C) If supported by the evidence, any services, assessments, or
2 evaluations the child may need;
3
4 (D) Any order that may be necessary and appropriate to initiate these
5 services, assessments, or evaluations;
6
7 (E) If the child’s educational placement changed during the reporting
8 period, whether
9
10 (i) The child’s educational records, including any evaluations
11 of a child with a disability, were transferred to the new
12 educational placement within two business days of the
13 request for the child’s enrollment in the new educational
14 placement; and
15
16 (ii) The child is enrolled in and attending school; and
17
18 (F) Whether or not the parent’s educational rights should be limited;
19
20 (i) If the court finds the parent’s educational rights should not
21 be limited, the court must direct the parent to his or her
22 rights and responsibilities in regard to the child’s education
23 as provided in rule 5.650 (e) and (f); or
24
25 (ii) If the court finds the parent’s educational rights should be
26 limited, the court must comply with rule 5.650 (b). The
27 court must explain to the parent why the court is limiting
28 educational rights and must direct the parent to the rights
29 and responsibilities of the education representative as
30 provided in rule 5.650 (e) and (f).
31

32 **(c) Reports for hearings related to, or that may affect, a child’s education**
33

34 All social worker and probation officer reports, including the social study
35 and joint assessment reports, must address the following:
36

- 37 (1) The child’s age, behavior, educational and developmental achievement,
38 and any discrepancies in achievement in educational areas and in
39 physical and emotional development;
40
41 (2) Compliance with the laws incorporated in rule 5.652(a);
42

- 1 (3) Identification of the child’s educational, physical, or developmental
2 needs;
3
4 (4) Whether the child is participating in developmentally appropriate
5 extracurricular and social activities;
6
7 (5) Whether the child is attending a mainstream public school;
8
9 (6) Whether the child may have a physical, mental, or learning disability
10 and is in need of or is already receiving special educational and related
11 services as provided by the laws incorporated in rule 5.652(a);
12
13 (7) Whether the child has an individualized education plan (IEP) (attach
14 copy to the report);
15
16 (8) If the child is 0 to 3 years old, whether the child may be eligible for or
17 is already receiving services available under the California Early
18 Intervention Services Act, Government Code section 95000 et seq., and
19 whether those services are appropriate;
20
21 (9) Whether the child is or may be eligible for regional center services or is
22 already receiving regional center services (attach copy of individual
23 family plan defined in section 1436 under chapter 20 of the United
24 States Code and life quality assessment defined in section 4570 to the
25 report);
26
27 (10) Whether the parent’s or guardian’s educational rights have been or
28 should be limited;
29
30 (11) If the report recommends limiting the parent’s or guardian’s rights to
31 make educational decisions, the reasons those rights should be limited
32 and the actions the parent or guardian can take to restore those rights if
33 they are limited;
34
35 (12) Whether the child has an educational representative;
36
37 (13) Recommendations and case plan goals to meet the child’s identified
38 educational, physical, and developmental needs;
39
40 (14) Whether any orders to initiate assessments, evaluations, or services are
41 requested; and
42

1 (15) In the case of joint assessment reports, a separate statement by each of
2 the two departments regarding whether the respective social worker and
3 probation officer believe the child may have a disability and whether
4 the child is in need of special education and related services or requires
5 evaluation as required by section 1412(a)(3) of title 20 of the United
6 States Code, California Education Code section 56425, or section 504
7 of the Rehabilitation Act of 1973.

8
9 **(d) Continuances**

10
11 If any continuance provided for in rules 5.686 and 5.782 or stay of
12 jurisdiction provided for in rule 5.645 is granted, a child must continue to
13 receive all services or accommodations required by the laws incorporated in
14 rule 5.652(a).

15
16 **(e) Change of placement affecting the child’s right to attend the school of**
17 **origin**

18
19 If at any time during the dependency or delinquency proceedings the social
20 worker or probation officer plans to change the child’s placement in a way
21 that may result in a removal of the child from the child’s school of origin, the
22 social worker or probation officer must notify the court and parties and must
23 submit a report addressing the proposed change of placement.

24
25 (1) The notice must:

26
27 (A) Inform the court and the parents or guardians (unless otherwise
28 indicated on the form), all other persons required by section 293,
29 the CASA volunteer, educational representative, and the
30 appropriate person at the local educational agency of the proposed
31 change; and

32
33 (B) Be provided no later than 24 hours after the social worker or
34 probation officer determine that the child’s proposed change of
35 placement may result in a removal of the child from the child’s
36 school of origin.

37
38 (2) If the plan is to move a child with a disability who has an active IEP,
39 the social worker or probation officer must, at least 10 days before the
40 change of placement, notify in writing the local educational agency that
41 currently provides a special education program for the child, and the
42 receiving special education local plan area, of the impending change of
43 placement.

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(3) The report must be provided within two calendar days of the social worker or probation officer’s determination that the change of placement may result in a removal of the child from the child’s school of origin.

(4) The report must include:

- (A) Information addressing whether the educational liaison, in consultation and agreement with the foster child and the parent, guardian, or other educational representative, in accordance with the child’s best interest, recommends that the child’s right to attend the school of origin be waived;
- (B) Information addressing whether the information sharing and other requirements in section 16501.1(c)(2) and Education Code section 49069.5 have been followed;
- (C) Information addressing how the proposed change serves the best interest of the child;
- (D) The responses to the proposed change of placement from the child (if over 10 years old), the child’s attorney, the parent or guardian, and the child’s CASA volunteer, specifying whether each person agrees or disagrees with the proposed change and, if the person disagrees, stating why;
- (E) A statement from the person holding educational rights regarding whether the proposed change of placement is in the child’s best interest and what efforts were made to keep the child in the school of origin; and
- (F) A statement from the social worker or probation officer confirming that the child was not segregated into a separate school, or in a separate program within a school, based on the child’s status as a child in foster care.

(f) Court review of proposed change of placement affecting the child’s right to attend the school of origin

(1) Within two calendar days of the filing of the report in (e), the court must review the report and make findings addressing whether the proposed placement meets the requirements of (b) (2), of Education

1 Code sections 48853.5 and 49069.5, and this rule, and whether the
2 proposed plan is based on the best interest of the child.

3
4 (2) When considering whether it is in the child’s best interest to remain in
5 the school of origin, the court must consider the following:

6
7 (A) Whether the parent, guardian, or other educational representative
8 believes that remaining in the school of origin is in the child’s
9 best interest;

10
11 (B) How the proposed change of placement will affect the stability of
12 the child’s school placement and the child’s access to academic
13 resources, services, and extracurricular and enrichment activities;

14
15 (C) Whether the proposed school placement would allow the child to
16 be placed in the least restrictive educational program; and

17
18 (D) Whether the child has the educational supports necessary to meet
19 state academic achievement standards.

20
21 (3) If the court finds that the proposed change of placement or school fails
22 to comply with section 16501.1(c)(2), Education Code section 49069.5,
23 or this rule or is not based on the best interest of the child, the court
24 may set a hearing regarding the proposed change of placement or
25 school. Within two calendar days of the court’s decision, the clerk must
26 notify the parents or guardians, all other persons required by section
27 293, the CASA volunteer and the educational representative of the
28 court’s findings and orders and whether the court is setting a hearing a
29 hearing; At this hearing,

30
31 (A) the court must inquire of the social worker, probation officer, and
32 other interested parties why these requirements have not been
33 met, the court must determine what actions are necessary to
34 ensure the child’s educational and disability rights, and the court
35 must make the necessary findings and orders to facilitate these
36 rights; and

37
38 (B) the scheduling of the hearing must not interfere with due process
39 or service delivery timelines set forth in the laws incorporated in
40 rule 5.652(a).

41
42 **Advisory Committee Comment**

1 This rule incorporates the requirement of, and rights established by, Assembly Bill 490
2 (Steinberg; Stats. 2003, ch. 862), Assembly Bill 1858 (Steinberg; Stats. 2004, ch. 914), the
3 Individuals With Disabilities Education Act (IDEA), the Americans With Disabilities Act (ADA),
4 and section 504 of the Rehabilitation Act of 1973. This rule does not limit these requirements or
5 rights. To the extent necessary, this rule establishes some procedures to make these laws
6 meaningful to children in foster care and to ensure these rights for children in foster care.

7
8 With the passage of Assembly Bill 490, a child in, or at risk of entering, foster care has a statutory
9 right to a meaningful opportunity of meeting the state’s academic achievement standards to which
10 all students are held. To afford the child this right, the juvenile court, advocates, placing agencies,
11 care providers, and educators must work together to maintain stable school placements and ensure
12 that the child is placed in the least restrictive educational programs and has access to the
13 academic resources, services, and extracurricular and enrichment activities that are available to
14 other students. This rule, sections 362 and 727, and rule 5.575 provide procedures for ensuring
15 the child’s educational needs are met.

16
17 Congress has found that improving the educational performance of children with disabilities is an
18 essential prerequisite to ensuring their equality of opportunity, full participation in education, and
19 economic self-sufficiency. Children in foster care are disproportionately represented in the count
20 of children with disabilities and inherently face systemic challenges to attaining self-sufficiency.
21 Children in foster care have civil rights arising out of the IDEA, the ADA, and section 504 of the
22 Rehabilitation Act of 1973. To comply with federal requirements regarding the identification of
23 children with disabilities and the provision of services to those children who qualify, the court,
24 parent or guardian, placing agency, attorneys, CASA volunteer, and educational representatives
25 must affirmatively address the child’s educational needs. The court must continually inquire
26 about the education of the child and the progress being made to comply with any rights the child
27 has under these laws.

28
29
30 **Rule 5.668. Commencement of hearing—explanation of proceedings (§§ 316,**
31 **316.2)**

32
33 **(a)–(b) *****

34
35 **(c) Health and education information (§ 16010)**

36
37 The court must order each parent and guardian present either to complete the
38 *Health and Education Questionnaire* (form JV-225) or to provide the
39 information necessary for the social worker or probation officer, court staff,
40 or representative of the local child welfare agency to complete the form. The
41 social worker or probation officer assigned to the dependency matter must
42 provide the court and the child’s attorney with a copy of the completed form.
43 Before each periodic status review hearing, the social worker and probation
44 officer must obtain and include in the reports prepared for the hearing all
45 information necessary to maintain the accuracy of the child’s *Health and*
46 *Education Questionnaire*.

1 **Rule 5.695. Orders of the court**

2
3 **(a)–(b) *****

4
5 **(c) Limitations on parental control (§§ 245.5, 319, 361, 362; Gov. Code, §**
6 **7579.5)**

7
8 **(1)–(2) *****

9
10 **(3)** The court must consider whether it is necessary to limit the right of the
11 parent or guardian to make educational decisions for the child. If the
12 court limits the right, it must ~~appoint a responsible adult as the~~
13 ~~educational representative under~~ follow the procedures stated in rule
14 5.650 to make educational decisions for the child.

15
16 **(d)–(j) *****

17
18 **Rule 5.790. Orders of the court**

19
20 **(a)–(e) *****

21
22 **(f) Wardship orders (§§ 726, 727, 727.1, 730, 731)**

23
24 The court may make any reasonable order for the care, supervision, custody,
25 conduct, maintenance, support, and medical treatment of a child declared a
26 ward.

27
28 **(1)–(4) *****

29
30 **(5)** The court must consider whether it is necessary to limit the right of the
31 parent or guardian to make educational decisions for the child. If the
32 court limits this right, it must ~~appoint a responsible adult as the~~
33 ~~educational representative.~~ ~~The court must~~ follow the procedures stated
34 in rule 5.650.

35
36 **(g)–(h) *****

Clerk stamps date here when form is filed.

**Draft 5
03/12/07 mc
Not approved by the
Judicial Council**

(NEW FORMAT)

To the parent or guardian: The information requested on this form is necessary to meet the medical, dental, mental health, and educational needs of your child. The court has directed you to provide your child's medical, dental, mental health, and educational information. The court has also directed you to provide your medical, dental, mental health, and educational information and, if you know, the same information about the other parent or guardian. If you need help, the social worker or probation officer will help you fill out this form.

To the social worker or probation officer: If the parent or guardian needs help completing this form, please provide this help. In addition to the parent or guardian, you must provide your own answers to (16) and sign the form.

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Your name: _____
Your relationship to child: _____
Your address: _____
City: _____ State: _____ Zip Code: _____
Your telephone: (____) _____

2 Your child's name: _____
a. Your child's date of birth: _____
b. Where was your child born? _____
City: _____ State: _____ Country: _____
c. Hospital: _____
d. Your child's birth weight: _____

Child's Health

3 Does your child have any medical problems? Yes No
If yes, is your child receiving any assistance or services for these problems? (*Explain*):
a. Allergies: _____
b. Injuries: _____
c. Diseases: _____
d. Disabilities: _____
c. Other: _____
d. Other: _____

4 Is your child taking any prescribed medicines? Yes No
If yes, please list the medicines and explain why your child is taking them:

Medication	Reason for taking medication	Date began
_____	_____	_____
_____	_____	_____
_____	_____	_____

5 When was your child last seen by a doctor?
Date: _____
Doctor's name: _____
Doctor's address (*city, state, zip code*): _____
Doctor's telephone number: _____



Child's name: _____

- 6 When was your child last seen by a dentist?
 Date: _____
 Dentist's name: _____
 Dentist's address (city, state, zip code): _____
 Dentist's telephone number: _____

- 7 List the names of all doctors, nurses, dentists, hospitals, clinics, and other health care providers and healers who have seen your child:
- | Name | Address (city, state) | Date of visit | Reason of visit |
|-------|-----------------------|---------------|-----------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

- 8 What doctor, nurse, dentist, hospital, clinic, or other person has your child's health records?
 a. Medical records: _____
 b. Dental records: _____
 c. Mental health records: _____

- 9 When was your child's eyesight last tested?
 Date of examination: _____
 Who examined your child's sight: _____
 Address (city, state, zip code): _____
 Telephone number: _____

- 10 Does your child wear glasses? Yes No
- 11 Does your child wear a hearing aid? Yes No
- 12 Is your child covered by an insurance policy?
 a. Medical Yes No (specify insurance policy): _____
 b. Dental Yes No (specify insurance policy): _____
 c. Vision Yes No (specify insurance policy): _____

Child's Education

- 13 Before your child was removed from your home, what school did your child attend?
 Name of school: _____
 Address (city, state, zip code): _____
- a. Is your child still allowed and able to attend this school? Yes No
 b. If no, did you agree to give up your child's right to remain at this school? Yes No
 c. Before removal, was your child receiving any assessments, evaluations, services, or accommodations to help your child with any physical, mental, or learning disability? Yes No



Case Number: _____

Child's name: _____

If yes, what assessments, evaluations, services, or accommodations was your child receiving?

14 List all other schools or day care your child has attended:

School (city, state): _____ Dates of attendance: _____

15 a. What grade is your child in? _____

b. Does he or she have any learning or other disabilities? Yes No
(If yes, please describe):

c. Does he or she have any special needs? Yes No
(If yes, please describe):

d. What is his or her primary language? _____

16 Has your right to make educational decisions for the child been limited? Yes No

a. If yes, who has the right to make educational decisions for the child?

Name: _____

Relationship to child: _____

b. If the child is 0 to 3 years old, based on your experience with the child—including what you have seen of the child's physical, emotional, mental, and social development—do you believe the child may be eligible for services (early intervention services) to help with motor, developmental, or other delays ?
(Check one of the boxes in the line that matches your relationship with the child.)

Parent/Guardian: Yes No

Social worker: Yes No

If yes, explain why:

What assessments, evaluations, services, or accommodations do you believe the child may need?



Child's name: _____

c. Based on your experience with the child—including what you have seen of the child's physical, emotional, mental, and social development, achievement in school, or differences in achievement in different areas of education—do you believe the child may have a disability? (Check one of the boxes in the line that matches your relationship with the child.)

Parent/Guardian: Yes No

Social worker: Yes No

Probation officer: Yes No

If yes, explain why:

What assessments, evaluations, services, or accommodations do you believe the child may need?

Parent's or Guardian's Health and Education

17 a. When were you last seen by a doctor and dentist?

(1) Date of last doctor's appointment: _____

(2) Date of last dentist's appointment: _____

(3) Do you have medical problems or disabilities? (You do not have to answer this question. If you choose to answer, please include your physical, mental, and learning disabilities):

(4) What medications do you take?

Medication	Reason for taking medications
_____	_____
_____	_____
_____	_____

(5) What medical problems run in your family?

b. What is your educational history?

(1) School last attended (city,state): _____

(2) Last grade completed: _____



Case Number: _____

Child's name: _____

- 18 a. If you know, provide the following information about your child's other parent or guardian:
- (1) Name of other parent or guardian: _____
 - (2) Relationship to child: _____
 - (3) Other parent's or guardian's medical problems and disabilities
(If you are providing this information, please include physical, mental, and learning problems):

- (4) The child's other parent or guardian takes the following medications:
- | Medication | Reason for taking medications |
|------------|-------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

- (5) The following medical problems run in the family of my child's other parent or guardian:
- _____

- b. My child's other parent or guardian has the following educational history:
- (1) School last attended: _____
 - (2) Last grade completed: _____

I declare under penalty of perjury under the laws of California that the information in this form is true and correct to my knowledge. This means that if I lie on this form, I am guilty of a crime

Date:

 (TYPE OR PRINT PARENT'S/GUARDIAN'S NAME)

▶ _____
 (SIGNATURE OF PARENT/GUARDIAN)

Date:

 (TYPE OR PRINT SOCIAL WORKER'S NAME)

▶ _____
 (SIGNATURE OF SOCIAL WORKER)

Date:

 (TYPE OR PRINT PROBATION OFFICER'S NAME)

▶ _____
 (SIGNATURE OF PROBATION OFFICER)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 4 02/21/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CHILD'S NAME: _____ CHILD'S DATE OF BIRTH: _____ HEARING DATE AND TIME: _____ DEPT.: _____	
TERMINATION OF DEPENDENCY JURISDICTION— CHILD ATTAINING AGE OF MAJORITY	CASE NUMBER: _____

Directions for the social worker: Check the appropriate boxes in items 1 through 4, complete item 5, attach documents as required, and then sign and date item 7.

Directions for the child (if available): Review the boxes checked by the social worker in items 1 through 5. Sign your initials after each item if you received the service or information. Then sign and date item 8.

1. a. The child wants to attend the termination hearing.
 b. The child does not want to attend the termination hearing. The petitioner has attached verification that the child has been informed of the potential consequences of failure to attend the termination hearing.
 c. The child is unavailable and/or has refused to sign this form. Evidence of reasonable efforts to locate the child and to obtain the child's signature is attached.
2. A report is attached that verifies the child has received written information concerning his or her dependency case—including information about the child's family history; the child's placement history; the child's educational and medical history; the whereabouts of any siblings under the jurisdiction of the juvenile court; the procedures for accessing the documents that the child is entitled to inspect under Welfare and Institutions Code section 827; and the date on which the jurisdiction of the court will be terminated.
3. The child has been provided with the following documents (*check all that apply*):
 - a. Certified birth certificate
 - b. Social security card
 - c. Identification card and/or driver's license
 - d. Proof of citizenship or residency status
 - e. Death certificate of parent or parents, if applicable
 - f. Health and education summary
 - g. Proof of dependency/wardship
4. If the child continues to be eligible for services or accommodations pursuant to the Individuals With Disabilities Education Act, Americans With Disabilities Act, or section 504 of the Rehabilitation Act of 1973,
 - a. the child now holds his or her own educational rights.
 - b. the child does not want to make educational decisions for him or herself, and
 - (1) the previous educational representative will continue in this role; or
 - (2) the court appoints (*name*): _____ as the new educational representative.
 - c. the court has found the child incompetent to make educational decisions for him or herself.
 - (1) The previous educational representative will continue in this role; or
 - (2) The court appoints (*name*): _____ as the new educational representative.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 6 03/12/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
ORDER LIMITING RIGHT TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD AND APPOINTING RESPONSIBLE ADULT AS EDUCATIONAL REPRESENTATIVE—JUVENILE	CASE NUMBER:

1. a. Date of hearing: _____ Dept.: _____ Room: _____
- b. Judicial officer (name): _____
- c. Persons present:
- Child Child's attorney Mother Mother's attorney Father
- Father's attorney Guardian Deputy district attorney Probation officer/social worker
- Deputy county counsel CASA volunteer Other: _____
2. Providing the information on this form to the parent or guardian will will not create a safety risk for the child.
- a. The information is to be withheld from the parent or guardian (name each): _____
- b. The information is to be provided to the parent or guardian (name each): _____

3. Date of birth: _____
4. Child's school district: _____
5. Child's school (name and address): _____
6. Child's social worker (name): _____
7. Child's supervising social worker (name): _____
8. Child's probation officer (name): _____

9. After consideration of the evidence, the court finds and orders under Welfare and Institutions Code section 319(g), 361(a), or 726(b):
- a. The right of the parent (name): _____ parent (name): _____
 guardian (name): _____ guardian (name): _____
- to make educational decisions for the child is (specify):
- limited by this court. temporarily limited by this court (if before disposition).
- b. Parental rights have been terminated, and no one holds educational rights for this child.
- c. Under Welfare and Institutions Code section 366.21(g)(3), 366.22, 366.26, 727.3(b)(5), or 727.3(b)(6), the child is placed in a planned permanent living arrangement with (identify placement or indicate confidential): _____
- (1) without court appointment, the identified foster parent, relative caregiver, or nonrelative extended family member may represent the child in educational matters under Education Code section 56055(a), and is not prohibited by 34 C.F.R §§ 300.519 (2006) or 303.19 (1999).

CHILD'S NAME: _____	CASE NUMBER: _____
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- (2) the following foster parents, relative caregivers, or nonrelative extended family members may not make educational decisions for the child under Education Code section 56055(b).
- (a) Name:
 - (b) Address:
 - (c) Telephone:
 - (d) Relationship to child:

d. The following responsible adult, who has no apparent conflict of interest and who is not prohibited by Education Code, § 56055 or 34 C.F.R §§ 300.519 (2006) or 303.19 (1999), is appointed to make educational decisions for the child until the next hearing in this matter the court orders otherwise.

- (1) Name:
- (2) Address:
- (3) Telephone:
- (4) Relationship to child:

e. The court cannot identify a responsible adult to make educational decisions for the child, and the child is potentially eligible for special education and related services or already has an individualized education program. Therefore, the court refers the child to the local educational agency for prompt appointment of an educational representative for the child under Government Code section 7579.5. The local educational agency must notify the court of the identity of the appointee on attached form JV-536 within 5 calendar days of the date of the appointment, termination, or replacement of an educational representative.

f. The court cannot identify a responsible adult to make educational decisions for the child, and the appointment of an educational representative is not legally warranted. The court, with input from any interested person, will make educational decisions for the child.

10. The child has the following educational and developmental needs (*check all that apply*):

- a. The child is 0–3 years old and may be eligible for early intervention and/or developmental services.
- b. The child may have a disability.
- c. The educational representative is ordered to request assessment of the child by the local education agency and/or regional center.
- d. Other orders of the court to facilitate assessments, evaluations, or delivery of services.

11. A copy of this order must be served on the local educational agency by

- a. a representative of the county welfare department.
- b. a representative of the county probation department.
- c. the clerk of this court.
- d. the child's attorney.

Note: If box 9.e. is checked, form JV-536, *Local Educational Agency Response to JV-535—Appointment of Educational Representative*, must be attached when this order is served on the local education agency.

A copy of this form will be provided to the parties (*unless otherwise indicated in item 2*), counsel, social worker, probation officer, CASA volunteer, tribe, Indian custodian, and educational representative within two business days of the order.

12. This order applies to any school or school district in the state of California.

Date: _____ JUDICIAL OFFICER

LOCAL EDUCATIONAL AGENCY REPRESENTATIVE <i>(Name and address):</i> TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT 4 02/21/07 mc Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CHILD'S NAME: _____	CASE NUMBER: _____
LOCAL EDUCATIONAL AGENCY RESPONSE TO JV-535—APPOINTMENT OF EDUCATIONAL REPRESENTATIVE	

This form must be completed and returned to the court at the address listed above within 5 calendar days of the date of the appointment, termination, or replacement of an educational representative.

1. a. Child's school:
- b. Address of child's school:
- c. School personnel contact (*name, title, and telephone*):

2. a. Name of educational representative:
- b. Address:
- c. Telephone:
- d. Relationship to child:

3. The appointed educational representative does not have a conflict of interest with the child. (34 C.F.R. §§ 300.519 (2006), 303.19 (1999); (Gov. Code, § 7579.1(i), (j).)

4. The previous educational representative was terminated under section 7579.5(h) of the Government Code.

- a. Name of previous educational representative:
- b. Address:
- c. Telephone:
- d. Relationship to child:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

(TITLE)

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p> <p>Draft 6 03/12/07 mc Not approved by the Judicial Council</p>
<p>CHILD'S NAME:</p>	<p>CASE NUMBER:</p>
<p>EDUCATIONAL REPRESENTATIVE INFORMATION</p>	

To the educational representative of the child: You may submit written information to the court or to the child's social worker or probation officer, and you may attend review hearings. This optional form may assist you in providing written information to the court. Please type or print clearly in ink and submit the form well in advance of the hearing. Be aware that other individuals involved in the case have access to this information.

1. a. Child's date of birth:
 b. Child's age:
 c. Child's school:
 d. Child's grade level:
2. a. Name of educational representative:
 b. Address:
 c. Telephone:
 d. I was appointed as educational representative on *(date)*:
 e. I was appointed as educational representative by *(name)*:
 (1) Local education agency in *(school district)*:
 (2) Juvenile court in *(county)*:
 (3) Other *(specify)*:
3. Since my appointment as educational representative, or since my last form JV-537 statement, I have performed the following actions on behalf of the child *(specify)*:
4. I do not have any new or additional information since the last court hearing.
5. I have new or additional information since the last court hearing *(e.g., changed school, school discipline)*:
6. Based on my observations of the child's physical, emotional, mental, and social development, I believe the child
 - a. *(0-3 years old)* may be eligible for early intervention services.
 - b. may have a disability *(explain)*:
7. The child has the following disabilities *(specify)*:
8. The child has the following educational needs *(specify)*:

CHILD'S NAME: 	CASE NUMBER:
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9. The child requires the following services to meet his or her educational needs (*specify*):

10. The child is receiving the following education-related services or accommodations (*explain*):

a. These services or accommodations are are not appropriate (*explain*):

b. Date of most recent individual education plan (IEP) or 504 plan:

11. The child is not receiving appropriate services (*explain*):

12. On (*date*): I made a request for assessments from the

a. regional center (*name*):

b. local education agency (*name*):

13. a. Type of assessments requested (*check all that apply*):

- (1) Individual Education Plan
- (2) Section 504 plan
- (3) Individual Family Service Plan
- (4) Others (*specify*):

b. Reason requested (*specify*):

14. If you need more space to respond to any section above, please check this box and attach additional pages.

Number of pages attached (*specify*): _____

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF EDUCATIONAL REPRESENTATIVE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 5 03/12/07 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS REGARDING TRANSFER FROM SCHOOL OF ORIGIN	CASE NUMBER:

THE COURT FINDS AND ORDERS (check all that apply):

1. As soon as the county placing agency became aware of the need to transfer the child in foster care out of the school of origin, the county placing agency contacted the appropriate person at the local education agency.
 - a. Name of local education agency contact:
 - b. Title:
 - c. Telephone:

2. Before recommending that the child be moved from the school of origin, the foster care liaison provided the child and parent or educational representative with a written explanation of the recommendation and how this change will serve the child's best interest.

3. The foster care education liaison, in consultation and agreement with the child and parent or educational representative, waives the child's right to be enrolled in the school of origin.

4. The county placing agency:
 - a. Notified the local educational agency of the date the child will leave the school of origin.
 - b. Requested from the local educational agency that the child be transferred out of the school of origin.
 - c. Made the following efforts to maintain the child in the school of origin (*describe*):

 - b. If the child has a disability or individualized education plan, notified the current and prospective local educational agency of the change of placement at least 10 days before the placement change.

5. Within two business days of receiving the request, the local educational agency:
 - a. transferred the child out of the school of origin and delivered the educational information and records of the child to the next educational placement.
 - b. compiled the complete educational records of the child, including a determination of seat time, full or partial credits earned, current class records, immunizations, other records, and, if applicable, a copy of the child's plan adopted under section 504 of the Rehabilitation Act of 1973 or an individualized education program adopted pursuant to the Individuals With Disabilities Education Act.
 - c. the grades and credits of the child were calculated as of the date the child left school, and no lowering of grades resulted from the child's absence resulting from these circumstances.

Date: _____ _____ JUDICIAL OFFICER

Item SPR07-28 Response Form

Title: Juvenile Law: Ensuring Foster Children’s Educational and Disability Rights (amend Cal. Rules of Court, rules 5.502, 5.516, 5.518, 5.534, 5.650, 5.668, 5.695 and 5.790; adopt rule 5.652; revise forms JV-225, JV-365, and JV-535, and JV-536; and approve forms JV-537 and JV-538)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee. All comments will become part of the public record of the council’s action.