



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date June 26, 2019	Action Requested Please review before meeting on June 27, 2019
To Members of the Rules Subcommittee	Deadline June 27, 2019
From Christy Simons Attorney, Legal Services	Contact Christy Simons Legal Services 415-865-7694 phone christy.simons@jud.ca.gov
Subject Comments on Proposal re Advisement of Appellate Rights in Juvenile Cases	

Introduction

The Appellate Advisory Committee recommended circulating for public comment a proposal to amend rule 5.590, the rule regarding advisement of appellate rights in juvenile cases, to remove the limitation that the court need only provide this information to parents and guardians who are present at the hearing that resulted in the judgment or order. The proposal also includes a new, optional form notice for clerks to send with court orders following a hearing to provide the advisement. The Judicial Council's Rules and Projects Committee approved the recommendation and the proposal circulated for public comment from April 11 through June 10, 2019 as part of the regular spring comment cycle. A copy of the invitation to comment is included in your meeting materials. This memorandum discusses the comments received and sets forth some options for the subcommittee's consideration.

Discussion

The committee received 13 comments on the proposal from individual attorneys, organizations, and trial courts. Five commenters indicated that they agreed with the proposal, two indicated that

they agreed with the proposal if modified, three did not take a position on the proposal but suggested changes or commented on certain aspects of the proposal, and three indicated that they disagreed with the proposal. A chart with the full text of the comments received and staff's draft responses is attached. The main issues raised by the comments, possible responses, and possible modifications to the proposal, are discussed below, but there are other comments and responses contained only in the comment chart, so please review the draft comment chart carefully.

The positive comments agree that this is a much-needed change to the rule and that parents/guardians should receive an advisement of their appellate rights from the court whether they are present for the hearing or not.

The main issues discussed by the commenters address three areas: (1) whether the advisement should be provided by counsel; (2) whether the benefit of the proposal is outweighed by the burden on courts; and (3) improving the language of the form. The committee also received several comments from courts on implementation requirements such as new procedures, training for staff, and adding codes to case management systems. None of the comments indicated that these requirements would be a problem.

Whether the advisement should be provided by counsel

Several commenters noted that parents and guardians have counsel in dependency proceedings and indicated that counsel should provide the advisement. One comment further stated that, because personal presence is not required in dependency proceedings, the presence of counsel should suffice. The subcommittee considered issues relating to counsel in developing the proposal, including whether the problem the proposal intends to address was more a matter of training and practice for attorneys in juvenile proceedings than an issue arising from a rule of court. The subcommittee noted that counsel's representation and responsibilities are separate issues from whether the rule that requires the court to provide the advisement only to parents/guardians who are present at the hearing should be amended. The subcommittee found no compelling reason for the rule to draw this distinction.

Whether the burden outweighs the benefit

Several commenters expressed concern that the proposed rule change will result in a substantial burden on already overtaxed juvenile courts without providing sufficient benefit. In addition to arguing that the proposal is unnecessary because attorneys representing parents/guardians should provide the advisement, commenters questioned whether the added burden on courts was reasonable as a practical matter. Santa Clara County Counsel opined that appeals by parents/guardians who have not been present at hearings are unlikely to be meritorious. The San Bernardino Superior Court noted that, in the proceedings addressed by the rule, no hearing has been set to terminate parental rights and the parent/guardian is not losing the right to appeal. The Riverside Superior Court indicated that requiring the court to provide the advisement whether or not parents/guardians are present at the hearing "may not lead to actual notice." Draft responses

on the comment chart indicate that these are not persuasive reasons to modify the proposal or recommend that it not go forward. Whether a potential appeal is likely meritorious, the gravity of the rights affected by the court's order, and the fact that lack of notice does not equate with losing the right to appeal are separate issues from whether the court should provide the advisement to all parents/guardians regardless of their physical presence at the hearing.

One comment questioned whether issues with providing the advisement, such as whether the advisement was timely sent or sent to the correct address, could result in contentions on appeal and thereby cause delay in these cases. This appears to be a possibility, but courts routinely put procedures in place to ensure that notices, orders, and other documents are sent in a timely manner to the correct address on file, and to take other steps to mitigate such potential problems.

Text of the form

Several commenters asked that the language of the form be simplified and use more descriptive language so that litigants can more easily understand the information being provided. Please refer to the draft forms (text only) in these materials for possible revisions. The first draft form shows possible edits in track changes; the second draft form shows the changes accepted (the former text that has changed has been removed). Attached to the invitation to comment is the version of the form that went out for public comment. The form itself will be revised based on the subcommittee's recommendations.

Suggested amendments to rule 5.590

Several commenters

Two commenters requested that, instead of requiring the court to give notice of appeal rights to absent parents and guardians, the rule provide that the court must provide the advisement to parents/guardians if present or by/through counsel. However, this amendment would substantively change the proposal (see discussion above). The draft rule in these materials shows the two suggestions for making this change, but staff does not recommend either amendment.

The draft rule also includes text to implement a suggestion from JRS to clarify that notice is sufficient if sent by first-class mail to the last known address. This text mirrors language found in subdivision (b).

Stephanie Miller addressed the issue of whether the language of the rule requires an advisement of appellate rights only after disposition hearings and reported that, last year, one juvenile court in Los Angeles indicated that it would no longer inform parents of their right to appeal orders made at section 366.26 permanency planning hearings, but would continue to mail the minutes of those proceedings to the parents. The court cited rule 5.590(a)'s language requiring that notice of the right to appeal be given only following disposition hearings. Miller stated that, in discussions with the Second District Court of Appeal, the point was made that there are a large number of

potentially appealable orders in dependency cases and that it may not be practical to identify all such orders and require the juvenile court to inform parties regarding the right to appeal in all of those instances. Staff's proposed response indicates that amending the language of the rule to remove or modify reference to disposition hearings would be a substantive change to the proposal that would require recirculation, and that the comment will be retained for future consideration.

JRS raised the option of amending rule 5.590(b)(2), which requires the court to provide written advisement of appellate rights to parties when the court orders a permanency planning hearing under section 366.26. JRS suggests adding parents/guardians to the rule so that they, along with parties, receive the written advisement. Staff's draft response states that any such amendment is beyond the scope of the proposal but that the suggestion will be retained for future consideration.

Whether to retain the current notice on certain JV forms

The invitation to comment asked for feedback regarding whether, if the rule is amended as proposed, the current notice should be retained on certain JV forms. Six commenters responded: two recommended removing the notice because it would no longer be accurate; two recommended retaining it, even if unnecessary, because it could be helpful to the public; and two recommended revising it.

The notice currently provides:

You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss your appellate rights. Decisions made at the next hearing may also be subject to appellate review. If you do not attend the next hearing you may not be advised of your appellate rights. Contact your attorney if you miss the next hearing and want to discuss your appellate rights.

The Riverside Superior Court recommends removing the sentence "If you do not attend the next hearing you may not be advised of your appellate rights." Staff agrees that this could be a good option.

The Orange County Bar Association recommends more substantial modifications to the notice: "You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss whether it is advisable for you to appear at the hearing and to discuss your appellate rights. Decisions made at the ~~next~~ hearing may also be subject to appellate review. If you do not attend the next hearing you may not be personally advised of your appellate rights by the court. Contact your attorney if you miss the next hearing and want to discuss your appellate rights."

The subcommittee should consider the options and decide on a recommendation.

List of commenters and position

Appellate Defenders: **A**.

Rosemary Bishop: **A**.

Santa Clara County Counsel: **N**.

Executive Committee of Family Law Section of CLA: **A**.

LA County Public Defender: **NI**.

Stephanie Miller: **NI**.

Orange County Bar Association: **AM**.

Superior Court of LA: **AM**.

Superior Court of Orange County, Juv Div: **NI**.

Superior Court Riverside: **N**.

Superior Court San Bernardino: **N**.

Superior Court San Diego: **A**.

JRS of TPCPAC/CEAC: **A**.

Subcommittee Task

The subcommittee's task is to:

- Discuss the comments received on the proposal;
- Discuss and approve or modify staff suggestions for responding to the comments, as reflected in the draft comment chart and draft modifications to the rule amendments; and
- Decide whether to recommend that the proposal move forward to the full committee.

Attachments

1. Rule 5.590
2. Text of form JV-805-INFO with suggested revisions (in track changes)
3. Text of form JV-805-INFO with suggested revisions (changes accepted)
4. Draft comment chart
5. Invitation to comment (including proposed form JV-805-INFO)

Rule 5.590 of the California Rules of Court would be amended, effective January 1, 2020, to read:

1 **Rule 5.590. Advisement of right to review in Welfare and Institutions Code section**
2 **300, 601, or 602 cases**

3
4 **(a) Advisement of right to appeal**

5
6 If at a contested hearing on an issue of fact or law the court finds that the child is
7 described by Welfare and Institutions Code section 300, 601, or 602 or sustains a
8 supplemental or subsequent petition, the court after making its disposition order
9 other than orders covered in (b) must advise, orally or in writing, the child, if of
10 sufficient age, and, ~~if present~~, the parent or guardian of:

11
12 (1)–(4) * * *

13
14 **(b)–(c) * * ***

15
16
17
18 **Suggested amendments from comments:**

19
20 **(a) Advisement of right to appeal**

21
22 *By Stephanie Miller:* If at a contested hearing ..., the court after making its
23 disposition order other than orders covered in (b) must advise, orally or in writing,
24 the child, if of sufficient age, and, **if personally present or by counsel**, the parent or
25 guardian of:

26
27 *By Orange County juvenile court:* If at a contested hearing ..., the court after
28 making its disposition order other than orders covered in (b) must advise, orally or
29 in writing, the child, if of sufficient age, and, **if present or through counsel**, the
30 parent or guardian of:

31
32 *By JRS of TCPJAC/CEAC:* If at a contested hearing ..., the court after making its
33 disposition order other than orders covered in (b) must advise, orally or in writing,
34 the child, if of sufficient age, and, ~~if present~~, the parent or guardian of:

35
36 (1)–(4) * * *

37
38 **If the parent or guardian is not present at the hearing, the advisement must be made**
39 **by the clerk of the court by first-class mail to the last known address of the party**
40 **[or by electronic service in accordance with section 212.5].**

INFORMATION REGARDING APPEAL RIGHTS

SUGGESTED REVISIONS IN TRACK CHANGES

1. Appealability ~~Your Right to Appeal~~

~~A judgment in a proceeding under Section 300, 600, or 602 of the Welfare and Institutions Code may be appealed in the same manner as any final judgment, and any subsequent order may be appealed as an order after judgment. You may have the right to appeal judgments and orders in juvenile dependency, delinquency, and justice proceedings under Welfare and Institutions Code section 300, 601, and 602. If you do not appeal in time, you could lose the right to challenge the judgment or order later in these proceedings.~~

A judgment or ~~subsequent~~ order entered by a referee or commissioner ~~shall~~ becomes appealable whenever ~~a rehearing by a judge under section proceedings pursuant to Section 252, 253, or 254 have become~~ has been completed or, if ~~proceedings pursuant to Section rehearing under section 252, 253, or 254 are~~ is not initiated, when the time for initiating ~~the rehearing~~ proceedings has expired.

2. Steps and Time for Taking an Appeal

To appeal from a judgment or an appealable order of this court, you must file a written notice of appeal within 60 days after ~~rendition of the judgment or the making of the order being appealed~~ the judge makes the decision you are challenging, or, in matters heard by a referee or commissioner, within 60 days after the order of the referee or commissioner becomes final. An order of a referee or commissioner becomes final 10 calendar days after the order is served.

You may use form JV-800, *Notice of Appeal--Juvenile*, for this purpose. You can get form JV-800 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

The notice of appeal must be filed in this court, not the Court of Appeal. The notice must clearly state that you are appealing, identify the judgment or order by date or describe it, and indicate whether you are appealing the entire judgment or order, or just part of it. You or your attorney must sign the notice of appeal. Your attorney cannot file a notice of appeal on your behalf without your approval.

3. Requesting an Attorney

If you cannot afford to hire an attorney, you may request that the Court of Appeal appoint an attorney to represent you. You may use form JV-800, Notice of Appeal--Juvenile, to make this request by checking the appropriate box. After you file the notice of appeal and make the request for an attorney, the Court of Appeal will contact you to find out whether you have the right to an appointed attorney.

4. Free Copy of the Transcript

If you cannot afford to hire an attorney, you ~~may~~ are also be eligible for a free copy of the transcript.

Important!

You must keep the Court of Appeal advised of your current mailing address.

Optional Use
8.406

JV-805-INFO [New Jan. 1, 2020]

Rules [5.540](#), 5.585, 5.590, 8.400, 8.405,

INFORMATION REGARDING APPEAL RIGHTS
SUGGESTED REVISIONS INCORPORATED

1. Your Right to Appeal

You may have the right to appeal judgments and orders in juvenile dependency, delinquency, and justice proceedings under Welfare and Institutions Code section 300, 601, and 602. If you do not appeal in time, you could lose the right to challenge the judgment or order later in these proceedings.

A judgment or order entered by a referee or commissioner becomes appealable whenever a rehearing by a judge under section 252, 253, or 254 has been completed or, if rehearing under section 252, 253, or 254 is not initiated, when the time for initiating rehearing proceedings has expired.

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The notice of appeal must be filed in this court, not the Court of Appeal. The notice must clearly state that you are appealing, identify the judgment or order by date or describe it, and indicate whether you are appealing the entire judgment or order, or just part of it. You or your attorney must sign the notice of appeal. Your attorney cannot file a notice of appeal on your behalf without your approval.

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Optional Use
JV-805-INFO [New Jan. 1, 2020]

Rules 5.540, 5.585, 5.590, 8.400, 8.405, 8.406

SPR19-03

Appellate Procedure: Advisement of Appellate Rights in Juvenile Cases (Amend Cal. Rules of Court, rule 5.590 and approve form JV-805-INFO)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Appellate Defenders, Inc. by Elaine Alexander Executive Director San Diego	A	This change is a much-needed correction. Parties should be told of their appellate rights regardless of their ability to attend a particular hearing. The new form will expedite the advisal.	The committee notes the commenter's support for the proposal.
2.	Rosemary Bishop Attorney Law Offices of Rosemary Bishop San Diego	A	<p>1. Does the rule change address the stated purpose?</p> <p>Yes. The rule change does effectively address the stated purpose by deleting the language, "if present". Parents who are not present at the hearings covered by this rule should be advised of appeal rights and the rule change makes this clear.</p> <p>2 and 3. Are parts 3 and 4 of the proposed form accurate and helpful and should the form include additional information on appellate rights?</p> <p>Part 3 is accurate in advising the recipient about the right to appointed counsel. It would be helpful to add that the recipient may request an appointed attorney by checking the box on the notice of appeal form.</p> <p>Part 4 of the form is accurate. If an appellant is always eligible for a free transcript if they qualify for an appointed attorney, then the "may be" qualifier could</p>	<p>The committee notes the commenter's support for the proposal and appreciates the responses to questions presented in the invitation to comment.</p> <p>The committee appreciates this suggestion and has revised the new form to include the option to request an appointed attorney on the notice of appeal form.</p> <p>The committee appreciates this suggestion and has revised the form.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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	Commenter	Position	Comment	Committee Response
			<p>be deleted to avoid uncertainty or confusion.</p> <p>To make the form more helpful, parts 1 and 2 could be simplified or put into plainer language and still be accurate and less intimidating or confusing.</p> <p>For example, the first sentence in part 1 could be captioned “Your right to appeal” and read: “You have the right to appeal judgments and orders in proceedings [under Welfare and Institutions Code sections.....] and if you do not appeal in time you could lose the right to challenge the judgment or order later in these proceedings.”</p> <p>The first sentence in Part 2 could be simplified to read: “...you must file a notice of appeal within 60 days of the judgment or order...” Also, if the JV-800 notice of appeal form is attached, then that should be referenced.</p> <p>It would be helpful to attach a notice of appeal form (JV-800) to this new form JV-805. If the notice of appeal form is not attached, then the JV-805 should tell the recipient how to get one—from trial attorney, online, at the courtroom, and that</p>	<p>The committee appreciates this recommendation and the suggested language. The committee has revised the form to use simplified and more descriptive language.</p> <p>The committee appreciates this suggestion and has included information on how to obtain the form.</p>

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	Commenter	Position	Comment	Committee Response
			<p>the trial attorney can file the notice for the client upon request.</p> <p>4. Should forms JV-415 through JV-455 be revised to remove statement parents may not be advised of appeal rights if they don't attend the hearing?</p> <p>Yes. This information is no longer accurate if the rule is changed.</p>	<p>The committee appreciates this input.</p>
3.	<p>County of Santa Clara Office of the County Counsel by James R. Williams County Counsel and Gita c. Suraj Assistant County Counsel</p>	N	<p>1. Does the proposal appropriately address the stated purpose?</p> <p>No. The stated purpose is to "promote greater awareness of parents' and legal guardians' appellate rights in juvenile court proceedings." In furtherance of this goal, the rule would require appellate advisements to be sent out to parties who are not present in court when orders are made. If the court has an address of record for a litigant, that litigant likely has appointed counsel who is available and able to advise the parent of their appellate rights. Further, any appeal by a litigant who has not been present at the hearing and is not in contact with court-appointed counsel is very unlikely to be meritorious. The proposed rule is likely to result in greater administrative burdens on an overtaxed judicial system and is unlikely</p>	<p>The committee thanks the commenter for providing input on this proposal and notes the commenter's opposition to the proposal .</p> <p>The committee disagrees that the factors cited by the commenter outweigh the benefit of the proposed rule change. The proposal is intended to eliminate the current distinction in the rule that requires courts to advise some parents and guardians (those who are present for a hearing) but not others (those who are not present). The committee agrees that juvenile courts face tremendous workload challenges, but sees no principled reason for different treatment. Absent parents are no less entitled to the advisement, without regard to the potential merit of any appeal.</p> <p>The committee acknowledges that most litigants will have appointed counsel and agrees that counsel should advise parents and</p>

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	Commenter	Position	Comment	Committee Response
			<p>as a practical matter to further or preserve the due process rights of litigants in juvenile court. Further, in the event the required notices are on occasion sent in error or not sent at all, they may generate contentions on appeal that a litigant's late notice of appeal should be excused, resulting in greater burdens on the appellate courts and greater delay in resolution of status for dependent children.</p> <p>2. Are items 3 and 4 of the form accurate and helpful in describing the right of an indigent appellant to appointed counsel and a free copy of the transcript?</p> <p>Sections 2 and 3 are accurate, but would be more helpful if they used simpler language more easily understood by less sophisticated litigants.</p> <p>3. Should the form include any other information regarding appellate rights?</p> <p>No.</p>	<p>guardians of their appellate rights. However, the committee concluded that these points do not outweigh the benefit of providing the advisement in an effort to preserve parents' and guardians' due process rights.</p> <p>The committee appreciates the commenter's concern that improper notice could create contentions on appeal, but notes that courts routinely create procedures, including case management codes, to comply with the rules of court and changes to those rules, and has received no indication that compliance will present any problems.</p> <p>The committee agrees with this observation and has revised the form accordingly.</p>

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Appellate Procedure: Advisement of Appellate Rights in Juvenile Cases (Amend Cal. Rules of Court, rule 5.590 and approve form JV-805-INFO)

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			<p>4. If rule 5.590 is amended as proposed, should forms JV-415, JV-430, JV-435, JV-440, and JV-455 be revised to remove the notice to parents and guardians that they may not be advised of their appellate rights if they do not attend the juvenile court hearing?</p> <p>Our county does not use any of these optional forms, so we have no comment with respect to this question.</p>	No response required.
4.	Executive Committee of the Family Law Section of the California Lawyers Association (FLEXCOM) By Saul Bercovitch Director of Governmental Affairs	A	<p>The Invitation to Comment requests feedback on the question of whether related juvenile forms should be modified to delete language that a parent will not be advised of their appellate rights if they fail to appear at a hearing. FLEXCOM believes this language should remain in the various forms. Adopting a requirement that notice of appellate rights be mailed to parents not attending the hearing will increase the number of litigants receiving this advisement. However, there will be instances where notice is not successful. For example, a parent may not update their mailing address with the court. Or, a parent may fail to pick up mail at their current address. Thus, there likely will be occasions when absent parents continue to go without receiving actual notice.</p>	<p>The committee notes the commenter’s support for this proposal.</p> <p>The committee appreciates the commenter’s feedback on this question.</p>

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5.	Los Angeles County Public Defender by Ricardo D. Garcia Public Defender Erika Anzoategui Acting Alternate Public Defender	NI	We do not object to the language of the proposed rule. However, we feel that the proposed JV-805 form contains an advisement that would be confusing to a layperson. Item 1 advises that judgment by a referee or commissioner becomes appealable "whenever proceedings under section 252, 253, or 254" have been completed. The advisement does not explain what proceedings under sections 252, 253, and 254 are, and it is unlikely that a layperson would know that they refer to a rehearing by a judge. Therefore, we suggest making the advisement more descriptive by stating that judgment by a referee or commissioner becomes appealable "whenever a rehearing by a judge under section 252, 253, or 254 has been completed."	The committee thanks the commenter for submitting feedback on this proposal. The committee agrees and has revised this section of the form.
6.	Stephanie Miller	NI	Thank you for this opportunity to comment. A. The proposal overreaches. The stated purpose should be to ensure that the parent or the guardian (and, obviously, the child) who is a party of record is advised of the right to seek review by appeal of the judgment entered at disposition. If the proposal is adopted, Rule 5.590 will be interpreted to include within its scope the parent or guardian	The committee appreciates this feedback on the proposal. [Note: does the subcommittee agree with the commenter that only parents and guardians who have taken steps to become parties of record should receive the rule 5.590(a) advisement of appellate rights?]

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			<p>who received notice of the proceedings but who did not take appropriate steps to become a party in them. (See <i>In re Joseph G.</i> (2000) 83 Cal.App.4th 712, 715.) Second, because personal presence by a party is not required in a dependency proceeding, the existing presence requirement could be interpreted to allow for the presence of the parent or guardian through his or her attorney. (See <i>In re Dolly D.</i> (1995) 41 Cal.App.4th 440, 444-446 [personal appearance by a party is not essential; appearance by an attorney is sufficient and equally effective].) Rule 5.590(a) should be modified to provide that “the court after making its disposition order . . . must advise, orally or in writing, the child, if of sufficient age, and, if personally present or by counsel, the parent or guardian of”</p> <p>B. If Rule 5.590(a) is revised in the manner suggested above, the forms should be revised to delete the notice that parents or guardians who do not personally appear may not be advised of their right to appeal.</p> <p>C. JV-805/Information Regarding Appeal Rights is incomplete in regard to the</p>	<p>The committee understands the commenter to suggest limiting the scope of the rule to parents and guardians who have taken steps to become a party to the proceedings and allowing the court to provide the advisement of appellate rights to a parent’s or guardian’s attorney rather than requiring that the advisement be provided a parent or guardian who is not present at the hearing.</p> <p>The committee is aware that most parties in dependency proceedings are represented by counsel and agrees that counsel should provide their clients with information regarding their appellate rights. However, the suggested modifications do not address the distinction in the rule between parents who are present and parents who are not, and do not advance the goal of promoting greater awareness on the part of parents and guardians of their appellate rights.</p> <p>The committee appreciates this input.</p>

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	Commenter	Position	Comment	Committee Response
			<p>explanation of the time within which to seek review of the findings and orders made by a referee. The form states that in matters heard by a referee, the notice of appeal must be filed within 60 days after the referee’s order becomes final, but it does not explain when the referee’s order becomes final. The form should include the language now found in Rules 5.540(c) [finality date of referee’s order] and 5.538(b)(3) [completion of service of referee’s findings and orders].)</p> <p>D. Contrary to the feedback thus far received from the Family and Juvenile Law Advisory Committee that “there is no indication that juvenile court read the rule so narrowly as to only provide an advisement of appellate rights following disposition hearings. . [,]” in April 2018 the Los Angeles County Edmund D. Edelman Children’s Court in Monterey Park hearing dependency cases informed the Second District that the juvenile court would no longer inform the parent of the right to appeal the orders made at the Welfare and Institutions Code section 366.26 permanency planning hearing, although it would mail the minutes of those</p>	<p>The committee thanks the commenter for this suggestion and has revised the form to include information regarding finality of a referee’s order.</p> <p>The committee thanks the commenter for this information. Amending the language of subdivision (a) to remove or modify the reference to disposition would be a substantive change that requires circulation for public comment. (See rule 10.22(d).) The committee will retain this comment as a request that this issue be considered in the future.</p>

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	Commenter	Position	Comment	Committee Response
			<p>proceedings to the parent. It was noted that the existing rules – i.e., Rule 5.590(a) – require notice of the right to appeal only following disposition hearings. In discussions with the Second District about the juvenile court’s intention, which was not opposed, the point was made that there are a large number of potentially appealable events in a dependency case. It may not be practical to identify and list all such events, and to require the juvenile court to inform the parties of the right to appeal in all those situations.</p>	<p>The committee notes this concern and considered this issue in developing the proposal.</p>
7.	Orange County Bar Association by Deirdre Kelly President	AM	<p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes.</p> <p><i>Are items 3 and 4 of the form accurate and helpful in describing the right of an indigent appellant to appointed counsel and a free copy of the transcript?</i></p> <p>Yes, but see below.</p> <p><i>Should the form include any other information regarding appellate rights?</i></p>	<p>The committee notes the commenter’s support for the proposal if modified.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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Appellate Procedure: Advisement of Appellate Rights in Juvenile Cases (Amend Cal. Rules of Court, rule 5.590 and approve form JV-805-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>Yes. Frequently, attorneys are appointed to represent parents in dependency proceedings who later absent themselves from the proceedings entirely and lose touch with their attorneys. In those situations, attorneys will typically continue to represent the absent parents' interests. Those parents, who will be the beneficiaries of the Committee's proposed changes, should understand that their attorney cannot file a notice of appeal without their approval (<i>In re Sean S.</i> (1996) 46 Cal.App.4th 350, 352.) Consequently, we recommend the following amendment to item at the very end of time 2:</p> <p><u>However, your attorney cannot file an appeal on your behalf without your approval.</u></p> <p><i>If rule 5.590 is amended as proposed, should forms JV-415, JV-430, JV-435, JV-440 and JV-455 be revised to remove the notice to parents and guardians that they may not be advised of their appellate rights if they do not attend the juvenile court hearing?</i></p>	<p>The committee has revised this item on the form.</p> <p>The committee declines to make the suggested revisions to the second because the</p>

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	Commenter	Position	Comment	Committee Response
			<p>We would recommend the following amendment to the advisement contained on the listed forms:</p> <p>“You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss whether it is advisable for you to appear at the hearing and to discuss your appellate rights. Decisions made at the [next] hearing may also be subject to appellate review. If you do not attend the next hearing, you may not be <u>personally</u> advised of your appellate rights <u>by the court</u>. Contact your attorney if you miss the next hearing and want to discuss your appellate rights</p>	<p>listed forms are sent to parties <i>following</i> the hearing, a party would not discuss with counsel whether the party should appear <i>at that hearing</i>. The committee agrees that if the rule is amended as proposed, the fourth sentence of the advisement should be modified.</p> <p>[Possible modification to the notice: You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss your appellate rights. Decisions made at the next hearing may also be subject to appellate review. If you do not attend the next hearing, you may will not be advised in-person of your appellate rights by the court.] [Other options are to delete the last sentence of the notice and to delete the notice altogether.]</p>
8.	Superior Court of Los Angeles County	AM	<p>Proposed Modifications If notice is personally given at the initial hearing when parents/guardians are present it would save the court workload and postage costs.</p> <p>Request for Specific Comments Should the form include any other information regarding appellate rights?</p>	<p>The committee notes the commenter’s support for the proposal if modified, and agrees that providing the advisement to parents and guardians who are present at the hearing saves work and time for the courts.</p>

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	Commenter	Position	Comment	Committee Response
			<p>No, the form should not include other information regarding appellate rights. The advisory committee also seeks comments from courts on the following cost and implementation matters: Would the proposal provide cost savings? If so, please quantify. No, we do not anticipate cost savings. What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Implementation requirements would include changes to procedure and the creation of new events codes in the Case Management System. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, three months is sufficient.</p>	<p>The committee appreciates the commenter’s responses to questions asked in the invitation to comments.</p> <p>The committee notes the commenter’s implementation requirements.</p>
9.	Superior Court of Orange County Juvenile Court Division	NI	<p>Comments</p> <ul style="list-style-type: none"> ▪ Rule 5.590 Advisement of right to review in Welfare and Institutions Code section 300, 601, or 602 cases 	The committee appreciates the commenter’s input on this proposal.

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> ▪ Amend the rule to include “or through counsel” in the last sentence of section (a). This would allow the option for counsel to provide parties, if not present, notification of their right to appeal. ▪ Information Regarding Appeal Rights (JV-805-INFO) <ul style="list-style-type: none"> ▪ In the <i>Appealability</i> section, replace “300, 600, and 602” with language that is easier for parents to understand. Such as, juvenile justice, delinquency, or dependency case. <p>In the <i>Steps and Time for Taking an Appeal</i> section, replace the word “rendition” with language that is easier for parents/guardians to understand. Such as, “within 60 days after the court has made a decision...”</p> <p>Request for Specific Comments</p> <ul style="list-style-type: none"> ▪ <i>Would the proposal provide a cost savings?</i> <p>No, there will not be a cost savings. If the Court provides the optional form to the parent/guardian, there will be an increase in cost associated with printing, mailing, and staff processing time.</p>	<p>The committee declines to amend the rule to provide that notice to counsel for absent parents is sufficient. The suggested amendment does not correct the issue of parents not receiving the advisement from the court if they are not present at the hearing. [Does the subcommittee agree? See also Stephanie Miller comment and response.]</p> <p>The committee has added a description of the code sections. (The committee has also corrected the typographical error referring to section 600; the correct statute is section 601.)</p> <p>The committee agrees with modifying this language and has revised this section of the form.</p> <p>The committee thanks the commenter for this input.</p>

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	Commenter	Position	Comment	Committee Response
10.	Superior Court of Riverside County by Susan Ryan Chief Deputy, Legal Services	N	<p>Position on Proposal: Generally do not agree that this change is necessary.</p> <p>Does the proposal appropriately address the stated purpose? Unsure. Requiring the court to give notice whether or not the party is at the hearing may not lead to actual notice. The minor in delinquency cases and the minor and parents in dependency cases will have an attorney. It would be more effective if the attorney made sure that parents who are not present at hearings were aware of these rights.</p> <p>Are items 3 and 4 of the form accurate and helpful in describing the right of an indigent appellant to appointed counsel and a free copy of the transcript? Yes.</p> <p>Should the form include any other information regarding appellate rights? No.</p> <p>If rule 5.590 is amended as proposed, should forms JV-415, JV-430, JV-435, JV-440, and JV-455 be revised to remove the notice to parents and guardians that they may not be advised of their appellate rights if they do not attend the juvenile court hearing? If rule 5.590 is amended then the forms should remove the sentence “If you</p>	<p>The committee notes the commenter’s opposition to the proposal.</p> <p>The committee appreciates the commenter’s feedback and observations. The proposal is intended to correct an imbalance in the rule that only requires courts to provide an advisement of appellate rights to parents and guardians who are present in court. Although written notice may not always lead to actual notice, the committee concludes that the benefits of taking this step to protect absent parents’ and guardians’ due process rights outweighs the burden of doing so.</p> <p>The committee appreciates this input.</p>

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	Commenter	Position	Comment	Committee Response
			<p>do not attend the next hearing you may not be advised of your appellate rights” from the “For Your Information” box at the bottom as this information would no longer be accurate.</p> <p>Would the proposal provide cost savings? If so, please quantify? No, it would cost the court more. Staff time, paper, toner, envelopes and postage would be needed to send out this additional notice.</p> <p>What would the implementation requirements be for courts? Staff would need to be trained that advisement of appellate rights should always be given whether or not the parents were at the hearing or not. Courts would likely create a code to enter into the CMS that the notice was mailed.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>How well would this proposal work in courts of different sizes? The same notifications and update codes would likely need to be made in all courts. The proposal should work for courts of all sizes.</p>	<p>The committee thanks the commenter for responding to the questions for courts in the invitation to comment.</p> <p>The committee notes the implementation requirements for courts.</p> <p>No further response required.</p> <p>No further response required.</p>

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	Commenter	Position	Comment	Committee Response
11.	Superior Court of San Bernardino County by Hon. Annemarie Pace Presiding Judge, Juvenile Court	N	This proposal places an undue burden on the already overwhelmed juvenile courts. The current law already requires the court to send writ/appeal rights notice to absent parents/guardians when a permanency hearing is set or when their parental rights have been terminated. Parents/guardians who appear at any stage of the proceedings get appointed counsel. Counsel is present at the disposition hearing whether or not the parent appears and can file an appeal as well as notify their client of their right to appeal. This proposed requirement would only apply where a permanency hearing is not set and in many cases where at least one party is receiving reunification services. The burden on the court outweighs the benefit in these cases because (1) notice of the recommendation has been sent to the party by the child welfare agency; (2) the party is represented by counsel; (3) no hearing has been set to terminate parental rights; and (4) the party is not losing the right to appeal - just the necessity of the court sending notice of the right to appeal.	The committee notes the commenter’s opposition to the proposal and appreciates this feedback. The committee recognizes that parents and guardians have appointed counsel and that subdivision (b) of the rule requires that the court send notice to absent parents and guardians when hearings for permanency planning and to terminate parental rights are set. The committee disagrees that the burden on the court outweighs the benefit. Parents and guardians have substantial interests at stake when juvenile courts make findings and orders at every stage of dependency proceedings. Those findings and orders become final, and the party does lose the right to appeal, if the party is unaware of the right to appeal and an appeal is not timely filed.
12.	Superior Court of San Diego County by Mike Roddy Executive Officer	A	This change will require us to send the new form with the minute order and will require the orders clerk to be trained. It also may result in more appeals. Our court believes this is a good change.	The committee notes the commenter’s support for the proposal and appreciates the input regarding implementation requirements.

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	Commenter	Position	Comment	Committee Response
			There is a typo on the first line of the new form: 600 should be 601.	The committee appreciates this note and has corrected the error.
13.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee (JRS)	A	<p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"> • Impact on existing automated systems (e.g., case management system, accounting system, technology infrastructure or security equipment, Jury Plus/ACS, etc.) • Results in additional training, which requires the commitment of staff time and court resources. • Increases court staff workload. <p>The JRS notes that the rule change will provide greater awareness on the part of parents and guardians of appellate rights. Since the rule now requires an additional advisement to be sent if a parent is not present this will increase the workload of the Clerk’s Office staff to track and record the appearance of each parent. In addition, depending on the number of parents not present, this may significantly increase postage costs for courts with large caseloads.</p> <p><i>1. Does the proposal address the stated purpose?</i></p>	<p>The committee notes the commenter’s support for the proposal and appreciates the feedback regarding implementation requirements for courts.</p> <p>The committee appreciates this input.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Yes, the proposed modification squarely addresses, and accomplishes the stated purpose. However, Rule of Court 5.590(b)(2) also references advisements to be given to parents who are present when a hearing is set. To be consistent, subdivision (b)(2) could include the term “the child’s parent, guardian.” That section states,</p> <p>When the court orders a hearing under section 366.26, the court must advise all parties and, if present, the child’s parent, guardian, or adult relative, 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 <i>Notice of Intent to File Writ Petition and Request for Record (California Rules of Court, Rule 8.450)</i> (form JV-820) or other notice of intent to file a writ petition and request for record and a <i>Petition for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456)</i> (form JV-825) or other petition for extraordinary writ.</p> <p>(1)The advisement must be given orally to those present when the court orders the hearing under section 366.26.</p>	<p>The committee appreciates this suggestion. Amending subdivision (b) of rule 5.590 is beyond the scope of this proposal, but the committee will retain the suggestion for future consideration.</p> <p>See response above.</p>

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	Commenter	Position	Comment	Committee Response
			<p>(2)If a party, or <u>the child's parent, guardian</u> is not present when the court orders a hearing under section 366.26, within 24 hours of the hearing, the advisement must be made by the clerk of the court by first-class mail to the last known address of the party or by electronic service in accordance with section 212.5. If the notice is for a hearing at which the social worker will recommend the termination of parental rights, the notice may be electronically served in accordance with section 212.5, but only in addition to service of the notice by first-class mail.</p> <p>This change would have additional financial consequences as discussed herein.</p> <p>Finally, the new requirements may have unintended consequences including delay of dependency proceedings (based on notice issues).</p> <p><i>2. Are items 3 and 4 accurate and helpful in describing the right of an indigent appellant to appointed counsel and a free copy of the transcript?</i> Yes.</p>	<p>See response below.</p> <p>The committee notes this concern, but expects that courts will take steps to avert potential problems such as delay when implementing the rule change.</p>

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	Commenter	Position	Comment	Committee Response
			<p>3. <i>Should the form include any other information regarding appellate rights?</i> No.</p> <p>4. <i>If rule 5.590 is amended as proposed, should forms JV-415, JV-430, JV-435, JV-440, and JV-455 be revised to remove the notice to parents and guardians that they may not be advised of their appellate rights if they do not attend the juvenile court hearing?</i></p> <p>The above-recited judicial council forms provide the following notification:</p> <p>For Your Information -You may have a right to appellate review of some or all of the orders made during this hearing. Contact your attorney to discuss your appellate rights. Decisions made at the next hearing may also be subject to appellate review. If you do not attend the next hearing you may not be advised of your appellate rights. Contact your attorney if you miss the next hearing and want to discuss your appellate rights.</p>	<p>The committee thanks the commenter for this input.</p>

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	Commenter	Position	Comment	Committee Response
			<p>We do not recommend that this language be eliminated from the forms. The advisement, even if unnecessary, may still be helpful to the public.</p> <p><i>5. Would the proposal provide cost savings? If so, please quantify.</i></p> <p>No, the proposal would not provide cost savings. To the contrary, the proposal would have result in an increase in court labor, training, changes to automated systems, and other costs related to the additional form requirement. Further, the burden placed upon the court will include efforts to ascertain parent/guardian addresses and follow-up where notices are returned. This might be mitigated with language allowing notice to sufficient if sent by first class mail to the last known address.</p> <p><i>6. What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p>	<p>The committee thanks the commenter for this information on costs to the court.</p> <p>The committee agrees and has added language to rule 5.590(a) to this effect.</p> <p>The committee appreciates this information regarding implementation requirements.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Implementation of the rule modification will include training all juvenile clerks of the requirements, including when and to whom the judicial council advisement form must be mailed, and how to update the minutes, docket and case management system. Such training should not be expected to take longer 1 hour. The burden on the court for this task will depend on the size of the juvenile department and the number of clerks. The implementation will also require modification to case management systems, and possible automation.</p> <p><i>7. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Three months is a reasonable amount of time to allow for implementation.</p> <p><i>8. How well would this proposal work in courts of different sizes?</i></p> <p>As noted above, the burden on the court will vary, depending on the size of the court and juvenile department. Nevertheless, implementation will not unduly burden the large courts.</p>	<p>No further response required.</p> <p>No further response required.</p>



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date July 12, 2019	Action Requested Please review for meeting on July 15, 2019
To Members of the Rules Subcommittee	Deadline July 8, 2019
From Christy Simons Attorney, Legal Services Daniel Richardson Attorney, Center for Families, Children and the Courts	Contact Christy Simons 415-865-7694 phone christy.simons@jud.ca.gov Daniel Richardson 415-865-7619 phone daniel.richardson@jud.ca.gov
Subject Comments on Proposal Regarding Access to Juvenile Case Files in Appellate Court Proceedings	

Introduction

The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee recommended circulating for public comment a proposal to amend rules, adopt a new form and revise existing forms to implement recent Judicial Council– sponsored legislation amending the statute that specifies who may access and copy records in a juvenile case file in an appeal or writ proceeding challenging a juvenile court order. The legislation clarified that people who are entitled to seek review of certain orders in juvenile proceedings or who are respondents or real parties in interest in such appellate proceedings may, for purposes of those appellate proceedings, access and copy those records to which they were previously given access by the juvenile court. The proposal would implement the legislation by updating the rules relating to juvenile appeals to include provisions relating to persons with limited access to the juvenile case file and the limited record that must be prepared and provided to these persons. The proposal

includes a new information sheet and a notice on certain forms regarding the requirement to seek authorization from the juvenile court to access records in the case file before commencing an appeal.

The Judicial Council's Rules and Projects Committee approved the recommendation for circulation and the proposal was circulated for public comment from April 11-June 10, 2019 as part of the regular spring comment cycle. A copy of the invitation to comment, which describes the specifics of the proposal and provides background information, is included in your meeting materials.

On July 10, the joint ad hoc working group composed of members from both AAC and Fam/Juv reviewed the comments and discussed the issues that were raised.

This memo summarizes the public comments received on the proposal and the working group's proposed draft responses and draft modifications to the proposal. Some of the comments address matters that exceed the scope of the proposal or suggest modifications that would be inconsistent with statute. They reflect concerns about how the proposed rules would operate in practice. In reviewing the memo and comment chart, the subcommittee should consider whether, if the changes proposed are not practical or possible, other modifications to the proposal might better address the underlying issues. The subcommittee should also consider whether the proposal requires more development and should circulate again for public comment.

Note: this memo does not address all of the comments. Please review the comment chart carefully for the full text of all comments and proposed draft responses.

Note: the only rules with proposed modifications are 8.412, 8.452, and 8.456. Rule 8.412 with proposed changes is attached to these materials (rules 8.452 and 8.456 will contain similar changes if the subcommittee approves 8.412). For the other rules in this proposal, please see the invitation to comment at the end of these materials.

Public Comments

The committees received eight comments on the proposal from organizations, courts, and one individual attorney. One commenter indicated agreement with the proposal, four indicated that they agreed with the proposal if modified, and three did not state a position but suggested changes, requested clarification, or expressed concern with certain aspects of the proposal. A chart with the text of comments received and staff's draft responses is attached. The main issues raised by the comments, possible responses, possible modifications to the proposal, and questions for the working group are discussed below. There are other comments and possible

responses presented only in the draft comment chart, so please review the draft comment chart carefully.

Broadly speaking, the comments address (1) due process concerns; (2) delay resulting from the process of petitioning the juvenile court for access to records; (3) whether designated persons are “parties” under section 827(a)(1)(E); (4) whether counsel for designated persons should have access to the complete normal record in appellate court proceedings; (5) whether parties’ briefs should be served on designated persons; and (6) suggested revisions to forms.

Due process

Two commenters expressed extensive due process concerns.

According to Advokids, juvenile courts routinely release pleadings and documents through means other than a petition for access to records pursuant to Welfare and Institutions Code section 827 (827 petition), such as in response to a discovery request or motion made in the course of the proceeding, based on due process considerations. The commenter cites *In re Matthew P.* (1999) 71 Cal.App.4th 841, 850-851 (holding that the de facto parents’ due process rights were violated when the juvenile court denied their section 388 petition to regain placement of the minors based on adverse information in the social worker’s report but did not allow the de facto parents to cross-examine the social worker).

[Staff note: The *Matthew P.* appellants were de facto parents and therefore considered “parties” to the proceedings, and the issue was not access to the juvenile case file under section 827. Different interests would be weighed in cases involving designated persons and access to juvenile case files. Other cases take a more limited view of de facto parents’ due process rights. (See, e.g., *In re B.F.* (2010) 190 Cal.App.4th 811, 817 (“While de facto parents have ‘standing to participate as parties’ (rule 5.534(e), their role is limited and they do not enjoy the same due process rights as parents.”).) The *In re B.F.* court stated, “De facto parents do not have an automatic right to receive the Agency’s reports and other documents filed with the court.” (*Ibid.*) Rather, they may petition the juvenile court for access to records under section 827. (*Id.*, at p. 818.)]

Advokids objects to “the notion that the documents employed in the proceedings from which appellate review is sought are confidential from the persons who either filed or had access to those very same documents when they participated in the juvenile court proceedings,” and to a requirement that “a person who was present at and participated in a hearing must file a section 827 petition to obtain a reporter’s transcript of that same hearing.” The commenter suggests considering any access afforded the person during juvenile court proceedings “to be the equivalent of a section 827(a)(1)(Q) order” without the need to file an 827 petition. Staff is unsure how this could be squared with the statute.

Advokids suggests that designated persons should be recognized as “parties” to the specific juvenile court proceedings in which they participated, citing *Wayne F. v. Superior Court* (2006) 145 Cal.App.4th 1331, which held that prospective adoptive parents, although not parties to the underlying dependency proceedings, were entitled to “fully participate” in hearings concerning proposed removal from their home. In addition, under section 827(a)(1)(E), an appellate court could determine that designated persons are parties and their attorneys should be given access to the record, solving the problem of unequal access to the record.

Advokids also suggests modifying the rules regarding preparation of the record to specify a different record when the appeal or notice of intent is filed by someone who is not a party to the underlying dependency proceeding. The rules should provide that all parties to the appeal or writ proceedings receive record comprised only of documents filed in or used in connection with the proceeding that is the subject of the appellate court proceeding, and any transcripts of the hearing. In this way, all litigants in the appellate court would have access to the same record.

Appellate Defenders (AD) raises due process concerns with appellate issues being raised and considered from two different records. AD points out that the designated person working from a limited record is unable to cite to favorable evidence (or defend against unfavorable evidence) that is included in the normal record but omitted from the limited record. Further, the court and other parties will rely on the entire case record to determine section 388 issues. (See *In re Justice P.* (2004) 123 Cal.App.4th 181, 189 (court can rely on entire case record when determining whether a section 388 petition makes a prima facie showing).

AD raises issues with language on form JV-291-INFO that advises the designated person filing a section 827 petition to request only a narrow set of documents. This omits matters that are also relevant “and not necessarily confidential” such as: social worker interviews with the designated person and references in the reports to them, visitation between the designated person and the minor; any assessments of the designated person regarding placement or visitation, statements the minor makes about the designated person, etc. AD also suggests that, if a designated person was present at any other hearings (other than the proceeding from which the appeal was taken), those proceedings arguably are not confidential as to that individual.

To alleviate due process concerns, Appellate Defenders suggests that counsel for a designated person, but not designated persons themselves, should have access to the complete normal record. This would also relieve designated persons from having to file section 827 petitions to access materials cited in the other parties’ briefs and thereby reduce delay in these cases. The commenter proposes a modification to rule 8.401(b).

Working group response:

The due process concerns are all based on the problem of litigants’ having unequal access to the record on appeal. To address the concern, the working group proposes adding provisions to rule

8.412, which governs briefs by parties and amici curiae. The addition to subdivision (a)(5) would add a requirement that a party whose brief relies on information in the case file to which a designated person has not been granted access, i.e., the information is not in the limited record, must add a notice to the brief that the brief contains confidential information. The notice must describe the records containing the information and the relevance of the information to the appeal. An advisory committee comment explains that the notice is intended to call attention to potential due process concerns so that the designated person and the court can take appropriate action (petition the juvenile court for access to more records; extend time for filing further briefs, etc.).

In addition, to address the question regarding whether the party's brief that contains confidential information should be served on the designated person, the working group recommends adding a new paragraph to subdivision (e) that requires the party to serve a redacted version of the brief on a designated person and to follow the requirements of rule 8.47 to request permission to file the unredacted brief under seal. The working group acknowledges that this adds more work and will cause these proceedings to take even longer, but it seems necessary under section 827 that designated persons not be provided with information to which they have not been given access by the juvenile court.

Rule 8.412. Briefs by parties and amici curiae

(a) Contents, form, and length

(1) – (4) * * *

(5) If an appeal involves a designated person, and the brief of a party who is not a designated person refers to juvenile case records that are not in the limited record, the party who is not a designated person must give notice that the party's brief refers to information that is not contained in the limited record. The notice must be placed on the first page of the brief following the table of contents and table of authorities and must describe the records and the relevance of the information to the appeal. the designated person may petition the juvenile court for access to those records and may to request an extension of time from the reviewing court under subdivision (e).

(e) Additional service requirements

(1) – (2) * * *

(3) Except as provided in (4), if the Court of Appeal

(4) If an appeal involves a designated person, and the brief of a party who is not a designated person contains information from juvenile case records that are not in the limited record, that party must serve only a redacted copy of the brief on the designated person and must request permission to file the brief under seal as provided in rule 8.47.

(4)(5) * * *

(5)(6) * * *

Advisory Committee Comment

Subdivision (a)(5). Subdivision (a)(5) requires a party filing a brief that contains information based on records that are not included in the limited record provided to a designated person to provide notice to the reviewing court and the designated person. The notice is intended to call attention to potential due process concerns arising from litigants' unequal access to records in the juvenile case file so that they may be addressed. The notice is intended to assist the designated person in deciding whether to seek access to the records pursuant to a section 827 petition and an extension of time from the reviewing court under subdivision (c). Due process may require that the designated person have access to material the reviewing court will consider in order to provide the designated person an adequate opportunity to be heard.

Subdivision (e)(4). Subdivision (e)(4) requires a party whose brief contains confidential information to which a designated person has not been granted access by the juvenile court to serve on a designated person only a redacted version of the brief and to request that the unredacted brief be filed under seal as provided in rule 8.47.

The working group agrees that the same additional provisions, modified for writs, should be added to the writ rules. The language for rules 8.452 and 8.456 (writ rules) is being developed.

Delay

Three comments discuss concerns about the extensive delays that result from the 827 petition process. Neither the statute nor the rules specify a time frame for juvenile courts to rule on 827 petitions, and, according to Advokids, they languish for months before being acted upon. In the meantime, issues related to the child's well-being, stability, or permanency are delayed or not decided at all.

Advokids requests time limits within which the juvenile court must act on a section 827 petition. The working group should discuss this idea and decide whether to pursue it in a future rules cycle. Any proposed time limits for courts to do something would need to circulate for public comment.

Appellate Defenders comments that initial and subsequent section 827 petitions will create additional delay, and suggests the possibility of a *Marsden*-type approach. Specifically, the respondent would have to notify the court that its briefing refers to matters beyond the limited record. This would provide cause for the court to issue a section 827 order granting access to the designated person.

Working group response:

The working group acknowledges that section 827 petitions will result in delay. Motions to file briefs under seal will cause delay. However, section 827 is clear that a petition must be filed in order to access information in the case file for persons who are not specifically identified as being entitled to full access. The Legislature states that access is restricted and the way to gain access is to petition the juvenile court for access to records. Allowing a party to divulge confidential information in the case file by discussing it in a brief and serving that brief on someone not entitled to access would undermine the intent of the statute.

The working group is open to the idea of proposing a time frame for the section 827 petition process. As noted above, this would be part of a separate proposal and would need to circulate for public comment.

Whether designated persons are parties under section 827(a)(1)(E)

Advokids contends that designated persons could be considered “parties” to the juvenile court proceeding in which they were involved, and that their attorneys on appeal could be entitled to the case file under section 827(a)(1)(E). (See discussion in Due Process section.)

Working group response:

The working group disagrees with writing this interpretation of the statute into the rules. Issues around who is a party to a juvenile court proceeding, how much standing an individual has, and the extent of due process protections the individual is entitled to far exceed the scope of this project, which is simply to implement new subdivision (a)(6) of section 827.

Whether counsel for designated persons should have access to the normal record

If designated persons are “parties” under section 827(a)(1)(E), their counsel would be entitled to access to the complete juvenile case file under the same provision. (See discussion in Due Process section.)

Working group response:

The answer is no, in light of prior response.

Whether parties’ briefs should be served on designated persons

The issue is whether designated persons should receive briefs that likely include confidential information from documents to which the designated person has not been granted access. The commenter requests clarification on this point in the rule. Should the rules address which briefs should be served on designated persons? Should the rules provide that the designated person’s attorney may only receive the same briefs and record that the designated person receives? (But see other comment suggesting that designated persons’ attorneys should receive the normal record on appeal.)

Working group response:

The working group concluded that a designated person should be served with a redacted brief. See discussion under due process, above.

Forms revisions

The suggested revisions to forms are not discussed in this memo. Please review the draft comment chart for the suggestions and proposed responses. The four forms with proposed revisions are JV-291-INFO, JV-570, JV-800, JV-820, and JV-822., and they are attached to these materials.

Subcommittee's Task

The subcommittee's task with respect to this proposal is to:

- Discuss the comments received on the proposal;
- Discuss and approve or modify working group and staff suggestions for responding to the comments, as reflected in the draft comment chart; and
- Discuss and decide whether the proposal should move forward now, or whether the comments and proposed modifications raise sufficient concerns that the proposal should be deferred at this time for further development and recirculation for public comment.

Attachments and Links

1. Draft additions to rule 8.412
2. Forms
3. Draft comment chart
4. Invitation to comment

Draft additions to rules 8.412, 8.452, and 8.456
Proposed by joint ad hoc working group 7/10/2019

Rule 8.412. Briefs by parties and amici curiae

(a) Contents, form, and length

(1) – (4) * * *

(5) If an appeal involves a designated person, and the brief of a party who is not a designated person refers to juvenile case records that are not in the limited record, the party who is not a designated person must give notice that the party’s brief refers to information that is not contained in the limited record. The notice must be placed on the first page of the brief following the table of contents and table of authorities and must describe the records and the relevance of the information to the appeal. the designated person may petition the juvenile court for access to those records and may to request an extension of time from the reviewing court under subdivision (c).

(e) Additional service requirements

(1) – (2) * * *

(3) Except as provided in (4), if the Court of Appeal

(4) If an appeal involves a designated person, and the brief of a party who is not a designated person contains information from juvenile case records that are not in the limited record, that party must serve only a redacted copy of the brief on the designated person and must request permission to file the brief under seal as provided in rule 8.47.

~~(4)~~(5) * * *

~~(5)~~(6) * * *

Advisory Committee Comment

Subdivision (a)(5). Subdivision (a)(5) requires a party filing a brief that contains information based on records that are not included in the limited record provided to a designated person to provide notice to the reviewing court and the designated person. The notice is intended to call attention to potential due process concerns arising from litigants’ unequal access to records in the juvenile case file so that they may be addressed. The notice is intended to assist the designated person in deciding whether to seek access to the records pursuant to a section 827 petition and an extension of time from the reviewing court under subdivision (c). Due process may require that the designated person have access to material the reviewing court will consider in order to provide the designated person an adequate opportunity to be heard.

Subdivision (e)(4). Subdivision (e)(4) requires a party whose brief contains confidential information to which a designated person has not been granted access by the juvenile court to serve on a designated person only a redacted version of the brief and to request that the unredacted brief be filed under seal as provided in rule 8.47.

**** Add similar provisions for writ rules 8.452 and 8.456.**

Under very limited circumstances, a person who is not the child, parent, or legal guardian in a dependency or delinquency case has the right to seek review of decisions made by the juvenile court by filing an appeal or writ petition in the Court of Appeal. These individuals, however, are typically not entitled to access records that will be considered on appeal from the juvenile court case file for purposes of an appeal or writ proceeding unless they get approval from the juvenile court. The purpose of this information sheet is to inform those individuals who are not the child, parent, or legal guardian, and who may have the right to seek appellate review, of the requirement to request access to records in the juvenile court case file by filing a *Request for Disclosure of Juvenile Case File* (form JV-570) to have access to the juvenile case file during an appeal or writ.

1 When would I have the right to seek review?

To have a right to seek review, you must be harmed by an order or judgment of the juvenile court. In the vast majority of cases, only the child, parent, legal guardian, the county welfare department or district attorney will have the right to file an appeal or a writ petition challenging a juvenile court ruling. However, the law also protects those individuals who have a compelling relationship to the child in certain situations.

You might have a right to appeal or file a writ petition if, for example, you are:

- The child’s relative, and the child was removed from your home, or you requested that the child be placed in your home or that your home be assessed for possible placement, and the court denied your request for placement or the placing agency never assessed your home.
- Someone who cared for the child and requested de facto parent status, which was denied.
- Someone who requested a change of court order through a section 388 petition (JV-180), which was denied.
- A prospective adoptive parent challenging the juvenile court’s decision to remove the child from the home.

2 If I want to file an appeal or writ petition, what additional steps must I take?

To have access to records in the juvenile case file for an appeal or writ proceeding, you must request access from

the juvenile court. To make this request, you must file *Request for Disclosure of Juvenile Case File* (form JV-570). You will need to serve a copy of this form on all interested parties to the case if you know their names and addresses, including the child, parents, social worker, and probation officer.

On the request form, you will need to identify which specific records you are requesting. Your request for information can include any documents that you are aware of that exist in the juvenile court file, or are in possession of the social worker or probation officer. Be sure to indicate the dates of the hearings that relate to the decision you are challenging. As the basis for the request, you may indicate the appeal or writ proceeding in the Court of Appeal. You will also need to explain why you are requesting the records. Your explanation should show how the records, including any transcripts, relate to the decision you are challenging (for example, a report or court order following a hearing on your issue). The juvenile court will make a decision on your request by issuing an order that identifies the records you are authorized to access. The court's order is made on *Order After Judicial Review* (form JV-574).

When you file a notice of appeal or a notice of intent to file a writ petition, you should attach the court's order if you have one. Doing so will alert the clerk that you are authorized to access records in the case file and will ensure that a record will be prepared for you.

Note: an order from the juvenile court granting you access to records in the case file is not a prerequisite for filing an appeal or writ petition.

It is recommended that you consult with an attorney when considering whether you should file an appeal or a writ petition and request access to the juvenile court record. You must file a notice of appeal within sixty days of the date of the making of the order that is being appealed. For writ review, the notice of intent to file a writ petition usually must be filed within seven days after the court makes the order you are challenging. But note that the deadlines for filing a notice of intent to file a writ petition are different depending on the circumstances. For more information, read rules 8.450 and 8.454 of the California Rules of Court. These timelines apply whether or not the court has granted you access to the juvenile case file through a section 827 petition.

If you are requesting a court order to obtain the juvenile case file of a child who is alive, fill out all items on this form, and file it with the court. You must also fill out and file Proof of Service—Request for Disclosure (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

a. Fill out items 1–4 and 7 on this form and file it with the court. You must then provide a copy of this form to the Custodian of Records of the county child welfare agency, who will then provide notice of this request.

Or

b. Do not complete the form and request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

DRAFT
Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number, if known:

Case Number:

① Your name: _____
Relationship to child (if any): _____
Street address: _____
City: _____ State: _____ Zip: _____
Telephone number: _____
Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

② Name of child (if known): _____

③ Child's date of birth (if known): _____

④ a. A petition regarding the child in ② has been filed under
 Welfare and Institutions Code section 300
 Welfare and Institutions Code section 601
 Welfare and Institutions Code section 602 or
 b. I believe the child in ② died as a result of abuse or neglect. Approximate date of death: _____

Note: You must provide a copy of this form to all interested parties if you know their names and addresses.



Your name: _____

Case Number: _____

5 The records I want are: *(Describe in detail. Attach more pages if you need more space. For a nonparty seeking review in an appellate court, specify the request is for transcripts and evidence considered by the juvenile court at hearings related to the appeal or writ proceeding. For example, you should describe a report by providing its title (such as, "status review report," "jurisdiction/deposition report," or "CASA report.") and the date of the hearing when the document was considered.)*

Continued on Attachment 5.

6 The reasons for this request are:

a. Civil court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

b. Criminal court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

c. Juvenile court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

d. Appellate court case by a nonparty.
Case number *(if applicable)*: _____
Hearing dates related to the juvenile court order being challenged or to be challenged on appeal or by writ: _____

e. Other *(specify)*: _____
Case number: _____ Hearing date: _____


7 I need the records because: *(Describe in detail. Attach more pages if you need more space.)*

Continued on Attachment 7.

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

Date:

Type or print your name

 _____
Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 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:	
NOTICE OF APPEAL—JUVENILE	CASE NUMBER:

— NOTICE —

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 6–8 on the reverse of this form.
- Rule 8.406 says that to appeal from an order or judgment, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final.
- You are advised that if you wish to file an appeal of the order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the county welfare department, district attorney, the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. I appeal from the findings and orders of the court (*specify date of order or describe order*):

 2. This appeal is filed by
 - a. Appellant (*name*):
 - b. Address:
 - c. Phone number:
 - d. Name, address, and phone number of person to be contacted (*if different from appellant*):

 - e. (1) Appellant is not the county welfare department, district attorney, child, parent, or legal guardian.
 (2) Appellant has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on form JV-574 *Order after Judicial Review*, if available, is attached.

 3. I request that the court appoint an attorney on appeal. I was was not represented by an appointed attorney in the superior court.

 4. (*Answer only if you know.*) The appeal involves another person or respondent who is not the county welfare department, district attorney, child, parent, or legal guardian. This party may require the preparation of a limited record as defined in rule 8.400(b)(2).
- Date: _____

_____ _____
 TYPE OR PRINT NAME SIGNATURE OF APPELLANT ATTORNEY

5. Items 6 through 8 on the reverse are completed not completed.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

6. Appellant is the

- a. child.
- b. mother.
- c. father.
- d. legal guardian.
- e. de facto parent.
- f. county welfare department.
- g. district attorney.
- h. child's tribe.
- i. other (state relationship to child or interest in the case):

7. This notice of appeal pertains to the following child or children (specify number of children included):

- a. Name of child: _____
Child's date of birth: _____
- b. Name of child: _____
Child's date of birth: _____
- c. Name of child: _____
Child's date of birth: _____
- d. Name of child: _____
Child's date of birth: _____
 Continued in Attachment 7.

8. The order appealed from was made under Welfare and Institutions Code (check all that apply)

- a. **Section 305.5** (transfer to tribal court)
 Granting transfer to tribal court
- b. **Section 360** (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
Dates of hearing (specify): _____
- c. **Section 366.26** (selection and implementation of permanent plan in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
 Termination of parental rights Appointment of guardian Planned permanent living arrangement
Dates of hearing (specify): _____
- d. **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
Dates of hearing (specify): _____
- e. Other appealable orders relating to dependency (specify): _____
Dates of hearing (specify): _____
- f. **Section 725** (declaration of wardship and other orders)
 with review of section 601 jurisdictional findings
 with review of section 602 jurisdictional findings
Dates of hearing (specify): _____
- g. Other appealable orders relating to wardship (specify): _____
Dates of hearing (specify): _____
- h. Other (specify): _____

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING UNDER WELFARE AND INSTITUTIONS CODE SECTION 366.26 (California Rules of Court, Rule 8.450)	CASE NUMBER:

NOTICE

The juvenile court has decided it will make a permanent plan for this child that may result in the termination of your parental rights and adoption of the child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the county welfare department, the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. parent (name):
 - b. legal guardian.
 - c. county welfare department.
 - d. child.
 - e. other (state relationship to child or interest in the case):
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.
 b. List all known dates of the hearing that resulted in the order:
7. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known): _____
8. a. Petitioner is not the county welfare department, child, parent, or legal guardian.
 b. Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on form *Order after Judicial Review* (form JV-574), if available, is attached.
9. (Answer only if you know.) This writ proceeding involves another person or respondent who is not the county welfare department, child, parent, or legal guardian. This party may require the preparation of a limited record as defined in rule 8.400(b)(2).

Date: _____

SIGNATURE OF
 PETITIONER
 ATTORNEY

The *Notice of Intent to File Writ Petition* must be signed by the person who intends to file the writ petition or by the attorney of record.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
-----------------------	------------------------

WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION

HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?

- File this Notice of Intent to File Writ Petition and Request for Record in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.

SEE WELF. & INST. CODE, § 366.26(I); CAL. RULES OF COURT, RULES 8.450–8.452

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

SEE WELF. & INST. CODE, §§ 248–252; CAL. RULES OF COURT, RULES 5.538, 5.540

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, or
- By the attorney of record

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER DESIGNATING OR DENYING SPECIFIC PLACEMENT OF A DEPENDENT CHILD AFTER TERMINATION OF PARENTAL RIGHTS (California Rules of Court, Rule 8.454)	CASE NUMBER:

NOTICE

The juvenile court has ordered or denied a specific placement for this child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's placement decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the county welfare department, the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. child's caretaker (specify dates in your care):
 - b. child.
 - c. county welfare department.
 - d. legal guardian.
 - e. other (state relationship to child or interest in the case):
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court terminated parental rights under Welfare and Institutions Code section 366.26.
- b. On (date): _____ the court made a specific placement order or denied a specific placement request that the dependent child is to reside in, be retained in, or be removed from a specific placement. Petitioner intends to file a writ petition to challenge the specific placement order or the denial of a specific placement request made by the court on that date and requests that the clerk assemble the record.
7. a. Petitioner is not the county welfare department, child, parent, or legal guardian.
- b. Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on *Order after Judicial Review* (form JV-574), if available, is attached.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

8. (Answer only if you know.) This writ proceeding involves another person or respondent who is not the county welfare department, child, parent, or legal guardian. This party may require the preparation of a limited record as defined in rule 8.400(b)(2).

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER CHILD'S ATTORNEY)

The Notice of Intent to File Writ Petition must be signed by the person intending to file the writ petition or, if it is to be filed on behalf of the child, by the child's attorney of record. See below for more information.

HOW DO I CHALLENGE THE COURT'S PLACEMENT DECISION AFTER TERMINATION OF PARENTAL RIGHTS?

- File this *Notice of Intent to File Writ Petition and Request for Record* in the juvenile court within the time listed below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get a copy of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal you must send a copy of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings.

SEE CAL. RULES OF COURT, RULES 8.454–8.456

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court granted or denied the specific placement, you must file the *Notice of Intent* within 7 days from the date the court granted or denied the specific placement.
- If you were not present in court but were given notice by mail of the court's decision to grant or deny the specific placement, you must file the *Notice of Intent* within 12 days from the date the clerk mailed the notification.
- If the order granting or denying the specific placement was made by a referee not acting as a temporary judge, you must file the *Notice of Intent* within 17 days from the date the court set the hearing.

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, *or*
- If petition will be filed on behalf of a child, by the child's attorney, *or*
- 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. (Cal. Rules of Court, rule 8.454(e)(3).)

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All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Advokids By Janet G. Sherwood, J.D., CWLS Deputy Director	NI	<p>The following comments to the proposed rule are submitted by Advokids, a nonprofit organization that advocates for the rights of children in foster care, including the right to safety, security, stability, and timely permanency decisions. These responses to the specific questions posed by the proposal and as well as all other comments were prepared by a certified child welfare law specialist with over 40 years of experience in the field. She was also a certified appellate law specialist until she closed her private practice in 2016 to work full-time with Advokids.</p> <p>Does the proposal adequately address the stated purpose? No. It needlessly creates a barrier to timely appeals by appearing to require juvenile court approval of a Welfare and Institutions Code section 827¹ petition before either the appeal can be filed or the record prepared. It is not entirely clear from the proposal when the 827 petition must be filed. It can be read to say that the only documents that may be included in the record are those for which the juvenile court granted an 827 petition <i>during</i> the juvenile court proceedings resulting in the order being appealed and</p>	<p>The committees appreciate this feedback on the proposal.</p> <p>Section 827 governs access to the juvenile case file and the legislature has clarified in section 827(a)(6) that the confidentiality of section 827 applies to documents on appeal. Section 827(a)(1)(Q) provides that individuals who are not specifically listed in section 827(a)(1)(A)-(P) must petition the court for access to specific records in the case file. To implement the recently added subdivision (a)(6), which provides that a litigant who petitioned for and was granted access to records in the juvenile court under section 827</p>

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			<p>that the petition must have been granted before the appeal or notice of intent can be filed. (See, e.g., JV-291-INFO [“When you file a notice of appeal or a notice of intent to file a writ petition, you will need to attach the juvenile court’s order indicating the records to which it granted you access.”])</p>	<p>is entitled to the same access to records in the appellate court, the committees concluded that the rules should provide guidance and clarify the procedures to be followed by litigants, courts, and others to comply with the statutory requirements. In practice, the requirement that individuals described by section 827(a)(1)(Q) must petition for access to records in the juvenile case file may mean that, to be entitled to a record in appellate court proceedings, those individuals will require an approved section 827 petition. The proposed rule changes do not create a prohibition on the filing of an appeal or writ prior to being granted access to the juvenile case file; they implement section 827(a)(6) by clarifying what portion of the juvenile case file the individual is entitled to access in appellate court proceedings.</p> <p>In addition, the proposal contains no time requirement for when a section 827 must be filed. If a section 827 petition is filed during an appeal or writ proceeding, the record can be augmented by the Court of Appeal. (See rule 8.410(b)(3) of amended rules.)</p> <p>The committees agree that form JV-291-INFO should not indicate that attaching the</p>

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			<p>The proposal also does not adequately address the stated purpose because there are no time limits on how much time a juvenile court can take to act on a section 827 petition nor is there any remedy available when the juvenile court wrongfully denies a section 827 petition, thereby effectively preventing the appeal or writ from being considered. For example, the Los Angeles Superior Court has a practice of refusing to file notices of appeal or notices of intent to file a writ petition from de facto parents as well as persons who are not the parent, the child, or the agency unless that person also files a section 827 petition. Those section 827 petitions then languish for months and months before they are acted upon. It is also not unheard of for those petitions to be sent for a ruling to the judge whose order is being appealed, even though the procedure</p>	<p>section 827 petition is required. The JV-291-INFO has been amended to reflect that when the notice of appeal or notice of intent to file a writ petition is filed, the section 827 petition should be attached if one is available, but that it is not required to file the notice of appeal or writ.</p> <p>The committees agree that there are legitimate concerns about delays in a decision by the juvenile court on the section 827 petitions. The committees also note that section 827(a)(2)(E)-(F) provides a timeline for a juvenile court's decision on a section 827 petition in the case of a deceased child. The statute is silent regarding a timeline for the court's decision in other circumstances. The committees interpret this comment as a request for rules setting forth the timing of a section 827 petition in circumstances not addressed by section 827(a)(2). Including such rules would be a substantive change to the proposal that, under rule 10.22, would require circulation for public comment. The committees will retain the suggestion for consideration in a future rules cycle.</p>

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			<p>specified by section 827 requires the presiding judge to make that determination.</p> <p>In the meantime, resolution of issues important to the child’s stability, permanency, or well-being are being unnecessarily delayed or not decided at all. If the proposal requires a ruling on the section 827 petition before a notice of appeal or notice of intent can be filed, then the absence of time limits on when the juvenile court must act on the section 827 petition must be addressed. The time limits for filing a Notice of Intent are very short. Even if a section 827 petition is filed before the notice of intent, it will not have been acted upon before the notice of intent must be filed to preserve the right to file a writ petition after the record is prepared and no record will be prepared because the court has not yet acted on the pending section 827 petition. The statutory writ proceedings under sections 366.26(l) and 366.28 were adopted because the Legislature wanted the issues raised by these writ petitions to be resolved swiftly, usually in no more than in 120 days from the date of the order. If there are no time limits on when the juvenile court must act on a prerequisite section 827</p>	<p>See responses above. In addition, to alert individuals described by section 827(a)(1)(Q) of the need for an approved section 827 petition for access to records in the juvenile case file, the proposal includes adding notices to several Judicial Council forms to provide this information. The burden on these individuals to pursue access to the juvenile case file is a statutory requirement. The Court of Appeal may determine whether good cause exists to grant an extension of time based on the section 827 petition process in the juvenile court. (See rule 8.412(a)(5) and (c).)</p>

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			<p>petition and no remedy when such petitions are wrongfully denied, then the purpose of the writ procedures can be completely thwarted by the failure of a juvenile court to make a prompt decision on the section 827 petition.</p> <p>Should other rules apply to preparing, sending, and using a limited record? Yes. There are a number of proceedings in juvenile court for which a formal section 827 petition is not considered or granted for access to the pleadings or other documents during that proceeding but from which a writ petition or appeal may appropriately be taken by a party to that proceeding who is not also a party to the entire juvenile court case. The most prominent examples are 388 petitions filed by relatives or other interested persons for modification of an existing juvenile court order, de facto parent requests that are denied, and writ petitions filed under section 366.28 after the court has made a prospective adoptive parent determination under section 366.26, subdivision (n) or otherwise granted or denied a change in adoptive placement. In those cases, if the appellate review is sought by someone who is not otherwise a</p>	<p>The committees appreciate this comment but do not believe that there is an avenue to avoid the requirements of section 827 in the situations mentioned. The legislature has clearly required that the confidentiality of section 827 will apply to the record on appeal or in a writ proceeding. Access to the record therefore must be resolved within the parameters of section 827. The committees do not believe that a trial court that informally allows an individual not listed in section 827(a)(1)(A-Q) to access the juvenile case file conforms to the requirements of section 827. Whether trial courts may consider an individual to be a “party” under section 827(a)(1)(E) is beyond the scope of this proposal. This approach however will only permit disclosure to the individual’s attorney. And while in certain instances, due process may require that certain individuals have</p>

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			<p>party to the entire section 300 proceeding, the appropriate record would include the documents before the court for that specific proceeding and reporter’s transcripts, if any, of those proceedings.</p> <p>Generally speaking, if the juvenile court grants access to social worker reports or other documents during those proceedings, it does not do so by employing the formal 827 process. It makes a ruling authorizing access in response to a discovery request or similar motion in the course of the proceeding, usually because due process requires that the information be made available to ensure a fair opportunity to be heard and to defend against any adverse information in those reports. (See, e.g., <i>In re Matthew P.</i> (1999) 71 Cal.App.4th 841, 850-851 [denial of due process to decide section 388 petition without permitting cross-examination of social worker regarding information in the social worker’s report adverse to the de facto parents].) Aside from the due process problems that arise when an appellant or writ petitioner is barred from having access to the same documents as the other parties to the appeal or writ proceeding, the notion that the</p>	<p>access to the juvenile case file, these individuals can request this information through a section 827 petition. While this creates a greater burden on juvenile courts and individuals not listed in section 827(a)(1)(A-Q), the committees believe this is required by section 827(a)(6). In addition, the changes suggested would be a substantive change to the proposal that, under rule 10.22, would require circulation for public comment. The committees however will take this comment into consideration for possible future proposals.</p> <p>The committees agree with the concerns raised. In response to the due process concerns during an appeal or a writ when one party is barred from having access to the same documents employed by other parties to the appeal or writ proceeding, the committee has amend rule 8.412(a)(5) by creating a requirement that <u>the party who is not a designated person must give notice that the party’s brief relies on information that is not contained in the limited record. The notice must be placed on the first page of the brief following the table of contents and table of authorities.</u></p>

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			<p>documents employed in the proceedings from which appellate review is sought are confidential from the persons who either filed or had access to those very same documents when they participated in the juvenile court proceeding is illogical and ridiculous. The notion that a person who was present at and participated in a hearing must file a section 827 hearing to obtain a reporter’s transcript of that same hearing is likewise ridiculous.</p> <p>Adding the completely unnecessary step of requiring a section 827 petition before the person who filed the documents in the trial court or participated in the hearing can see documents or a reporter’s transcript of that hearing in the appellate record would be a huge waste of resources for both the juvenile courts and the courts of appeal. A better way to address this issue would be to consider any access afforded the petitioner during the proceedings by the juvenile court to be the equivalent of a section 827(a)(1)(Q) order even though no separate section 827 petition was filed and granted.</p>	<p>For discussion: Regarding the requirement to request the transcript for a hearing in which the individual was present, the committees agree that this is unnecessary. The rules have been amended to create an exception to the transcript if the individual was present during the hearing. This is in part due to the fact that section 827(e) does not reference the reporter’s transcript (although rule of court 5.552(a)(5) does). The committees agree that it is not equitable for an individual who is present at a hearing to be barred from having access to the transcript. Rule 8.407 has been amending to indicate this exception.</p>

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			<p>People who petition the juvenile court under section 388 or section 366.26(n) or who were denied de facto parent status are all granted limited standing, by statute or rule of court, to participate in specified juvenile court proceedings covered by the rule or statute. It would be quite reasonable to recognize those people as “parties” to those specified proceedings. (See. e.g., <i>Wayne F. v. Superior Court</i> (2006) 145 Cal.App.4th 1331, [prospective adoptive parents, while not parties to the underlying dependency proceedings unless they are also de facto parents, were entitled to “fully participate” in 366.26(n) hearings concerning proposed removal from their home].) Under the exceptions listed in new section 827(a)(6), their attorneys should be given access to the documents submitted to the juvenile court and the transcripts of those proceedings under section 827(a)(1)(E) (attorneys for parties) without having to waste a lot of time and resources, including the court’s resources, seeking a section 827 order. It would make more sense to modify the appellate rules concerning preparation of the record to specify that something other than the “normal record” is to be prepared when the appeal or notice of intent is filed</p>	<p>See response above. The committees wish to emphasize that section 827 remains the only avenue the Legislature has permitted for access to the juvenile case file.</p>

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			<p>by persons who requested de facto parent status or who were parties to a 388 petition or a section 366.26(n) prospective adoptive parent proceeding or adoptive placement decision, but who are not parties to the entire juvenile court proceeding. In those cases, the rules should specify that only the documents filed in connection with the proceedings resulting in the order being challenged, any other documents to which access was granted by the court, and the reporter’s transcripts of those proceedings should be included in the appellate record. Any questions about documents other than those listed should be resolved by the courts of appeal in the context of a motion to augment the record, not by the juvenile court in the context of a section 827 petition.</p> <p>Does the proposed notice on the JV forms adequately alert individuals of the requirement to request access to records in the juvenile case file by filing a petition under section 827(a)(1)(Q)?</p> <p>No. It is confusing and incomplete. The information is incomplete because it excludes de facto parents, who are parties to the juvenile court proceedings and, as such,</p>	<p>The notice reads “If you are not the child, the child’s parent, or the child’s legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited</p>

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			<p>are entitled to appeal a juvenile court decision that adversely affects their interests. It is interesting to note that 8.409(c)(1) and the proposed amendment to rule 8.409 (f)(2)(A) specify that the record on appeal must be sent to any Indian tribe that has intervened (making the tribe a party) but does not mention de facto parents.</p> <p>Should the notice be included on forms that may not typically relate to an appeal, such as Relative Information (form JV-</p>	<p>circumstances.” This would include a de facto parent.</p> <p>An Indian tribe’s access to the juvenile case file is specifically addressed in section 827(f), which states that “the persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe.” In addition, the child’s Indian tribe was included in rule 8.409 prior to the proposal, and its inclusion in rule 8.409 was not a matter this proposal intended to consider. De facto parents’ standing is addressed in rule 5.534(a). De facto parents have standing to participate as parties, but they have a limited role, do not enjoy the same due process rights as a parent and they do not have an automatic right to receive the placing agency’s reports and other documents filed with the court. (<i>In re B.F.</i>, (2010) 190 Cal.App.4th 811, at p. 817.)</p>

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			<p>285) and Caregiver Information Form (form JV-290)?</p> <p>No. The notice is confusing and inaccurate to the extent it excludes de facto parents from the list of people who will have the right to file an appeal or a writ petition. Although they are required by law to do so, most counties do not actually send either of these forms to relatives or caregivers. In addition, those forms are designed for the purpose of providing a vehicle for relatives and caregivers to provide information about the child to the court without having to make a court appearance. Including the proposed language might be read as suggesting that relatives and caregivers who file the forms have appellate rights that they do not actually have.</p> <p>Does the proposed information sheet, form JV-291-INFO, provide the information necessary for an individual</p>	<p>The notice reads “If you are not the child, the child’s parent, or the child’s legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances.” This would include a de facto parent.</p> <p>The committees agree with the concern that the forms may be read as suggesting that relatives and caregivers will have appellate rights they do not actually have. The committees however believe that this concern is outweighed by the need to alert individuals not listed in section 827(a)(1)(A)-(P) of the need to petition the juvenile court for access to the juvenile case file in the event of an appeal or writ petition. The notice on the forms makes clear that the right to challenge a decision by the juvenile court only applies in “very limited circumstances.” In addition, the notice references the form JV-291-INFO, which explains in greater detail when there may be a right to appeal or petition for a writ.</p>

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			<p>to understand the right to appeal and the process for requesting access to records in the juvenile case file? Should other information be included? Should other scenarios be listed in item 1 to describe when someone not entitled to access the juvenile case file would have a right to appeal?</p> <p>No. The second to the last paragraph states that the person seeking review “will need to attach the juvenile court’s order indicating the records to which the court has granted you access.” This suggests that the person must have the order in hand before the notice of appeal or notice of intent may be filed. As noted above, if a granted section 827 petition is a prerequisite to filing the notice of appeal or a notice of intent, many people will be deprived of any review at all. Because there are no time limits on how long the juvenile court has to act on a section 827 petition, the section 827 petition may still be undecided when the time limits for filing a notice of intent (7 days) or a notice of appeal (60 days) have run.</p> <p>Attempting to list all possible scenarios is fraught with peril. The first example--a relative who requested placement but the</p>	<p>The committee agrees that form JV-291-INFO should not indicate that attaching the section 827 petition is required. The JV-291-INFO has been amended to reflect that when the notice of appeal or notice of intent to file a writ petition is filed, the section 827 petition should be attached if one is available, but it is not required to file the notice of appeal or writ.</p> <p>The list of scenarios in form JV-291-INFO is intended to provide some guidance to individuals unfamiliar with dependency or</p>

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			<p>placing agency did not assess their home for placement before a hearing to terminate parental right—may be read to suggest that these people may file an appeal even though there is no juvenile court order denying them placement. The fourth—the child’s sibling who requested visitation or an exception to adoption—is at best questionable.</p> <p>Siblings who are juvenile court dependents have the right to notice of and the right to be present and represented by counsel at each other’s hearings. (Welf. & Inst. Code §349.) This arguably makes them parties to each other’s cases. If a sibling has participated in a hearing which results in a request for appellate review, that sibling’s appellate counsel should have the same access to the appellate record as all other appellate counsel.</p> <p>Thank you for your consideration of these comments.</p>	<p>delinquency proceedings. It is not an exhaustive list. The first example has been amended to indicate that the juvenile court issued an order related to a relative’s request for placement of the child. The sibling example has been deleted; see comment below.</p> <p>The committees agrees that it is not necessary to address sibling standing in this portion of the form. The fourth bullet point of item 1 has been removed.</p>
2.	Appellate Defenders, Inc. by Elaine Alexander Executive Director San Diego	NI	<p>Summary of Provisions. The proposed rules create a new method of preparing the appellate record when the appellant is an individual who is not entitled to access the juvenile court record under the</p>	The committees appreciate these comments.

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			<p>provisions section 827. (Rule 8.405.) The proposal refers to these individuals as the “designated person.” (Rule 8.400(b)(1).)</p> <p>The proposal envisions the creation of two appellate records: a limited record for the designated person and a regular, full record for the court, the petitioning agency, the parents and minor(s). (Rules 8.400(b)(2); 8.407(f).) The limited record is to be paginated separately from the full record. (Rule 8.409(b)(2).) The proposal provides that counsel for the designated person may receive only the limited record. (Rule 8.409(f)(3)(A) & (B).)</p> <p>The limited record contains only the material to which the designated person has been granted access by the juvenile court pursuant to a section 827 petition for disclosure they must file. (Rule 8.400(b)(2).) The proposal includes a revision to the 827 petition, form JV-570. Several other forms are proposed to notify the designated person of the need to file a petition for access to the file pursuant to section 827. (Pages 48-63 of the Invitation to Comment package.)</p>	

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Appellate Procedure, Juvenile Law: Access to Juvenile Case Files in Appellate Court Proceedings (Amend Cal. Rules of Court, rules 8.400, 8.401, 8.405, 8.407–8.410, 8.412, 8.416, 8.450, 8.452, 8.454, and 8.456; approve form JV-291-INFO; revise forms JV-285, JV-290, JV-295, JV-321, JV-325, JV-570, JV-800, JV-820, and JV-822)

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	Commenter	Position	Comment	Committee Response
			<p>If the other parties to the appeal cite to material that is not in the limited record, the proposal allows the designated person to file another 827 petition to request the juvenile court give them access to this additional material. (Rule 8.412 (a)(5).) They may also request an extension from the COA. (<i>Ibid.</i>)</p> <p>Provisions almost identical to those described above are proposed for the statutory writ records. (Rules 8.450-8.456.)</p> <p>Our analysis. 1. The Limited Record Raises Due Process Concerns. We have a fundamental concern about appellate issues being raised and considered from two different records, which essentially infringes on an appellant’s right to appeal.</p> <p>– The designated person working from the limited record is at a distinct disadvantage. They are unable to discern and cite to favorable evidence supporting their position in the case record that is omitted from the limited record.</p>	<p>The committees agree that due process may be implicated when there is a separate record for different parties to an appeal or writ proceeding. However, this proposal can only implement what the Legislature has prescribed. The legislation requires that the section 827 process apply to access to the juvenile case file in an appeal or writ proceeding; it clarifies that a litigant is entitled to the same access to the case file in the appellate court as was granted by the juvenile court pursuant to a section 827 petition. Allowing an individual not</p>

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			<p>– The court (and other parties) will rely on the entire case record to determine 388 issues (most relative placement issues are raised in 388 petitions). (See <i>In re Justice P.</i> (2004) 123 Cal.App.4th 181, 189, [court can rely on entire case record when determining whether a section 388 petition makes a prima facie showing].)</p> <p>– The proposed instruction sheet given to the designated person explaining the</p>	<p>authorized under section 827 to have access to the case file would conflict with the clear and unambiguous language of section 827(a)(6). While the committees agree that there are potential due process concerns, the rules adopted cannot be inconsistent with statute. (Cal. Const. Art. VI §6.) This rule proposal is therefore bound by what the Legislature has required. Individuals not listed in section 827(a)(1)(A)-(P) on appeal will still have the avenue of access to the case file through the granting of a section 827(a)(1)(Q) petition.</p> <p>In response to the due process concerns during an appeal or a writ when one party is barred from having access to the same documents employed by other parties to the appeal or writ proceeding, the committee has amend rule 8.412(a)(5) by creating a requirement that <u>the party who is not a designated person must give notice that the party’s brief relies on information that is not contained in the limited record</u>. The notice must be placed on the first page of the brief following the table of contents and table of authorities.</p> <p>The committees note that if the source of the information is the juvenile case file (as</p>

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			<p>need to obtain the 827 order instructs them to request a very limited record from the juvenile court. The form, “Right to Appeal for a Nonparty– Requirement to Request Access to Juvenile Record” (JV-291-INFO, found at page 48 of the packet), states: “You should indicate (on the 827 application) you are requesting the record and transcripts relating to the dates of the hearing related to the issue you are appealing, and that you are requesting transcripts as well.”</p> <p>Omitted from this narrow request are matters that are relevant and not necessarily confidential: social worker interviews with the nonparty and references in the reports to them; visitation between the nonparty and the minor(s); any assessments of the nonparty regarding placement or visitation; statements the minor makes about the designated person; descriptions of the minor’s visits with the designated person.</p> <p>This information is relevant to a request for placement per the statutory factors the court must consider (section 361.3) and as demonstrated by the case <i>Isabella G.</i> (2016) 246 Cal.App.4th 708, 724 [evidence the</p>	<p>defined by rule 5.552(a)), the records are confidential under section 827. The proposal does not address records that are not confidential under section 827.</p> <p>The committees disagree with attempting to include in the JV-291-INFO form an exhaustive list of potential records or information in the case file that could be relevant to different types of proceedings. Any such list would be extensive, could not address specific circumstances of each case, and would not provide the general guidance that is the goal of the form. In addition, such a list would not be compatible with the requirement that a section 827 petitioner must demonstrate that the files sought are identified based on knowledge, information, and belief that such files exist (rule 5.552(b)(1)). Listing items that could be in the case file but not known to the petitioner would encourage individuals to request items that they do not have knowledge of or may not exist. The committees agree, however, with adding clarifying language to indicate that the request can include any additional documents in possession of the social worker or probation officer that the petitioner is aware of and that</p>

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			<p>minor missed her grandmother, was happy to be with her, requested more contact with her, the caregiver thought the minor should be placed with Grandmother, was relevant to show prejudice from the court’s failure to apply the relative placement criteria). This information is also relevant to requests for visitation.</p> <p>If the designated person was present at any other hearings (besides the hearing from which the appeal is taken), those proceedings are arguably not confidential as to this individual.</p> <p>The ability of the designated person to obtain this more extensive information through a juvenile court 827 order would begin to address the due process concerns. In item 4, below, we are proposing modifications to the 827 application for records designed to [elicit] this relevant information.</p> <p>2. Counsel for the Designated Person Should Have a Full Record.</p> <p>The due process concerns outlined above could be alleviated by providing a full copy of the record to counsel for the designated</p>	<p>would relate to the juvenile court’s decision that is being challenged.</p> <p>For discussion: Regarding the requirement to request the transcript for a hearing in which the individual was present, the committees agree that this is unnecessary. The rules have been amended to create an exception to access to transcript if the individual was present during the hearing. Section 827(e) indeed does not reference the reporter’s transcript (although rule of court 5.552(a)(5) does). The committees agree that it is not equitable for an individual who is present at a hearing to be barred from having access to the transcript. Rule 8.407 has been amending to indicate this exception.</p> <p>The committees appreciate this suggestion but cannot create an exception to section 827 to allow the attorney to access the juvenile case</p>

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			<p>party. The designated person’s access to the record can be circumscribed by the 827 order; counsel will not turn over any portion of the record to the client not authorized by the 827 order.</p> <p>It is highly unlikely counsel for the designated person will cite to material that isn’t relevant to the issue raised. And it is very likely this material will be cited by either the respondent or the court. The designated person is allowed to apply to see material cited in other parties’ briefs through another section 827 petition per Rule 8.412(a)(5). Providing the full record to appellate counsel for the designated person eliminates the need for the second (or third) 827 petition, and eliminates a big source of delay in these fast track cases. Rule 8.401 (b) (2) would presumably address the case of pro per designated persons, and instruct them to obtain a section 827 order from the juvenile court.</p> <p>We propose Rule 8.401(b) read as follows (new provisions italicized)</p> <p>8.401 (a)</p>	<p>file. Access to the juvenile case file will have to be determined through section 827. In addition, as discussed above, the committees have elected to require that notice be provided to a designated party if a brief cites to information not contained in the limited record. This will give the designated person notification that a section 827 petition will be required to access the information cited in the brief.</p> <p>See response above. The committees do not believe that an exception can be created for appellate attorneys that would be consistent with section 827.</p>

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			<p>(b) Access to filed documents (1) Except as limited in (2) or as provided in (2) (3) (4), the record on appeal and documents filed by the parties in proceedings under this chapter may be inspected only by the reviewing court and appellate project personnel, the parties including their attorneys, <i>the appellate attorneys for the designated persons, although not the designated persons themselves, except as provided in (b)</i>, and other persons the court may designate.</p> <p>3. Separately Paginated Records: Separately paginating the limited record will prove cumbersome, as the court and other parties will be working from two different records. The respondent’s brief will certainly cite to material beyond the limited record.</p> <p>The designated person is able to request access to cited material outside the limited record through another 827 petition. This process will create additional delay. Two or more 827 petitions have to be processed in juvenile court to facilitate the direct appeal. The designated person will be</p>	<p>The committees agree that working with a limited record in any form will prove challenging. However, the Legislature has clearly and unambiguously required that section 827 apply to the appellate record.</p>

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			<p>citing to two different records in the reply brief.</p> <p>Would a sort of <i>Marsden</i> type approach work better? The respondent has to notify the court that its briefing referred to matters beyond the limited record. This then provides cause for an 827 order to be issued granting the designated person access? We think the better approach is to provide the designated person a redacted record. Everyone will be working from the same page citations.</p> <p>4. Delay Concerns There are multiple ways in which the proposed process creates delay:</p> <ul style="list-style-type: none"> – The initial 827 process. (See Appendix, time lines for two cases that went through this process); – The subsequent 827 process to obtain material cited in other parties’ briefs. <p>Example: If a parent or minor is a co-appellant with the designated person,</p>	<p>The suggestion for a different approach to obtaining access to records in the juvenile case file is beyond the scope of this proposal, and any procedure set forth by rules cannot be inconsistent with statute. The committees will retain the suggestion for future consideration.</p> <p>The committees received feedback from juvenile court clerks that they preferred a separate limited record because it is easier to prepare than a redacted record. The committees decline to change the form of the limited record.</p> <p>The committees agree that the process granting access to the juvenile case file to individuals not listed in section 827(a)(1)(A)-(P) in an appeal or writ proceeding has the potential to create significant delays. But as discussed above, this rule proposal must be consistent with statute. The Court of Appeal may determine whether an 827 petition for access to records in the juvenile case file constitutes good cause for an extension of time in the appeal or writ proceeding. The</p>

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			<p>the entire appeal can be delayed: the record won't be filed until the initial 827 process is completed. If the co-appellant parent cites to material not in the limited record, the designated person can request it via another 827 petition. (Rule 8.412(a)(5).) And with yet another 827 petition if the respondent's brief cites to additional material not in the limited record.</p> <p>5. More Specificity in the application for an 827 order. We believe the proposed form, JV-570 (found at p. 58 of the packet) is too general and not very helpful to the lay person. A check-the-box format will likely prove helpful to the juvenile court in eliciting more specificity from the applicant. A proposed attachment to form JV-570 is found in the Appendix.</p> <p>6. Clarify the JV-291 Information Form:</p>	<p>goal of adding a notice regarding petitioning for access to the juvenile case file on forms included in this proposal and developing new form JV-291-INFO is to alert potential designated parties of the need to seek access to the case file through a section 827 petition.</p> <p>The committees believe that including the items listed in the appendix to this comment on the JV-570 form would encourage petitioners to check all the boxes listed, and would therefore lack the specificity required for a section 827 petition under rule 5.552(b)(1) and encourage requests for access to files that the petitioner does not know exists. This would create an undue burden for the juvenile court reviewing the petition. The committee has however elected to amend item 5 of form JV-570 to provide more guidance to the petitioner by giving instructions to include the type of report by name and date.</p>

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			<p>The form presently suggests that obtaining the 827 order is a condition of being able to file an NOA. It states: “When you file the notice of appeal . . . you will need to attach the court’s order indicating which records the court has granted you access.”</p> <p>Our concern is the 60-day appeal period will expire before the 827 order is obtained. At a minimum, the information form should indicate the NOA must be filed before 60-day appeal period expires and it can be filed before the 827 order is issued.</p> <p>Appendix</p> <p>Delay in Utilizing the 827 Petition Process: Two Case Examples</p> <p>1. D073770: the Court of Appeal ordered the non-party appellant to obtain an 827 order from the Juvenile Court which sets forth the record to which she can have access. This appellant is an attorney who was able to navigate this process much better than a lay person. The 827 process took more than three months:</p>	<p>The committees agree that form JV-291-INFO should not indicate that attaching the section 827 petition is required. The JV-291-INFO has been revised to reflect that when the notice of appeal or notice of intent to file a writ petition is filed, the section 827 petition should be attached if one is available, but it is not required to file the notice of appeal or writ. In addition, the form has been amended to specify that the timelines for an appeal or writ proceeding will apply regardless of whether or not a section 827 petitioner has been granted. The timelines for an appeal or writ are now also referenced in the form.</p> <p>The committees appreciate the inclusion of this additional information.</p> <p>The committees agree that timeliness issues as illustrated in this case are a concern. As mentioned above, the committees are hopeful that the notices included on Judicial Council forms included in this proposal and the</p>

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			<p>– Court of Appeal’s order to seek 827 order issued November 29th 2018; – 827 petition filed in Juvenile Court December 3, 2018; – 827 order rendered by the Juvenile Court February 1, 2019; – Court of Appeal ordered limited record prepared February 27, 2019; – Limited record filed in the Court of Appeal March 11, 2019.</p> <p>2. D073296: This fast-track case took 10 months to decide, 6 months to order the limited record:</p> <p>Mother – appellant: NOA filed 12/28/17 – appointed counsel 1/9/18 Maternal great aunt & 388 NOA filed 12/28/17 – appointed counsel 2/16/18 Minors W. & J (RB) Counsel appointed on court's own motion – 4/13/18 (apptd. 4/18/18) Minors M & Je (RB) appointed counsel – 1/25/18 de facto father (RB, retained counsel) de facto mother (RB, retained counsel) Record filed 1/19/18 Augment by mother (denied) 2/2/18 De facto 827 motion 3/29/18</p>	<p>proposed information sheet JV-291-INFO will help to raise awareness of the need to request access to the juvenile case file prior to the Court of Appeal ordering the appellant to obtain a section 827 order from the juvenile court, as illustrated in this example.</p>

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			<p>Oppo to 827 motion by mother & aunt 4/2/18 Mother & aunt file AOB 4/4/18 County counsel do not oppo release 4/5/18 (since aunt already has record) Oppo to release by minors M & J 5/25/18 Court orders limited record 6/6/18 – attorneys ordered not to provide the record to the aunt or de facto De facto father files augment 6/8/18 Mother & aunt oppose 6/14/18 Court orders augment considered w/appeal 6/19/18 RB by de facto father filed 7/27/18 County RB filed after 17B notice 7/31/18 De facto father requests judicial notice 8/1/18 – post-appeal info re: resolution of 1 issue – ordered to be considered w/appeal 8/16/18 minors' letter brief of W & J 8/23/18 Court's request for further briefing 8/30/18 – statutory interp. for relative placement issue ARB filed by mother 9/4/18 ARB filed by aunt 9/4/18 Mother's, aunt's, minors W & J's, agency's, de facto father's – supplemental briefs filed 9/14/18</p>	

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			<p>minors M& J filed supplemental brief 9/17/18 case fully briefed 9/17/18 case submitted 10/23/18 opinion filed 10/23/18 remittitur issued 1/2/19</p> <p>ATTACHMENT TO JV-570 For use by appellants who are designated persons with access to a limited record as described in Rule 8.400(b).</p> <p>The records I want are: (Check all that apply.) <input type="checkbox"/> All reports, documents and orders the judge expressly stated were considered or were admitted as evidence in making the challenged order. (List, if known.) _____ _____ _____ _____</p> <p><input type="checkbox"/> The reporter’s transcript from each hearing Petitioner attended. The dates are: _____ _____</p>	<p>See response above.</p>

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			<hr/> <hr/> <ul style="list-style-type: none"> o All reports and attachments prepared by the county agency and/or the CASA containing information about the placement history of the child/children. o All reports and attachments prepared by the county agency and/or the CASA containing information about Petitioner’s visitation and/or request for visitation with the child/children. o All reports and attachments prepared by the county agency and/or the CASA containing information about interviews or conversations with Petitioner. o All reports and attachments prepared by the county agency and/or the CASA containing information about interviews or conversations with any parties or collateral contacts discussing Petitioner’s request for placement and/or visitation. o Other: (Describe in detail any records that are not covered above.) <hr/> <hr/> <hr/> <hr/>	

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			<hr/> <hr/> <hr/> <hr/>	
3.	First District Appellate Project by Jonathan Soglin Executive Director Oakland	AM	<p>The notice of appeal (NOA) form (JV-800) and notice of intent forms (JV-820 and JV-822) are frequently used forms serving parties in a variety of delinquency and dependency proceedings. Usually (e.g. for most delinquency and many dependency appeals) the form is used when there is no need for a limited-record. We are concerned that the some aspects of the modifications increase the complexity of the forms in a way that will create confusion without the anticipated benefits. For these reasons, we suggest a change that might strike a balance between helpful information for the clerk and reducing potential confusion.</p> <p>On one hand, we suggest retaining the proposed new boxes requiring the filing party to state whether they are “not the department, child, parent, or legal guardian,” and whether they were granted access to specified records. This will be</p>	<p>The committees note the commenter’s agreement with the proposal if modified and appreciate this feedback.</p> <p>The committees agree that including this item in the forms will benefit the court clerks responsible for preparing the record.</p>

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			<p>useful to the clerk and it is information the filing party should have at hand.</p> <p>On the other hand, we recommend omitting the line asking the filing party to identify whether the appeal or writ involves “a respondent who is not the department, child, parent, or legal guardian” (item 4 on the NOA and item 8 or 9 on the notices of intent). It is no simple matter to determine who is a “respondent” in a dependency appeal or writ. These proceedings frequently involve a multitude of interested persons whose interests can align or be opposed in patterns that are not easy to predict, even for the filing party. This is particularly difficult for the many pro per parties who file NOAs and notices of intent, but it also problematic in a counseled case. For these reasons, the inclusion of the item asking the filing party to predict who might be a respondent seems unlikely to assist the superior court appellate clerks in determining who must receive a limited record and, worse, it could add confusion for parties and counsel.</p> <p>Accordingly, we recommend omitting from the forms item 4 on form JV-800, item 9 on JV-820, and item 8 on JV-822.</p>	<p>The committees agree with revising this item to indicate that a response is not required; the information should be provided if known.</p>

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4.	Stephanie Miller	NI	<p>Thank you for this opportunity to comment.</p> <p>The Committees’ Proposal seeks “to balance the policy considerations favoring confidentiality of juvenile case files against designated persons’ need for access to these record to effectuate their right to participate in appellate proceedings in these cases.” (Invitation to Comment, p. 3 [IC].) The Committees recognize that “these individuals were already privy to the record in the juvenile court proceedings . . .” (Ibid.) This is an important point. To some extent, the nonrelated caretaker of the child who seeks de facto parent status is “privy” to the dependency case as a result of the child’s placement in the caretaker’s home. In many instances, the caretaker is the monitor for parental visits, thus a relationship between the caretaker and the parent is established. To a greater extent, a close relative of the child who seeks relative placement or petitions for modification of the juvenile court orders may be intimately aware of the circumstances requiring juvenile court intervention as a result of the relative’s preexisting relationship with the child and/or the child’s parents. The social</p>	<p>The committees thank the commenter for this feedback.</p> <p>The committees do not disagree that relatives, caretakers, and others may, through involvement with the child, be aware of confidential information. However, the purpose of the proposal is to comply with the legislative mandate that the Judicial Council adopt rules to implement section 827(a)(6). Access to the juvenile case file in an appeal or writ proceeding must be addressed within the framework of section 827. If the individual was granted access to information from the</p>

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			<p>worker’s assessment of a relative for the child’s placement may result in disclosure of confidential information in the course of an interview to determine whether the relative was aware of the circumstances requiring juvenile court intervention, but had failed to protect the child. (Welf. & Inst. Code, § 361.3, subd. (a)(7)(D).) Thus, the child’s and/or the parent’s expectation of confidentiality in the dependency case may be affected and reduced by the reality of family relationships preceding juvenile court intervention (grandparents, aunts and uncles, siblings, etc.) or by the substitute caregiver relationships created as a result of that intervention (foster parent or de facto parent/child). The Proposal should seek to protect only information which is actually confidential, i.e., information that has not previously been disclosed to the designated person, in- or outside of the courtroom.</p> <p>Not addressed in the Proposal is the potential obstacle to confidentiality presented by the request of a designated person who is a party in the appeal or writ proceeding to be served with a party’s brief. Currently, the court rules do not require service on a “designated person.” (Cal.</p>	<p>case file under section 827 by the juvenile court, that access will also be extended to an appeal or writ proceeding. An individual’s awareness of information contained in the juvenile case file is not a substitute for the section 827 requirements that access to the case file is based on belonging to the categories set forth in section 827(a)(1)(A)-(P), or being granted access by the juvenile court through a section 827(a)(1)(Q) petition.</p> <p>The commenter is correct that the rule does not require the designated party to be served a copy of the brief. However, if the designated person is represented by counsel, that counsel would be served a copy pursuant to rule 8.412(e)(3). The committee has also amended the rule to require that if a brief served on a designated person contains information not</p>

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			<p>Rules of Ct., rule 8.412(e.) But, the proposed Rule 8.412(a)(4) contemplates that the designated party will be served with the brief filed by a party. Although the parties are required to refer to the parent, guardian, and child by their initials if necessary to protect their privacy, the contents of the briefs filed by the party who is not a designated person will likely reveal more of the juvenile court record than the juvenile court previously allowed the designated person to access. (Cal. Rules of Ct., rule 8.401(a).) Thus, service alone of the party’s brief on the designated person could result in the disclosure of confidential information.</p> <p>One method of addressing the access of persons other than the parent, child, or guardian to the confidential juvenile court record is to limit the access of those persons (hereafter, designated persons) to the courtroom in the first instance, with the following exceptions: (1) a relative who has filed a petition for modification of orders; (2) a caregiver who has filed an application for de facto parent status. Those filings are appropriate actions necessary to</p>	<p>contained in the limited record, the information not in the limited record must be redacted. The committees believe this is necessary to comply with section 827.</p> <p>The committees appreciate this suggestion, but cannot by rule of court limit access to juvenile court proceedings. Discretion to admit members of the public to juvenile court hearings is vested in the juvenile court pursuant to section 346. In addition, any modifications to the proposal along these lines would be a substantial change that would require circulation for public comment.</p> <p>The committees have no comment with respect to whether a juvenile court could adopt the approach suggested here or</p>

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			<p>confer the petitioner or applicant with the status of a party in the dependency case. (See <i>In re Joseph G.</i> (2000) 83 Cal.App.4th 712, 725.) Upon the first appearance of the petitioner or applicant, the judicial officer can then direct him or her to complete and deliver to the courtroom clerk then and there the JV-570 form. The 388 petitioner or de facto parent applicant, or the courtroom clerk should then and there complete the JV-570 form to designate the date of the first appearance, and the record of those proceedings, as the approved record in the event of an appeal. As indicated in the Proposal, the juvenile court clerk should thus begin the creation of a separate file for the designated person. The separate file can also include the minute order for each hearing at which the designated person/party is present. Thereafter, at each appearance made by the designated person who has acquired party status, the judicial officer can direct him or her to complete a new JV-570 form. The additional JV-570 form and the minutes should be added to the separate file created for the designated person. In this</p>	<p>something similar, except to note that juvenile courts have discretion to develop procedures and processes that are not inconsistent with statutes or rules.</p>

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			<p>manner, the record accessible to the designated person can be “marked” as it is made. Also, any objections to disclosure of that portion of the juvenile court record to the designated person can be entertained each time a designated person appears in court. If and when the designated person files a notice of appeal, the portions of the confidential juvenile court record will be readily identifiable by the previously completed JV-570 forms and the minutes orders. In this manner, the separate file created for the designated person can timely identify the record to which that individual was previously given access by the juvenile court, and after notice to the other party.</p> <p>In order to address the parties’ right to confidentiality and the right of designated persons to appellate review, several years ago the Second District adopted Local Rule 8. (Local Rules Court of Appeal Second District Rule 8 [Filing of an appeal in a dependency matter by a person who is not the parent, child or guardian].) It is the experience of the California Appellate/Los Angeles that while the local rule has served</p>	<p>The committees agree that timeliness issues as illustrated in this example are a concern. As mentioned above, the committees are hopeful that the notices included on Judicial Council forms included in this proposal and the proposed information sheet JV-291-INFO will help to raise awareness of the need to request access to the juvenile case file prior to being ordered by the appellate court to obtain a section 827 order from the juvenile court.</p>

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			<p>to protect the right of the parties to confidentiality, it has not served the right of a designated person to review. Pursuant to Local Rule 8, the designated person is required to complete and file a JV-570 form and file it with the notice of appeal, or within 10 days after receipt of the juvenile court clerk’s request for that form. The delay in the preparation of the appellate record for the designated person occurs between the filing of the JV-570 form, with the notice of appeal, and the judicial officer’s designation of the portions of the confidential record which will comprise the appellate record for the designated person. The record designation process takes many months.</p> <p>I hope that my comments are useful to the Committees. I appreciate their work.</p>	
5.	Office of the County Counsel County of Los Angeles by Alyssa Skolnick Principal Deputy County Counsel Monterey Park	AM	1. I believe the intent is that when the appeal/writ proceeding involves a designated person (as defined under the proposed court rules), the designated person (or his/her attorney of record) will receive a limited record, while everyone else who is entitled to access the records will receive	<p>The committees note the commenter’s agreement with the proposal if modified.</p> <p>The committees decline to modify the proposed rule language because it is sufficiently clear that the normal record is to be provided to all parties (and not to</p>

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			<p>both (1) limited record; (2) normal/complete record. However, the fact the normal/complete record (in addition to limited record) will be provided to all parties entitled to access needs to be clarified. (See California Rule of Court, rule 8.409, et seq.)</p> <p>2. The proposed changes to the California Rules of Court do not address whether the non-designated persons (those who are entitled to the normal/complete record) should serve the designated persons with their briefs (redacted or un-redacted), which will almost certainly include significant information that the designated person is not entitled to access. This has been a significant issue historically. If the appellant/respondent/petitioner etc. is a “designated person,” which briefs are they entitled to access and be served with? This is a significant concern because once the designated person is served with an un-redacted brief, they have all the information in the record that they were not previously privy to. We have historically struggled with this and the Court of Appeal has not been consistent with respect to whether it wants our office to serve redacted or un-</p>	<p>designated persons). Subdivision (e) of rule 8.409 specifies that after the transcripts are certified, the court clerk must immediately send a copy to the individuals listed in subdivision (e)(B)(i)-(iv), except as provided in subdivision (f) of the same rule.</p> <p>If the designated person is represented by counsel, that counsel would be served a copy pursuant to rule 8.412(e)(3). The committees have also added new subdivision (e)(4) to rule 8.412 to require that, if an appeal involves a designated person, and the brief of a party who is not a designated person contains information from juvenile case records that are not in the limited record, that party must serve only a redacted copy of the brief on the designated person and must request permission to file the brief under seal as provided in rule 8.47. In addition, the committee has amended rule 8.412(a)(5) by creating a requirement that the party who is not a designated person must give notice that the party’s brief relies on information that is not contained in the limited record. The notice must be placed on the first page of the brief following the table of contents and table of authorities.</p>

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			<p>redacted briefs on those who were not entitled to access under WIC 827 and are being referred to as “designated persons” in the proposed rules. The California Rules of Court need to directly address which briefs (Writ Petition, Appellant’s Opening Brief, Respondent’s Brief/Answer/Reply Brief etc.) the designated person is entitled to because unless the designated party was given access to the entire case file, the briefs from the other parties will always contain information that the designated person has not been granted access to.</p> <p>The only hint of this issue in the proposed rules is proposed amended California Rule of Court, rule 8.412(a)(5), which states, “If an appeal involves a designated person, and the brief of a party who is not a designated person refers to juvenile case records that are not in the limited record, the designated person may petition the juvenile court for access to those records and may petition the juvenile court for access to those records ...” Does this assume that the designated person is to be served with un-redacted briefs that necessarily included case history and records that the designated person was not previously granted access to?</p>	<p>See response above.</p>

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			<p>It is our office’s practice to only serve the party who is not entitled to access the records (referred to as “designated person in the proposed rules) with heavily redacted briefs that omit all the information they are not privy to unless otherwise ordered by the Court of Appeal.</p> <p>3. Proposed amendments to California Rules of Court, rules 8.405 and 8.450(e)(1) state that if the appellant/party seeking writ review is aware that a party to the appeal is an individual not authorized to access the juvenile case file without petition pursuant to WIC 827(A)(1)(Q), the appellant/party seeking writ review must indicate this on the notice of appeal. However, the (a) proposed amended Notice of Appeal (JV-800) and (b) Notice of Intent to File a Writ Petition (JV-820) do not include a section for this information or notice of the requirement – they only include a box indicating that the appellant/person seeking writ review is not a child, legal guardian or parent – it does not include a box to indicate a different party is not authorized to access the case file.</p>	<p>Both forms JV-800 and JV-820 include the identified language. On form <i>Notice of Appeal–Juvenile</i> (JV-800), proposed item 4 states “The appeal involves a respondent who is not the department, child, parent, or legal guardian. This individual may require the preparation of a limited record as defined in rule 8.400(b)(2).” On form <i>Notice of Intent to File Writ Petition</i> (JV-820), proposed item 9 states “The writ involves a respondent who is not the department, child, parent, or legal guardian. This individual may require the preparation of a limited record as defined in rule 8.400(b)(2).”</p>

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			<p>4. The California Rules of Court should clarify that the designated person’s attorney of record is not entitled to any documents/records that the designated party is not entitled to. This has come up with respect to California Rule of Court, rule 8.452 and 8.456 Petitions/Answers.</p> <p>5. The admonishment language from the proposed JV-291-Info form that has been added (proposed) to various other forms states “In the vast majority of cases, only the child, parent, or guardian have the right to appeal a juvenile court ruling.” This is inaccurate in that it does not include CPS as a party having a right to appeal. It also does not reference writ proceedings.</p>	<p>The committees believe that section 827 sufficiently addresses whether an attorney for a designated person on appeal is entitled to access the juvenile case file.</p> <p>The committees agree with this comment and have revised the form to indicate that the child welfare department or district attorney also has the right to appeal and petition for a writ.</p>
6.	Orange County Bar Association By Deirdre Kelly President Newport Beach	A	No specific comment.	The committees note the commenter’s agreement with the proposal.
7.	Superior Court of Los Angeles County	AM	Proposed Modifications	The committees note the commenter’s agreement with the proposal if modified and appreciate the responses to questions presented in the invitation to comment.

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			<p>Rule 8.405 (b)(1)(B), Rule 8.450 (h)(1) and h(2), and Rule 8.454 (h)(1) and (h)(2) The requirement to immediately notify each court reporter by telephone should be updated by either eliminating the telephone requirement or changing it to an email requirement. Change: “immediately notify each court reporter by telephone” to: “immediately notify each court reporter.”</p> <p>Request for Specific Comments Does the proposal adequately address the stated purpose? Yes, the proposal adequately addresses the stated purpose.</p> <p>What is the most effective way to communicate that people should request access to records in the juvenile case file before the commencement of appellate court proceedings? The most effective communication is by written notice.</p> <p>What is the best way to alert the clerk that the appeal or writ proceeding involves a limited record, particularly when the limited record is required for a</p>	<p>This suggestion is outside the scope of this proposal. The committees will retain the suggestion for future consideration.</p> <p>No response required.</p> <p>No response required.</p>

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			<p>party who is not the appellant or the petitioner? The most effective way to alert the clerk is by written notification.</p> <p>Should other rules apply to preparing, sending, and using a limited record? No, other rules should not apply.</p> <p>Should the rules further address the situation of a designated person responding to a brief or memorandum by a party who is using the normal record and referring to matters in documents to which the designated person has not been granted access? Yes, the rules should address this.</p>	<p>No response required.</p> <p>No response required.</p> <p>The committees have provided advisory comments to rule 8.412, 8.452, and 8.456 indicating that a brief served on a designated person would require the brief be redacted of information not contained in the limited record. The committees believe this is necessary to comply with section 827. In addition, the committee has amended rule 8.412(a)(5) by creating a requirement that the party who is not a designated person must give notice that the party’s brief relies on information that is not contained in the</p>

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			<p>Does the proposed notice on the JV forms adequately alert individuals of the requirement to request access to records in the juvenile case file by filing a petition under section 827(a)(1)(Q)? Should the notice be included on forms that may not typically relate to an appeal, such as Relative Information (form JV-285) and Caregiver Information Form (form JV-290)?</p> <p>Yes, the proposed notice adequately alerts individuals of the requirement and should be included on the other forms.</p> <p>Does the proposed information sheet, form JV-291-INFO, provide the information necessary for an individual to understand the right to appeal and the process for requesting access to records in the juvenile case file? Should other information be included? Should other</p>	<p>limited record. The notice must be placed on the first page of the brief following the table of contents and table of authorities.</p> <p>No response required.</p>

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			<p>scenarios be listed in item 1 to describe when someone not entitled to access the juvenile case file would have a right to appeal? Yes, the proposed information sheet provides the information necessary.</p> <p>Would the proposal provide cost savings? If so, please quantify. No.</p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Implementation requirements include training, procedure updates, and changes to event codes in the Case Management System.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, three months would be sufficient.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

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8.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	<p>“Designated person” is defined in rule 8.400(b), but it is still confusing in the context of some of the other rules. For example, rule 8.401(b)(1) allows access by a person designated by the Court of Appeal, but then in subdivision (b)(2) “designated person” is a person designated by the juvenile court, not the Court of Appeal.</p> <p>Preparation of both a full record and a limited record seems like double work. However, this is probably the most efficient way.</p> <p>CRC 8.409(b)(2): “must be designated as a limited clerk’s transcript and a limited reporter’s transcript.”</p> <p>Proposed revisions to Form JV-291-INFO:</p>	<p>The committees note the commenter’s agreement with the proposal if modified, and appreciate the answers to questions presented in the invitation to comment.</p> <p>Rule 8.401(b)(1) does allow a Court of Appeal to designate a person to have access to filed documents. The committees however don’t believe that this language supersedes the requirements created in the rest of the propose rule and section 827(A)(6) for the confidentiality of the juvenile case file.</p> <p>The committees acknowledge that preparation of a limited record, in whatever form, will result in additional work for court clerks. However, the committees agree that this is the most efficient way to comply with the requirements of section 827(a)(6).</p> <p>The suggested revisions have been made.</p>

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			<p>1) Add "or probation officer" in item 2 to the list of those who must be served.</p> <p>2) Add "legal" before guardian throughout.</p> <p>3) It should be stated clearly that there is a deadline to seek review by writ or appeal and that deadline is not extended to seek access to records. (The JV-570 process can take a long time and I foresee people missing the appeal deadline while they wait for a resolution to their JV-570.)</p> <p>Proposed revisions to Form JV-570:</p> <p>1) The proposed change in item 5 is confusing and unnecessary. Why call out just one type of request when there are so many reasons a person could file a JV-570?</p> <p>2) The proposed change in item 6 is good.</p>	<p>The suggested revision has been made.</p> <p>The suggested revision has been made.</p> <p>The committees agree with this suggestion and have added language to the form to indicate that the timelines for the appeal or writ petition will not be extended for seeking access to the juvenile case file.</p> <p>The form already includes check boxes for types of requests that are typical, including pending civil and criminal cases. The committees want to ensure that individuals who may have a right to appeal but need to be granted access to the juvenile case file by the juvenile court, many of whom may not have attorneys, receive some guidance on what information they will need to request when they file the JV-570.</p> <p>No response required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR19-06

Appellate Procedure, Juvenile Law: Access to Juvenile Case Files in Appellate Court Proceedings (Amend Cal. Rules of Court, rules 8.400, 8.401, 8.405, 8.407–8.410, 8.412, 8.416, 8.450, 8.452, 8.454, and 8.456; approve form JV-291-INFO; revise forms JV-285, JV-290, JV-295, JV-321, JV-325, JV-570, JV-800, JV-820, and JV-822)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			<p>Proposed revisions to Forms JV-800, 820, 822: "department" is unclear. It is believed to mean county welfare department and our court recommends it be spelled out. Change "County Welfare Agency" to "county welfare department" on the JV-820 for consistency with the other two forms.</p> <p>Proposed revision to Form JV-800, item 7: Change Attachment 5 to Attachment 7 to match the new item number.</p> <p>Proposed revision to Form JV-822, page 2: 1) 1st box: See the back of this form below for more information. (Or delete sentence completely.) 2) 3rd box, 1st 2 bullet points: Change "specified placement" to "specific placement." 3) 4th box, 3rd bullet point: change CRC citation to 8.454(e)(3).</p>	<p>The committees agree with this suggestion and have revised the forms to indicate "county welfare department." In addition, "district attorney" will be added to the list on form JV-800 to address probation cases.</p> <p>The suggested revision has been made.</p> <p>The suggested revision has been made.</p> <p>The suggested revision has been made. [Note: for consistency with title of the form.]</p> <p>The suggested revision has been made.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR19-__

Title

Appellate Procedure, Juvenile Law: Access to Juvenile Case Files in Appellate Court Proceedings

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 8.400, 8.401, 8.405, 8.407–8.410, 8.412, 8.416, 8.450, 8.452, 8.454, and 8.456; approve form JV-291-INFO; revise forms JV-285, JV-290, JV-295, JV-321, JV-325, JV-570, JV-800, JV-820, and JV-822

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair
Family and Juvenile Law Advisory Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Action Requested

Review and submit comments by June 10, 2019

Proposed Effective Date

January 1, 2020

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Executive Summary and Origin

The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee propose amended rules and new and revised forms to implement recent Judicial Council–sponsored legislation amending the statute that specifies who may access and copy records in a juvenile case file in an appeal or writ proceeding challenging a juvenile court order. The statutory amendment clarified that people who are entitled to seek review of certain orders in juvenile proceedings or who are respondents or real parties in interest in such appellate proceedings may, for purposes of those appellate proceedings, access and copy those records to which they were previously given access by the juvenile court. This proposal would implement the legislation by updating the rules relating to juvenile appeals to include provisions relating to persons with limited access to the juvenile case file and the limited record that must be prepared and provided to these persons. The committees also propose a new information sheet and a

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

notice on certain forms regarding the requirement to seek authorization from the juvenile court to access records in the case file before commencing an appeal.

Background

The confidentiality of juvenile case files is established by Welfare and Institutions Code section 827.¹ This confidentiality is intended to protect the privacy rights of the child who is the subject of the juvenile court proceedings. Subdivision (a)(1) of this statute identifies those who may inspect and receive copies of a juvenile court case file, including the child who is the subject of the proceeding, the child's parent or guardian, the attorneys for the parties, the petitioning agency in a dependency action, or the district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

Ordinarily, to help resolve these matters as quickly as possible, when an appeal or petition is filed challenging a judgment or order in a juvenile proceeding, the record for that appellate proceeding is prepared and sent to the Court of Appeal and the parties very quickly. The items that must be included in the record on appeal or for certain writ proceedings are listed in California Rules of Court, rules 8.407, 8.450, and 8.454. The trial court is required to begin preparing the record in these proceedings as soon as a notice of appeal or notice of intent to file a writ petition is filed. A premise of this practice seems to be that all the parties to the appellate proceeding are entitled under section 827 to inspect and receive copies of the records in the juvenile case file.

However, some individuals who are authorized to participate in juvenile proceedings and have the right to seek review of certain orders in those proceedings or who have a right to respond to an appeal or petition seeking such review are not entitled under section 827 to inspect or copy any records in a juvenile case file. This situation occurs, for example, when the appellant is a family member or other person who files a petition seeking de facto parent status and is appealing the denial of that petition or who files a petition under section 388 to change, modify, or set aside a juvenile court order on grounds of change of circumstance or new evidence and is appealing the denial of that petition. In those cases, before the recent legislation, the juvenile courts and Courts of Appeal followed various procedures to decide, on a case-by-case basis, what records the parties to the appellate proceeding could receive. Doing so took time and resources of the juvenile court, the Court of Appeal, and the persons seeking review or the respondents in such proceedings. It also resulted in delays and, particularly when the appellant or petitioner was self-represented, procedural dismissals of these appeals without consideration of their merit.

In 2017, the Appellate Advisory Committee, in consultation with the Family and Juvenile Law Advisory Committee, recommended that the Judicial Council sponsor legislation to address this

¹ All further unspecified statutory references are to the Welfare and Institutions Code, and all rule references are to the California Rules of Court. You can access the full text of this statute at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=827.&lawCode=WIC.

situation. The legislation, Assembly Bill 1617, which added new paragraph (a)(6) to section 827, took effect on January 1, 2019. The new paragraph provides that a person who is not otherwise authorized to access the case file under section 827(a)(1)(A)–(P) and files a notice of appeal or petition challenging a juvenile court order or who is a respondent or real party in interest in such an appellate proceeding may, for purposes of the appellate proceeding, access and copy those records to which they have been given access by the juvenile court. New paragraph (a)(6) also requires the Judicial Council to adopt rules to implement the new provision.

The Proposal

Rule amendments

To implement the new legislation, the committees are proposing amendments to the juvenile appellate rules in title 8 to include provisions regarding parties to appellate proceedings who have been granted access to records by the juvenile court and the limited record that must be prepared for such parties. The amendments include new terms and definitions for ease of reference to these parties (“designated persons”) and the record (“limited record”) to which they are entitled. The amendments also provide guidance to juvenile court clerks who must prepare and send both the record and the limited record for appellate court proceedings.

The committees believe that these proposed rule amendments appropriately balance the policy considerations favoring confidentiality of juvenile case files against designated persons’ need for access to these records to effectuate their right to participate in appellate proceedings in these cases. Because these individuals were already privy to the records in the juvenile court proceedings, the proposal would not dilute the confidentiality protections of the child. By eliminating the necessity for special procedures to authorize the individuals’ access to these records, the proposal would reduce barriers to their access to justice, delays in these proceedings, and time and expenses for the parties and the courts.

General provisions

Rule 8.400, Application. The proposed amendments add “and definitions” to the title and a new subdivision (b) containing definitions of “designated person” and “limited record.” New subdivision (b) also clarifies that a “juvenile case file” includes the records listed in rule 5.552(a).

Rule 8.401, Confidentiality. The proposed amendment adds a new paragraph to subdivision (b) to specify that designated persons may receive only the limited record.

Appeals

Rule 8.405, Filing the appeal. A proposed new paragraph in subdivision (a) provides that an appellant who is aware that a party to the appeal is not authorized to access the juvenile case file without an approved petition must indicate so on the notice of appeal. Amendments to subdivision (b) regarding the clerk’s duties address notifying the court reporter to prepare the reporter’s transcript for a limited record and identifying, in the notification of the filing of the notice of appeal, any party who is a designated person.

Rule 8.407, Record on appeal. The proposed amendment adds subdivision (f) regarding a limited record for designated persons. This subdivision will specify that the limited record for a designated person must contain only those records to which the designated person has been granted access by the juvenile court. It will also provide that, to apply for additions to the limited record, the designated person must petition the juvenile court.

Rule 8.408, Record in multiple appeals in the same case. The proposed amendment provides that in cases involving more than one appeal, a limited record must be prepared for any party who is a designated person.

Rule 8.409, Preparing and sending the record. The proposed amendments to subdivision (b) provide that the clerk's and reporter's transcripts for a limited record must be prepared and paginated separately from the transcripts for the normal record on appeal. This change reflects the committee's determination, based on feedback from juvenile court clerks, that separate transcripts, rather than redacted versions of transcripts in the normal record, were the better form of the limited record to propose.

The committees also propose adding new subdivision (f) to this rule to present rules for preparing and certifying transcripts in a limited record and sending the limited record. A proposed new advisory committee comment for this subdivision clarifies that if a party not otherwise authorized to access the juvenile case file has not been granted access to records in the juvenile case file, there is no limited record to be prepared, and to obtain access, the party must file a petition in the juvenile court.

Rule 8.410, Augmenting and correcting the record in the reviewing court. The amendment adds language to include a limited record. Augmentation or correction of a limited record by a reviewing court can include only documents or transcripts to which the designated person has been granted access by the juvenile court.

Rule 8.412, Briefs by parties and amici curiae. New paragraph (a)(4) clarifies that a designated person's brief must include citations to the limited record. This requirement mirrors a provision in rule 8.204 that applies to parties using the normal record. New paragraph (a)(5) provides that, in an appeal involving a designated person, if another party's brief references material in the normal record to which the designated person has not previously been granted access, the designated person may seek such access by filing a petition in the juvenile court.

Rule 8.416, Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties and in other counties by local rule. The proposed amendments include provisions for designated persons and limited records.

Writs

Rule 8.450, Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26. The proposed amendments add provisions for identifying a party who is a designated person and attaching to the notice of intent a copy of the juvenile

court's order granting access to records, preparing the limited record for a designated person, and sending the limited record.

Rule 8.452, Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26. New paragraph (b)(2) requires that if the petitioner is a designated person, the summary of facts in the memorandum is limited to matters in the limited record and must be supported by citations to the limited record.

Rule 8.454, Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights. These amendments mirror those proposed for rule 8.450.

Rule 8.456, Writ petition under Welfare and Institutions Code section 366.28 to review order designating or denying specific placement of a dependent child after termination of parental rights. These amendments mirror those proposed for rule 8.452.

New and revised forms

The committees also propose a new form and revisions to existing forms. The form revisions are intended to assist the juvenile court and potential designated persons in addressing access to the juvenile case file before an appeal or writ. The new form is an information sheet for potential designated persons regarding the right to appeal and the requirement to seek access to records in the juvenile case file for purposes of an appeal.

Proposed information sheet

Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records (form JV-291-INFO) would provide information on the right to appeal, for nonparties such as relatives and de facto parents, and the requirement to request access to the juvenile case file through a petition under section 827(a)(1)(Q). The form emphasizes that nonparties to a dependency or delinquency case have a right to appeal only in limited circumstances.

Notice to potential designated persons through JV forms

The committees anticipate that potential designated persons in appellate proceedings often may be unaware of the requirement to petition for access, and thus would not file such a petition for access to records in the juvenile case file until after the appellate proceeding has begun. This situation could cause delays and difficulties for litigants and the courts—problems the legislation was intended to solve. The committees propose adding a short notice explaining the right to appeal for nonparties to the juvenile court proceeding, and including a reference to the new information sheet (form JV-291-INFO) to forms typically used by nonparties in dependency and delinquency cases. The notice would read as follows:

“If you are not the child, the child’s parent, or the child’s legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a*

Nonparty's Right to Seek Review and the Requirement to Request Access to Records (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.”

The committees propose adding the notice to the following forms:

- *Relative Information* (form JV-285)
- *Caregiver Information Form* (form JV-290)
- *De Facto Parent Request* (form JV-295)
- *Request for Prospective Adoptive Parent Designation* (form JV-321)
- *Objection to Removal* (form JV-325)
- *Notice of Appeal—Juvenile* (form JV-800)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing Under Welfare and Institutions Code Section 366.26* (form JV-820)
- *Notice of Intent to File Writ Petition and Request for Record to Review Order Designating or Denying Specific Placement of a Dependent Child After Termination of Parental Rights* (form JV-(822))

Revise Request for Disclosure of Juvenile Case File (form JV-570)

Form JV-570 is the mandatory form used to request disclosure of (i.e., petition for access to) the juvenile case file. It requires the petitioner to describe in detail the records that are sought and why the records are needed. The committees propose revising the item on the form that requires the petitioner to indicate the reason for the requested records. Revised item 6 adds the option that access to records is being sought for purposes of an appeal or writ petition and provides space for the petitioner to list the relevant hearing dates.

Alternatives Considered

The committees never considered proposing *no* rule changes because AB 1617 specifically requires the Judicial Council to adopt rules to implement the legislation.

The committees considered making no changes to the JV forms, but rejected this option. Because of the likelihood that individuals who are not authorized to access the juvenile case file but who are involved in appellate proceedings may be unaware of the requirement to petition for access to records in the juvenile case file, the committees chose to develop a new information sheet and include a notice on certain forms.

The committees also considered two alternatives for a limited record: (1) creating a limited record that would be a separate citable document provided to all parties, and (2) redacting copies of the normal record. The committees sought input from juvenile court clerks² who preferred the

² The committees sought feedback from court clerks who will be preparing these records as to which option they would prefer. Fourteen counties responded, with 10 preferring option one and 4 preferring option two. Most of the clerks thought that redacting the record would be too burdensome and preferred to prepare a separate limited record.

first alternative because redacting would be too time-consuming. Rule 8.409(f), therefore, requires the juvenile court clerk to prepare a separate limited record.

Finally, the committees considered alternatives to identifying parties as designated persons at the outset of an appeal or writ proceeding for purposes of timely preparing and sending the limited record, including requiring the appellant or petitioner to identify any designated persons on the notice of appeal or notice of intent, respectively, and requiring the juvenile court clerk to determine whether any party is a designated person. The proposal reflects a combination of these alternatives.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal adequately address the stated purpose?
- What is the most effective way to communicate that people should request access to records in the juvenile case file *before* the commencement of appellate court proceedings?
- What is the best way to alert the clerk that the appeal or writ proceeding involves a limited record, particularly when the limited record is required for a party who is not the appellant or the petitioner?
- Should other rules apply to preparing, sending, and using a limited record?
- Should the rules further address the situation of a designated person responding to a brief or memorandum by a party who is using the normal record and referring to matters in documents to which the designated person has not been granted access?
- Does the proposed notice on the JV forms adequately alert individuals of the requirement to request access to records in the juvenile case file by filing a petition under section 827(a)(1)(Q)? Should the notice be included on forms that may not typically relate to an appeal, such as *Relative Information* (form JV-285) and *Caregiver Information Form* (form JV-290)?
- Does the proposed information sheet, form JV-291-INFO, provide the information necessary for an individual to understand the right to appeal and the process for requesting access to records in the juvenile case file? Should other information be included? Should other scenarios be listed in item 1 to describe when someone not entitled to access the juvenile case file would have a right to appeal?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 8.400–8.456, at pages 9–22
2. Forms JV-285, JV-290, JV-291-INFO, JV-295, JV-321, JV-325, JV-800, JV-820, and JV-822, at pages 23–40

Rules 8.400, 8.401, 8.405, 8.407–8.410, 8.412, 8.416, 8.450, 8.452, 8.454, and 8.456 of the California Rules of Court are amended, effective January 1, 2020, to read:

1 **Rule 8.400. Application and definitions**

2
3 **(a) Application**

4
5 The rules in this chapter govern:

6
7 (1) Appeals from judgments or appealable orders in:

8
9 (A) Cases under Welfare and Institutions Code sections 300, 601, and 602;
10 and

11
12 (B) Actions to free a child from parental custody and control under Family
13 Code section 7800 et seq. and Probate Code section 1516.5;

14
15 (2) Appeals or orders requiring or dispensing with an alleged father’s consent for
16 the adoption of a child under Family Code section 7662 et seq.; and

17
18 (3) Writ petitions under Welfare and Institutions Code section 366.26 and 366.28.

19
20 **(b) Definitions**

21
22 In addition to the definitions and use of terms in rule 8.10, the following definitions
23 and use of terms apply to the rules in this chapter:

24
25 (1) “Designated person” means a party to the appeal or writ proceeding who is
26 not otherwise authorized to access the juvenile case file under Welfare and
27 Institutions Code section 827 and who has been granted access to inspect and
28 copy specified records in a juvenile case file by order of the juvenile court
29 after filing a petition under section 827(a)(1)(Q).

30
31 (2) “Limited record” means the record prepared for a designated person for
32 purposes of the appeal or writ proceeding and containing the records in the
33 juvenile case file to which the designated person has been granted access by
34 order of the juvenile court under Welfare and Institutions Code section
35 827(a)(1)(Q).

36
37 (3) “Juvenile case file” includes the records listed in rule 5.552(a).
38

1 **Rule 8.401. Confidentiality**

2
3 (a) * * *

4
5 (b) **Access to filed documents**

6
7 (1) Except as provided in (2)–~~(3)~~(4), the record on appeal and documents filed by
8 the parties in proceedings under this chapter may be inspected only by the
9 reviewing court and appellate project personnel, the parties, ~~or including~~ their
10 attorneys, and other persons the court may designate.

11
12 (2) A designated person may inspect and copy only the limited record on appeal.

13
14 ~~(2)~~(3) Filed documents that protect anonymity as required by (a) may be inspected
15 by any person or entity that is considering filing an amicus curiae brief.

16
17 ~~(3)~~(4) Access to records that are sealed or confidential under authority other than
18 Welfare and Institutions Code section 827 is governed by rules 8.45–8.47 and
19 the applicable statute, rule, sealing order, or other authority.

20
21 (c) * * *

22
23 **Rule 8.405. Filing the appeal**

24
25 (a) **Notice of appeal**

26
27 (1)–(2) * * *

28
29 (3) If the appellant is aware that a party to the appeal is an individual not
30 authorized to access the juvenile case file without an approved petition under
31 Welfare and Institutions Code section 827(a)(1)(Q), the appellant must
32 indicate so on the notice of appeal and is encouraged to attach a copy of any
33 order granting access to specified records under section 827(a)(1)(Q).

34
35 ~~(3)~~(4) The notice of appeal must be liberally construed, and is sufficient if it
36 identifies the particular judgment or order being appealed. The notice need
37 not specify the court to which the appeal is taken; the appeal will be treated
38 as taken to the Court of Appeal for the district in which the superior court is
39 located.

40
41 (b) **Superior court clerk’s duties**

42
43 (1) When a notice of appeal is filed, the superior court clerk must immediately:

1
2 (A) * * *

3
4 (B) Notify the reporter by telephone and in writing to prepare a reporter's
5 transcript and any limited reporter's transcript and deliver it or them to
6 the clerk within 20 days after the notice of appeal is filed.

7
8 (2) * * *

9
10 (3) The notification must also identify any party to the appeal who is not
11 authorized under Welfare and Institutions Code section 827(a)(1)(A)–(P) to
12 access the juvenile case file. If such party is a designated person, a copy of
13 the juvenile court order under section 827(a)(1)(Q) granting access to
14 specified records in the juvenile case file, if available, must be included.

15
16 ~~(3)~~(4) The notification to the reviewing court clerk must also include a copy of the
17 notice of appeal and any sequential list of reporters made under rule 2.950.

18
19 ~~(4)~~(5) A copy of the notice of appeal is sufficient notification if the required
20 information is on the copy or is added by the superior court clerk.

21
22 ~~(5)~~(6) The mailing of a notification is a sufficient performance of the clerk's duty
23 despite the discharge, disqualification, suspension, disbarment, or death of
24 the attorney.

25
26 ~~(6)~~(7) Failure to comply with any provision of this subdivision does not affect the
27 validity of the notice of appeal.

28
29 **Rule 8.407. Record on appeal**

30
31 (a)–(e) * * *

32
33 **(f) Limited record for designated persons**

34
35 (1) A limited record must contain only those records in a juvenile case file to
36 which the designated person has been granted access by the juvenile court
37 under Welfare and Institutions Code section 827(a)(1)(Q). A designated
38 person as defined in rule 8.400(b)(1) is authorized to receive only the limited
39 record.

40
41 (2) To apply for additions to the limited record, a designated person must petition
42 the juvenile court by filing *Request for Disclosure of Juvenile Case File*
43 (form JV-570).

1
2 **Rule 8.408. Record in multiple appeals in the same case**

3
4 If more than one appeal is taken from the same judgment or related order, only one
5 appellate record need be prepared, which must be filed within the time allowed for filing
6 the record in the latest appeal. If an appeal involves a designated person, a limited record
7 must also be prepared, as provided in rule 8.409(f).
8

9 **Rule 8.409. Preparing and sending the record**

10
11 (a) * * *

12
13 (b) **Form of record**

14
15 (1) The clerk's and reporter's transcripts must comply with rules 8.45–8.47,
16 relating to sealed and confidential records, and with rule 8.144. An electronic
17 clerk's transcript must also comply with rule 8.74.

18
19 (2) The clerk's and reporter's transcripts for a limited record must be produced
20 and paginated separately from the transcripts for the normal record, and must
21 be designated as limited clerk's transcript and limited reporter's transcript.
22

23 (c) **Preparing and certifying the transcripts**

24
25 Except as provided in (f), within 20 days after the notice of appeal is filed:

26
27 (1)–(2) * * *

28
29 (d) * * *

30
31 (e) **Sending the record**

32
33 (1) Except as provided in (f), when the transcripts are certified as correct, the
34 court clerk must immediately send:

35
36 (A)–(B) * * *

37
38 (2)–(3) * * *

39
40 (f) **Limited record**

41
42 (1) Application
43

1 If the appellant or the respondent is a designated person as defined in
2 8.400(b)(1), the clerk and the reporter must prepare, and the clerk must send,
3 a separate limited record, as defined in 8.400(b)(2), that includes only those
4 records and transcripts in the juvenile case file to which the designated
5 person has been granted access by the juvenile court under Welfare and
6 Institutions Code section 827(a)(1)(Q). A designated person may receive a
7 copy of the limited record only, and may not receive a copy of any records to
8 which the designated person has not been granted access by the juvenile
9 court.

10
11 (2) Preparing and certifying the transcripts in a limited record

12
13 Within 20 days after the notice of appeal is filed:

14
15 (A) The clerk must prepare, in compliance with rules 8.74 and 8.144, and
16 certify as correct an original of the clerk's transcript for a limited
17 record and one copy each for the appellant, the respondent, the child's
18 Indian tribe if the tribe has intervened, and the child if the child is
19 represented by counsel on appeal or if a recommendation has been
20 made to the Court of Appeal for appointment of counsel for the child
21 under rule 8.403(b)(2) and that recommendation is either pending with
22 or has been approved by the Court of Appeal but counsel has not yet
23 been appointed; and

24
25 (B) The reporter must prepare, certify as correct, and deliver to the clerk an
26 original of the reporter's transcript for a limited record and the same
27 number of copies as (A) requires of the clerk's transcript.

28
29 (3) Sending the limited record

30
31 (A) When the transcripts for a limited record are certified as correct, the
32 court clerk must immediately send:

33
34 (i) The original transcripts for a limited record to the reviewing
35 court, noting the sending date on each original; and

36
37 (ii) One copy of each transcript for a limited record to the appellate
38 counsel for the following, if they have appellate counsel:

39
40 a. The appellant;

41
42 b. The respondent;

43

- c. The child’s Indian tribe, if the tribe has intervened; and
- d. The child.

(B) If appellate counsel has not yet been retained or appointed for the appellant or the respondent, or if a recommendation has been made to the Court of Appeal for appointment of counsel for the child under rule 8.403(b)(2) and that recommendation is either pending with or has been approved by the Court of Appeal but counsel has not yet been appointed, when the transcripts for a limited record are certified as correct, the clerk must send that counsel’s copy of the transcripts for a limited record to the district appellate project. If a tribe that has intervened is not represented by counsel when the transcripts are certified as correct, the clerk must send that counsel’s copy of the transcripts for a limited record to the tribe.

(C) The clerk must not send a copy of the transcripts for a limited record to the Attorney General or the district attorney unless that office represents a party.

Advisory Committee Comment

Subdivision (a). * * *

Subdivision (b). * * *

Subdivision (e). * * *

Subdivision (f). If a party is not otherwise authorized to access records in the juvenile case file under Welfare and Institutions Code section 827, and has not been granted access to any records in the juvenile case file by the juvenile court under section 827(a)(1)(Q) at the time the record on appeal is being prepared, there is no limited record to be prepared. To obtain access to records, and thus meet the definition of a designated person, the party must petition the juvenile court by filing *Request for Disclosure of Juvenile Case File* (form JV-570).

Rule 8.410. Augmenting and correcting the record in the reviewing court

(a) Omissions

If, after the record is certified, the superior court clerk or the reporter learns that the record or the limited record omits a document or transcript that any rule or order requires to be included, without the need for a motion or court order, the clerk must promptly copy and certify the document or the reporter must promptly prepare and

1 certify the transcript and the clerk must promptly send the document or transcript—
2 as an augmentation of the record—to all those who are listed under 8.409(e), except
3 as provided in rule 8.409(f).
4

5 **(b) Augmentation or correction by the reviewing court**
6

7 (1) Except as provided in (3), on motion of a party or on its own motion, the
8 reviewing court may order the record augmented or corrected as provided in
9 rule 8.155(a) and (c).
10

11 (2) If, after the record is certified, the trial court amends or recalls the judgment
12 or makes any other order in the case, the trial court clerk must notify each
13 entity and person to whom the record is sent under rule 8.409(e) and (f).
14

15 (3) The reviewing court may order a limited record augmented or corrected only
16 to include records to which the designated person has been granted access by
17 the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).
18

19 **Rule 8.412. Briefs by parties and amici curiae**
20

21 **(a) Contents, form, and length**
22

23 (1) * * *
24

25 (2) Except as provided in (3) and (4), rules 8.74 and 8.204 governs the form and
26 contents of briefs. Rule 8.216 also applies in appeals in which a party is both
27 appellant and respondent.
28

29 (3) * * *
30

31 (4) Any reference to a matter in the limited record must be supported by a
32 citation to the limited record, including a limited clerk’s transcript,
33 abbreviated as “LCT,” and a limited reporter’s transcript, abbreviated as
34 “LRT,” where the matter appears.
35

36 (5) If an appeal involves a designated person, and the brief of a party who is not
37 a designated person refers to juvenile case records that are not in the limited
38 record, the designated person may petition the juvenile court for access to
39 those records and may request an extension of time from the reviewing court
40 under subdivision (c).
41

42 **(b)–(e) * * ***
43

1 **Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in**
2 **Orange, Imperial, and San Diego Counties and in other counties by local rule**

3
4 (a) * * *

5
6 (b) **Form of record**

7
8 (1) The clerk's and reporter's transcripts and any transcripts for a limited record
9 must comply with rules 8.45–8.47, relating to sealed and confidential records,
10 and, except as provided in (2) and (3), with rule 8.144. An electronic clerk's
11 transcript and any electronic limited clerk's transcript must also comply with
12 rule 8.74.

13
14 (2)–(3) * * *

15
16 (c) **Preparing, certifying, and sending the record**

17
18 (1) Within 20 days after the notice of appeal is filed:

19
20 (A) Except as provided in (C), the clerk must prepare and certify as correct
21 an original of the clerk's transcript and one copy each for the appellant,
22 the respondent, the district appellate project, the child's Indian tribe if
23 the tribe has intervened, and the child if the child is represented by
24 counsel on appeal or if a recommendation has been made to the Court
25 of Appeal for appointment of counsel for the child under rule
26 8.403(b)(2) and that recommendation is either pending with or has been
27 approved by the Court of Appeal but counsel has not yet been
28 appointed; and

29
30 (B) Except as provided in (C), the reporter must prepare, certify as correct,
31 and deliver to the clerk an original of the reporter's transcript and the
32 same number of copies as (A) requires of the clerk's transcript.

33
34 (C) If the appellant or the respondent is a designated person as defined in
35 rule 8.400(b)(1), the clerk and the reporter must prepare and certify as
36 correct separate transcripts for a limited record, as provided in rule
37 8.409(f), that includes only those records and transcripts in the juvenile
38 case file to which the designated person has been granted access by the
39 juvenile court. Originals and copies of a limited clerk's transcript and a
40 limited reporter's transcript must be prepared and delivered as provided
41 in (A) and (B).
42

1 (2) When the clerk's and reporter's transcripts are certified as correct, the clerk
2 must immediately send:

3
4 (A) The original transcripts, including any transcripts for a limited record,
5 to the reviewing court by the most expeditious method, noting the
6 sending date on each original; and

7
8 (B) Except as provided in (C), one copy of each transcript to the district
9 appellate project and to the appellate counsel for the following, if they
10 have appellate counsel, by any method as fast as United States Postal
11 Service express mail:

12
13 (i)–(iv) * * *

14
15 (C) One copy of the transcripts for a limited record, if any, to the
16 designated person and the parties identified in (B). A designated person
17 may receive a copy of the limited record only, and may not receive a
18 copy of any records to which the designated person has not been
19 granted access by the juvenile court.

20
21 (3) * * *

22
23 (d)–(h) * * *

24
25 **Rule 8.450. Notice of intent to file writ petition to review order setting hearing**
26 **under Welfare and Institutions Code section 366.26**

27
28 (a)–(d) * * *

29
30 (e) **Notice of intent**

31
32 (1) A party seeking writ review under rules 8.450–8.452 must file in the superior
33 court a notice of intent to file a writ petition and a request for the record. If the
34 party seeking writ review is aware that a party to the writ proceeding is an
35 individual not authorized to access the juvenile case file without an approved
36 petition under Welfare and Institutions Code section 827(a)(1)(Q), the party
37 seeking writ review must indicate so on the notice of intent to file a writ
38 petition.

39
40 (2)–(4) * * *

41
42 (f)–(g) * * *

1 **(h) Preparing the record**

2
3 When the notice of intent is filed, the superior court clerk must:

4
5 (1) Immediately notify each court reporter by telephone and in writing to prepare
6 a reporter's transcript of the oral proceedings at each session of the hearing
7 that resulted in the order under review and to deliver the transcript to the
8 clerk within 12 calendar days after the notice of intent is filed; ~~and~~

9
10 (2) If any party is a designated person, immediately notify each court reporter by
11 telephone and in writing to prepare a separate reporter's transcript for a
12 limited record of the oral proceedings at each session of the hearing that
13 resulted in the order under review, and to which the designated person has
14 been granted access by the juvenile court under Welfare and Institutions
15 Code section 827(a)(1)(Q), and deliver the transcript to the clerk within 12
16 calendar days after the notice of intent is filed;

17
18 (2)(3) Within 20 days after the notice of intent is filed, prepare a clerk's transcript
19 that includes the notice of intent, proof of service, and all items listed in rule
20 8.407(a); and

21
22 (4) If any party is a designated person, within 20 days after the notice of intent is
23 filed, prepare a separate clerk's transcript for a limited record that includes
24 only those records in the juvenile case file to which the designated person has
25 been granted access by the juvenile court under Welfare and Institutions
26 Code section 827(a)(1)(Q).

27
28 **(i) Sending the record**

29
30 When the transcripts are certified as correct, the superior court clerk must
31 immediately send:

32
33 (1) The original transcripts, including any transcripts for a limited record, to the
34 reviewing court by the most expeditious method, noting the sending date on
35 each original; ~~and~~

36
37 (2) Except as provided in (3), one copy of each transcript, including any
38 transcripts for a limited record, to each counsel of record and any
39 unrepresented party by any means as fast as United States Postal Service
40 express mail; and

41
42 (3) One copy of the transcripts for a limited record to any party who is a
43 designated person. A designated person may receive a copy of the limited

1 record only, and may not receive a copy of any records to which the
2 designated person has not been granted access by the juvenile court under
3 Welfare and Institutions Code section 827(a)(1)(Q).
4

5 (j) * * *

6
7 **Rule 8.452. Writ petition to review order setting hearing under Welfare and**
8 **Institutions Code section 366.26**
9

10 (a) * * *

11
12 (b) **Contents of the memorandum**
13

14 (1) Except as provided in (2), the memorandum must:
15

16 ~~(1)(A) The memorandum must~~ Provide a summary of the significant facts,
17 limited to matters in the record;
18

19 ~~(2)(B) The memorandum must~~ State each point under a separate heading or
20 subheading summarizing the point and support each point by argument
21 and citation of authority; and
22

23 ~~(3)(C) The memorandum must~~ Support any reference to a matter in the
24 record by a citation to the record. The memorandum should explain the
25 significance of any cited portion of the record and note any disputed
26 aspects of the record.
27

28 (2) If the petitioner is a designated person, the summary of significant facts in the
29 memorandum is limited to matters in the limited record. The memorandum
30 must support any reference to a matter in the limited record by a citation to
31 the limited record, including a limited clerk's transcript, abbreviated as
32 "LCT," and a limited reporter's transcript, abbreviated as "LRT."
33

34 (c)-(i) * * *

35
36 **Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code**
37 **section 366.28 to review order designating specific placement of a dependent**
38 **child after termination of parental rights**
39

40 (a)-(d) * * *

41
42 (e) **Notice of intent**
43

1 (1) A party seeking writ review under rules 8.454–8.456 must file in the superior
2 court a notice of intent to file a writ petition and a request for the record. If
3 the party seeking writ review is aware that a party to the writ proceeding is an
4 individual not authorized to access the juvenile case file without an approved
5 petition under Welfare and Institutions Code section 827(a)(1)(Q), the party
6 seeking writ review must indicate so on the notice of intent to file a writ
7 petition.

8
9 (2)–(5) * * *

10
11 (f)–(g) * * *

12
13 **(h) Preparing the record**

14
15 When the notice of intent is filed, the superior court clerk must:

16
17 (1) Immediately notify each court reporter by telephone and in writing to prepare
18 a reporter’s transcript of the oral proceedings at each session of the hearing
19 that resulted in the order under review and to deliver the transcript to the
20 clerk within 12 calendar days after the notice of intent is filed; ~~and~~

21
22 (2) If any party is a designated person, immediately notify each court reporter by
23 telephone and in writing to prepare a separate reporter’s transcript for a
24 limited record of the oral proceedings at each session of the hearing that
25 resulted in the order under review, and to which the designated person has
26 been granted access by the juvenile court under Welfare and Institutions
27 Code section 827(a)(1)(Q), and to deliver the transcript to the clerk within 12
28 calendar days after the notice of intent is filed;

29
30 ~~(2)~~(3) Within 20 days after the notice of intent is filed, prepare a clerk’s transcript
31 that includes the notice of intent, proof of service, and all items listed in rule
32 8.407(a); and

33
34 (4) If any party is a designated person, within 20 days after the notice of intent is
35 filed, prepare a separate clerk’s transcript for a limited record that includes
36 only those records in the juvenile case file to which the designated person has
37 been granted access by the juvenile court under Welfare and Institutions
38 Code section 827(a)(1)(Q).

39
40 **(i) Sending the record**

41
42 When the transcripts are certified as correct, the superior court clerk must
43 immediately send:

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43

- (1) The original transcripts, including any transcripts for a limited record, to the reviewing court by the most expeditious method, noting the sending date on each original; ~~and~~
- (2) Except as provided in (3), one copy of each transcript, including any transcripts for a limited record, to each counsel of record and any unrepresented party and unrepresented custodian of the dependent child by any means as fast as United States Postal Service express mail-; and
- (3) One copy of the transcripts for a limited record to any party who is a designated person. A designated person may receive a copy of the limited record only, and may not receive a copy of any records to which the designated person has not been granted access by the juvenile court under Welfare and Institutions Code section 827(a)(1)(Q).

(j) * * *

Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to review order designating or denying specific placement of a dependent child after termination of parental rights

(a) * * *

(b) Contents of memorandum

- (1) Except as provided in (2), the memorandum must:
 - ~~(1)(A) The memorandum must~~ Provide a summary of the significant facts, limited to matters in the record;
 - ~~(2)(B) The memorandum must~~ State each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority; and
 - ~~(3)(C) The memorandum must~~ Support any reference to a matter in the record by a citation to the record. The memorandum should explain the significance of any cited portion of the record and note any disputed aspects of the record.
- (2) If the petitioner is a designated person, the summary of significant facts in the memorandum is limited to matters in the limited record. The memorandum must support any reference to a matter in the limited record by a citation to

1 the limited record, including a limited clerk’s transcript, abbreviated as
2 “LCT,” and a limited reporter’s transcript, abbreviated as “LRT.”

3

4 **(c)–(i)** * * *

Clerk stamps date here when form is filed.

As the relative of a child who has been removed from the home, you may give written information to the court about the child at any time on this form or in a letter. After filling out this form, give it to the clerk of the court.

Please note that other people involved in the case, including the parents, will see your answers on this form. If you prefer to keep your contact information private, fill out *Confidential Information* (form JV-287) and do not write your address or telephone number below.

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Social worker fills in court name and street address.

Superior Court of California, County of

Social worker fills in child's name and date of birth.

Child's Name:

Date of Birth:

Social worker fills in case number.

Case Number:

① Your name: _____

Your Address: _____

Your telephone number: _____

Check here if contact information is confidential and form JV-287 is attached.

② Your relation to the child: maternal paternal

grandparent brother/sister aunt/uncle cousin

family friend

tribal extended family member

other (specify): _____

③ Child's name: _____

④ I would like to talk to the judge at the next court hearing.

Please fill in as much of the following information as you know. If you need more space to respond to any section on this form, attach additional pages as needed and check the box at item 12.

⑤ Information about the child's medical, dental, and general physical health:

⑥ Information about the child's emotional and behavioral health:

⑦ Information about the child's education:

⑧ Other information that might be helpful to the court:



Child's name: _____

Case Number: _____

Below are some things you might do to help the child. You can pick some or none of the things listed below. It is up to the social worker and the court whether you will be asked to do these things.

- 9 I want to
- | | |
|---|---|
| <input type="checkbox"/> telephone the child. | <input type="checkbox"/> take the child to visits with parents. |
| <input type="checkbox"/> write letters to the child. | <input type="checkbox"/> take the child to medical appointments. |
| <input type="checkbox"/> take the child on outings. | <input type="checkbox"/> supervise the child during visits with brothers and sisters. |
| <input type="checkbox"/> take the child to/from school. | <input type="checkbox"/> watch the child after school. |
| <input type="checkbox"/> take the child to visits with brothers or sisters. | <input type="checkbox"/> have the child live with me. |
| <input type="checkbox"/> take the child to therapy. | <input type="checkbox"/> other (describe): _____ |
| <input type="checkbox"/> take the child to family gatherings. | _____ |
| <input type="checkbox"/> help the social worker make a case plan for the child. | _____ |

You can also help the parents. For example, you might help with transportation, housing, visits, or child care. It is up to the social worker and the court whether you will be asked to do these things.

- 10 I want to help the father mother
 (Describe): _____

- 11 Other relatives who might be able to help the child:
- a. Name: _____ Relationship to child: _____
 Contact information: _____
 or I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- b. Name: _____ Relationship to child: _____
 Contact information: _____
 or I want to keep the contact information confidential and ask that the child's social worker get this information from me.
- c. Name: _____ Relationship to child: _____
 Contact information: _____
 or I want to keep the contact information confidential and ask that the child's social worker get this information from me.

- 12 If you need more space to respond to any section on this form, please check this box and attach additional pages.
 Number of pages attached: _____

NOTICE

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

Date: _____

Type or print your name

Sign your name

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
CHILD'S NAME: HEARING DATE AND TIME:	
CAREGIVER INFORMATION FORM	CASE NUMBER:

To the current caregiver, preadoptive parent, community care facility, or foster family agency caring for the child: You may submit written information to the court, and you may attend review and permanency hearings. You may use this optional form to provide written information to the court. Please type or print clearly in ink and submit the original and eight copies of the form to the court clerk's office at least five calendar days (or seven calendar days, if filing by mail) before the hearing. Be aware that other individuals involved in the case have access to this information. See form JV-290-INFO for instructions on how to complete this form and file it with the court.

1. a. Child's name:
 b. Child's date of birth: c. Child's age:
2. **Caregiver Information** *(Answer only if you are a caregiver, skip #3.):*
 - a. Name of caregiver:
 - b. Type of caregiver: Foster parent Relative Legal guardian Preadoptive parent
 Nonrelative extended family member Other *(specify):*
 - c. The child has been living in my home for *(specify):* years months.
3. **Agency or Facility Information** *(Answer only if you are an agency or facility, skip #2.):*
 - a. Name of agency or facility:
 - b. Address:
 - c. Telephone number:
 - d. Type of facility: Foster family agency Community care agency Other *(specify):*
 - e. The child has been placed with our agency/facility for *(specify):* years months and in the current home for *(specify):* years months.
 - f. Name of person completing form: Title:
 - g. Hours per week the person completing this form spends with the child *(specify):* hours/week.
 - h. The information on this form consists of
 - (1) the observations and recommendations of the person filling out this form.
 - (2) the observations and recommendations of a group or team made up of the following individuals *(specify):*
4. **Current Status of Child's Medical, Dental, and General Physical and Emotional Health**
 - a. There is no new or additional information since the last court hearing.
 - b. There is new or additional information since the last court hearing, as follows *(do not include the names of doctors):*
5. **Current Status of Child's Education**
 - a. There is no new or additional information since the last court hearing.
 - b. There is new or additional information since the last court hearing, as follows *(do not include the names of schools):*

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

6. Child's Special Education Status

- a. The child is a special education student. Date of last Individualized Education Plan (IEP):
- b. The child is not a special education student.
- c. I do not know the child's special education status.

7. Current Status of Child's Adjustment to Living Arrangement

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

8. Current Status of Child's Social Skills and Peer Relationships

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

9. Current Status of Child's Special Interests and Activities

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

10. Other Helpful Information

- a. There is no new or additional information since the last court hearing.
- b. There is new or additional information since the last court hearing, as follows:

11. Recommendation for Disposition (Outcome)

- a. I have no recommendation for disposition (*outcome*).
- b. I am recommending the following disposition (*outcome*).

12. If you need more space to respond to any section on this form, please check this box and attach additional pages.
 Number of pages attached:

NOTICE

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

Date:

_____ (TYPE OR PRINT NAME)

▶ _____ (SIGNATURE OF CAREGIVER OR FACILITY/AGENCY STAFF PERSON WHO HAS COMPLETED THIS FORM)

Under very limited circumstances, a person who is not the child, parent, or guardian in a dependency or delinquency case has the right to seek review of decisions made by the juvenile court by filing an appeal or writ petition in the Court of Appeal. These individuals, however, are not entitled to access records in the juvenile court case file for purposes of an appeal or writ proceeding unless they get approval from the juvenile court. The purpose of this information sheet is to inform those individuals who are not the child, parent, or guardian, and who may have the right to seek review, of the requirement to request access to records in the juvenile court case file by filing a *Request for Disclosure of Juvenile Case File* (form JV-570).

1 When would I have the right to seek review?

To have a right to seek review, you must be harmed by an order or judgment of the juvenile court. In the vast majority of cases, only the child, parent, or guardian will have the right to file an appeal or a writ petition challenging a juvenile court ruling. However, the law also protects those individuals who have a compelling relationship to the child in certain situations.

You might have a right to appeal or file a writ petition if you are:

- The child's relative, who requested placement of the child but the placing agency did not assess the home for placement before a hearing to terminate parental rights.
- Someone who cared for the child and requested de facto parent status, which was denied.
- Someone who requested a change of court order through a section 388 petition (JV-180), which was denied.
- The child's sibling, who requested visitation or an exception to adoption based on preserving the sibling relationship, which was denied.
- A prospective adoptive parent challenging the juvenile court's decision to remove the child from the home.

2 If I want to file an appeal or writ petition, what additional steps must I take?

To have access to records in the juvenile case file for an appeal or writ proceeding, you must request access from the juvenile court. To make this request, you must file *Request for Disclosure of Juvenile Case File* (form JV-570). You will need to serve a copy of this form on all interested parties to the case if you know their names and addresses, including the child, parents, and social worker.

On the request form, you will need to identify which specific records you are requesting. Be sure to indicate the dates of the hearings that relate to the decision you are challenging. As the basis for the request, you may indicate the appeal or writ proceeding in the Court of Appeal. You will also need to explain why you are requesting the records. Your explanation should show how the records, including any transcripts, relate to the decision you are challenging (for example, a report or court order following a hearing on your issue).

When you file a notice of appeal or a notice of intent to file a writ petition, you will need to attach the juvenile court's order indicating the records to which the court has granted you access. Doing so will alert the clerk that you are authorized to access records in the case file and will ensure that a record will be prepared for you. The court's order is made on *Order After Judicial Review* (form JV-574).

It is recommended that you consult with an attorney when considering whether you should file an appeal or a writ petition and request access to the juvenile court record.

Clerk stamps date here when form is filed.

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The address of any licensed foster family home must remain confidential unless the judge or the foster parent authorizes release of the address. Court clerks should not send this page to the parties without a court order or authorization of the foster parent. (Welf. & Inst. Code, § 308(a).)

1 My/Our name(s): _____

Fill in court name and street address:

Superior Court of California, County of

My/Our address: _____

City: _____ State: _____ Zip: _____

My/Our phone #: _____

2 I am/We are asking that I/we be appointed de facto parent(s) of
(Child's name): _____

Court fills in case number when form is filed.

Case Number:

Date: _____
Type or print your name

Signature of person requesting de facto parent status

Date: _____
Type or print your name

Signature of person requesting de facto parent status

Date: _____
Type or print attorney's name

Signature of attorney (if applicable)

Attorney's address: _____

City: _____ State: _____ Zip: _____

Attorney's phone #: _____

NOTICE

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

After filling out this form, bring it to the clerk of the court. If you want to keep an address or telephone number confidential, do not write the information on this form. Instead, fill out Confidential Information—Prospective Adoptive Parent (form JV-322).

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① Information about the person or persons you want to be designated as prospective adoptive parents:

- a. Name: _____
 b. Name: _____
 c. Street address: _____
 d. City: _____ State: _____ Zip: _____
 e. Telephone number: _____

Fill in court name and street address:

Superior Court of California, County of

② If you are not a person in ①, fill out below.

- a. Name: _____
 b. I am the child child's attorney other
 (specify role): _____
 c. Street address: _____
 d. City: _____ State: _____ Zip: _____
 e. Telephone number: _____

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Fill in case number:

Case Number:

③ If you are not the child's attorney and you know who the child's attorney is, fill out below.

- a. Name of child's attorney: _____
 b. Street address of child's attorney: _____
 c. City: _____ State: _____ Zip: _____
 d. Telephone number of child's attorney: _____

④ The child is 10 years of age or older. Child's telephonenumber: _____
 or Telephone number is confidential.

⑤ The child has lived with the person from (date): _____ to the present.
 In order for the person in ① to become a prospective adoptive parent, the child must be living with that person now.

⑥ Date of Welfare and Institutions Code section 366.26 hearing: _____
 The person in ① should not file this form with the court until a Welfare and Institutions Code section 366.26 hearing has been scheduled.

⑦ The person in ① is committed to adopting the child.



Child's name: _____

Case Number: _____

- 8 The person in 1 has (check all that apply):
- a. Applied for an adoptive home study.
 - b. In a case in which tribal customary adoption is the permanent plan, been identified by the Indian child's tribe as the prospective adoptive parent.
 - c. Cooperated with an adoptive home study.
 - d. Signed an adoptive placement agreement.
 - e. Requested de facto parent status.
 - f. Been designated by the juvenile court or the licensed adoption agency as the adoptive parent.
 - g. Discussed a postadoption contact agreement with the social worker, child's attorney, child's Court Appointed Special Advocate (CASA) volunteer, adoption agency, or court.
 - h. Worked to overcome any impediments that have been identified by the California Department of Social Services or the licensed adoption agency.
 - i. Attended any of the classes required of prospective adoptive parent.
 - j. Taken other steps toward adopting the child (explain): _____

If you need more space, attach a sheet of paper and write "JV-321, Item 8—Steps Toward Adoption" at the top. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information in items 1 through 8 is true and correct, which means if I lie on this form, I am committing a crime.

Date: _____

Type or print your name

▶ _____
Sign your name

Type or print your name

▶ _____
Sign your name

NOTICE

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

Clerk stamps date here when form is filed.

If you do not agree with the removal, you can request a court hearing by filling out this form. The following people can object to removal: a current caregiver, the child’s attorney, the child (if 10 years of age or older), the child’s identified Indian tribe or custodian, and the child’s CASA program. Bring this form to the clerk of the court. If you want to keep an address or a phone number confidential, fill out Confidential Information—Prospective Adoptive Parent (form JV-322), and do not write the address or phone number on this form.

If you are a caregiver or the child and you requested the hearing, the clerk will provide notice of the hearing to you and any other participants.

If you are the child’s attorney and you requested the hearing, you must provide notice of the hearing to all other participants.

DRAFT
Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Fill in case number:

Case Number:

1 Information about the caregiver or caregivers:

- a. Name: _____
- b. Name: _____
- c. Address: _____
- d. Phone number: _____

2 If you (the person objecting to the removal) are not the caregiver, fill out below.

- a. Name: _____
- b. I am the child child’s attorney child’s identified Indian tribe
 child’s identified Indian custodian child’s CASA program

- c. Address: _____
- d. Phone number: _____

3 If you are not the child’s attorney and you know who the child’s attorney is, fill out below.

- a. Name of child’s attorney: _____
- b. Address of child’s attorney: _____
- c. Phone number of child’s attorney: _____

4 The child is 10 years of age or older. Child’s telephonenumber: _____
 Confidential phone number in court file

5 The child has an identified Indian tribe (specify tribe): _____
Phone number of tribe: _____

6 The child has a Court Appointed Special Advocate (CASA) volunteer.
Phone number of CASA program, if known: _____

7 The caregiver or caregivers have been designated by the judge as the child’s prospective adoptive parent or parents.



Child's name: _____

Case Number: _____

8 The caregiver or caregivers may meet the definition of prospective adoptive parent or parents. *Request for Prospective Adoptive Parent Designation* (form JV-321), will be filed with this objection and request for hearing.

9 The social worker should not remove the child from the caregiver's home because (*give reasons*):

If you need more space, attach a sheet of paper and write "JV-325, Item 9—Reasons to Not Remove Child" at the top. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct, which means that if I lie on this form, I am committing a crime.

Date:

Type or print your name

Sign your name

NOTICE

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

What if I am deaf or hard of hearing?



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

Clerk stamps date here when form is filed.

If you are requesting a court order to obtain the juvenile case file of a child who is alive, fill out all items on this form, and file it with the court. You must also fill out and file Proof of Service—Request for Disclosure (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

a. Fill out items 1–4 and 7 on this form and file it with the court. You must then provide a copy of this form to the Custodian of Records of the county child welfare agency, who will then provide notice of this request.

Or

b. Do not complete the form and request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

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the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number, if known:

Case Number:

① Your name: _____
Relationship to child (if any): _____
Street address: _____
City: _____ State: _____ Zip: _____
Telephone number: _____
Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

② Name of child (if known): _____

③ Child's date of birth (if known): _____

④ a. A petition regarding the child in ② has been filed under
 Welfare and Institutions Code section 300
 Welfare and Institutions Code section 601
 Welfare and Institutions Code section 602 or
b. I believe the child in ② died as a result of abuse or neglect. Approximate date of death: _____

Note: You must provide a copy of this form to all interested parties if you know their names and addresses.



Your name: _____

Case Number: _____

5 The records I want are: *(Describe in detail. Attach more pages if you need more space. For a nonparty seeking review in an appellate court, specify the request is for transcripts and evidence considered by the juvenile court at hearings related to the appeal or writ proceeding.)*

Continued on Attachment 5.

6 The reasons for this request are:

a. Civil court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

b. Criminal court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

c. Juvenile court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____

d. Appellate court case by a nonparty.
Case number *(if applicable)*: _____
Hearing dates related to the juvenile court order being challenged or to be challenged on appeal or by writ: _____

e. Other *(specify)*: _____
Case number: _____ Hearing date: _____

7 I need the records because: *(Describe in detail. Attach more pages if you need more space.)*

Continued on Attachment 7.

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

Date:

Type or print your name

Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 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:	
NOTICE OF APPEAL—JUVENILE	CASE NUMBER:

— NOTICE —

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 6–8 on the reverse of this form.
- Rule 8.406 says that to appeal from an order or judgment, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final.
- You are advised that if you wish to file an appeal of the order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. I appeal from the findings and orders of the court (specify date of order or describe order):

2. This appeal is filed by

- a. Appellant (name):
- b. Address: c. Phone number:
- d. Name, address, and phone number of person to be contacted (if different from appellant):

- e. (1) Appellant is not the department, child, parent, or legal guardian.
- (2) Appellant has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on form JV-574 *Order after Judicial Review*, if available, is attached.

3. I request that the court appoint an attorney on appeal. I was was not represented by an appointed attorney in the superior court.

4. The appeal involves a respondent who is not the department, child, parent, or legal guardian. This individual may require the preparation of a limited record as defined in rule 8.400(b)(2).

Date:

_____ ▶ _____

TYPE OR PRINT NAME SIGNATURE OF APPELLANT ATTORNEY

5. Items 6 through 8 on the reverse are completed not completed.

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

6. Appellant is the

- a. child.
- b. mother.
- c. father.
- d. guardian.
- e. de facto parent.
- f. county welfare department.
- g. district attorney.
- h. child's tribe.
- i. other (state relationship to child or interest in the case):

7. This notice of appeal pertains to the following child or children (specify number of children included):

- a. Name of child: _____
Child's date of birth: _____
- b. Name of child: _____
Child's date of birth: _____
- c. Name of child: _____
Child's date of birth: _____
- d. Name of child: _____
Child's date of birth: _____
 Continued in Attachment 5.

8. The order appealed from was made under Welfare and Institutions Code (check all that apply)

- a. **Section 305.5** (transfer to tribal court)
 Granting transfer to tribal court
- b. **Section 360** (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
Dates of hearing (specify): _____
- c. **Section 366.26** (selection and implementation of permanent plan in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
 Termination of parental rights Appointment of guardian Planned permanent living arrangement
Dates of hearing (specify): _____
- d. **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
Dates of hearing (specify): _____
- e. Other appealable orders relating to dependency (specify): _____
Dates of hearing (specify): _____
- f. **Section 725** (declaration of wardship and other orders)
 with review of section 601 jurisdictional findings
 with review of section 602 jurisdictional findings
Dates of hearing (specify): _____
- g. Other appealable orders relating to wardship (specify): _____
Dates of hearing (specify): _____
- h. Other (specify): _____

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING UNDER WELFARE AND INSTITUTIONS CODE SECTION 366.26 (California Rules of Court, Rule 8.450)	CASE NUMBER:

NOTICE

The juvenile court has decided it will make a permanent plan for this child that may result in the termination of your parental rights and adoption of the child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. parent (name):
 - b. guardian.
 - c. County welfare agency.
 - d. child.
 - e. other (state relationship to child or interest in the case):
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.
 b. List all known dates of the hearing that resulted in the order:
7. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known): _____
8. a. Petitioner is not the department, child, parent, or legal guardian.
 b. Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on form *Order after Judicial Review* (form JV-574), if available, is attached.
9. The writ involves a respondent who is not the department, child, parent, or legal guardian. This individual may require the preparation of a limited record as defined in rule 8.400(b)(2).

Date: _____

SIGNATURE OF
 PETITIONER
 ATTORNEY

The *Notice of Intent to File Writ Petition* must be signed by the person who intends to file the writ petition or by the attorney of record.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
-----------------------	------------------------

WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION

HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?

- File this Notice of Intent to File Writ Petition and Request for Record in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.

SEE WELF. & INST. CODE, § 366.26(I); CAL. RULES OF COURT, RULES 8.450–8.452

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

SEE WELF. & INST. CODE, §§ 248–252; CAL. RULES OF COURT, RULES 5.538, 5.540

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, or
- By the attorney of record

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER DESIGNATING OR DENYING SPECIFIC PLACEMENT OF A DEPENDENT CHILD AFTER TERMINATION OF PARENTAL RIGHTS (California Rules of Court, Rule 8.454)	CASE NUMBER:

NOTICE

The juvenile court has ordered or denied a specific placement for this child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's placement decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

If you are not the child, the child's parent, or the child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may also need a court order granting you access to records in the juvenile case file. For more information, please see *Information on a Nonparty's Right to Seek Review and the Requirement to Request Access to Records* (form JV-291-INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. child's caretaker (specify dates in your care):
 - b. child.
 - c. county welfare department.
 - d. legal guardian.
 - e. other (state relationship to child or interest in the case):
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court terminated parental rights under Welfare and Institutions Code section 366.26.
- b. On (date): _____ the court made a specific placement order or denied a specific placement request that the dependent child is to reside in, be retained in, or be removed from a specific placement. Petitioner intends to file a writ petition to challenge the specific placement order or the denial of a specific placement request made by the court on that date and requests that the clerk assemble the record.
7. a. Petitioner is not the department, child, parent, or legal guardian.
- b. Petitioner has been granted access to specified records in the juvenile case file, and the court's order under Welfare and Institutions Code section 827(a)(1)(Q) on *Order after Judicial Review* (form JV-574), if available, is attached.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

8. The writ involves a respondent who is not the department, child, parent, or legal guardian. This individual may require the preparation of a limited record as defined in rule 8.400(b)(2).

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER CHILD'S ATTORNEY)

The *Notice of Intent to File Writ Petition* must be signed by the person intending to file the writ petition or, if it is to be filed on behalf of the child, by the child's attorney of record. See the back of this form for more information.

HOW DO I CHALLENGE THE COURT'S PLACEMENT DECISION AFTER TERMINATION OF PARENTAL RIGHTS?

- File this *Notice of Intent to File Writ Petition and Request for Record* in the juvenile court within the time listed below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get a copy of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal you must send a copy of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings.

SEE CAL. RULES OF COURT, RULES 8.454–8.456

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court granted or denied the specified placement, you must file the *Notice of Intent* within 7 days from the date the court granted or denied the specified placement.
- If you were not present in court but were given notice by mail of the court's decision to grant or deny the specified placement, you must file the *Notice of Intent* within 12 days from the date the clerk mailed the notification.
- If the order granting or denying the specific placement was made by a referee not acting as a temporary judge, you must file the *Notice of Intent* within 17 days from the date the court set the hearing.

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, *or*
- If petition will be filed on behalf of a child, by the child's attorney, *or*
- 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. (Cal. Rules of Court, rule 8.450(e)(3).)