

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 23, 2009,
effective on January 1, 2010, July 1, 2010, and January 1, 2011.

Rule 1.100. Requests for accommodations by persons with disabilities	5
<u>Rule 2.251. Construction of rules</u>	7
Rule 2.256. Responsibilities of electronic filer.....	7
Rule 2.258. Payment of filing fees.....	8
Rule 2.260. Electronic service	8
Rule 2.400. Court records	9
Rule 2.503. Public access.....	12
<u>Rule 2.575. Confidential information in name change proceedings under address confidentiality program</u>	13
<u>Rule 2.576. Access to name of the petitioner</u>	14
<u>Rule 2.577. Procedures for filing confidential name change records under seal</u> .	15
<u>Rule 2.833. Documents and exhibits</u>	18
<u>Rule 2.834 2.833. Open proceedings; notices of proceedings, use of court facilities, and order for hearing site</u>	18
<u>Rule 2.835 2.834. Motions or applications to be heard by the court</u>	20
Rule 3.851. Application	20
Rule 3.865. Application and purpose.....	21
Rule 3.902. Order appointing referee	22
Rule 3.907. Motion or application to seal records	22
Rule 3.908. Motion for leave to file for complaint intervention	22
Rule 3.907 3.909. Proceedings before privately compensated referees <u>Use of court facilities and court personnel</u>	23
Rule 3.910. Request and order for appropriate and accessible hearing site	23
Rule 3.922. Form and contents of order appointing referee	23
Rule 3.926. Use of court facilities	24
Rule 3.927. Circumstances required for appointment of discovery referee	24
<u>Rule 3.930. Documents and exhibits</u>	24
<u>Rule 3.931. Open proceedings, notice of proceedings, and order for hearing site</u>	25
<u>Rule 3.932. Motions or applications to be heard by the court</u>	26
Rule 3.1015. Discovery in action pending outside of California	26
<u>Rule 3.1365. Form and format of administrative record lodged in a CEQA proceeding</u>	27
<u>Rule 3.1366. Lodging and service</u>	29
<u>Rule 3.1367. Electronic format</u>	29
<u>Rule 3.1368. Paper format</u>	30
Rule 3.1590. Announcement of tentative decision, statement of decision, and judgment.....	31
Rule 4.111. Pretrial motions in criminal cases	35
Rule 5.220. Court-ordered child custody evaluations.....	36
Rule 5.534. General provisions—all proceedings	36
Rule 5.570. Request to change court order (<u>petition for modification</u>).....	37

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 23, 2009,
effective on January 1, 2010, July 1, 2010, and January 1, 2011.

Rule 5.655. Program requirements for Court Appointed Special Advocate programs.....	41
Rule 5.695. Orders of the court.....	41
<u>Rule 5.706. Family maintenance review hearings (§ 364)</u>	44
<u>Rule 5.708. General review hearing requirements</u>	46
Rule 5.710. Six-month review hearing	53
Rule 5.715. Twelve-month review <u>permanency</u> hearing	63
Rule 5.720. Eighteen-month <u>permanency</u> review hearing	72
<u>Rule 5.722. Twenty-four-month subsequent permanency review hearing</u>	79
Rule 5.725. Selection of permanent plan (§§ 366.26, 727.31)	82
Rule 7.101. Use of Judicial Council forms	83
Rule 7.207. Bonds of conservators and guardians.....	83
Rule 7.950. Petition for <u>court approval of the compromise of, or a covenant on, a disputed claim; a compromise or settlement of a pending action; or the disposition of the proceeds of a judgment</u>	84
<u>Rule 7.950.5. Expedited petition for court approval of the compromise of, or a covenant on, a disputed claim; a compromise or settlement of a pending action; or the disposition of the proceeds of a judgment</u>	86
Rule 7.955. Attorney’s fees for services to a minor or a person with a disability.	88
Rule 8.160. <u>8.46</u> Sealed records.....	91
Rule 8.104. Time to appeal	91
Rule 8.112. Petition for writ of supersedeas	92
Rule 8.122. Clerk’s transcript	93
Rule 8.124. Appendixes	94
Rule 8.130. Reporter’s transcript	98
Rule 8.147. Record in multiple or later appeals in same case	99
Rule 8.212. Service and filing of briefs	100
Rule 8.320. Normal record; exhibits	101
Rule 8.336. Preparing, certifying, and sending the record	102
<u>Rule 8.819. Sealed records</u>	102
Rule 8.824. Writ of supersedeas	102
Rule 8.832. Clerk’s transcript	104
Rule 8.861. Contents of clerk’s transcript	104
Rule 8.862. Preparation of clerk’s transcript	105
Rule 8.864. Record of oral proceedings.....	105
Rule 8.882. Briefs by parties and amici curiae	106
Rule 8.885. Oral argument.....	107
Rule 8.910. Normal record on appeal	109
Rule 8.915. Record of oral proceedings.....	109
Rule 8.929. Oral argument.....	110
Rule 8.1005. Certification.....	112

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 23, 2009,
effective on January 1, 2010, July 1, 2010, and January 1, 2011.

Rule 10.54. Traffic Advisory Committee	112
<u>Rule 10.464. Education requirements and expectations for judges and subordinate judicial officers on domestic violence issues.....</u>	113

Rules to be effective July 1, 2010:

<u>Rule 5.585. Rules governing appellate review</u>	115
<u>Rule 5.585. Review by appeal 5.590. Advisement of right to review in Welfare and Institutions Code section 300, 601, or 602 cases</u>	115
<u>Rule 5.590. Notification of appeal rights in juvenile cases</u>	118
<u>Rule 5.595. Review by extraordinary writ—section 300 proceedings Stay pending appeal</u>	118
<u>Rule 5.600. Writ petition after orders setting hearing under section 366.26; appeal</u>	118
Rule 5.708. General review hearing requirements	121
Rule 5.800. Deferred entry of judgment	122
Rule 8.400. <u>Appeals in juvenile cases generally Application.....</u>	124
Rule 8.401. <u>Confidentiality.....</u>	127
<u>Rule 8.403 Right to appointment of appellate counsel and prerequisites for appeal</u>	128
<u>Rule 8.404. Stay pending appeal.....</u>	129
<u>Rule 8.405. Filing the appeal</u>	129
<u>Rule 8.406. Time to appeal</u>	131
Rule 8.404. <u>8.407. Record on appeal</u>	132
Rule 8.406. <u>8.408. Record in multiple appeals in the same case.....</u>	134
Rule 8.408. <u>8.409. Preparing, and sending, augmenting, and correcting the record</u>	134
<u>Rule 8.410. Augmenting and correcting the record in the reviewing court</u>	135
<u>Rule 8.411. Abandoning the appeal.....</u>	135
Rule 8.412. Briefs by parties and amici curiae	136
Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties <u>and in other counties by local rule</u>	138
Rule 8.450. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26	140
Rule 8.452. Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26 <u>and rule 5.600.....</u>	143
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	146

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 23, 2009,
effective on January 1, 2010, July 1, 2010, and January 1, 2011.

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..... 148

Rule to be effective January 1, 2011:

Rule 10.781. Court-related ADR neutrals..... 152

1 Rule 1.100. Requests for accommodations by persons with disabilities

2
3 (a)–(d) * * *

4
5 (e) Response to accommodation request

6
7 The court must respond to a request for accommodation as follows:

8
9 (1) In determining whether to grant an accommodation request or provide
10 an appropriate alternative accommodation, ~~The~~ court must consider,
11 but is not limited by, California Civil Code section 51 et seq., the
12 provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. §
13 12101, et seq.), and other applicable state and federal laws ~~in~~
14 determining whether to provide an accommodation or an appropriate
15 alternative accommodation.

16
17 (2) The court must promptly inform the applicant ~~in writing, as may be~~
18 ~~appropriate, and if applicable,~~ of the determination to grant or deny an
19 accommodation request. If the accommodation request is denied in
20 whole or in part, the response must be in writing. On request of the
21 applicant, the court may also provide an additional response in an
22 alternative format of the following. The response to the applicant must
23 indicate:

24
25 (A) ~~That~~ Whether the request for accommodation is granted or
26 denied, in whole or in part, ~~and~~ or an alternative accommodation
27 is granted;

28
29 (B) If the request for accommodation is denied, in whole or in part,
30 the reason therefor; ~~or that an alternative accommodation is~~
31 ~~granted;~~

32
33 ~~(B)~~(C) The nature of ~~the~~ any accommodation to be provided, ~~if any;~~
34 and

35
36 ~~(C)~~(D) The duration of ~~the~~ any accommodation to be provided; and

37
38 (E) If the response is in writing, the date the response was delivered
39 in person or sent to the applicant.

40
41 *(Subd (e) amended effective January 1, 2010; previously amended effective January 1,*
42 *2006, and January 1, 2007.)*

43

1 (f) * * *

2
3 (g) Review procedure

4
5 (1) If the determination to grant or deny a request for accommodation is
6 made by nonjudicial court personnel, Aan applicant or any participant
7 in the proceeding in which an accommodation request has been denied
8 or granted may seek review of a determination made by nonjudicial
9 court personnel within 10 days of the date of the response by
10 submitting, in writing, may submit a written request for review of that
11 determination to the presiding judge or designated judicial officer. The
12 request for review must be submitted within 10 days of the date the
13 response under (e)(2) was delivered in person or sent.

14
15 (2) If the determination to grant or deny a request for accommodation is
16 made by a presiding judge or another judicial officer, Aan applicant or
17 any participant in the proceeding in which an accommodation request
18 has been denied or granted may seek review of a determination made
19 by a presiding judge or another judicial officer may file a petition for a
20 writ of mandate under rules 8.485–8.493 or 8.930–8.936 in the
21 appropriate reviewing court. The petition must be filed within 10 days
22 of the date of the response under (e)(2) notice of determination by
23 filing a petition for extraordinary relief in a court of superior
24 jurisdiction was delivered in person or sent to the petitioner. For
25 purposes of this rule, only those participants in the proceeding who
26 were notified by the court of the determination to grant or deny the
27 request for accommodation are considered real parties in interest in a
28 writ proceeding. The petition for the writ must be served on the
29 respondent court and any real party in interest as defined in this rule.

30
31 (3) The confidentiality of all information of the applicant concerning the
32 request for accommodation and review under (g)(1) or (2) must be
33 maintained as required under (c)(4).

34
35 *(Subd (g) amended effective January 1, 2010; previously amended effective January 1,*
36 *2006.)*

37
38 (h) * * *

39
40 *Rule 1.100 amended effective January 1, 2010; adopted as rule 989.3 effective January 1, 1996;*
41 *previously amended effective January 1, 2006; previously amended and renumbered effective*
42 *January 1, 2007.*

1
2 **Subdivision (g)(2).** Which court is the “appropriate reviewing court” under this rule depends on
3 the court in which the accommodation decision is made and the nature of the underlying case. If
4 the accommodation decision is made by a superior court judicial officer and the underlying case
5 is a limited civil, misdemeanor, or infraction case, the appropriate reviewing court is the appellate
6 division of the superior court. If the accommodation decision is made by a superior court judicial
7 officer and the case is anything other than a limited civil, misdemeanor, or infraction case, such
8 as a family law, unlimited civil, or felony case, the appropriate reviewing court is the Court of
9 Appeal. If the accommodation decision is made by a judicial officer of the Court of Appeal, the
10 appropriate reviewing court is the California Supreme Court.
11

12 Rule 2.251. Construction of rules

13
14 The rules in this chapter must be construed to authorize and permit filing and
15 service by electronic means to the extent feasible.
16

17 *Rule 2.251 adopted effective January 1, 2010.*
18

19 Rule 2.256. Responsibilities of electronic filer

20
21 (a) * * *

22
23 (b) Format of documents to be filed electronically

24
25 A document that is filed electronically with the court must be in a format
26 specified by the court unless it cannot be created in that format. The format
27 adopted by a court must meet the following requirements:
28

29 (1) * * *

30
31 ~~(2) By January 1, 2010, any format adopted by the court must allow for full~~
32 ~~text searching. Documents not available in a format that permits full~~
33 ~~text searching must be scanned or imaged as required by the court,~~
34 ~~unless the court orders that scanning or imaging would be unduly~~
35 ~~burdensome. By January 1, 2010, such scanning or imaging must allow~~
36 ~~for full text searching to the extent feasible.~~
37

38 ~~(3)~~(2) The printing of documents must not result in the loss of document
39 text, format, or appearance.
40

41 If a document is filed electronically under the rules in this chapter and cannot
42 be formatted to be consistent with a formatting rule elsewhere in the
43 California Rules of Court, the rules in this chapter prevail.
44

1 (Subd (b) amended effective January 1, 2010; previously amended effective January 1,
2 2006, and January 1, 2008.)

3
4 Rule 2.256 amended effective January 1, 2010; adopted as rule 2056 effective January 1, 2003;
5 previously amended and renumbered effective January 1, 2007; previously amended effective
6 January 1, 2006, and January 1, 2008.

7
8 Rule 2.258. Payment of filing fees

9
10 (a) * * *

11
12 (b) Fee waivers

13
14 Eligible persons may seek a waiver of court fees and costs, as provided in
15 Government Code sections ~~68511.3~~ 68630–68641, rule 2.252(c), and
16 division 2 of title 3 of these rules.

17
18 (Subd (b) amended effective January 1, 2010; previously amended effective January 1,
19 2007.)

20
21 Rule 2.258 amended effective January 1, 2010; adopted as rule 2058 effective January 1, 2003;
22 previously amended and renumbered effective January 1, 2007.

23
24 Rule 2.260. Electronic service

25
26 (a) * * *

27
28 (b) Maintenance of electronic service lists

29
30 ~~By January 1, 2009, or before if possible, A~~ court that permits electronic
31 filing in a case must maintain and make available electronically to the parties
32 an electronic service list that contains the parties' current electronic
33 notification addresses, as provided by the parties that have filed
34 electronically in the case.

35
36 (Subd (b) amended effective January 1, 2010; adopted effective January 1, 2008.)

37
38 (c)–(e) * * *

39
40 (f) Proof of service

41
42 (1) Proof of electronic service may be by any of the methods provided in
43 Code of Civil Procedure section 1013a, except that the proof of service
44 must state:

1
2 (A)–(C) * * *

3
4 (D) That the document was served electronically ~~and that the~~
5 ~~transmission was reported as complete and without error~~, in place
6 of the statement that the envelope was sealed and deposited in the
7 mail with postage fully prepaid.
8

9 (2)–(3) * * *

10
11 (4) The party filing the proof of electronic service must maintain the
12 printed form of the document bearing the declarant’s original signature
13 and must make the document available for inspection and copying on
14 the request of the court or any party to the action or proceeding in
15 which it is filed, in the manner provided in rule 2.257(a).
16

17 *(Subd (f) amended effective January 1, 2010; adopted as subd (c); previously amended*
18 *effective January 1, 2007, January 1, 2009, and July 1, 2009; previously relettered*
19 *effective January 1, 2008.)*
20

21 (g) * * *

22
23 *Rule 2.260 amended effective January 1, 2010; adopted as rule 2060 effective January 1, 2003;*
24 *previously amended and renumbered effective January 1, 2007; previously amended effective*
25 *January 1, 2008, January 1, 2009, and July 1, 2009.*
26

27 Rule 2.400. Court records

28
29 (a) Removal of ~~papers~~records

30
31 Only the clerk may remove and replace ~~papers~~ records in the court’s files.
32 Unless otherwise provided by these rules or ordered by the court, ~~filed~~
33 ~~papers~~ court records may only be inspected by the public in the office of the
34 clerk and released to authorized court personnel or an attorney of record for
35 use in a court facility. No original ~~papers filed with the clerk~~ court records
36 may be used in any location other than a court facility, unless so ordered by
37 the presiding judge or his or her designee.
38

39 *(Subd (a) amended effective January 1, 2010; previously amended effective July 1, 1993,*
40 *January 1, 2007, January 1, 2008, and January 1, 2009.)*
41

42 (b) Original ~~papers~~documents filed with the clerk; duplicate ~~papers~~
43 documents for temporary judge or referee
44

- 1 (1) All original documents in a case pending before a temporary judge or
2 referee, whether privately compensated or not, a party must tender and
3 be filed with the clerk must accept for filing all original papers in the
4 same manner as would be required if the case were being heard by a
5 judge, including accompanied by the required fee filing within the any
6 time limits specified by law and paying any required fees. The filing
7 party must provide a filed-stamped copy to the temporary judge or
8 referee of each ~~paper~~ document relevant to the issues before the
9 temporary judge or referee. ~~When the paper may be filed without~~
10 ~~payment of a fee, instead of a filed stamped copy, the filing party may~~
11 ~~use a true copy of the paper accompanied by a declaration about the~~
12 ~~date of its filing.~~
13
14 (2) If a document must be filed with the court before it is considered by a
15 judge, the temporary judge or referee must not accept or consider any
16 copy of that document unless the document has the clerk's file stamp or
17 is accompanied by a declaration stating that the original document has
18 been submitted to the court for filing.
19
20 (3) If a document would ordinarily be filed with the court after it is
21 submitted to a judge or if a party submits an ex parte application, the
22 party that submits the document or application to a temporary judge or
23 referee must file the original with the court no later than the next court
24 day after the document or application was submitted to the temporary
25 judge or referee and must promptly provide a filed-stamped copy of the
26 document or application to the temporary judge or referee.
27
28 (4) A party that has submitted a document to a temporary judge or referee
29 must immediately notify the temporary judge or referee if the document
30 is not accepted for filing by the court or if the filing is subsequently
31 canceled.
32

33 *(Subd (b) amended effective January 1, 2010; adopted effective July 1, 1993; previously*
34 *amended effective January 1, 2007.)*
35

36 (c) Return of exhibits

- 37
38 (1) * * *
39
40 (2) If proceedings are conducted by a temporary judge or a referee outside
41 of court facilities, the temporary judge or referee must keep all exhibits
42 and deliver them, properly marked, to the clerk at the conclusion of the
43 proceedings, unless the parties file, and the court approves, a written

1 stipulation ~~that the exhibits may be disposed of otherwise~~ providing for
2 a different disposition of the exhibits. On request of the temporary
3 judge or referee, the clerk must deliver exhibits filed or lodged with the
4 court to the possession of the temporary judge or referee, who must not
5 release them to any person other than the clerk, unless the court orders
6 otherwise. Exhibits ~~in the possession of the temporary judge or referee~~
7 ~~must be made available during business hours for inspection by any~~
8 ~~person within a reasonable time after request.~~

9
10 *(Subd (c) amended effective January 1, 2010; adopted as subd (b); previously amended*
11 *and relettered effective July 1, 1993; previously amended effective January 1, 2007.)*
12

13 (d) Access to documents and exhibits in matters before temporary judges
14 and referees

15
16 (1) Documents and exhibits in the possession of a temporary judge or
17 referee that would be open to the public if filed or lodged with the court
18 must be made available during business hours for inspection by any
19 person within a reasonable time after request and under reasonable
20 conditions.

21
22 (2) Temporary judges and referees must file a statement in each case in
23 which they are appointed that provides the name, telephone number,
24 and mailing address of a person who may be contacted to obtain access
25 to any documents or exhibits submitted to the temporary judge or
26 referee that would be open to the public if filed or lodged with the
27 court. The statement must be filed at the same time as the temporary
28 judge's or referee's certification under rule 2.831(b), 3.904(a), or
29 3.924(a). If there is any change in this contact information, the
30 temporary judge or referee must promptly file a revised statement with
31 the court.

32
33 *(Subd (d) adopted effective January 1, 2010.)*
34

35 (e) Definition

36
37 For purposes of this rule, "court facility" consists of those areas within a
38 building required or used for court functions.

39
40 *(Subd (e) adopted effective January 1, 2010.)*
41

42 *Rule 2.400 amended effective January 1, 2010; adopted as rule 243 effective January 1, 1949;*
43 *previously amended and renumbered effective January 1, 2007; previously amended effective*
44 *July 1, 1993, January 1, 2008, and January 1, 2009.*

1
2 Advisory Committee Comment
3

4 Subdivision (b)(1). Rules 2.810 and 2.830 provide definitions of temporary judges appointed by
5 the court and temporary judges requested by the parties, respectively.
6

7 Subdivision (d)(1). Public access to documents and exhibits in the possession of a temporary
8 judge or referee should be the same as if the case were being heard by a judge. Documents and
9 exhibits are not normally available to the public during a hearing or when needed by the judge for
10 hearing or decision preparation. A temporary judge or referee may direct that access to
11 documents and exhibits be available by scheduled appointment.
12

13 Rule 2.503. Public access
14

15 (a) * * *

16
17 (b) Electronic access required to extent feasible
18

19 A court that maintains the following records in electronic form must provide
20 electronic access to them, both remotely and at the courthouse, to the extent
21 it is feasible to do so:
22

23 (1) * * *

24
25 (2) All records in civil cases, except those listed in (c)(1)–~~(8)~~(9).
26

27 *(Subd (b) amended effective January 1, 2010; previously amended effective July 1, 2004,*
28 *January 1, 2007, and January 1, 2008.)*
29

30 (c) Courthouse electronic access only
31

32 A court that maintains the following records in electronic form must provide
33 electronic access to them at the courthouse, to the extent it is feasible to do
34 so, but may provide remote electronic access only to the records governed by
35 (b):
36

37 (1)–(6) * * *

38
39 (7) Records in a workplace violence prevention proceeding under Code of
40 Civil Procedure section 527.8; ~~and~~

41
42 (8) Records in an elder or dependent adult abuse prevention proceeding
43 under Welfare and Institutions Code section 15657.03-; and
44

1 (9) Records in proceedings to compromise the claims of a minor or a
2 person with a disability.

3
4 *(Subd (c) amended effective January 1, 2010; previously amended effective July 1, 2004,*
5 *January 1, 2007, and January 1, 2008.)*

6
7 (d)–(i) * * *

8
9 *Rule 2.503 amended effective January 1, 2010; adopted as rule 2073 effective July 1, 2002;*
10 *previously amended and renumbered effective January 1, 2007; previously amended effective*
11 *July 1, 2004, January 1, 2005, and January 1, 2008.*

12
13 Chapter 5. Name Change Proceedings Under
14 Address Confidentiality Program

15
16 *Title 2, Trial Court Rules—Division 4, Court Records—Chapter 5, Name Change Proceedings*
17 *Under Address Confidentiality Program; adopted effective January 1, 2010.*

18
19 Rule 2.575. Confidential information in name change proceedings under
20 address confidentiality program

21
22 (a) Definitions

23
24 As used in this chapter, unless the context or subject matter otherwise
25 requires:

26
27 (1) “Confidential name change petitioner” means a petitioner who is a
28 participant in the address confidentiality program created by the
29 Secretary of State under chapter 3.1 (commencing with section 6205)
30 of division 7 of title 1 of the Government Code.

31
32 (2) “Record” means all or a portion of any document, paper, exhibit,
33 transcript, or other thing that is filed or lodged with the court.

34
35 (3) “Lodged” means temporarily placed or deposited with the court but not
36 filed.

37
38 (b) Application of chapter

39
40 The rules in this chapter apply to records filed in a change of name
41 proceeding under Code of Civil Procedure section 1277(b) by a confidential
42 name change petitioner who alleges any of the following reasons or
43 circumstances as a reason for the name change:
44

- 1 (1) The petitioner is seeking to avoid domestic violence, as defined in
2 Family Code section 6211.
3
4 (2) The petitioner is seeking to avoid stalking, as defined in Penal Code
5 section 646.9.
6
7 (3) The petitioner is, or is filing on behalf of, a victim of sexual assault, as
8 defined in Evidence Code section 1036.2.
9

10 (c) Confidentiality of current name of the petitioner

11
12 The current legal name of a confidential name change petitioner must be kept
13 confidential by the court as required by Code of Civil Procedure section
14 1277(b)(3) and not be published or posted in the court’s calendars, indexes,
15 or register of actions, or by any means or in any public forum. Only the
16 information concerning filed records contained on the confidential cover
17 sheet prescribed under (d) may be entered into the register of actions or any
18 other forum that is accessible to the public.
19

20 (d) Special cover sheet omitting names of the petitioner

21
22 To maintain the confidentiality provided under Code of Civil Procedure
23 section 1277(b) for the petitioner’s current name, the petitioner must attach a
24 completed Confidential Cover Sheet—Name Change Proceeding Under
25 Address Confidentiality Program (Safe at Home) (form NC-400) to the front
26 of the petition for name change and every other document filed in the
27 proceedings. The name of the petitioner must not appear on that cover sheet.
28

29 (e) Confidentiality of proposed name of the petitioner

30
31 To maintain the confidentiality provided under Code of Civil Procedure
32 section 1277(b) for the petitioner’s proposed name, the petitioner must not
33 include the proposed name on the petition for name change or any other
34 record in the proceedings. In any form that requests the petitioner’s proposed
35 name, the petitioner and the court must indicate that the proposed name is
36 confidential and on file with the Secretary of State under the provisions of
37 the Safe at Home address confidentiality program.
38

39 *Rule 2.575 adopted effective January 1, 2010.*

40
41 Rule 2.576. Access to name of the petitioner
42

1 (a) Termination of confidentiality

2
3 The current name of a confidential name change petitioner must remain
4 confidential until a determination is made that:

5
6 (1) Petitioner’s participation in the address confidentiality program has
7 ended under Government Code section 6206.7; or

8
9 (2) The court finds by clear and convincing evidence that the allegations of
10 domestic violence or stalking in the petition are false.

11
12 (b) Procedure to obtain access

13
14 A determination under (a) must be made by noticed motion, with service by
15 mail on the confidential name change petitioner in care of the Secretary of
16 State’s address confidentiality program as stated in Government Code
17 section 6206(a)(5)(A).

18
19 *Rule 2.576 adopted effective January 1, 2010.*

20
21 Rule 2.577. Procedures for filing confidential name change records under
22 seal

23
24 (a) Court approval required

25
26 Records in a name change proceeding may not be filed under seal without a
27 court order. A request by a confidential name change petitioner to file
28 records under seal may be made under the procedures in this chapter. A
29 request by any other petitioner to file records under seal must be made under
30 rules 2.550–2.573.

31
32 (b) Application to file records in confidential name change proceedings
33 under seal

34
35 An application by a confidential name change petitioner to file records under
36 seal must be filed at the time the petition for name change is submitted to the
37 court. The application must be made on the *Application to File Documents*
38 *Under Seal in Name Change Proceeding Under Address Confidentiality*
39 *Program (Safe at Home) (NC-410)* and be accompanied by a *Declaration in*
40 *Support of Application to File Documents Under Seal in Name Change*
41 *Proceeding Under Address Confidentiality Program (Safe at Home)* (form
42 NC-420), containing facts sufficient to justify the sealing.

43

1 (c) Confidentiality

2
3 The application to file under seal must be kept confidential by the court until
4 the court rules on it.

5
6 (d) Procedure for lodging of petition for name change

7
8 (1) The records that may be filed under seal must be lodged with the court
9 in a sealed envelope.

10
11 (2) The petitioner must complete and affix to the envelope a completed
12 *Confidential Cover Sheet—Name Change Proceeding Under Address*
13 *Confidentiality Program (Safe at Home)* (form NC-400) and in the
14 space under the title and case number mark it “CONDITIONALLY
15 UNDER SEAL.”

16
17 (3) On receipt of a petition lodged under this rule, the clerk must endorse
18 the affixed cover sheet with the date of its receipt and must retain but
19 not file the record unless the court orders it filed.

20
21 (4) If the court denies the application to seal, the clerk must return the
22 lodged record to the petitioner and must not place it in the case file
23 unless the petitioner notifies the clerk in writing within 10 days after
24 the order denying the application that the unsealed petition and related
25 papers are to be filed.

26
27 (e) Consideration of application to file under seal

28
29 The court may order that the record be filed under seal if it finds that all of
30 the following factors apply:

31
32 (1) There exists an overriding interest that overcomes the right of public
33 access to the record;

34
35 (2) The overriding interest supports sealing the record;

36
37 (3) A substantial probability exists that the overriding interest will be
38 prejudiced if the record is not sealed;

39
40 (4) The proposed order to seal the record is narrowly tailored; and

41
42 (5) No less restrictive means exist to achieve the overriding interest.
43

1 (f) Order

2
3 (1) The order may be issued on *Order on Application to File Documents*
4 *Under Seal in Name Change Proceeding Under Address*
5 *Confidentiality Program (Safe at Home)* (form NC-425).

6
7 (2) Any order granting the application to seal must state whether the
8 declaration in support of the application, the order itself, and any other
9 record in the proceeding are to be sealed as well as the petition for
10 name change.

11
12 (3) If the court grants an order sealing a record, the clerk must strike out
13 the notation required by (d)(2) on the *Confidential Cover Sheet* that the
14 matter is filed “CONDITIONALLY UNDER SEAL” and add a
15 notation to that sheet prominently stating “SEALED BY ORDER OF
16 THE COURT ON (DATE).”

17
18 (4) If the court grants the application to file under seal and issues an order
19 under (e), the petition and any associated records may be filed under
20 seal and ruled on by the court immediately.

21
22 (5) The order must identify any person other than the court who is
23 authorized to inspect the sealed records.

24
25 (g) Custody of sealed records

26
27 Sealed records must be securely filed and kept separate from the public file
28 in the case.

29
30 (h) Motion, application, or petition to unseal record

31
32 (1) A sealed record may not be unsealed except by order of the court.

33
34 (2) Any member of the public seeking to unseal a record or a court
35 proposing to do so on its own motion must follow the procedures
36 described in rule 2.551(h).

37
38 *Rule 2.577 adopted effective January 1, 2010.*

39
40 Chapter 5 6. Other Sealed or Closed Records

41
42 *Title 2, Trial Court Rules—Division 4, Court Records—Chapter 6, Other Sealed or Closed*
43 *Record; adopted as Chapter 5 effective January 1, 2007; renumbered effective January 1, 2010.*

1
2 Rule 2.833. Documents and exhibits

3
4 All temporary judges requested by the parties and parties in proceedings before
5 these temporary judges must comply with the applicable requirements of rule
6 2.400 concerning the filing and handling of documents and exhibits.

7
8 *Rule 2.833 adopted effective January 1, 2010.*

9
10 Rule ~~2.834~~ 2.833. Open proceedings; notices of proceedings, use of court
11 facilities, and order for hearing site

12
13 (a) Open proceedings

14
15 All proceedings before a temporary judge requested by the parties that would
16 be open to the public if held before a judge must be open to the public,
17 regardless of whether they are held in or outside a court facility.

18
19 *(Subd (a) adopted effective January 1, 2010.)*

20
21 ~~(a)(b)~~ Posting of Notice regarding proceedings before privately compensated
22 temporary judge requested by the parties

23
24 (1) ~~For all matters pending before privately compensated~~ In each case in
25 which he or she is appointed, a temporary judges, the clerk must post a
26 notice in the courthouse indicating requested by the parties must file a
27 statement that provides the case name, and number as well as the
28 telephone number, and mailing address of a person to contact to
29 arrange for attendance at any who may be contacted to obtain
30 information about the date, time, location, and general nature of all
31 hearings and other proceedings scheduled in the matter that would be
32 open to the public if held before a judge in a courthouse. This statement
33 must be filed at the same time as the temporary judge's certification
34 under rule 2.831(b). If there is any change in this contact information,
35 the temporary judge must promptly file a revised statement with the
36 court.

37
38 (2) In addition to providing the information required under (1), the
39 statement filed by a temporary judge may also provide the address of a
40 publicly accessible Web site at which the temporary judge will
41 maintain a current calendar setting forth the date, time, location, and
42 general nature of any hearings scheduled in the matter that would be
43 open to the public if held before a judge.

1
2 (3) The clerk must post the information from the statement filed by the
3 temporary judge in the court facility.

4
5 *(Subd (b) amended and relettered effective January 1, 2010; adopted as subd (a).)*

6
7 ~~(b)~~(c) Use of court facilities, court personnel, and summoned jurors

8
9 A party who has elected to use the services of a ~~privately compensated~~
10 temporary judge requested by the parties is deemed to have elected to
11 proceed outside ~~the courtroom~~ court facilities. Court facilities, court
12 personnel, and summoned jurors may not be used in proceedings pending
13 before a ~~privately compensated~~ temporary judge requested by the parties
14 except on a finding by the presiding judge or his or her designee that their
15 use would further the interests of justice.

16
17 *(Subd (c) amended and relettered effective January 1, 2010; adopted as subd (b).)*

18
19 ~~(e)~~(d) Order the Appropriate hearing site

20
21 (1) The presiding judge or his or her designee, on request application of
22 any person or on the judge's own motion, may order that a case before
23 a ~~privately compensated~~ temporary judge requested by the parties must
24 be heard at a site easily accessible to the public and appropriate for
25 seating those who have made known their plan to attend hearings. The
26 request application must be made by letter with reasons stated state
27 facts showing good cause for granting the application, and must be
28 accompanied by a declaration that a copy of the request was mailed to
29 each party, to served on all parties and the temporary judge, and to the
30 clerk for placement in the file filed with the court. The order may
31 require that notice of trial or of other proceedings be given to the
32 requesting person directly. The proceedings are not stayed while the
33 application is pending unless the presiding judge or his or her designee
34 orders that they be stayed. The granting issuance of an order for an
35 accessible and appropriate hearing site is not a ground for withdrawal
36 of a stipulation that a case may be heard by a temporary judge.

37
38 (2) If a court staff mediator or evaluator is required to attend a hearing
39 before a temporary judge requested by the parties, unless otherwise
40 ordered by the presiding judge or his or her designee, that hearing must
41 take place at a location requiring no more than 15 minutes' travel time
42 from the mediator's or evaluator's work site.
43

1 (Subd (d) amended and relettered effective January 1, 2010; adopted as subd (c).)

2
3 Rule 2.834 amended and renumbered effective January 1, 2010; adopted as rule 243.33 effective
4 July 1, 2006; previously renumbered as rule 2.833 effective January 1, 2007.

5
6 Rule 2.835 ~~2.834~~. Motions or applications to be heard by the court

7
8 (a) Motion or application to seal records

9
10 A motion or application to seal records in a ~~cause~~ case pending before a
11 ~~privately compensated~~ temporary judge requested by the parties must be
12 filed with the court and must be served on all parties; that have appeared in
13 the case and the temporary judge, ~~and any person or organization that has~~
14 ~~made known their intention to attend the hearing~~. The motion or application
15 must be heard by the trial court judge to whom the case is assigned or, if the
16 case has not been assigned, by the presiding judge or his or her designee.
17 Rules 2.550–2.551 on sealed records apply to motions or applications filed
18 under this rule.

19
20 (Subd (a) amended effective January 1, 2010; previously amended effective January 1,
21 2007.)

22
23 (b) Motion for leave to file complaint for intervention

24
25 A motion for leave to file a complaint for intervention in a ~~cause~~ case
26 pending before a ~~privately compensated~~ temporary judge requested by the
27 parties must be filed with the court and served on all parties and the
28 temporary judge. The motion must be heard by the trial court judge to whom
29 the case is assigned or, if the case has not been assigned, by the presiding
30 judge or his or her designee. If intervention is allowed, the case must be
31 returned to the trial court docket unless all parties stipulate in the manner
32 prescribed in rule 2.831(a) to proceed before the temporary judge.

33
34 (Subd (b) amended effective January 1, 2010; previously amended effective January 1,
35 2007.)

36
37 Rule 2.835 amended and renumbered effective January 1, 2010; adopted as rule 243.34 effective
38 July 1, 2006; previously amended and renumbered as rule 2.834 effective January 1, 2007.

39
40 Rule 3.851. Application

41
42 (a) Circumstances applicable

43
44 The rules in this article apply to mediations in which a mediator:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

(1) * * *

(2) Has agreed to mediate a general civil case pending in a superior court after being notified by the court or the parties that he or she was recommended, selected, or appointed by that court or will be compensated by that court to mediate a case within that court’s mediation program. A mediator who is not on a superior court list or panel and who is selected by the parties is not “recommended, selected, or appointed” by the court within the meaning of this subdivision simply because the court approves the parties’ agreement to use this mediator or memorializes the parties’ selection in a court order.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 2007, and January 1, 2009.)

(b)–(e) * * *

Rule 3.851 amended effective January 1, 2010; adopted as rule 1620.1 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 2007, and January 1, 2009.

Rule 3.865. Application and purpose

(a) Application

The rules in this article apply to each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in that court. A court that approves the parties’ agreement to use a mediator who is selected by the parties and who is not on the court’s list of mediators or that memorializes the parties’ agreement in a court order has not thereby recommended, selected, or appointed that mediator within the meaning of this rule.

(Subd (a) amended and lettered effective January 1, 2010; previously adopted as part of unlettered subd effective January 1, 2010.)

(b) Purpose

These rules are intended to promote the resolution of complaints that mediators in court-connected mediation programs for civil cases may have violated a provision of the rules of conduct for such mediators in article 2. They are intended to help courts promptly resolve any such complaints in a

1 manner that is respectful and fair to the complainant and the mediator and
2 consistent with the California mediation confidentiality statutes.

3
4 *(Subd (b) lettered effective January 1, 2010; previously adopted as part of unlettered subd*
5 *effective January 1, 2010.)*

6
7 *Rule 3.865 amended effective January 1, 2010; adopted effective July 1, 2009, effective date*
8 *extended to January 1, 2010.*

9
10 Rule 3.902. Order appointing referee

11
12 An order appointing a referee under Code of Civil Procedure section 638 must be
13 filed with the clerk or entered in the minutes and must specify:

14
15 (1)–(2) * * *

16
17 (3) Whether the referee will be privately compensated; and

18
19 (4) Whether the use of court facilities and court personnel is authorized. ~~;~~ and

20
21 ~~(5) The name and telephone number of a person to contact to arrange for~~
22 ~~attendance at any proceeding that would be open to the public if held in a~~
23 ~~courthouse.~~

24
25 *Rule 3.902 amended effective January 1, 2010; adopted effective January 1, 2007.*

26
27 ~~Rule 3.907. Motion or application to seal records~~

28
29 ~~A motion or application to seal records in a case pending before a referee must be~~
30 ~~served on all parties, the referee, and any person or organization that has made~~
31 ~~their intention to attend the hearing known and be filed with the court. The motion~~
32 ~~or application must be heard by the judge to whom the case is assigned or by the~~
33 ~~presiding judge or law and motion judge. Rules 2.550 and 2.551 apply to the~~
34 ~~motion or application to seal the records.~~

35
36 *Rule 3.907 repealed effective January 1, 2010; adopted effective January 1, 2007.*

37
38 ~~Rule 3.908. Motion for leave to file complaint for intervention~~

39
40 ~~A motion for leave to file a complaint for intervention in a case pending before a~~
41 ~~referee must be served on all parties and the referee and filed with the court. The~~
42 ~~motion must be heard by the judge to whom the case is assigned or by the~~
43 ~~presiding judge or law and motion judge if the case has not been assigned. If~~
44 ~~intervention is allowed, the case must be returned to the trial court docket unless~~

1 all parties stipulate in the manner prescribed in rule 3.901 to proceed before the
2 referee.

3
4 *Rule 3.908 repealed effective January 1, 2010; adopted effective January 1, 2007.*

5
6 Rule ~~3.907~~ 3.909. ~~Proceedings before privately compensated referees~~ Use of
7 court facilities and court personnel

8
9 (a) ~~Use of court facilities and court personnel~~

10
11 A party who has elected to use the services of a ~~privately compensated~~ referee
12 appointed under Code of Civil Procedure section 638 is deemed to have elected to
13 proceed outside ~~the courthouse~~ court facilities. Court facilities, and court
14 personnel, and summoned jurors may not be used in proceedings pending before a
15 ~~privately compensated~~ such a referee, except on a finding by the presiding judge
16 or his or her designee that their use would further the interests of justice.

17
18 (b) ~~Posting of notice in courthouse~~

19
20 ~~For all matters pending before privately compensated referees, the clerk must~~
21 ~~post a notice in the courthouse identifying the case name and number and the~~
22 ~~name and telephone number of a person to contact to arrange for attendance~~
23 ~~at any proceeding that would be open to the public if held in a courthouse.~~

24
25 *Rule 3.907 amended and renumbered effective January 1, 2010; adopted as rule 3.909 effective*
26 *January 1, 2007.*

27
28 Rule ~~3.910~~. ~~Request and order for appropriate and accessible hearing site~~

29
30 ~~The court may, on the request of any person or on the court's own motion, order~~
31 ~~that a case pending before a referee must be heard at a site easily accessible to the~~
32 ~~public and appropriate for seating those who have notified the court of their~~
33 ~~intention to attend hearings. A request for hearings at an accessible and~~
34 ~~appropriate site must state the reasons for the request, be served on all parties and~~
35 ~~the referee, and be filed with the court. The order may require that notice of trial or~~
36 ~~of other proceedings be given to the requesting person directly.~~

37
38 *Rule 3.910 repealed effective January 1, 2010; adopted effective January 1, 2007.*

39
40 Rule 3.922. Form and contents of order appointing referee

41
42 (a) Written order required

43

1 An order appointing a referee under Code of Civil Procedure section 639, on
2 the motion of a party or on the court's own motion, must be in writing and
3 must address the matters set forth in (b) through ~~(h)~~(g).

4
5 *(Subd (a) amended effective January 1, 2010.)*

6
7 (b)–(g) * * *

8
9 ~~(h) Contact to arrange attendance at proceedings before referee~~

10
11 ~~The order must state the name and telephone number of a person to contact~~
12 ~~to arrange for attendance at any proceeding before the referee.~~

13
14 *Rule 3.922 amended effective January 1, 2010; adopted effective January 1, 2007.*

15
16 Rule 3.926. Use of court facilities

17
18 A reference ordered under Code of Civil Procedure section 639 entitles the parties
19 to the use of court facilities and court personnel to the extent provided in the order
20 of reference. The proceedings may be held in a private facility, but, if so, the
21 private facility must be open to the public ~~upon request of any person~~ as provided
22 in rule 3.931.

23
24 *Rule 3.926 amended effective January 1, 2010; adopted effective January 1, 2007.*

25
26 ~~Rule 3.927. Circumstances required for appointment of discovery referee~~

27
28 ~~A discovery referee must not be appointed under Code of Civil Procedure section~~
29 ~~639(a)(5) unless the exceptional circumstances of the particular case require the~~
30 ~~appointment.~~

31
32 *Rule 3.927 repealed effective January 1, 2010; adopted effective January 1, 2007.*

33
34 Chapter 3. Rules Applicable to References Under Code of Civil Procedure
35 Section 638 or 639

36
37 *Title 3, Civil Rules—Division 9, References—Chapter 3, Rules Applicable to References Under*
38 *Code of Civil Procedure Section 638 or 639; adopted effective January 1, 2010.*

39
40 Rule 3.930. Documents and exhibits

41
42 All referees and parties in proceedings before a referee appointed under Code of
43 Civil Procedure section 638 or 639 must comply with the applicable requirements
44 of rule 2.400 concerning the filing and handling of documents and exhibits.

1
2 *Rule 3.930 adopted effective January 1, 2010.*
3

4 Rule 3.931. Open proceedings, notice of proceedings, and order for hearing
5 site
6

7 (a) Open proceedings
8

9 All proceedings before a referee that would be open to the public if held
10 before a judge must be open to the public, regardless of whether they are
11 held in a court facility or in another location.
12

13 (b) Notice regarding proceedings before referee
14

15 (1) In each case in which he or she is appointed, a referee must file a
16 statement that provides the name, telephone number, and mailing
17 address of a person who may be contacted to obtain information about
18 the date, time, location, and general nature of all hearings scheduled in
19 matters pending before the referee that would be open to the public if
20 held before a judge. This statement must be filed at the same time as
21 the referee's certification under rule 3.904(a) or 3.924(a). If there is any
22 change in this contact information, the referee must promptly file a
23 revised statement with the court.
24

25 (2) In addition to providing the information required under (1), the
26 statement filed by a referee may also provide the address of a publicly
27 accessible Web site at which the referee will maintain a current
28 calendar setting forth the date, time, location, and general nature of any
29 hearings scheduled in the matter that would be open to the public if
30 held before a judge.
31

32 (3) The clerk must post the information from the statement filed by the
33 referee in the court facility.
34

35 (c) Appropriate hearing site
36

37 (1) The presiding judge or his or her designee, on application of any person
38 or on the judge's own motion, may order that a case before a referee
39 must be heard at a site easily accessible to the public and appropriate
40 for seating those who have made known their plan to attend hearings.
41 The application must state facts showing good cause for granting the
42 application, must be served on all parties and the referee, and filed with
43 the court. The proceedings are not stayed while the application is

1 pending unless the presiding judge or his or her designee orders that
2 they be stayed. The issuance of an order for an accessible and
3 appropriate hearing site is not grounds for withdrawal of a stipulation
4 for the appointment of a referee.

- 5
6 (2) If a court staff mediator or evaluator is required to attend a hearing
7 before a referee, unless otherwise ordered by the presiding judge or his
8 or her designee, that hearing must take place at a location requiring no
9 more than 15 minutes' travel time from the mediator's or evaluator's
10 work site.

11
12 *Rule 3.931 adopted effective January 1, 2010.*

13
14 Rule 3.932. Motions or applications to be heard by the court

15
16 (a) Motion or application to seal records

17
18 A motion or application to seal records in a case pending before a referee
19 must be filed with the court and served on all parties that have appeared in
20 the case and the referee. The motion or application must be heard by the trial
21 court judge to whom the case is assigned or, if the case has not been
22 assigned, by the presiding judge or his or her designee. Rules 2.550 and
23 2.551 apply to the motion or application to seal the records.

24
25 (b) Motion for leave to file complaint for intervention

26
27 A motion for leave to file a complaint for intervention in a case pending
28 before a referee must be filed with the court and served on all parties and the
29 referee. The motion must be heard by the trial court judge to whom the case
30 is assigned or, if the case has not been assigned, by the presiding judge or his
31 or her designee. If intervention is allowed, the case must be returned to the
32 trial court docket unless all parties stipulate in the manner prescribed in rule
33 3.901 to proceed before the referee.

34
35 *Rule 3.932 adopted effective January 1, 2010.*

36
37 Rule 3.1015. Discovery in action pending outside of California

38
39 Whenever any mandate, writ, letters rogatory, letter of request, or commission is
40 issued out of any court of record in any other state, territory, or district of the
41 United States, or in a foreign nation, or whenever, on notice or agreement, it is
42 required to take the oral or written deposition of a natural person in California, the
43 deponent may be compelled to appear and testify, and to produce documents and

1 things, in the same manner and by the same process as may be employed for the
2 purpose of taking testimony in actions pending in California.

3
4 This rule is repealed January 1, 2010, or at such earlier date as a state law
5 concerning depositions in proceedings pending outside the state goes into effect.

6
7 *Rule 3.1015 repealed on its own provisions effective January 1, 2010; adopted effective March*
8 *13, 2009.*

9
10 *Advisory Committee Comment*

11
12 Assembly 2193 ([Trans] Stats. 2008, ch.231) establishes the Interstate and International
13 Depositions and Discovery Act, which is intended to replace Code of Civil Procedure section
14 2029.010. A provision in the act directs the Judicial Council to prepare certain forms to
15 implement the act, which provision became operative on January 1, 2009. The remainder of the
16 act will not become operative until January 1, 2010. The legislation inadvertently repealed the
17 predecessor statute, Code of Civil Procedure section 2029.010, effective January 1, 2009, a year
18 earlier than intended. (See Assembly Daily Journal, January 26, 2009, pp. 231-32.) This rule
19 incorporates the text of that predecessor statute to fill the gap left by its unintended early repeal,
20 thus providing that courts and litigants are to continue to act under the provisions of the prior law
21 until the new provisions go into effect or until the Legislature should determine otherwise.

22
23 Chapter 7. Petitions Under the California Environmental Quality Act

24
25 *Title 3, Civil Rules—Division 11, Law and Motion—Chapter 7, Petitions Under the California*
26 *Environmental Quality Act adopted effective January 1, 2010.*

27
28 Rule 3.1365. Form and format of administrative record lodged in a CEQA
29 proceeding

30
31 (a) Organization

32
33 (1) Order of documents

34
35 Except as permitted in (a)(3), the administrative record must be
36 organized in the following order, as applicable:

37
38 (A) The Notice of Determination;

39
40 (B) The resolutions or ordinances adopted by the lead agency
41 approving the project;

42
43 (C) The findings required by Public Resources Code section 21081,
44 including any statement of overriding considerations;

45

1 (D) The final environmental impact report, including the draft
2 environmental impact report or a revision of the draft, all other
3 matters included in the final environmental impact report, and
4 other types of environmental impact documents prepared under
5 the California Environmental Quality Act, such as a negative
6 declaration, mitigated negative declaration, or addenda;

7
8 (E) The initial study;

9
10 (F) Staff reports prepared for the administrative bodies providing
11 subordinate approvals or recommendations to the lead agency, in
12 chronological order;

13
14 (G) Transcripts and minutes of hearings, in chronological order; and

15
16 (H) The remainder of the administrative record, in chronological
17 order.

18
19 (2) List not limiting

20
21 The list of documents in (1) is not intended to limit the content of the
22 administrative record, which is prescribed in Public Resources Code
23 section 21167.6(e).

24
25 (3) Different order permissible

26
27 The documents may be organized in a different order from that set out
28 in (1) if the court so orders on;

29
30 (A) A party's motion;

31
32 (B) The parties' stipulation; or

33
34 (C) The court's own motion.

35
36 (4) Oversized documents

37
38 Oversized documents included in the record must be presented in a
39 manner that allows them to be easily unfolded and viewed.

40
41 (5) Use of tabs or electronic bookmarks

1
2 The administrative record must be separated by tabs or marked with
3 electronic bookmarks that identify each part of the record listed above.
4

5 (b) Index
6

7 A detailed index must be placed at the beginning of the administrative
8 record. The index must list each document in the administrative record in the
9 order presented, or in chronological order if ordered by the court, including
10 title, date of the document, brief description, and the volume and page where
11 it begins. The index must list any included exhibits or appendixes and must
12 list each document contained in the exhibit or appendix (including
13 environmental impact report appendixes) and the volume and page where
14 each document begins. A copy of the index must be filed in the court at the
15 time the administrative record is lodged with the court.
16

17 (c) Appendix of excerpts
18

19 A court may require each party filing a brief to prepare and lodge an
20 appendix of excerpts that contains the documents or pages of the record cited
21 in that party's brief.
22

23 *Rule 3.1365 adopted effective January 1, 2010.*
24

25 Rule 3.1366. Lodging and service
26

27 The party preparing the administrative record must lodge it with the court and
28 serve it on each party. A record in electronic format must comply with rule
29 3.1367. A record in paper format must comply with rule 3.1368. If the party
30 preparing the administrative record elects or is ordered to prepare an electronic
31 version of the record, (1) a court may require the party to lodge one copy of the
32 record in paper format and (2) a party may request the record in paper format and
33 pay the reasonable cost or show good cause for a court order requiring the party
34 preparing the administrative record to serve the requesting party with one copy of
35 the record in paper format.
36

37 *Rule 3.1366 adopted effective January 1, 2010.*
38

39 Rule 3.1367. Electronic format
40

41 (a) Requirements
42

1 The electronic version of the administrative record lodged in the court in a
2 proceeding brought under the California Environmental Quality Act must be:

- 3
4 (1) In compliance with rule 3.1365;
5
6 (2) Created in portable document format (PDF) or other format for which
7 the software for creating and reading documents is in the public domain
8 or generally available at a reasonable cost;
9
10 (3) Divided into a series of electronic files and include electronic
11 bookmarks that identify each part of the record and clearly state the
12 volume and page numbers contained in each part of the record;
13
14 (4) Contained on a CD-ROM, DVD, or other medium in a manner that
15 cannot be altered; and
16
17 (5) Capable of full text searching.

18
19 The electronic version of the index required under rule 3.1365(b) may
20 include hyperlinks to the indexed documents.

21
22 (b) Documents not included

23
24 Any document that is part of the administrative record and for which it is not
25 feasible to create an electronic version may be provided in paper format only.
26 Not feasible means that it would be reduced in size or otherwise altered to
27 such an extent that it would not be easily readable.

28
29 *Rule 3.1367 adopted effective January 1, 2010.*

30
31 Rule 3.1368. Paper format

32
33 (a) Requirements

34
35 In the paper format of the administrative record lodged in the court in a
36 proceeding brought under the California Environmental Quality Act:

- 37
38 (1) The paper must be recycled;
39
40 (2) Both sides of each page must be used;
41

1
2 (Subd (b) amended effective January 1, 2010; adopted as part of subd (a) effective January
3 1, 1949; previously amended and lettered effective January 1, 2007; previously amended
4 effective January 1, 2007.)
5

6 (c) Provisions in tentative decision
7

8 The court in its tentative decision may: ~~(1) state whether a statement of~~
9 ~~decision, if requested, will be prepared by the court or by a designated party,~~
10 ~~and (2) direct that the tentative decision will be the statement of decision~~
11 ~~unless within 10 days either party specifies controverted issues or makes~~
12 ~~proposals not covered in the tentative decision.~~
13

14 (1) State that it is the court's proposed statement of decision, subject to a
15 party's objection under (g);
16

17 (2) Indicate that the court will prepare a statement of decision;
18

19 (3) Order a party to prepare a statement of decision; or
20

21 (4) Direct that the tentative decision will become the statement of decision
22 unless, within 10 days after announcement or service of the tentative
23 decision, a party specifies those principal controverted issues as to
24 which the party is requesting a statement of decision or makes
25 proposals not included in the tentative decision.
26

27 (Subd (c) amended effective January 1, 2010; adopted as part of subd (a); previously
28 amended and lettered effective January 1, 2007.)
29

30 (d) Request for statement of decision
31

32 Within 10 days after announcement or service of the tentative decision,
33 whichever is later, any party that appeared at trial may request a statement of
34 decision to address the principal controverted issues. The principal
35 controverted issues must be specified in the request.
36

37 (Subd (d) adopted effective January 1, 2010.)
38

39 ~~(d)~~(e) Proposals following Other party's response to request for statement of
40 decision (Code Civ. Proc., § 632)
41

42 Any proposals as to the content of the statement of decision must be made If
43 a party requests a statement of decision under (d), any other party may make

1 proposals as to the content of the statement of decision within 10 days ~~of~~
2 after the date of request for a statement of decision.

3
4 *(Subd (e) amended and relettered effective January 1, 2010; adopted as subd (b);*
5 *previously amended effective January 1, 1969, and January 1, 1982; previously amended*
6 *and relettered as subd (d) effective January 1, 2007.)*
7

8 ~~(e)~~(f) Preparation and service of proposed statement of decision and
9 judgment

10
11 If a party requests a statement of decision ~~is requested under (d)~~, the court
12 must, within ~~15~~ 30 days ~~after the expiration of the time for proposals as to~~
13 ~~the content of the statement of decision~~ of announcement or service of the
14 tentative decision, prepare and ~~mail~~ serve a proposed statement of decision
15 and a proposed judgment ~~to~~ on all parties that appeared at the trial, unless the
16 court has ~~designated a party to prepare the statement as provided by~~
17 ~~subdivision (e) or has, within 5 days after the request, notified~~ ordered a
18 party to prepare the statement. A party ~~who that~~ that has been ~~designated or~~
19 ~~notified~~ ordered to prepare the statement must within ~~15~~ 30 days after the
20 ~~expiration of the time for filing proposals as to the content of the statement,~~
21 ~~or within 15 days after notice, whichever is later, prepare, announcement or~~
22 service of the tentative decision, ~~serve,~~ and submit to the court a proposed
23 statement of decision and a proposed judgment. If the proposed statement of
24 decision and judgment are not served and submitted within that time, any
25 other party ~~who that~~ that appeared at the trial may within 10 days thereafter: (1)
26 prepare, serve, and submit to the court a proposed statement of decision and
27 judgment, or (2) serve on all other parties and file a notice of motion for an
28 order that a statement of decision be deemed waived.

29
30 *(Subd (f) amended and relettered effective January 1, 2010; adopted as subd (c);*
31 *previously amended effective January 1, 1969, July 1, 1973, and January 1, 1982;*
32 *previously amended and relettered as subd (e) effective January 1, 2007.)*
33

34 ~~(f)~~(g) Objections to proposed statement of decision

35
36 Any party ~~affected by the judgment~~ may, within 15 days after the proposed
37 statement of decision and judgment have been served, serve and file
38 objections to the proposed statement of decision or judgment.

39
40 *(Subd (g) amended and relettered effective January 1, 2010; adopted as subd (d);*
41 *previously amended effective January 1, 1969, and January 1, 1982; previously relettered*
42 *as subd (f) effective January 1, 2007.)*
43

1 ~~(g)~~(h) Preparation and filing of written judgment when statement of decision
2 not requested prepared

3
4 If ~~no party requests or is ordered to prepare~~ a statement of decision is ~~not~~
5 ~~requested or has been waived~~ and a written judgment is required, the court
6 must prepare and ~~mail~~ serve a proposed judgment ~~to~~ on all parties ~~who~~ that
7 appeared at the trial within ~~10~~ 20 days after ~~expiration of the time for~~
8 ~~requesting a statement of decision or time of waiver~~ the announcement or
9 service of the tentative decision; or the court may ~~notify~~ order a party to
10 prepare, serve, and submit the proposed judgment to the court within 10 days
11 after the date of the order. ~~Any party affected by the judgment may, within~~
12 ~~10 days after service of the proposed judgment, serve and file objections~~
13 ~~thereto.~~

14
15 *(Subd (h) amended and relettered effective January 1, 2010; previously amended effective*
16 *January 1, 1969; previously amended and relettered as subd (e) effective January 1, 1982,*
17 *and as subd (g) effective January 1, 2007.)*

18
19 (i) Preparation and filing of written judgment when statement of decision
20 deemed waived

21
22 If the court orders that the statement of decision is deemed waived and a
23 written judgment is required, the court must, within 10 days of the order
24 deeming the statement of decision waived, either prepare and serve a
25 proposed judgment on all parties that appeared at the trial or order a party to
26 prepare, serve, and submit the proposed judgment to the court within 10
27 days.

28
29 *(Subd (i) adopted effective January 1, 2010.)*

30
31 (j) Objection to proposed judgment

32
33 Any party may, within 10 days after service of the proposed judgment, serve
34 and file objections thereto.

35
36 *(Subd (j) adopted effective January 1, 2010.)*

37
38 ~~(i)~~(k) Hearing

39
40 The court may order a hearing on proposals or objections to a proposed
41 statement of decision or the proposed judgment ~~if a statement of decision is~~
42 ~~not required.~~

43

1 (Subd (k) amended and relettered effective January 1, 2010; adopted as subd (f) effective
2 January 1, 1982; previously relettered as subd (i) effective January 1, 2007.)
3

4 ~~(h)~~(l) Signature and filing of judgment
5

6 If a written judgment is required, the court must, within 10 days after
7 expiration of the time for filing objections to the proposed judgment or, if a
8 hearing is held, within 10 days after the hearing, sign and file its the
9 judgment within 50 days after the announcement or service of the tentative
10 decision, whichever is later, or, if a hearing was held under (k), within 10
11 days after the hearing. The judgment ~~so filed~~ constitutes the decision on
12 which judgment is to be entered under Code of Civil Procedure section 664.
13

14 (Subd (l) amended and relettered effective January 1, 2010; adopted as part of subd (e)
15 effective January 1, 1949; previously amended and lettered as subd (h) effective January 1,
16 2007.)
17

18 ~~(j)~~(m) * * *
19

20 (Subd (m) relettered effective January 1, 2010; previously amended effective January 1,
21 1969, and July 1, 1973; previously amended and relettered as subd (g) effective January 1,
22 1982, and as subd (j) effective January 1, 2007.)
23

24 ~~(k)~~(n) ~~Not applicable to~~ Trial within **one day**
25

26 ~~This rule does not apply if~~ When the a trial was is completed within one day
27 or in less than eight hours over more than one day, a request for statement of
28 decision must be made before the matter is submitted for decision and the
29 statement of decision may be made orally on the record in the presence of the
30 parties.
31

32 (Subd (n) amended and relettered effective January 1, 2010; adopted as subd (h) effective
33 January 1, 1983; previously amended and relettered as subd (k) effective January 1, 2007.)
34

35 Rule 3.1590 amended effective January 1, 2010; adopted as rule 232 effective January 1, 1949;
36 previously amended and renumbered effective January 1, 2007; previously amended effective
37 January 1, 1969, July 1, 1973, January 1, 1982, January 1, 1983, and January 1, 2007.
38

39 Rule 4.111. Pretrial motions in criminal cases
40

41 (a) Time for filing papers and proof of service
42

43 Unless otherwise ordered or specifically provided by law, all pretrial
44 motions, accompanied by a memorandum, must be served and filed at least
45 10 ~~calendar~~ court days, all papers opposing the motion at least 5 ~~calendar~~

1 court days, and all reply papers at least 2 court days before the time
2 appointed for hearing. Proof of service of the moving papers must be filed no
3 later than 5 ~~calendar~~ court days before the time appointed for hearing.

4
5 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
6 *2007.)*

7
8 (b) * * *

9
10 *Rule 4.111 amended effective January 1, 2010; adopted as rule 227.5 effective January 1, 1985;*
11 *previously renumbered effective January 1, 2001; previously amended effective January 1, 2007.*

12
13 Rule 5.220. Court-ordered child custody evaluations

14
15 (a)–(h) * * *

16
17 (i) Service of the evaluation report

18
19 *A Notice Regarding Confidentiality of Child Custody Evaluation Report*
20 *(form FL-328) must be attached as the first page of the child custody*
21 *evaluation report when a court-ordered child custody evaluation report is*
22 *filed with the clerk of the court and served on the parties or their attorneys,*
23 *and any counsel appointed for the child, to inform them of the confidential*
24 *nature of the report and the potential consequences for the unwarranted*
25 *disclosure of the report.*

26
27 *(Subd (i) adopted effective January 1, 2010.)*

28
29 (⊕) (j) Cost-effective procedures for cross-examination of evaluators

30
31 * * *

32
33 *(Subd (j) relettered effective January 1, 2010; adopted as subd (i); previously amended*
34 *effective January 1, 2003.)*

35
36 *Rule 5.220 amended effective January 1, 2010; adopted as rule 1257.3 effective January 1, 1999;*
37 *previously amended and renumbered effective January 1, 2003; previously amended effective*
38 *July 1, 1999, July 1, 2003, January 1, 2004, and January 1, 2007.*

39
40 Rule 5.534. General provisions—all proceedings

41
42 (a)–(o) * * *

43
44 (p) Presence of child (§ 349)

45

1 (1) A child who is the subject of a juvenile court hearing is entitled to be
2 present at the hearing. If the child is present at the hearing, the court
3 must allow the child, if the child so desires, to address the court and
4 participate in the hearing.

5
6 (2) If the child is 10 years of age or older and he or she is not present at the
7 hearing, the court must determine whether the child was properly
8 notified of his or her right to attend the hearing and ask why the child is
9 not present at the hearing and whether the child was given an
10 opportunity to attend. If the court finds that the child was not properly
11 notified or that the child wished to be present and was not given an
12 opportunity to be present, the court must continue the hearing to allow
13 the child to attend unless the court finds that it is in the best interest of
14 the child not to continue the hearing. Any such continuance must be
15 only for that period of time necessary to provide notice and secure the
16 presence of the child. The court may issue any and all orders
17 reasonably necessary to ensure that the child has an opportunity to
18 attend.

19
20 *(Subd (p) amended effective January 1, 2010; adopted as subd (n) effective January 1,*
21 *2005; previously relettered as subd (o) effective October 1, 2007, and as subd (p) effective*
22 *October 1, 2007.)*

23
24 *Rule 5.534 amended effective January 1, 2010; adopted as rule 1412 effective January 1, 1991;*
25 *previously amended and renumbered effective January 1, 2007; previously amended effective*
26 *January 1, 1994, July 1, 1995, January 1, 1997, January 1, 2000, July 1, 2002, January 1, 2005,*
27 *October 1, 2007, and January 1, 2008.*

28
29 Rule 5.570. Request to change court order (petition for modification)

30
31 (a) Contents of petition (§§ 388, 778)

32
33 A petition for modification must be liberally construed in favor of its
34 sufficiency. The petition must be verified and, to the extent known to the
35 petitioner, must contain the following:

36
37 (1)–(6) * * *

38
39 (7) A concise statement of any change of circumstance or new evidence
40 that requires changing the order or, for requests under section
41 388(c)(1)(B), a concise statement of the relevant action or inaction of
42 the parent or guardian;

43
44 (8)–(10) * * *

1
2 (Subd (a) amended effective January 1, 2010; previously amended effective July 1, 2002,
3 January 1, 2007, and January 1, 2009.)
4

5 (b)–(c) * * *

6
7 (d) Denial of hearing

8
9 The court may deny the petition ex parte if:

10
11 (1) The petition filed under section 388(a) or section 778 fails to state a
12 change of circumstance or new evidence that may require a change of
13 order or termination of jurisdiction, or, that the requested modification
14 would promote the best interest of the child, the court may deny the
15 application ex parte.

16
17 (2) The petition filed under section 388(b) fails to demonstrate that the
18 requested modification would promote the best interest of the child; or

19
20 (3) The petition filed under section 388(c) fails to state facts showing that
21 the parent has failed to visit the child or that the parent has failed to
22 participate regularly and make substantive progress in a court-ordered
23 treatment plan or fails to show that the requested termination of
24 services would promote the best interest of the child.

25
26 (Subd (d) amended effective January 1, 2010; adopted as subd (b); previously amended
27 and relettered effective January 1, 2007.)
28

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

30
31 (1) If the petition filed under section 388(a) or section 778 states a change
32 of circumstance or new evidence and it appears that the best interest of
33 the child may be promoted by the proposed change of order or
34 termination of jurisdiction, the court may grant the petition after
35 following the procedures in (f), ~~and~~ (g), and (h) or (i).

36
37 (2) If the petition is filed under section 388(b) and it appears that the best
38 interest of the child may be promoted by the proposed recognition of a
39 sibling relationship and other requested orders, the court may grant the
40 petition after following the procedures in (f), (g), and (h).

41
42 (3) For a petition filed under section 388(c)(1)(A), the court may terminate
43 reunification services during the time periods described in section

1 388(c)(1) only if the court finds by a preponderance of evidence that
2 reasonable services have been offered or provided, and, by clear and
3 convincing evidence, that the change of circumstance or new evidence
4 described in the petition satisfies a condition in section 361.5(b) or (e).
5 The court may grant the petition after following the procedures in (f),
6 (g), and (h).

7
8 (4) For a petition filed under section 388(c)(1)(B), the court may terminate
9 reunification services during the time periods described in section
10 388(c)(1) only if the court finds by a preponderance of evidence that
11 reasonable services have been offered or provided, and, by clear and
12 convincing evidence, that action or inaction by the parent or guardian
13 creates a substantial likelihood that reunification will not occur. Such
14 action or inaction includes, but is not limited to, failure to visit the child
15 or failure to participate regularly and make substantive progress in a
16 court-ordered treatment program. In determining whether the parent or
17 guardian has failed to visit the child or to participate regularly or make
18 progress in a court-ordered treatment plan, the court must consider
19 factors including, but not limited to, the parent or guardian's
20 incarceration, institutionalization, or participation in a residential
21 substance abuse treatment program. The court may grant the petition
22 after following the procedures in (f), (g), and (h).

23
24 *(Subd (e) amended effective January 1, 2010; adopted as subd (c); previously amended*
25 *and relettered effective January 1, 2007.)*

26
27 (f) Hearing on petition

28
29 If all parties stipulate to the requested modification, the court may order
30 modification without a hearing. If there is no such stipulation and the petition
31 has not been denied ex parte under section (d), ~~If it appears to the court that~~
32 ~~the requested modification will be contested or if the court desires to~~
33 ~~received further evidence on the issue,~~ the court must order that a hearing on
34 the petition for modification be held within 30 calendar days after the
35 petition is filed.

36
37 *(Subd (f) amended effective January 1, 2010; adopted as subd (d); previously amended*
38 *effective July 1, 2002; previously relettered effective January 1, 2007.)*

39
40 (g) * * *

41
42 (h) Conduct of hearing (§ 388)

43

1 (1) The petitioner requesting the modification under section 388 has the
2 burden of proof.

3
4 (A) If the request is for the removal of the child from the child's
5 home, the petitioner must show by clear and convincing evidence
6 that the grounds for removal in section 361(c) exist.

7
8 (B) If the request is for removal to a more restrictive level of
9 placement, the petitioner must show by clear and convincing
10 evidence that the change is necessary to protect the physical or
11 emotional well-being of the child.

12
13 (C) If the request is for termination of court-ordered reunification
14 services, the petitioner must show by clear and convincing
15 evidence that one of the conditions in section 388(c)(1)(A) or (B)
16 exists and must show by a preponderance of the evidence that
17 reasonable services have been offered or provided.

18
19 (D) All other requests require a preponderance of the evidence to
20 show that the child's welfare requires such a modification.

21
22 (2) The hearing must be conducted as a disposition hearing under rules
23 5.690 and 5.695 if:

24
25 (A) The request is for removal from the home of the parent or
26 guardian or to a more restrictive level of placement; or

27
28 (B) The request is for termination of court-ordered reunification
29 services; or

30
31 ~~(B)~~(C) There is a due process right to confront and cross-examine
32 witnesses.

33
34 Otherwise, proof may be by declaration and other documentary evidence, or
35 by testimony, or both, at the discretion of the court.

36
37 *(Subd (h) amended effective January 1, 2010; adopted as subd (f); previously amended*
38 *effective July 1, 2000, July 1, 2002, and January 1, 2003; previously amended and*
39 *relettered effective January 1, 2007.)*

40
41 (i) * * *

42

1 Rule 5.570 amended effective January 1, 2010; adopted as rule 1432 effective January 1, 1991;
2 previously amended and renumbered effective January 1, 2007; previously amended effective
3 January 1, 1992, July 1, 1995, July 1, 2000, July 1, 2002, January 1, 2003, and January 1, 2009.

4
5 Rule 5.655. Program requirements for Court Appointed Special Advocate
6 programs

7
8 (a)–(b) * * *

9
10 (c) Recruiting, screening, and selecting CASA volunteers

11
12 (1)–(4) * * *

13
14 (5) An adult otherwise qualified to act as a CASA must not be
15 discriminated against based on marital status, socioeconomic factors,
16 race, national origin, ethnic group identification, religion, age, sex,
17 sexual orientation, color, or disability or because of any other
18 characteristic listed or defined in Government Code section 11135 or
19 Welfare and Institutions Code section 103.

20
21 (Subd (c) amended effective January 1, 2010; adopted as subd (b); previously amended
22 effective January 1, 1995, and January 1, 2007; previously amended and relettered
23 effective January 1, 2005.)

24
25 (d)–(m) * * *

26
27 Rule 5.655 amended effective January 1, 2010; adopted as rule 1424 effective July 1, 1994;
28 previously amended and renumbered effective January 1, 2007; previously amended effective
29 January 1, 1995, January 1, 2000, January 1, 2001, and January 1, 2005.

30
31 Rule 5.695. Orders of the court

32
33 (a)–(e) ***

34
35 (f) Provision of reunification services (§ 361.5)

36
37 (1) Except as provided in ~~(5)~~(6), if a child is removed from the custody of a
38 parent or legal guardian, the court must order the county welfare
39 department to provide child-welfare-reunification services to the child
40 and the child's mother and statutorily presumed father, or the child's
41 legal guardian, to facilitate reunification of the family. For a child who
42 was three years of age or older on the date of initial removal, services
43 must be provided during the time period beginning with the
44 dispositional hearing and ending within 12 months after of the date the

1 child entered foster care, as defined by section 361.49. if the child was
2 three years or older at the time of the initial removal, or within For a
3 child who was under three years of age on the date of initial removal,
4 services must be provided for a period of 6 months of the date the child
5 entered foster care if the child was under three at the time of initial
6 removal from the dispositional hearing, but no longer than 12 months
7 from the date the child entered foster care, as defined by section
8 361.49. The time period for the provision of family reunification
9 services must be calculated consistent with section 361.5(a). The court
10 must inform the parent or legal guardian of a child who was under three
11 when initially removed that failure to participate regularly and make
12 substantive progress in court-ordered treatment programs may result in
13 the termination of reunification efforts after 6 months from the date the
14 child entered foster care of the dispositional hearing.

15
16 (2) If a child is a member of a sibling group removed from parental
17 custody at the same time, and one member of the sibling group was
18 under three at the time of the initial removal, reunification services for
19 someone or all members of the sibling group may be limited to 6
20 months from the dispositional hearing, and no later than 12 months
21 from the date the children entered foster care. The court must inform
22 the parent or legal guardian of a child who is a member of such a
23 sibling group that failure to participate regularly and make substantive
24 progress in court-ordered treatment programs may result in termination
25 of reunification efforts after 6 months for one or more members of the
26 sibling group.

27
28 (3) * * *

29
30 (4) Any motion to terminate reunification services before the permanency
31 hearing set under section 366.21(f) for a child age three or older, or
32 before the 6-month review hearing set under section 366.21(e) for a
33 child under age three, must follow the requirements in section 388(c)
34 and rule 5.570. A motion to terminate reunification services at the 6-
35 month review hearing is not required if the court finds by clear and
36 convincing evidence that one or more of the circumstances described in
37 section 361.5(a)(2) and rule 5.710(c)(1)(A) is true.

38
39 ~~(4)~~(5) * * *

40
41 ~~(5)~~(6) * * *

42
43 ~~(6)~~(7) * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

~~(7)~~(8) * * *

~~(8)~~(9) If the court finds under ~~(5)~~(6)(A) that the whereabouts of the parent or guardian are unknown and that a diligent search has failed to locate the parent or guardian, the court may not order reunification services and must set the matter for a 6-month review hearing. If the parent or guardian is located prior to the 6-month review and requests reunification services, the welfare department must seek a modification of the disposition orders. The time limits for reunification services must be calculated from the date of the initial removal, and not from the date the parent is located or services are ordered.

~~(9)~~(10) If the court finds that allegations under ~~(5)~~(6)(B) are proved, the court must nevertheless order reunification services unless evidence by mental health professionals establishes by clear and convincing evidence that the parent is unlikely to be able to care for the child within the next 12 months.

~~(10)~~(11) If the court finds that the allegations under ~~(5)~~(6)(C), (D), (F), (G), (H), (I), (J), (K), (L), (M), (N), or (O) have been proved, the court may not order reunification services unless the party seeking the order for services proves by clear and convincing evidence that reunification is in the best interest of the child. If ~~(5)~~(6)(F) is found to apply, the court must consider the factors in section 361.5(h) in determining whether the child will benefit from services and must specify on the record the factual findings on which it based its determination that the child will not benefit.

~~(11)~~(12) If the court finds that the allegations under ~~(5)~~(6)(E) have been proved, the court may not order reunification services unless it finds, based on consideration of factors in section 361.5(b) and (c), that services are likely to prevent reabuse or continued neglect or that failure to attempt reunification will be detrimental to the child.

~~(12)~~(13) * * *

~~(13)~~(14) If, with the exception of ~~(5)~~(6)(A), the court orders no reunification services for every parent otherwise eligible for such services under (f)(1) and (2), the court must conduct a hearing under section 366.26 within 120 days.

~~(14)~~(15) * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

~~(15)~~(16) * * *

~~(16)~~(17) * * *

~~(17)~~(18) * * *

~~(18)~~(19) * * *

(Subd (f) amended effective January 1, 2010; adopted as subd (e); relettered effective July 1, 1995; previously amended effective January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1995, January 1, 1996, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July 1, 2002, and January 1, 2007.)

(g)–(j) ***

Rule 5.695 amended effective January 1, 2010; adopted as rule 1456 effective January 1, 1991; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, January 1, 1996, January 1, 1997, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July 1, 2002, January 1, 2004, January 1, 2006, and January 1, 2008.

Rule 5.706. Family maintenance review hearings (§ 364)

(a) Setting of hearing (§ 364)

If the child remains in the custody of the parent or legal guardian, a review hearing must be held within six months after the date of the original dispositional hearing and no less frequently than once every six months thereafter as long as the child remains a dependent.

(b) Notice (§ 292)

The petitioner or the court clerk must give notice of review hearings on Notice of Review Hearing (form JV-280), in the manner provided in section 292, to all persons required to receive notice under section 292 and to any CASA volunteer that has been appointed on the case.

(c) Reports (§ 364)

At least 10 calendar days before the hearing, the petitioner must file a supplemental report with the court describing the services offered to the family, the progress made by the family in eliminating the conditions or factors requiring court supervision, and the petitioner’s recommendation

1 regarding the necessity of continued supervision. A copy of the report must
2 be provided to all parties at least 10 calendar days before the hearing.

3
4 (d) Court considerations and findings

5
6 (1) The court must consider the report prepared by the petitioner, the report
7 of any CASA volunteer, and the case plan submitted for this hearing.

8
9 (2) In considering the case plan submitted for the hearing, the court must
10 find as follows:

11
12 (A) The child was actively involved in the development of his or her
13 own case plan as age and developmentally appropriate; or

14
15 (B) The child was not actively involved in the development of his or
16 her own case plan. If the court makes such a finding, the court
17 must order the agency to actively involve the child in the
18 development of his or her own case plan, unless the court finds
19 that the child is unable, unavailable, or unwilling to participate;
20 and

21
22 (C) Each parent was actively involved in the development of the case
23 plan; or

24
25 (D) Each parent was not actively involved in the development of the
26 case plan. If the court makes such a finding, the court must order
27 the agency to actively involve each parent in the development of
28 the case plan, unless the court finds that each parent is unable,
29 unavailable, or unwilling to participate.

30
31 (e) Conduct of hearing (§ 364)

32
33 (1) The court must determine whether continued supervision is necessary.
34 The court must terminate its dependency jurisdiction unless the court
35 finds that the petitioner has established by a preponderance of the
36 evidence that existing conditions would justify initial assumption of
37 jurisdiction under section 300 or that such conditions are likely to exist
38 if supervision is withdrawn. Failure of the parent or legal guardian to
39 participate regularly in any court-ordered treatment program constitutes
40 prima facie evidence that the conditions that justified initial assumption
41 of jurisdiction still exist and that continued supervision is necessary.
42

1 (2) If the court retains jurisdiction, the court must order continued services
2 and set a review hearing within six months under this rule.

3
4 (f) Reasonable cause (§ 364)

5
6 In any case in which the court has ordered that a parent or legal guardian
7 retain physical custody of a child subject to supervision by a social worker,
8 and the social worker subsequently receives a report of acts or circumstances
9 that indicate there is reasonable cause to believe that the child is a person
10 described under section 300(a), (d), or (e), the social worker must file a
11 subsequent petition under section 342 or a supplemental petition under
12 section 387. If, as a result of the proceedings under the section 342 or 387
13 petition, the court finds that the child is a person described in section 300(a),
14 (d), or (e), the court must remove the child from the care, custody, and
15 control of the child's parent or legal guardian and must commit the child to
16 the care, custody, and control of the social worker under section 361.

17
18 (g) Child's education (§§ 361, 366, 366.1)

19
20 The court must consider the child's education, including whether it is
21 necessary to limit the right of the parent or legal guardian to make
22 educational decisions for the child, following the requirements and
23 procedures in rules 5.650 and 5.651 and in section 361(a).

24
25 *Rule 5.706 adopted effective January 1, 2010.*

26
27 Rule 5.708. General review hearing requirements

28
29 (a) Setting of review hearings (§ 366)

30
31 The status of every dependent child who has been removed from the custody
32 of the parent or legal guardian must be reviewed periodically but no less
33 frequently than once every 6 months until the section 366.26 hearing is
34 completed. Review hearings must be set as described in rule 5.710 (for 6-
35 month review hearings), rule 5.715 (for 12-month permanency hearings),
36 rule 5.720 (for 18-month permanency review hearings), or rule 5.722 (for 24-
37 month subsequent permanency review hearings).

38
39 (b) Notice of hearing (§ 293)

40
41 The petitioner or the court clerk must serve written notice of review hearings
42 on *Notice of Review Hearing* (form JV-280), in the manner provided in

1 section 293, to all persons required to receive notice under section 293 and to
2 any CASA volunteer who has been appointed on a given case.

3
4 (c) Reports (§§ 366.05, 366.1, 366.21, 366.22, 366.25)

5
6 Before the hearing, the social worker must investigate and file a report
7 describing the services offered to the family, progress made, and, if relevant,
8 the prognosis for return of the child to the parent or legal guardian.

9
10 (1) The report must include:

11
12 (A) Recommendations for court orders and the reasons for those
13 recommendations;

14
15 (B) A description of the efforts made to achieve legal permanence for
16 the child if reunification efforts fail; and

17
18 (C) A factual discussion of each item listed in sections 366.1 and
19 366.21(c).

20
21 (2) At least 10 calendar days before the hearing, the social worker must file
22 the report and provide copies to the parent or legal guardian and his or
23 her counsel, to counsel for the child, and to any CASA volunteer. The
24 social worker must provide a summary of the recommendations to any
25 foster parents, relative caregivers, or certified foster parents who have
26 been approved for adoption.

27
28 (3) The court must read and consider, and state on the record that it has
29 read and considered, the report of the social worker, the report of any
30 CASA volunteer, the case plan submitted for the hearing, any report
31 submitted by the child's caregiver under section 366.21(d), and any
32 other evidence.

33
34 (d) Return of child—detriment finding (§§ 366.21, 366.22, 366.25)

35
36 (1) If the child was removed from the custody of the parent or legal
37 guardian, the court must order the child returned unless the court finds
38 by a preponderance of the evidence that return of the child to the parent
39 or legal guardian would create a substantial risk of detriment to the
40 safety, protection, or physical or emotional well-being of the child. The
41 social worker has the burden of establishing that detriment.
42

1 (2) Failure of the parent or legal guardian to regularly participate and make
2 substantive progress in any court-ordered treatment program is prima
3 facie evidence that continued supervision is necessary or that return
4 would be detrimental.

5
6 (3) In making its determination about whether returning the child would be
7 detrimental, the court must consider the following:

8
9 (A) The social worker's report and recommendations and the report
10 and recommendations of any CASA volunteer who has been
11 appointed on the case;

12
13 (B) The efforts or progress demonstrated by the parent or legal
14 guardian; and

15
16 (C) The extent to which the parent or legal guardian availed himself
17 or herself of the services provided, taking into account the
18 particular barriers to an incarcerated or institutionalized parent or
19 legal guardian's access to court-mandated services and the ability
20 to maintain contact with his or her child.

21
22 (4) If the parent or legal guardian agreed to submit fingerprints to obtain
23 criminal history information as part of the case plan, the court must
24 consider the criminal history of the parent or legal guardian after the
25 child's removal to the extent that the criminal record is substantially
26 related to the welfare of the child or the parent's or legal guardian's
27 ability to exercise custody and control regarding his or her child.

28
29 (5) Regardless of whether the child is returned home, the court must
30 specify the factual basis for its conclusion that the return would or
31 would not be detrimental.

32
33 (e) Reasonable services (§§ 366, 366.21, 366.22, 366.25)

34
35 (1) If the child is not returned to the custody of the parent or legal
36 guardian, the court must consider whether reasonable services have
37 been offered or provided. The court must find that:

38
39 (A) Reasonable services have been offered or provided; or

40
41 (B) Reasonable services have not been offered or provided.
42

1 (2) The following factors are not sufficient, in and of themselves, to
2 support a finding that reasonable services have not been offered or
3 provided:

4
5 (A) The child has been placed in a preadoptive home or with a family
6 that is eligible to adopt the child;

7
8 (B) The case plan includes services to achieve legal permanence for
9 the child if reunification cannot be accomplished; or

10
11 (C) Services to achieve legal permanence for the child if reunification
12 efforts fail are being provided concurrently with reunification
13 services.

14
15 (f) Child's education (§§ 361, 366, 366.1)

16
17 The court must consider the child's education, including whether it is
18 necessary to limit the right of the parent or legal guardian to make
19 educational decisions for the child, following the requirements and
20 procedures in rules 5.650 and 5.651 and in section 361(a).

21
22 (g) Case plan (§§ 16001.9, 16501.1)

23
24 The court must consider the case plan submitted for the hearing and must
25 find as follows:

26
27 (1) The child was actively involved in the development of his or her own
28 case plan and plan for permanent placement as age and
29 developmentally appropriate; or

30
31 (2) The child was not actively involved in the development of his or her
32 own case plan and plan for permanent placement. If the court makes
33 such a finding, the court must order the agency to actively involve the
34 child in the development of his or her own case plan and plan for
35 permanent placement, unless the court finds that the child is unable,
36 unavailable, or unwilling to participate; and

37
38 (3) Each parent was actively involved in the development of the case plan
39 and plan for permanent placement; or

40
41 (4) Each parent was not actively involved in the development of the case
42 plan and plan for permanent placement. If the court makes such a
43 finding, the court must order the agency to actively involve each parent

1 in the development of the case plan and plan for permanent placement,
2 unless the court finds that each parent is unable, unavailable, or
3 unwilling to participate; and
4

5 (5) For a child 12 years of age or older and in a permanent placement, the
6 court must make a finding whether or not the child was given the
7 opportunity to review the case plan, sign it, and receive a copy. If the
8 court finds that the child was not given this opportunity, the court must
9 order the agency to give the child the opportunity to review the case
10 plan, sign it, and receive a copy.
11

12 (h) Out-of-state placement (§§ 361.21, 366)
13

14 If the child has been placed out of the state, the court must consider whether
15 the placement continues to be the most appropriate placement for the child
16 and in the child's best interest. If the child is in an out-of-state group home,
17 the court must follow the requirements in section 361.21.
18

19 (i) Title IV-E findings (§ 366)
20

21 Regardless of whether or not the child is returned home, the court must
22 consider the safety of the child and must determine all of the following:
23

24 (1) The continuing necessity for and appropriateness of the placement;
25

26 (2) The extent of the agency's compliance with the case plan in making
27 reasonable efforts or, in the case of an Indian child, active efforts as
28 described in section 361.7, to return the child to a safe home and to
29 complete any steps necessary to finalize the permanent placement of
30 the child. These steps include efforts to maintain relationships between
31 a child who is 10 years or older who has been in an out-of-home
32 placement for 6 months or longer and individuals other than the child's
33 siblings who are important to the child, consistent with the child's best
34 interest;
35

36 (3) The extent of progress that has been made by the parents or legal
37 guardians toward alleviating or mitigating the causes necessitating
38 placement in foster care; and
39

40 (4) The likely date by which the child may be returned to and safely
41 maintained in the home or placed for adoption, legal guardianship, or in
42 another planned permanent living arrangement.
43

1 (j) Sibling findings; additional findings (§ 366)

2
3 (1) The court must determine whether the child has other siblings under the
4 court's jurisdiction. If so, the court must make the additional
5 determinations required by section 366(a)(1)(D); and

6
7 (2) The court must enter any additional findings as required by section 366.
8

9 (k) Placement with noncustodial parent (§ 361.2)

10
11 If at any review hearing the court places the child with a noncustodial parent,
12 or if the court has previously made such a placement, the court may, after
13 stating on the record or in writing the factual basis for the order:

14
15 (1) Continue supervision and reunification services;

16
17 (2) Order custody to the noncustodial parent, continue supervision, and
18 order family maintenance services; or

19
20 (3) Order custody to the noncustodial parent, terminate jurisdiction, and
21 direct that *Custody Order—Juvenile—Final Judgment* (form JV-200)
22 be prepared and filed under rule 5.700.
23

24 (l) Setting a hearing under section 366.26 for one parent

25
26 The court may not set a hearing under section 366.26 to consider termination
27 of the rights of only one parent unless:

28
29 (1) That parent is the only surviving parent;

30
31 (2) The rights of the other parent have been terminated by a California
32 court of competent jurisdiction or by a court of competent jurisdiction
33 of another state under the statutes of that state; or

34
35 (3) The other parent has relinquished custody of the child to the county
36 welfare department.
37

38 (m) Setting a hearing under section 366.26; reasonable services requirement
39 (§§ 366.21, 366.22)

40
41 At any 6-month, 12-month, or 18-month hearing, the court may not set a
42 hearing under section 366.26 unless the court finds by clear and convincing

1 evidence that reasonable services have been provided or offered to the parent
2 or legal guardian.

3
4 (n) Requirements upon setting a section 366.26 hearing (§§ 366.21, 366.22,
5 366.25)

6
7 The court must make the following orders and determinations when setting a
8 hearing under section 366.26:

9
10 (1) The court must terminate reunification services to the parent or legal
11 guardian;

12
13 (2) The court must continue to permit the parent or legal guardian to visit
14 the child, unless it finds that visitation would be detrimental to the
15 child;

16
17 (3) If the child is 10 years of age or older and is placed in an out-of-home
18 placement for 6 months or longer, the court must enter any other
19 appropriate orders to enable the child to maintain relationships with
20 other individuals who are important to the child, consistent with the
21 child's best interest. Specifically, the court:

22
23 (A) Must determine whether the agency has identified individuals, in
24 addition to the child's siblings, who are important to the child and
25 will maintain caring, permanent relationships with the child,
26 consistent with the child's best interest;

27
28 (B) Must determine whether the agency has made reasonable efforts
29 to nurture and maintain the child's relationships with those
30 individuals, consistent with the child's best interest; and

31
32 (C) May make any appropriate order to ensure that those relationships
33 are maintained.

34
35 (4) The court must direct the county child welfare agency and the
36 appropriate county or state adoption agency to prepare an assessment
37 under section 366.21(i), 366.22(c), or 366.25(b);

38
39 (5) The court must ensure that notice is provided as follows:

40
41 (A) Within 24 hours of the review hearing, the clerk of the court must
42 provide notice by first-class mail to the last known address of any

1 party who is not present at the review hearing. The notice must
2 include the advisements required by rule 5.585(e).

3
4 (B) The court must order that notice of the hearing under section
5 366.26 not be provided to any of the following:

6
7 (i) A parent, presumed parent, or alleged parent who has
8 relinquished the child for adoption and whose
9 relinquishment has been accepted and filed with notice
10 under Family Code section 8700; or

11
12 (ii) An alleged parent who has denied parentage and has
13 completed item 2 of *Statement Regarding Parentage*
14 (*Juvenile*) (form JV-505).

15
16 (6) The court must follow all procedures in rule 5.585 regarding writ
17 petition rights, advisements, and forms.

18
19 (o) Appeal of order setting section 366.26 hearing

20
21 An appeal of any order setting a hearing under section 366.26 must follow
22 the procedures in rules 8.400–8.416.

23
24 *Rule 5.708 adopted effective January 1, 2010.*

25
26 Rule 5.710. Six-month review hearing

27
28 (a) ~~Requirement for 6-month review~~ Setting 6-month review; notice (§§ 364,
29 366, 366.21)

30
31 The case of any dependent child of whom the court has removed from the
32 custody of the parent or legal guardian under section 361 or 361.5 must be
33 set for a review hearing as follows: within 6 months of the date of the
34 dispositional hearing, but no later than 12 months from the date the child
35 entered foster care, as defined by section 361.49, whichever occurs earlier.
36 Notice must be provided as described in section 293 and rule 5.708.

37
38 (1) ~~If the child was removed from the custody of the parent or guardian~~
39 ~~under section 361 or 361.5, the review hearing must be held within 6~~
40 ~~months after the date the child entered foster care, as defined in rule~~
41 ~~5.502; or~~

42

1 ~~(2) If the child remains in the custody of the parent or guardian, the review~~
2 ~~hearing must be held within 6 months after the date of the declaration~~
3 ~~of dependency and every 6 months thereafter as long as the child~~
4 ~~remains a dependent.~~

5
6 ~~(Subd (a) amended effective January 1, 2010; previously amended effective January 1,~~
7 ~~2001, July 1, 2002, and January 1, 2007.)~~

8
9 ~~(b) Notice of hearing; service; contents (§§ 293, 366.21)~~

10
11 ~~Not earlier than 30 nor less than 15 calendar days before the hearing date, the~~
12 ~~petitioner or the clerk must serve written notice, on *Notice of Review*~~
13 ~~*Hearing* (form JV 280), on all persons required to receive notice under~~
14 ~~section 293 and to any CASA volunteer. The notice must contain the~~
15 ~~information stated in section 293. The notice of hearing must be served by~~
16 ~~personal service or by first class mail or certified mail addressed to the last~~
17 ~~known address of the person to be notified.~~

18
19 ~~(c) Report (§§ 366.1, 366.21)~~

20
21 ~~Before the hearing, petitioner must investigate and file a report describing~~
22 ~~the services offered the family and progress made and, if relevant, the~~
23 ~~prognosis for return of the child to the parent or legal guardian.~~

24
25 ~~(1) The report must contain:~~

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

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

30 ~~(C) A factual discussion of each item listed in sections 366.1 and~~
31 ~~366.21(c).~~

32
33 ~~(2) At least 10 calendar days before the hearing, the petitioner must file the~~
34 ~~report and provide copies to the parent or guardian and his or her~~
35 ~~counsel, to counsel for the child, and to any CASA volunteer. The~~
36 ~~petitioner must provide a summary of the recommendations to any~~
37 ~~foster parents, relative caregivers, or certified foster parents who have~~
38 ~~been approved for adoption.~~

39
40
41
42
43 ~~(d) Reports~~

1
2 The court must consider the report prepared by petitioner, the report of any
3 CASA volunteer, the case plan submitted for this hearing, and any report
4 submitted by the child's caregiver under section 366.21(d).
5

6 ~~(e)(b)~~ Determinations burden of proof and conduct of hearing (§§ ~~364~~, 366,
7 366.1, 366.21, ~~364~~)
8

9 At the hearing, the court and all parties must comply with all relevant
10 requirements and procedures in rule 5.708, General review hearing
11 requirements. The court must make all appropriate findings and orders
12 specified in rule 5.708 and proceed as follows:
13

14 ~~(1) If the child has remained in the custody of the parent or guardian, the~~
15 ~~court must terminate its dependency jurisdiction unless the court finds~~
16 ~~that petitioner has established by a preponderance of the evidence that~~
17 ~~existing conditions would justify initial assumption of jurisdiction~~
18 ~~under section 300 or that such conditions are likely to exist if~~
19 ~~supervision is withdrawn. If dependency jurisdiction is continued, the~~
20 ~~court must order continued services and set a review hearing within 6~~
21 ~~months.~~
22

23 ~~(2)(1)~~ Order return of the child or find that return would be detrimental
24 If the child has been removed from the custody of the parent or
25 guardian,
26

27 The court must order the child returned to the custody of the parent or
28 legal guardian unless the court finds that the petitioner has established
29 by a preponderance of the evidence that return would create a
30 substantial risk of detriment to the safety, protection, or physical or
31 emotional well-being of the child. The requirements in rule 5.708(d)
32 must be followed in establishing detriment. The requirements in rule
33 5.708(e) must be followed in entering a reasonable services finding. If
34 the child has been removed from the custody of the parent or guardian,
35 the court must consider whether reasonable services have been
36 provided or offered. If the child is returned, the court may order the
37 termination of dependency jurisdiction or order continued dependency
38 services and set a review hearing within 6 months.
39

40 ~~(A)~~ The court must find that:
41

42 ~~(i)~~ Reasonable services have been offered or provided; or
43

1 (ii) ~~Reasonable services have not been offered or provided~~

2
3 (B) ~~The following factors are not sufficient to support a finding that~~
4 ~~reasonable services have not been offered or provided:~~

5
6 (i) ~~The child has been placed in a preadoptive home or with a~~
7 ~~family that is eligible to adopt the child;~~

8
9 (ii) ~~The case plan includes services to achieve legal permanence~~
10 ~~for the child if reunification cannot be accomplished; or~~

11
12 (iii) ~~Services to achieve legal permanence for the child if~~
13 ~~reunification efforts fail are being provided concurrently~~
14 ~~with reunification services.~~

15
16 (C) ~~The court must enter additional findings as required by section~~
17 ~~366(a)(1) and (2).~~

18
19 (3) ~~Failure of the parent or legal guardian to regularly participate and make~~
20 ~~substantive progress in any court ordered treatment program is prima~~
21 ~~facie evidence that continued supervision is necessary or that return~~
22 ~~would be detrimental.~~

23
24 (4) ~~If the child has been placed out of state, the court must consider~~
25 ~~whether the placement continues to be the most appropriate placement~~
26 ~~for the child and in the child's best interest.~~

27
28 (5) ~~The court must consider whether it is necessary to limit the right of the~~
29 ~~parent or guardian to make educational decisions for the child. If the~~
30 ~~court limits this right, it must appoint a responsible adult as the~~
31 ~~educational representative under rule 5.650 to make educational~~
32 ~~decisions for the child.~~

33
34 (6) ~~The court must consider the case plan submitted for this hearing and~~
35 ~~must find as follows:~~

36
37 (A) ~~The child was actively involved in the development of his or her~~
38 ~~own case plan and plan for permanent placement as age and~~
39 ~~developmentally appropriate; or~~

40
41 (B) ~~The child was not actively involved in the development of his or~~
42 ~~her own case plan and plan for permanent placement. If the court~~
43 ~~makes such a finding, the court must order the agency to actively~~

1 involve the child in the development of his or her own case plan
2 and plan for permanent placement, unless the court finds that the
3 child is unable, unavailable, or unwilling to participate; and
4

5 ~~(C) Each parent was actively involved in the development of the case~~
6 ~~plan and plan for permanent placement; or~~
7

8 ~~(D) Each parent was not actively involved in the development of the~~
9 ~~case plan and plan for permanent placement. If the court makes~~
10 ~~such a finding, the court must order the agency to actively involve~~
11 ~~each parent in the development of the case plan and plan for~~
12 ~~permanent placement, unless the court finds that each parent is~~
13 ~~unable, unavailable, or unwilling to participate.~~
14

15 ~~(7) For a child 12 years of age or older and in a permanent placement, the~~
16 ~~court must consider the case plan submitted for this hearing and must~~
17 ~~find as follows:~~
18

19 ~~(A) The child was given the opportunity to review the case plan, sign~~
20 ~~it, and receive a copy; or~~
21

22 ~~(B) The child was not given the opportunity to review the case plan,~~
23 ~~sign it, and receive a copy. If the court makes such a finding, the~~
24 ~~court must order the agency to give the child the opportunity to~~
25 ~~review the case plan, sign it, and receive a copy.~~
26

27 (2) Place with noncustodial parent
28

29 If the court has previously placed or at this hearing places the child
30 with a noncustodial parent, the court must follow the procedures in rule
31 5.708(k) and section 361.2.
32

33 (3) Set a section 366.26 hearing
34

35 If the court does not return custody of the child, the court may set a
36 hearing under section 366.26 within 120 days, as provided in (c).
37

38 (4) Continue the case for a 12-month permanency hearing
39

40 If the child is not returned and the court does not set a section 366.26
41 hearing, the court must order that any reunification services previously
42 ordered will continue to be offered to the parent or legal guardian, if
43 appropriate. The court may modify those services as appropriate or

1 order additional services reasonably believed to facilitate the return of
2 the child to the parent or legal guardian. The court must set a date for
3 the next hearing no later than 12 months from the date the child entered
4 foster care.

5
6 *(Subd (b) amended effective January 1, 2010; repealed and adopted as subd (d) effective*
7 *January 1, 1990; relettered as subd (e) effective January 1, 1992; previously amended*
8 *effective January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2002, January 1, 2004,*
9 *January 1, 2005, and January 1, 2007.)*

10
11 ~~(f)~~(c) Conduct of hearing Setting a section 366.26 hearing (§ 366.21)

12
13 ~~If the court does not return custody of the child:~~

14
15 (1) The court may set a hearing under section 366.26 within 120 days if:

16
17 (A) The child was removed under section 300(g) and the court finds
18 by clear and convincing evidence that the parent's whereabouts
19 are still unknown, or the parent has failed to contact and visit the
20 child, or the parent has been convicted of a felony indicating
21 parental unfitness. The court must take into account any particular
22 barriers to a parent's ability to maintain contact with his or her
23 child due to the parent's incarceration or institutionalization;

24
25 ~~(B) The court finds by clear and convincing evidence that the parent~~
26 ~~has not had contact with the child for 6 months;~~

27
28 ~~(C)~~(B) * * *

29
30 ~~(D)~~(C) * * *

31
32 ~~(E)~~(D) The child was under the age of three when initially removed
33 or a member of a sibling group described in section
34 361.5(a)(1)(C), and the court finds by clear and convincing
35 evidence that the parent has failed to participate regularly and
36 make substantive progress in any court-ordered treatment plan,
37 unless the court finds a substantial probability that the child may
38 be returned within 6 months or within 12 months of the date the
39 child entered foster care, whichever is sooner, or that reasonable
40 services have not been offered or provided.

41
42 In order to find a substantial probability ~~of return~~ that the child
43 may be returned within the applicable time period, the court ~~must~~

1 ~~find~~ should consider all of the following factors along with any
2 other relevant evidence:

- 3
- 4 (i) Whether the parent or legal guardian has consistently and
5 regularly contacted and visited the child;
- 6
- 7 (ii) Whether the parent or legal guardian has made significant
8 progress in resolving the problems that led to the removal of
9 the child; and
- 10
- 11 (iii) Whether the parent or legal guardian has demonstrated the
12 capacity and ability to complete the objectives of the
13 treatment plan and to provide for the child's safety,
14 protection, physical and emotional health, and special needs.

15

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

- 17
- 18 ~~(A) The court must direct that an assessment under section 366.21(i)~~
19 ~~be prepared;~~
- 20
- 21 ~~(B) The court must order the termination of reunification services to~~
22 ~~the parent or legal guardian;~~
- 23
- 24 ~~(C) The court must continue to permit the parent or legal guardian to~~
25 ~~visit the child, unless it finds that visitation would be detrimental~~
26 ~~to the child; and~~
- 27
- 28 ~~(D) If the child is 10 years of age or older and is placed in out-of-~~
29 ~~home placement for six months or longer, the court:~~
- 30
- 31 ~~(i) Must determine whether the agency has identified~~
32 ~~individuals, in addition to the child's siblings, who are~~
33 ~~important to the child and will maintain caring, permanent~~
34 ~~relationships with the child, consistent with the child's best~~
35 ~~interest;~~
- 36 ~~(ii) Must determine whether the agency has made reasonable~~
37 ~~efforts to nurture and maintain the child's relationships with~~
38 ~~those individuals, consistent with the child's best interest;~~
39 ~~and~~
- 40 ~~(iii) May make any appropriate order to ensure that those~~
41 ~~relationships are maintained.~~
- 42

1 ~~(3) A judgment or an order setting a hearing under section 366.26 is not~~
2 ~~immediately appealable. Review may be sought only by filing *Petition*~~
3 ~~*for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456)*~~
4 ~~(form JV 825) or other petition for extraordinary writ. If a party wishes~~
5 ~~to preserve any right to review on appeal of the findings and orders~~
6 ~~made under this rule, the party must seek an extraordinary writ under~~
7 ~~rules 8.450, 8.452, and 5.600.~~

8
9 ~~(4) A judgment, order, or decree setting a hearing under section 366.26~~
10 ~~may be reviewed on appeal following the order of the 366.26 hearing~~
11 ~~only if the following have occurred:~~

12
13 ~~(A) An extraordinary writ was sought by the timely filing of *Petition*~~
14 ~~*for Extraordinary Writ (California Rules of Court, Rules 8.452,*~~
15 ~~*8.456) (form JV 825) or other petition for extraordinary writ; and*~~

16
17 ~~(B) The petition for extraordinary writ was summarily denied or~~
18 ~~otherwise not decided on the merits.~~

19
20 ~~(5) Review on appeal of the order setting a hearing under section 366.26 is~~
21 ~~limited to issues raised in a previous petition for extraordinary writ that~~
22 ~~were supported by an adequate record.~~

23
24 ~~(6) Failure to file a petition for extraordinary writ review within the period~~
25 ~~specified by rules 8.450, 8.452, and 5.600, to substantively address the~~
26 ~~issues challenged, or to support the challenge by an adequate record,~~
27 ~~precludes subsequent review on appeal of the findings and orders made~~
28 ~~under this rule.~~

29
30 ~~(7) When the court orders a hearing under section 366.26, the court must~~
31 ~~advise all parties that, to preserve any right to review on appeal of the~~
32 ~~order setting the hearing, the party must seek an extraordinary writ by~~
33 ~~filing:~~

34
35 ~~(A) A notice of the party's intent to file a writ petition and a request~~
36 ~~for the record, which may be submitted on *Notice of Intent to File*~~
37 ~~*Writ Petition and Request for Record (California Rules of Court,*~~
38 ~~*Rule 8.450) (form JV 820); and*~~

39
40 ~~(B) A petition for an extraordinary writ, which may be submitted on~~
41 ~~*Petition for Extraordinary Writ (California Rules of Court, Rules*~~
42 ~~*8.452, 8.456) (form JV 825).*~~

43

1 ~~(8) Within 24 hours of the review hearing, the clerk of the court must~~
2 ~~provide notice by first class mail to the last known address of any party~~
3 ~~who is not present when the court orders the hearing under section~~
4 ~~366.26. This notice must include the advisement required by (f)(7).~~

5
6 ~~(9) Copies of *Petition for Extraordinary Writ (California Rules of Court,*~~
7 ~~*Rules 8.452, 8.456) (form JV 825) and *Notice of Intent to File Writ**~~
8 ~~*Petition and Request for Record (California Rules of Court, Rule*~~
9 ~~*8.450) (form JV 820) must be available in the courtroom and must*~~
10 ~~accompany all mailed notices informing the parties of their rights.~~

11
12 ~~(10) If the court orders a hearing under section 366.26, the court must order~~
13 ~~that notice of the hearing under section 366.26 must not be provided to~~
14 ~~any of the following:~~

15
16 ~~(A) A parent, presumed parent, or alleged parent who has relinquished~~
17 ~~the child for adoption and whose relinquishment has been~~
18 ~~accepted and filed with notice under Family Code section 8700;~~
19 ~~or~~

20 ~~(B) An alleged parent who has denied parentage and has completed~~
21 ~~section 1 of *Statement Regarding Parentage (Juvenile)* (form JV-~~
22 ~~505).~~

23
24 ~~(11) If the child is not returned and the court does not set a section 366.26~~
25 ~~hearing, then the court must order that any reunification services~~
26 ~~previously ordered will continue to be offered to the parent or guardian,~~
27 ~~and the court may modify those services as appropriate. The court must~~
28 ~~set a date for the next review hearing no later than 12 months from the~~
29 ~~date the child entered foster care.~~

30
31 ~~(2) At the hearing, the court and all parties must comply with all relevant~~
32 ~~requirements and procedures related to section 366.26 hearings in rule~~
33 ~~5.708, General review hearing requirements. The court must make all~~
34 ~~appropriate findings and orders specified in rule 5.708.~~

35
36 ~~(Subd (c) amended effective January 1, 2010; repealed and adopted as subd (e) effective~~
37 ~~January 1, 1990; previously amended and relettered as subd (f) effective January 1, 1992;~~
38 ~~previously amended effective January 1, 1993, January 1, 1995, July 1, 1997, January 1,~~
39 ~~1999, July 1, 1999, January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004,~~
40 ~~January 1, 2005, January 1, 2006, and January 1, 2007.~~

41
42 ~~(g)(d) Siblings groups (§ 366.21)~~
43

1 In determining whether to set a hearing under section 366.26 for one or more
2 members of a sibling group when one member of that group was under the
3 age of three at the time of the initial removal, the court may terminate or
4 continue services for any or all members of the group, based on the
5 following considerations and for reasons specified on the record:
6

7 (1)–(9) * * *

8
9 *(Subd (d) amended and relettered effective January 1, 2010; adopted as subd (g) effective*
10 *July 1, 2002.)*

11
12 ~~(h) Noncustodial parents~~

13
14 ~~If the court has previously placed or at this hearing places the child with a~~
15 ~~noncustodial parent, the court may:~~

16
17 ~~(1) Continue supervision and reunification services;~~

18
19 ~~(2) After stating on the record or in writing the factual basis for the order,~~
20 ~~order custody to the noncustodial parent, continue supervision, and~~
21 ~~order family maintenance services; or~~
22

23 ~~(3) After stating on the record or in writing the factual basis for the order,~~
24 ~~order custody to the noncustodial parent, terminate jurisdiction, and~~
25 ~~direct that *Custody Order Juvenile Final Judgment* (form JV 200) be~~
26 ~~prepared and filed under rule 5.700.~~
27

28 ~~(i) Setting a hearing under section 366.26~~

29
30 ~~At the 6-month review hearing, the court may not set a hearing under section~~
31 ~~366.26 to consider termination of the rights of only one parent unless:~~

32
33 ~~(1) That parent is the only surviving parent;~~

34
35 ~~(2) The rights of the other parent have been terminated by a California~~
36 ~~court of competent jurisdiction or by a court of competent jurisdiction~~
37 ~~of another state under the statutes of that state; or~~
38

39 ~~(3) The other parent has relinquished custody of the child to the county~~
40 ~~welfare department.~~
41

42 *Rule 5.710 amended effective January 1, 2010; adopted as rule 1460 effective January 1, 1990;*
43 *previously amended and renumbered effective January 1, 2007; previously amended effective*
44 *January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999,*

1 July 1, 1999, January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004, January 1, 2005,
2 and January 1, 2006.

3
4 Rule 5.715. Twelve-month ~~review~~ permanency hearing

- 5
6 (a) Requirement for 12-month review; setting of hearing; notice (§§ 293,
7 366.21)

8
9 The case of any dependent child whom the court has removed from the
10 custody of the parent or legal guardian must be set for ~~review~~ a permanency
11 hearing within 12 months of the date the child entered foster care, as defined
12 in section 361.49 ~~rule 5.502~~, and no later than 18 months from the date of the
13 initial removal. Notice of the hearing must be ~~given~~ as provided as described
14 in section 293 and rule 5.708.

15
16 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
17 *2001, January 1, 2004, January 1, 2006, and January 1, 2007.)*

- 18
19 ~~(b) Reports (§§ 366.1, 366.21)~~

20
21 ~~Before the hearing the petitioner must prepare a report describing services~~
22 ~~offered to the family and progress made.~~

- 23
24 ~~(1) The report must include:~~

25
26 ~~(A) Recommendations for court orders and the reasons for those~~
27 ~~recommendations;~~

28
29 ~~(B) A description of the efforts made to achieve legal permanency for~~
30 ~~the child if reunification efforts fail; and~~

31
32 ~~(C) A factual discussion of each item listed in sections 366.1 and~~
33 ~~366.21(c).~~

- 34
35 ~~(2) At least 10 calendar days before the hearing, the petitioner must file the~~
36 ~~report, provide copies to the parent or guardian and his or her counsel,~~
37 ~~to counsel for the child, and to any CASA volunteer. The petitioner~~
38 ~~must provide a summary of the recommendations to any foster parents,~~
39 ~~relative caregivers, or certified foster parents who have been approved~~
40 ~~for adoption.~~

- 41
42 ~~(e)~~(b) Determinations and conduct of hearing (§§ 361.5, 366, 366.1, 366.21)

43

1 At the hearing, the court ~~must state on the record that the court has read and~~
2 ~~considered the report of petitioner, the report of any CASA volunteer, the~~
3 ~~case plan submitted for this hearing, any report submitted by the child's~~
4 ~~caregiver under section 366.21(d), and any other evidence, and must proceed~~
5 ~~as follows: and all parties must comply with all relevant requirements and~~
6 ~~procedures in rule 5.708, General review hearing requirements. The court~~
7 ~~must make all appropriate findings and orders specified in rule 5.708 and~~
8 ~~proceed as follows:~~
9

10 (1) The court must order the child returned to the custody of the parent or
11 legal guardian unless the court finds the petitioner has established, by a
12 preponderance of the evidence, that return would create a substantial
13 risk of detriment to the safety, protection, or physical or emotional
14 well-being of the child. Failure of the parent or legal guardian to
15 regularly participate and make substantive progress in a court-ordered
16 treatment program is prima facie evidence that return would be
17 detrimental. The requirements in rule 5.708(d) must be followed in
18 establishing detriment.
19

20 (2) The requirements in rule 5.708(e) must be followed in entering a
21 reasonable services finding.
22

23 ~~(2)~~(3) If the court has previously placed or at this hearing places the child
24 with a noncustodial parent, the court ~~may:~~ must follow the procedures
25 in rule 5.708(k) and section 361.2.
26

27 ~~(A) Continue supervision and reunification services;~~
28

29 ~~(B) After stating on the record or in writing the factual basis for the~~
30 ~~order, order custody to that parent, continue supervision, and~~
31 ~~order family maintenance services; or~~
32

33 ~~(C) After stating on the record or in writing the factual basis for the~~
34 ~~order, order custody to the noncustodial parent, terminate~~
35 ~~jurisdiction, and direct that *Custody Order—Juvenile—Final*~~
36 ~~*Judgment* (form JV-200) be prepared and filed under rule 5.700.~~
37

38 (3) ~~If the court does not order return of the child, the court must specify the~~
39 ~~factual basis for its finding of risk of detriment to the child. The court~~
40 ~~must order a permanent plan unless the court determines that there is a~~
41 ~~substantial probability of return within 18 months of the removal of the~~
42 ~~child. In order to find a substantial probability of return within the 18-~~
43 ~~month period, the court must find all of the following:~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

~~(A) The parent or legal guardian has consistently and regularly contacted and visited the child;~~

~~(B) The parent or legal guardian has made significant progress in resolving the problems that led to the removal of the child; and~~

~~(C) The parent or guardian has demonstrated the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs.~~

~~(4) If the child is not returned to the custody of the parent or guardian, the court must consider whether reasonable services have been provided or offered. The court must find that:~~

~~(A) Reasonable services have been offered or provided; or~~

~~(B) Reasonable services have not been offered or provided.~~

~~(5) The following factors are not sufficient to support a finding that reasonable services have not been offered or provided:~~

~~(A) The child has been placed in a preadoptive home or with a family that is eligible to adopt the child;~~

~~(B) The case plan includes services to achieve legal permanence for the child if reunification cannot be accomplished; or~~

~~(C) Services to achieve legal permanence for the child if reunification efforts fail are being provided concurrently with reunification services.~~

~~(6) The court must consider whether it is necessary to limit the right of the parent or guardian to make educational decisions for the child. If the court limits this right, it must appoint a responsible adult as the educational representative under rule 5.650 to make educational decisions for the child.~~

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

1 (A) ~~The child was actively involved in the development of his or her~~
2 ~~own case plan and plan for permanent placement as age and~~
3 ~~developmentally appropriate; or~~
4

5 (B) ~~The child was not actively involved in the development of his or~~
6 ~~her own case plan and plan for permanent placement as age and~~
7 ~~developmentally appropriate. If the court makes such a finding,~~
8 ~~the court must order the agency to involve the child in the~~
9 ~~development of his or her own case plan and plan for permanent~~
10 ~~placement, unless the court finds that the child is unable,~~
11 ~~unavailable, or unwilling to participate; and~~
12

13 (C) ~~Each parent was actively involved in the development of the case~~
14 ~~plan and plan for permanent placement; or~~
15

16 (D) ~~Each parent was not actively involved in the development of the~~
17 ~~case plan and plan for permanent placement. If the court makes~~
18 ~~such a finding, the court must order the agency to actively involve~~
19 ~~each parent in the development of the case plan and plan for~~
20 ~~permanent placement, unless the court finds that each parent is~~
21 ~~unable, unavailable, or unwilling to participate.~~
22

23 (8) ~~For a child 12 years of age or older and in a permanent placement, the~~
24 ~~court must consider the case plan submitted for this hearing and must~~
25 ~~find as follows:~~
26

27 (A) ~~The child was given the opportunity to review the case plan, sign~~
28 ~~it, and receive a copy; or~~
29

30 (B) ~~The child was not given the opportunity to review the case plan,~~
31 ~~sign it, and receive a copy. If the court makes such a finding, the~~
32 ~~court must order the agency to give the child the opportunity to~~
33 ~~review the case plan, sign it, and receive a copy.~~
34

35 (d) ~~Determinations and orders~~
36

37 ~~The court must proceed as follows:~~
38

39 (4) If the court does not order return of the child to the parent or legal
40 guardian and the time period for providing court-ordered services has
41 been met or exceeded, as provided in section 361.5(a)(1), the court
42 must specify the factual basis for its finding of risk of detriment to the
43 child and proceed as follows in selecting a permanent plan:

1
2 (1)(A) If the court finds that there is a substantial probability that
3 the child will be returned within 18 months or that reasonable
4 services have not been offered or provided, the court must
5 continue the case for a permanency review hearing to a date not
6 later than 18 months from the date of the initial removal if the
7 court finds that there is a substantial probability of return within
8 that time or that reasonable services have not been offered or
9 provided. If the court continues the case for an 18-month
10 permanency review hearing, the court must inform the parent or
11 legal guardian that if the child cannot be returned home by the
12 next hearing, a proceeding under section 366.26 may be
13 instituted; ~~or,~~
14

15 (i) In order to find a substantial probability that the child will
16 be returned within the 18-month period, the court must find
17 all of the following:
18

19 a. The parent or legal guardian has consistently and
20 regularly contacted and visited the child;
21

22 b. The parent or legal guardian has made significant
23 progress in resolving the problems that led to the
24 removal of the child; and
25

26 c. The parent or legal guardian has demonstrated the
27 capacity and ability to complete the objectives of the
28 treatment plan and to provide for the child's safety,
29 protection, physical and emotional health, and special
30 needs.
31

32 (ii) In determining whether court-ordered services may be
33 extended to the 18-month point, the court must consider the
34 special circumstances of a parent or legal guardian who is
35 incarcerated or institutionalized or court-ordered to a
36 residential substance abuse treatment program, including,
37 but not limited to, barriers to the parent's or legal guardian's
38 access to services and ability to maintain contact with his or
39 her child. The court must also consider, among other factors,
40 good faith efforts that the parent or legal guardian has made
41 to maintain contact with the child.
42

1 (B) If (1), (4)(A), or (4)(C) do not apply, the court must terminate
2 reunification services and order a hearing under section 366.26
3 within 120 days. The court and all parties must comply with all
4 relevant requirements, procedures, findings, and orders related to
5 section 366.26 hearings in rule 5.708.

6
7 (C) If the court finds by clear and convincing evidence, including a
8 recommendation by the appropriate state or county adoption
9 agency, that there is a compelling reason for determining that a
10 section 366.26 hearing is not in the best interest of the child
11 because the child is not a proper subject for adoption and has no
12 one willing to accept legal guardianship:

13
14 (i) The court must terminate reunification services and order
15 that the child remain in a planned permanent living
16 arrangement.

17
18 (ii) If the court orders that the child remain in a planned
19 permanent living arrangement, it must identify the foster
20 care setting by name and identify a specific permanency
21 goal for the child.

22
23 (iii) The court may order that the name and address of the foster
24 home remain confidential.

25
26 (iv) The court must continue to permit the parent or legal
27 guardian to visit the child, unless it finds that visitation
28 would be detrimental to the child.

29
30 (v) If the child is 10 years of age or older and is placed in out-
31 of-home placement for six months or longer, the court must
32 enter any other appropriate orders to enable the child to
33 maintain relationships with other individuals who are
34 important to the child, consistent with the child's best
35 interest. Specifically, the court:

36
37 ~~(2) — Order that the child remain in foster care if it finds by clear and~~
38 ~~convincing evidence already presented that a section 366.26 hearing is~~
39 ~~not in the best interest of the child because the child is not a proper~~
40 ~~subject for adoption and has no one willing to accept legal~~
41 ~~guardianship.~~
42

1 ~~(A) If the court orders that the child remain in foster care, it must~~
2 ~~identify the foster care setting by name and identify a specific~~
3 ~~permanency goal for the child. The court may order that the name~~
4 ~~and address of the foster home remain confidential.~~

5
6 ~~(B) If the child is 10 years of age or older and is placed in out-of-~~
7 ~~home placement for six months or longer, the court:~~

8
9 ~~(i)a.~~ Must determine whether the agency has identified
10 individuals, in addition to the child's siblings, who are
11 important to the child and will maintain caring,
12 permanent relationships with the child, consistent with
13 the child's best interest;

14
15 ~~(ii)b.~~ Must determine whether the agency has made
16 reasonable efforts to nurture and maintain the child's
17 relationships with those individuals, consistent with
18 the child's best interest; and

19
20 ~~(iii)c.~~ May make any appropriate order to ensure that those
21 relationships are maintained; ~~or.~~

22
23 (5) If the child is not returned to his or her parent or legal guardian, the
24 court must consider and state, for the record, in-state and out-of-state
25 options for permanent placement.

26
27 ~~(3) If the court does not find that there is a substantial probability of return~~
28 ~~within 18 months of the initial removal, and finds that reasonable~~
29 ~~services have been offered or provided to the parent or guardian, the~~
30 ~~court must order a hearing under section 366.26 within 120 days.~~

31
32 ~~(A) If the court orders a hearing under section 366.26, the court must~~
33 ~~also order termination of reunification services. Visitation must~~
34 ~~continue unless the court finds it would be detrimental to the~~
35 ~~child. The court must enter any other appropriate orders to enable~~
36 ~~the child to maintain relationships with other individuals who are~~
37 ~~important to the child, consistent with the child's best interest.~~

38
39 ~~(B) If the court orders a hearing under section 366.26, the court must~~
40 ~~direct that an assessment be prepared as stated in section~~
41 ~~366.21(i).~~

42

1 ~~(C) A judgment or an order setting a hearing under section 366.26 is~~
2 ~~not immediately appealable. Review may be sought only by filing~~
3 ~~*Petition for Extraordinary Writ (California Rules of Court, Rules*~~
4 ~~8.452, 8.456) (form JV 825) or other petition for extraordinary~~
5 ~~writ. If a party wishes to preserve any right to review on appeal of~~
6 ~~the findings and orders made under this rule, the party must seek~~
7 ~~an extraordinary writ under rules 8.450, 8.452, and 5.600.~~
8

9 ~~(D) A judgment, order, or decree setting a hearing under section~~
10 ~~366.26 may be reviewed on appeal following the order of the~~
11 ~~section 366.26 hearing only if the following have occurred:~~
12

13 ~~(i) An extraordinary writ was sought by the timely filing of~~
14 ~~*Petition for Extraordinary Writ (California Rules of Court,*~~
15 ~~*Rules 8.452, 8.456) (form JV 825) or other petition for*~~
16 ~~extraordinary writ; and~~
17

18 ~~(ii) The petition for extraordinary writ was summarily denied or~~
19 ~~otherwise not decided on the merits.~~
20

21 ~~(E) Review on appeal of the order setting a hearing under section~~
22 ~~366.26 is limited to issues raised in a previous petition for~~
23 ~~extraordinary writ that were supported by an adequate record.~~
24

25 ~~(F) Failure to file a petition for extraordinary writ review within the~~
26 ~~period specified by rules 8.450, 8.452, and 5.600, to substantively~~
27 ~~address the issues challenged, or to support the challenge by an~~
28 ~~adequate record, precludes subsequent review on appeal of the~~
29 ~~findings and orders made under this rule.~~
30

31 ~~(G) When the court orders a hearing under section 366.26, the court~~
32 ~~must advise all parties that, to preserve any right to review on~~
33 ~~appeal of the order setting the hearing, the party must seek an~~
34 ~~extraordinary writ by filing:~~
35

36 ~~(i) A notice of intent to file a writ petition and a request for the~~
37 ~~record, which may be submitted on *Notice of Intent to File*~~
38 ~~*Writ Petition and Request for Record (California Rules of*~~
39 ~~*Court, Rule 8.450) (form JV 820); and*~~
40

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

1
2 ~~(H) Within 24 hours of the review hearing, the clerk of the court must~~
3 ~~provide notice by first class mail to the last known address of any~~
4 ~~party who is not present when the court orders the hearing under~~
5 ~~section 366.26. This notice must include the advisement required~~
6 ~~by (d)(3)(G).~~
7

8 ~~(I) Copies of *Petition for Extraordinary Writ (California Rules of*~~
9 ~~*Court, Rules 8.452, 8.456) (form JV 825) and *Notice of Intent to**~~
10 ~~*File Writ Petition and Request for Record (California Rules of*~~
11 ~~*Court, Rule 8.450) (form JV 820) must be available in the*~~
12 ~~courtroom and must accompany all mailed notices informing the~~
13 ~~parties of their trial rights~~
14

15 ~~(J) If the court orders a hearing under section 366.26, the court must~~
16 ~~order that notice of the hearing under section 366.26 must not be~~
17 ~~provided to any of the following:~~
18

19 ~~(i) A parent, presumed parent, or alleged parent who has~~
20 ~~relinquished the child for adoption and the relinquishment~~
21 ~~has been accepted and filed with notice under Family Code~~
22 ~~section 8700; or~~
23

24 ~~(ii) An alleged parent who has denied parentage and has~~
25 ~~completed section 1 of *Statement Regarding Parentage*~~
26 ~~*(Juvenile)* (form JV 505).~~
27

28 *(Subd (b) amended and relettered effective January 1, 2010; repealed and adopted as subd*
29 *(c)(2) effective January 1, 1990; previously amended and relettered as subd (c) effective*
30 *July 1, 1999, as subd (d) effective January 1, 2002, and as subd (c) effective January 1,*
31 *2001; previously amended effective January 1, 1992, January 1, 1993, January 1, 1995,*
32 *July 1, 1995, July 1, 1997, January 1, 1999, January 1, 2004, January 1, 2005, and*
33 *January 1, 2007.)*
34

35 ~~(e) Setting a hearing under section 366.26~~
36

37 ~~At the 12 month review hearing, the court may not set a hearing under~~
38 ~~section 366.26 to consider termination of the rights of only one parent~~
39 ~~unless:~~
40

41 ~~(1) That parent is the only surviving parent;~~
42

1 ~~(2) The rights of the other parent have been terminated by a California~~
2 ~~court of competent jurisdiction or by a court of competent jurisdiction~~
3 ~~of another state under the statutes of that state; or~~
4

5 ~~(3) The other parent has relinquished custody of the child to the county~~
6 ~~welfare department.~~
7

8 *Rule 5.715 amended effective January 1, 2010; adopted as rule 1461 effective January 1, 1990;*
9 *previously amended and renumbered effective January 1, 2007; previously amended effective*
10 *January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997,*
11 *January 1, 1999, July 1, 1999, January 1, 2000, January 1, 2001, January 1, 2004, January 1,*
12 *2005, and January 1, 2006.*
13

14 Rule 5.720. Eighteen-month permanency review hearing
15

16 (a) Requirement for 18-month permanency review hearing; setting for of
17 ~~hearing; notice (§§ 293, 366.22)~~
18

19 For any dependent child whom the court has removed from the custody of
20 the parent or legal guardian, and who ~~If a child~~ was not returned at the 6- or
21 12-month review hearing, a permanency review hearing must be held no
22 later than 18 months from the date of the initial removal. Notice of the
23 hearing must be given as provided in section 293 and rule 5.708(b).
24

25 *(Subd (a) amended effective January 1, 2010; adopted as subd (b)(1) effective January 1,*
26 *1990; repealed and adopted as subd (a) effective July 1, 1999; previously amended*
27 *effective January 1, 1992, January 1, 1993, January 1, 1994, January 1, 2001, January 1,*
28 *2005, January 1, 2006, and January 1, 2007.)*
29

30 ~~(b) Reports (§§ 366.1, 366.21)~~
31

32 ~~Before the hearing the petitioner must prepare a report describing services~~
33 ~~offered to the family and progress made.~~
34

35 ~~(1) The report must include:~~
36

37 ~~(A) Recommendations for court orders and the reasons for those~~
38 ~~recommendations;~~
39

40 ~~(B) A description of the efforts made to achieve legal permanence for~~
41 ~~the child if reunification efforts fail; and~~
42

43 ~~(C) A factual discussion of each item listed in sections 366.1 and~~
44 ~~366.21(c).~~

1
2 ~~(2) — At least 10 calendar days before the hearing, the petitioner must file the~~
3 ~~report and provide copies to the parent or guardian and his or her~~
4 ~~counsel, to counsel for the child, and to any CASA volunteer. The~~
5 ~~petitioner must provide a summary of the recommendations to any~~
6 ~~foster parents, relative caregivers, or certified foster parents who have~~
7 ~~been approved for adoption.~~
8

9 (e)(b) Determinations and conduct of hearing (§§ 361.5, 366.22)
10

11 ~~At the hearing the court must state on the record that the court has read and~~
12 ~~considered the report of petitioner, the report of any CASA volunteer, the~~
13 ~~case plan submitted for this hearing, any report submitted by the child's~~
14 ~~caregiver under section 366.21(d), and any other evidence, and must proceed~~
15 ~~as follows: and all parties must comply with all relevant requirements and~~
16 ~~procedures in rule 5.708, General review hearing requirements. The court~~
17 ~~must make all appropriate findings and orders specified in rule 5.708 and~~
18 ~~proceed as follows:~~
19

20 (1) The court must order the child returned to the custody of the parent or
21 legal guardian unless the court finds the petitioner has established, by a
22 preponderance of the evidence, that return would create a substantial
23 risk of detriment to the safety, protection, or physical or emotional
24 well-being of the child. Failure of the parent or legal guardian to
25 regularly participate and make substantive progress in a court-ordered
26 treatment program is prima facie evidence that continued supervision is
27 necessary or that return would be detrimental. The requirements in rule
28 5.708(d) must be followed in establishing detriment. The requirements
29 in rule 5.708(e) must be followed in entering a reasonable services
30 finding.
31

32 (2) If the court has previously placed or at this hearing places the child
33 with a noncustodial parent, the court ~~may:~~ must follow the procedures
34 in rule 5.708(k) and section 361.2.
35

36 ~~(A) — Continue supervision;~~
37

38 ~~(B) — After stating on the record or in writing the factual basis for the~~
39 ~~order, order custody to that parent, continue supervision, and~~
40 ~~order family maintenance services; or~~
41

42 ~~(C) — After stating on the record or in writing the factual basis for the~~
43 ~~order, order custody to the noncustodial parent, terminate~~

1 jurisdiction, and direct that *Custody Order—Juvenile—Final*
2 *Judgment* (form JV 200) be prepared and filed under rule 5.700.
3

- 4 (3) If the court does not order return of the child to the custody of the
5 parent or legal guardian, the court must specify the factual basis for its
6 finding of risk of detriment, ~~terminate reunification services~~, and do
7 one of the following:
8

- 9 (A) Continue the case for a subsequent permanency review hearing
10 not later than 24 months from the date of the initial removal if the
11 court finds that there is a substantial probability that the child will
12 be returned within that time or that reasonable services have not
13 been offered or provided. To extend services to the 24-month
14 point, the court must also find by clear and convincing evidence
15 that additional reunification services are in the best interest of the
16 child and that the parent or legal guardian is making significant
17 and consistent progress in a substance abuse treatment program,
18 or a parent is recently discharged from incarceration or
19 institutionalization and making significant and consistent progress
20 in establishing a safe home for the child’s return. The court must
21 also inform the parent or legal guardian that, if the child cannot be
22 returned home by the subsequent permanency review hearing, a
23 hearing under section 366.26 may be instituted.
24

25 In order to find a substantial probability that the child will be
26 returned within the 24-month period, the court must find all of the
27 following:
28

- 29 (i) The parent or legal guardian has consistently and regularly
30 contacted and visited the child;
31
32 (ii) The parent or legal guardian has made significant and
33 consistent progress in the prior 18 months in resolving the
34 problems that led to the removal of the child; and
35
36 (iii) The parent or legal guardian has demonstrated the capacity
37 and ability both to complete the objectives of his or her
38 substance abuse treatment plan as evidenced by reports from
39 a substance abuse provider as applicable or to complete a
40 treatment plan postdischarge from incarceration or
41 institutionalization and to provide for the child’s safety,
42 protection, physical and emotional health, and special needs.
43

1 (A)(B) Terminate reunification services and order that the child remain
2 in ~~foster care~~ a planned permanent living arrangement, if it finds
3 by clear and convincing evidence already presented, including a
4 recommendation by the appropriate state or county adoption
5 agency, that there is a compelling reason for determining that a
6 section 366.26 hearing is not in the best interest of the child
7 because the child is not a proper subject for adoption and has no
8 one willing to accept legal guardianship.

9
10 (i) If the court orders that the child remain in ~~foster care~~ a
11 planned permanent living arrangement, it must identify the
12 foster care setting by name and identify a specific
13 permanency goal for the child.

14
15 (ii) The court may order that the name and address of the foster
16 home remain confidential. ~~If the child is 10 years of age or~~
17 ~~older and is placed in out-of-home placement for six months~~
18 ~~or longer, the court:~~

19
20 (iii) The court must continue to permit the parent or legal
21 guardian to visit the child, unless it finds that visitation
22 would be detrimental to the child;

23
24 (iv) If the child is 10 years of age or older and is placed in out-
25 of-home placement for six months or longer, the court must
26 enter any other appropriate orders to enable the child to
27 maintain relationships with other individuals who are
28 important to the child, consistent with the child's best
29 interest. Specifically, the court:

30
31 (i)a. Must determine whether the agency has identified
32 individuals, in addition to the child's siblings, who are
33 important to the child and will maintain caring,
34 permanent relationships with the child, consistent with
35 the child's best interest;

36
37 (ii)b. Must determine whether the agency has made
38 reasonable efforts to nurture and maintain the child's
39 relationships with those individuals, consistent with
40 the child's best interest; and

41
42 (iii)c. May make any appropriate order to ensure that those
43 relationships are maintained; ~~or,~~

1
2 (B) ~~Order a hearing under section 366.26 within 120 days.~~

3
4 (C) If (1), (3)(A), or (3)(B) do not apply, the court must terminate
5 reunification services and order a hearing under section 366.26
6 within 120 days. The court and all parties must comply with all
7 relevant requirements, procedures, and findings and orders related
8 to section 366.26 hearings in rule 5.708.

9
10 (4) If the child is not returned to his or her parent or legal guardian, the
11 court must consider and state, for the record, in-state and out-of-state
12 options for permanent placement.

13
14 ~~(4) Visitation must continue unless the court finds it would be detrimental~~
15 ~~to the child. The court may enter any other appropriate orders to enable~~
16 ~~the child to maintain relationships with other individuals who are~~
17 ~~important to the child, consistent with the child's best interest.~~

18
19 ~~(5) The court must consider whether reasonable services have been~~
20 ~~provided. Evidence that the child has been placed with a relative or~~
21 ~~foster family who is eligible to adopt or that the child has been placed~~
22 ~~in a preadoptive home is insufficient alone to support a finding that~~
23 ~~reasonable services have not been offered or provided. The court must~~
24 ~~find that:~~

25
26 ~~(A) Reasonable services were offered or provided; or~~

27
28 ~~(B) Reasonable services were not offered or provided.~~

29
30 ~~(6) The court must consider the case plan submitted for this hearing and~~
31 ~~must find as follows:~~

32
33 ~~(A) The child was actively involved in the development of his or her~~
34 ~~own case plan and plan for permanent placement as age and~~
35 ~~developmentally appropriate; or~~

36
37 ~~(B) The child was not actively involved in the development of his or~~
38 ~~her own case plan and plan for permanent placement as age and~~
39 ~~developmentally appropriate. If the court makes such a finding,~~
40 ~~the court must order the agency to involve the child in the~~
41 ~~development of his or her own case plan and plan for permanent~~
42 ~~placement, unless the court finds that the child is unable,~~
43 ~~unavailable, or unwilling to participate; and~~

1
2 (C) ~~Each parent was actively involved in the development of the case~~
3 ~~plan and plan for permanent placement; or~~

4
5 (D) ~~Each parent was not actively involved in the development of the~~
6 ~~case plan and plan for permanent placement. If the court makes~~
7 ~~such a finding, the court must order the agency to actively involve~~
8 ~~each parent in the development of the case plan and plan for~~
9 ~~permanent placement, unless the court finds that each parent is~~
10 ~~unable, unavailable, or unwilling to participate.~~

11
12 (7) ~~For a child 12 years of age or older and in a permanent placement, the~~
13 ~~court must consider the case plan and must find as follows:~~

14
15 (A) ~~The child was given the opportunity to review the case plan, sign~~
16 ~~it, and receive a copy; or~~

17
18 (B) ~~The child was not given the opportunity to review the case plan,~~
19 ~~sign it, and receive a copy. If the court makes such a finding, the~~
20 ~~court must order the agency to give the child the opportunity to~~
21 ~~review the case plan, sign it, and receive a copy, unless the court~~
22 ~~finds that the child is unable, unavailable, or unwilling to~~
23 ~~participate.~~

24
25 (8) ~~If the court orders a hearing under section 366.26, the court must~~
26 ~~terminate reunification services and direct that an assessment be~~
27 ~~prepared as stated in section 366.22(b). Visitation must continue unless~~
28 ~~the court finds it would be detrimental to the child. The court must~~
29 ~~enter any other appropriate orders to enable the child to maintain~~
30 ~~relationships with other individuals who are important to the child,~~
31 ~~consistent with the child's best interest.~~

32
33 (9) ~~A judgment or an order setting a hearing under section 366.26 is not~~
34 ~~immediately appealable. Review may be sought only by filing *Petition*~~
35 ~~*for Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456)*~~
36 ~~(form JV-825) or other petition for extraordinary writ. If a party wishes~~
37 ~~to preserve any right to review on appeal of the findings and orders~~
38 ~~made under this rule, the party is required to seek an extraordinary writ~~
39 ~~under rules 8.450, 8.452, and 5.600.~~

40
41 (10) ~~A judgment, order, or decree setting a hearing under section 366.26~~
42 ~~may be reviewed on appeal following the order of the section 366.26~~
43 ~~hearing only if the following have occurred:~~

1
2 (A) ~~An extraordinary writ was sought by the timely filing of *Petition*~~
3 ~~for *Extraordinary Writ (California Rules of Court, Rules 8.452,*~~
4 ~~8.456) (form JV 825) or other petition for extraordinary writ; and~~
5

6 (B) ~~The petition for extraordinary writ was summarily denied or~~
7 ~~otherwise not decided on the merits.~~
8

9 (11) ~~Review on appeal of the order setting a hearing under section 366.26 is~~
10 ~~limited to issues raised in a previous petition for extraordinary writ that~~
11 ~~were supported by an adequate record.~~
12

13 (12) ~~Failure to file a petition for extraordinary writ review within the period~~
14 ~~specified by rules 8.450, 8.452, and 5.600, to substantively address the~~
15 ~~issues challenged, or to support the challenge by an adequate record~~
16 ~~precludes subsequent review on appeal of the findings and orders made~~
17 ~~under this rule.~~
18

19 (13) ~~When the court orders a hearing under section 366.26, the court must~~
20 ~~advise orally all parties that to preserve any right to review on appeal of~~
21 ~~the order setting the hearing, the party is required to seek an~~
22 ~~extraordinary writ by filing:~~
23

24 (A) ~~A notice of the party's intent to file writ petition and request for~~
25 ~~the record, which may be submitted on *Notice of Intent to File*~~
26 ~~*Writ Petition and Request for Record (California Rules of Court,*~~
27 ~~*Rule 8.450) (form JV 820); and*~~
28

29 (B) ~~A petition for an extraordinary writ, which may be submitted on~~
30 ~~*Petition for Extraordinary Writ (California Rules of Court, Rules*~~
31 ~~*8.452, 8.456) (form JV 825).*~~
32

33 (14) ~~Within 24 hours of the review hearing, the clerk of the court must~~
34 ~~provide notice by first class mail to the last known address of any party~~
35 ~~who is not present when the court orders the hearing under section~~
36 ~~366.26. The notice must include the advisement required by (c)(13).~~
37

38 (15) ~~Copies of *Petition for Extraordinary Writ (California Rules of Court,*~~
39 ~~*Rules 8.452, 8.456) (form JV 825) and *Notice of Intent to File Writ**~~
40 ~~*Petition and Request for Record (California Rules of Court, Rule*~~
41 ~~*8.450) (form JV 820) must be available in the courtroom and must*~~
42 ~~accompany all mailed notices informing the parties of their rights.~~
43

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

4
5 ~~(A) A parent, presumed parent, or alleged parent who has relinquished~~
6 ~~the child for adoption and whose relinquishment has been~~
7 ~~accepted and filed with notice under Family Code section 8700;~~
8 ~~or~~

9
10 ~~(B) An alleged parent who has denied parentage and has completed~~
11 ~~section 1 of *Statement Regarding Parentage (Juvenile)* (form JV-~~
12 ~~505).~~

13
14 ~~(Subd (b) amended and relettered effective January 1, 2010; repealed and adopted as subd~~
15 ~~(b) effective January 1, 1990; previously amended and relettered as subd (c) effective~~
16 ~~January 1, 2005; previously amended effective July 1, 1991, January 1, 1992, January 1,~~
17 ~~1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, January 1, 2006, July~~
18 ~~1, 2006, January 1, 2007, and July 1, 2007.)~~

19
20 ~~(d) Setting a hearing under section 366.26~~

21
22 ~~At the 18-month review hearing, the court must not set a hearing under~~
23 ~~section 366.26 to consider termination of the rights of only one parent~~
24 ~~unless:~~

25
26 ~~(1) That parent is the only surviving parent;~~

27
28 ~~(2) The rights of the other parent have been terminated by a California~~
29 ~~court of competent jurisdiction or by a court of competent jurisdiction~~
30 ~~of another state under the statutes of that state; or~~

31
32 ~~(3) The other parent has relinquished custody of the child to the county~~
33 ~~welfare department.~~

34
35 ~~Rule 5.720 amended effective January 1, 2010; repealed and adopted as rule 1462 effective~~
36 ~~January 1, 1990; previously amended and renumbered effective January 1, 2007; previously~~
37 ~~amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1994, January 1,~~
38 ~~1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, January 1,~~
39 ~~2005, January 1, 2006, July 1, 2006, and July 1, 2007.~~

40
41 Rule 5.722. Twenty-four-month subsequent permanency review hearing

42

1 (a) Requirement for 24-month subsequent permanency review hearing;
2 setting of hearing; notice (§ 366.25)
3

4 For any dependent child whom the court has removed from the custody of
5 the parent or legal guardian, and whose case has been continued under
6 section 366.22(b), the subsequent permanency review hearing must be held
7 no later than 24 months from the date of initial removal. Notice must be
8 provided as described in rule 5.708.
9

10 (b) Determinations and conduct of hearing (§ 366, 366.1, 366.25)
11

12 At the hearing, the court and all parties must comply with all relevant
13 requirements and procedures in rule 5.708, General review hearing
14 requirements. The court must make all appropriate findings and orders
15 specified in rule 5.708 and proceed as follows:
16

17 (1) The court must order the child returned to the custody of the parent or
18 legal guardian unless the court finds that petitioner has established by a
19 preponderance of the evidence that return would create a substantial
20 risk of detriment to the safety, protection, or physical or emotional
21 well-being of the child. Failure of the parent or legal guardian to
22 regularly participate and make substantive progress in a court-ordered
23 treatment program is prima facie evidence that return would be
24 detrimental. The requirements in rule 5.708(d) must be followed in
25 establishing detriment. The requirements in rule 5.708(e) must be
26 followed in entering a reasonable services finding.
27

28 (2) If the court does not order the return of the child to the custody of the
29 parent or legal guardian, the court must specify the factual basis for its
30 finding of risk of detriment and do one of the following:
31

32 (A) If the court finds by clear and convincing evidence, including a
33 recommendation by the appropriate state or county adoption
34 agency, that there is a compelling reason for determining that a
35 section 366.26 hearing is not in the best interest of the child
36 because the child is not a proper subject for adoption and has no
37 one willing to accept legal guardianship, the court must terminate
38 reunification services and order that the child remain in a planned
39 permanent living arrangement.
40

41 (i) If the court orders that the child remain in a planned
42 permanent living arrangement, it must identify the foster

1 care setting by name and identify a specific permanency
2 goal for the child.

3
4 (ii) The court may order that the name and address of the foster
5 home remain confidential.

6
7 (iii) The court must continue to permit the parent or legal
8 guardian to visit the child, unless it finds that visitation
9 would be detrimental to the child.

10
11 (iv) If the child is 10 years of age or older and is placed in out-
12 of-home placement for six months or longer, the court must
13 enter any other appropriate orders to enable the child to
14 maintain relationships with other individuals who are
15 important to the child, consistent with the child's best
16 interest. Specifically, the court:

17
18 a. Must determine whether the agency has identified
19 individuals, in addition to the child's siblings, who are
20 important to the child and will maintain caring,
21 permanent relationships with the child, consistent with
22 the child's best interest;

23
24 b. Must determine whether the agency has made
25 reasonable efforts to nurture and maintain the child's
26 relationships with those individuals, consistent with
27 the child's best interest; and

28
29 c. May make any appropriate order to ensure that those
30 relationships are maintained.

31
32 (B) If (1) or (2)(A) do not apply, the court must terminate
33 reunification services and order that a hearing be held under
34 section 366.26 within 120 days. The court and all parties must
35 comply with all relevant requirements, procedures, findings, and
36 orders related to section 366.26 hearings in rule 5.708(l)-(o).

37
38 (3) If the child is not returned to his or her parent or legal guardian, the
39 court must consider and state, for the record, in-state and out-of-state
40 options for permanent placement.

1 Rule 5.725. Selection of permanent plan (§§ 366.26, 727.31)

2
3 (a)–(c) * * *

4
5 ~~(d)~~ Presence of child

6
7 ~~The child must be present in court if the child or the child’s attorney so~~
8 ~~request or the court so orders. If the child is 10 years of age or older and is~~
9 ~~not present at the hearing, the court must determine whether the child was~~
10 ~~properly notified of his or her right to attend the hearing and ask why the~~
11 ~~child is not present.~~

12
13 ~~(e)~~(d) * * *

14
15 *(Subd (d) relettered effective January 1, 2010; repealed and adopted as subd (c) effective*
16 *January 1, 1991; previously amended and relettered as subd (d) effective January 1, 1992,*
17 *and as subd (e) effective January 1, 2005; previously amended effective July 1, 1994,*
18 *January 1, 1999, July 1, 1999, July 1, 2002, January 1, 2006, January 1, 2007, and*
19 *January 1, 2009.)*

20
21 ~~(f)~~(e) * * *

22
23 *(Subd (e) relettered effective January 1, 2010; adopted as subd (d) effective January 1,*
24 *1991; relettered as subd (e) effective January 1, 1992, and as subd (f) effective January 1,*
25 *2005; previously amended effective July 1, 1992, January 1, 1995, July 1, 2002, January 1,*
26 *2006, and January 1, 2007.)*

27
28 ~~(g)~~(f) * * *

29
30 *(Subd (f) relettered effective January 1, 2010; repealed and adopted as subd (e) effective*
31 *January 1, 1991; relettered as subd (f) effective January 1, 1992 and as subd (g) effective*
32 *January 1, 2005; previously amended effective July 1, 1997, July 1, 2002, and January 1,*
33 *2007.)*

34
35 ~~(h)~~(g) * * *

36
37 *(Subd (g) relettered effective January 1, 2010; adopted as subd (g) effective July 1, 1997;*
38 *previously amended effective July 1, 2002; previously amended and relettered as subd (h)*
39 *effective January 1, 2005.)*

40
41 ~~(i)~~(h) * * *

42
43 *(Subd (h) relettered effective January 1, 2010; repealed and adopted as subd (f) effective*
44 *January 1, 1991; previously relettered as subd (g) effective January 1, 1992; amended and*
45 *relettered as subd (h) effective July 1, 1997; relettered as subd (i) effective January 1,*
46 *2005; previously amended effective July 1, 2002, January 1, 2006, and January 1, 2007.)*

1
2 *Rule 5.725 amended effective January 1, 2010; repealed and adopted as rule 1463 effective*
3 *January 1, 1991; previously amended and renumbered effective January 1, 2007; previously*
4 *amended effective January 1, 1992, July 1, 1992, January 1, 1994, July 1, 1994, January 1, 1995,*
5 *July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, July 1, 2002, January 1, 2005, January*
6 *1, 2006, and January 1, 2009.*

7
8 Rule 7.101. Use of Judicial Council forms

9
10 (a) * * *

11
12 (b) Alternative mandatory forms

13
14 The following forms have been adopted by the Judicial Council as
15 alternative mandatory forms for use in probate proceedings or other
16 proceedings governed by provisions of the Probate Code:

17
18 (1) * * *

19
20 (2) *Petition for Appointment of Temporary Guardian ~~or Conservator~~ (form*
21 *GC-110) and *Petition for Appointment of Temporary Guardian of the**
22 *Person (form GC-110(P));*

23
24 (3) *Petition to Approve Compromise of Disputed Claim or Pending Action*
25 *or Disposition of Proceeds of Judgment for Minor or Person With a*
26 *Disability (form MC-350) and Expedited Petition to Approve*
27 *Compromise of Disputed Claim or Pending Action or Disposition of*
28 *Proceeds of Judgment for Minor or Person With a Disability (form*
29 *MC-350EX).*

30
31 (Subd (b) amended effective January 1, 2010; adopted effective January 1, 2007.)

32
33 (c) * * *

34
35 *Rule 7.101 amended effective January 1, 2010; adopted effective January 1, 2001; previously*
36 *amended effective January 1, 2002, and January 1, 2007.*

37
38 Rule 7.207. Bonds of conservators and guardians

39
40 (a) ~~Bond for appointments after December 31, 2007~~ Bond includes
41 reasonable amount for recovery on the bond

42
43 Except as otherwise provided by statute, every conservator or guardian of the
44 estate ~~appointed after December 31, 2007,~~ must furnish a bond that includes

1 an amount determined under ~~(e)~~ (b) as a reasonable amount for the cost of
2 recovery to collect on the bond under Probate Code section 2320(c)(4).

3
4 *(Subd (a) amended effective January 1, 2010.)*
5

6 ~~(b) Additional bond for appointments before January 1, 2008~~
7

8 ~~Except as otherwise provided by statute, every conservator or guardian of the~~
9 ~~estate appointed before January 1, 2008, and the conservator's or guardian's~~
10 ~~attorney, must after that date apply to increase the bond in the manner~~
11 ~~described in rule 7.204 to include an additional amount determined under (e),~~
12 ~~and must, no later than June 30, 2008, furnish the increased amount of bond~~
13 ~~ordered by the court.~~
14

15 ~~(e)~~ (b) Amount of bond for the cost of recovery on the bond
16

17 The reasonable amount of bond for the cost of recovery to collect on the
18 bond, including attorney's fees and costs, under Probate Code section
19 2320(c)(4) is:
20

21 (1) Ten percent (10%) of the value up to and including \$500,000 of the
22 following:

23
24 (A) The ~~appraised~~ value of personal property of the estate;

25
26 (B) The ~~appraised~~ value, less encumbrances, of real property of the
27 estate that the guardian or conservator has the independent power
28 to sell without approval or confirmation of the court under
29 Probate Code sections 2590 and 2591(d);
30

31 (C)–(D) * * *

32
33 (2)–(3) * * *

34
35 *(Subd (b) amended and relettered effective January 1, 2010; adopted as subd (c).)*
36

37 *Rule 7.207 amended effective January 1, 2010; adopted effective January 1, 2008.*
38

39 Rule 7.950. Petition for court approval of the compromise of, or a covenant
40 on, a disputed claim; a compromise or settlement of a pending action;
41 or the disposition of the proceeds of a judgment
42

1 A petition for court approval of a compromise of or a covenant not to sue or
2 enforce judgment on a minor's disputed claim; a compromise or settlement of a
3 pending action or proceeding to which a minor or person with a disability is a
4 party; or disposition of the proceeds of a judgment for a minor or person with a
5 disability under chapter 4 of part 8 of division 4 ~~under~~ of the Probate Code
6 (commencing with section 3600) or ~~under~~ Code of Civil Procedure section 372
7 must be verified by the petitioner and must contain a full disclosure of all
8 information that has any bearing upon the reasonableness of the compromise, ~~or~~
9 covenant, settlement, or disposition. Except as provided in rule 7.950.5, the
10 information must include, but is not limited to, the following: petition must be
11 prepared on a fully completed *Petition to Approve Compromise of Disputed Claim*
12 *or Pending Action or Disposition of Proceeds of Judgment for Minor or Person*
13 *With a Disability* (form MC-350).

- 14
- 15 (1) ~~The name, birthdate, age, and sex of the minor or person with a disability;~~
- 16
- 17 (2) ~~An account of the facts or events and the circumstances out of which the~~
18 ~~claim or injury arose, including the time, the place, and the identity of the persons~~
19 ~~involved;~~
- 20
- 21 (3) ~~A description of the nature and extent of the injury giving rise to the claim,~~
22 ~~with sufficient particularity to inform the court whether the injury is permanent or~~
23 ~~temporary;~~
- 24
- 25 (4) ~~An original or a photocopy of all doctors' reports containing a diagnosis of~~
26 ~~and prognosis for the injury, and a report of the claimant's present condition;~~
- 27
- 28 (5) ~~In all cases in which payment for medical or hospital care or treatment for~~
29 ~~the claimant is sought, the names of the hospitals, doctors, and other providers~~
30 ~~furnishing the care, the amounts of the respective charges for the care (whether~~
31 ~~paid or owing), the amounts paid (whether covered by insurance or not), the~~
32 ~~amounts of any negotiated reductions of the charges, and the net amount owed to~~
33 ~~each provider;~~
- 34
- 35 (6) ~~The amount of attorney's fees requested and the basis for the fees, with an~~
36 ~~itemization of the costs sought to be allowed and charged against the settlement;~~
- 37
- 38 (7) ~~The gross and net amounts of the settlement;~~
- 39
- 40 (8) ~~A description of the manner in which the settlement proceeds will be~~
41 ~~distributed;~~
- 42
- 43 (9) ~~A full disclosure of all amounts, if any, paid or to be paid to other claimants;~~

1
2 ~~(10) A statement of whether the petitioner is a plaintiff in the same action with the~~
3 ~~minor or claimant with a disability and, if so, whether the pendency or disposition~~
4 ~~of the petitioner's claim on his or her own behalf has in any way affected the~~
5 ~~proposed compromise of the claim;~~
6

7 ~~(11) A statement of whether the petitioner is a claimant against the recovery of~~
8 ~~the minor or claimant with a disability and, if so, whether the pendency or~~
9 ~~disposition of petitioner's claim on his or her own behalf has in any way affected~~
10 ~~the proposed compromise of the claim;~~
11

12 ~~(12) If settlement money is to be deposited in an account or accounts subject to~~
13 ~~withdrawal only upon order of the court, the name and address of the proposed~~
14 ~~depository;~~
15

16 ~~(13) A statement whether notice of the action or claim has been given under~~
17 ~~Welfare and Institutions Code section 14124.73; and~~
18

19 ~~(14) If the petition requests an order for payment of money to a special needs~~
20 ~~trust, a statement of the method by which all statutory liens will be satisfied under~~
21 ~~Probate Code section 3604.~~
22

23 *Rule 7.950 amended effective January 1, 2010; adopted effective January 1, 2002; previously*
24 *amended effective January 1, 2007.*
25

26 Rule 7.950.5. Expedited petition for court approval of the compromise of, or
27 a covenant on, a disputed claim; a compromise or settlement of a
28 pending action; or the disposition of the proceeds of a judgment
29

30 (a) Authorized use of expedited petition
31

32 Notwithstanding the provisions of rule 7.950, a petitioner for court approval
33 of a compromise of or a covenant not to sue or enforce judgment on a
34 minor's disputed claim; a compromise or settlement of a pending action or
35 proceeding to which a minor or person with a disability is a party; or
36 disposition of the proceeds of a judgment for a minor or person with a
37 disability under chapter 4 of part 8 of division 4 of the Probate Code
38 (commencing with section 3600) or Code of Civil Procedure section 372
39 may, in the following circumstances, satisfy the information requirements of
40 that rule by fully completing the *Expedited Petition to Approve Compromise*
41 *of Disputed Claim or Pending Action or Disposition of Proceeds of*
42 *Judgment for Minor or Person With a Disability* (form MC-350EX):
43

- 1 (1) The petitioner is represented by an attorney authorized to practice in the
2 courts of this state;
3
4 (2) The claim is not for damages for the wrongful death of a person;
5
6 (3) No portion of the net proceeds of the compromise, settlement, or
7 judgment in favor of the minor or disabled claimant is to be placed in a
8 trust;
9
10 (4) There are no unresolved disputes concerning liens to be satisfied from
11 the proceeds of the compromise, settlement, or judgment;
12
13 (5) The petitioner's attorney did not become involved in the matter at the
14 direct or indirect request of a person against whom the claim is asserted
15 or an insurance carrier for that person;
16
17 (6) The petitioner's attorney is neither employed by nor associated with a
18 defendant or insurance carrier in connection with the petition;
19
20 (7) If an action has been filed on the claim:
21
22 (A) All defendants that have appeared in the action are participating
23 in the compromise; or
24
25 (B) The court has finally determined that the settling parties entered
26 into the settlement in good faith;
27
28 (8) The judgment for the minor or disabled claimant (exclusive of interest
29 and costs) or the total amount payable to the minor or disabled claimant
30 and all other parties under the proposed compromise or settlement is
31 \$50,000 or less or, if greater:
32
33 (A) The total amount payable to the minor or disabled claimant
34 represents payment of the individual-person policy limits of all
35 liability insurance policies covering all proposed contributing
36 parties; and
37
38 (B) All proposed contributing parties would be substantially unable to
39 discharge an adverse judgment on the minor's or disabled
40 person's claim from assets other than the proceeds of their
41 liability insurance policies; and
42
43 (9) The court does not otherwise order.

1
2 (b) Determination of expedited petition

3
4 An expedited petition must be determined by the court not more than 35 days
5 after it is filed, unless a hearing is requested, required, or scheduled under (c)
6 or the time for determination is extended for good cause by order of the
7 court.

8
9 (c) Hearing on expedited petition

10
11 (1) The expedited petition must be determined by the court without a
12 hearing unless a hearing is requested by the petitioner at the time the
13 expedited petition is filed, an objection or other opposition to the
14 petition is filed by an interested party, or a hearing is scheduled by the
15 court under (2) or (3).

16
17 (2) The court may on its own motion elect to schedule and conduct a
18 hearing on an expedited petition. The court must make its election to
19 schedule the hearing and must give notice of its election and the date,
20 time, and place of the hearing to the petitioner and all other interested
21 parties not more than 25 days after the date the expedited petition is
22 filed.

23
24 (3) If the court decides not to grant an expedited petition in full as
25 requested, it must schedule a hearing and give notice of its intended
26 ruling and the date, time, and place of the hearing to the petitioner and
27 all other interested parties within the time provided in (2).

28
29 *Rule 7.950.5 adopted effective January 1, 2010.*

30
31 Rule 7.955. Attorney's fees for services to a minor or a person with a
32 disability

33
34 (a) Reasonable attorney's fees

35
36 (1) In all cases under Code of Civil Procedure section 372 or Probate Code
37 sections 3600–3601, unless the court has approved the fee agreement in
38 advance, the court must use a reasonable fee standard when approving
39 and allowing the amount of attorney's fees payable from money or
40 property paid or to be paid for the benefit of a minor or a person with a
41 disability. ~~The court may approve and allow attorney fees under a~~
42 ~~contingency fee agreement made in accordance with law, provided that~~
43 ~~the amount of fees is reasonable under all the facts and circumstances.~~

1
2 (2) The court must give consideration to the terms of any representation
3 agreement made between the attorney and the representative of the
4 minor or person with a disability and must evaluate the agreement
5 based on the facts and circumstances existing at the time the agreement
6 was made, except where the attorney and the representative of the
7 minor or person with a disability contemplated that the attorney's fee
8 would be affected by later events.

9
10 *(Subd (a) amended and lettered effective January 1, 2010; adopted as unlettered subd*
11 *effective January 1, 2003.)*

12
13 (b) Factors the court may consider in determining a reasonable attorney's
14 fee

15
16 In determining a reasonable attorney's fee, the court may consider the
17 following nonexclusive factors:

- 18
19 (1) The fact that a minor or person with a disability is involved and the
20 circumstances of that minor or person with a disability.
21
22 (2) The amount of the fee in proportion to the value of the services
23 performed.
24
25 (3) The novelty and difficulty of the questions involved and the skill
26 required to perform the legal services properly.
27
28 (4) The amount involved and the results obtained.
29
30 (5) The time limitations or constraints imposed by the representative of the
31 minor or person with a disability or by the circumstances.
32
33 (6) The nature and length of the professional relationship between the
34 attorney and the representative of the minor or person with a disability.
35
36 (7) The experience, reputation, and ability of the attorney or attorneys
37 performing the legal services.
38
39 (8) The time and labor required.
40
41 (9) The informed consent of the representative of the minor or person with
42 a disability to the fee.
43

1 (10) The relative sophistication of the attorney and the representative of the
2 minor or person with a disability.

3
4 (11) The likelihood, if apparent to the representative of the minor or person
5 with a disability when the representation agreement was made, that the
6 attorney's acceptance of the particular employment would preclude
7 other employment.

8
9 (12) Whether the fee is fixed, hourly, or contingent.

10
11 (13) If the fee is contingent:

12 (A) The risk of loss borne by the attorney;

13 (B) The amount of costs advanced by the attorney; and

14 (C) The delay in payment of fees and reimbursement of costs paid by
15 the attorney.

16
17 (14) Statutory requirements for representation agreements applicable to
18 particular cases or claims.

19
20 *(Subd (b) adopted effective January 1, 2010.)*

21
22
23
24
25 (c) Attorney's declaration

26
27 A petition requesting court approval and allowance of an attorney's fee
28 under (a) must include a declaration from the attorney that addresses the
29 factors listed in (b) that are applicable to the matter before the court.

30
31 *(Subd (c) adopted effective January 1, 2010.)*

32
33 (d) Preemption

34
35 The Judicial Council has preempted all local rules relating to the
36 determination of reasonable attorney's fees to be awarded from the proceeds
37 of a compromise, settlement, or judgment under Probate Code sections
38 3600–3601. No trial court, or any division or branch of a trial court, may
39 enact or enforce any local rule concerning this field, except a rule pertaining
40 to the assignment or scheduling of a hearing on a petition or application for
41 court approval or allowance of attorney's fees under sections 3600–3601. All
42 local rules concerning this field are null and void unless otherwise permitted
43 by a statute or a rule in the California Rules of Court.

1
2 (Subd (d) adopted effective January 1, 2010.)

3
4 Rule 7.955 amended effective January 1, 2010; adopted effective January 1, 2003; previously
5 amended effective January 1, 2007.

6
7 Advisory Committee Comment

8
9 This rule requires the court to approve and allow attorney's fees in an amount that is reasonable
10 under all the facts and circumstances, under Probate Code section 3601. The rule is declaratory of
11 existing law concerning attorney's fees under a contingency fee agreement when the fees must be
12 approved by the court. The facts and circumstances that the court may consider are discussed in a
13 large body of decisional law under section 3601 and under other statutes that require the court to
14 determine reasonable attorney's fees. The factors listed in rule 7.955(b) are modeled after those
15 provided in rule 4-200 of the Rules of Professional Conduct of the State Bar of California
16 concerning an unconscionable attorney's fee, but the advisory committee does not intend to
17 suggest or imply that an attorney's fee must be found to be unconscionable under rule 4-200 to be
18 determined to be unreasonable under this rule.

19
20 The rule permits, but does not require, the court to allow attorney's fees in an amount specified in
21 a contingency fee agreement. The amount of attorney's fees allowed by the court must meet the
22 reasonableness standard of section 3601 no matter how they are determined. ~~That standard may~~
23 ~~support the court's allowance of attorney's fees that are higher or lower than fees determined by~~
24 ~~applying the formulas in some current local rules.~~

25
26 Rule ~~8.160.~~ 8.46 Sealed records

27
28 * * *

29
30 Rule 8.46 renumbered effective January 1, 2010; repealed and adopted as rule 12.5 effective
31 January 1, 2002; previously amended and renumbered as rule 8.160 effective January 1, 2007;
32 previously amended effective July 1, 2002, January 1, 2004, and January 1, 2006.

33
34 Rule 8.104. Time to appeal

35
36 (a) Normal time

37
38 Unless a statute or rule 8.108 provides otherwise, a notice of appeal must be
39 filed on or before the earliest of:

- 40
41 (1) 60 days after the superior court clerk ~~mails~~ serves the party filing the
42 notice of appeal with a document entitled "Notice of Entry" of
43 judgment or a file-stamped copy of the judgment, showing the date
44 either was ~~mailed~~ served;

45
46 (2)–(3) * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

(4) Service under (1) and (2) may be by any method permitted by the Code of Civil Procedure, including electronic service when permitted under Code of Civil Procedure section 1010.6 and rules 2.250–2.261.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 2007.)

(b)–(f) * * *

Rule 8.104 amended effective January 1, 2010; repealed and adopted as rule 2 effective January 1, 2002; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Subdivision (a). Under subdivision (a)(1), a notice of entry of judgment (or a copy of the judgment) must show the date on which the clerk ~~mailed~~ served the document. ~~This provision is intended to establish~~ The proof of service establishes the date that the 60-day period under subdivision (a)(1) begins to run.

Subdivision (a)(2) * * *

Subdivision (b). Subdivision (b) is declarative of the case law, which holds that the reviewing court lacks jurisdiction to excuse a late-filed notice of appeal. (*Hollister Convalescent Hosp., Inc. v. Rico* (1975) 15 Cal.3d 660, 666–674; *Estate of Hanley* (1943) 23 Cal.2d 120, 122–124.)

In criminal cases, the time for filing a notice of appeal is governed by rule ~~8.408~~ 8.308 and by the case law of “constructive filing.” (See, e.g., *In re Jordan* (1992) 4 Cal.4th 116; *In re Benoit* (1973) 10 Cal.3d 72.)

Rule 8.112. Petition for writ of supersedeas

(a) Petition

(1)–(3) * * *

(4) If the record has not been filed in the reviewing court:

(A) The petition must include a statement of the case sufficient to show that the petitioner will raise substantial issues on appeal, including a fair summary of the material facts, and the issues that are likely to be raised on appeal, ~~and any oral statement by the court supporting its rulings related to these issues.~~

1 (B) The petitioner must file the following documents with the
2 petition:

3
4 (i)–(ii) * * *

5
6 (iii) A reporter’s transcript of any oral statement by the court
7 supporting its rulings related to the issues that are likely to
8 be raised on appeal, or, if a transcript is unavailable, a
9 declaration fairly summarizing any such statements;

10
11 ~~(iii)~~(iv) Any application for a stay filed in the trial court, ~~and~~ any
12 opposition to that application, and a reporter’s transcript of
13 the oral proceedings concerning the stay or, if a transcript is
14 unavailable, a declaration fairly summarizing the
15 proceedings, including the parties’ arguments and any
16 statement by the court supporting its ruling; and

17
18 ~~(iv)~~(v) * * *

19
20 (C) * * *

21
22 (5) * * *

23
24 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
25 *2007, and January 1, 2008.)*

26
27 (b)–(d) * * *

28
29 *Rule 8.112 amended effective January 1, 2010; repealed and adopted as rule 49 effective January*
30 *1, 2005; previously amended and renumbered effective January 1, 2007; previously amended*
31 *effective January 1, 2008, and January 1, 2009.*

32
33 Advisory Committee Comment

34
35 **Subdivision (a).** If the preparation of a reporter’s transcript has not yet been completed at that
36 time a petition for a writ of supersedeas is filed, that transcript is “unavailable” within the
37 meaning of (a)(4)(B).

38
39 Rule 8.122. Clerk’s transcript

40
41 (a) Designation

42
43 (1)–(2) * * *

44

1 (3) Except as provided in (b)(4), all exhibits admitted in evidence, refused,
2 or lodged are deemed part of the record, but a party wanting a copy of
3 an exhibit included in the transcript must specify that exhibit by
4 number or letter in its notice of designation. If the superior court has
5 returned a designated exhibit to a party, the party in possession of the
6 exhibit must promptly deliver it to the superior court clerk ~~on receipt of~~
7 ~~the designation~~ within 10 days after the notice designating the exhibit is
8 served.
9

10 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
11 *2005, January 1, 2007, and January 1, 2008.)*
12

13 (b)–(d) * * *

14
15 *Rule 8.122 amended effective January 1, 2010; repealed and adopted as rule 5 effective January*
16 *1, 2002; previously amended and renumbered as rule 8.120 effective January 1, 2007, and as*
17 *rule 8.122 effective January 1, 2008; previously amended effective January 1, 2003, January 1,*
18 *2005, and July 1, 2009.*
19

20 Rule 8.124. Appendixes

21
22 (a) Notice of election

23
24 (1) Unless the superior court orders otherwise on a motion served and filed
25 within 10 days after the notice of election is served, this rule governs if:
26

27 (A) in the notice designating the record on appeal under rule 8.121,
28 The appellant elects to use an appendix under this rule in the
29 notice designating the record on appeal under rule 8.121; or
30

31 (B) if, within 10 days after the notice of appeal is filed, The
32 respondent serves and files a notice in the superior court electing
33 to use an appendix under this rule within 10 days after the notice
34 of appeal is filed and no waiver of the fee for a clerk’s transcript
35 is granted to the appellant, this rule governs unless the superior
36 court orders otherwise on a motion served and filed within 10
37 days after the notice of election is served.
38

39 (2)–(3) * * *

40
41 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
42 *2005, January 1, 2007, and January 1, 2008.)*
43

1 (b) Contents of appendix

2
3 (1) * * *

4
5 (2) An appendix may incorporate by reference all or part of the record on
6 appeal in another case pending in the reviewing court or in a prior
7 appeal in the same case.

8
9 (A) The other appeal must be identified by its case name and number.
10 If only part of a record is being incorporated by reference, that
11 part must be identified by citation to the volume and page
12 numbers of the record where it appears and either the title of the
13 document or documents or the date of the oral proceedings to be
14 incorporated. The parts of any record incorporated by reference
15 must be identified both in the body of the appendix and in a
16 separate section at the end of the index.

17
18 (B) If the appendix incorporates by reference any such record, the
19 cover of the appendix must prominently display the notice
20 “Record in case number: _____ incorporated by reference,”
21 identifying the number of the case from which the record is
22 incorporated.

23
24 (C) On request of the reviewing court or any party, the designating
25 party must provide a copy of the materials incorporated by
26 reference to the court or another party or lend them for copying as
27 provided in (c).

28
29 ~~(2)~~(3) An appendix must not:

30
31 (A)–(C) * * *

32
33 (D) Incorporate any document by reference except ~~the record on~~
34 ~~appeal in another case pending in the reviewing court or the~~
35 ~~record in a prior appeal in the same case as provided in (2).~~

36
37 ~~(3)~~(4) * * *

38
39 ~~(4)~~(5) * * *

40
41 ~~(5)~~(6) * * *

42

1 (Subd (b) amended effective January 1, 2010; previously amended January 1, 2007, and
2 January 1, 2008.)

3
4 (c) Document or exhibit held by other party

5
6 If a party preparing an appendix wants it to contain a copy of a document or
7 an exhibit in the possession of another party:

8
9 (1) The party must first ask the party possessing the document or exhibit to
10 provide a copy or lend it for copying. All parties should reasonably
11 cooperate with such requests.

12
13 (2) If the attempt under (1) is unsuccessful, the party may serve and file in
14 the reviewing court a notice identifying the document or specifying the
15 exhibit's trial court designation and requesting the party possessing the
16 document or exhibit to deliver it to the requesting party or, if the
17 possessing party prefers, to the reviewing court. The possessing party
18 must comply with the request within 10 days after the notice was
19 served.

20
21 (3) If the party possessing the document or exhibit sends it to the
22 requesting party, that party must copy and return it to the possessing
23 party within 10 days after receiving it.

24
25 (4) If the party possessing the document or exhibit sends it to the reviewing
26 court, that party must:

27
28 (A) Accompany the document or exhibit with a copy of the notice
29 served by the requesting party; and

30
31 (B) Immediately notify the requesting party that it has sent the
32 document or exhibit to the reviewing court.

33
34 (5) On request, the reviewing court may return a document or an exhibit to
35 the party that sent it. When the remittitur issues, the reviewing court
36 must return all documents or exhibits to the party that sent them.

37
38 (Subd (c) amended effective January 1, 2010; adopted effective January 1, 2005,
39 previously amended effective January 1, 2007.)

40
41 (d)–(g) * * *

42

1 *Rule 8.124 amended effective January 1, 2010; repealed and adopted as rule 5.1 effective*
2 *January 1, 2002; previously amended and renumbered effective January 1, 2007; previously*
3 *amended effective January 1, 2005, and January 1, 2008.*

4
5 Advisory Committee Comment

6
7 **Subdivision (a).** Under this provision either party may elect to have the appeal proceed by way of
8 an appendix. ~~A respondent's timely election~~ If the appellant's fees for a clerk's transcript are not
9 waived and the respondent timely elects to use an appendix, that election will govern unless the
10 superior court orders otherwise. This election procedure differs from all other appellate rules
11 governing designation of a record on appeal. In those rules, the appellant's designation, or the
12 stipulation of the parties, determines the type of record on appeal. Before making this election,
13 respondents should check whether the appellant has been granted a fee waiver that is still in
14 effect. If the trial court has granted appellant a fee waiver for the clerk's transcript, or grants such
15 a waiver after the notice of appeal is filed, respondent cannot elect to proceed by way of an
16 appendix.

17
18 Subdivision (a)(2) is intended to assist appellate counsel in preparing an appendix by providing
19 them with the list of pleadings and other filings found in the register of actions or "docket sheet"
20 in those counties that maintain such registers. (See Gov. Code, § 69845.) The provision is derived
21 from rule 10-1 of the United States Circuit Rules (9th Cir.).

22
23 **Subdivision (b).** Under subdivision (b)(1)(A), a joint appendix or an appellant's appendix must
24 contain any register of actions that the clerk sent to the parties under subdivision (a)(2). This
25 provision is intended to assist the reviewing court in determining the accuracy of the appendix.
26 The provision is derived from rule 30-1.3(a)(ii) of the United States Circuit Rules (9th Cir.).

27
28 In support of or opposition to pleadings or motions, the parties may have filed a number of
29 lengthy documents in the proceedings in superior court, including, for example, declarations,
30 memorandums, trial briefs, documentary exhibits (e.g., insurance policies, contracts, deeds), and
31 photocopies of judicial opinions or other publications. Subdivision ~~(b)(2)(A)~~(b)(3)(A) prohibits
32 the inclusion of such documents in an appendix when they are not necessary for proper
33 consideration of the issues raised in the appeal. Even if a document is otherwise includable in an
34 appendix, the rule prohibits the inclusion of any substantial *portion* of the document that is not
35 necessary for proper consideration of the issues raised in the appeal. The prohibition is intended
36 to simplify and therefore expedite the preparation of the appendix, to reduce its cost to the parties,
37 and to relieve the courts of the burden of reviewing a record containing redundant, irrelevant, or
38 immaterial documents. The provision is adapted from rule 30-1.4 of the United States Circuit
39 Rules (9th Cir.).

40
41 Subdivision ~~(b)(2)(B)~~(b)(3)(B) prohibits the inclusion in an appendix of transcripts of oral
42 proceedings that may be made part of a reporter's transcript. (Compare rule 8.130(e)(3) [the
43 reporter must not copy into the reporter's transcript any document includable in the clerk's
44 transcript under rule 8.122].) The prohibition is intended to prevent a party filing an appendix
45 from evading the requirements and safeguards imposed by rule 8.130 on the process of
46 designating and preparing a reporter's transcript, or the requirements imposed by rule 8.144(d) on
47 the use of daily or other transcripts instead of a reporter's transcript (i.e., renumbered pages,
48 required indexes). In addition, if an appellant were to include in its appendix a transcript of less
49 than all the proceedings, the respondent would not learn of any need to designate additional
50 proceedings (under rule 8.130(a)(3)) until the appellant had served its appendix with its brief,

1 when it would be too late to designate them. Note also that a party may file a certified transcript
2 of designated proceedings instead of a deposit for the reporter's fee (rule 8.130(b)(3)).

3
4 **Subdivision (d).** * * *

5
6 **Subdivision (e).** Subdivision (e)(2) requires a joint appendix to be filed with the appellant's
7 opening brief. The provision is intended to improve the briefing process by enabling the
8 appellant's opening brief to include citations to the record. To provide for the case in which a
9 respondent concludes in light of the appellant's opening brief that the joint appendix should have
10 included additional documents, subdivision ~~(b)(4)~~(b)(5) permits such a respondent to present in
11 an appendix filed with its respondent's brief (see subd. (e)(3)) any document that could have been
12 included in the joint appendix.

13
14 Under subdivision (e)(2)–(4) an appendix is required to be filed “with” the associated brief. This
15 provision is intended to clarify that an extension of a briefing period ipso facto extends the filing
16 period of an appendix associated with the brief.

17
18 **Subdivision (g).** * * *

19
20 **Rule 8.130. Reporter's transcript**

21
22 (a) * * *

23
24 (b) Deposit or substitute for cost of transcript

25
26 (1) * * *

27
28 (2) If the reporter believes the deposit is inadequate, within 15 days after
29 the clerk mails the notice under ~~(d)(2)~~(1) the reporter may file with the
30 clerk and mail to the designating party an estimate of the transcript's
31 total cost, showing the additional deposit required. The party must
32 deposit the additional sum within 10 days after the reporter mails the
33 estimate.

34
35 (3) * * *

36
37 *(Subd (b) amended effective January 1, 2010; previously amended effective January 1,*
38 *2007.)*

39
40 (c)–(g) * * *

41
42 *Rule 8.130 amended effective January 1, 2010; repealed and adopted as rule 4 effective January*
43 *1, 2002; previously amended and renumbered effective January 1, 2007; previously amended*
44 *effective January 1, 2005, January 1, 2008, and July 1, 2008.*

45

1 Rule 8.147. Record in multiple or later appeals in same case

2
3 (a) * * *

4
5 (b) Later appeal

6
7 In an appeal in which the parties are using either a clerk's transcript under
8 rule 8.122 or a reporter's transcript under rule 8.130:

9
10 (1) A party wanting to incorporate by reference all or parts of a record in a
11 prior appeal in the same case must specify those parts in its designation
12 of the record, with page numbers if available.

13
14 (A) The prior appeal must be identified by its case name and number.
15 If only part of a record is being incorporated by reference, that
16 part must be identified by citation to the volume and page
17 numbers of the record where it appears and either the title of the
18 document or documents or the date of the oral proceedings to be
19 incorporated. The parts of any record incorporated by reference
20 must be identified in a separate section at the end of the
21 designation of the record.

22
23 (B) If the transcript incorporates by reference any such record, the
24 cover of the transcript must prominently display the notice
25 "Record in case number: _____ incorporated by reference,"
26 identifying the number of the case from which the record is
27 incorporated.

28
29 (C) On request of the reviewing court or any party, the designating
30 party must provide a copy of the materials incorporated by
31 reference to the reviewing court or another party or lend them as
32 provided in rule 8.153.

33
34 (2) A party wanting any ~~incorporated~~ parts of a ~~prior record~~ clerk's
35 transcript or other record of the written documents from a prior appeal
36 in the same case to be copied into the clerk's transcript in a later ~~record~~
37 appeal must ~~serve and file a notice specifying~~ specify those parts in its
38 designation of the record as provided in (1). ~~and must deposit~~ The
39 estimated ~~copying~~ cost of copying these materials must be included in
40 the clerk's estimate of the cost of preparing the transcript under rule
41 8.122(c)(1) ~~within 10 days after the clerk mails notice of that cost.~~ On
42 request of the trial court clerk, the designating party must provide a
43 copy of or lend the materials to be copied to the clerk. The parts of any

1 record from a prior appeal that are copied into a clerk’s transcript under
2 this rule must be placed in a separate section at the end of the transcript
3 and identified in a separate section at the end of the indexes.

4
5 *(Subd (b) amended effective January 1, 2010; previously amended effective January 1,*
6 *2007, and January 1, 2008.)*

7
8 *Rule 8.147 amended effective January 1, 2010; repealed and adopted as rule 10 effective January*
9 *1, 2002, and January 1, 2008; previously amended and renumbered effective January 1, 2007.*

10
11 Rule 8.212. Service and filing of briefs

12
13 (a) Time to file

14
15 (1) An appellant must serve and file its opening brief within:

16
17 (A) ~~30~~ 40 days after the record—or the reporter’s transcript, after a
18 rule 8.124 election—is filed in the reviewing court; or

19
20 (B) * * *

21
22 (2)–(3) * * *

23
24 *(Subd (a) amended effective January 1, 2010; previously amended effective January 1,*
25 *2007.)*

26
27 (b) Extensions of time

28
29 (1)–(2) * * *

30
31 (3) Before the brief is due, a party may apply to the presiding justice for an
32 extension of each period under (a), or under rule 8.200(c)~~(5)~~(6) or
33 ~~(6)~~(7), on a showing that there is good cause and that:

34
35 (A)–(B) * * *

36
37 (4) * * *

38
39 *(Subd (b) amended effective January 1, 2010; previously amended effective January 1,*
40 *2003, July 1, 2005, and January 1, 2007.)*

41
42 (c) * * *

43

1 Rule 8.212 amended effective January 1, 2010; repealed and adopted as rule 15 effective January
2 1, 2002; previously amended and renumbered effective January 1, 2007; previously amended
3 effective January 1, 2003, January 1, 2004, January 1, 2005, July 1, 2005, and January 1, 2008.

4
5 Rule 8.320. Normal record; exhibits

6
7 (a) * * *

8
9 (b) Clerk's transcript

10
11 The clerk's transcript must contain:

12
13 (1)–(12) * * *

14
15 (13) And, if the appellant is the defendant:

16
17 (A)–(B) * * *

18
19 (C) Any document admitted in evidence to prove a prior juvenile
20 adjudication, criminal conviction, or prison term. If a record was
21 closed to public inspection in the trial court because it is required
22 to be kept confidential by law, it must remain closed to public
23 inspection in the reviewing court unless that court orders
24 otherwise; ~~and~~

25
26 (D) The probation officer's report; and

27
28 (E) Any court-ordered diagnostic or psychological report required
29 under Penal Code section 1203.03(b) or 1369.

30
31 (Subd (b) amended effective January 1, 2010; previously amended effective January 1,
32 2005, January 1, 2007, and January 1, 2008.)

33
34 (c)–(f) * * *

35
36 (g) Form of record

37
38 The clerk's and reporter's transcripts must comply with rules 8.144, 8.328,
39 and 8.336.

40
41 (Subd (g) amended effective January 1, 2010; previously amended effective January 1,
42 2007.)

43

1 *Rule 8.320 amended effective January 1, 2010; repealed and adopted as rule 31 effective January*
2 *1, 2004; previously amended and renumbered effective January 1, 2007; previously amended*
3 *effective January 1, 2005, and January 1, 2008.*

4
5 Advisory Committee Comment

6
7 Subdivision (b)(13). Rule 8.336(g) addresses the appropriate handling of probation officers'
8 reports and court-ordered diagnostic reports that must be included in the clerk's transcript under
9 (b)(13)(D) or (E).

10
11 Rule 8.336. Preparing, certifying, and sending the record

12
13 (a)–(f) * * *

14
15 (g) Probation officer's reports and court-ordered diagnostic reports

16
17 The A probation officer's report or court-ordered diagnostic report included
18 in the clerk's transcript under rule 8.320(b)(13)(D) or (E) must appear in all
19 only the copies of the appellate record that are sent to the reviewing court, to
20 appellate counsel for the People, and to appellate counsel for the defendant
21 who was the subject of the report. The reviewing court's copy of the report
22 must be placed in a sealed envelope marked "CONFIDENTIAL—MAY
23 NOT BE EXAMINED WITHOUT COURT ORDER—PROBATION
24 OFFICER REPORT."

25
26 *(Subd (g) amended effective January 1, 2010; previously amended effective January 1,*
27 *2007.)*

28
29 (h) * * *

30
31 *Rule 8.336 amended effective January 1, 2010; repealed and adopted as rule 32 effective January*
32 *1, 2004; previously amended and renumbered effective January 1, 2007.*

33
34 Rule 8.819. Sealed records

35
36 Rule 8.46 governs records sealed by court order under rules 2.550–2.551 and
37 records proposed to be sealed in the appellate division.

38
39 *Rule 8.819 adopted effective January 1, 2010.*

40
41 Rule 8.824. Writ of supersedeas

42
43 (a) Petition

44
45 (1)–(3) * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

(4) If the record has not been filed in the reviewing court:

(A) The petition must include a statement of the case sufficient to show that the petitioner will raise substantial issues on appeal, including a fair summary of the material facts, and the issues that are likely to be raised on appeal, ~~and any oral statement by the court supporting its rulings related to these issues.~~

(B) The petitioner must file the following documents with the petition:

~~(i)-(ii)~~ * * *

(iii) A reporter's transcript of any oral statement by the court supporting its rulings related to the issues that are likely to be raised on appeal, or, if a transcript is unavailable, a declaration fairly summarizing any such statements;

~~(iii)~~(iv) Any application for a stay filed in the trial court, and any opposition to that application, and a reporter's transcript of the oral proceedings concerning the stay or, if a transcript is unavailable, a declaration fairly summarizing the proceedings, including the parties' arguments and any statement by the court supporting its ruling; and

~~(iv)~~(v) * * *

(C) * * *

(5) * * *

(Subd (a) amended effective January 1, 2010.)

(b)-(d) * * *

Rule 8.824 amended effective January 1, 2010; adopted effective January 1, 2009.

Advisory Committee Comment

Subdivision (a). If the preparation of a reporter's transcript has not yet been completed at that time a petition for a writ of supersedeas is filed, that transcript is "unavailable" within the meaning of (a)(4)(B).

1 Rule 8.832. Clerk's transcript

2
3 (a) * * *

4
5 (b) Notice of designation

6
7 (1)–(2) * * *

8
9 (3) All exhibits admitted in evidence, refused, or lodged are deemed part of
10 the record, but a party wanting an exhibit included in the transcript
11 must specify that exhibit by number or letter in its designation. If the
12 trial court has returned a designated exhibit to a party, the party in
13 possession of the exhibit must ~~promptly~~ deliver it to the trial court clerk
14 within 10 days after the notice designating the exhibit is served.

15
16 *(Subd (b) amended effective January 1, 2010.)*

17
18 (c)–(d) * * *

19
20 *Rule 8.832 amended effective January 1, 2010; adopted effective January 1, 2009; previously*
21 *amended effective July 1, 2009.*

22
23 Rule 8.861. Contents of clerk's transcript

24
25 Except in appeals covered by rule 8.867 or when the parties have filed a
26 stipulation under rule 8.860(b) that any of these items is not required for proper
27 determination of the appeal, the clerk's transcript must contain:

28
29 (1)–(11) * * *

30
31 (12) If the appellant is the defendant:

32
33 (A)–(B) * * *

34
35 (C) Any document admitted in evidence to prove a prior juvenile
36 adjudication, criminal conviction, or prison term. If a record was closed
37 to public inspection in the trial court because it is required to be kept
38 confidential by law, it must remain closed to public inspection in the
39 appellate division unless that court orders otherwise; ~~and~~

40
41 (D) The probation officer's report; and
42

1 (c) Failure to file election

2
3 If the appellant does not file an election within the time specified in (b), the
4 trial court clerk must promptly notify the appellant by mail that the election
5 must be filed within 15 days after the notice is mailed and that failure to
6 comply will result in the appeal proceeding without a record of the oral
7 proceedings.

8
9 *(Subd (c) adopted effective January 1, 2010.)*

10
11 ~~(e)~~(d) * * *

12
13 *(Subd (d) relettered effective January 1, 2010; adopted as subd (c).)*

14
15 *Rule 8.864 amended effective January 1, 2010; adopted effective January 1, 2009.*

16
17 **Rule 8.882. Briefs by parties and amici curiae**

18
19 (a) * * *

20
21 (b) Extensions of time

22
23 (1)–(2) * * *

24
25 (3) Before the brief is due, a party may apply to the presiding judge of the
26 appellate division for an extension of the time period for filing a brief
27 under (a). The application must show that there is good cause to grant
28 an extension under rule 8.811(b). In civil appeals, the application must
29 also show that:

30
31 (A) The applicant was unable to obtain—or it would have been futile
32 to seek—the extension by stipulation; or

33
34 (B) The parties have stipulated to the maximum extension permitted
35 under (1) and the applicant seeks a further extension.

36
37 (4) A party need not apply for an extension or relief from default if it can
38 file its brief within the time prescribed by (c). The clerk must file a
39 brief submitted within that time if it otherwise complies with these
40 rules.

41
42 *(Subd (b) amended effective January 1, 2010; adopted effective January 1, 2009.)*

43

1 (c)–(e) * * *

2
3 *Rule 8.882 amended effective January 1, 2010; adopted effective January 1, 2009; previously*
4 *amended effective January 1, 2009.*

5
6 Rule 8.885. Oral argument

7
8 (a) * * *

9
10 (b) Oral argument by videoconference

11
12 (1) Oral argument may be conducted by videoconference if:

13
14 (A) It is ordered by the presiding judge of the appellate division or the
15 presiding judge’s designee on application of any party or on the
16 court’s own motion. An application from a party requesting that
17 oral argument be conducted by videoconference must be filed
18 within 10 days after the court sends notice of oral argument under
19 (c)(1); or

20
21 (B) A local rule authorizes oral argument to be conducted by
22 videoconference consistent with these rules.

23
24 (2) If oral argument is conducted by videoconference:

25
26 (A) Each judge of the appellate division panel assigned to the case
27 must participate in the entire oral argument either in person at the
28 superior court that issued the judgment or order that is being
29 appealed or by videoconference from another court.

30
31 (B) Unless otherwise allowed by local rule or ordered by the
32 presiding judge of the appellate division or the presiding judge’s
33 designee, all the parties must appear at oral argument in person at
34 the superior court that issued the judgment or order that is being
35 appealed.

36
37 (C) The oral argument must be open to the public at the superior court
38 that issued the judgment or order that is being appealed. If
39 provided by local rule or ordered by the presiding judge of the
40 appellate division or the presiding judge’s designee, oral
41 argument may also be open to the public at any of the locations
42 from which a judge of the appellate division is participating in
43 oral argument.

1
2 (D) The appellate division must ensure that:

3
4 (i) During oral argument, the participants in oral argument are
5 visible and their statements are audible to all other
6 participants, court staff, and any members of the public
7 attending the oral argument;

8
9 (ii) Participants are identified when they speak; and

10
11 (iii) Only persons who are authorized to participate in the
12 proceedings speak.

13
14 (E) A party must not be charged any fee to participate in oral
15 argument by videoconference if the party participates from the
16 superior court that issued the judgment or order that is being
17 appealed or from a location from which a judge of the appellate
18 division panel is participating in oral argument.

19
20 *(Subd (b) adopted effective January 1, 2010.)*

21
22 (b)(c) Notice of argument

23
24 (1) As soon as all parties' briefs are filed or the time for filing these briefs
25 has expired, the appellate division clerk must send a notice of the time
26 and place of oral argument to all parties. The notice must be sent at
27 least 20 days before the date for oral argument. The presiding judge
28 may shorten the notice period for good cause; in that event, the clerk
29 must immediately notify the parties by telephone or other expeditious
30 method.

31
32 (2) If oral argument will be conducted by videoconference under (b), the
33 clerk must specify, either in the notice required under (1) or in a
34 supplemental notice sent to all parties at least 5 days before the date for
35 oral argument, the location from which each judge of the appellate
36 division panel assigned to the case will participate in oral argument.

37
38 *(Subd (c) amended and relettered effective January 1, 2010; adopted as subd (b).)*

39
40 (e)(d) * * *

41
42 *(Subd (d) relettered effective January 1, 2010; adopted as subd (c).)*

43

1 ~~(d)~~(e) Conduct of argument

2
3 Unless the court provides otherwise:

4
5 (1) * * *

6
7 (2) Each side is allowed 10 minutes for argument. The appellant may
8 reserve part of this time for reply argument. If multiple parties are
9 represented by separate counsel, or if an amicus curiae—on written
10 request—is granted permission to argue, the court may apportion or
11 expand the time.

12
13 (3) * * *

14
15 *(Subd (e) amended and relettered effective January 1, 2010; adopted as subd (d).)*

16
17 *Rule 8.885 amended effective January 1, 2010; adopted effective January 1, 2009.*

18
19 Rule 8.910. Normal record on appeal

20
21 (a) * * *

22
23 (b) Stipulation for limited record

24
25 If before the record is certified, the appellant, ~~or counsel for the appellant,~~
26 and the ~~People~~ respondent stipulate in writing that any part of the record is
27 not required for proper determination of the appeal and file the stipulation in
28 the trial court, that part of the record must not be prepared or sent to the
29 appellate division.

30
31 *(Subd (b) amended effective January 1, 2010.)*

32
33 *Rule 8.910 amended effective January 1, 2010; adopted effective January 1, 2009.*

34
35 Rule 8.915. Record of oral proceedings

36
37 (a)–(b) * * *

38
39 (c) Failure to file election

40
41 If the appellant does not file an election within the time specified in (b), the
42 trial court clerk must promptly notify the appellant by mail that the election
43 must be filed within 15 days after the notice is mailed and that failure to

1 comply will result in the appeal proceeding without a record of the oral
2 proceedings.

3
4 *(Subd (c) adopted effective January 1, 2010.)*

5
6 ~~(e)~~(d) * * *

7
8 *(Subd (d) relettered effective January 1, 2010; adopted as subd (c).)*

9
10 *Rule 8.915 amended effective January 1, 2010; adopted effective January 1, 2009.*

11
12 Rule 8.929. Oral argument

13
14 (a) * * *

15
16 (b) Oral argument by videoconference

17
18 (1) Oral argument may be conducted by videoconference if:

19
20 (A) It is ordered by the presiding judge of the appellate division or the
21 presiding judge's designee on application of any party or on the
22 court's own motion. An application from a party requesting that
23 oral argument be conducted by videoconference must be filed
24 within 10 days after the court sends notice of oral argument under
25 (c)(1); or

26
27 (B) A local rule authorizes oral argument to be conducted by
28 videoconference consistent with these rules.

29
30 (2) If oral argument is conducted by videoconference:

31
32 (A) Each judge of the appellate division panel assigned to the case
33 must participate in the entire oral argument either in person at the
34 superior court that issued the judgment or order that is being
35 appealed or by videoconference from another court.

36
37 (B) Unless otherwise allowed by local rule or ordered by the
38 presiding judge of the appellate division or the presiding judge's
39 designee, all of the parties must appear at oral argument in person
40 at the superior court that issued the judgment or order that is
41 being appealed.

42

1 (C) The oral argument must be open to the public at the superior court
2 that issued the judgment or order that is being appealed. If
3 provided by local rule or ordered by the presiding judge of the
4 appellate division or the presiding judge's designee, oral
5 argument may also be open to the public at any of the locations
6 from which a judge of the appellate division is participating in
7 oral argument.

8
9 (D) The appellate division must ensure that:

10
11 (i) During oral argument, the participants in oral argument are
12 visible and their statements are audible to all other
13 participants, court staff, and any members of the public
14 attending the oral argument;

15
16 (ii) Participants are identified when they speak; and

17
18 (iii) Only persons who are authorized to participate in the
19 proceedings speak.

20
21 (E) A party must not be charged any fee to participate in oral
22 argument by videoconference if the party participates from the
23 superior court that issued the judgment or order that is being
24 appealed or from a location from which a judge of the appellate
25 division panel is participating in oral argument.

26
27 *(Subd (b) adopted effective January 1, 2010.)*

28
29 ~~(b)~~(c) Notice of argument

30
31 (1) As soon as all parties' briefs are filed or the time for filing these briefs
32 has expired, the appellate division clerk must send a notice of the time
33 and place of oral argument to all parties. The notice must be sent at
34 least 20 days before the date for oral argument. The presiding judge
35 may shorten the notice period for good cause; in that event, the clerk
36 must immediately notify the parties by telephone or other expeditious
37 method.

38
39 (2) If oral argument will be conducted by videoconference under (b), the
40 clerk must specify, either in the notice required under (1) or in a
41 supplemental notice sent to all parties at least 5 days before the date for
42 oral argument, the location from which each judge of the appellate
43 division panel assigned to the case will participate in oral argument.

1
2 (Subd (c) amended and relettered effective January 1, 2010; adopted as subd (b).)

3
4 ~~(e)~~(d) * * *

5
6 (Subd (d) relettered effective January 1, 2010; adopted as subd (c).)

7
8 ~~(d)~~(e) Conduct of argument

9
10 Unless the court provides otherwise:

11
12 (1) * * *

13
14 (2) Each side is allowed 5 minutes for argument. The appellant may
15 reserve part of this time for reply argument. If multiple parties are
16 represented by separate counsel, or if an amicus curiae—on written
17 request—is granted permission to argue, the court may apportion or
18 expand the time.

19
20 (3) * * *

21
22 (Subd (e) amended and relettered effective January 1, 2010; adopted as subd (d).)

23
24 Rule 8.929 amended effective January 1, 2010; adopted effective January 1, 2009.

25
26 Rule 8.1005. Certification

27
28 (a)–(b) * * *

29
30 (c) Finality of appellate division judgments

31
32 An appellate division judgment is final in that court as provided in rule ~~8.708~~
33 8.888.

34
35 (Subd (c) amended effective January 1, 2010; previously amended effective January 1,
36 2007.)

37
38 (d)–(f) * * *

39
40 Rule 8.1005 amended effective January 1, 2010; repealed and adopted as rule 63 effective
41 January 1, 2003; previously amended and renumbered effective January 1, 2007.

42
43 Rule 10.54. Traffic Advisory Committee

44

1 (a) * * *

2
3 (b) Membership

4
5 The committee must include at least one member from each of the following
6 categories:

7
8 (1)–(2) * * *

9
10 (3) Juvenile ~~traffie~~ hearing officer;

11
12 (4)–(7) * * *

13
14 *(Subd (b) amended effective January 1, 2010; previously amended effective January 1,*
15 *2007.)*

16
17 *Rule 10.54 amended effective January 1, 2010; adopted as rule 6.54 effective January 1, 1999;*
18 *previously amended and renumbered January 1, 2007.*

19
20 Rule 10.464. Education requirements and expectations for judges and
21 subordinate judicial officers on domestic violence issues

22
23 (a) Judges and subordinate judicial officers hearing specified matters

24
25 Each judge or subordinate judicial officer who hears criminal, family,
26 juvenile delinquency, juvenile dependency, or probate matters must
27 participate in appropriate education on domestic violence issues as part of his
28 or her requirements and expectations under rule 10.462. Each judge or
29 subordinate judicial officer whose primary assignment is in one of these
30 areas also must participate in a periodic update on domestic violence as part
31 of these requirements and expectations.

32
33 (b) Specified courses to include education on domestic violence issues

34
35 The education provider must include education on domestic violence issues
36 at the Judicial College under rule 10.462(c)(1)(C) and in courses for primary
37 assignments in criminal, family, juvenile delinquency, juvenile dependency,
38 or probate under rule 10.462(c)(1)(B) or (c)(4).

39
40 *Rule 10.464 adopted effective January 1, 2010.*

1 In determining what constitutes “appropriate” education, each judge or subordinate judicial
2 officer should determine the number of hours of education on domestic violence that is adequate
3 for his or her assignment, taking into account the size of the court, the nature of his or her
4 assignment, the mix of assignments, and other factors.

5

6

1 Title 5. Family and Juvenile Rules

2
3 Division 3. Juvenile Rules

4
5 Chapter 5. ~~Appeals and Writs~~ Appellate Review

6
7 *Title 5, Family and Juvenile Rules—Division 3, Juvenile Rules—Chapter 5, Appellate Review;*
8 *adopted effective January 1, 2007; amended effective July 1, 2010.*
9

10 Rule 5.585. Rules governing appellate review

11
12 The rules in title 8, chapter 5 govern appellate review of judgments and orders in
13 cases under Welfare and Institutions Code section 300, 601, or 602.

14
15 *Rule 5.585 adopted effective July 1, 2010.*

16
17 Advisory Committee Comment

18
19 Rules 8.450 and 8.452 describe how a party, including the petitioner, child, and parent or
20 guardian, must proceed if seeking appellate court review of findings and orders of the juvenile
21 court made at a hearing at which the court orders that a hearing under Welfare and Institutions
22 Code section 366.26 be held.

23
24 ~~Rule 5.585. Review by appeal~~ 5.590. Advisement of right to review in
25 Welfare and Institutions Code section 300, 601, or 602 cases

26
27 ~~(a) Right to appeal—section 601–602 proceedings~~

28
29 ~~In proceedings under section 601 or 602, the child may appeal from any~~
30 ~~judgment, order, or decree specified in section 800 and is entitled to court-~~
31 ~~appointed counsel. If the court determines that the parent or guardian can~~
32 ~~afford counsel but has not retained counsel for the child, the court must~~
33 ~~appoint counsel for the child at the expense of the parent or guardian.~~

34
35 ~~(b) Right to appeal—section 300 proceedings~~

36
37 ~~In proceedings under section 300, the petitioner, child, and the parent or~~
38 ~~guardian each has the right to appeal from any judgment, order, or decree~~
39 ~~specified in section 395. Any judgment, order, or decree setting a hearing~~
40 ~~under section 366.26 may be reviewed on appeal following the order at the~~
41 ~~section 366.26 hearing only if the procedures in rules 8.450, 8.452, and 5.600~~
42 ~~have been followed. All appellants are entitled to representation by counsel~~
43 ~~and the reviewing court may appoint counsel to represent an indigent child,~~
44 ~~parent, or guardian.~~

1
2 ~~(e) Stay of execution of order or judgment (§§ 395, 800)~~

3
4 ~~The court must not stay an order or judgment pending an appeal unless~~
5 ~~suitable provision is made for the maintenance, care, and custody of the~~
6 ~~child.~~

7
8 ~~(d)(a) Advisement of appeal rights—rule 5.590 to appeal~~

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

16
17 (1) The right of the child, parent, and guardian to appeal from the court
18 order if there is a right to appeal;

19
20 (2)–(4) * * *

21
22 *(Subd (a) amended and relettered effective July 1, 2010; adopted as subd (d); previously*
23 *amended effective January 1, 2007.)*

24
25 ~~(e)(b) Notice of trial rights; Advisement of requirement for writ petition to~~
26 ~~preserve appellate rights when court orders hearing under~~ section
27 366.26

28
29 When the court orders a hearing under Welfare and Institutions Code section
30 366.26, the court must advise orally all parties present and, if present, the
31 child's parent, guardian, or adult relative, and by first class mail for parties
32 ~~not present~~, that if the party wishes to preserve any right to review on appeal
33 of the order setting the hearing under Welfare and Institutions Code section
34 366.26, the party is required to seek an extraordinary writ by filing a *Notice*
35 *of Intent to File Writ Petition and Request for Record (California Rules of*
36 *Court, Rule 8.450)* (form JV-820) or other notice of intent to file a writ
37 petition and request for record and a *Petition for Extraordinary Writ*
38 *(California Rules of Court, Rules 8.452, 8.456)* (form JV-825) or other
39 petition for extraordinary writ.

40
41 (1) The advisement must be given orally to those present when the court
42 orders the hearing under Welfare and Institutions Code section 366.26.
43

1 ~~(1)~~(2) Within ~~24 hours of the~~ one day after the court orders the hearing
2 under Welfare and Institutions Code section 366.26, notice the
3 advisement must be sent by first-class mail ~~must be provided~~ by the
4 clerk of the court to the last known address of any party who is not
5 present when the court orders the hearing under Welfare and
6 Institutions Code section 366.26.

7
8 (3) The advisement must include the time for filing a notice of intent to file
9 a writ petition.

10
11 ~~(2)~~(4) * * *

12
13 *(Subd (b) amended effective July 1, 2010; adopted as subd (e) effective January 1, 1995;*
14 *previously amended effective January 1, 2007.)*

15
16 ~~(f) — Time for filing notice of appeal~~

17
18 ~~Notice of appeal must be filed within 60 days after the making of an~~
19 ~~appealable order or, if the matter was heard by a referee who was not sitting~~
20 ~~as a temporary judge, within 60 days after the order becomes final under rule~~
21 ~~5.540(c). Notice of appeal may be filed on *Notice of Appeal—Juvenile*~~
22 ~~*(California Rules of Court, Rule 8.400)* (form JV 800).~~

23
24 ~~(g) — Procedure~~

25
26 ~~Procedures for appeals from juvenile court are in title 8, division 1, chapter~~
27 ~~5.~~

28
29 *Rule 5.590 amended and renumbered effective July 1, 2010; adopted as rule 1435 effective*
30 *January 1, 1990; previously amended effective January 1, 1992, January 1, 1993, January 1,*
31 *1994, January 1, 1995, and July 1, 1999; previously amended and renumbered as rule 5.585*
32 *effective January 1, 2007.*

33
34 Advisory Committee Comment

35
36 **Subdivision (a).** The right to appeal in Welfare and Institutions Code section 601 or 602 (juvenile
37 delinquency) cases is established by Welfare and Institutions Code section 800 and case law (see,
38 for example, *In re Michael S.* (2007) 147 Cal.App.4th 1443, *In re Jeffrey M.* (2006) 141
39 Cal.App.4th 1017, and *In re Sean R.* (1989) 214 Cal.App.3d 662). The right to appeal in Welfare
40 and Institutions Code section 300 (juvenile dependency) cases is established by Welfare and
41 Institutions Code section 395 and case law (see, for example, *In re Aaron R.* (2005) 130
42 Cal.App.4th 697, and *In re Merrick V.* (2004) 122 Cal.App.4th 235).

43
44 **Subdivision (b).** Welfare and Institutions Code section 366.26(l) establishes important
45 limitations on appeals of judgments, orders, or decrees setting a hearing under section 366.26,

1 including requirements for the filing of a petition for an extraordinary writ and limitations on the
2 issues that can be raised on appeal.

3
4 ~~Rule 5.590. Notification of appeal rights in juvenile cases~~

5
6 ~~In juvenile court proceedings in which the child is found to be a person described~~
7 ~~by section 300, 601, or 602 after a contested issue of fact or law, the juvenile~~
8 ~~court, after making its order at the conclusion of the dispositional hearing or an~~
9 ~~order changing or modifying a previous disposition at the conclusion of a hearing~~
10 ~~on a supplemental petition, will advise, either orally or in writing, the child and, if~~
11 ~~present, the child's parent, guardian, or adult relative of any right to appeal from~~
12 ~~such order, of the necessary steps and time for taking an appeal, and of the right of~~
13 ~~an indigent person to have counsel appointed by the reviewing court.~~

14
15 *Rule 5.590 repealed effective July 1, 2010; adopted as rule 251 effective July 1, 1973; previously*
16 *amended effective July 1, 1978; previously amended and renumbered effective January 1, 2007.*

17
18 ~~Rule 5.595. Review by extraordinary writ—section 300 proceedings~~ Stay
19 pending appeal

20
21 ~~If review by petition for extraordinary writ is sought regarding judgments, orders,~~
22 ~~or decrees other than those described in rules 8.450, 8.452, 8.454, 8.456, and~~
23 ~~5.600, a *Petition for Extraordinary Writ (California Rules of Court, Rules 8.452,*~~
24 ~~8.456) (form JV-825) may be used.~~

25
26 The court must not stay an order or judgment pending an appeal unless suitable
27 provision is made for the maintenance, care, and custody of the child.

28
29 *Rule 5.595 amended effective July 1, 2010; adopted as rule 1436 effective January 1, 1993;*
30 *previously amended effective January 1, 1994, January 1, 1995, and January 1, 2006; previously*
31 *amended and renumbered effective January 1, 2007.*

32
33 ~~Rule 5.600. Writ petition after orders setting hearing under section 366.26;~~
34 ~~appeal~~

35
36 ~~(a) Writ petition process~~

37
38 ~~Rules 8.450 and 8.452 describe how a party including the petitioner, child,~~
39 ~~and parent or guardian must proceed if seeking appellate court review of~~
40 ~~findings and orders of the juvenile court made at a hearing at which the court~~
41 ~~orders that a hearing under section 366.26 be held.~~

42
43 ~~(b) Notice of trial rights; section 366.26~~

44

1 When the court orders a hearing under section 366.26, the court must advise
2 orally all parties present, and by first class mail for parties not present, that if
3 the party wishes to preserve any right to review on appeal of the order setting
4 the hearing under section 366.26, the party is required to seek an
5 extraordinary writ by filing a *Notice of Intent to File Writ Petition and*
6 *Request for Record*, (*California Rules of Court, Rule 8.450*) (form JV 820)
7 or other notice of intent to file a writ petition and request for record and a
8 *Petition for Extraordinary Writ* (*California Rules of Court, Rules 8.452,*
9 *8.456*) (form JV 825) or other petition for extraordinary writ.

10
11 (1) ~~Within 24 hours of the hearing, notice by first class mail must be~~
12 ~~provided by the clerk of the court to the last known address of any~~
13 ~~party who is not present when the court orders the hearing under~~
14 ~~section 366.26.~~

15
16 (2) ~~Copies of *Petition for Extraordinary Writ* (*California Rules of Court,*~~
17 ~~*Rules 8.452, 8.456*) (form JV 825) and *Notice of Intent to File Writ*~~
18 ~~*Petition and Request for Record* (*California Rules of Court, Rule*~~
19 ~~*8.450*) (form JV 820) must be available in the courtroom and must~~
20 ~~accompany all mailed notices informing the parties of their rights.~~

21
22 (e) ~~Time for filing the notice of intent to file writ petition and request for~~
23 ~~record~~

24
25 ~~To permit determination of the writ petition before the scheduled date for the~~
26 ~~hearing under section 366.26 on the selection of the permanent plan, a notice~~
27 ~~of intent to file a writ petition and request for record must be filed with the~~
28 ~~clerk of the juvenile court within 7 days of the date of the order setting a~~
29 ~~hearing under section 366.26. The period for filing a notice of intent to file a~~
30 ~~writ petition and request for record will be extended 5 days if the party~~
31 ~~received notice of the order setting the hearing under section 366.26 only by~~
32 ~~mail. A *Notice of Intent to File Writ Petition and Request for Record*~~
33 ~~(*California Rules of Court, Rule 8.450*) (form JV 820) may be used.~~

34
35 (d) ~~Contents of the notice of intent to file writ petition~~

36
37 ~~The notice of intent to file a writ petition must include, if known, all dates of~~
38 ~~the hearing that resulted in the order setting the hearing under section 366.26.~~

39
40 (e) ~~Notice and service~~

41
42 ~~The clerk must serve a copy of the notice of intent to file a writ petition on~~
43 ~~each person listed in section 294, the child's CASA volunteer, the child's~~

1 present caregiver, and any de facto parent. The clerk must also serve, by
2 first class mail or fax, on the clerk of the reviewing court, a copy of the
3 notice of intent to file a writ petition and a proof of service list. On receipt of
4 the notice of intent to file a writ petition, the clerk of the reviewing court
5 must lodge the notice, which gives the reviewing court jurisdiction of the
6 writ proceedings.

7
8 (f) — Record

9
10 Immediately on the filing of the notice of intent to file a writ petition and
11 request for record, the clerk of the juvenile court must assemble the record:

12
13 (1) — Notifying each court reporter by telephone and in writing to prepare a
14 reporter's transcript of each session of the hearing and to deliver the
15 transcript to the clerk no more than 12 days after the notice of intent to
16 file a writ petition and request for record is filed; and

17
18 (2) — Preparing the clerk's transcript under rule 8.450(g).

19
20 The record must include all reports and minute orders contained in the
21 juvenile court file, a reporter's transcript of all sessions of the hearing at
22 which the order setting a hearing under section 366.26 was made, and any
23 additional evidence or documents considered by the court at that hearing.

24
25 Immediately on completion of the transcript, the clerk must certify the record
26 as correct, and deliver it by the most expeditious means to the reviewing
27 court, and transmit copies to the petitioner and parties or counsel of record,
28 by any method as fast as the express mail service of the United States Postal
29 Service. On receipt of the transcript and record, the clerk of the reviewing
30 court must notify all parties that the record has been filed and indicate the
31 date on which the 10-day period for filing the writ petition will expire.

32
33 (g) — Petitioner; trial counsel

34
35 Trial counsel for the petitioning party or, in the absence of trial counsel, the
36 party, is responsible for filing the petition for extraordinary writ. Trial
37 counsel is encouraged to seek assistance from, or consult with, attorneys
38 experienced in writ procedures.

39
40 (h) — Petition for extraordinary writ; form JV 825

41
42 The petition for extraordinary writ may be filed on a *Petition for*
43 *Extraordinary Writ (California Rules of Court, Rules 8.452, 8.456)* (form

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

6
7 (i) ~~Time for filing petition~~

8
9 ~~The petition for extraordinary writ must be served and filed within 10 days~~
10 ~~after filing any record in the reviewing court.~~

11
12 (j) ~~Contents of petition for writ; service~~

13
14 ~~The petition for extraordinary writ must summarize the factual basis for the~~
15 ~~petition. Petitioner need not repeat facts as they appear in any attached or~~
16 ~~submitted record, provided, however, that references to specific portions of~~
17 ~~the record, their significance to the grounds alleged, and disputed aspects of~~
18 ~~the record will assist the reviewing court and must be noted. Petitioner must~~
19 ~~attach a memorandum in support of the petition.~~

20
21 *Rule 5.600 repealed effective July 1, 2010; adopted as rule 1436.5 effective January 1, 1995;*
22 *previously amended effective July 1, 1995, January 1, 1996, July 1, 2006, and January 1, 2009;*
23 *previously amended and renumbered effective January 1, 2007.*

24
25 Rule 5.708. General review hearing requirements

26
27 (a)–(m) * * *

28
29 (n) Requirements upon setting a section 366.26 hearing (§§ 366.21, 366.22,
30 366.25)

31
32 The court must make the following orders and determinations when setting a
33 hearing under section 366.26:

34
35 (1)–(4) * * *

36
37 (5) The court must ensure that notice is provided as follows:

38
39 (A) Within 24 hours of the review hearing, the clerk of the court must
40 provide notice by first-class mail to the last known address of any
41 party who is not present at the review hearing. The notice must
42 include the advisements required by rule ~~5.585(e)~~5.590(b).
43

1 (B) * * *

2
3 (6) The court must follow all procedures in rule ~~5.585~~ 5.590 regarding writ
4 petition rights, advisements, and forms.

5
6 (*Subd (n) amended effective July 1, 2010.*)

7
8 (o) * * *

9
10 *Rule 5.708 amended effective July 1, 2010; adopted effective January 1, 2010.*

11
12 Rule 5.800. Deferred entry of judgment

13
14 (a) Eligibility (§ 790)

15
16 A child ~~14 years or older~~ who is the subject of a petition under section 602
17 alleging violation of at least one felony offense may be considered for a
18 deferred entry of judgment if all of the following apply:

19
20 (1)–(6) * * *

21
22 (*Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2006.*)

23
24 (b) Procedures for consideration (§ 790)

25
26 (1) Before filing a petition alleging a felony offense, or as soon as possible
27 after filing, the prosecuting attorney must review the child's file to
28 determine if the requirements of (a) are met. If the prosecuting
29 attorney's review reveals that the requirements of (a) have been met,
30 the prosecuting attorney must file *Determination of Eligibility—*
31 *Deferred Entry of Judgment—Juvenile* (form JV-750) with the petition.

32
33 ~~(1)(2)~~ If the court, the prosecuting attorney, and the child's attorney agree
34 determines that the child should receive is eligible and suitable for a
35 deferred entry of judgment, the hearing under this rule must proceed on
36 an expedited basis. and would derive benefit from education, treatment,
37 and rehabilitation efforts, the court may grant deferred entry of
38 judgment.

39
40 ~~(2)~~ If the court, the prosecuting attorney, and the child's attorney do not
41 agree that the child should receive a deferred entry of judgment, the
42 court may examine the record and make an independent determination.
43 If it is determined that the child should not receive a deferred entry of

1 judgment, the case must proceed under chapter 14, articles 1 through 4,
2 of this division.

3
4 *(Subd (b) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

5
6 (c) * * *

7
8 (d) Determination without a hearing; supplemental information (§ 791)

9
10 (1) * * *

11
12 (2) If the child admits each allegation contained in the petition as charged
13 and waives the right to a speedy disposition hearing, the court may
14 summarily grant the deferred entry of judgment.

15
16 (3) * * *

17
18 *(Subd (d) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

19
20 (e) * * *

21
22 (f) Conduct of hearing (§§ 791, 794)

23
24 At the hearing, the court must consider the declaration of the prosecuting
25 attorney, any report and recommendations from the probation department,
26 and any other relevant material provided by the child or other interested
27 parties.

28
29 (1)–(3) * * *

30
31 (4) If the court grants the deferred entry of judgment, the court must order
32 search-and-seizure probation conditions and may order probation
33 conditions regarding the following:

34
35 (A)–(C) * * *

36
37 (D) Curfew and school attendance requirements;

38
39 (E) Restitution; and

40
41 ~~(E)~~(F) * * *

42
43 *(Subd (f) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

1
2 (g)–(h) * * *

3
4 *Rule 5.800 amended effective July 1, 2010; adopted as rule 1495 effective January 1, 2001;*
5 *previously amended effective January 1, 2006; previously amended and renumbered effective*
6 *January 1, 2007.*

7
8 Title 8. Appellate Rules

9
10 Division 1. Rules Relating to the Supreme Court and Courts of Appeal

11
12 Chapter 5. Juvenile Appeals and Writs

13
14 Article 1. General provisions

15
16 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of*
17 *Appeal—Chapter 5, Juvenile Appeals and Writs—Article 1, General Provisions; adopted effective*
18 *July 1, 2010.*

19
20 Rule 8.400. ~~Appeals in juvenile cases generally~~ Application

21
22 (a) ~~Application~~

23
24 ~~Rules 8.400–8.474~~ The rules in this chapter govern:

25
26 (1) Appeals from judgments or appealable orders in:

27
28 (A) ~~Dependency and delinquency~~ Cases under the Welfare and
29 Institutions Code sections 300, 601, and 602; and

30
31 (B) Actions to free a child from parental custody and control under
32 Family Code section 7800 et seq.; and

33
34 (2) * * *

35
36 (b) ~~Confidentiality~~

37
38 (1) ~~Except as provided in (3), the record on appeal and documents filed by~~
39 ~~the parties may be inspected only by reviewing court and appellate~~
40 ~~project personnel, the parties or their attorneys, and other persons the~~
41 ~~court may designate.~~

42
43 (2) ~~To protect anonymity, a party must be referred to by first name and last~~
44 ~~initial in all filed documents and court orders and opinions; but if the~~

1 first name is unusual or other circumstances would defeat the objective
2 of anonymity, the party's initials may be used.

3
4 (3) — Filed documents that protect anonymity as required by (2) may be
5 inspected by any person or entity that is considering filing an amicus
6 curiae brief.

7
8 (4) — The court may limit or prohibit public admittance to oral argument.

9
10 (c) — Notice of appeal

11
12 (1) — To appeal from a judgment or appealable order under these rules, the
13 appellant must file a notice of appeal in the superior court. The
14 appellant or the appellant's attorney must sign the notice.

15
16 (2) — The notice of appeal must be liberally construed, and is sufficient if it
17 identifies the particular judgment or order being appealed. The notice
18 need not specify the court to which the appeal is taken; the appeal will
19 be treated as taken to the Court of Appeal for the district in which the
20 superior court is located.

21
22 (d) — Time to appeal

23
24 (1) — Except as provided in (2) and (3), a notice of appeal must be filed
25 within 60 days after the rendition of the judgment or the making of the
26 order being appealed. Except as provided in rule 8.66, no court may
27 extend the time to file a notice of appeal.

28
29 (2) — In matters heard by a referee not acting as a temporary judge, a notice
30 of appeal must be filed within 60 days after the referee's order becomes
31 final under rule 5.540(c).

32
33 (3) — When an application for rehearing of an order of a referee not acting as
34 a temporary judge is denied under rule 5.542, a notice of appeal from
35 the referee's order must be filed within 60 days after that order is
36 served under rule 5.538(b)(3) or 30 days after entry of the order
37 denying rehearing, whichever is later.

38
39 (e) — Cross appeal

40
41 If an appellant timely appeals from a judgment or appealable order, the time
42 for any other party to appeal from the same judgment or order is either the

1 time specified in (d) or 20 days after the superior court clerk mails
2 notification of the first appeal, whichever is later.

3
4 ~~(f) — Receipt by mail from custodial institution~~

5
6 If the superior court clerk receives a notice of appeal by mail from a
7 custodial institution after the period specified in (d) has expired but the
8 envelope shows that the notice was mailed or delivered to custodial officials
9 for mailing within the period specified in (d), the notice is deemed timely.
10 The clerk must retain in the case file the envelope in which the notice was
11 received.

12
13 ~~(g) — Premature or late notice of appeal~~

14
15 ~~(1) — A notice of appeal is premature if filed before the judgment is rendered~~
16 ~~or the order is made, but the reviewing court may treat the notice as~~
17 ~~filed immediately after the rendition of judgment or the making of the~~
18 ~~order.~~

19
20 ~~(2) — The superior court clerk must mark a late notice of appeal “Received~~
21 ~~[date] but not filed,” notify the party that the notice was not filed~~
22 ~~because it was late, and send a copy of the marked notice of appeal to~~
23 ~~the district appellate project.~~

24
25 ~~(h) — Superior court clerk’s duties~~

26
27 ~~(1) — When a notice of appeal is filed, the superior court clerk must~~
28 ~~immediately:~~

29
30 ~~(A) — Mail a notification of the filing to each party — including the~~
31 ~~minor — other than the appellant, to all attorneys of record, and to~~
32 ~~the reviewing court clerk; and~~

33
34 ~~(B) — Notify the reporter by telephone and in writing to prepare a~~
35 ~~reporter’s transcript and deliver it to the clerk within 20 days after~~
36 ~~the notice of appeal is filed.~~

37
38 ~~(2) — The clerk must immediately mail a notification of the filing to any de~~
39 ~~facto parent, any Court Appointed Special Advocate (CASA)~~
40 ~~volunteer, and any Indian tribe that has appeared in the proceedings.~~

41
42 ~~(3) — The notification must show the name of the appellant, the date it was~~
43 ~~mailed, the number and title of the case, and the date the notice of~~

1 appeal was filed. If the information is available, the notification must
2 also include:

3
4 (A) ~~The name, address, telephone number, and California State Bar
5 number of each attorney of record in the case;~~

6
7 (B) ~~The name of the party that each attorney represented in the
8 superior court; and~~

9
10 (C) ~~The name, address, and telephone number of any unrepresented
11 party.~~

12
13 (4) ~~The notification to the reviewing court clerk must also include a copy
14 of the notice of appeal and any sequential list of reporters made under
15 rule 2.950.~~

16
17 (5) ~~A copy of the notice of appeal is sufficient notification if the required
18 information is on the copy or is added by the superior court clerk.~~

19
20 (6) ~~The mailing of a notification is a sufficient performance of the clerk's
21 duty despite the discharge, disqualification, suspension, disbarment, or
22 death of the attorney.~~

23
24 (7) ~~Failure to comply with any provision of this subdivision does not affect
25 the validity of the notice of appeal.~~

26
27 *Rule 8.400 amended effective July 1, 2010; adopted as rule 37 effective January 1, 2005;*
28 *previously amended effective January 1, 2006, and January 1, 2008; previously amended and*
29 *renumbered effective January 1, 2007.*

30
31 Rule 8.401. Confidentiality

32
33 (a) Access to filed documents

34
35 (1) Except as provided in (3), the record on appeal and documents filed by
36 the parties in proceedings under this chapter may be inspected only by
37 the reviewing court and appellate project personnel, the parties or their
38 attorneys, and other persons the court may designate.

39
40 (2) To protect anonymity, a party must be referred to by first name and last
41 initial in all filed documents and court orders and opinions; but if the
42 first name is unusual or other circumstances would defeat the objective
43 of anonymity, the party's initials may be used.

1
2 (3) Filed documents that protect anonymity as required by (2) may be
3 inspected by any person or entity that is considering filing an amicus
4 curiae brief.

5
6 (b) Access to oral argument

7
8 The court may limit or prohibit public admittance to oral argument.

9
10 *Rule 8.401 adopted effective July 1, 2010.*

11
12 Article 4. 2. Appeals

13
14
15 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of*
16 *Appeal—Chapter 5, Juvenile Appeals and Writs—Article 2, Appeals; renumbered effective July 1,*
17 *2010; adopted as article 1 effective January 1, 2007.*

18
19 Rule 8.403 Right to appointment of appellate counsel and prerequisites for
20 appeal

21
22 (a) Welfare and Institutions Code section 601 or 602 proceedings

23
24 In appeals of proceedings under Welfare and Institutions Code section 601 or
25 602, the child is entitled to court-appointed counsel. If the court determines
26 that the parent or guardian can afford counsel but has not retained counsel
27 for the child, the court must appoint counsel for the child at the expense of
28 the parent or guardian.

29
30 (b) Welfare and Institutions Code section 300 proceedings

31
32 (1) Any judgment, order, or decree setting a hearing under Welfare and
33 Institutions Code section 366.26 may be reviewed on appeal following
34 the order at the Welfare and Institutions Code section 366.26 hearing
35 only if:

36
37 (A) The procedures in rules 8.450 and 8.452 regarding writ petitions
38 in these cases have been followed; and

39
40 (B) The petition for an extraordinary writ was summarily denied or
41 otherwise not decided on the merits.

42

1 need not specify the court to which the appeal is taken; the appeal will
2 be treated as taken to the Court of Appeal for the district in which the
3 superior court is located.

4
5 **(b) Superior court clerk's duties**

6
7 **(1) When a notice of appeal is filed, the superior court clerk must**
8 **immediately:**

9
10 **(A) Mail a notification of the filing to:**

11 **(i) Each party other than the appellant, including the child if the**
12 **child is 10 years of age or older;**

13 **(ii) The attorney of record for each party;**

14 **(iii) Any person currently awarded by the juvenile court the**
15 **status of the child's de facto parent;**

16 **(iv) Any Court Appointed Special Advocate (CASA) volunteer;**

17 **(v) If the court knows or has reason to know that an Indian child**
18 **is involved, the Indian custodian, if any, and tribe of the**
19 **child or the Bureau of Indian Affairs, as required under**
20 **Welfare and Institutions Code section 224.2; and**

21 **(vi) The reviewing court clerk; and**

22 **(B) Notify the reporter by telephone and in writing to prepare a**
23 **reporter's transcript and deliver it to the clerk within 20 days after**
24 **the notice of appeal is filed.**

25
26
27
28
29
30
31
32
33 **(2) The notification must show the name of the appellant, the date it was**
34 **mailed, the number and title of the case, and the date the notice of**
35 **appeal was filed. If the information is available, the notification must**
36 **also include:**

37 **(A) The name, address, telephone number, and California State Bar**
38 **number of each attorney of record in the case;**

39 **(B) The name of the party that each attorney represented in the**
40 **superior court; and**

41
42
43

1 (b) Cross-appeal

2
3 If an appellant timely appeals from a judgment or appealable order, the time
4 for any other party to appeal from the same judgment or order is either the
5 time specified in (a) or 20 days after the superior court clerk mails
6 notification of the first appeal, whichever is later.

7
8 (c) Receipt by mail from custodial institution

9
10 If the superior court clerk receives a notice of appeal by mail from a
11 custodial institution after the period specified in (a) has expired but the
12 envelope shows that the notice was mailed or delivered to custodial officials
13 for mailing within the period specified in (a), the notice is deemed timely.
14 The clerk must retain in the case file the envelope in which the notice was
15 received.

16
17 (d) No extension of time; late notice of appeal

18
19 Except as provided in rule 8.66, no court may extend the time to file a notice
20 of appeal. The superior court clerk must mark a late notice of appeal
21 “Received [date] but not filed,” notify the party that the notice was not filed
22 because it was late, and send a copy of the marked notice of appeal to the
23 district appellate project.

24
25 (e) Premature notice of appeal

26
27 A notice of appeal is premature if filed before the judgment is rendered or
28 the order is made, but the reviewing court may treat the notice as filed
29 immediately after the rendition of judgment or the making of the order.

30
31 *Rule 8.406 adopted effective July 1, 2010.*

32
33 ~~Rule 8.404.~~ 8.407. Record on appeal

34
35 (a) Normal record: clerk’s transcript

36
37 The clerk’s transcript must contain:

38
39 (1)–(9) * * *

40
41 (10) Any application for additional record and any order on the application;
42 and

43

1 (11) Any opinion or dispositive order of a reviewing court in the same case-
2 and;

3
4 (12) Any written motion or notice of motion by any party, with supporting
5 and opposing memoranda and attachments, and any written opinion of
6 the court.

7
8 *(Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.)*
9

10 (b) * * *

11
12 (c) Application in superior court for addition to normal record

13
14 (1) Any party or Indian tribe that has intervened in the proceedings may
15 apply to the superior court for inclusion of any oral proceedings in the
16 record of any of the following items:

17
18 ~~(A) In the clerk's transcript: any written motion or notice of motion~~
19 ~~by any party, with supporting and opposing memoranda and~~
20 ~~attachments, and any written opinion of the court; and~~

21
22 ~~(B) In the reporter's transcript: any oral proceedings.~~

23
24 (2)-(7) * * *

25
26 *(Subd (c) amended effective July 1, 2010; previously amended effective January 1, 2007.)*
27

28 (d)-(f) * * *

29
30 *Rule 8.407 amended and renumbered effective July 1, 2010; adopted as rule 37.1 effective*
31 *January 1, 2005; previously amended and renumbered as rule 8.404 effective January 1, 2007.*

32
33 Advisory Committee Comment

34
35 **Subdivision (b).** Subdivision (b)(1) provides that only the reporter's transcript of a hearing that
36 resulted in the order being appealed must be included in the normal record. This provision is
37 intended to achieve consistent record requirements in all juvenile appeals of cases under Welfare
38 and Institutions Code section 300, 601, or 602 and to reduce the delays and expense caused by
39 transcribing proceedings not necessary to the appeal.

40
41 Subdivision (b)(2)(A) recognizes that findings made in a jurisdictional hearing are not separately
42 appealable and can be challenged only in an appeal from the ensuing dispositional order. The rule
43 therefore specifically provides that a reporter's transcript of jurisdictional proceedings must be
44 included in the normal record on appeal from a dispositional order.

45

1 Subdivision (b)(2)(B) specifies that the oral proceedings on any motion by the appellant that was
2 denied in whole or in part must be included in the normal record on appeal from a disposition
3 order. Rulings on such motions usually have some impact on either the jurisdictional findings or
4 the subsequent disposition order. Routine inclusion of these proceedings in the record will
5 promote expeditious resolution of ~~juvenile~~ appeals of cases under Welfare and Institutions Code
6 section 300, 601, or 602.

7
8 Rule ~~8.406.~~ 8.408. Record in multiple appeals in the same case

9
10 * * *

11
12 *Rule 8.408 renumbered effective July 1, 2010; adopted as rule 8.406 effective January 1, 2007.*

13
14 Rule ~~8.408.~~ 8.409. Preparing, and sending, ~~augmenting, and correcting~~ the
15 record

16
17 (a) Application

18
19 Except as provided in ~~(b)~~ 8.416(c)(1), this rule does not apply to cases under
20 rule 8.416.

21
22 *(Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

23
24 (b)–(d) * * *

25
26 ~~(e) Augmenting and correcting the record in the reviewing court~~

27
28 ~~(1) Rule 8.340(a)–(b) governs augmentation of the record without court~~
29 ~~order.~~

30
31 ~~(2) On request of a party or on its own motion, the reviewing court may~~
32 ~~order the record augmented or corrected as provided in rule 8.155(a)~~
33 ~~and (c).~~

34
35 *Rule 8.409 amended and renumbered effective July 1, 2010; adopted as rule 37.2 effective*
36 *January 1, 2005; previously amended and renumbered as rule 8.408 effective January 1, 2007.*

37
38 Advisory Committee Comment

39
40 **Subdivision (a).** Subdivision (a) calls litigants’ attention to the fact that a different rule (rule
41 8.416) governs ~~sending, augmenting, and correcting~~ the record in appeals from judgments or
42 orders terminating parental rights and in dependency appeals in certain counties. Rule 8.408(b)
43 governs *preparing and certifying* the record in those appeals. (See rule ~~8.416(a)(2)~~ [“~~In all~~
44 ~~respects not provided for in this rule, rules 8.400–8.412 apply.~~”] 8.416(c)(1) [“The record must be
45 prepared and certified as provided in rule 8.409(b)”].)

1
2 Rule 8.410. Augmenting and correcting the record in the reviewing court

3
4 (a) Omissions

5
6 If, after the record is certified, the superior court clerk or the reporter learns
7 that the record omits a document or transcript that any rule or order requires
8 to be included, without the need for a motion or court order, the clerk must
9 promptly copy and certify the document or the reporter must promptly
10 prepare and certify the transcript and the clerk must promptly send the
11 document or transcript—as an augmentation of the record—to all those who
12 are listed under 8.409(d).

13
14 (b) Augmentation or correction by the reviewing court

15
16 (1) On motion of a party or on its own motion, the reviewing court may
17 order the record augmented or corrected as provided in rule 8.155(a)
18 and (c).

19
20 (2) If, after the record is certified, the trial court amends or recalls the
21 judgment or makes any other order in the case, the trial court clerk
22 must notify each entity and person to whom the record is sent under
23 rule 8.409(d).

24
25 *Rule 8.410 adopted effective July 1, 2010.*

26
27 Rule 8.411. Abandoning the appeal

28
29 (a) How to abandon

30
31 An appellant may abandon the appeal at any time by filing an abandonment
32 of the appeal. The abandonment must be authorized by the appellant and
33 signed by either the appellant or the appellant's attorney of record. In a
34 Welfare and Institutions Code section 300 proceeding in which the child is
35 the appellant, the abandonment must be authorized by the child or, if the
36 child is not capable of giving authorization, by the child's CAPTA guardian
37 ad litem.

38
39 (b) Where to file; effect of filing

40
41 (1) If the record has not been filed in the reviewing court, the appellant
42 must file the abandonment in the superior court. The filing effects a
43 dismissal of the appeal and restores the superior court's jurisdiction.

1
2 (2) If the record has been filed in the reviewing court, the appellant must
3 file the abandonment in that court. The reviewing court may dismiss
4 the appeal and direct immediate issuance of the remittitur.
5

6 (c) Clerk's duties
7

8 (1) If the abandonment is filed in the superior court, the clerk must
9 immediately mail a notification of the abandonment to:
10

11 (A) Every other party;

12 (B) The reviewing court; and

13 (C) The reporter if the appeal is abandoned before the reporter has
14 filed the transcript.
15

16 (2) If the abandonment is filed in the reviewing court and the reviewing
17 court orders the appeal dismissed, the clerk must immediately mail a
18 notification of the order of dismissal to every party.
19
20
21

22 *Rule 8.411 adopted effective July 1, 2010.*
23

24 Advisory Committee Comment
25

26 The Supreme Court has held that appellate counsel for an appealing minor has the power to move
27 to dismiss a dependency appeal based on counsel's assessment of the child's best interests, but
28 that the motion to dismiss requires the authorization of the child or, if the child is incapable of
29 giving authorization, the authorization of the child's CAPTA guardian ad litem (*In re Josiah Z.*
30 (2005) 36 Cal.4th 664).
31

32 **Rule 8.412. Briefs by parties and amici curiae**
33

34 **(a) Contents, form, and length**
35

36 (1) Rule 8.200 governs the briefs that may be filed by parties and amici
37 curiae.
38

39 (2) Except as provided in (3), rule 8.204 governs the form and contents of
40 briefs. Rule 8.216 also applies in appeals in which a party is both
41 appellant and respondent.
42

43 (3) Rule 8.360(a)–(b) governs the ~~contents, form, and~~ length of briefs.
44

1 (Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.)

2
3 (b) Time to file

4
5 (1) Except in ~~eases~~ appeals governed by rule 8.416(e), the appellant must
6 serve and file the appellant's opening brief within 40 days after the
7 record is filed in the reviewing court.

8
9 (2)–(5) * * *

10
11 (Subd (b) amended effective July 1, 2010; previously amended effective January 1, 2007.)

12
13 (c) Extensions of time

14
15 The superior court may not order any extensions of time to file briefs. Except
16 in ~~eases~~ appeals governed by rule 8.416(f), the reviewing court may order
17 extensions of time for good cause.

18
19 (Subd (c) amended effective July 1, 2010; previously amended effective January 1, 2007.)

20
21 (d) Failure to file a brief

22
23 (1) Except in ~~dependency appeals in Orange, Imperial, and San Diego~~
24 ~~Counties, and in appeals from the termination of parental rights~~ appeals
25 governed by rule 8.416, if a party fails to timely file an appellant's
26 opening brief or a respondent's brief, the reviewing court clerk must
27 promptly notify the party's counsel, or ~~if not represented~~, the party, if
28 not represented, by mail that the brief must be filed within 30 days after
29 the notice is mailed, and that failure to comply may result in one of the
30 following sanctions:

31
32 (A)–(B) * * *

33
34 (2)–(3) * * *

35
36 (Subd (d) amended effective July 1, 2010; adopted effective January 1, 2007.)

37
38 (e) * * *

39
40 *Rule 8.412 amended effective July 1, 2010; adopted as rule 37.3 effective January 1, 2005;*
41 *previously amended and renumbered effective January 1, 2007; previously amended effective*
42 *July 1, 2007.*

43

1 Rule 8.416. Appeals from all terminations of parental rights; dependency
2 appeals in Orange, Imperial, and San Diego Counties and in other
3 counties by local rule
4

5 (a) Application
6

7 (1) This rule governs:
8

9 (A) * * *

10
11 (B) Appeals from judgments or appealable orders ~~of the Superior~~
12 ~~Courts of Orange, Imperial, and San Diego Counties~~ in all
13 juvenile dependency cases: of:
14

15 (i) The Superior Courts of Orange, Imperial, and San Diego
16 Counties; and
17

18 (ii) Other superior courts when the superior court and the
19 District Court of Appeal with jurisdiction to hear appeals
20 from that superior court have agreed and have adopted local
21 rules providing that this rule will govern appeals from that
22 superior court.
23

24 (2) In all respects not provided for in this rule, rules ~~8.400-8.403~~-8.412
25 apply.
26

27 (*Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.*)
28

29 (b) Cover of record
30

31 (1) * * *
32

33 (2) In appeals ~~from judgments or appealable orders of the Superior Courts~~
34 ~~of Orange, Imperial, and San Diego Counties~~ under (a)(1)(B), the cover
35 of the record must prominently display the title “Appeal From
36 [Judgment or Order] Under [Welfare and Institutions Code Section 300
37 et seq. or Family Code Section 7800 et seq.],” whichever is appropriate.
38

39 (*Subd (b) amended effective July 1, 2010.*)
40

41 (c) Preparing, certifying, and sending the record
42

43 (1) The record must be prepared and certified as provided in rule 8.409(b).

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

4
5 (A) * * *

6
7 (B) One copy of each transcript to the attorneys of record for the
8 appellant, the respondent, and the ~~minor~~, child, and to the district
9 appellate project, by any method as fast as United States Postal
10 Service express mail.

11
12 ~~(2)~~(3) * * *

13
14 *(Subd (c) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

15
16 (d) Augmenting or correcting the record ~~in the reviewing court~~

17
18 (1) Except as provided in (2) and (3), rule ~~8.155~~ 8.410 governs any
19 augmentation or correction of the record.

20
21 (2) An appellant must serve and file any ~~request~~ motion for augmentation
22 or correction within 15 days after receiving the record. A respondent
23 must serve and file any such ~~request~~ motion within 15 days after the
24 appellant's opening brief is filed.

25
26 (3)–(4) * * *

27
28 *(Subd (d) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

29
30 (e) Time to file ~~appellant's opening briefs~~

31
32 (1) To permit determination of the appeal within 250 days after the notice
33 of appeal is filed, the appellant must serve and file the appellant's
34 opening brief within 30 days after the record is filed in the reviewing
35 court.

36
37 (2) Rule 8.412(b) governs the time for filing other briefs.

38
39 *(Subd (e) amended effective July 1, 2010.)*

40
41 (f) * * *

42

1 (g) Failure to file a brief

2
3 Rule 8.412(d) applies if a party fails to timely file an appellant's opening
4 brief or a respondent's brief, but the period specified in the notice required
5 by that rule must be 15 days.

6
7 *(Subd (g) amended effective July 1, 2010; adopted effective January 1, 2007.)*

8
9 (h) * * *

10
11 *Rule 8.416 amended effective July 1, 2010; adopted as rule 37.4 effective January 1, 2005;*
12 *previously amended and renumbered effective January 1, 2007.*

13
14 Article ~~2~~. 3. Writs

15
16 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of*
17 *Appeal—Chapter 5, Juvenile Appeals and Writs—Article 3, Writs; renumbered effective July 1,*
18 *2010; adopted at Article 2 effective January 1, 2007.*

19
20 Rule 8.450. Notice of intent to file writ petition to review order setting hearing
21 under Welfare and Institutions Code section 366.26

22
23 (a) Application

24
25 Rules 8.450–8.452 and ~~5.600~~ 8.490 govern writ petitions to review orders
26 setting a hearing under Welfare and Institutions Code section 366.26. ~~Rules~~
27 ~~8.485–8.493 do not apply to petitions governed by these rules.~~

28
29 *(Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2006,*
30 *July 1, 2006, January 1, 2007, and January 1, 2009.)*

31
32 (b)–(c) * * *

33
34 (d) Extensions of time

35
36 The superior court may not extend any time period prescribed by rules
37 8.450–8.452. The reviewing court may extend any time period, but must
38 require an exceptional showing of good cause.

39
40 *(Subd (d) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

41
42 (e) Notice of intent

43

1 (1) A party seeking writ review under rules 8.450–8.452 must file in the
2 superior court a notice of intent to file a writ petition and a request for
3 the record.

4
5 (2) * * *

6
7 (3) The notice must be ~~signed~~ authorized by the party intending to file the
8 petition and must be signed by that party or, ~~if filed on behalf of a~~
9 ~~child,~~ by the attorney of record for ~~the child that party~~. ~~The reviewing~~
10 ~~court may waive this requirement for good cause on the basis of a~~
11 ~~declaration by the attorney of record explaining why the party could not~~
12 ~~sign the notice.~~

13
14 (4)–(5) * * *

15
16 *(Subd (e) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

17
18 (f) Sending the notice of intent

19
20 (1) When the notice of intent is filed, the superior court clerk must
21 immediately mail a copy of the notice to:

22
23 (A) ~~Each counsel~~ The attorney of record for each party;

24
25 (B) Each party, including the child if the child is 10 years of age or
26 older;

27
28 (C) Any known sibling of the child who is the subject of the hearing if
29 that sibling either is the subject of a dependency proceeding or
30 has been adjudged to be a dependent child of the juvenile court as
31 follows:

32
33 (i) If the sibling is under 10 years of age, on the sibling’s
34 attorney;

35
36 (ii) If the sibling is 10 years of age or over, on the sibling and
37 the sibling’s attorney.

38
39 (D) The mother; ~~the father;~~ and the any presumed and alleged
40 parents; ~~the dependent child’s present caregiver;~~

41
42 (E) ~~any~~ The child’s legal guardian, if any; and
43

1 (F) ~~Any person who has been declared a~~ currently awarded by the
2 juvenile court the status of the child's de facto parent and given
3 standing to participate in the juvenile court proceedings;

4
5 ~~(C)~~(G) * * *

6
7 ~~(D)~~(H) * * *

8
9 ~~(E)~~(I) * * *

10
11 ~~(F)~~(J) If the court knows or has reason to know that an Indian child is
12 involved, the Indian custodian, if any, and tribe of the child or the
13 Bureau of Indian Affairs if the identify or location of the parent or
14 Indian custodian and the tribe cannot be determined as required
15 under Welfare and Institutions Code section 224.2.

16
17 (2) The clerk must promptly send by first-class mail or fax a copy of the
18 notice of intent and a proof of service list of those to whom the notice
19 of intent was sent to:

20
21 (A) The reviewing court,; and

22
23 (B) The petitioner if the clerk mailed the notice of intent to the Indian
24 custodian, tribe of the child, or the Bureau of Indian Affairs. by
25 first class mail or fax.

26
27 (3) If the party was notified of the order setting the hearing only by mail,
28 the clerk must include the date that the notification was mailed.

29
30 *(Subd (f) amended effective July 1, 2010; previously amended effective January 1, 2006,*
31 *July 1, 2006, and January 1, 2007.)*

32
33 (g) Preparing the record

34
35 When the notice of intent is filed, the superior court clerk must:

36
37 (1) Immediately notify ~~the~~ each court reporter by telephone and in writing
38 to prepare a reporter's transcript of the oral proceedings at each session
39 of the hearing that resulted in the order under review and deliver the
40 transcript to the clerk within 12 calendar days after the notice of intent
41 is filed; and

42
43 (2) * * *

1
2 (Subd (g) amended effective July 1, 2010; previously amended effective January 1, 2006,
3 January 1, 2007, and January 1, 2008.)
4

5 (h)–(i) * * *

6
7 Rule 8.450 amended effective July 1, 2010; adopted as rule 38 effective January 1, 2005;
8 previously amended and renumbered effective January 1, 2007; previously amended effective
9 January 1, 2006, July 1, 2006, January 1, 2008, and January 1, 2009.
10

11 Rule 8.452. Writ petition to review order setting hearing under Welfare and
12 Institutions Code section 366.26 ~~and rule 5.600~~

13
14 (a) Petition

15
16 (1) The petition must be liberally construed and must include:

17
18 (A)–(E) * * *

19
20 ~~(2) The petition must be liberally construed.~~

21
22 ~~(3)(2)~~ * * *

23
24 (Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.)
25

26 (b) * * *

27
28 (c) ~~Time to file~~ Serving and filing the petition and response

29
30 (1) The petition must be served and filed within 10 days after the record is
31 filed in the reviewing court. The petitioner must serve a copy of the
32 petition on:

33
34 (A) Each attorney of record;

35
36 (B) Any unrepresented party, including the child if the child is 10
37 years of age or older;

38
39 (C) Any known sibling of the child who is the subject of the hearing if
40 that sibling either is the subject of a dependency proceeding or
41 has been adjudged to be a dependent child of the juvenile court as
42 follows:
43

- 1 (i) If the sibling is under 10 years of age, on the sibling's
2 attorney;
3
4 (ii) If the sibling is 10 years of age or over, on the sibling and
5 the sibling's attorney.
6

7 (D) The child's Court Appointed Special Advocate (CASA)
8 volunteer;
9

10 (E) Any person currently awarded by the juvenile court the status of
11 the child's de facto parent; and
12

13 (F) If the court sent the notice of intent to file the writ petition to an
14 Indian custodian, tribe, or Bureau of Indian Affairs, then to that
15 Indian custodian, tribe of the child, or the Bureau of Indian
16 Affairs as required under Welfare and Institutions Code section
17 224.2.
18

19 (2) Any response must be served on each of the people and entities listed
20 above and filed:
21

22 (A)–(B) * * *

23
24 *(Subd (c) amended effective July 1, 2010; previously amended effective January 1, 2007.)*
25

26 ~~(d) Sending the writ~~
27

28 ~~Petitioner must send the writ to all parties entitled to receive notice under~~
29 ~~Welfare and Institutions Code section 294, the child's Court Appointed~~
30 ~~Special Advocate (CASA) volunteer, the child's present caregiver, and any~~
31 ~~de facto parent given standing to participate in the juvenile court~~
32 ~~proceedings.~~
33

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

35
36 *(Subd (d) relettered effective July 1, 2010; adopted as subd (d); previously relettered as*
37 *subd (e) effective January 1, 2006.)*
38

39 ~~(f)(e)~~ Augmenting or correcting the record in the reviewing court
40

41 (1) Except as provided in (2) and (3), rule ~~8-155~~ 8.410 governs any
42 augmentation or correction of the record.
43

1 (2) * * *

2
3 (3) A party must attach to its motion a copy, if available, of any document
4 or transcript that the party wants added to the record. The pages of the
5 attachment must be consecutively numbered, beginning with the
6 number one. If the reviewing court grants the motion, it may augment
7 the record with the copy.

8
9 (4) If the party cannot attach a copy of the matter to be added, the party
10 must identify it as required under rules 8.122 and 8.130.

11
12 ~~(3)~~(5) * * *

13
14 ~~(4)~~(6) * * *

15
16 *(Subd (e) amended and relettered effective July 1, 2010; adopted as subd (e); previously*
17 *relettered as subd (f) effective January 1, 2006; previously amended effective January 1,*
18 *2007.)*

19
20 ~~(g)~~(f) * * *

21
22 *(Subd (f) relettered effective July 1, 2010; adopted as subd (f); previously relettered as*
23 *subd (g) effective January 1, 2006.)*

24
25 ~~(h)~~(g) * * *

26
27 *(Subd (g) relettered effective July 1, 2010; adopted as subd (g); previously relettered as*
28 *subd (h) effective January 1, 2006.)*

29
30 ~~(i)~~(h) * * *

31
32 *(Subd (h) relettered effective July 1, 2010; adopted as subd (h); previously relettered as*
33 *subd (i) effective January 1, 2006; previously amended effective January 1, 2007.)*

34
35 (i) Filing, modification, finality of decision, and remittitur

36
37 Rule 8.490 governs the filing, modification, finality of decisions, and
38 remittitur in writ proceedings under this rule.

39
40 *(Subd (i) adopted effective July 1, 2010.)*

41
42 *Rule 8.452 amended effective July 1, 2010; adopted as rule 38.1 effective January 1, 2005;*
43 *previously amended effective January 1, 2006; previously amended and renumbered effective*
44 *January 1, 2007.*

45

Advisory Committee Comment

Subdivision ~~(e)~~(d). Subdivision ~~(e)~~(d) tracks the second sentence of former rule 39.1B(l). (But see *Maribel M. v. Superior Court* (1998) 61 Cal.App.4th 1469, 1471–1476.)

Subdivision ~~(i)~~(h). Subdivision ~~(i)~~(h)(1) tracks former rule 39.1B(o). (But see *Maribel M. v. Superior Court* (1998) 61 Cal.App.4th 1469, 1471–1476.)

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

(a) Application

Rules 8.454–8.456 and 8.490 govern writ petitions to review placement orders following termination of parental rights entered on or after January 1, 2005. “Posttermination placement order” as used in this rule and rule 8.456 refers to orders following termination of parental rights. ~~Rules 8.485–8.493 do not apply to petitions governed by these rules.~~

(Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007, and January 1, 2009.)

(b)–(d) * * *

(e) Notice of intent

(1) A party seeking writ review under rules 8.454–8.456 must file in the superior court a notice of intent to file a writ petition and a request for the record.

(2) * * *

(3) The notice must be signed authorized by the party intending to file the petition and signed by the party or, if filed on behalf of the child, by the attorney of record for the child that party. ~~The reviewing court may waive this requirement for good cause on the basis of a declaration by the attorney of record explaining why the party could not sign the notice.~~

(4)–(5) * * *

(Subd (e) amended effective July 1, 2010; previously amended effective January 1, 2007.)

1 (f) * * *

2
3 (g) Sending the notice of intent

4
5 (1) When the notice of intent is filed, the superior court clerk must
6 immediately mail a copy of the notice to:

7
8 (A) ~~Each counsel~~ The attorney of record for each party;

9
10 (B) ~~Each relevant party, including the child, if the child is 10 years of~~
11 ~~age or older; the child's present caregiver;~~

12
13 (C) Any known sibling of the child who is the subject of the hearing if
14 that sibling either is the subject of a dependency proceeding or
15 has been adjudged to be a dependent child of the juvenile court as
16 follows:

17
18 (i) If the sibling is under 10 years of age, on the sibling's
19 attorney;

20
21 (ii) If the sibling is 10 years of age or over, on the sibling and
22 the sibling's attorney;

23
24 (D) Any prospective adoptive parent;

25
26 (E) ~~any~~ The child's legal guardian if any;~~and~~

27
28 (F) ~~Any person who has been declared a~~ currently awarded by the
29 juvenile court the status of the child's de facto parent and given
30 standing to participate in the juvenile court proceedings;

31
32 ~~(G)~~ (G) * * *

33
34 ~~(H)~~ (H) The child's Court Appointed Special Advocate (CASA)
35 volunteer, if any; and

36
37 ~~(I)~~ (I) If the court knows or has reason to know that The tribe of an
38 Indian child and is involved, the Indian custodian, if any, and
39 tribe of the child or the Bureau of Indian Affairs as required under
40 Welfare and Institutions Code section 224.2.

41

1 (2) The clerk must promptly send by first-class mail or fax a copy of the
2 notice of intent and a ~~proof of service~~ list of those to whom the notice
3 of intent was sent to;

4
5 (A) The reviewing court; and

6
7 (B) The petitioner if the clerk mailed a copy of the notice of intent to
8 the Indian custodian, tribe of the child, or the Bureau of Indian
9 Affairs. by first-class mail or fax.

10
11 (3) If the party was notified of the post placement order only by mail, the
12 clerk must include the date that the notification was mailed.

13
14 *(Subd (g) amended effective July 1, 2010; adopted as subd (f); relettered effective January*
15 *1, 2006; previously amended effective January 1, 2007.)*

16
17 (h) Preparing the record

18
19 When the notice of intent is filed, the superior court clerk must:

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

26
27 (2) * * *

28
29 *(Subd (h) amended effective July 1, 2010; adopted as subd (g); previously amended and*
30 *relettered effective January 1, 2006; previously amended effective July 1, 2006, January 1,*
31 *2007, and January 1, 2008.)*

32
33 (i)-(j) * * *

34
35 *Rule 8.454 amended effective July 1, 2010; adopted as rule 38.2 effective January 1, 2005;*
36 *previously amended and renumbered effective January 1, 2007; previously amended effective*
37 *January 1, 2006, July 1, 2006, January 1, 2008, and January 1, 2009.*

38
39 Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28
40 to review order designating or denying specific placement of a
41 dependent child after termination of parental rights

42
43 (a) Petition

44

1 (1) The petition must be liberally construed and must include:

2
3 (A)–(D) * * *

4
5 ~~(2) The petition must be liberally construed.~~

6
7 ~~(3)(2)~~ * * *

8
9 *(Subd (a) amended effective July 1, 2010; previously amended effective January 1, 2007.)*

10
11 (b) * * *

12
13 (c) ~~Time to file~~ Serving and filing the petition and response

14
15 (1) The petition must be served and filed within 10 days after the record is
16 filed in the reviewing court. The petitioner must ~~give notice to all~~
17 ~~parties entitled to receive notice under rule 8.454.~~ serve the petition on:

18
19 (A) Each attorney of record;

20
21 (B) Any unrepresented party, including the child if the child is 10
22 years of age or older;

23
24 (C) Any known sibling of the child who is the subject of the hearing if
25 that sibling either is the subject of a dependency proceeding or
26 has been adjudged to be a dependent child of the juvenile court as
27 follows:

28
29 (i) If the sibling is under 10 years of age, on the sibling's
30 attorney;

31
32 (ii) If the sibling is 10 years of age or over, on the sibling and
33 the sibling's attorney;

34
35 (D) Any prospective adoptive parent;

36
37 (E) The child's Court Appointed Special Advocate (CASA)
38 volunteer;

39
40 (F) Any person currently awarded by the juvenile court the status of
41 the child's de facto parent; and

42

1 (G) If the court sent the notice of intent to file the writ petition to an
2 Indian custodian, tribe, or Bureau of Indian Affairs, then to that
3 Indian custodian, tribe, or the Bureau of Indian Affairs as required
4 under Welfare and Institutions Code section 224.2.
5

6 (2) Any response must be served on each of the people and entities listed in
7 (1) and filed:
8

9 (A)–(B) * * *

10
11 *(Subd (c) amended effective July 1, 2010; previously amended effective January 1, 2006,*
12 *and January 1, 2007.)*
13

14 ~~(d)~~ Sending the writ
15

16 ~~Petitioner must send the writ to all parties entitled to receive notice under~~
17 ~~Welfare and Institutions Code section 294, any Court Appointed Special~~
18 ~~Advocate (CASA) volunteer, the child’s present caregiver, the child’s~~
19 ~~prospective adoptive parties, and any de facto parent given standing to~~
20 ~~participate in the juvenile court proceedings.~~
21

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

23
24 *(Subd (d) relettered effective July 1, 2010; adopted as subd (d); previously relettered as*
25 *subd (e) effective January 1, 2006.)*
26

27 ~~(f)~~(e) Augmenting or correcting the record in the reviewing court
28

29 (1) Except as provided in (2) and (3), rule ~~8.155~~ 8.410 governs
30 augmentation or correction of the record.
31

32 (2) * * *

33
34 (3) A party must attach to its motion a copy, if available, of any document
35 or transcript that it wants added to the record. The pages of the
36 attachment must be consecutively numbered, beginning with the
37 number one. If the reviewing court grants the motion, it may augment
38 the record with the copy.
39

40 (4) If the party cannot attach a copy of the matter to be added, the party
41 must identify it as required under rules 8.122 and 8.130.
42

43 ~~(3)~~(5) * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

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

(Subd (e) amended and relettered effective July 1, 2010; adopted as subd (e); previously relettered as subd (f) effective January 1, 2006; previously amended effective January 1, 2007.)

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

(Subd (f) relettered effective July 1, 2010; adopted as subd (f); previously relettered as subd (g) effective January 1, 2006; previously amended effective February 24, 2006.)

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

(Subd (g) relettered effective July 1, 2010; adopted as subd (g); previously relettered as subd (h) effective January 1, 2006; previously amended effective January 1, 2007.)

~~(i)~~(h) Decision

(1)–(4) * * *

(5) Rule 8.490 governs the filing, modification, finality of decisions, and remittitur in writ proceedings under this rule.

(Subd (h) amended and relettered effective July 1, 2010; adopted as subd (h); previously relettered as subd (i) effective January 1, 2006.)

~~(j)~~(i) * * *

(Subd (i) relettered effective July 1, 2010; adopted as subd (i); previously relettered as subd (j) effective January 1, 2006; previously amended effective January 1, 2007.)

Rule 8.456 amended effective July 1, 2010; adopted as rule 38.3 effective January 1, 2005; previously amended effective January 1, 2006, and February 24, 2006; previously amended and renumbered effective January 1, 2007.

1
2 Rule 10.781. Court-related ADR neutrals
3

4 (a) Qualifications of mediators for general civil cases
5

6 Each superior court that makes a list of mediators available to litigants in
7 general civil cases or that recommends, selects, appoints, or compensates
8 mediators to mediate any general civil case pending in the court must
9 establish minimum qualifications for the mediators eligible to be included on
10 the court's list or to be recommended, selected, appointed, or compensated
11 by the court. A court that approves the parties' agreement to use a mediator
12 who is selected by the parties and who is not on the court's list of mediators
13 or that memorializes the parties' agreement in a court order has not thereby
14 recommended, selected, or appointed that mediator within the meaning of
15 this rule. In establishing these qualifications, courts are encouraged to
16 consider the Model Qualification Standards for Mediators in Court-
17 Connected Mediation Programs for General Civil Cases issued by the
18 Administrative Office of the Courts.

19
20 *(Subd (a) adopted effective January 1, 2011.)*
21

22 ~~(a)~~(b) Lists of neutrals
23

24 If a court makes available to litigants a list of ADR neutrals, the list must
25 contain, at a minimum, the following information concerning each neutral
26 listed:

27
28 (1) * * *

29
30 (2) The neutral's resume, including his or her general education and ADR
31 training and experience; and

32
33 (3) * * *

34
35 *(Subd (b) amended and relettered effective January 1, 2011; adopted as subd (a); amended*
36 *effective January 1, 2007.)*
37

38 ~~(b)~~(c) * * *
39

40 *(Subd (c) relettered effective January 1, 2011; adopted as subd (b); previously amended*
41 *effective January 1, 2007.)*
42

43 ~~(c)~~(d) * * *
44

1 *(Subd (d) relettered effective January 1, 2011; adopted as subd (c) effective July 1, 2009.)*
2
3 *Rule 10.781 amended effective January 1, 2011; adopted as rule 1580.1 effective January 1,*
4 *2001; previously amended and renumbered effective January 1, 2007; previously amended*
5 *effective July 1, 2009.*
6