Standards of Judicial Administration

Title 1. Standards for All Courts [Reserved]

Title 2. Standards for Proceedings in the Trial Courts

Standard 2.1. Case management and delay reduction—statement of general principles

(a) Elimination of all unnecessary delays

Trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, preparation, and court events is unacceptable and should be eliminated.

(Subd (a) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

(b) Court responsible for the pace of litigation

To enable the just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket.

(Subd (b) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

(c) Presiding judge's role

The presiding judge of each court should take an active role in advancing the goals of delay reduction and in formulating and implementing local rules and procedures to accomplish the following:

(1) The expeditious and timely resolution of cases, after full and careful consideration consistent with the ends of justice;

(2) The identification and elimination of local rules, forms, practices, and procedures that are obstacles to delay reduction, are inconsistent with statewide case management rules, or prevent the court from effectively managing its cases;

(3) The formulation and implementation of a system of tracking cases from filing to disposition; and

(4) The training of judges and nonjudicial administrative personnel in delay reduction rules and procedures adopted in the local jurisdiction.

(Subd (c) amended and lettered effective January 1, 2004; adopted as part of unlettered subdivision effective July 1, 1987.)

Standard 2.1 amended and renumbered effective January 1, 2007; adopted as sec. 2 effective July 1, 1987; previously amended effective January 1, 1994, and January 1, 2004.

Standard 2.2. Trial court case disposition time goals

(a) Trial Court Delay Reduction Act

The recommended goals for case disposition time in the trial courts in this standard are adopted under Government Code sections 68603 and 68620.

(Subd (a) amended effective January 1, 2007; adopted effective July 1, 1987; relettered effective January 1, 1989; previously amended effective January 1, 2004.)

(b) Statement of purpose

The recommended time goals are intended to guide the trial courts in applying the policies and principles of standard 2.1. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The goals apply to all cases filed and are not meant to create deadlines for individual cases. Through its case management practices, a court may achieve or exceed the goals stated in this standard for the overall disposition of cases. The goals should be applied in a fair, practical, and flexible manner. They are not to be used as the basis for sanctions against any court or judge.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1987, as (1); relettered effective January 1, 1989; previously amended effective January 1, 2004.)

(c) Definition

The definition of "general civil case" in rule 1.6 applies to this section. It includes both unlimited and limited civil cases.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)

(d) Civil cases—processing time goals

The goal of each trial court should be to process general civil cases so that all cases are disposed of within two years of filing.

(Subd (d) amended and relettered effective January 1, 2004; adopted effective July 1, 1987, as (2); previously amended effective July 1, 1988; amended and relettered as subd (c) effective January 1, 1989.)

(e) Civil cases—rate of disposition

Each trial court should dispose of at least as many civil cases as are filed each year and, if necessary to meet the case-processing goal in (d), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 1987, as (3); previously amended effective July 1, 1988; previously amended and relettered as subd (d) effective January 1, 1989, and as subd (e) effective January 1, 2004.)

(f) General civil cases—case disposition time goals

The goal of each trial court should be to manage general civil cases, except those exempt under (g), so that they meet the following case disposition time goals:

(1) *Unlimited civil cases:*

The goal of each trial court should be to manage unlimited civil cases from filing so that:

(A) 75 percent are disposed of within 12 months;

(B) 85 percent are disposed of within 18 months; and

(C) 100 percent are disposed of within 24 months.

(2) *Limited civil cases:*

The goal of each trial court should be to manage limited civil cases from filing so that:

(A) 90 percent are disposed of within 12 months;

(B) 98 percent are disposed of within 18 months; and

(C) 100 percent are disposed of within 24 months.

(3) *Individualized case management*

The goals in (1) and (2) are guidelines for the court's disposition of all unlimited and limited civil cases filed in that court. In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with rule 3.729.

(Subd (f) amended effective January 1, 2007; adopted as subd (g) effective July 1, 1987; relettered as subd (h) effective January 1, 1989; amended effective July 1, 1991; previously amended and relettered as subd (f) effective January 1, 2004.)

(g) Exceptional civil cases

A general civil case that meets the criteria in rules 3.715 and 3.400 and that involves exceptional circumstances or will require continuing review is exempt from the time goals in (d) and (f). Every exceptional case should be monitored to ensure its timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

(Subd (g) amended effective January 1, 2007; adopted effective January 1, 2004.)

(h) Small claims cases

The goals for small claims cases are:

(1) 90 percent disposed of within 75 days after filing; and

(2) 100 percent disposed of within 95 days after filing.

(Subd (h) adopted effective January 1, 2004.)

(i) Unlawful detainer cases

The goals for unlawful detainer cases are:

(1) 90 percent disposed of within 30 days after filing; and

(2) 100 percent disposed of within 45 days after filing.

(Subd (i) adopted effective January 1, 2004.)

(j) Felony cases—processing time goals

Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from the defendant's first arraignment to disposition.

(Subd (j) amended effective January 1, 2007; adopted effective January 1, 2004.)

(k) Misdemeanor cases

The goals for misdemeanor cases are:

(1) 90 percent disposed of within 30 days after the defendant's first arraignment on the complaint;

(2) 98 percent disposed of within 90 days after the defendant's first arraignment on the complaint; and

(3) 100 percent disposed of within 120 days after the defendant's first arraignment on the complaint.

(Subd (k) adopted effective January 1, 2004.)

(*l*) Felony preliminary examinations

The goal for felony cases at the time of the preliminary examination (excluding murder cases in which the prosecution seeks the death penalty) should be disposition by dismissal, by interim disposition by certified plea of guilty, or by finding of probable cause, so that:

(1) 90 percent of cases are disposed of within 30 days after the defendant's first arraignment on the complaint;

(2) 98 percent of cases are disposed of within 45 days after the defendant's first arraignment on the complaint; and

(3) 100 percent of cases are disposed of within 90 days after the defendant's first arraignment on the complaint.

(Subd (l) adopted effective January 1, 2004.)

(m) Cases removed from court's control excluded from computation of time

If a case is removed from the court's control, the period of time until the case is restored to court control should be excluded from the case disposition time goals. The matters that remove a case from the court's control for the purposes of this section include:

(1) Civil cases:

(A) The filing of a notice of conditional settlement under rule 3.1385;

(B) An automatic stay resulting from the filing of an action in a federal bankruptcy court;

(C) The removal of the case to federal court;

(D) An order of a federal court or higher state court staying the case;

(E) An order staying the case based on proceedings in a court of equal standing in another jurisdiction;

(F) The pendency of contractual arbitration under Code of Civil Procedure section 1281.4;

(G) The pendency of attorney fee arbitration under Business and Professions Code section 6201;

(H) A stay by the reporting court for active military duty or incarceration; and

(I) For 180 days, the exemption for uninsured motorist cases under rule 3.712(b).

(2) Felony or misdemeanor cases:

(A) Issuance of warrant;

(B) Imposition of a civil assessment under Penal Code section 1214.1;

(C) Pendency of completion of any diversion program under part 2 of title 6 of the Penal Code (commencing with section 1000);

(D) Evaluation of mental competence under Penal Code section 1368;

(E) Evaluation as a narcotics addict under Welfare and Institutions Code sections 3050 and 3051;

(F) 90-day diagnostic and treatment program under Penal Code section 1203.3;

(G) 90-day evaluation period for a juvenile under Welfare and Institutions Code section 707.2;

(H) Stay by a higher court or by a federal court for proceedings in another jurisdiction;

(I) Stay by the reporting court for active military duty or incarceration; and

(J) Time granted by the court to secure counsel if the defendant is not represented at the first appearance.

(Subd (m) amended effective January 1, 2025; adopted as subd (n) effective January 1, 2004; previously amended effective January 1, 2007); previously relettered and amended effective January 1, 2024.)

(n) Problems

A court that finds its ability to comply with these goals impeded by a rule of court or statute should notify the Judicial Council.

(Subd (n) relettered and amended effective January 1, 2024; adopted as subd (o) effective January 1, 2004.)

Standard 2.2 amended effective January 1, 2025; adopted as sec. 2.1 effective July 1, 1987; previously amended effective January 1, 1988, July 1, 1988, January 1, 1989, January 1, 1990, July 1, 1991, January 1, 2004, and January 1, 2024; previously amended and renumbered effective January 1, 2007.

Standard 2.10. Procedures for determining the need for an interpreter and a preappearance interview

(a) When an interpreter is needed

An interpreter is needed if, after an examination of a party or witness, the court concludes that:

(1) The party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or

(2) The witness cannot speak English so as to be understood directly by counsel, court, and jury.

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

(b) When an examination is required

The court should examine a party or witness on the record to determine whether an interpreter is needed if:

(1) A party or counsel requests such an examination; or

(2) It appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings.

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

(c) Examination of party or witness

To determine if an interpreter is needed, the court should normally include questions on the following:

(1) Identification (for example: name, address, birthdate, age, place of birth);

(2) Active vocabulary in vernacular English (for example: "How did you come to the court today?" "What kind of work do you do?" "Where did you go to school?" "What was the highest grade you completed?" "Describe what you see in the courtroom." "What have you eaten today?"). Questions should be phrased to avoid "yes" or "no" replies;

(3) The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).

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

(d) Record of examination

After the examination, the court should state its conclusion on the record. The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

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

(e) Good cause for preappearance interview

For good cause, the court should authorize a preappearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.

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

Standard 2.10 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18 effective January 1, 1999.

Standard 2.11. Interpreted proceedings—instructing participants on procedure

(a) Instructions to interpreters

The court or the court's designee should give the following instructions to interpreters, either orally or in writing:

(1) Do not discuss the pending proceedings with a party or witness.

(2) Do not disclose communications between counsel and client.

(3) Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.

(4) Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.

(5) Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.

(6) Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says. . . .")

(7) Direct all inquiries or problems to the court and not to the witness or counsel. If necessary, you may request permission to approach the bench with counsel to discuss a problem.

(8) Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.

(9) Inform the court if you become fatigued during the proceedings.

(10) When interpreting for a party at the counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.

(11) Interpret everything, including objections.

(12) If the court finds good cause under rule 2.893(e), hold a preappearance interview with the party or witness to become familiar with speech patterns

and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the preappearance interview.

(13) During the preappearance interview with a non-English-speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:

(A) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.

(B) The witness must direct all responses to the person asking the question, not to the interpreter.

(C) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.

(14) During the preappearance interview with a non-English-speaking party, give the following instructions on the procedure to be used when the non-English-speaking party is not testifying:

(A) The interpreter will interpret all statements made in open court.

(B) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

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

(b) Instructions to counsel

The court or the court's designee should give the following instructions to counsel, either orally or in writing:

(1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if. . . .")

(2) If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem.

(3) If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

Standard 2.11 amended and renumbered effective January 1, 2007; repealed and adopted as sec. 18.1 effective January 1, 1999.

Standard 2.20. Trial management standards

(a) General principles

The trial judge has the responsibility to manage the trial proceedings. The judge should take appropriate action to ensure that all parties are prepared to proceed, the trial commences as scheduled, all parties have a fair opportunity to present evidence, and the trial proceeds to conclusion without unnecessary interruption. When the trial involves a jury, the trial judge should manage proceedings with particular emphasis on the needs of the jury.

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

(b) Techniques of trial management

The trial judge should employ the following trial management techniques:

(1) Participate with trial counsel in a trial management conference before trial.

(2) After consultation with counsel, set reasonable time limits.

(3) Arrange the court's docket to start trial as scheduled and inform parties of the number of hours set each day for the trial.

(4) Ensure that once trial has begun, momentum is maintained.

(5) Be receptive to using technology in managing the trial and the presentation of evidence.

(6) Attempt to maintain continuity in days of trial and hours of trial.

(7) Schedule arguments on legal issues at the beginning or end of the day so as not to interrupt the presentation of evidence.

(8) Permit sidebar conferences only when necessary, and keep them as short as possible.

(9) In longer trials, consider scheduling trial days to permit jurors time for personal business.

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

Standard 2.20 amended and renumbered effective January 1, 2007; adopted as sec 8.9 effective July 1, 1997.

Standard 2.25. Uninterrupted jury selection

When practical, the trial judge, with the cooperation of the other judges of the court, should schedule court business to allow for jury selection uninterrupted by other court business.

Standard 2.25 amended and renumbered effective January 1, 2007; adopted as sec. 8.6 effective July 1, 1990.

Standard 2.30. Judicial comment on verdict or mistrial

At the conclusion of a trial, or on declaring a mistrial for failure of a jury to reach a verdict, it is appropriate for the trial judge to thank jurors for their public service, but the judge's comments should not include praise or criticism of the verdict or the failure to reach a verdict.

Standard 2.30 amended and renumbered effective January 1, 2007; adopted as sec. 14 effective January 1, 1976.

Title 3. Standards for Civil Cases

Standard 3.1. Appearance by telephone

(a) Recommended criteria for telephone equipment

Each court should have adequate telephone equipment for use in hearings at which counsel may appear by telephone. This equipment should:

(1) Permit each person participating in the hearing, whether in person or by telephone, to hear all other persons;

(2) Handle at least three incoming calls at one time and place those calls into a conference call in a simple and quick manner;

(3) Have a silent (visible) ringer;

(4) Be simple to learn and use;

(5) Be reasonable in cost; and

(6) Have full-duplex, simultaneous bidirectional speaker capability.

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

(b) Optional features for telephone equipment

It is desirable if the telephone equipment can:

(1) Dial previously stored telephone numbers;

(2) Record conversations;

(3) Be moved easily from location to location; and

(4) Automatically queue incoming calls.

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

(c) Types of matters desired to be heard by telephone

Each court should specify, by local court rule or uniform local written policy, the types of motions and hearings it considers particularly suitable for hearing by telephone appearance. The rule or policy should encourage appearance by telephone in nonevidentiary civil matters if appearance of counsel in person would not materially assist in a determination of the proceeding or in settlement of the case.

(Subd (c) amended effective July 1,1992.)

(d) Award of attorney's fees

A court should consider, in awarding attorney's fees under any applicable provision of law, whether an attorney is claiming fees for appearing in person in a proceeding in which that attorney could have appeared by telephone.

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

(e) Local procedures for telephone appearance

Each court should adopt a local rule or uniform local written policy specifying the following:

(1) Whether the court or the attorney initiates the telephone call for a telephone appearance;

(2) Whether the court sets a specified time for a telephone appearance or a time range; and

(3) How the parties are notified, in advance of the hearing, of the time or time range of the telephone appearance. In those courts using a tentative ruling recording system, that notice should be part of the tentative ruling recording.

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

Standard 3.1 amended effective January 1, 2007; repealed and adopted as sec. 21 effective January 1, 1989; previously amended effective July 1, 1992.

Standard 3.10. Complex civil litigation

(a) Judicial management

In complex litigation, judicial management should begin early and be applied continuously and actively, based on knowledge of the circumstances of each case.

(b) All-purpose assignment

Complex litigation should be assigned to one judge for all purposes. If such an assignment is not possible, a single judge should be assigned to hear law and motion matters and discovery matters.

(Subd (b) amended effective January 1, 2007; adopted as subd (d) effective July 1, 1982; previously relettered effective January 1, 2000.)

(c) Selection of judges for complex litigation assignments

In selecting judges for complex litigation assignments, the presiding judge should consider the needs of the court and the judge's ability, interest, training, experience (including experience with complex civil cases), and willingness to participate in educational programs related to the management of complex cases. Commissioners should not be employed in any phase of complex litigation, except under the judge's direct supervision to assist in the management of the case.

(Subd (c) amended and relettered effective January 1, 2000; adopted as subd (e) effective July 1, 1982.)

(d) Establishing time limits

Time limits should be regularly used to expedite major phases of complex litigation. Time limits should be established early, tailored to the circumstances of each case, firmly and fairly maintained, and accompanied by other methods of sound judicial management.

(Subd (d) relettered effective January 1, 2000; adopted as subd (f) effective July 1, 1982.)

(e) Preparation for trial

Litigants in complex litigation cases should be required to minimize evidentiary disputes and to organize efficiently their exhibits and other evidence before trial.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (i) effective July 1, 1982; previously relettered as subd (g) effective January 1, 2000.)

(f) Dilatory tactics

Judges involved in complex litigation should be sensitive to dilatory or abusive litigation tactics and should be prepared to invoke disciplinary procedures for violations.

(Subd (f) relettered effective January 1, 2007; adopted as subd (j) effective July 1, 1982; previously relettered as subd (h) effective January 1, 2000.)

(g) Educational programs

Judges should be encouraged to attend educational programs on the management of complex litigation.

(Subd (g) relettered effective January 1, 2007; adopted as subd (k) effective July 1, 1982; previously amended and relettered as subd (i) effective January 1, 2000.)

(h) Staff assignment

Judges assigned to handle complex cases should be given research attorney and administrative staff assistance when possible.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (j) effective January 1, 2000.)

Standard 3.10 amended and renumbered effective January 1, 2007; adopted as sec. 19 effective July 1, 1982; previously amended effective January 1,1995, and January 1, 2000.

Standard 3.25. Examination of prospective jurors in civil cases

(a) In general

(1) *Methods and scope of examination*

The examination of prospective jurors in a civil case may be oral, by written questionnaire, or by both methods, and should include all questions necessary to ensure the selection of a fair and impartial jury. The *Juror Questionnaire for Civil Cases* (form MC-001) may be used. During any supplemental examination conducted by counsel for the parties, the trial judge should

permit liberal and probing examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case.

(2) *Examination by counsel*

When counsel requests to be allowed to conduct a supplemental voir dire examination, the trial judge should permit counsel to conduct such examination without requiring prior submission of the questions to the judge unless a particular counsel has demonstrated unwillingness to avoid the type of examination proscribed in (f). In exercising his or her sound discretion as to the form and subject matter of voir dire questions, the trial judge should consider, among other criteria: (1) any unique or complex elements, legal or factual, in the case, and (2) the individual responses or conduct of jurors that may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case. Questions regarding personal relationships of jurors should be relevant to the subject matter of the case.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1974, July 1, 1993, and January 1, 2004.)

(b) Pre–voir dire conference

Before the examination the trial judge should, outside the prospective jurors' hearing and with a court reporter present, confer with counsel, at which time specific questions or areas of inquiry may be proposed that the judge in his or her discretion may inquire of the jurors. Thereafter, the judge should advise counsel of the questions or areas to be inquired into during the examination and voir dire procedure. The judge should also obtain from counsel the names of the witnesses whom counsel then plan to call at trial and a brief outline of the nature of the case, including any alleged injuries or damages and, in an eminent domain action, the respective contentions of the parties concerning the value of the property taken and any alleged severance damages and special benefits.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(c) Examination of jurors

Except as otherwise provided in (d), the trial judge's examination of prospective jurors should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1) *To the entire jury panel after it has been sworn and seated:*

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All members of this jury panel, however, should pay close attention to my

questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, the member will be asked to give his or her answers to these questions.

(2) In the trial of this case the parties are entitled to have a fair, unbiased, and unprejudiced jury. If there is any reason why any of you might be biased or prejudiced in any way, you must disclose such reason when you are asked to do so. It is your duty to make this disclosure.

(3) *In lengthy trials:*

This trial will likely take _____ days to complete, but it may take longer. Will any of you find it difficult or impossible to participate for this period of time?

(4) The nature of this case is as follows: *(Describe briefly, including any alleged injuries or damages and, in an eminent domain action, the name of the condemning agency, a description of the property being acquired, and the particular public project or purpose of the condemnation.)*

(5) The parties to this case and their respective attorneys are: *(Specify.)* Have you heard of or been acquainted with any of these parties or their attorneys?

(6) During the trial of this case, the following witnesses may be called to testify on behalf of the parties. These witnesses are: *(Do not identify the party on whose behalf the witnesses might be called.)* Have any of you heard of or been otherwise acquainted with any of the witnesses just named? The parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(7) Have any of you heard of, or have you any knowledge of, the facts or events in this case? Are any of you familiar with the places or property mentioned in this case?

(8) Do any of you believe that a case of this nature should not be brought into court for determination by a jury?

(9) Do any of you have any belief or feeling toward any of the parties, attorneys, or witnesses that might be regarded as a bias or prejudice for or against any of them? Do you have any interest, financial or otherwise, in the outcome of this case?

(10) Have any of you served as a juror or witness involving any of these parties, attorneys, or witnesses?

(11) Have any of you served as a juror in any other case? (If so, was it a civil or criminal case?) You must understand that there is a basic difference between a civil case and a criminal case. In a criminal case a defendant must be found guilty beyond a reasonable doubt; in a civil case such as this, you need only find that the evidence you accept as the basis of your decision is more convincing, and thus has the greater probability of truth, than the contrary evidence.

In the following questions I will be using the terms "family," "close friend," and "anyone with whom you have a significant personal relationship." The term "anyone with whom you have a significant personal relationship" means a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important.

(12) *If a corporation or "company" is a party:*

(A) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or any dealings with, the _____ corporation (or company)?

(B) Are any of you or them related to any officer, director, or employee of this corporation (or company) to your knowledge?

(C) Do you or they own any stock or other interest in this corporation (or company) to your knowledge?

(D) Have you or they ever done business as a corporation (or company)?

(E) The fact that a corporation (or company) is a party in this case must not affect your deliberations or your verdict. You may not discriminate between corporations (or companies) and natural individuals. Both are persons in the eyes of the law and both are entitled to have a fair and impartial trial based on the same legal standards. Do any of you have any belief or feeling for or against corporations (or companies) that might prevent you from being a completely fair and impartial juror in this case?

(13) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sued anyone, or presented a claim against anyone in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(14) Has anyone ever sued you, or presented a claim against you or, to your knowledge, against any member of your family, a close friend, or anyone with whom you have a significant personal relationship, in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(15) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind?

(16) *When appropriate:*

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different than your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or to their contentions?

(17) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, medicine, nursing, or any other branch of the healing arts.)*

(18) *In personal injury or wrongful death cases:*

(A) You may be called on in this case to award damages for personal injury, pain, and suffering. Do any of you have any religious or other belief that pain and suffering are not real or any belief that would prevent you from awarding damages for pain and suffering if liability for them is established?

(B) Are there any of you who would not employ a medical doctor?

(C) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever engaged in investigating or otherwise acting on claims for damages?

(D) Have you or they, to your knowledge, ever been in an accident with the result that a claim for personal injuries or for substantial property damage was made by someone involved in that accident, whether or not a lawsuit was filed?

(E) Have you or they, to your knowledge, ever been involved in an accident in which someone died or received serious personal injuries, whether or not a lawsuit was filed?

(F) Are there any of you who do not drive an automobile? (If so, have you ever driven an automobile, and if you have, give your reason for not presently driving.) Does your spouse or anyone with whom you have a significant personal relationship drive an automobile? (If that person does not drive but did so in the past, why did that person stop driving?)

(G) Plaintiff (or cross-complainant) _____ is claiming injuries. *(Describe briefly the general nature of the alleged injuries.)* Do you or, to your knowledge, does any member of your family, a close friend, or anyone with whom you have a significant personal relationship suffer from similar injuries? Have you or they, to your knowledge, suffered from similar injuries in the past? (If so, would that fact affect your point of view in this case to the extent that you might not be able to render a completely fair and impartial verdict?)

(19) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(20) Each of you should now state your:

(A) Name;

(B) Children's ages and the number of children, if any;

(C) Occupation;

(D) Occupational history; and

(E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F) Names;

(G) Occupations;

(H) Occupational histories; and

(I) Present employers.

Please begin with juror number one.

(21) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 1972; previously amended effective January 1, 1974, and January 1, 2004.)

(d) Examination of jurors in eminent domain cases

In eminent domain cases, the trial judge's examination of prospective jurors should include, in the areas of inquiry in (c)(1) through (c)(12), the following matters, and any other matters affecting their qualifications to serve as jurors in the case:

(1) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever had any connection with, or dealings with, the plaintiff agency? Are you or any of them related to any officer or employee of the plaintiff agency?

(2) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in an eminent domain proceeding such as this or are you or they likely to become involved in such a proceeding in the future?

(3) To your knowledge, do you have relatives, close friends, or anyone with whom you have a significant personal relationship who has been or will be affected by the proposed project or a similar public project? (If so, who and how affected?)

(4) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever sold property to a public agency having the power of eminent domain?

(5) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship presently involved in a lawsuit of any kind? (If so, does the lawsuit involve a public agency?)

(6) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been involved in a lawsuit involving a public agency?

(7) *When appropriate:*

It may appear that one or more of the parties, witnesses, or attorneys come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony or contentions?

(8) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship had any special training in: *(Describe briefly the fields of expertise involved in the case, such as law, real estate, real estate appraising, engineering, surveying, geology, etc.)*

(9) Have you, has your spouse, or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any phase of the real estate business including:

(A) Acting as a real estate agent, broker, or salesperson;

(B) Acting as a real estate appraiser;

(C) Dealing in trust deeds;

(D) Buying or selling real property as a business;

(E) Owning or managing income property; or

(F) Engaging in the construction business?

(10) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever studied or engaged in: (State type of business, if any, conducted on subject property.)

(11) Have you or, to your knowledge, has any member of your family, a close friend, or anyone with whom you have a significant personal relationship ever been engaged in any work involving the acquisition of private property for public purposes? Or involving the zoning or planning of property?

(12) Under the law of this state, all private property is held subject to the necessary right of eminent domain, which is the right of the state or its authorized agencies to take private property for public use whenever the public interest so requires. The right of eminent domain is exercised through

proceedings commonly called a condemnation action. This is a condemnation action.

(13) The Constitution of this state requires that a property owner be paid just compensation for the taking (or damaging) of his or her property for public use. It will be the duty of the jury ultimately selected in this case to determine the just compensation to be paid.

(14) *If no claim of severance damages:*

In order to find the amount of just compensation in this case, the jury will be called on to determine the fair market value of the real property being acquired.

(15) *If severance damages are claimed:*

In order to find the amount of just compensation in this case, the jury will be called on to determine the following:

(A) The fair market value of the real property being acquired.

(B) Severance damages, if any, to the defendant's remaining real property; that is, the depreciation in market value by reason of the severance of the part taken, or by the construction of the improvements in the manner proposed by the plaintiff, or both.

(C) *When applicable:* Special benefits, if any, to the defendant's remaining real property. *(The trial judge on request may advise the jury on the concept of special benefits.)*

(16) Just compensation is measured in terms of fair market value as of *(date)*, the date of value in this case.

(17) I will give you more specific instructions on the issues and determinations to be made in this case at the conclusion of all the evidence. However, I will now advise you of the definition of fair market value: *(See CACI 3501.)*

(18) *Private ownership of property:*

(A) Do you have any objection to the concept of private ownership of property?

(B) Do you have any objection to the right of the owner of private property to develop or use that property in whatever lawful way its owner sees fit?

(19) Do you have any objection to the plaintiff acquiring private property for a public use as long as just compensation is paid for the property?

(20) Do you have any objection to the defendant(s) seeking just compensation in these proceedings in the form of the fair market value of the subject property (and the damages that the defendant(s) contend will be caused to the remaining property)?

(21) Do you have any objection to the particular public project involved in this proceeding, previously referred to as the *(name of project)*?

(22) Are you or, to your knowledge, is any member of your family, a close friend, or anyone with whom you have a significant personal relationship a member of any organization that is opposed to such public projects?

(23) Do you have any objection to the concept that just compensation is measured by fair market value as I have defined that term for you earlier?

(24) Do you have any feeling that, because the plaintiff needs the property for public purposes, it should pay anything other than its fair market value?

(25) In these cases, the evidence of value is introduced for the most part by what the courts sometimes refer to as expert testimony. This expert testimony frequently is introduced through appraisers or real estate brokers. Do you have any prejudice against real estate brokers or appraisers, or that type of testimony?

(26) In a condemnation case the property owner produces all of his or her evidence of value first, then the government calls its witnesses. Having this in mind, will you keep your mind open throughout all the case and not determine the matter in your mind until all of the evidence is in?

(27) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(28) Each of you should now state your:

(A) Name;

(B) Children's ages and number of children, if any;

(C) Occupation;

(D) Occupational history; and

(E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F) Names;

(G) Occupations;

(H) Occupational histories; and

(I) Present employers.

Please begin with juror number one.

(29) Each of you should now state whether you, your spouse, or anyone with whom you have a significant personal relationship owns or has an interest in any real property and, if so, whether its value or use is affected by the public project involved in this case.

We will again start with juror number one.

(30) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1974; previously amended effective January 1, 1989, and January 1, 2004.)

(e) Subsequent conference and examination

On completion of the initial examination and on request of counsel for any party that the trial judge put additional questions to the jurors, the judge should, outside the jurors' hearing and with a court reporter present, confer with counsel, at which time additional questions or areas of inquiry may be proposed that the judge may inquire of the jurors.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1974.)

(f) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. Nor should the trial judge allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to insure the selection of a fair and impartial jury.

(Subd (f) amended effective January 1, 2007; previously amended effective January 1, 1974.)

Standard 3.25 amended and renumbered effective January 1, 2007; adopted as Sec. 8 effective January 1, 1972; previously amended effective January 1, 1974, January 1, 1989, July 1, 1993, and January 1, 2004.

Title 4. Standards for Criminal Cases

Standard 4.10. Guidelines for diversion drug court programs

(a) Minimum components

The components specified in this standard should be included as minimum requirements in any pre–plea diversion drug court program developed under Penal Code section 1000.5.

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

(b) Early entry

Eligible participants should be identified early and enter into a supervision and treatment program promptly.

(1) A declaration of eligibility should be filed by the district attorney no later than the date of the defendant's first appearance in court.

(2) Participants designated as eligible by the district attorney should be ordered by the assigned drug court judge to report for assessment and treatment supervision within five days of the first court appearance.

(c) Treatment services

Participants should be given access to a continuum of treatment and rehabilitative services.

(1) The county drug program administrator should specify and certify appropriate drug treatment programs under Penal Code section 1211.

(2) The certified treatment programs should provide a minimum of two levels of treatment services to match participants to programs according to their needs for treatment, recognizing that some divertees may be at the stage of experimenting with illicit drugs while others may be further along in the addiction's progression.

(3) Each treatment level should be divided into phases in order to provide periodic reviews of treatment progress. Each phase may vary in length. It should be recognized that a participant is expected to progress in treatment but may relapse. Most participants, however, should be able to successfully complete the treatment program within 12 months.

(4) Each pre–plea diversion drug court program should have an assessment component to ensure that participants are initially screened and then periodically assessed by treatment personnel to ensure that appropriate treatment services are provided and to monitor the participants' progress through the phases.

(5) Treatment services should include educational and group outpatient treatment. Individual counseling, however, should be made available in special circumstances if an assessment based on acceptable professional standards indicates that individual counseling is the only appropriate form of treatment. Referrals should be made for educational and vocational counseling if it is determined to be appropriate by the judge.

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

(d) Monitoring

Abstinence from and use of drugs should be monitored by frequent drug testing.

(1) Alcohol and other drug (AOD) testing is essential and should be mandatory in each pre–plea diversion drug court program to monitor participant compliance.

(2) Testing may be administered randomly or at scheduled intervals, but should occur no less frequently than one time per week during the first 90 days of treatment.

(3) The probation officer and court should be immediately notified when a participant has tested positive, has failed to submit to AOD testing, or has submitted an adulterated sample. In such cases, an interim hearing should be calendared and required as outlined in (e)(4).

(4) Participants should not be considered to have successfully completed the treatment program unless they have consistently had negative test results for a period of four months.

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

(e) Judicial supervision

There should be early and frequent judicial supervision of each diversion drug court participant.

(1) Each participant should appear in court before a specifically assigned diversion drug court judge within 30 days after the first court appearance. At this time the participant should provide proof of registration, proof of completion of assessment, proof of entry into a specific treatment program, and initial drug test results.

(2) The second drug court appearance should be held no later than 30 days after the first drug court appearance. The third drug court appearance should be held no later than 60 days after the second drug court appearance.

(3) A final drug court appearance should be required no sooner than 12 months from entry into treatment unless continued treatment is found to be appropriate and necessary.

(4) Interim drug court appearances should be required within one week of the following: positive drug test results, failure to test, adulterated test, or failure to appear or participate in treatment.

(5) At each drug court appearance, the judge should receive a report of the participant's progress in treatment and drug test results and should review, monitor, and impose rewards and sanctions based on the participant's progress or lack of progress.

(f) Sanctions and incentives

The drug court responds directly to each participant's compliance or noncompliance with graduated sanctions or incentives.

(1) A clear regimen of incentives and sanctions should be established and implemented at each court hearing.

(2) The suggested range of incentives should be as follows:

(A) Encouragement;

(B) Advancement to next treatment phase;

(C) Reduction in diversion program fees (other than state-mandated fees);

(D) Completion of treatment and required court appearances and shortening of the term of diversion; and

(E) Other incentives the court may deem necessary or appropriate.

(3) The suggested range of sanctions should be as follows:

(A) Demotion to earlier treatment phase;

(B) Increased frequency of testing, supervision, or treatment requirements;

(C) Graduated length of incarceration for violating diversion order to abstain from use of illegal drugs and for nonparticipation in treatment; and

(D) Reinstatement of criminal proceedings.

(4) A participant should be terminated from the pre–plea diversion drug court, and criminal proceedings reinstated, if the drug court judge, after a hearing, makes a final and specific finding and determination at any time during the period of diversion that the participant has:

(A) Not performed satisfactorily in treatment;

(B) Failed to benefit from education, treatment, or rehabilitation;

(C) Been convicted of a misdemeanor that reflects the participant's propensity for violence; or

(D) Engaged in criminal conduct rendering him or her unsuitable for continued treatment.

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

(g) National standards

In addition to meeting the minimum guidelines provided in this standard, courts are encouraged to look to the nationally accepted guidelines, *Defining Drug Courts: The Key Components,* developed by the National Association of Drug Court Professionals in cooperation with the Department of Justice, for further and detailed guidance in developing an effective diversion drug court program.

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

Standard 4.10 amended and renumbered effective January 1, 2007; adopted as sec. 36 effective January 1, 1998.

Standard 4.15. Vacatur relief under Penal Code section 236.14

(a) Request to consolidate hearings for arrests and convictions that occurred in the same county

(1) The court should allow the filing of a single petition requesting vacatur relief under Penal Code section 236.14(a) for multiple arrests and convictions that occurred in the same county.

(2) The court should favor consolidating hearings for multiple arrests and convictions that occurred in the same county.

(3) The court may require the following documentation before granting a request to consolidate hearings:

(A) An agreement between the petitioner and all of the involved state or local prosecutorial agencies, as defined in Penal Code section 236.14(c), to consolidate the hearings;

(B) Documentation that states whether any of the involved state or local prosecutorial agencies, as defined in Penal Code section 236.14(c), intend to file an opposition to the petition; and

(C) Proof of service of the request to consolidate hearings on all of the involved state or local prosecutorial agencies, as defined in Penal Code section 236.14(c).

(4) The court should consider the following nonexclusive list of factors when deciding whether to consolidate hearings:

(A) The common questions of fact or law, if any;

(B) The convenience of parties, witnesses, and counsel;

(C) The efficient utilization of judicial facilities and staff resources;

(D) The calendar of the court; and

(E) The disadvantages of duplicative and inconsistent orders.

(b) Confidentiality

(1) The court should designate the petition and related filings and court records as confidential.

(2) At the hearing or any other proceeding accessible to the public, the court should consider implementing procedures consistent with Penal Code section 236.14(q), such as ordering the identity of the petitioner to be either "Jane Doe" or "John Doe."

(c) Initial court review and orders

(1) After 45 days from the filing of the petition, the court should conduct an initial review of the case. Concurrent with granting or denying a request to consolidate hearings, the court should:

(A) Grant relief without a hearing when the prosecuting agency files no opposition within 45 days from the date of service and the court finds that the petitioner meets the requirements for relief;

(B) Set a hearing date if an opposition is filed or a hearing is otherwise warranted; or

(C) Deny the petition without prejudice if the petitioner fails to provide the information required by Penal Code section 236.14(b).

(d) Notification

(1) The court should timely notify the petitioner and prosecuting agency of its decisions under subdivision (c)(1).

(2) The court should timely notify the relevant probation department of any decision to terminate probation.

(e) Additional relief

When granting the petition for vacatur relief under Penal Code section 236.14(a), the court should consider ordering the following additional relief, including, but not limited to:

(1) Sealing or destruction of probation or other postconviction supervision agency records related to the conviction;

(2) Expungement of DNA profiles and destruction of DNA samples, if they qualify under Penal Code section 299;

(3) Recall or return of court fines and fees, if paid;

(4) Sealing of the court file, if warranted under the factors in rule 2.550(d); and

(5) Additional relief that will carry out the purposes of Penal Code section 236.14.

Standard 4.15 adopted effective January 1, 2020.

Standard 4.30. Examination of prospective jurors in criminal cases

(a) In general

(1) This standard applies in all criminal cases.

(2) The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.

(3) The court may consider conducting sequestered voir dire on issues that are sensitive to prospective jurors, on questions concerning media reports of the case, and on any other issue that the court deems advisable.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, and January 1, 2006.)

(b) Examination of jurors

The trial judge's examination of prospective jurors in criminal cases should include the areas of inquiry listed below and any other matters affecting their qualifications to serve as jurors in the case. The trial judge may want to use the *Juror Questionnaire for Criminal Cases* (form JURY-002) to assist in the examination of prospective jurors. Form JURY-002 is an optional form and is not intended to constitute the complete examination of prospective jurors. Form JURY-002 is a tool for trial judges to use to make the initial examination of prospective jurors more efficient. If the court chooses to use form JURY-002, its use and any supplemental questions submitted by counsel must be discussed at the pre–voir dire conference required by rule 4.200. Excusing jurors based on questionnaire answers alone is generally not advisable.

(1) *Address to entire jury panel:*

Do any of you have any vision, hearing, or medical difficulties that may affect your jury service? *(Response.)*

(2) *In particular, for lengthy trials. Address to entire jury panel:*

This trial will likely take _____ days to complete, but it may take longer. *(State the days and times during the day when the trial will be in session.)*

Will any of you find it difficult or impossible to participate for this period of time? *(After the entire panel has been screened for time hardships, direct the excused jurors to return to the jury assembly room for possible reassignment to other courtrooms for voir dire.)*

(3) *At this point the court may wish to submit any juror questionnaire that has been developed to assist in voir dire. The court should remind panel members that their answers on the questionnaire are given under penalty of perjury. In addition, if a questionnaire is used, the court and counsel may wish to question individual prospective jurors further based on their responses to particular questions, and a procedure for doing so should be established at the pre–voir dire conference. Therefore, it may not be necessary to ask all of the prospective jurors questions 5 through 25 that follow, although the text may assist the court with following up with individual jurors about answers given on the questionnaire.*

To the entire jury panel:

I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All the remaining members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

(4) *To the prospective jurors seated in the jury box:*

In the trial of this case each side is entitled to have a fair, unbiased, and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

(5) *To the prospective jurors seated in the jury box:*

Do any of you know anyone else on this jury panel? *(Response.)*

(6) Ladies and gentlemen of the jury: This is a criminal case entitled The People of the State of California v. _____. The (defendant is)(defendants are) seated _____.

(A) (Mr.)(Ms.)(defendant), please stand and face the prospective jurors in the jury box and in the audience seats. *(Defendant complies.)* Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his)(her) name before today? If your answer is yes, please raise your hand.

(B) The defendant, _____, is represented by (his)(her) attorney, _____, who is seated _____. (Mr.)(Ms.)(defense attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?

(C) *(If there is more than one defendant, repeat (a) and (b) for each codefendant.)*

(7) The People are represented by _____, Deputy District Attorney, who is seated _____. (Mr.)(Ms.)(district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ before today?

(8) The defendant is charged by an (information)(indictment) filed by the district attorney with having committed the crime of _____, in violation of section _____ of the _____ Code, it being alleged that on or about _____ in the County of _____, the defendant did *(describe the offense)*. To (this charge)(these charges) the defendant has pleaded not guilty, and the jury will have to decide whether the defendant's guilt has been proved beyond a reasonable doubt. Having heard the charge(s) that (has)(have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him)(her)?

(9) Have any of you heard of, or have you any prior knowledge of, the facts or events in this case?

(10) Do any of you have any ethical, religious, political, or other beliefs that would prevent you from serving as a juror in this case?

(11) During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties or their names may be mentioned in evidence: _____ *(Do not identify the side on whose behalf the witness might be called.)* Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the

parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(12) Do any of you have any financial or personal interest in the outcome of this case?

(13) How many of you have served previously as jurors in a criminal case?

To each person whose hand is raised:

(A) (Mr.)(Ms.) _____(or Juror ID number), you indicated you have been a juror in a criminal case. What were the charges in that case? *(Response.)*

(B) Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be presented and the law as I will state it to you? *(Response.)*

(14) May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? *(Response.)* You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof that is placed on the People. In a civil case we say that the plaintiff must prove (his) (her) case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before (he)(she) may be found guilty, the People must prove (his)(her) guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions that you received in your previous cases and try this case on the instructions given by me in this case?

(15) The fact that the defendant is in court for trial, or that charges have been made against (him)(her), is no evidence whatever of (his)(her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. If the evidence does not convince you of the truth of the charges beyond a reasonable doubt, the defendant is entitled to a verdict of not guilty.

In the following questions I will be using the terms "relative," "close friend," and "anyone with whom you have a significant personal relationship." The term "anyone with whom you have a significant personal relationship" means a domestic partner, life partner, former spouse, or anyone with whom you

have an influential or intimate relationship that you would characterize as important.

(16) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever been the victim of any crime? *(Response.)*

(17) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, ever had any contact with law enforcement, including being: (a) stopped by the police? (b) accused of misconduct, whether or not it was a crime? (c) investigated as a suspect in a criminal case? (d) charged with a crime? or (e) a criminal defendant? *(Response.)*

(18) Have you or, to your knowledge, has any relative, close friend, or anyone with whom you have a significant personal relationship, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff's office, highway patrol, district attorney's office, city attorney's office, attorney general's office, United States attorney's office, FBI, and others. *(If so, elicit the details of the experience or connection.)*

(19) Would you be able to listen to the testimony of a police or other peace officer and measure it the same way you would that of any other witness?

(20) *When appropriate:*

It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial, or religious group (or may have a lifestyle different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(21) It is important that I have your assurance that you will follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You must accept and follow my instructions even if you disagree with the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(22) Each of you should now state your:

(A) (Name) (or juror ID number);

(B) Children's ages and the number of children, if any;

(C) Occupation;

(D) Occupational history; and

(E) Present employer;

And for your spouse or anyone with whom you have a significant personal relationship, their:

(F) Occupations;

(G) Occupational histories; and

(H) Present employers;

And for your adult children, their:

(I) Occupations;

(J) Occupational histories; and

(K) Present employers.

Please begin with juror number one.

(23) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time.

(24) *After the court conducts the initial examination, Code of Civil Procedure section 223 allows counsel to ask supplemental questions for the purposes of uncovering possible bias or prejudice relevant to challenges for cause. The court may, in the exercise of its discretion, limit the oral and direct questioning of prospective jurors by counsel. The court may specify the maximum amount of time that counsel for each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.*

(25) *After the conclusion of counsel questioning, the court asks each side to exercise any challenges for cause.*

(26) *After ruling on challenges for cause, if any, the court calls on each side, alternately, to exercise any preemptory challenges.*

(27) *If a new prospective juror is seated, the court should ask him or her:*

(A) Have you heard my questions to the other prospective jurors?

(B) Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?

(C) Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?

(D) Give us the personal information requested concerning your occupation, that of your spouse or anyone with whom you have a significant personal relationship, that of your adult children, and your prior jury experience.

(Thereupon, as to each new juror seated, the court must permit counsel to ask supplemental questions, and proceed with challenges as above.)

(Subd (b) amended effective January 1, 2023; adopted as subd (c) effective July 1, 1974; amended and relettered effective June 6, 1990; previously amended effective January 1, 1997, January 1, 2004, January 1, 2006, and January 1, 2007.)

(c) Improper questions

When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys.

(Subd (c) amended effective January 1, 2006; adopted as subd (e) effective July 1, 1974; previously amended and relettered as subd (d) effective June 6, 1990; relettered as subd (c) effective January 1, 1997.)

Standard 4.30 amended effective January 1, 2023; adopted as sec. 8.5 July 1, 1974; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990, January 1, 1997, January 1, 2004, and January 1, 2006; previously amended and renumbered as standard 4.30 effective January 1, 2007

Standard 4.35. Court use of risk/needs assessments at sentencing

(a) Application and purpose

(1) This standard applies only to the use of the results of risk/needs assessments at sentencing.

(2) The use of the results of risk/needs assessments at sentencing is intended to:

(A) Prevent biases in sentencing;

(B) Reduce the risk of recidivism by focusing services and resources on medium- and high-risk offenders, who are most likely to reoffend;

(C) Reduce a defendant's risk of future recidivism by targeting that defendant's needs with appropriate intervention services through community supervision programs demonstrated to reduce recidivism; and

(D) Advance the legislative directive to improve public safety outcomes by routing offenders into community-based supervision informed by evidence-based practices.

(b) Definitions

(1) "Risk" refers to the likelihood that a person will reoffend without regard, unless otherwise specified, to the nature of the original offense or the nature of the reoffense.

(2) "Risk factors" refers to the "static" and "dynamic" factors that contribute to the risk score.

(3) "Static risk factors" refers to those risk factors that cannot be changed through treatment or intervention, such as age or prior criminal history.

(4) "Dynamic risk factors," also known as "needs," are factors that can be changed through treatment or intervention.

(5) "Results of a risk/needs assessment" refers to both a risk score and an assessment of a person's needs.

(6) A "risk score" refers to a descriptive evaluation of a person's risk level as a result of conducting an actuarial assessment with a validated risk/needs assessment instrument and may include such terms as "high," "medium," or "low" risk.

(7) "Amenability" or "suitability" refers to the likelihood that the person can be safely and effectively supervised in the community and benefit from supervision services that are informed by evidence-based practices that have been demonstrated to reduce recidivism.

(8) A "validated risk/needs assessment instrument" refers to a risk/needs assessment instrument demonstrated by scientific research to be accurate and

reliable in assessing the risks and needs of the specific population on which it was validated.

(9) "Supervision" includes all forms of supervision referenced in Penal Code section 1203.2(a).

(c) Validation

The risk/needs assessment instrument should be validated.

(d) Proper uses of the results of a risk/needs assessment at sentencing

(1) The results of a risk/needs assessment should be considered only in context with all other information considered by the court at the time of sentencing, including the probation report, statements in mitigation and aggravation, evidence presented at a sentencing proceeding conducted under section 1204, and comments by counsel and any victim.

(2) The results of a risk/needs assessment should be one of many factors that may be considered and weighed at a sentencing hearing. Information generated by the risk/needs assessment should be used along with all other information presented in connection with the sentencing hearing to inform and facilitate the decision of the court. Risk/needs assessment information should not be used as a substitute for the sound independent judgment of the court.

(3) Although they may not be determinative, the results of a risk/needs assessment may be considered by the court as a relevant factor in assessing:

(A) Whether a defendant who is presumptively ineligible for probation has overcome the statutory limitation on probation;

(B) Whether an offender can be supervised safely and effectively in the community; and

(C) The appropriate terms and conditions of supervision and responses to violations of supervision.

(4) If a court uses the results of a risk/needs assessment, it should consider any limitations of the instrument that have been raised in the probation report or by counsel, including:

(A) That the instrument's risk scores are based on group data, such that the instrument is able to identify only groups of high-risk offenders, for example, not a particular high-risk individual;

(B) Whether the instrument's proprietary nature has been invoked to prevent the disclosure of information relating to how it weighs static and dynamic risk factors and how it determines risk scores;

(C) Whether any scientific research has raised questions that the instrument unfairly classifies offenders by gender, race, or ethnicity; and

(D) Whether the instrument has been validated on a relevant population.

(e) Improper uses of the results of a risk/needs assessment at sentencing

(1) The results of a risk/needs assessment should not be used to determine:

(A) Whether to incarcerate a defendant; or

(B) The severity of the sentence.

(2) The results of a risk/needs assessment should not be considered by the court for defendants statutorily ineligible for supervision.

(f) Amenability to or suitability for supervision

(1) A court should not interpret a "high" or "medium" risk score as necessarily indicating that a defendant is not amenable to or suitable for community-based supervision. Community-based supervision may be most effective for defendants with "high" and "medium" risk scores. A "low" risk score often, but not necessarily, indicates that a defendant is amenable to or suitable for community-based supervision. Risk scores must be interpreted in the context of all relevant sentencing information received by the court.

(2) Ordinarily a defendant's level of supervision should correspond to his or her level of risk of recidivism. In most cases, a court should order that a low-risk defendant receive less supervision and a high-risk defendant more.

(3) A court should order services that address the defendant's needs.

(g) Education regarding the nature, purpose, and limits of risk/needs assessment information is critical to the proper use of such information. Education should include all justice system partners.

Standard 4.35 adopted effective January 1, 2018.

Advisory Committee Comment

Subdivision (d)(1)–(2). Although the results of risk/needs assessments provide important information for use by the court at sentencing, they are not designed as a substitute for the exercise of judicial discretion and judgment. The information should not be used as the sole basis

of the court's decision, but should be considered in the context of all of the information received in a sentencing proceeding. If justified by the circumstances of the case, it is appropriate for the court to impose a disposition not supported by the results of a risk/needs assessment. (See *State v. Loomis* (2016) 371 Wis.2d 235, 266 ["Just as corrections staff should disregard risk scores that are inconsistent with other factors, we expect that . . . courts will exercise discretion when assessing a . . . risk score with respect to each individual defendant"].)

Subdivision (d)(4). Court and justice partners should understand any limitations of the particular instrument used to generate the results of a risk/needs assessment. (See *State v. Loomis, supra,* 371 Wis.2d at p. 264 [requiring presentence investigation reports to state the limitations of the instrument used, including the proprietary nature of that instrument, any absence of a cross-validation study for relevant populations, and any questions raised in studies about whether the instrument disproportionately classifies minority offenders as having a higher risk of recidivism].) The Wisconsin court also required that all presentence investigation reports caution that risk/needs assessment tools must be constantly monitored and renormed for accuracy because of changing populations and subpopulations. (*Ibid.*) California courts should similarly consider any such limitations in the accuracy of the particular instrument employed in the case under review. (See *ibid.* ["Providing information to sentencing courts on the limitations and cautions attendant with the use of . . . risk assessments will enable courts to better assess the accuracy of the assessment and the appropriate weight to be given to the risk score"].)

Subdivision (d)(4)(D). Validating a risk/needs assessment instrument will increase its accuracy and reliability. Validation on a relevant population or subpopulation is recommended to account for differences in local policies, implementation practices, and offender populations. Ongoing monitoring and renorming of the instrument may be necessary to reflect changes in a population or subpopulation. Revalidation of the instrument is also necessary if any of its dynamic or static risk factors are modified.

Subdivision (e). When the court is considering whether to place a person on supervision at an original sentencing proceeding or after a violation of supervision, the results of a risk/needs assessment may assist the court in assessing the person's amenability to supervision and services in the community. But when the person is ineligible for supervision, or the court has otherwise decided not to grant or reinstate probation, the results of a risk/needs assessment should not be used in determining the period of incarceration to be imposed. (See *State v. Loomis, supra,* 371 Wis.2d at p. 256 [holding that risk/needs assessments should not be used to determine the severity of a sentence or whether a defendant is incarcerated]; *Malenchik v. State* (Ind. 2010) 928 N.E.2d 564, 573 ["It is clear that [risk/needs assessment instruments are neither intended] nor recommended to substitute for the judicial function of determining the length of sentence appropriate for each offender"].)

Subdivision (f). Risk/needs assessment instruments generally produce a numerical or descriptive "risk score" such as "high," "moderate," or "low" risk. It is critical that courts and justice partners understand the meaning and limitations of such designations. First, because risk assessments are based on group data, they are able to identify groups of high-risk offenders, not a particular high-risk individual. Second, in some assessment instruments, "risk" refers only to a generalized risk of committing a new offense, not to the seriousness of the subsequent offense (e.g., violent, sex, drug, or theft). Nor does "high risk" necessarily mean "highly dangerous." A high-risk drug offender, for example, may present a high risk that he or she will use drugs again, but does not necessarily present a high risk to commit a violent felony. Third, scientific research indicates that medium- and high-risk offenders may most benefit from evidence-based supervision and programs that address critical risk factors. Courts and probation departments should also consider

how presentence investigation reports present risk assessment information. A report that merely refers to the defendant as "high risk" may incorrectly imply that the defendant presents a great danger to public safety and must therefore be incarcerated. Conversely, "low risk" does not necessarily mean "no risk."

Subdivision (g). An instrument's accuracy and reliability depend on its proper administration. Training and continuing education should be required for anyone who administers the instrument. Judges with sentencing assignments should receive appropriate training on the purpose, use, and limits of risk/needs assessments. (See Guiding Principle 4, Stakeholder Training, in Pamela M. Casey et al., *Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Working Group* (National Center for State Courts, 2011) pp. 21–22.)

Standard 4.40. Traffic infraction procedures

To insure the prompt and efficient disposition of traffic infraction cases, each court should:

(1) Authorize the clerk, within limits set by the court, to grant defendants extensions of time for the posting of bail and payment of fines.

(2) Authorize the clerk or other court official to accept offers of proof of correction or compliance in accordance with the bail schedule without the necessity of a court appearance.

Standard 4.40 amended and renumbered effective January 1, 2007; adopted as sec. 10.5 effective July 1, 1977.

Standard 4.41. Courtesy notice—traffic procedures [Repealed]

Standard 4.41 repealed effective January 1, 2017; adopted as sec. 10.6 effective January 1, 1987; previously amended and renumbered effective January 1, 2007.

Standard 4.42. Traffic infraction trial scheduling

(a) Review of procedures

Courts should adopt and periodically review procedures governing the scheduling of traffic infraction trials that minimize appearance time and costs for defendants, witnesses, and law enforcement officers.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

(b) Meetings

Courts should hold periodic meetings with representatives from local law enforcement agencies, the prosecution and defense bars, and other interested groups as appropriate in an effort to achieve this goal.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 1, 1987.)

Standard 4.42 amended and renumbered effective January 1, 2007; adopted as sec. 10.7 effective January 1, 1987.

Title 5. Standards for Cases Involving Children and Families

Standard 5.20. Uniform standards of practice for providers of supervised visitation

(a) Scope of service

This standard defines the standards of practice, including duties and obligations, for providers of supervised visitation under Family Code sections 3200 and 3200.5. Unless specified otherwise, the standards of practice are designed to apply to all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The goal of these standards of practice is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided. Each court is encouraged to adopt local court rules necessary to implement these standards of practice.

(Subd (a) amended effective January 1, 2015; previously amended effective January 1, 2007.)

(b) Definition

Family Code section 3200 defines the term "provider" as including any individual or supervised visitation center that monitors visitation. Supervised visitation is contact between a noncustodial party and one or more children in the presence of a neutral third person.

(Subd (b) amended effective January 1, 2015; previously amended effective January 1, 2007.)

(c) Type of provider

Who provides the supervision and the manner in which supervision is provided depends on different factors, including local resources, the financial situation of the parties, and the degree of risk in each case. While the court makes the final decision as to the manner in which supervision is provided and any terms or conditions, the court may consider recommendations by the attorney for the child, the parties and their attorneys, Family Court Services staff, evaluators, and therapists. As specified in Family Code section 3200.5, in any case in which the court has determined that there is domestic violence or child abuse or neglect, as defined in section 11165.6 of the Penal Code, and the court determines supervision is necessary, the court must consider whether to use a professional or nonprofessional provider based on the child's best interest.

(Subd (c) amended effective January 1, 2015; previously amended effective January 1, 2007.)

(d) Qualifications of nonprofessional providers

(1) A "nonprofessional provider" is any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider must:

(A) Have no record of a conviction for child molestation, child abuse, or other crimes against a person;

(B) Have proof of automobile insurance if transporting the child;

(C) Have no current or past court order in which the provider is the person being supervised; and

(D) Agree to adhere to and enforce the court order regarding supervised visitation.

(2) Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider should:

(A) Be 21 years of age or older;

(B) Have no record of conviction for driving under the influence (DUI) within the last 5 years;

(C) Not have been on probation or parole for the last 10 years;

(D) Have no civil, criminal, or juvenile restraining orders within the last 10 years; and

(E) Not be financially dependent on the person being supervised.

(Subd (d) relettered and amended effective January 1, 2015; adopted as part of subd (c).)

(e) Qualifications of professional providers

A "professional provider" is any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider must:

(1) Be 21 years of age or older;

(2) Have no record of conviction for driving under the influence (DUI) within the last 5 years;

(3) Not have been on probation or parole for the last 10 years;

(4) Have no record of a conviction for child molestation, child abuse, or other crimes against a person;

(5) Have proof of automobile insurance if transporting the child;

(6) Have no civil, criminal, or juvenile restraining orders within the last 10 years;

(7) Have no current or past court order in which the provider is the person being supervised;

(8) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over the age of 18 who is able to do so;

(9) Agree to adhere to and enforce the court order regarding supervised visitation;

(10) Meet the training requirements stated in (f); and

(11) Sign a declaration or *Declaration of Supervised Visitation Provider* (form FL-324) stating that all requirements to be a professional provider have been met.

(Subd (e) relettered and amended effective January 1, 2015; adopted as part of subd (c).)

(f) Training for providers

(1) Each court is encouraged to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation, and the legal responsibilities and obligations of a provider under this standard.

(2) In addition, professional providers must receive 24 hours of training that includes the following subjects:

(A) The role of a professional provider;

(B) Child abuse reporting laws;

(C) Record-keeping procedures;

(D) Screening, monitoring, and termination of visitation;

(E) Developmental needs of children;

(F) Legal responsibilities and obligations of a provider;

(G) Cultural sensitivity;

(H) Conflicts of interest;

(I) Confidentiality;

(J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence; and

(K) Basic knowledge of family and juvenile law.

(Subd (f) amended and relettered effective January 1, 2015; adopted as subd (d) effective January 1, 2007.)

(g) Safety and security procedures

All providers must make every reasonable effort to assure the safety and welfare of the child and adults during the visitation. Professional providers should establish a written protocol, with the assistance of the local law enforcement agency, that describes the emergency assistance and responses that can be expected from the local law enforcement agency. In addition, the professional provider should:

(1) Establish and state in writing minimum security procedures and inform the parties of these procedures before the commencement of supervised visitation;

(2) Conduct comprehensive intake and screening to understand the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before the first visit. During the interview, the provider should obtain identifying information and explain the reasons for temporary suspension or termination of a visit under this

standard. If the child is of sufficient age and capacity, the provider should include the child in part of the intake or orientation process. Any discussion should be presented to the child in a manner appropriate to the child's developmental stage;

(3) Obtain during the intake process:

(A) Copies of any protective order;

(B) Current court orders;

(C) Any Judicial Council form relating to supervised visitation orders;

(D) A report of any written records of allegations of domestic violence or abuse; and

(E) An account of the child's health needs if the child has a chronic health condition; and

(4) Establish written procedures that must be followed in the event a child is abducted during supervised visitation.

(Subd (g) amended and relettered effective January 1, 2015; adopted as subd (d) effective January 1, 1998; previously amended and relettered as subd (e) effective January 1, 2007.)

(h) Ratio of children to provider

The ratio of children to a professional provider must be contingent on:

(1) The degree of risk factors present in each case;

(2) The nature of supervision required in each case;

(3) The number and ages of the children to be supervised during a visit;

(4) The number of people, as provided in the court order, visiting the child during the visit;

(5) The duration and location of the visit; and

(6) The experience of the provider.

(Subd (h) amended and relettered effective January 1, 2015; adopted as subd (e) effective January 1, 1998; previously amended and relettered as subd (f) effective January 1, 2007.)

(i) Conflict of interest

All providers should maintain neutrality by refusing to discuss the merits of the case or agree with or support one party over another. Any discussion between a provider and the parties should be for the purposes of arranging visitation and providing for the safety of the children. In order to avoid a conflict of interest, the professional provider should not:

(1) Be financially dependent on the person being supervised;

(2) Be an employee of the person being supervised;

(3) Be an employee of or affiliated with any superior court in the county in which the supervision is ordered unless specified in the employment contract; or

(4) Be in an intimate relationship with the person being supervised.

(Subd (i) amended and relettered effective January 1, 2015; adopted as subd (f) effective January 1, 1998; previously amended and relettered as subd (g) effective January 1, 2007.)

(j) Maintenance and disclosure of records for professional providers

(1) Professional providers must keep a record for each case, including the following:

(A) A written record of each contact and visit;

(B) Who attended the visit;

(C) Any failure to comply with the terms and conditions of the visitation; and

(D) Any incidence of abuse as required by law.

(2) Case recordings should be limited to facts, observations, and direct statements made by the parties, not personal conclusions, suggestions, or opinions of the provider. All contacts by the provider in person, in writing, or by telephone with either party, the children, the court, attorneys, mental health professionals, and referring agencies should be documented in the case file. All entries should be dated and signed by the person recording the entry.

(3) If ordered by the court or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised visit must be produced. These reports should include facts, observations, and direct statements and not opinions or recommendations regarding future visitation. The original report must be sent to the court if so ordered, or to the requesting

party or attorney, and copies should be sent to all parties, their attorneys, and the attorney for the child.

(4) Any identifying information about the parties and the child, including addresses, telephone numbers, places of employment, and schools, is confidential, should not be disclosed, and should be deleted from documents before releasing them to any court, attorney, attorney for the child, party, mediator, evaluator, mental health professional, social worker, or referring agency, except as required in reporting suspected child abuse.

(Subd (j) amended and relettered effective January 1, 2015; adopted as subd (g) effective January 1, 1998; previously amended and relettered as subd (h) effective January 1, 2007.)

(k) Confidentiality

Communications between parties and providers of supervised visitation are not protected by any privilege of confidentiality. Professional providers should, whenever possible, maintain confidentiality regarding the case except when:

(1) Ordered by the court;

(2) Subpoenaed to produce records or testify in court;

(3) Requested to provide information about the case by a mediator or evaluator in conjunction with a court-ordered mediation, investigation, or evaluation;

(4) Required to provide information about the case by Child Protective Services; or

(5) Requested to provide information about the case by law enforcement.

(Subd (k) amended and relettered effective January 1, 2015; adopted as subd (h) effective January 1, 1998; previously amended and relettered as subd (i) effective January 1, 2007.)

(*l*) Delineation of terms and conditions

The provider bears the sole responsibility for enforcement of all the terms and conditions of any supervised visitation. Unless otherwise ordered by the court, the provider should implement the following terms and conditions:

(1) Monitor conditions to assure the safety and welfare of the child;

(2) Enforce the frequency and duration of the visits as ordered by the court;

(3) Avoid any attempt to take sides with either party;

(4) Ensure that all contact between the child and the noncustodial party is within the provider's hearing and sight at all times, and that discussions are audible to the provider;

(5) Speak in a language spoken by the child and the noncustodial party;

(6) Allow no derogatory comments about the other parent, his or her family, caretaker, child, or child's siblings;

(7) Allow no discussion of the court case or possible future outcomes;

(8) Allow neither the provider nor the child to be used to gather information about the other party or caretaker or to transmit documents, information, or personal possessions;

(9) Allow no spanking, hitting, or threatening the child;

(10) Allow no visits to occur while the visiting party appears to be under the influence of alcohol or illegal drugs;

(11) Allow no emotional, verbal, physical, or sexual abuse;

(12) Allow no contact between the custodial and noncustodial parents unless ordered by the court; and

(13) Ensure that the parties follow any additional rules stated by the provider or the court.

(Subd (l) amended and relettered effective January 1, 2015; adopted as subd (i) effective January 1, 1998; previously amended and relettered as subd (j) effective January 1, 2007.)

(m) Safety considerations for sexual abuse cases

In cases where there are allegations of sexual abuse, in addition to the requirements of (*l*), the provider should comply with the following terms and conditions, unless otherwise ordered by the court:

(1) Allow no exchanges of gifts, money, or cards;

(2) Allow no photographing, audiotaping, or videotaping of the child;

(3) Allow no physical contact with the child such as lap sitting, hair combing, stroking, hand holding, hugging, wrestling, tickling, horseplaying, changing diapers, or accompanying the child to the bathroom;

(4) Allow no whispering, passing notes, hand signals, or body signals; and

(5) Allow no supervised visitation in the location where the alleged sexual abuse occurred.

(Subd (m) amended and relettered effective January 1, 2015; adopted as subd (j) effective January 1, 1998; previously amended and relettered as subd (k) effective January 1, 2007.)

(n) Legal responsibilities and obligations of a provider

All nonprofessional providers of supervised visitation should, and all professional providers must:

(1) Advise the parties before commencement of supervised visitation that no confidential privilege exists;

(2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make such reports; and

(3) Suspend or terminate visitation under (p).

(Subd (n) amended and relettered effective January 1, 2015; adopted as subd (k) effective January 1, 1998; previously amended and relettered as subd (l) effective January 1, 2007.)

(o) Additional legal responsibilities of professional providers

In addition to the legal responsibilities and obligations required in (n), professional providers must:

(1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation; and

(2) Review custody and visitation orders relevant to the supervised visitation.

(Subd (o) amended and relettered effective January 1, 2015; adopted as subd (l) effective January 1, 1998; previously amended and relettered as subd (m) effective January 1, 2007.)

(p) Temporary suspension or termination of supervised visitation

(1) All providers must make every reasonable effort to provide a safe visit for the child and the noncustodial party.

(2) However, if a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated.

(3) All interruptions or terminations of visits must be recorded in the case file.

(4) All providers must advise both parties of the reasons for interruption of a visit or termination.

(Subd (p) amended and relettered effective January 1, 2015; adopted as subd (m) effective January 1, 1998; previously amended and relettered as subd (n) effective January 1, 2007.)

(q) Additional requirements for professional providers

Professional providers must state the reasons for temporary suspension or termination of supervised visitation in writing and provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

(Subd (q) amended and relettered effective January 1, 2015; adopted as subd (n) effective January 1, 1998; previously amended and relettered as subd (o) effective January 1, 2007.)

Standard 5.20 amended effective January 1, 2015; adopted as sec. 26.2 effective January 1, 1998; previously amended and renumbered effective January 1, 2007.

Standard 5.30. Family court matters

(a) Judicial assignments to family court

In a court with a separate family court, the presiding judge of the superior court should assign judges to the family court to serve for a minimum of three years. In selecting judges for family court assignments, the presiding judge should consider, in addition to rule 10.603(c)(1)(A) of the California Rules of Court, the judge's prior experience in family law litigation and mediation, as well as whether the judge prefers to serve in a family law department.

(b) Case assignment to same department

To the extent possible, family law actions related to the same family should be assigned to the same judicial officer for all purposes, so that all decisions that are made in a case through final judgment are issued by the same judicial officer.

(c) Importance of family court

The supervising judge in the family court, in consultation with the presiding judge of the superior court, should:

(1) Motivate and educate other judges regarding the significance of family court; and

(2) Work to ensure that sufficient judicial officers, court staff, family law facilitators, child custody mediators and evaluators, interpreters, financial resources, and adequate facilities are assigned to the family court to allow adequate time to hear and decide the matters before it.

(d) Compensation for court-appointed attorneys

The supervising judge of the family court should ensure that court-appointed attorneys in the family court are compensated at a level equivalent to attorneys appointed by the court in comparable types of cases.

(e) Training and education

Family court law is a specialized area of the law that requires dedication and study. The supervising judge of the family court has a responsibility to maintain high-quality services in family court. The quality of services provided by judicial officers and court staff depends, in significant part, on appropriate training and education, from the beginning of the family court assignment and on a continuing basis thereafter.

(1) Family court judicial officers, family law facilitators, child custody mediators and evaluators, interpreters, other court staff, and court-appointed attorneys should have sufficient training to perform their jobs competently.

(2) The supervising judge of the family court should promote access to printed, electronic, Internet, and other family law resources.

(f) Unique role of a family court

Under the direction of the presiding judge of the superior court, the family court, to the extent that it does not interfere with the adjudication process or violate any ethical constraints, is encouraged to:

(1) Provide active leadership within the community in determining the needs of, and obtaining and developing resources and services for children and families who participate in the family law court system;

(2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for families who come before the family courts;

(3) Take an active role in helping the court develop rules and procedures that will result in the ordering of appropriate treatment and services for children and families;

(4) Exercise a leadership role in the development and maintenance of services for self-represented and financially disadvantaged litigants;

(5) Take an active part in the formation of a community-wide network to promote and coordinate private- and public-sector efforts to focus attention and resources on the needs of family law litigants;

(6) Educate the community and its institutions, including the media, concerning the role of the family court in meeting the complex needs of families;

(7) Encourage the development of community services and resources to assist families and children in the family court system, including self-help information; supervised visitation; substance abuse and drug prevention, intervention, and treatment; services for families with domestic violence issues; counseling; parenting education; vocational training; mediation; alternative dispute resolution options; and other resources to support families;

(8) Manage cases more efficiently and effectively to avoid conflicting orders;

(9) Take an active role in promoting completion of cases in a timely manner;

(10) Appoint counsel for children in appropriate family law custody cases; and

(11) Ensure that the best interest of children is served throughout the family court process.

(g) Appointment of attorneys and other persons

A court should follow the guidelines of standard 10.21 of the California Standards of Judicial Administration when appointing attorneys, arbitrators, mediators, referees, masters, receivers, and other persons.

Standard 5.30 adopted effective January 1, 2007.

Advisory Committee Comment

Standard 5.30. Family court matters include proceedings under the Family Code for dissolution of marriage, nullity of marriage, legal separation, custody and support of minor children; or actions under the Domestic Violence Prevention Act, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, Domestic Partner Registration Act, and the Uniform Interstate Family Support Act; local child support agency actions under the Family Code; and contempt proceedings relating to family law or local child support agency actions.

Subdivision (a). This subdivision implements the legislative mandate of Family Code section 2330.3(b) requiring the Judicial Council to adopt a standard of judicial administration prescribing a minimum length of a judge's family law assignment. Standard 5.30 sets a standard in family court that is similar to the juvenile court standards stated in standard 5.40, Juvenile Court Matters.

Family law is complex and constantly evolving. The laws concerning child custody, support, domestic violence, and property division are always changing. Not only does the family law judge have to understand family law and procedure but also issues that involve bankruptcy, estate planning, insurance, state and federal tax law, business, immigration, and criminal law, which can frequently arise in the context of a family law case. Because of the complexity and long-range impact of the judicial determinations, the presiding judge should strive to place experienced judges in family law assignments.

Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in family court, the family court judge should be willing to commit to a minimum tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the complexity of the family court process, but it also provides continuity to a system that demands it.

Subdivision (b) This subdivision implements the legislative mandate of Family Code section 2330.3(a), which requires that dissolution actions, to the greatest extent possible, be assigned to the same superior court department for all purposes, so that all decisions in a case are made by the same judicial officer. This subdivision expands the Legislature's requirement by including other related family court matters, such as those filed under the Uniform Parentage Act, Domestic Violence Prevention Act, in recognition that the same families may enter the family court through a variety of actions.

The committee recognizes that having the same judicial officer hear all actions involving the same family may not be practical in all cases for reasons that include funding limitations, assignment rotations, illness, vacations, and retirements. In some courts, one judge does not hear all aspects of a family's legal problems because of multiple courthouse locations or specifically designated funding of certain issues (e.g., Title IV-D child support issues). However, the committee agrees with the legislative intent in enacting section 2330.3(a), which was to expedite and simplify the dissolution process, reduce the litigation expenses and costs, and encourage greater judicial supervision of cases involving dissolution of marriage. Family law actions often involve a succession of hearings to resolve the various issues that arise. A single judge's involvement over this period of time allows the judge to be more familiar with the particular actions and issues, which creates judicial efficiencies that expedite their handling. One judge hearing all actions involving a family also helps avoid conflicting orders, alleviates the need to hold multiple hearings on the same issue, improves the court process, promotes consistency, and enhances fairness in family proceedings.

Subdivision (c). The family court is an integral part of the justice system. Decisions made by family law judges can have significant and lasting impacts on the lives of the parties and their children. The work of the family court has a significant impact on the health of families and ultimately on the strength of the community. The parties deserve to have adequate time to present their cases, and the judges should have the resources they need to enable them to make informed decisions. It is only through the constant exertion of pressure to maintain resources and the continuous education of court-related personnel and administrators that the historic trend to give less priority and provide fewer resources to the family court can be changed.

Subdivision (d). Fees paid to court-appointed attorneys who represent children in family court are sometimes less than the fees paid attorneys doing other comparable legal work thereby demeaning the work of the family court and leading many to believe that such work is less

important. It may also discourage attorneys from accepting these appointments. Compensation for legal work in the family court should reflect the importance of the work.

Subdivision (e)(2). A significant barrier to having well-trained attorneys and educated self-represented litigants is a lack of current educational materials relating to family court practice. Law libraries, law offices, and court systems traditionally have not devoted adequate resources to purchase such educational materials. With advances in technology, resources can be accessed, shared, developed, or made available through electronic/computer-based, online, and multimedia means, audiotape and videotape, DVD, CD, Web-based audiocasts and videocasts, and other media to supplement print materials.

Subdivision (f). In addition to the traditional role of fairly and efficiently resolving disputes before the court, a family court judge occupies a unique position within California's judiciary. California law empowers the family court judge not only to order relief related to the needs of families under its jurisdiction but also to enforce and review the compliance with such orders. This oversight function includes the obligation to understand and work with those public and private agencies that provide services for families. As such, the family court assignment requires a dramatic shift in emphasis from judging in the traditional sense. Active and public judicial support and encouragement of programs serving children and families in family court poses no conflict with traditional concepts of judicial ethics and is an important function of the family court judge. These efforts enhance the overall administration of justice for families.

Standard 5.40. Juvenile court matters

(a) Assignments to juvenile court

The presiding judge of the superior court should assign judges to the juvenile court to serve for a minimum of three years. Priority should be given to judges who have expressed an interest in the assignment.

(b) Importance of juvenile court

The presiding judge of the juvenile court, in consultation with the presiding judge of the superior court, should:

(1) Motivate and educate other judges regarding the significance of juvenile court.

(2) Work to ensure that sufficient judges and staff, facilities, and financial resources are assigned to the juvenile court to allow adequate time to hear and decide the matters before it.

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

(c) Standards of representation and compensation

The presiding judge of the juvenile court should:

(1) Encourage attorneys who practice in juvenile court, including all court-appointed and contract attorneys, to continue their practice in juvenile court for substantial periods of time. A substantial period of time is at least two years and preferably from three to five years.

(2) Confer with the county public defender, county district attorney, county counsel, and other public law office leaders and encourage them to raise the status of attorneys working in the juvenile courts as follows: hire attorneys who are interested in serving in the juvenile court for a substantial part of their careers; permit and encourage attorneys, based on interest and ability, to remain in juvenile court assignments for significant periods of time; and work to ensure that attorneys who have chosen to serve in the juvenile court have the same promotional and salary opportunities as attorneys practicing in other assignments within a law office.

(3) Establish minimum standards of practice to which all court-appointed and public office attorneys will be expected to conform. These standards should delineate the responsibilities of attorneys relative to investigation and evaluation of the case, preparation for and conduct of hearings, and advocacy for their respective clients.

(4) In conjunction with other leaders in the legal community, ensure that attorneys appointed in the juvenile court are compensated in a manner equivalent to attorneys appointed by the court in other types of cases.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 1992.)

(d) Training and orientation

The presiding judge of the juvenile court should:

(1) Establish relevant prerequisites for court-appointed attorneys and advocates in the juvenile court.

(2) Develop orientation and in-service training programs for judicial officers, attorneys, volunteers, law enforcement personnel, court personnel, and child advocates to ensure that all are adequately trained concerning all issues relating to special education rights and responsibilities, including the right of each child with exceptional needs to receive a free, appropriate public education and the right of each child with educational disabilities to receive accommodations.

(3) Promote the establishment of a library or other resource center in which information about juvenile court practice (including books, periodicals, videotapes, and other training materials) can be collected and made available to all participants in the juvenile system.

(4) Ensure that attorneys who appear in juvenile court have sufficient training to perform their jobs competently, as follows: require that all court-appointed attorneys meet minimum training and continuing legal education standards as a condition of their appointment to juvenile court matters; and encourage the leaders of public law offices that have responsibilities in juvenile court to require their attorneys who appear in juvenile court to have at least the same training and continuing legal education required of court-appointed attorneys.

(Subd (d) amended effective January 1, 2001; adopted effective July 1, 1989; previously amended and relettered effective July 1, 1992.)

(e) Unique role of a juvenile court judge

Judges of the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior court, to the extent that it does not interfere with the adjudication process, are encouraged to:

(1) Provide active leadership within the community in determining the needs of and obtaining and developing resources and services for at-risk children and families. At-risk children include delinquents, dependents, and status offenders.

(2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for at-risk children and their families.

(3) Exercise their authority by statute or rule to review, order, and enforce the delivery of specific services and treatment for at-risk children and their families.

(4) Exercise a leadership role in the development and maintenance of permanent programs of interagency cooperation and coordination among the court and the various public agencies that serve at-risk children and their families.

(5) Take an active part in the formation of a communitywide network to promote and unify private and public sector efforts to focus attention and resources for at-risk children and their families.

(6) Maintain close liaison with school authorities and encourage coordination of policies and programs.

(7) Educate the community and its institutions through every available means, including the media, concerning the role of the juvenile court in meeting the complex needs of at-risk children and their families.

(8) Evaluate the criteria established by child protection agencies for initial removal and reunification decisions and communicate the court's

expectations of what constitutes "reasonable efforts" to prevent removal or hasten return of the child.

(9) Encourage the development of community services and resources to assist homeless, truant, runaway, and incorrigible children.

(10) Be familiar with all detention facilities, placements, and institutions used by the court.

(11) Act in all instances consistent with the public safety and welfare.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 1989; previously relettered effective July 1, 1992.)

(f) Appointment of attorneys and other persons

For the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons, each court should follow rule 10.611 and the guidelines of standard 10.21.

(Subd (f) amended effective January 1, 2007; adopted effective January 1, 1999.)

(g) Educational rights of children in the juvenile court

The juvenile court should be guided by certain general principles:

(1) A significant number of children in the juvenile court process have exceptional needs that, if properly identified and assessed, would qualify such children to receive special education and related services under federal and state education law (a free, appropriate public education) (see Ed. Code, § 56000 et seq. and 20 U.S.C. § 1400 et seq.);

(2) Many children in the juvenile court process have disabilities that, if properly identified and assessed, would qualify such children to receive educational accommodations (see § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.]);

(3) Unidentified and unremediated exceptional needs and unaccommodated disabilities have been found to correlate strongly with juvenile delinquency, substance abuse, mental health issues, teenage pregnancy, school failure and dropout, and adult unemployment and crime; and

(4) The cost of incarcerating children is substantially greater than the cost of providing special education and related services to exceptional needs children and providing educational accommodations to children with disabilities.

(Subd (g) adopted effective January 1, 2001.)

(h) Role of the juvenile court

The juvenile court should:

(1) Take responsibility, with the other juvenile court participants at every stage of the child's case, to ensure that the child's educational needs are met, regardless of whether the child is in the custody of a parent or is suitably placed in the custody of the child welfare agency or probation department and regardless of where the child is placed in school. Each child under the jurisdiction of the juvenile court with exceptional needs has the right to receive a free, appropriate public education, specially designed, at no cost to the parents, to meet the child's unique special education needs. (See Ed. Code, § 56031 and 20 U.S.C. § 1401(8).) Each child with disabilities under the jurisdiction of the juvenile court has the right to receive accommodations. (See § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)].) The court should also ensure that each parent or guardian receives information and assistance concerning his or her child's educational entitlements as provided by law.

(2) Provide oversight of the social service and probation agencies to ensure that a child's educational rights are investigated, reported, and monitored. The court should work within the statutory framework to accommodate the sharing of information between agencies. A child who comes before the court and is suspected of having exceptional needs or other educational disabilities should be referred in writing for an assessment to the child's school principal or to the school district's special education office. (See Ed. Code, §§ 56320–56329.) The child's parent, teacher, or other service provider may make the required written referral for assessment. (See Ed. Code, § 56029.)

(3) Require that court reports, case plans, assessments, and permanency plans considered by the court address a child's educational entitlements and how those entitlements are being satisfied, and contain information to assist the court in deciding whether the right of the parent or guardian to make educational decisions for the child should be limited by the court under Welfare and Institutions Code section 361(a) or 726(b). Information concerning whether the school district has met its obligation to provide educational services to the child, including special educational services if the child has exceptional needs under Education Code section 56000 et seq., and to provide accommodations if the child has disabilities as defined in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)) should also be included, along with a recommendation for disposition.

(4) Facilitate coordination of services by joining the local educational agency as a party when it appears that an educational agency has failed to fulfill its

legal obligations to provide special education and related services or accommodations to a child in the juvenile court who has been identified as having exceptional needs or educational disabilities. (See Welf. & Inst. Code, §§ 362(a), 727(a).)

(5) Make appropriate orders limiting the educational rights of a parent or guardian who cannot be located or identified, or who is unwilling or unable to be an active participant in ensuring that the child's educational needs are met, and appoint a responsible adult as educational representative for such a child or, if a representative cannot be identified and the child may be eligible for special education and related services or already has an individualized education program, use form JV-535 to refer the child to the local educational agency for special education and related services and prompt appointment of a surrogate parent. (Welf. & Inst. Code, §§ 361, 726; Ed. Code, § 56156.)

(6) Ensure that special education, related services, and accommodations to which the child is entitled are provided whenever the child's school placement changes. (See Ed. Code, § 56325.)

(Subd (h) amended effective January 1, 2007; adopted effective January 1, 2001; previously amended effective January 1, 2004.)

Standard 5.40 amended and renumbered effective January 1, 2007; adopted as sec. 24 effective January 1, 1989; previously amended effective July 1, 1992, January 1, 1999; January 1, 2001, and January 1, 2004.

Advisory Committee Comment

Subdivision (a). Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in juvenile court, the juvenile court judge should be willing to commit to a tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the total juvenile justice complex, but it also provides continuity to a system that demands it.

Dependency cases under Welfare and Institutions Code section 300 for the most part last 18 months. The juvenile court judge has a responsibility to oversee these cases, and a single judge's involvement over this period of time is important to help ensure positive results. The ultimate goal should be to perfect a system that serves the needs of both recipients and providers. This can only be done over time and with constant application of effective energy.

Subdivision (b)(2). The juvenile court is an integral part of the justice system. It is only through the constant exertion of pressure to maintain resources and the continuous education of court-related personnel and administrators that the historic trend to minimize the juvenile court can be contained.

Subdivision (c)(4). The quality of justice in the juvenile court is in large part dependent on the quality of the attorneys who appear on behalf of the different parties before the court. The presiding judge of the juvenile court plays a significant role in ensuring that a sufficient number of attorneys of high quality are available to the parties appearing in juvenile court.

Juvenile court practice requires attorneys who have both a special interest in and a substantive understanding of the work of the court. Obtaining and retaining qualified attorneys for the juvenile court requires effective recruiting, training, and employment considerations.

The importance of juvenile court work must be stressed to ensure that juvenile court assignments have the same status and career enhancement opportunities as other assignments for public law office attorneys.

The presiding judge of the juvenile court should urge leaders of public law offices serving the juvenile court to assign experienced, interested, and capable attorneys to that court, and to establish hiring and promotional policies that will encourage the development of a division of the office dedicated to working in the juvenile court.

National commentators are in accord with these propositions: "Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced. Juvenile and family courts should not be the 'training ground' for inexperienced attorneys or judges." (Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges, *Deprived Children: A Judicial Response—73 Recommendations* (1986) p. 14.)

Fees paid to attorneys appearing in juvenile court are sometimes less than the fees paid attorneys doing other legal work. Such a payment scheme demeans the work of the juvenile court, leading many to believe that such work is less important. It may discourage attorneys from selecting juvenile court practice as a career option. The incarceration of a child in a detention facility or a child's permanent loss of his or her family through a termination of parental rights proceeding is at least as important as any other work in the legal system. Compensation for the legal work in the juvenile court should reflect the importance of this work.

Subdivision (d)(4). Juvenile court law is a specialized area of the law that requires dedication and study. The juvenile court judge has a responsibility to maintain high quality in the practice of law in the juvenile court. The quality of representation in the juvenile court depends in good part on the education of the lawyers who appear there. In order to make certain that all parties receive adequate representation, it is important that attorneys have adequate training before they begin practice in juvenile court and on a continuing basis thereafter. The presiding judge of the juvenile court should mandate such training for all court-appointed attorneys and urge leaders of public law offices to provide at least comparable training for attorneys assigned to juvenile court.

A minimum of six hours of continuing legal education is suggested; more hours are recommended. Education methods can include lectures and tapes that meet the legal education requirements.

In addition to basic legal training in juvenile dependency and delinquency law, evidentiary issues, and effective trial practice techniques, training should also include important related issues, including child development, alternative resources for families, effects and treatment of substance abuse, domestic violence, abuse, neglect, modification and enforcement of all court orders, dependency, delinquency, guardianships, conservatorships, interviewing children, and emancipation. Education may also include observational experience such as site visits to institutions and operations critical to the juvenile court.

A significant barrier to the establishment and maintenance of well-trained attorneys is a lack of educational materials relating to juvenile court practice. Law libraries, law offices, and court systems traditionally do not devote adequate resources to the purchase of such educational materials.

Effective January 1, 1993, guidelines and training material will be available from Judicial Council staff.

Subdivision (e)(11). A superior court judge assigned to the juvenile court occupies a unique position within California's judiciary. In addition to the traditional role of fairly and efficiently resolving disputes before the court, the juvenile court judge is statutorily required to discharge other duties. California law empowers the juvenile court judge not only to order services for children under its jurisdiction, but also to enforce and review the delivery of those services. This oversight function includes the obligation to understand and work with the public and private agencies, including school systems, that provide services and treatment programs for children and families. As such, the juvenile court assignment requires a dramatic shift in emphasis from judging in the traditional sense.

The legislative directive to juvenile court judges to "improve system performance in a vigorous and ongoing manner" (Welf. & Inst. Code, § 202) poses no conflict with traditional concepts of judicial ethics. Active and public judicial support and encouragement of programs serving children and families at risk are important functions of the juvenile court judge that enhance the overall administration of justice.

The standards in (e) are derived from statutory requirements in the following sections of the Welfare and Institutions Code as well as the supplementary material promulgated by the National Council of Juvenile and Family Court Judges and others: (1) Welfare and Institutions Code, sections 202, 209, 300, 317, 318, 319, 362, 600, 601, 654, 702, 727; (2) California Code of Judicial Conduct, canon 4; (3) Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges, *Deprived Children: A Judicial Response—73 Recommendations* (1986), Recommendations 1–7, 14, 35, 40; and (4) National Council of Juvenile and Family Court Judges, Child Welfare League of America, Youth Law Center, and the National Center for Youth Law, *Making Reasonable Efforts: Steps for Keeping Families Together* pp. 43–59.

Standard 5.45. Resource guidelines for child abuse and neglect cases

(a) Guidelines

To improve the fair and efficient administration of child abuse and neglect cases in the California juvenile dependency system, judges and judicial officers assigned to the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior or consolidated court, are encouraged to follow the resource guidelines of the National Council of Juvenile and Family Court Judges, titled "Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases." The guidelines are meant to be goals to help courts achieve, among other objectives, the following:

(1) Adherence to statutory timelines;

(2) Effective calendar management;

(3) Effective representation by counsel;

(4) Child-friendly court facilities;

(5) Timely and thorough reports and services to ensure informed judicial decisions, including reasonable efforts findings; and

(6) Minimum time allocations for specified hearings.

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

(b) Distribution of guidelines

Judicial Council staff will distribute a copy of the resource guidelines to each juvenile court and will provide individual copies to judicial officers and court administrators on written request.

(Subd (b) amended effective January 1, 2016; previously amended effective January 1, 2007.)

Standard 5.45 amended effective January 1, 2016; adopted as sec. 24.5 effective July 1, 1997; previously amended and renumbered as standard 5.45 effective January 1, 2007.

Advisory Committee Comment

Child abuse and neglect cases impose a special obligation on juvenile court judges to oversee case progress. Case oversight includes monitoring the agency's fulfillment of its responsibilities and parental cooperation with the case plan. Court involvement in child welfare cases occurs simultaneously with agency efforts to assist the family. Federal and state legal mandates assign to the juvenile court a series of interrelated and complex decisions that shape the course of state intervention and determine the future of the child and family.

Unlike almost all other types of cases in the court system, child abuse and neglect cases deal with an ongoing and changing situation. In a child welfare case, the court must focus on agency casework and parental behavior over an extended period of time. In making a decision, the court must take into account the agency's plan to help the family and anticipated changes in parental behavior. At the same time, the court must consider the evolving circumstances and needs of each child.

The purpose of these resource guidelines is to specify the essential elements of properly conducted court hearings. The guidelines describe the requirements of juvenile courts in fulfilling their oversight role under federal and state laws, and they specify the necessary elements of a fair, thorough, and speedy court process in child abuse and neglect cases. The guidelines cover all stages of the court process, from the initial removal hearing to the end of juvenile court involvement. These guidelines assume that the court will remain involved until after the child has

been safely returned home, has been placed in another permanent home, or has reached adulthood.

Currently, juvenile courts in California operate under the same juvenile court law and rules, and yet the rules are implemented with considerable variation throughout the state. In part, this is due to the lack of resource guidelines. The adoption of the proposed resource guidelines will help encourage more consistent juvenile court procedures in the state.

The guidelines are meant to be goals, and, as such, some of them may appear out of reach because of fiscal constraints or lack of judicial and staff resources. The Judicial Council Family and Juvenile Law Advisory Committee and Judicial Council staff are committed to providing technical assistance to each juvenile court to aid in implementing these goals.

Title 6. [Reserved]

Title 7. Standards for Probate and Mental Health Proceedings

Standard 7.10. Settlements or judgments in certain civil cases involving minors or persons with disabilities

In matters assigned to or pending in civil departments of the court where court approval of trusts that will receive proceeds of settlements or judgments is required under Probate Code section 3600, each court should develop practices and procedures that:

(1) Provide for determination of the trust issues by the probate department of the court or, in a court that does not have a probate department, a judicial officer who regularly hears proceedings under the Probate Code; or

(2) Ensure that judicial officers who hear these matters are experienced or have received training in substantive and technical issues involving trusts (including special needs trusts).

Standard 7.10 amended and renumbered effective January 1, 2007; adopted as sec. 40 effective January 1, 2005.

Standard 7.20. CARE Act proceedings

(a) Unique role of the CARE Act court judicial officer

Judicial officers of CARE Act courts, in consultation with the presiding judge of the superior court and to the extent that it does not interfere with the adjudication process, are encouraged to:

(1) Exercise their authority under statute or rule to review, order, and enforce the delivery of specific supports and services for respondents, including prioritization for supports and services, where appropriate; and

(2) Facilitate coordination of supports and services by using their authority to join multiple local agencies when the agencies have appeared to fail to fulfill their legal obligations to provide supports and services to the respondent.

(b) Role of the CARE Act court

The CARE Act court should:

(1) Convene relevant local public agencies and stakeholders, including behavioral health and social service agencies, to coordinate the provision of available services through CARE agreements and CARE plans that use the least restrictive means to promote respondents' recovery, safety, and stability; and

(2) Work to accommodate the sharing of information among agencies within the limits of the statutory framework.

Standard 7.20 adopted effective July 1, 2025.

Title 8. Standards for the Appellate Courts

Standard 8.1. Memorandum opinions

Standard 8.1. Memorandum opinions

The Courts of Appeal should dispose of causes that raise no substantial issues of law or fact by memorandum or other abbreviated form of opinion. Such causes could include:

(1) An appeal that is determined by a controlling statute which is not challenged for unconstitutionality and does not present any substantial question of interpretation or application;

(2) An appeal that is determined by a controlling decision which does not require a reexamination or restatement of its principles or rules; or

(3) An appeal raising factual issues that are determined by the substantial evidence rule.

Standard 8.1 amended and renumbered effective January 1, 2007; adopted as sec. 6 effective July 1, 1970.

Title 9. Standards on Law Practice, Attorneys, and Judges [Reserved]

Title 10. Standards for Judicial Administration

Standard 10.5. The role of the judiciary in the community

(a) Community outreach an official judicial function

Judicial participation in community outreach activities should be considered an official judicial function to promote public understanding of and confidence in the administration of justice. This function should be performed in a manner consistent with the California Code of Judicial Ethics.

(Subd (a) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective April 1, 1999.)

(b) Encouraged outreach activities

The judiciary is encouraged to:

(1) Provide active leadership within the community in identifying and resolving issues of access to justice within the court system;

(2) Develop local education programs for the public designed to increase public understanding of the court system;

(3) Create local mechanisms for obtaining information from the public about how the court system may be more responsive to the public's needs;

(4) Serve as guest speakers, during or after normal court hours, to address local civic, educational, business, and charitable groups that have an interest in understanding the court system but do not espouse a particular political agenda with which it would be inappropriate for a judicial officer to be associated; and

(5) Take an active part in the life of the community where the participation of the judiciary will serve to increase public understanding and promote public confidence in the integrity of the court system.

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

Standard 10.5 amended and renumbered effective January 1, 2007; adopted as sec. 39 effective April 1, 1999.

Standard 10.16. Model code of ethics for court employees

Each trial and appellate court should adopt a code of ethical behavior for its support staff, and in doing so should consider rule 10.670(c)(12) of the California Rules of Court, and the model Code of Ethics for the Court Employees of California approved by the Judicial Council on May 17, 1994, and any subsequent revisions. The approved model code is published by the Judicial Council.

Standard 10.16 amended effective January 1, 2016; adopted as sec. 35 effective July 1, 1994; previously amended and renumbered as standard 10.16 effective January 1, 2007; previously amended effective July 1, 2008.

Standard 10.17. Trial court performance standards

(a) Purpose

These standards are intended to be used by trial courts, in cooperation with the Judicial Council, for purposes of internal evaluation, self-assessment, and self-improvement. They are not intended as a basis for cross-court comparisons, nor are they intended as a basis for evaluating the performance of individual judges.

(Subd (a) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 25, 1995.)

(b) Standards

The standards for trial court performance are as follows:

(1) *Access to justice*

(A) The court conducts its proceedings and other public business openly.

(B) Court facilities are safe, accessible, and convenient to use.

(C) All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.

(D) Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

(E) The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

(2) *Expedition and timeliness*

(A) The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

(B) The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

(C) The trial court promptly implements changes in law and procedure.

(3) *Equality, fairness, and integrity*

(A) Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

(B) Jury lists are representative of the jurisdiction from which they are drawn.

(C) Trial courts give individual attention to cases, deciding them without undue disparity among like cases and on legally relevant factors.

(D) Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.

(E) The trial court takes appropriate responsibility for the enforcement of its orders.

(F) Records of all relevant court decisions and actions are accurate and properly preserved.

(4) *Independence and accountability*

(A) A trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.

(B) The trial court responsibly seeks, uses, and accounts for its public resources.

(C) The trial court uses fair employment practices.

(D) The trial court informs the community of its programs.

(E) The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.

(5) *Public trust and confidence*

(A) The trial court and the justice it delivers are perceived by the public as accessible.

(B) The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.

(C) The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.

(Subd (b) lettered effective January 1, 2007; adopted as part of unlettered subdivision effective January 25, 1995.)

Standard 10.17 amended and renumbered effective January 1, 2007; adopted as sec. 30 effective January 25, 1995.

Standard 10.20. Court's duty to prevent bias

(a) Statement of purpose

The California judicial branch is committed to ensuring the integrity and impartiality of the judicial system and to court interactions free of bias and the appearance of bias. Consistent with this commitment, each court should work within its community to improve dialogue and engagement with members of various cultures, backgrounds, and groups to learn, understand, and appreciate the unique qualities and needs of each group.

(Subd (a) amended effective January 1, 2022; previously amended effective January 1, 1994, January 1, 1998, and January 1, 2007.)

(b) Duty to ensure integrity and impartiality of the judicial system

Each court, its judicial officers, and its employees have the duty to ensure the integrity and impartiality of the judicial system.

(1) *Refrain from and prevent biased conduct*

In all court interactions, each court, its judicial officers, and its employees should refrain from engaging in conduct and should take action to prevent others from engaging in conduct that exhibits bias, including but not limited to bias based on age, ancestry, color, ethnicity, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, physical or mental disability, political affiliation, race, religion, sex, sexual orientation, socioeconomic status, and any other classification protected by federal or state law, including Government Code section 12940(a) and Code of Judicial Ethics, canon 3(B)(5), whether that bias is directed toward counsel, court staff, witnesses, parties, jurors, or any other person. The court, judicial officers, and court employees may consider such classifications only if necessary or relevant to the proper exercise of their adjudicatory or administrative functions.

(2) *Ensure fairness*

Each judicial officer should ensure that courtroom interactions are conducted in a manner that is fair and impartial to all persons.

(3) *Ensure unbiased decisions*

Each judicial officer should ensure that all orders, rulings, and decisions are based on the sound exercise of judicial discretion and the balancing of competing rights and interests and are not influenced by stereotypes or biases.

(Subd (b) adopted effective January 1, 2022.)

(c) Creation of local or regional committees on bias

To assist in providing court interactions free of bias and the appearance of bias, courts should collaborate with local bar associations to establish a local or regional committee. Trial courts may choose to form a regional committee. Appellate courts may choose to form separate or joint appellate court committees or join a trial court

committee or regional committee formed by or composed of trial courts within the appellate courts' districts. Each committee should:

(1) Be composed of representative members of the court community, including but not limited to judicial officers, lawyers, court administrators, and individuals who interact with the court and reflect and represent the diverse and various needs and viewpoints of court users;

(2) Sponsor or support educational programs designed to eliminate unconscious and explicit biases within the court and legal communities. Education is critical to developing an awareness of the origins of bias and the impact of bias on individuals, culture, and society. Education should include:

(A) Information as to bias based on the protected classifications listed in (b)(1);

(B) Information regarding how unconscious and explicit biases based on these classifications develop, how to recognize unconscious and explicit biases, and how to address and eliminate unconscious and explicit biases; and

(C) Other topics on bias relevant to the local community informed by the committee's independent assessment of the unique educational needs in that community.

(3) Engage in regular outreach to the local community to learn about issues of importance to court users. Specifically, committee members should be encouraged to:

(A) Inform local community groups regarding the committee's activities; and

(B) Seek information from the local community regarding concerns as to bias in court interactions and how the court can address those concerns.

(Subd (c) amended and relettered effective Janaury 1, 2022; adopted as Subd (b) effective January 1, 1994; previously amended effective January 1, 1998, and January 1, 2007.)

(d) Information regarding complaint procedures

Each court should effectively communicate to its court users regarding existing procedures to submit complaints of bias in court interactions based on protected classifications, as listed in (b)(1). This should include information regarding how to submit complaints about court employees directly to the court and how to submit complaints about judicial officers either directly to the court or to the Commission on Judicial Performance. Possible methods of communication include providing this information on the court website, including the information in the court's local

rules, displaying the information in courthouses, or any other similar method to ensure that courts are providing complaint procedure information to court users in a meaningful and accessible manner.

(Subd (d) amended and relettered effective January 1, 2022; adopted as Subd (c) effective January 1, 1994; previously amended effective January 1, 2007.)

(e) Application of local rules

The existence of the local committee~~,~~ and its purpose should be memorialized in the applicable local rules of court.

(Subd (e) amended and relettered effective January 1, 2022; adopted as Subd (d) effective January 1, 1994; previously amended effective January 1, 2007.)

(f) Implementation

All courts should implement the recommendations of this standard as soon as possible.

(Subd (f) adopted effective January 1, 2022.)

Standard 10.20 amended effective January 1, 2022; adopted as sec. 1 effective January 1, 1987; previously amended effective January 1, 1994, and January 1, 1998; amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Subdivision (b). An earlier version of this standard referred to the "court's duty to prohibit bias." The word "prohibit" has been replaced with "prevent" in the title of the standard and in subdivision (b), such that the standard now asks courts, judicial officers, and court employees to take actions to prevent bias rather than prohibit bias. This change reflects a more comprehensive approach in how courts are to combat bias, focusing on understanding the many forms, causes, and impacts of bias rather than simply forbidding it. Preventing bias may include, for example, prohibiting bias; encouraging judicial officers, employees, and court users to report bias; being open to discussing and learning from real misunderstandings and instances of unconscious bias; and focusing on robust education regarding how unconscious and explicit biases develop, how to recognize them, and how to address and eliminate bias.

The judicial officer duties stated in this subdivision are consistent with the California Code of Judicial Ethics, which addresses judicial officer responsibilities for performing judicial duties without bias, prejudice, or harassment (canon 3(B)(5)); for requiring attorneys in proceedings before the judicial officer to refrain from manifesting bias, prejudice, or harassment (canon 3(B)(6)); for discharging judicial administrative duties without bias or prejudice (canon 3(C)(1)); and for requiring staff and court personnel under the judicial officer's control to refrain from manifesting bias, prejudice, or harassment in the performance of their duties (canon 3(C)(3)).

An earlier version of this standard applied solely to judges and referred to "courtroom proceedings." "Judge" has been expanded to "judicial officers," which includes all judges as defined by California Rules of Court, rule 1.6, and all appellate and Supreme Court justices. The expanded phrase broadly covers any judge, justice, subordinate judicial officer, or temporary judge who might conduct a courtroom proceeding. Additionally, in subdivision (b)(1), "courtroom proceedings" has been changed to "court interactions" to expand the scope of proceedings and actions covered by this standard to include not only proceedings occurring in courtrooms but also interactions in other areas of the court, including in the clerk's office and at public counters.

Subdivision (d). An earlier version of this standard encouraged local bias committees to create informal complaint procedures for court users and members of the public to submit complaints regarding bias in court proceedings. The recommendation that local bias committees create informal complaint procedures has been eliminated in large part because of the many existing and updated avenues for making complaints regarding bias in court interactions, and to avoid creating conflicts between those procedures. For example, the authority and procedures for addressing complaints concerning judicial officers and subordinate judicial officers are outlined in rules 10.603 and 10.703 of the California Rules of Court and canon 3(D) of the California Code of Judicial Ethics. Similarly, rules 10.351 and 10.610 of the California Rules of Court, as well as Government Code section 71650 et seq., include authority and complaint resolution processes for addressing complaints against court employees. In practice, courts have developed robust procedures for addressing such complaints against judicial officers, subordinate judicial officers, and court employees, and the Commission on Judicial Performance provides detailed information on its website at *cjp.ca.gov* about how to file complaints and the procedures it employs for addressing such complaints.

In addition to the concerns regarding duplicative and conflicting complaint procedures, the recommendation that local bias committees adopt informal complaint procedures created additional concerns. For example, the earlier version of the standard envisioned using informal complaint procedures to resolve incidents that do not warrant formal discipline; however, it is often difficult to determine at the outset if a complaint is disciplinary in nature or can be ameliorated by education. Other due process concerns were raised that local committees were not necessarily resourced to make these determinations, and may not have had the expertise to investigate and resolve these complaints. Additional concerns were raised that having local committees oversee complaints against judicial officers and court employees created privacy and confidentiality concerns for both complainants and respondents because any inquiry by a local bias committee would be known and resolved by a group of local attorneys, judicial officers, and other committee members who would necessarily need to know the particular facts of the complaint, thereby significantly expanding the number of local individuals who were aware of the existence or details of the complaint. Ethical concerns were also raised for judicial officers who were members of the local bias committees because judicial officers who become aware of complaints against other judicial officers may have ethical obligations that require them to take appropriate corrective action, which may include reporting the information to the presiding judge or justice or the Commission on Judicial Performance. Finally, there were concerns that local bias committee complaint procedures would conflict with existing personnel policies and labor relations agreements if the local committee attempted to resolve complaints against court employees outside of the procedures outlined in these policy documents.

This standard does not prevent courts and local or regional bias committees from choosing to create informal complaint resolution procedures. Some local bias committees have established effective informal complaint resolution procedures for resolving complaints against judicial officers, and each local court and local or regional bias committee should work to find solutions

that work best for that local community. If so, they should fully consider how best to address the above concerns. Because of the specific labor and employment laws governing courts and court employees, including the direction provided in rule 10.351 of the California Rules of Court, and the fact that courts already have personnel policies and memorandums of understanding that govern complaints against court employees, having local or regional bias committees resolve complaints against court employees is not recommended.

Standard 10.21. Appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons

(a) Nondiscrimination in appointment lists

In establishing and maintaining lists of qualified attorneys, arbitrators, mediators, referees, masters, receivers, and other persons who are eligible for appointment, courts should ensure equal access for all applicants regardless of gender, race, ethnicity, disability, sexual orientation, or age.

(b) Nondiscrimination in recruitment

Each trial court should conduct a recruitment procedure for the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons appointed by the court (the "appointment programs") by publicizing the existence of the appointment programs at least once annually through state and local bar associations, including specialty bar associations. This publicity should encourage and provide an opportunity for all eligible individuals, regardless of gender, race, ethnicity, disability, sexual orientation, or age, to seek positions on the rosters of the appointment programs. Each trial court also should use other methods of publicizing the appointment programs that maximize the opportunity for a diverse applicant pool.

(c) Nondiscrimination in application and selection procedure

Each trial court should conduct an application and selection procedure for the appointment programs that ensures that the most qualified applicants for an appointment are selected, regardless of gender, race, ethnicity, disability, sexual orientation, or age.

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

Standard 10.21 amended and renumbered effective January 1, 2007; adopted as sec. 1.5 effective January 1, 1999.

Standard 10.24. Children's waiting room

Each court should endeavor to provide a children's waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings. The

waiting room should be supervised and open during normal court hours. If a court does not have sufficient space in the courthouse for a children's waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed.

Standard 10.24 renumbered effective January 1, 2007; adopted as sec. 1.3 effective January 1, 1987.

Standard 10.25. Reasonable accommodation for court personnel

At least to the extent required by state and federal law, each court should evaluate existing facilities, programs, and services available to employees to ensure that no barriers exist to prevent otherwise-qualified employees with known disabilities from performing their jobs or participating fully in court programs or activities.

Standard 10.25 renumbered effective January 1, 2007; adopted as sec. 1.4 effective January 1, 1998.

Standard 10.31. Master jury list

The jury commissioner should use the National Change of Address System or other comparable means to update jury source lists and create as accurate a master jury list as reasonably practical.

Standard 10.31 amended and renumbered effective January 1, 2007; adopted as sec. 4.6 effective July 1, 1997.

Standard 10.41. Court sessions at or near state penal institutions

(a) Provision of adequate protection

Facilities used regularly for judicial proceedings should not be located on the grounds of or immediately adjacent to a state penal institution unless the location, design, and setting of the court facility provide adequate protection against the possible adverse influence that the prison facilities and activities might have on the fairness of judicial proceedings.

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

(b) Factors to be considered

In determining whether adequate protection is provided, the following factors should be considered:

(1) The physical and visual remoteness of the court facility from the facilities and activities of the prison;

(2) The location and appearance of the court facility with respect to the adjacent public areas through which jurors and witnesses would normally travel in going to and from the court;

(3) The accessibility of the facility to the press and the general public; and

(4) Any other factors that might affect the fairness of the judicial proceedings.

(Subd (b) lettered effective January 1, 2007; adopted as part of subd (a) effective July 1, 1975.)

(c) Compelling reasons of safety or court convenience

Unless the location, design, and setting of the facility for conducting court sessions meet the criteria in (a) and (b):

(1) Court sessions should not be conducted in or immediately adjacent to a state penal institution except for compelling reasons of safety or convenience of the court; and

(2) Court sessions should not be conducted at such a location when the trial is by jury or when the testimony of witnesses who are neither inmates nor employees of the institution will be required.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b) effective July 1, 1975.)

Standard 10.41 amended and renumbered effective January 1, 2007; adopted as sec. 7.5 effective July 1, 1975.

Standard 10.50. Selection of regular grand jury

(a) Definition

"Regular grand jury" means a body of citizens of a county selected by the court to investigate matters of civil concern in the county, whether or not that body has jurisdiction to return indictments.

(b) Regular grand jury list

The list of qualified candidates prepared by the jury commissioner to be considered for nomination to the regular grand jury should be obtained by one or more of the following methods:

(1) Names of members of the public obtained at random in the same manner as the list of trial jurors. However, the names obtained for nomination to the

regular grand jury should be kept separate and distinct from the trial jury list, consistent with Penal Code section 899.

(2) Recommendations for grand jurors that encompass a cross-section of the county's population base, solicited from a broad representation of community-based organizations, civic leaders, and superior court judges, referees, and commissioners.

(3) Applications from interested citizens solicited through the media or a mass mailing.

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

(c) Carryover grand jurors

The court is encouraged to consider carryover grand jury selections under Penal Code section 901(b) to ensure broad-based representation.

(d) Nomination of grand jurors

Judges who nominate persons for grand jury selection under Penal Code section 903.4 are encouraged to select candidates from the list returned by the jury commissioner or to otherwise employ a nomination procedure that will ensure broad-based representation from the community.

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

(e) Disfavored nominations

Judges should not nominate to the grand jury a spouse or immediate family member (within the first degree of consanguinity) of any superior court judge, commissioner, or referee; elected official; or department head of any city, county, or governmental entity subject to grand jury scrutiny.

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

Standard 10.50 amended and renumbered effective January 1, 2007; adopted as sec. 17 effective July 1, 1992.

Standard 10.51. Juror complaints

Each court should establish a reasonable mechanism for receiving and responding to juror complaints.

Standard 10.51 renumbered effective January 1, 2007; adopted as sec. 4.5 effective July 1, 1997.

Standard 10.55. Local program on waste reduction and recycling

Each court should adopt a program for waste reduction and recycling or participate in a county program.

Standard 10.55 amended and renumbered effective January 1, 2007; adopted as sec. 17.5 effective January 1, 1991.

Standard 10.70. Implementation and coordination of mediation and other alternative dispute resolution (ADR) programs

(a) Implementation of mediation programs for civil cases

Superior courts should implement mediation programs for civil cases as part of their core operations.

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

(b) Promotion of ADR programs

Superior courts should promote the development, implementation, maintenance, and expansion of successful mediation and other alternative dispute resolution (ADR) programs, through activities that include:

(1) Establishing appropriate criteria for determining which cases should be referred to ADR, and what ADR processes are appropriate for those cases. These criteria should include whether the parties are likely to benefit from the use of the ADR process;

(2) Developing, refining, and using lists of qualified ADR neutrals;

(3) Adopting appropriate criteria for referring cases to qualified ADR neutrals;

(4) Developing ADR information and providing educational programs for parties who are not represented by counsel; and

(5) Providing ADR education for judicial officers.

(Subd (b) amended effective January 1, 2007; adopted as unlettered subdivision effective July 1, 1992; lettered and amended effective January 1, 2006.)

(c) Coordination of ADR programs

Superior courts should coordinate ADR promotional activities and explore joint funding and administration of ADR programs with each other and with professional and community-based organizations.

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

Standard 10.70 amended and renumbered effective January 1, 2007; adopted as sec. 32 effective July 1, 1992; previously amended effective January 1, 2006.

Standard 10.71. Alternative dispute resolution (ADR) committees

Courts that are not required and that do not elect to have an ADR administrative committee as provided in rule 10.783 of the California Rules of Court should form committees of judges, attorneys, alternative dispute resolution (ADR) neutrals, and county ADR administrators, if any, to oversee the court's ADR programs and panels of neutrals for general civil cases.

Standard 10.71 amended and renumbered effective January 1, 2007; adopted as sec. 32.1 effective January 1, 2006.

Standard 10.72. ADR committees and criteria for referring cases to dispute resolution neutrals

(a) Training, experience, and skills

Courts should evaluate the ADR training, experience, and skills of potential ADR neutrals.

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

(b) Additional considerations for continuing referrals

After a court has sufficient experience with an ADR neutral, the court should also consider indicators of client satisfaction, settlement rate, continuing ADR education, and adherence to applicable standards of conduct in determining whether to continue referrals to that neutral.

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

Standard 10.72 amended and renumbered effective January 1, 2007; adopted as sec. 33 effective July 1, 1992; previously amended effective January 1, 2006.

Advisory Committee Comment

Although settlement rate is an important indicator of a neutral's effectiveness, it should be borne in mind that some disputes will not resolve, despite the best efforts of a skilled neutral. Neutrals should not feel pressure to achieve a high settlement rate through resolutions that may not be in the interest of one or more parties. Accordingly, settlement rate should be used with caution as a criterion for court referral of disputes to neutrals.