

CHAPTER 6
ACCESS TO CONFIDENTIAL INFORMATION

Rule 6.6.1

Disclosure of Information Relating to Children and their Families—Preliminary Provisions

A. For purposes of this rule, “juvenile court records” include:

1. Those records defined in California Rules of Court, rule 5.552;
2. Records kept in Health & Human Services Agency (“HHSA”) files pursuant to Welfare & Institutions Code section 10850 and Penal Code section 11165 et seq., regardless of whether a Welfare & Institutions Code section 300 petition was filed in the case;
3. Records kept in Probation Department files, regardless of whether a Welfare & Institutions Code section 601 or 602 petition was filed in the case; and
4. Testimony from HHSA or Probation personnel regarding any information contained in juvenile court records (cf. *City of San Diego v. Superior Court* (1981) 136 Cal.App.3d 236, 239).

B. For purposes of this rule, “juvenile court records” do **not** include:

1. Records sealed pursuant to Welfare & Institutions Code section 389 or 781;
2. Records maintained by the Department of Motor Vehicles;
3. Records regarding offenses that were tried in the criminal division of the court because the minor was found unfit to be tried in the juvenile division; and
4. Adoption records.

C. For purposes of this rule, “disclosure” or “access” provides for inspection, but not photocopying, at the court’s business office or the HHSA or Probation office where the records are maintained, unless otherwise ordered by the court.

If the court authorizes photocopying, it must be done by court or HHSA or Probation personnel as appropriate, unless otherwise ordered by the court or agreed to by the parties. The person or agency obtaining photocopies must pay for the copying (in accordance with the current San Diego Superior Court Schedule of Fees).

D. Juvenile court records may not be obtained by civil or criminal subpoena. A waiver of confidentiality by any person identified or described in the requested records does not automatically confer a right of access to those records.

(Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2011)

Rule 6.6.2

Disclosure of Juvenile Court Records to Persons and Agencies Not Designated in Welfare & Institutions Code Section 827 or 827.10 – Request for Disclosure (JV-570) Required

(For procedures relating to prehearing discovery of dependency records by the parties to a dependency proceeding and their counsel, see rule 6.1.7.)

Except as otherwise provided in Chapter Six of these rules, if a person or agency not designated in Welfare & Institutions Code section 827 or 827.10 seeks access to juvenile court records, including documents and information maintained by the court, the Probation Department, or the HHSA, that person or agency must file a Request for Disclosure of Juvenile Case File (hereinafter, petition) on Judicial Council form JV-570. The petition must be filed with the clerk in the Juvenile Court Business Office or other clerk designated to receive such petitions. The petition must comply with California Rules of Court, rule 5.552 and with these rules.

Petitioner must give notice as required by California Rules of Court, rule 5.552(d). Service must be to the subject of the juvenile records if he or she is no longer a minor or, if still a minor, upon a person authorized to act on his or her behalf (e.g., parent, guardian, attorney, etc.). This notice is not required if a written waiver of such notice is obtained from the minor (if now an adult) or a person authorized to act on the minor’s behalf. For good cause shown, the court may waive such notice.

If the records are sought for use in a legal action which is not a juvenile court proceeding, petitioner must also give notice by personal service or first-class mail to all parties in that action.

The petition may be supported by a declaration of counsel and/or a memorandum of points and authorities.

If the petition is granted, the court will issue a protective order specifying the records to be disclosed and the procedure for providing access and/or photocopying. (Cal. Rules of Court, rule 5.552(e).) Persons or agencies obtaining records under such authorization must abide by the terms of the protective order. Any unauthorized disclosure or failure to comply with the terms of the order may result in vacation of the order and/or may be punishable as contempt of court. (See Welf. & Inst. Code, § 213.)

This rule is not intended to replace, nullify, or conflict with existing laws (including Pen. Code, § 11167, subd. (d)) or the policies of the HHSA, the Probation Department, or any other public or private agency. This rule

does not prohibit the release of general information on Juvenile Court policies and procedures.
(Adopted 1/1/1999; Renum. 7/1/2001; Rev. 1/1/2002; Rev. 1/1/2005; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010;
Rev. 1/1/2012)

Rule 6.6.3

Reserved for Future Use

(Del. 1/1/2008)

Rule 6.6.4

Disclosure of Dependency Records to Persons and Agencies Not Designated in Welfare & Institutions Code Section 827 or 827.10 - Petition to View Records (SDSC JUV-004) Required

A. In addition to the persons and agencies designated in Welfare & Institutions Code section 827 and 827.10, the following may have access to dependency records and/or obtain photocopies of dependency records without a prior court order, subject to the conditions specified, on the basis that 1) disclosure will be in the best interest of the child whose records are sought and 2) the information contained in those records is necessary and relevant to a juvenile dependency or delinquency proceeding; a civil or criminal investigation or proceeding; a proceeding involving child custody or visitation; a proceeding involving adoption, guardianship, or emancipation of a minor; an action to establish parentage; an administrative proceeding regarding foster home licensure; a proceeding involving probate or conservatorship; or a proceeding involving domestic violence:

1. Judicial officers of the San Diego Superior Court Family Division, when the child who is the subject of the records, or his or her sibling, is also the subject of custody or visitation proceedings under Family Code section 3000 et seq. (see Fam. Code, §§ 3011, subd. (b), 3020; Welf. & Inst. Code, § 827.10).

2. County Counsel, for the purpose of representing HHSA in a civil action.

3. San Diego County Probation Officers, when the child who is the subject of the records is also the subject of juvenile court proceedings under Welfare & Institutions Code section 601 or 602. In such cases, which are subject to the court's Protocol for Coordination in Dual Jurisdiction Matters, the following persons may have access to the child's delinquency records, including minute orders, and/or may obtain photocopies of the delinquency records without a prior court order: [1] HHSA social workers, [2] all dependency attorneys actively participating in juvenile proceedings involving the child, and [3] the child's CASA, if any. Copies of any joint assessment report, prepared pursuant to Welfare & Institutions Code section 241.1 and filed with the court, must be provided to the DA, the child's defense attorney and dependency attorney, County Counsel, the HHSA social worker, the probation officer, any CASA, and any other juvenile court having jurisdiction over the child.

4. CASAs (Voices for Children, Inc.), as provided under Welfare & Institutions Code sections 105, 107.

5. An Indian child's tribe and the Bureau of Indian Affairs, as provided under Title 25, United States Code chapter 21 [Indian Child Welfare Act].

6. Employees or agents of San Diego Superior Court Family Court Services.

7. Employees or agents of San Diego County Mental Health Services (Health & Human Services Agency).

8. Any licensed psychiatrist, psychologist, or other mental health professional ordered by the San Diego County Superior Court, Family Division, to examine or treat the child or the child's family.

9. Any hospital providing inpatient psychiatric treatment to the child, for purposes of treatment or discharge planning.

10. Any government agency engaged in child protection.

11. The San Diego County Victim Assistance Program and the State Victim Compensation Program, for the purpose of providing services to a victim of or a witness to a crime.

12. The Juvenile Parole Board of the California Department of Corrections and Rehabilitation, Division of Juvenile Justice.

13. The California Board of Parole Hearings, as provided under Penal Code section 11167.5, subdivision (b)(9).

14. Members of the San Diego County Juvenile Justice Commission.

15. The San Diego County Board of Supervisors or their agent(s), for the purpose of investigating a complaint from a party to a dependency proceeding.

16. Public and private schools, for the sole purpose of obtaining the appropriate school placement for a child with special education needs pursuant to Education Code section 56000 et seq.

17. Investigators and investigative specialists employed by the San Diego County District Attorney and assigned to the Child Abduction Unit, when seeking the records of a child who has been reported as detained or concealed in violation of Penal Code sections 278 and 278.5, for the sole purpose of investigating and

prosecuting persons suspected of violating Penal Code sections 278, 278.5, and related crimes.

18. Investigators employed by attorneys who represent parties in dependency proceedings, when seeking records that may be released to the attorney without a court order under Welfare & Institutions Code section 827.

19. The Mexican Consulate, when seeking the records of a child who is in protective custody and/or is before the court for a dependency action, and either: [a] is a Mexican national, or [b] has relatives (as defined in Welf. & Inst. Code, § 319) who are Mexican nationals.

20. The U.S. Social Security Administration, for the purpose of determining a child's eligibility for benefits.

21. The Department of Homeland Security, for the purpose of granting immigration relief.

22. The San Diego County Regional Center for the Developmentally Disabled.

23. The San Diego County Probation Department, when performing its duty under Penal Code section 1203.097 to certify treatment programs for domestic violence offenders, for purposes of documenting a treatment program's failure to adhere to certification standards and identifying serious practice problems in such treatment programs, provided that in any proceeding for the suspension or revocation of a treatment provider's certification or in any document related thereto, the Probation Department must not disclose any child's name.

Persons seeking access to and/or photocopies of dependency records under this rule must fill out, sign, and submit to the clerk in the Juvenile Court Business Office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" (SDSC form JUV-004). The completed form will be kept in the file that is the subject of the Petition and/or Request.

B. In addition to the persons and agencies designated in Welfare & Institutions Code section 827, the following may inspect or receive verbal information regarding dependency records without a prior court order (but must file a Request for Disclosure of Juvenile Case File [JV-570] to obtain photocopies), subject to the conditions specified, on the basis that [1] disclosure will be in the best interest of the child whose records are sought and [2] the information contained in those records is necessary and relevant to the proceeding or purpose for which the records are sought:

1. U.S. Department of Justice prosecutors or their agents.

2. U.S. military prosecutors or their agents.

3. Federal Bureau of Investigation agents.

4. California Attorney General's Office prosecutors.

5. Any other agency or office authorized to investigate or prosecute criminal or juvenile cases under state or federal law.

Persons seeking access to and/or photocopies of dependency records under this subdivision must present a photo I.D. and proof that they are entitled to access and/or photocopies (e.g., law enforcement badge or Bar card).

Persons seeking access (but not photocopies) to dependency records under this subdivision must fill out, sign, and submit to the clerk in the Juvenile Court Business Office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" [SDSC form JUV-004]. The completed form will be kept in the file that is the subject of the Petition and/or Request.

Persons seeking photocopies of dependency records under this subdivision must file a Request for Disclosure of Juvenile Case File [JV-570] (see rule 6.6.2).

C. Persons or agencies obtaining records under this rule must not disclose such records to another person or agency unless authorized to do so by the Juvenile Court. Any unauthorized disclosure may be punishable as provided by applicable laws.

D. This rule is not intended to replace, nullify or conflict with any existing policies of the HHS, the Probation Department, or any other public or private agency. This rule does not prohibit the release of general information on Juvenile Court policies and procedures.

(Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Rev. 7/1/2003; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012)

Rule 6.6.5

Disclosure of Dependency Records to Counsel for the Child in a Delinquency Proceeding

A. Counsel appointed by the court or privately retained to represent a child in a delinquency proceeding (Welf. & Inst. Code, § 601 et seq., including Welf. & Inst. Code, § 707) may have access to the child's dependency records, as defined in rule 6.6.1, without a prior court order, subject to the following:

1. Counsel must give notice to the HHS social worker assigned to the child's case (or the HHS Legal Procedures Liaison, if there is no assigned social worker) at least five days before counsel will inspect records maintained by the HHS.

2. Counsel will not have access to any information which would tend to identify a reporter of child

abuse or neglect, as prohibited under Penal Code sections 11167 and 11167.5.

3. Counsel will not have access to any information regarding HIV testing or HIV infection, as prohibited under Health & Safety Code section 120975 (formerly § 199.20) et seq.

4. Counsel will not have access to any confidential or privileged information regarding persons other than his or her child client.

5. Persons seeking access to dependency records under this rule must fill out, sign, and submit to the clerk in the Juvenile Court Business Office (or other clerk designated to receive such petitions) a "Petition to View Records and/or Request for Copies" [SDSC form JUV-004]. The completed form will be kept in the file that is the subject of the Petition and/or Request.

For purposes of this rule, "access" provides for inspection and photocopying of dependency records at the court's business office or the HHSA office where the records are maintained, unless otherwise ordered by the court. Photocopying must be done by court or HHSA personnel as appropriate, unless otherwise ordered by the court or agreed to by the parties. The person or agency obtaining photocopies must pay for the copying (in accordance with the current San Diego Superior Court Schedule of Fees).

B. Counsel appointed by the court or privately retained to represent a child in a delinquency proceeding (Welf. & Inst. Code, § 601 et seq., including Welf. & Inst. Code, § 707) must file a Request for Disclosure of Juvenile Case File on Judicial Council form JV-570 (see rule 6.6.2), with a request for a protective order (see Cal. Rules of Court, rules 5.552(c) & (e)(8)), in order to disseminate information obtained from inspection of the child's dependency records to any persons or agencies not authorized to obtain such information under Welfare & Institutions Code section 827.

Notice of the filing of the Request for Disclosure must be given as required by California Rules of Court, rule 5.552(d).

Juvenile case files may not be obtained or inspected by civil or criminal subpoena. A waiver of confidentiality by any person identified or described in the requested dependency records does not automatically confer a right of access to those records.

(Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2011)

Rule 6.6.6

Disclosure of Probation Records to Counsel for the Child in a Delinquency Proceeding

The attorney representing a child in a delinquency proceeding may view or obtain photocopies from the child's probation file after obtaining a judge's signature on the JUV-004 Petition to View Records.

(Adopted 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2011)

Rule 6.6.7

Disclosure of Law Enforcement Reports Regarding Juveniles to Persons and Agencies not Designated in Welfare & Institutions Code Section 828

If a person or agency not designated in Welfare & Institutions Code section 828 seeks access to unsealed records held by a law enforcement agency, including reports regarding children who are the subject of juvenile court proceedings, that person or agency must file a Petition to Obtain Report of Law Enforcement Agency [Judicial Council form JV-575] with the clerk in the Juvenile Court Business Office or other clerk designated to receive such petitions. The petition must set forth with specificity the reasons for the request, the information sought, and its relevancy to the proceeding or purpose for which petitioner seeks the information.

(Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2011)

Rule 6.6.8

Disclosure of Medical Information to Foster Parents and Other Care Providers

Upon discharge of a child, who is a dependent of the court or who is on a "hospital hold" pursuant to Welfare & Institutions Code section 309, subdivision (b), or section 16525.14 [Options for Recovery], and the release of such child to a foster parent designated by the HHSA pursuant to Welfare & Institutions Code section 16525.30 (or other care provider as permitted by law), the health care provider discharging the child may provide to the foster parent or other care provider a written summary of the child's medical history, diagnosis, and treatment, if necessary for the proper treatment of the child after discharge.

(Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Renum. 1/1/2006)

Rule 6.6.9

Disclosure of IEPs, Immunization Records, and Other Health Records to HHSA Social Workers and Children's Attorneys

In any case where a child is under the dependency jurisdiction of the court (Welf. & Inst. Code, § 300 et seq.) or under informal supervision pursuant to Welfare & Institutions Code section 360, the HHSA social worker assigned to the child's case and the attorney representing the child in dependency proceedings (see Welf. & Inst. Code, § 317, subd. (f)) may receive, upon request, copies of any written individualized education programs (IEPs), immunization records, and any other school or health records maintained by 1) a public school district or private school in which the child is or was enrolled, 2) a hospital to which the child is or was admitted, or 3) a health care provider who is or was providing medical, dental, psychiatric, or psychological treatment for the child. (Adopted 1/1/1999; Renum. 7/1/2001; Rev. & Renum. 1/1/2002; Renum. 1/1/2006)

Rule 6.6.10

Disclosure of Information Regarding HHSA Clients Receiving Voluntary Services

The HHSA may share certain information from its files regarding children and families who are receiving voluntary case services from the HHSA, including but not limited to information concerning health care, mental health services, educational services, social services, or wraparound services provided to the child and/or family. This information may be shared only with individuals or organizations providing ongoing health care, mental health services, educational services, or social services to the child and/or family in order to protect and promote the child's physical and emotional well being. The information described in this rule may be exchanged only when such disclosure is necessary to better serve the needs of the child and/or family and must be kept in a confidential manner by the provider unless otherwise authorized by law or ordered by the Court. (Adopted 1/1/2008)

Rule 6.6.11

Disclosure of Delinquency Records to Victims of Crime

A. Unless otherwise ordered by the court, the DA may release the following information to the victim(s) of a crime committed by a juvenile offender:

1. information regarding the status of the case;
2. name(s) of the minor(s) ordered to pay restitution to the victim;
3. name(s) of the parent(s) or guardian(s) of any minor(s) ordered to pay restitution to the victim;

and

4. the address of the minor and/or the parent or guardian, if the victim states that the address is necessary to collect restitution or to file a civil action.

The information is to be used by the victim only to collect restitution ordered by the juvenile court. Before receiving any information, the victim, or his or her representative, must sign the form entitled "Warning to Victims of Crimes by Juvenile Offenders."

(Adopted 1/1/2005; Renum. 1/1/2006)