DIVISION VI
JUVENILE

CHAPTER 1
JUVENILE RULES

Rule 6.1.1

Preliminary Provisions

A. These rules, together with the rules promulgated by the Judicial Council for the juvenile courts, the Welfare and Institutions Code, those sections of other codes specifically made applicable to juvenile proceedings by the Welfare and Institutions Code, and relevant case law, are the controlling body of law which governs proceedings in the San Diego Superior Court Juvenile Division.

B. Insofar as these rules are substantially the same as existing statutory provisions relating to the same subject matter, they are to be construed as restatements thereof.

Insofar as these rules may add to existing statutory provisions relating to the same subject matter, they are to be construed so as to implement the purposes of the juvenile court law.

C. To the extent that these rules may affect or declare substantive rights, these rules are intended to be a reflection of existing constitutional, statutory, case law, and Judicial Council rules of court, and are to be interpreted consistent with such law.

D. These rules are intended to be applied in a fair and equitable manner consistent with the best interest of the children and families appearing before the juvenile court.

E. Severability clause. If a rule or subdivision thereof in this division is invalid, all valid parts that are severable from the invalid part remain in effect. If a rule or subdivision thereof in this division is invalid in one or more of its applications, the rule or subdivision thereof remains in effect in all valid applications that are severable from the invalid applications.

F. These rules have prospective application only.

(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006)

Rule 6.1.2

Definitions, Construction of Terms, Nature of Hearings

A. As used in these rules, unless the context or subject matter otherwise requires:

1. "CASA" means a court-appointed special advocate;

2. "Child" means a person under the age of 18 years;

3. "Clerk" means the clerk of the juvenile court;

4. "Court" means the juvenile court, and includes any judge, commissioner, referee, or referee pro tem of the juvenile court;

5. "Foster Parent" means an adult relative or non-relative with whom a dependent child is placed;

6. "Guardian" means the legal guardian of the child;

7. "HHSA" means the Health and Human Services Agency of San Diego County (formerly called "Department of Social Services, Children's Services Bureau");

8. "Nonminor dependent" means a person over the age of 18 and not yet 21, who was previously a dependent child or ward of the juvenile court and who has remained in or returned to foster care, and who, under the Court's jurisdiction, is placed in a supervised independent living placement or setting, and is participating in a transitional independent living case plan as defined in Welfare and Institutions Code section 11400.

9. "Resource family" means a caregiver who has been approved by the State Department of Social Services.

10. "Notify" means to inform, either orally or in writing;

11. "Petitioner" means the San Diego County Health and Human Services Agency ("HHSA") or its employees.

B. Construction of terms

1. "Shall" or "must" is mandatory; "may" is permissive.

2. The past, present, and future tenses include the others.

3. The singular and plural numbers include the other.

C. Nature of Hearings

1. A jurisdictional settlement conference is a jurisdiction hearing on the uncontested calendar.

2. A contested jurisdiction hearing is a trial where testimonial and documentary evidence may be submitted on the issue of jurisdiction.

(Adopted 1/1/1990; Rev. 1/1/1997; Rev. 1/1/2002; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2018)

Rule 6.1.3

Standing, Rights, and Levels of Participation in Dependency Cases

Unless otherwise expressly granted by constitutional, statutory, or case law, or rule of court, the standing, rights, and levels of participation of the following persons in dependency cases are limited to those provided in this rule.

A. Parents and/or guardian(s). The biological parents, adoptive parents, guardian(s), and/or person(s) having legal custody of a child who is the subject of a dependency action have standing as parties to the proceedings.

B. Child. The child who is the subject of a dependency action has standing as a party to the proceedings.

C. De facto parent. For purposes of this rule, a de facto parent is defined in California Rules of Court, rule 5.502(10). No person will be granted de facto parent status who has inflicted or allowed to be inflicted serious harm on the child, including but not limited to physical, sexual, or emotional harm.

De facto parent status will be granted by the court only upon a written application using Judicial Council forms JV-295 ("De Facto Parent Request") and JV-296 ("De Facto Parent Statement"). Instructions for completing the forms are provided on Judicial Council form JV-299 ("De Facto Parent Pamphlet"). Notice of such application and hearing date will be given to the parties or their counsel of record by the court clerk. At the hearing on such application, the court will consider the contents of the dependency file, any report filed by the social worker or the CASA for the child, and any other relevant and admissible evidence presented by the parties. The court may consider the declarations filed in support of or in opposition to such application if the declarants are made available for cross-examination. Before granting de facto parent status, the court must find, by a preponderance of the evidence, that the moving party meets the criteria set forth in this rule. An application for de facto parent status will not, in and of itself, constitute good cause for continuing any other hearing in the dependency action.

The de facto parent of a child who is the subject of a dependency action has standing as a party to the proceedings to the degree that the proceedings directly affect the de facto parent's legally recognizable interest in the child.

A de facto parent's right to discovery in the dependency proceeding is pursuant to Welfare and Institutions Code section 827 (see rule 6.6.2). Upon granting de facto parent status, the court may make such discovery orders pursuant to that section as are necessary and appropriate.

Upon granting de facto parent status, the court may appoint counsel on a pro bono basis for the de facto parent. No right to the appointment of counsel exists for the bringing of this application.

In any case in which a child is removed from the physical custody of his or her parents or legal guardians pursuant to Welfare and Institutions Code section 361, a de facto parent, if a relative, licensed foster care provider, or resource family parent, will also receive preferential consideration for placement of the child over all other relatives, foster parents, and resource families if such placement is in the best interest of the child and is conducive to any reunification efforts ordered by the court.

De facto parent status will continue only so long as the psychological bond continues to exist between the de facto parent and the child. De facto parent status automatically terminates upon the termination of dependency jurisdiction or when the child reaches 18 years of age.

D. Relative. For purposes of this rule, a "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including all relatives described in Welfare and Institutions Code sections 319(f)(2) and 361.3(c)(2).

A relative whose presence is known to the court will receive notice of juvenile court proceedings as otherwise provided by law, and may be present at such proceedings if the court finds that his or her presence would not disrupt the orderly court process and would be consistent with the best interests of the child.

Participation in the court process for relatives is limited to the submission of a written or oral statement regarding their interest in the child, any information they might have that relates to the child or the dependency action, and their recommendation regarding the child. Written statements should be submitted on Judicial Council form JV-285 ("Relative Information Form"). The court may not consider such unsworn statements as evidence, but may consider such statements as a basis for ordering further investigation or services.

The home of a relative will be given preferential consideration for placement of the child, as provided in Welfare and Institutions Code section 361.3.

E. Foster parent. A foster parent of a child who is the subject of a dependency action will receive notice of proceedings as required by Welfare and Institutions Code sections 291, 293, 294, and 295.

Participation in the court process for foster parents is as described in California Rules of Court, rule 5.534(i). Written information about the child may be submitted in a letter to the court or by using Judicial Council form JV-290 ("Caregiver Information Form"). (See also form JV-290-INFO ("Instruction Sheet for Caregiver Information Form").) The court may not consider such unsworn statements as evidence, but may consider such statements as a basis for ordering further investigation or services.

(Adopted 1/1/1990; Rev. 1/1/1994; Rev. 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2018; Rev. 1/1/2019)

Rule 6.1.4

Assignment of Cases and Peremptory Challenges

The court assigns dependency cases on an independent calendar system. Under that system, a dependency case assigned to a particular judge, commissioner, or referee will remain with that judicial officer until the termination of jurisdiction, unless otherwise ordered. Under the independent calendar system, a peremptory challenge to any judge, commissioner, or referee must be made pursuant to Code of Civil Procedure section 170.6. Such a challenge must be

made prior to any determination of contested issues of fact relating to the merits and within 15 days after notice of the assignment of the case to a specific judge, commissioner, or referee, or it will be deemed untimely. Notice of the assignment is complete upon service of such notice or initial appearance in court. Each party will be allowed only one peremptory challenge per case. (This rule is adopted pursuant to *Daniel V. v. Superior Court* (2006) 139 Cal.App.4th 28.)
(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 1/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012)

Rule 6.1.5
Objection to the Sufficiency of the Petition

A party may file an objection to challenge the sufficiency of a Welfare and Institutions Code section 300 petition on the ground that the petition alleges facts which, even if determined to be true, (a) are not sufficient to state a cause of action, or (b) are not stated with sufficient clarity and precision to enable the party to determine what must be defended against. (For purposes of this rule, "petition" includes amended petitions and subsequent petitions filed under Welfare and Institutions Code sections 342, 360, subd. (c), or 364.)

Such an objection may be made orally or in writing. However, it must be made at either: (a) the detention hearing or (b) the initial appearance after the filing of a petition but before the court makes a true finding. The court may entertain the objection by oral argument when made or may set it for further hearing.

If the court sets a hearing on the objection, counsel for the moving party may file a supporting memorandum of points and authorities. To be considered timely, the memorandum must be filed at least 48 hours before the hearing. Petitioner may file a responsive memorandum of points and authorities. To be considered timely, the responsive memorandum must be filed by 8:30 a.m. on the day of the hearing.

When an objection to the sufficiency of a petition is overruled and no plea has been filed, the court will allow the plea to be entered at the conclusion of the hearing or upon such terms as may be just.

When an objection to the sufficiency of a petition is sustained, the court may grant leave to amend the petition upon any terms as may be just and will fix the time within which the amended petition must be filed.
(Adopted 1/1/1990; Rev. 7/1/1991; Rev. 1/1/2002; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 6.1.6
Amendment of the Welfare and Institutions Code Section 300 Petition

A. Petitioner may amend the petition once without leave of court, either: (1) before a plea is entered or an objection is filed, or (2) after a denial is entered but before the trial on the issue of jurisdiction, by filing the amended petition and serving a copy on all parties at the jurisdictional settlement conference.

B. The court may, in furtherance of justice, and on such terms as may be proper, allow the petitioner to amend the petition or any allegation in the petition by adding or striking the name of any party or by correcting statistical information, clerical mistake(s), or typographical error(s). (Cal. Rules of Court, rule 5.560(f).)

C. The court may, upon noticed motion or upon stipulation of all parties, and in furtherance of justice, amend the petition.

D. The court may, upon a finding that the variance is not material, amend the petition to conform to the evidence received by the court at the jurisdiction hearing.

E. Except as otherwise provided by law, the court may not amend the petition over the objection of petitioner.
(Adopted 1/1/1990; Rev. 1/1/1997; Rev. 1/1/2002; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.1.7
Prehearing Discovery in Dependency Matter

A. Prehearing discovery will be conducted informally. Except as protected by statute, claim of privilege, or other good cause, all relevant material held by any party must be disclosed in a timely fashion to all parties to the litigation or made available to the parties upon request.

B. Only after all informal means have been exhausted may a party move the court for an order requiring disclosure.

The motion must identify with specificity the information sought, state the efforts which have been made to obtain the information through informal means, and explain why the information is relevant and material.

The original of the motion, with supporting declaration(s) and a memorandum of points and authorities, must be filed with the clerk of the assigned department. No motion will be accepted for filing or heard unless accompanied by a declaration by the movant or the movant's counsel, setting forth the following:

1. That the informal request for discovery was made at least five court days before the motion was filed;

2. The response, if any, to the informal request by the party to whom the request was directed or that party's counsel;

3. That the movant has met and conferred with the party to whom the request was directed or that party's counsel, or the facts showing that movant has attempted in good faith to meet and confer with the party to whom the request was directed or that party's counsel.

The clerk will assign a hearing date within 10 court days of the date the informal request was made, but not less than five days before the next hearing, whichever is sooner. Responsive pleadings must be filed and served at least two court days before the assigned hearing date.

C. Materials released by the HHSA pursuant to an informal request for discovery, or after a formal motion to compel discovery has been granted, will be subject to the following conditions unless the conditions are modified by a judicial officer:

1. All records and information obtained through discovery and any copies thereof are in the constructive possession and custody of the court and must be returned to the court at the conclusion of the court proceedings, including all appeals and writs brought in the case, if requested by the judicial officer.

2. Use of records and information obtained through discovery for use in a juvenile court proceeding is limited to that proceeding only.

3. Counsel for the parties may make such copies of the records and information obtained through discovery as are necessary for the preparation and presentation of the case. Counsel is responsible for returning all such copies to the court at the conclusion of the proceeding, if requested by the judicial officer.

4. Records and information obtained through discovery must be kept in a confidential manner and must not be released, directly or indirectly, to members of the media or any other individuals not directly connected with the court proceeding.

5. Records and information may be reviewed by the parties, their counsel, and any investigator or expert witness retained by counsel to assist in the preparation of the case. Any such person reviewing the records or information must be made familiar with the terms of this rule.

6. All reasonable costs incurred in the reproduction of records under this rule will be the responsibility of the party seeking the records.

D. Any discovery matters not addressed here by this rule or California Rules of Court, rule 5.546 will be treated as a Request for Disclosure of Juvenile Case File (Judicial Council form JV-570) pursuant to Welfare and Institutions Code section 827 and California Rules of Court, rule 5.552, upon a noticed motion showing good cause as set forth in subdivision B. above.

(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010; Rev. 1/1/2012)

Rule 6.1.8

Pretrial Status Conference

A. At the discretion of the court, a pretrial status conference may be heard in the trial-setting department at least 10 calendar days before the date set for trial. Upon stipulation of all parties, the pretrial status conference may be heard within 10 calendar days before the date set for trial.

B. At the status conference, all attorneys must be prepared to address pretrial matters such as the continuing necessity for trial, the identification of contested and uncontested issues, the time estimated for trial, the exchange of witness lists, the filing of motions, the presentation of stipulated and documentary evidence, and requests for judicial notice. Each self-represented party and attorney must provide to the court and to all other self-represented parties and attorneys appearing in the case each of the items listed in rule 6.1.9D. The court will establish a date and time certain for trial if one has not been previously set.

(Adopted 1/1/1990; Rev. 7/1/1990; Rev. 1/1/1997; Rev. 1/1/2002; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2016)

Rule 6.1.9

Settlement Conference

A. The court need not follow the procedures outlined in this rule where there is clear evidence that a settlement conference will not resolve the matter.

B. If a matter is set for a contested hearing, the court may order the parties and their counsel to appear at a settlement conference, and may schedule dates for both the settlement conference and the hearing. (The hearing will proceed as scheduled only if the matter does not settle.) HHSA social workers or their supervisors may be on telephone stand-by for the settlement conference. Unless expressly excused by the court, if any other party fails to appear at the settlement conference, the court may issue a bench warrant for that party.

C. Before the settlement conference, each attorney must conduct a comprehensive interview with his or her client, and make any further investigations that he or she deems necessary to ascertain the facts.

D. At the settlement conference, the attorney for each party must be prepared to discuss the legal and factual issues and must negotiate the case in good faith. Each self-represented party and attorney must be prepared to submit to the court and provide to each other self-represented party and attorney:

1. a list of issues to be litigated;

2. a list of proposed documentary evidence;

3. a list of intended witnesses;

4. a written request for judicial notice (Evid. Code, § 450 et seq.);

5. a list of stipulated evidence which will be presented at the time of trial.

E. If a matter is not resolved at the settlement conference, the court will address pretrial issues. Counsel should be prepared to submit pretrial worksheets addressing the issues described in rule 6.1.8B.

(Adopted 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2016)

Rule 6.1.10

Mediation

At the discretion of the court, a case may be referred to mediation. If referred, the court will identify the mediator and set the fee for the mediator's services. The parties and all attorneys will be ordered to appear at the mediation.
(Adopted 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006)

Rule 6.1.11

Use of Social Worker's Report at the Jurisdiction Hearing

At a jurisdiction hearing, the court will receive into evidence any social worker's report or screening summary. If the jurisdiction hearing is a contested hearing, the receipt of the report into evidence will be subject to the following requirements:

A. The report must be filed with the court and made available to the parties or their counsel at least five calendar days before the jurisdiction hearing.

B. The social worker or supervisor who prepared or supervised the preparation of the report must be available to testify at the jurisdiction hearing if counsel for the petitioner intends to offer the report into evidence.

C. For purposes of the jurisdiction hearing only, the court will strike any portion of the report containing anonymous information.

D. Upon request of the parent, guardian, child, or their counsel made at least five court days before the jurisdiction hearing, the social worker must either (1) provide the address and/or telephone number, if known, of any person whose statement is included in the social worker's report, or (2) make such person available, if requested, for cross-examination at the jurisdiction hearing. If, upon request, the social worker has not disclosed the address or telephone number, if known, of any witness, and a request is made to interview such witness before the hearing, the social worker must make such witness available for interview if practicable and if the witness is willing.

E. If the social worker, pursuant to subdivision D. of this rule, has provided the address of a witness to the parent, guardian, child, or their counsel, and if such parent, guardian, child, or counsel presents evidence of unsuccessful attempts and due diligence to subpoena such witness for the jurisdiction hearing, and if the court finds there has been due diligence, the court will strike, for purposes of the jurisdiction hearing only, the statements of such witness from the social worker's report. In the alternative, the court may grant a continuance for a period up to 10 court days for the parties, including the social worker, to attempt to subpoena or make such witness available for testimony at the jurisdiction hearing. The court will not grant more than one such continuance in any dependency matter.

F. If the social worker, pursuant to subdivision D. of this rule, has indicated that he or she will make such witness available at the jurisdiction hearing but fails to make such witness available, the court shall strike, for purposes of the jurisdiction hearing only, the statements of such witness from the social worker's report. In the alternative, the court may grant a continuance for a period of up to 10 court days for the parties, including the social worker, to attempt to subpoena or make such witness available for testimony at the jurisdiction hearing. The court will not grant more than one such continuance in any dependency matter.

G. For purposes of this rule, an attachment to a social worker's report is considered part of the social worker's report and will be received into evidence if: (1) such attachment is relevant to the jurisdictional issues, (2) the social worker has referred to the significant portions of such attachment in the body of the report, (3) the social worker used the attachment as part of the basis of any conclusion or recommendation made in the report, and (4) the requirements of subdivisions A. through F. of this rule have been met.
(Adopted 1/1/1990; Rev. & Renum. 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2020)

Rule 6.1.12

Findings at Jurisdiction Hearing

A. Procedure. At a jurisdiction hearing, the court may make a finding on the allegations in the petition by way of one of the following procedures:

1. Admission of Allegations. The court may accept an admission from a party that all or part of the allegations in the petition are true.

Before accepting an admission, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in California Rules of Court, rule 5.682. The court must also find that there is a factual basis for the admission. The child may object to the finding of a factual basis and may request a contested hearing on that issue.

2. No Contest. The court may accept a plea of "no contest" to the allegations in the petition from a party.

Before accepting a "no contest" plea, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in California Rules of Court, rule 5.682. The court must also find that there is a factual basis for the "no contest" plea. The child may object to the finding of a factual basis and may request a contested hearing on that issue.

3. Submission on Reports. The court may allow a dependency matter to be submitted on available written reports upon a stipulation by all parties. The reports received by the court for purposes of a determination of jurisdiction may include the screening summary, police reports, and any other reports submitted by the social worker

along with any attachments thereto. The court may make a finding that the allegations in the petition are true or not true, in whole or in part, based upon the information contained in the submitted reports.

Before allowing a party to submit the matter for decision based upon these reports, the court must satisfy itself that the party understands the nature of the allegations in the petition and understands and waives the trial rights enumerated in California Rules of Court, rule 5.682.

The party may make a closing argument before the court renders a decision.

4. Contested Hearing. The court may hear the matter as a contested hearing and receive testimonial or documentary evidence properly submitted by the parties. The court will make findings on the allegations in the petition based upon such evidence.

B. Jurisdictional Findings. Inasmuch as a jurisdictional finding is as to the child, and not as to the parent or guardian, the court may make a finding that the child is a person described by Welfare and Institutions Code section 300 only after following the procedures of this rule or after making a finding that reasonable efforts have been made and failed to locate the parent or guardian, as to each and every parent and guardian.

(Adopted 1/1/1990; Rev. & Renum. 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.1.13

Court-Appointed Special Advocates (CASAs)

In any action pursuant to Welfare and Institutions Code sections 300-452, the court may, in an appropriate case and in addition to any counsel appointed for a child or nonminor dependent, appoint a court-appointed special advocate (CASA) to represent the best interests of the child or nonminor dependent who is the subject of the proceedings. If the court determines that a child would not benefit from the appointment of counsel pursuant to Welfare and Institutions Code section 317, subdivision (c) and California Rules of Court, rule 5.660(b), the court must appoint a CASA for the child to serve as guardian ad litem. The CASA has the same duties and responsibilities as a guardian ad litem and must meet the requirements set forth in California Rules of Court, rule 5.660(f). CASA volunteers must be trained by and function under the auspices of Voices for Children, the court-appointed special advocate program formed and operated under the guidelines established by the National Court Appointed Special Advocate Association, Welfare and Institutions Code sections 100-109, and California Rules of Court, rules 5.655 and 5.660.

(Adopted 1/1/1990; Rev. 1/1/1997; Rev. 1/1/2002; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2019)

Rule 6.1.14

Ex Parte Applications and Orders

A. Any party making an ex parte request for an order from the court in a dependency matter must give 48 hours' notice to all other parties or their counsel. A declaration that such notice has been given to all other parties or their counsel must be set forth in the moving papers. The declaration must also state whether the request is opposed, unopposed, or the declarant is unaware of the other parties' position on the request.

The court may waive such notice only upon a showing of good cause that is set forth by clear facts in a supporting declaration or declarations.

B. Except in emergency matters requiring immediate action, all ex parte applications and proposed orders must be delivered during regular business hours to the clerk of the judicial officer assigned to the case, for presentation to that judicial officer.

(Adopted 1/1/1990; Renum. 1/1/1997; Rev. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2016; Rev. 1/1/2020)

Rule 6.1.15

Presence of Child at Court Hearing

A. This rule governs the attendance of children at court hearings unless the child is present by subpoena, the desire to be present, or by other order of the court.

B. Children under four years of age are excused from attending all court hearings.

C. Children four years of age or older must attend if:

1. Directed to attend by the court.

2. Requested to attend by a party or their counsel, and the court finds that:

a. Attending would not be detrimental to the child.

b. The child is not otherwise unable to attend due to disability, physical illness, or medical condition.

D. If a child who is ten years of age or older was not properly notified of his or her right to attend a hearing or was not given an opportunity to attend, the court must continue the hearing unless the court finds that it is in the best interest of the child not to continue the hearing. (Welf. & Inst. Code, § 349, subd. (d).)

E. If the child is present, the court must inform the child that he or she has the right to address the court and participate in the hearing and must allow the child, if the child so desires, to address the court and participate in the hearing. (Welf. & Inst. Code, § 349, subd. (c).) The judicial officer in the assigned court may view and speak with the child with a court reporter present to create an official transcript of the conversation.

(Adopted 1/1/1990; Rev. 7/1/1991; Rev. & Renum. 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2012; Rev. 1/1/2017; Rev. 1/1/2018)

Rule 6.1.16

Procedure for Establishing Parentage; Genetic Testing

A. The juvenile court is a proper forum to determine the parentage of a child when such a finding becomes necessary during a dependency proceeding.

B. Any action to determine the parentage of a child who is the subject of a dependency proceeding must conform to the provisions of Family Code sections 7610 and 7630 et seq., except that either the petitioner or counsel for the child may also bring the action. Only approved Judicial Council forms (see JV-505, "Statement Regarding Parentage (Juvenile)") may be used in all such actions.

C. Except on stipulation by the parties and agreement of the court, any motion for genetic testing must be properly noticed, in writing, accompanied by a memorandum of points and authorities in support of the motion and a declaration by counsel which specifies the type of test to be conducted, the entity that will perform the test, and the cost of the procedure.

The court must enter appropriate orders for payment of the cost of the test, including but not limited to, apportionment among or between the parties.

D. Any action to determine parentage may be assigned to a referee of the juvenile court upon the filing of a fully executed stipulation that the referee will act in the capacity of a superior court judge. If the parties do not so stipulate, the matter will be transferred to a superior court judge for the sole purpose of hearing the parentage issue.

E. At the conclusion of any such action, the court will enter judgment(s) accordingly.

F. Nothing in this rule will extend any statutory time limits for hearings, including disposition or review. Nor will any provision of this rule preclude the court from issuing any proper interim orders or findings to promote the best interest of the child.

(Adopted 1/1/1990; Rev. & Renum. 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2015; Rev. 1/1/2020)

Rule 6.1.17

Confidentiality of Foster Homes (Welf. & Inst. Code, § 308)

A. For purposes of this rule, "foster family home" means the home of any person certified or licensed as a foster parent or approved as a resource family for the detention or placement of children pending or during juvenile dependency proceedings.

B. For purposes of this rule, placement of a child includes the placement or detention of a child by the HHSA or the court pending or during juvenile dependency proceedings.

C. The address of any foster family home in which a child has been placed must be kept confidential at all times except as provided by this rule and any other provisions of law directly applicable to the confidentiality of foster family homes. Nothing in this rule prohibits, where appropriate, the release of the first name of the foster parent and a telephone number at which the foster parent can be reached so as to facilitate contact with the child. Nothing in this rule shall be construed to restrict any information about the foster family home from the attorney for the child. Further, nothing in this rule may be construed to restrict the right or ability of the parent or guardian to visitation and contact with the child at a location other than the foster family home where such visitation and contact is in the child's best interest.

D. The safety and protection of the foster family and the safety, protection, physical and emotional well-being of all children placed in the foster family home will be the primary considerations in any decision or ruling made pursuant to this rule.

E. A foster parent may at any time authorize the release of his or her address, thereby waiving the confidentiality of that foster family home.

1. Any such authorization must be in writing, be personally signed and dated by the foster parent, identify the specific individual(s) the foster parent is authorizing release of the foster family home address to, and include a statement that the foster parent is aware of the confidentiality provisions of the law and is voluntarily waiving them.

2. Any such authorization must be provided to the social worker who must maintain the authorization in the HHSA file. The social worker must advise the attorney for the child, if any, and any CASA of the authorization within three court days. The authorization will not go into effect for a period of seven days unless both the social worker and the attorney for the child, if any, concur that waiver of the confidentiality of the foster family home will not endanger the child's safety, protection, physical or emotional well-being. At any time before the expiration of the seven days, the social worker or the attorney for the child, if any, may apply to the juvenile court, with notice to all parties, for an order directing that the address of the foster family home be kept confidential and the reasons therefor.

3. Any such authorization may be withdrawn by the foster family at any time before the actual release of the address of the foster family home. Such withdrawal will not be effective unless communicated to and received by the social worker handling the case before the actual release by the social worker of the address of the foster family home.

F. At the detention hearing the court will make an order that the address of the foster family home must be kept confidential as required by law. At the detention hearing and any subsequent change in the child's placement, HHSA must provide to counsel for the child the full name, address, and telephone number of the foster family home, group home, temporary shelter, or emergency detention home or facility in which the child is detained or placed. (See Welf. & Inst. Code, § 16010.6, subd. (a).)

G. Except as provided in subdivision E. of this rule, the confidentiality of the address of a foster family home must be maintained at all times before the disposition hearing or the expiration of 60 days from the date the child was ordered removed or detained, whichever comes first.

H. At the disposition hearing and at any regularly scheduled review hearing, any party to the proceeding may request the court to issue an order releasing the address of the foster family home. No Welfare and Institutions Code section 388 petition will be required at such hearings, but the procedures and standards set forth in subdivision I. of this rule for the consideration and issuance of such an order must be followed. Notice to the foster family home may be made orally, however.

I. Following the disposition hearing or the expiration of 60 days from the date the child was ordered removed or detained, whichever comes first, any interested person may petition the court pursuant to Welfare and Institutions Code section 388 for an order releasing the address of the foster family home.

1. The court will follow the procedures for the determination of a Welfare and Institutions Code section 388 petition, including the summary denial of the petition, but will not grant the petition without a noticed hearing.

2. The foster parent and all parties or their counsel must be noticed for the hearing. The foster parent must be noticed through the HHSA. The foster parent has the right to be present, to be represented by retained counsel, and to participate in the proceedings.

3. The court will not grant the petition unless the person seeking release of the address has met his or her burden to show that new evidence or a change of circumstance establishes good cause for the release of the address and that the release is in the best interest of the child. For purposes of this determination, the best interest of the child includes, but is not limited to, the safety, protection, physical and emotional well-being of the child, as well as the safety and protection of the foster family with which the child is placed.

4. Any order of the court releasing the address of the foster family home will be stayed for a period of 10 days, and may be stayed for a period in excess of 10 days, to allow any party, including the foster parent, to seek review of the decision through rehearing or petition for extraordinary writ relief.

(Adopted 7/1/1998; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2012; Rev. 1/1/2014; Rev. 1/1/2018)

Rule 6.1.18

CASA Reports

In any case in which the court has ordered the appointment of a CASA (court-appointed special advocate), the CASA must submit a report to the court and to the persons entitled to receive copies of the report at least two court days before each of the following hearings: six-month review; 12-month review (permanency hearing); 18-month review (permanency review hearing); 24-month review (subsequent permanency review hearing); selection and implementation hearing (366.26 hearing); post-permanency planning reviews; and status reviews for nonminor dependents. The CASA may submit reports for any special hearings noticed to Voices for Children. If the CASA was appointed before the establishment of jurisdiction, the CASA may submit a report to the court at least two court days before the jurisdiction/disposition hearing. The content of the report must be limited to the current condition of the child and needed services; jurisdictional issues must not be addressed (see Cal. Rules of Court, rule 5.655).

Only parties and their counsel are entitled to receive copies of CASA reports. Relatives, de facto parents, foster parents, service providers, and parents of nonminor dependents are not entitled to receive copies of CASA reports unless they file a Request for Disclosure pursuant to Welfare and Institutions Code section 827 (see rule 6.6.2) and the court grants the request.

CASA reports will be copied and distributed by Voices for Children staff.

(Adopted 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2014; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2020)

Rule 6.1.19

Court Orders to Address Parental Substance Abuse

At the detention or initial hearing, if the HHSA report or the petition informs the court that a parent has alcohol and/or drug issues, the court will refer that parent to an on-site screening and referral to treatment. If the court subsequently assumes jurisdiction, the court will order that parent to abstain from possessing and using drugs and/or alcohol, to submit to random urine testing, to participate in counseling, treatment programs, and/or 12-step programs as specified, and to provide proof of such participation to the social worker or the court. The court may also order the parent to participate in Dependency Drug Court if screening by the Regional Case Manager indicates that the parent is a good candidate for Drug Court and the parent agrees to participate.

The court may make these orders at any subsequent hearing upon receipt of a report from the social worker or Regional Case Manager that a parent has alcohol and/or drug issues.

The social worker reports for post-disposition hearings must state whether the parent is actively participating in counseling, treatment, 12-step programs, and/or Dependency Drug Court as ordered; the number of sessions or meetings missed, if any; whether those absences were excused; and the results of each urinalysis. The court may consider noncompliance with the orders described in this rule to be a failure to participate regularly in a court-ordered treatment program, which eventually may result in a termination of efforts to reunify the family.

(Adopted 7/1/2003; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2016)

Rule 6.1.20

Fax Filing

Any petition to be filed under Welfare and Institutions Code section 300, 342, 387, 388, or 827 may be filed by fax by a named party to the proceeding, an attorney of record in the proceeding, the HHSA, the Probation Department, the D.A.'s Office, County Counsel, or a CASA volunteer appointed in the case. The faxed document must comport in form to the original, must be legible, and must bear a legible signature verifying the truth of the information in the petition or report. The first page transmitted must be the Fax Filing Cover Sheet--Juvenile (Judicial Council form JV-520), followed immediately by the document to be filed. Neither the Cover Sheet nor any special handling instructions shall be filed or retained by the court.

Further details about fax filing requirements, including the fax number and the hours during which fax filings will be accepted, may be obtained by contacting the Juvenile Court Business Office. Fax filings must comply with the requirements of California Rules of Court, rule 5.522.

(Adopted 1/1/2013; Rev. 1/1/2014; Rev. 1/1/2015)

Rule 6.1.21

Exhibits: Permissible Filings Defined

A. Permissible Exhibits for Motions and Pleadings: Absent leave of court, all exhibits in support of motions and pleadings in dependency or adoption cases shall be paper filings, must be legible and complete, and must not require the use of another resource or medium to view the exhibit. Compact Discs (CDs), Digital Video Discs (DVDs), thumb drives, and/or other types of digital storage devices may not be submitted as exhibits to motions or pleadings, and will not be accepted by the clerk for filing.

B. Use of Recorded or Digital Evidence: Any party intending to seek the admission of an electronic sound or sound-and-video recording, or digitally stored evidence as an exhibit at a contested hearing, including trial, must lodge the recorded or digital evidence and file a transcript of the relevant portions. The lodged material must be accompanied by an original notice of lodgment that includes: 1) a numbered listing of all of the lodged items, 2) a brief description of each lodged item, and 3) an addressed envelope with sufficient postage for return of the material to the party lodging it. (Cal. Rules of Court, rules 2.1040 and 3.1302(b).)

(Adopted 1/1/2017; Rev. 1/1/2018)