

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 25, 2013,  
effective on January 1, 2014, and March 1, 2014

**Rules effective January 1, 2014:**

Rule 1.6. Definitions and use of terms..... 6

~~Rule 1.22. Recycled paper ..... 6~~

~~Rule 2.101. Use of recycled paper; certification by attorney or party ..... 6~~

~~Rule 2.131. Recycled paper ..... 7~~

Rule 3.670. Telephone appearance ..... 7

Rule 3.1207. ~~Personal~~ Appearance requirements ..... 15

Rule 3.1368. Paper format ..... 15

Rule 3.1802. Inclusion of interest in judgment..... 16

Rule 5.68. Manner of service of summons and petition; response; jurisdiction..... 16

Rule 5.72. Court order for service by publication or posting when respondent’s  
address is unknown ..... 17

Rule 5.74. Pleadings and amended pleadings ..... 18

Rule 5.324. Telephone appearance in Title IV-D hearings and conferences..... 18

Rule 5.372. Transfer of title IV-D case to a tribal court ..... 18

Rule 5.502. Definitions and use of terms..... 20

Rule 5.518. Court-connected child protection/dependency mediation ..... 23

Rule 5.534. General provisions—all proceedings ..... 24

Rule 5.555. Hearing to consider termination of juvenile court jurisdiction over a  
nonminor—dependents or wards of the juvenile court in a foster care placement  
and nonminor dependents (§§ 224.1(b), 303, 366.31, 391, 452, 607.3, 16501.1(f)(16))  
..... 27

Rule 5.570. Request to change court order (petition for modification) ..... 30

Rule 5.616. Interstate Compact on the Placement of Children..... 34

Rule 5.620. Orders after filing under section 300..... 36

Rule 5.625. Orders after filing of petition under section 601 or 602..... 37

Rule 5.630. Restraining orders..... 37

Rule 5.640. Psychotropic medications..... 39

Rule 5.649. Right to make educational or developmental-services decisions ..... 41

Rule 5.650. Appointment of educational representative Appointed educational  
rights holder ..... 42

Rule 5.651. Educational and developmental-services decisionmaking rights of children before the juvenile court.....	56
Rule 5.660. Attorneys for parties (§§ 317, 317.6, <u>353, 366.26, 16010.6, 366.26</u> ) .....	67
Rule 5.695. Findings and orders of the court—disposition .....	68
Rule 5.707. Review hearing requirements for child approaching majority (§§ 224.1, 366(a)(1)(F), 366.3( <del>A</del> – <del>n</del> ), <u>366.31</u> , 16501.1(f)(16)) .....	70
Rule 5.708. General review hearing requirements.....	71
Rule 5.710. Six-month review hearing .....	73
Rule 5.715. Twelve-month permanency hearing.....	75
Rule 5.720. Eighteen-month permanency review hearing.....	76
Rule 5.790. Orders of the court.....	77
Rule 5.805. California Department of Corrections and Rehabilitation, Division of Juvenile Justice, commitments.....	80
Rule 5.810. Reviews, hearings, and permanency planning .....	80
Rule 5.812. Additional requirements for any hearing to terminate jurisdiction over child in foster care and for status review hearing for child approaching majority (§§ 450, 451, 727.2(i)–(j), 778).....	84
<u>Rule 5.813. Modification to transition jurisdiction for a ward older than 18 years and younger than 21 years of age (§§ 450, 451).....</u>	<u>85</u>
<u>Rule 5.814. Modification to transition jurisdiction for a ward older than 17 years, 5 months of age and younger than 18 years of age (§§ 450, 451) .....</u>	<u>88</u>
Rule 5.900. Nonminor dependent—preliminary provisions (§§ 224.1(b), 295, 303, 366, 366.3, 388, 391, 607(a)).....	92
Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, <del>366(f)</del> ; 366.1, 366.3, <u>366.31</u> ) .....	93
Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction (§§ 224.1(b), 303, 388(e)).....	95
Rule 7.101. Use of Judicial Council forms .....	98
<u>Rule 8.42. Requirements for signatures of multiple parties on filed documents.....</u>	<u>98</u>
<u>Rule 8.45. General provisions.....</u>	<u>99</u>
Rule 8.46. Sealed records.....	103
<u>Rule 8.47. Confidential records .....</u>	<u>108</u>
Rule 8.77. Requirements for signatures on documents.....	112
Rule 8.100. Filing the appeal .....	114
Rule 8.120. Record on appeal .....	115

Rule 8.122. Clerk’s transcript .....	115
Rule 8.130. Reporter’s transcript .....	117
Rule 8.140. Failure to procure the record .....	125
Rule 8.144. Form of the record .....	126
<u>Rule 8.149. When the record is complete</u> .....	127
Rule 8.204. Contents and form of briefs .....	128
Rule 8.212. Service and filing of briefs .....	129
Rule 8.320. Normal record; exhibits .....	130
<del>Rule 8.328. Confidential records</del> .....	131
Rule 8.336. Preparing, certifying, and sending the record .....	134
Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by an attorney .....	136
Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party .....	136
Rule 8.385. Proceedings after the petition is filed .....	137
Rule 8.386. Proceedings if the return is ordered to be filed in the reviewing court .....	138
Rule 8.387. Decision in habeas corpus proceedings .....	140
Rule 8.401. Confidentiality .....	140
Rule 8.407. Record on appeal .....	141
Rule 8.409. Preparing and sending the record .....	142
Rule 8.485. Application .....	143
Rule 8.486. Petitions .....	144
Rule 8.487. Opposition and Attorney General amicus briefs .....	145
Rule 8.490. Filing, finality, and modification of decisions; <u>rehearing</u> ; remittitur .....	146
Rule 8.610. Contents and form of the record .....	147
Rule 8.804. Definitions .....	149
Rule 8.832. Clerk’s transcript .....	149
Rule 8.834. Reporter’s transcript .....	151
Rule 8.838. Form of the record .....	156
Rule 8.840. <u>Completion and filing of the record</u> .....	156
Rule 8.842. Failure to procure the record .....	157
Rule 8.883. Contents and form of briefs .....	158
Rule 8.928. Contents and form of briefs .....	159

Rule 8.931. Petitions filed by persons not represented by an attorney .....	159
Rule 8.933. Opposition .....	161
Rule 8.935. <u>Filing, finality, and modification of decisions; rehearing; remittitur</u> .....	161
<del>Rule 10.503. Use of recycled paper by all courts .....</del>	<del>163</del>
<u>Rule 10.609. Notification to State Bar of attorney misconduct</u> .....	163
Rule 10.614. Local court forms .....	164
Rule 10.951. Duties of supervising judge of the criminal division .....	165
Rule 10.952. Meetings concerning the criminal court system.....	165
<u>Rule 10.1017. Notification to State Bar of attorney misconduct</u> .....	166

**Rules effective March 1, 2014:**

Rule 8.810. Extending time .....	168
Rule 8.822. Time to appeal .....	169
Rule 8.823. Extending the time to appeal .....	169
Rule 8.834. Reporter’s transcript .....	172
Rule 8.835. Record when trial proceedings were officially electronically recorded.....	173
Rule 8.837. Statement on appeal.....	174
Rule 8.851. Appointment of appellate counsel.....	178
Rule 8.864. Record of oral proceedings.....	179
Rule 8.865. Contents of reporter’s transcript.....	180
Rule 8.866. Preparation of reporter’s transcript.....	181
Rule 8.867. Limited normal record in certain appeals.....	185
Rule 8.868. Record when trial proceedings were officially electronically recorded.....	188
Rule 8.869. Statement on appeal.....	190
<u>Rule 8.874. Failure to procure the record</u> .....	195
Rule 8.882. Briefs by parties and amici curiae .....	196
Rule 8.887. Decisions .....	196
Rule 8.890. Remittitur.....	197
Rule 8.915. Record of oral proceedings.....	197
Rule 8.916. Statement on appeal.....	198
Rule 8.917. Record when trial proceedings were officially electronically recorded.....	202

Rule 8.918. Contents of reporter’s transcript..... 205  
Rule 8.919. Preparation of reporter’s transcript..... 206  
Rule 8.924. Failure to procure the record ..... 209  
Rule 8.927. Briefs ..... 210  
Rule 8.928. Contents and form of briefs..... 211

1 **Rule 1.6. Definitions and use of terms**

2  
3 As used in the California Rules of Court, unless the context or subject matter otherwise  
4 requires:

5  
6 (1)–(21) \* \* \*

7  
8 ~~(22) “Recycled” as applied to paper means “recycled printing and writing paper” as~~  
9 ~~defined by section 12209 of the Public Contract Code.~~

10  
11 ~~(2322)~~ “California Courts Web Site” means the Web site established by the Judicial  
12 Council that includes news and information, reference materials, rules and forms,  
13 and a self-help center. The address is: *www.courts.ca.gov*.

14  
15 *Rule 1.6 amended effective January 1, 2014; adopted as rule 200.1 effective January 1, 2003;*  
16 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
17 *July 1, 2007, July 1, 2008, and July 1, 2013.*

18  
19 **Rule 1.22. Recycled paper**

20  
21 ~~(a) — Use of recycled paper required~~

22  
23 ~~Recycled paper, as defined in rule 1.6, must be used for all original papers filed~~  
24 ~~with the trial and appellate courts and for all copies of papers, documents, and~~  
25 ~~exhibits, whether filed with the courts or served on other parties.~~

26  
27 ~~(b) — Certification~~

28  
29 ~~Whenever the use of recycled paper is required by these rules, the attorney, party,~~  
30 ~~or other person filing or serving a document certifies, by the act of filing or service,~~  
31 ~~that the document was produced on paper purchased as recycled.~~

32  
33 *Rule 1.22 repealed effective January 1, 2014; adopted effective January 1, 2007.*

34  
35 **Rule 2.101. Use of recycled paper; certification by attorney or party**

36  
37 ~~(a) — Use of recycled paper~~

38 ~~Recycled paper must be used for the following:~~

39  
40 ~~(1) — All original papers filed with the court and all copies of papers, documents,~~  
41 ~~and exhibits, whether filed with the court or served on other parties; and~~  
42

1           ~~(2) The original record on appeal from a limited civil case, any brief filed with~~  
2           ~~the court in a matter to be heard in the appellate division, and all copies of~~  
3           ~~such documents, whether filed with the court or served on other parties.~~

4  
5           ~~(b) Certification~~

6  
7           ~~Whenever recycled paper must be used under the rules in this chapter, the attorney,~~  
8           ~~party, or other person filing or serving a document certifies, by the act of filing or~~  
9           ~~service, that the document was produced on paper purchased as recycled.~~

10  
11           ~~Rule 2.101 repealed effective January 1, 2014; adopted effective January 1, 2007.~~

12  
13           ~~**Rule 2.131. Recycled paper**~~

14  
15           ~~All forms and copies of forms filed with the court must use recycled paper as defined in~~  
16           ~~rule 1.6.~~

17  
18           ~~Rule 2.131 repealed effective January 1, 2014; adopted effective January 1, 2007.~~

19  
20           ~~**Rule 3.670. Telephone appearance**~~

21  
22           ~~(a)-(b) \* \* \*~~

23  
24           ~~(c) General provision authorizing parties to appear by telephone~~

25  
26           ~~Except as ordered by the court under provided in (e)(f)(2) and subject to (d)~~  
27           ~~(regarding ex parte applications) and (h) (regarding notice), a party all parties,~~  
28           ~~including moving parties, may appear by telephone at the following all~~  
29           ~~conferences, hearings, and proceedings other than those where personal~~  
30           ~~appearances are required under (e).:~~

31  
32           ~~(1) Case management conferences, provided the party has made a good faith~~  
33           ~~effort to meet and confer and has timely served and filed a case management~~  
34           ~~statement before the conference date;~~

35  
36           ~~(2) Trial setting conferences;~~

37  
38           ~~(3) Hearings on law and motion, except motions in limine;~~

39  
40           ~~(4) Hearings on discovery motions;~~

41  
42           ~~(5) Status conferences, including conferences to review the status of an~~  
43           ~~arbitration or a mediation; and~~

1  
2 ~~(6) Hearings to review the dismissal of an action.~~

3  
4 *(Subd (c) amended effective January 1, 2014; previously repealed and adopted as subd (b)*  
5 *effective July 1, 1998; previously amended effective July 1, 1999, and January 1, 2003;*  
6 *previously amended and relettered as subd (c) effective January 1, 2008.)*

7  
8 **(d) Provisions regarding ex parte applications**

9  
10 **(1) Applicants**

11  
12 Except as ordered by the court under (f)(2) and subject to (h), applicants  
13 seeking an ex parte order may appear by telephone provided that the moving  
14 papers have been filed and a proposed order submitted by at least 10:00 a.m.  
15 two court days before the ex parte appearance and, if required by local rule,  
16 copies have been provided directly to the department in which the matter is to  
17 be considered.

18  
19 **(2) Opposing Parties**

20  
21 Even if the applicant has not complied with (1), except as ordered by the  
22 court under (f)(2) and subject to the provisions in (h), parties opposing an ex  
23 parte order may appear by telephone.

24  
25 *(Subd (d) adopted effective January 1, 2014.)*

26  
27 **(d)(e) Required personal appearances**

28  
29 **(1)** Except as permitted by the court under ~~provided in (e)(f)(3)~~, a personal  
30 appearance is required for the following hearings, conferences, and  
31 proceedings ~~not listed in (e)~~, including the following:

32  
33 ~~(1)(A)~~ (A) Trials, ~~and~~ hearings, and proceedings at which witnesses are  
34 expected to testify;

35  
36 ~~(2)(B)~~ (B) Hearings on temporary restraining orders;

37  
38 ~~(3)(C)~~ (C) Settlement conferences;

39  
40 ~~(4)(D)~~ (D) Trial management conferences;

41  
42 ~~(5)(E)~~ (E) Hearings on motions in limine; and



1           ~~(6)~~(F)       Hearings on petitions to confirm the sale of property under the  
2                            Probate Code.

3  
4       (2)    In addition, except as permitted by the court under ~~provided in (e)(f)(3)~~, a  
5       personal appearance is required for the following persons:

6  
7       ~~(7)    Applicants seeking an ex parte order, except when the applicant is seeking an~~  
8       ~~order;~~

9  
10       ~~(A)   For permission to file a memorandum in excess of the applicable page~~  
11       ~~limits;~~

12  
13       ~~(B)   For an extension of time to serve pleadings;~~

14  
15       ~~(C)   To set hearing dates on alternative writs and orders to show cause; or~~

16  
17       ~~(D)   By stipulation of the parties;~~

18  
19       (8)(A)       Persons ordered to appear to show cause why sanctions should  
20       not be imposed for violation of a court order or a rule; or

21  
22       (9)(B)       Persons ordered to appear in an order or citation issued under the  
23       Probate Code.

24  
25       At the proceedings described under ~~(7), (8), and (9)~~, (2), parties who are not  
26       required to appear in person under this rule may appear by telephone.

27  
28       *(Subd (e) amended and relettered effective January 1, 2014; adopted as subd (c) effective*  
29       *July 1, 1998; previously amended effective July 1, 2002, and January 1, 2003; previously*  
30       *amended and relettered as subd (d) effective January 1, 2008.)*

31  
32       ~~(e)~~(f) **Court discretion to modify rule**

33  
34       (1)    \* \* \*

35  
36       (2)    *Court may require personal appearances*

37  
38       The court may require a party to appear in person at a hearing, conference, or  
39       proceeding listed in (c) or (d) if the court determines on a hearing-by-hearing  
40       basis that a personal appearance would materially assist in the determination  
41       of the proceedings or in the effective management or resolution of the  
42       particular case.

1 (3) Court may permit appearances by telephone

2  
3  
4  
5  
6

The court may permit a party to appear by telephone at a hearing, conference, or proceeding under ~~(d)~~ if the court determines that a telephone appearance is appropriate.

7 (Subd (f) amended and relettered effective January 1, 2014; adopted as subd (e) effective  
8 January 1, 2008.)

9

10 ~~(f)~~(g) \* \* \*

11

12 (Subd (g) relettered effective January 1, 2014; adopted as subd (f) effective January 1,  
13 2008.)

14

15 ~~(g)~~(h) Notice by party

16

17 (1) Except as provided in (6), a party choosing to appear by telephone at a  
18 hearing, conference, or proceeding, other than on an ex parte application,  
19 under this rule must either:

20

21 (A) Place the phrase "Telephone Appearance" below the title of the  
22 moving, opposing, or reply papers; or

23

24 (B) At least ~~three~~ two court days before the appearance, notify the court  
25 and all other parties of the party's intent to appear by telephone. If the  
26 notice is oral, it must be given either in person or by telephone. If the  
27 notice is in writing, it must be given by filing a "Notice of Intent to  
28 Appear by Telephone" with the court at least ~~three~~ two court days  
29 before the appearance and by serving the notice at the same time on all  
30 other parties by personal delivery, fax transmission, express mail, e-  
31 mail if such service is required by local rule or court order or agreed to  
32 by the parties, or other means reasonably calculated to ensure delivery  
33 to the parties no later than the close of the next business day.

34

35 (2) \* \* \*

36

37 (3) An applicant choosing to appear by telephone at an ex parte appearance  
38 under this rule must:

39

40 (A) Place the phrase "Telephone Appearance" below the title of the  
41 application papers;

42

1 (B) File and serve the papers in such a way that they will be received by the  
2 court and all parties by no later than 10:00 a.m. two court days before  
3 the ex parte appearance; and  
4

5 (C) If provided by local rule, ensure that copies of the papers are received  
6 in the department in which the matter is to be considered.  
7

8 (4) Any party other than an applicant choosing to appear by telephone at an ex  
9 parte appearance under this rule must notify the court and all other parties  
10 that have appeared in the action, no later than 2:00 p.m. on the court day  
11 before the appearance, of its intent to appear by telephone. If the notice is  
12 oral, it must be given either in person or by telephone. If the notice is in  
13 writing, it must be given by filing a “Notice of Intent to Appear by  
14 Telephone” with the court and by serving the notice at the same time on all  
15 other parties by any means authorized by law reasonably calculated to ensure  
16 delivery to the parties no later than the close of business on the court day  
17 before the appearance.  
18

19  
20 ~~(3)~~(5) If a party that has given notice that it intends to appear by telephone under (1)  
21 subsequently chooses to appear in person, the party may appear in person.  
22 must so notify the court and all other parties that have appeared in the action,  
23 by telephone, at least two court days before the appearance.  
24

25  
26 ~~(4)~~(6) A party may ask the court for leave to appear by telephone without the notice  
27 provided for under (1)–(4). The court, on a showing of good cause, may  
28 permit a party to appear by telephone at a conference, hearing, or proceeding  
29 even if the party has not given the notice required under (1) or (2) should  
30 permit the party to appear by telephone upon a showing of good cause or  
31 unforeseen circumstances. The court may permit a party to appear in person  
32 even if the party has not given the notice required in (3).  
33

34 *(Subd (h) amended and relettered effective January 1, 2014; adopted as subd (d) effective*  
35 *July 1, 1998; previously amended effective January 1, 1999, July 1, 1999, January 1, 2003,*  
36 *and January 1, 2007; amended and relettered subd (g) effective January 1, 2008.)*  
37

38 **~~(h)~~(i) Notice by court**  
39

40 After a party has requested a telephone appearance under (gh), if the court requires  
41 the personal appearance of the party, the court must give reasonable notice to all  
42 parties before the hearing and may continue the hearing if necessary to  
43 accommodate the personal appearance. The court may direct the court clerk, a

1 court-appointed vendor, a party, or an attorney to provide the notification. In courts  
2 using a telephonic tentative ruling system for law and motion matters, court  
3 notification that parties must appear in person may be given as part of the court's  
4 tentative ruling on a specific law and motion matter if that notification is given one  
5 court day before the hearing.

6  
7 *(Subd (i) amended and relettered effective January 1, 2014; adopted as subd (e) effective*  
8 *July 1, 1998; previously amended effective January 1, 1999, and January 1, 2003;*  
9 *previously amended and relettered as subd (h) effective January 1, 2008.)*

10  
11 **(i) Provision of telephone appearance services**

12  
13 A court may provide for telephone appearances only through one or more of the  
14 following methods:

15  
16 (1) \* \* \*

17  
18 (2) The direct provision by the court of telephone appearance services. If a court  
19 directly provides telephone services, it must collect the telephone appearance  
20 fees specified in (j), except as provided in (k) and (m). A judge may, at his  
21 or her discretion, waive telephone appearance fees for parties appearing  
22 directly by telephone in that judge's courtroom.

23  
24 *(Subd (j) amended and relettered effective January 1, 2014; adopted as subd (f) effective*  
25 *July 1, 1998; previously relettered as subd (i) effective January 1, 2008; previously*  
26 *amended effective January 1, 2003, July 1, 2011 and July 1, 2013.)*

27  
28 **(k) Telephone appearance fee amounts; time for making requests**

29  
30 The telephone appearance fees specified in this subdivision are the statewide,  
31 uniform fees to be paid by parties to a vendor or court for providing telephone  
32 appearance services. Except as provided under ~~(k)~~ and (l) and (m), the fees to be  
33 paid to appear by telephone are as follows:

34  
35 (1) \* \* \*

36  
37 (2) An additional late request fee of \$30 is to be charged for an appearance by  
38 telephone if the request to the vendor or the court providing telephone  
39 services is not made at least ~~three~~ two days before the scheduled appearance,  
40 except:

41  
42 (A) When an opposing party has provided timely notice under (h)(4) on an  
43 ex parte application or other hearing or conference, or proceeding is set

1 on shortened time for which three days' notice would not be feasible or  
2 practical, only the applying party—and not any responding party—is to  
3 be charged the late fee, no late fee is to be charged to that party;  
4

5 (B) When the court, on its own motion, sets a hearing or conference on  
6 shortened time, no late fee is to be charged to any party;  
7

8 (C) When the matter has a tentative ruling posted within the two ~~three~~-day  
9 period, no late fee is to be charged to any party; and  
10

11 (D) When the request to appear by telephone is made by a party that  
12 received notice of another party's intent to appear and afterward  
13 decides also to appear by telephone under (~~gh~~)(2), no late fee is to be  
14 charged to that party if its request is made to the vendor or the court  
15 providing the service by noon on the court day before the hearing or  
16 conference.  
17

18 (3) \* \* \*

19  
20 *(Subd (k) amended and relettered effective January 1, 2014; adopted as subd (j) effective*  
21 *July 1, 2011; previously (j) amended effective July 1, 2013.)*  
22

23 **~~(k)~~(L) Fee waivers**

24  
25 (1) *Effect of fee waiver*  
26

27 A party that has received a fee waiver must not be charged the fees for  
28 telephone appearances provided under (~~jk~~), subject to the provisions of Code  
29 of Civil Procedure section 367.6(b).  
30

31 (2) \* \* \*

32  
33 (3) \* \* \*

34  
35 *(Subd (1) amended and relettered effective January 1, 2014; adopted as subd (k) effective*  
36 *July 1, 2011.)*  
37

38 **~~(l)~~(m) Title IV-D proceedings**

39  
40 (1) \* \* \*

41  
42 (2) *Vendor-provided telephone appearance services*  
43

1 If a vendor provides for telephone appearance services in a proceeding for  
2 child or family support under Title IV-D, the amount of the fee for a  
3 telephone appearance under (jk)(1) is \$58 instead of \$78. No portion of the  
4 fee received by the vendor for a telephone appearance under this subdivision  
5 is to be transmitted to the State Treasury under Government Code section  
6 72011.

7  
8 (3) \* \* \*

9  
10 (4) *Fee waivers applicable*

11  
12 The fee waiver provisions in (kl) apply to a request by a party in a Title IV-D  
13 proceeding for telephone appearance services from a vendor.

14  
15 *(Subd (m) amended and relettered effective January 1, 2014; adopted as subd (l) effective*  
16 *July 1, 2011; previously amended effective July 1, 2013.)*

17  
18 ~~(m)~~(n) \* \* \*

19  
20 *(Subd (n) relettered effective January 1, 2014; adopted as subd (f); previously amended*  
21 *effective January 1, 2003, and January 1, 2007; previously amended and relettered as*  
22 *subd (j) effective January 1, 2008; previously relettered as subd (c) effective January 1,*  
23 *1989, as subd (g) effective July 1, 1998, and as subd (m) effective July 1, 2011.)*

24  
25 ~~(n)~~(o) \* \* \*

26  
27 *(Subd (o) relettered effective January 1, 2014; adopted as subd (h) effective July 1, 1998;*  
28 *previously amended effective January 1, 2003; previously relettered as subd (k) effective*  
29 *January 1, 2008, and as subd (n) effective July 1, 2011.)*

30  
31 ~~(o)~~(p) \* \* \*

32  
33 *(Subd (p) relettered effective January 1, 2014; adopted as subd (i) effective July 1, 1998;*  
34 *previously amended effective January 1, 1999, and January 1, 2003; previously relettered*  
35 *as subd (l) effective January 1, 2008; previously amended and relettered as subd (o)*  
36 *effective July 1, 2011.)*

37  
38 ~~(p)~~(q) \* \* \*

39  
40 *(Subd (q) relettered effective January 1, 2014; adopted as subd (j); previously amended*  
41 *effective January 1, 2003, and January 1, 2007; previously amended and relettered as*  
42 *subd (m) effective January 1, 2008; previously relettered as subd (p) effective July 1,*  
43 *2011.)*

1  
2 *Rule 3.670 amended effective January 1, 2014; adopted as rule 298 effective March 1, 1988;*  
3 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
4 *January 1, 1989, July 1, 1998, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2002,*  
5 *January 1, 2003, January 1, 2008, July 1, 2011, and July 1, 2013.*

6  
7  
8 **Advisory Committee Comment**  
9

10 This rule does not apply to criminal or juvenile matters, and it also does not apply to family law  
11 matters, except in certain respects as provided in rule 5.324 relating to telephone appearances in  
12 proceedings for child or family support under Title IV-D of the Social Security Act. (See Cal.  
13 Rules of Court, rule 3.670(b) [rule applies to general civil cases and unlawful detainer and  
14 probate proceedings]; rule 5.324(j) [subdivisions ~~(i)-(p)~~ (j)-(q) of rule 3.670 apply to telephone  
15 appearances in Title IV-D proceedings].)

16  
17 **Subdivision (d).** The inclusion of ex parte applications in this rule is intended to address only the  
18 way parties may appear and is not intended to alter the way courts handle ex parte applications.

19  
20 **Subdivision (h).** Under subdivision (h)(6), good cause should be construed consistent with the  
21 policy in (a) and in Code of Civil Procedure section 367.5(a) favoring telephone appearances.  
22 Some examples of good cause to appear by telephone without notice include personal or family  
23 illness, death in the family, natural disasters, and unexpected transportation delays or interruption.

24  
25 **Subdivision (j).** Under subdivision (j)(3) of this rule and Government Code section 72010(c),  
26 even for proceedings in which fees are authorized, the fees may be waived by a judicial officer, in  
27 his or her discretion, for parties appearing directly by telephone in that judicial officer's  
28 courtroom.

29  
30 **Rule 3.1207. ~~Personal Appearance~~ requirements**

31  
32 An applicant for an ex parte application order will be considered without a personal  
33 appearance of the applicant must appear, either in person or by telephone under rule  
34 3.670, except in the following cases only:

35  
36 (1)-(4) \* \* \*

37  
38 *Rule 3.1207 amended effective January 1, 2014; adopted effective January 1, 2007; previously*  
39 *amended effective January 1, 2008.*

40  
41 **Rule 3.1368. Paper format**  
42

1 (a) **Requirements**

2  
3 In the paper format of the administrative record lodged in the court in a proceeding  
4 brought under the California Environmental Quality Act:

5  
6 ~~(1)~~—The paper must be recycled;

7  
8 ~~(2)~~(1) Both sides of each page must be used;

9  
10 ~~(3)~~(2) The paper must be opaque, unglazed, white or unbleached, 8 1/2 by 11  
11 inches, and of standard quality no less than 20-pound weight, except that  
12 maps, charts, and other demonstrative materials may be larger; and

13  
14 ~~(4)~~(3) Each page must be numbered consecutively at the bottom.

15  
16 *(Subd (a) amended effective January 1, 2014.)*

17  
18 (b) \* \* \*

19  
20 *Rule 3.1368 amended effective January 1, 2014; adopted effective January 1, 2010.*

21  
22 **Rule 3.1802. Inclusion of interest in judgment**

23  
24 The clerk must include in the judgment any interest awarded by the court ~~and the interest~~  
25 ~~accrued since the entry of the verdict.~~

26  
27 *Rule 3.1802 amended effective January 1, 2014; adopted as rule 875 effective January 1, 1987;*  
28 *previously amended and renumbered effective January 1, 2007.*

29  
30 **Rule 5.68. Manner of service of summons and petition; response; jurisdiction**

31  
32 (a) **Service of summons and petition**

33  
34 The petitioner must arrange to serve the other party with a summons, petition, and  
35 other papers as required by one of the following methods:

36  
37 (1)–(4) \* \* \*

38  
39 (5) Service on a person residing outside of the United States, which must be done  
40 in compliance with service rules of the ~~Hague Convention on the Service~~  
41 ~~Abroad of Judicial and Extrajudicial Documents in Civil or Commercial~~  
42 ~~Matters; or~~ following:



1 (A) Hague Convention on the Service Abroad of Judicial and Extrajudicial  
2 Documents in Civil or Commercial Matters; or

3  
4 (B) Inter-American Convention on Letters Rogatory and the Additional  
5 Protocol to the Inter-American Convention on Letters Rogatory.

6  
7 (6) \* \* \*

8  
9 (*Subd (a) amended effective January 1, 2014.*)

10  
11 (b)–(c) \* \* \*

12  
13 *Rule 5.68 amended effective January 1, 2014; adopted effective January 1, 2013.*

14  
15 **Rule 5.72. Court order for service by publication or posting when respondent’s**  
16 **address is unknown**

17  
18 If the respondent cannot be found to be served a summons by any method described in  
19 Code of Civil Procedure sections 415.10 through 415.40, the petitioner may request an  
20 order for service of the summons by publication or posting under Code of Civil  
21 Procedure sections 415.50 and 413.30, respectively.

22  
23 (a) \* \* \*

24  
25 (b) **Service of summons by posting; additional requirements**

26  
27 Service of summons by posting may be ordered only if the court finds that the  
28 petitioner is eligible for a waiver of court fees and costs.

29  
30 (1) To request service by posting, the petitioner must have obtained an ~~order on~~  
31 waiving court fees waiver and costs (~~Superior Court~~) (form FW-003). If the  
32 petitioner’s financial situation has improved since obtaining the approved  
33 order on court fee waiver, the petitioner must file a *Notice to Court of*  
34 *Improved Financial Situation or Settlement* (form FW-010). If the court finds  
35 that the petitioner no longer qualifies for a fee waiver, the court may order  
36 service by publication of the documents.

37  
38 (2) \* \* \*

39  
40 (*Subd (b) amended effective January 1, 2014.*)

41  
42 *Rule 5.72 amended effective January 1, 2014; adopted effective January 1, 2013.*

1 **Rule 5.74. Pleadings and amended pleadings**

2  
3 (a) \* \* \*

4  
5 (b) **Forms of pleading**

6  
7 (1) The forms of pleading and the rules by which the sufficiency of pleadings is  
8 to be determined are solely those prescribed in these rules.

9  
10 (2) Demurrers, ~~or~~ motions for summary adjudication, and motions for summary  
11 judgment motions must not be used in family law actions.

12  
13 *(Subd (b) amended effective January 1, 2014.)*

14  
15 (c) \* \* \*

16  
17 *Rule 5.74 amended effective January 1, 2014; adopted effective January 1, 2013.*

18  
19 **Rule 5.324. Telephone appearance in Title IV-D hearings and conferences**

20  
21 (a)–(i) \* \* \*

22  
23 (j) **Vendors, procedure, audibility, reporting, and information**

24  
25 Rule 3.670~~(i)–(p)~~(j)–(q) applies to telephone appearances under this rule.

26  
27 *(Subd (j) amended effective January 1, 2014; previously amended effective January 1,*  
28 *2007, July 1, 2008, and July 1, 2011.)*

29  
30 (k) \* \* \*

31  
32 *Rule 5.324 amended effective January 1, 2014; adopted effective July 1, 2005; previously*  
33 *amended effective January 1, 2007, January 1, 2008, July 1, 2008, and July 1, 2011.*

34  
35 **Rule 5.372. Transfer of title IV-D case to a tribal court**

36  
37 (a) **Purpose**

38  
39 This rule is intended to define the procedure for transfer of title IV-D child support  
40 cases from a California superior court to a tribal court.

41  
42 (b) **Definitions**

1           (1) “Tribal court” means any tribal court of a federally recognized Indian tribe  
2           located in California that is receiving funding from the federal government to  
3           operate a child support program under title IV-D of the Social Security Act  
4           (42 U.S.C. § 654 et seq.).

5  
6           (2) “Superior court” means a superior court of the state of California.

7  
8           (3) “Title IV-D child support cases” include all cases where title IV-D services  
9           are being provided whether the case originates from the local child support  
10          agency’s filing of a summons and complaint or later becomes a title IV-D  
11          case when the local child support agency registers a child support order or  
12          intervenes in a child support action by filing a change of payee.

13  
14       **(c) Disclosure of related case**

15  
16       A party must disclose in superior court whether there is any related action in tribal  
17       court in the first pleading, in an attached affidavit, or under oath. A party’s  
18       disclosure of a related action must include the names and addresses of the parties to  
19       the action, the name and address of the tribal court where the action is filed, the  
20       case number of the action, and the name of judge assigned to the action, if known.

21  
22       **(d) Notice of intent to transfer case**

23  
24       Before filing a motion for case transfer of a child support matter from a superior  
25       court to a tribal court, the party requesting the transfer, the state title IV-D agency,  
26       or the tribal IV-D agency must provide the parties with notice of their right to  
27       object to the case transfer and the procedures to make such an objection.

28  
29       **(e) Determination of concurrent jurisdiction**

30  
31       The superior court may, on the motion of any party and after notice to the parties of  
32       their right to object, transfer a child support and custody provision of an action in  
33       which the state is providing services under California Family Code section 17400  
34       to a tribal court, as defined in (a). This provision applies to both prejudgment and  
35       postjudgment cases. When ruling on a motion to transfer, the superior court must  
36       first make a threshold determination that concurrent jurisdiction exists. If  
37       concurrent jurisdiction is found to exist, the transfer will occur unless a party has  
38       objected in a timely manner. On the filing of a timely objection to the transfer, the  
39       superior court must conduct a hearing on the record considering all the relevant  
40       factors set forth in (f).

41  
42       **(f) Evidentiary considerations**

1 In making a determination on the application for case transfer, the superior court  
2 must consider:

3  
4 (1) The nature of the action;

5  
6 (2) The interests of the parties;

7  
8 (3) The identities of the parties;

9  
10 (4) The convenience of the parties and witnesses;

11  
12 (5) Whether state or tribal law will apply;

13  
14 (6) The remedy available in the superior court or tribal court; and

15  
16 (7) Any other factors deemed necessary by the superior court.

17  
18 **(g) Order on request to transfer**

19  
20 The court must issue a final order on the request to transfer including a  
21 determination of whether concurrent jurisdiction exists.

22  
23 **(h) Proceedings after order granting transfer**

24  
25 Once the superior court has granted the application to transfer, the superior court  
26 clerk must deliver a copy of the entire file, including all pleadings and orders, to the  
27 clerk of the tribal court.

28  
29 *Rule 5.372 adopted effective January 1, 2014.*

30  
31 **Rule 5.502. Definitions and use of terms**

32  
33 Definitions (§§ 202(e), 303(b), 319, 361, 361.5(a)(3), 450, 628.1, 636, 726, 727.3(c)(2),  
34 727.4(d), 4512(j), 4701.6(b), 11400(v), 11400(y), 16501(f)(16); 20 U.S.C. § 1415; 25  
35 U.S.C. § 1903(2))

36  
37 As used in these rules, unless the context or subject matter otherwise requires:

38  
39 (1)–(7) \* \* \*

40  
41 (8) “Court-ordered services” or “court-ordered treatment program” means child  
42 welfare services or services provided by an appropriate agency ordered at a  
43 dispositional hearing at which the child is declared a dependent child or ward of the

1 court, and any hearing thereafter, for the purpose of maintaining or reunifying a  
2 child with a parent or guardian.

3  
4 (9)–(11) \* \* \*

5  
6 (12) “Domestic partner” means one of two adults who have chosen to share one  
7 another’s lives in an intimate and committed relationship of mutual caring as  
8 described in Family Code section 297.

9  
10 (13) “~~Educational representative rights holder~~” means the responsible adult identified or  
11 appointed by the court who holds the educational rights to make educational or  
12 developmental-services decisions for a child, nonminor, or nonminor dependent.  
13 when the parent’s or guardian’s educational rights have been limited by the court.  
14 The If the court limits a parent’s or guardian’s decisionmaking rights and appoints  
15 an educational rights holder, the educational representative appointed rights holder  
16 acts as the child’s or youth’s parent, spokesperson, educational-decision maker, and  
17 “authorized representative” as described in sections 4512(j) and 4701.6(b) and  
18 parent-in regard to all educational-matters related to educational or developmental-  
19 services needs, including those defined-described in sections 319, 361, and 726,  
20 4512, 4646–4648, and 4700–4731; Education Code sections 56028(b)(2), 56050,  
21 and 56055; Government Code sections 7579.5 and 7579.6; and title 20 chapter 33  
22 (commencing with section 1400) of title 20 of the United States Code; and part 300  
23 (commencing with section 300.1) of title 34 of the Code of Federal Regulations,  
24 unless the court orders otherwise. The An appointed educational representative  
25 rights holder holds educational and privacy rights is entitled to access to  
26 educational and developmental-services records and information to the extent  
27 permitted by law, including by sections 4514 and 5328, and to the same extent as  
28 the child’s-a parent, as defined-that term is used in title 20 United States Code  
29 section 1232g and defined in title 34 Code of Federal Regulations section-part 99.3.  
30

31 (14)–(18) \* \* \*

32  
33 (19) “Indian child” means any unmarried person under 18 years of age who is either (a)  
34 a member of an Indian tribe or (b) eligible for membership in an Indian tribe and is  
35 the biological child of a member of an Indian tribe. In a court proceeding defined in  
36 section 224.1(d), the term also means a youth who satisfies the conditions in either  
37 (a) or (b), above, is 18 years of age but not yet 21 years of age, and remains under  
38 the jurisdiction of the juvenile court, unless that youth, directly or through his or  
39 her attorney, chooses not to be considered an Indian child for purposes of the  
40 proceeding.

41  
42 (20) “Indian child’s tribe” means (a) the Indian tribe of which the Indian child is a  
43 member or is eligible for membership, or (b), if an Indian child is a member of, or

1 eligible for membership in, more than one tribe, the Indian tribe with which the  
2 Indian child has the more significant contacts, as determined under section  
3 224.1(e).

4  
5 ~~(19)~~(21) \* \* \*

6  
7 ~~(20)~~(22) \* \* \*

8  
9 ~~(21)~~(23) \* \* \*

10  
11 ~~(22)~~(24) \* \* \*

12  
13 ~~(23)~~(25) “Nonminor” means a youth at least 18 years of age and not yet 21 years of  
14 age who remains subject to the court’s dependency, delinquency, or general  
15 jurisdiction under section 303 but is not a “nonminor dependent.”

16  
17 ~~(23)~~(26) “Nonminor dependent” means a ~~person~~ youth who is a dependent or ward of  
18 the court, or a nonminor under the transition jurisdiction of the court, is at least 18  
19 years of age and ~~no more than 20~~ not yet 21 years of age, and: who

20  
21 (A) Was under an order for a of foster care placement on his or her 18th birthday;  
22 and

23  
24 (B) Is currently in foster care under the placement and care authority of the  
25 county welfare department, the county probation department, or an Indian  
26 tribe that entered into an agreement under ~~Welfare and Institutions Code~~  
27 section 10553.1; who and

28  
29 (C) Is participating in a current Transitional Independent Living Case Plan as  
30 defined in this rule; and who is meeting at least one of the education, training,  
31 or work requirements in ~~Welfare and Institutions Code~~ section 11403(b) or is  
32 incapable of meeting one of those requirements due to a medical condition.

33  
34 ~~(24)~~(27) \* \* \*

35  
36 ~~(25)~~(28) \* \* \*

37  
38 ~~(26)~~(29) \* \* \*

39  
40 ~~(27)~~(30) \* \* \*

41  
42 ~~(28)~~(31) \* \* \*

1 ~~(29)~~(32) \* \* \*  
2  
3 ~~(30)~~(33) \* \* \*  
4  
5 ~~(31)~~(34) \* \* \*  
6  
7 ~~(32)~~(35) \* \* \*  
8  
9 ~~(33)~~(36) \* \* \*  
10  
11 ~~(34)~~(37) \* \* \*  
12  
13 ~~(35)~~(38) \* \* \*  
14  
15 ~~(36)~~(39) \* \* \*  
16  
17 ~~(37)~~(40) \* \* \*

18  
19 (41) “Transition dependent” means a ward of the court at least 17 years and five months  
20 of age but not yet 18 years of age who is subject to the court’s transition  
21 jurisdiction under section 450.  
22

23 ~~(38)~~(42) \* \* \*  
24  
25 ~~(39)~~(43) \* \* \*  
26  
27 ~~(40)~~(44) \* \* \*  
28  
29 ~~(41)~~(45) \* \* \*  
30

31 *Rule 5.502 amended effective January 1, 2014; adopted as rule 1401 effective January 1, 1990;*  
32 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
33 *July 1, 1992, July 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, July 1, 2002,*  
34 *January 1, 2003, January 1, 2008, July 1, 2010, January 1, 2011, January 1, 2012, and July 1,*  
35 *2012.*  
36

37 **Rule 5.518. Court-connected child protection/dependency mediation**

38  
39 **(a)–(d)** \* \* \*

40  
41 **(e) Education, experience, and training requirements for dependency mediators**

42  
43 Dependency mediators must meet the following minimum qualifications:

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

(1)–(3) \* \* \*

(A) \* \* \*

(i)–(v) \* \* \*

(vi) ~~The requirements of the laws incorporated in rule 5.651(a)(3)~~  
rights to educational and developmental services recognized or  
established by state and federal law and strategies for  
appropriately addressing the individual needs of persons with  
disabilities;

(B)–(K) \* \* \*

*(Subd (e) amended effective January 1, 2014; previously amended effective January 1,  
2005, January 1, 2007, and January 1, 2008.)*

**(f)–(j)** \* \* \*

*Rule 5.518 amended effective January 1, 2014; adopted as rule 1405.5 effective January 1, 2004;  
previously amended and renumbered effective January 1, 2007; previously amended effective  
January 1, 2005, and January 1, 2008.*

**Rule 5.534. General provisions—all proceedings**

**(a)–(c)** \* \* \*

**(d) Burden of proof (§§ 350, 701.1)**

~~(1)~~Meeting the burden of proof:

~~(A1)~~ In any hearing under section 300 in which the county welfare agency has the  
burden of proof, the court may consider whether the burden of proof has been  
met only after completion of the agency’s case; and the presentation of any  
material evidence offered by the child, ~~the~~ The court may then, on motion of  
any party or on the court’s own motion, order whatever action the law  
requires if the court, based on all the evidence then before it, finds that the  
burden of proof ~~is~~has not been met.

~~(B2)~~ In any hearing under section 601 or 602, after the completion of the  
petitioner’s case, the court may, on the motion of any party; or on the court’s



1 own motion, order whatever action the law requires if the court, based on all  
2 the evidence then before it, finds that the burden of proof is~~has~~ not been met.

3  
4 ~~(2) If the motion is denied, the child in a section 300 or section 601 or section 602~~  
5 ~~hearing, or the parent or guardian in a section 300 hearing, may offer~~  
6 ~~evidence.~~

7  
8 *(Subd (d) amended effective January 1, 2014; previously amended effective July 1, 1995,*  
9 *and January 1, 2007.)*

10  
11 **(e) De facto parents**

12  
13 On a sufficient showing, the court may recognize the child’s present or previous  
14 custodians as a de facto parents and grant him or her standing to participate as a  
15 party parties in the dispositional hearings and any hearing thereafter at which the  
16 status of the dependent child is at issue. The de facto parent may:

17  
18 (1)–(3) \* \* \*

19  
20 *(Subd (e) amended effective January 1, 2014; previously amended effective January 1,*  
21 *2007.)*

22  
23 **(f) Relatives**

24  
25 (1) On a sufficient showing, the court may permit a relatives of the child or youth  
26 to:

27  
28 (A)–(B) \* \* \*

29  
30 (2) A relatives of the child ~~have~~ has the right to submit information about the  
31 child to the court at any time. Written information about the child may be  
32 submitted to the court using *Relative Information* (form JV-285) or in a letter  
33 to the court.

34  
35 (3) When a relative is located through the investigation required by rule 5.637,  
36 the social worker or probation officer must give that relative:

37  
38 (A) The written notice required by section 309 or 628 and the “Important  
39 Information for Relatives” document as distributed in California  
40 Department of Social Services All County Letter No. 09-86;

41  
42 (B)–(C) \* \* \*

43

1 (4) When form JV-285 or a relative's letter is received by the court, the court  
2 clerk must provide the social worker or probation officer, all ~~unrepresented~~  
3 self-represented parties, and all attorneys with a copy of the completed form  
4 or letter.

5  
6 (5) When form JV-287 is received by the court, the ~~court~~ clerk must place it in a  
7 confidential portion of the case file.

8  
9 *(Subd (f) amended effective January 1, 2014; previously amended effective January 1,  
10 2007, and January 1, 2011.)*

11  
12 **(g) Right to counsel (§§ 317, 633, 634, 700)**

13  
14 At each hearing, the court must advise any self-represented child, parent, or  
15 guardian of the right to be represented by counsel and, if applicable, of the right to  
16 have counsel appointed, subject to a claim by the court or the county for  
17 reimbursement as provided by law.

18  
19 *(Subd (g) amended effective January 1, 2014; previously amended effective July 1, 2002,  
20 and January 1, 2007.)*

21  
22 **(h) Appointment of counsel (§§ 317, 353, 633, 634, 700)**

23  
24 (1) \* \* \*

25  
26 (2) In cases petitioned under section 601 or ~~section~~ 602:

27  
28 (A)–(C) \* \* \*

29  
30 *(Subd (h) amended effective January 1, 2014; previously amended effective July 1, 2002,  
31 and January 1, 2007.)*

32  
33 (i) \* \* \*

34  
35 **(j) Appointment of educational ~~representative~~ rights holder (§§ 319, 361, 366,  
36 366.27, 726, 727.2; Gov. Code, §§ 7579.5–7579.6)**

37  
38 (1) If the court limits, even temporarily, the rights of a parent or guardian to  
39 make educational or developmental-services decisions for ~~the~~ a child under  
40 rule 5.649, the court must immediately proceed under rule 5.650(~~b~~) to  
41 appoint an responsible adult as educational ~~representative~~ rights holder for  
42 the child.

43

1           (2) If a nonminor or nonminor dependent youth chooses not to make educational  
2 or developmental-services decisions for him- or herself or is deemed by the  
3 court to be incompetent, and the court also finds that the appointment of an  
4 educational rights holder would be in the best interests of the youth, then the  
5 court must immediately proceed under rule 5.650 to appoint or continue the  
6 appointment of a responsible adult as educational rights holder for the youth.

7  
8           *(Subd (j) amended effective January 1, 2014; adopted effective January 1, 2008.)*

9  
10       **(k)–(n)     \* \* \***

11  
12       **(o)   Periodic reports (§ 365)**

13  
14           The court may require the petitioner or any other agency to submit reports  
15 concerning a child or youth subject to the jurisdiction of the court.

16  
17           *(Subd (o) amended effective January 1, 2014; adopted as subd (k); previously relettered as*  
18 *subd (l) effective January 1, 1994, as subd (m) effective January 1, 1997, as subd (n)*  
19 *effective October 1, 2007, and as subd (o) effective January 1, 2008.)*

20  
21       **(p)     \* \* \***

22  
23           *Rule 5.534 amended effective January 1, 2014; adopted as rule 1412 effective January 1, 1991;*  
24 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
25 *January 1, 1994, July 1, 1995, January 1, 1997, January 1, 2000, July 1, 2002, January 1, 2005,*  
26 *October 1, 2007, January 1, 2008, January 1, 2010, and January 1, 2011.*

27  
28       **Rule 5.555. Hearing to consider termination of juvenile court jurisdiction over a**  
29       **nonminor—dependents or wards of the juvenile court in a foster care**  
30       **placement and nonminor dependents (§§ 224.1(b), 303, 366.31, 391, 452, 607.3,**  
31       **16501.1(f)(16))**

32  
33       **(a)   Applicability**

34  
35           (1) This rule applies to any hearing during which the termination of the juvenile  
36 court's jurisdiction over the following nonminors will be considered:

37  
38           (A) A nonminor dependent as defined in section 11400(v); ~~and~~

39  
40           (B) A ward or dependent of the juvenile court who is 18 years of age or  
41 older and subject to an order for a foster care placement; or

1           (C) A ward who was subject to an order for foster care placement at the  
2           time he or she attained 18 years of age, or a dependent of the juvenile  
3           court who is 18 years of age or older and is living in the home of the  
4           parent or former legal guardian.

5  
6           (2) \* \* \*

7  
8           *(Subd (a) amended effective January 1, 2014; previously amended effective July 1, 2012.)*  
9

10       **(b) Setting a hearing**

11  
12           (1) \* \* \*

13  
14           (2) The hearing under this rule may be held during a hearing required under  
15           section 366(f) (g), ~~366.21, 366.22, 366.25~~, 366.3, 366.31, 727.2, or 727.3 or  
16           rule 5.903.

17  
18           (3) Notice of the hearing to the parents of a nonminor dependent as defined in  
19           section 11400(v) is not required, unless the parents are receiving court-  
20           ordered family reunification services or the nonminor is living in the home of  
21           the parent or former legal guardian.

22  
23           (4)–(5) \* \* \*

24  
25           *(Subd (b) amended effective January 1, 2014; previously amended effective July 1, 2012.)*  
26

27       **(c) Reports**

28  
29           (1) In addition to complying with all other statutory and rule requirements  
30           applicable to the report prepared by the social worker or probation officer for  
31           any hearing during which termination of the court’s jurisdiction will be  
32           considered, the report must include:

33  
34           (A)–(F) \* \* \*

35  
36           (G) When and how the nonminor was informed that if juvenile court  
37           jurisdiction is terminated, the court maintains general jurisdiction over  
38           him or her for the purpose of resuming jurisdiction and he or she has  
39           the right to file a request to return to foster care and have the juvenile  
40           court resume jurisdiction over him or her as a nonminor dependent until  
41           he or she has attained the age of 21 years ~~or the age of 20 years if the~~  
42           ~~Legislature does not appropriate funding to extend the availability of~~  
43           ~~foster care placement to the age of 21 years;~~

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(H)–(K) \* \* \*

(2)–(3) \* \* \*

(4) The social worker’s or probation officer’s report and all documents required by (c)(2)–(3) must be filed with the court at least 10 calendar days before the hearing, and the social worker or probation officer must provide copies of the report and other documents to the nonminor, the nonminor’s parents, and all attorneys of record. If the nonminor is under juvenile court jurisdiction as a nonminor dependent, the social worker or probation officer is not required to provide copies of the report and other documents to the nonminor dependent’s parents, unless the nonminor dependent’s parents are receiving court-ordered family reunification services.

*(Subd (c) amended effective January 1, 2014; previously amended effective July 1, 2012.)*

**(d) Findings and orders**

In addition to complying with all other statutory and rule requirements applicable to the hearing, the following judicial findings and orders must be made ~~on the record~~ and included in the written, ~~signed~~ court documentation of the hearing:

(1) *Findings*

(A)–(H) \* \* \*

(I) Whether the nonminor has been informed that if juvenile court jurisdiction is terminated, he or she has the right to file a request to return to foster care and have the juvenile court resume jurisdiction over him or her as a nonminor dependent until he or she has attained the age of 21 years ~~or the age of 20 years if the Legislature does not appropriate funding to extend the availability of nonminor foster care placement to the age of 21 years;~~

(J)–(M) \* \* \*

(2) *Orders*

(A)–(D) \* \* \*

(E) For a nonminor (1) who does not meet one or more of the eligibility criteria of section 11403(b) and is not otherwise eligible to remain

1 under juvenile court jurisdiction, (2) who does meet one or more of the  
2 eligibility criteria of section 11403(b) but does not wish to remain  
3 under the jurisdiction of the juvenile court as a nonminor dependent, or  
4 (3) who does meet one or more of the eligibility criteria of section  
5 11403(b) but is not participating in a reasonable and appropriate  
6 Transitional Independent Living Case Plan, the court may order the  
7 termination of juvenile court jurisdiction only after entering the  
8 following findings and orders:

9  
10 (i)–(ii) \* \* \*

11  
12 (iii) The nonminor was informed that if juvenile court jurisdiction is  
13 terminated, he or she has the right to return to foster care and to  
14 file a request to have the juvenile court resume jurisdiction over  
15 him or her as a nonminor dependent until he or she has attained  
16 the age of 21 years ~~or the age of 20 years if the Legislature does~~  
17 ~~not appropriate funding to extend the availability of nonminor~~  
18 ~~foster care placement to the age of 21 years;~~

19  
20 (iv)–(vi) \* \* \*

21  
22 *(Subd (d) amended effective January 1, 2014; previously amended effective July 1, 2012,*  
23 *and July 1, 2013.)*

24  
25 *Rule 5.555 amended effective January 1, 2014; adopted effective January 1, 2012; previously*  
26 *amended effective July 1, 2012, and July 1, 2013.*

27  
28 **Rule 5.570. Request to change court order (petition for modification)**

29  
30 **(a) Contents of petition (§§ 388, 778)**

31  
32 A petition for modification must be liberally construed in favor of its sufficiency.  
33 The petition must be verified and, to the extent known to the petitioner, must  
34 contain the following:

35  
36 (1)–(2) \* \* \*

37  
38 (3) The name and age of the child, nonminor, or nonminor dependent;

39  
40 (4) The address of the child, nonminor, or nonminor dependent, unless  
41 confidential under (c);  
42

1 (5) The name and residence address of the parent or guardian ~~or an adult relative~~  
2 of the child or nonminor; ~~if appropriate, to receive notice following the~~  
3 ~~procedures found in Welfare and Institutions Code sections 291 and 297(c);~~  
4

5 (6)–(8) \* \* \*

6  
7 (9) A statement of the petitioner’s relationship or interest in the child, nonminor,  
8 or nonminor dependent, if the ~~application~~ petition is made by a person other  
9 than the child, nonminor, or nonminor dependent; and

10  
11 (10) \* \* \*

12  
13 *(Subd (a) amended effective January 1, 2014; previously amended effective July 1, 2002,*  
14 *January 1, 2007, January 1, 2009, and January 1, 2010.)*

15  
16 **(b)** \* \* \*

17  
18 **(c) Confidentiality**

19  
20 The addresses and telephone numbers of the person requesting to change the court  
21 order; the child, nonminor, or nonminor dependent; and the ~~child’s~~ caregiver may  
22 be kept confidential by filing *Confidential Information (Request to Change Court*  
23 *Order)* (form JV-182) with form JV-180. Form JV-182 must be kept in the court  
24 file under seal, and only the court, the agency, and the ~~child’s~~ attorney for the child,  
25 nonminor, or nonminor dependent may have access to this information.

26  
27 *(Subd (c) amended effective January 1, 2014; adopted effective January 1, 2007.)*  
28

29 **(d) Denial of hearing**

30  
31 The court may deny the petition ex parte if:

32  
33 (1) The petition filed under section 388(a) or section 778 fails to state a change  
34 of circumstance or new evidence that may require a change of order or  
35 termination of jurisdiction or; fails to show that the requested modification  
36 would promote the best interest of the child; nonminor, or nonminor  
37 dependent.

38  
39 (2)–(3) \* \* \*

40  
41 *(Subd (d) amended effective January 1, 2014; adopted as subd (b); previously amended*  
42 *and relettered effective January 1, 2007; previously amended effective January 1, 2010.)*  
43

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

2  
3 (1) If the petition filed under section 388(a) or section 778 states a change of  
4 circumstance or new evidence and it appears that the best interest of the  
5 child, nonminor, or nonminor dependent may be promoted by the proposed  
6 change of order or termination of jurisdiction, the court may grant the petition  
7 after following the procedures in (f), (g), and (h), or (i).

8  
9 (2) If the petition is filed under section 388(b) and it appears that the best interest  
10 of the child, nonminor, or nonminor dependent may be promoted by the  
11 proposed recognition of a sibling relationship and other requested orders, the  
12 court may grant the petition after following the procedures in (f), (g), and (h).

13  
14 (3)–(4) \* \* \*

15  
16 (5) If the petition filed under section 388(a) is filed before an order terminating  
17 parental rights and is seeking to modify an order that reunification services  
18 were not needed under section 361.5(b)(4), (5), or (6) or to modify any orders  
19 related to custody or visitation of the child for whom reunification services  
20 were not ordered under section 361.5(b)(4), (5), or (6), the court may modify  
21 the orders only if the court finds by clear and convincing evidence that the  
22 proposed change is in the best interests of the child. The court may grant the  
23 petition after following the procedures in (f), (g), and (h).

24  
25 *(Subd (e) amended effective January 1, 2014; adopted as subd (c); previously amended*  
26 *and relettered effective January 1, 2007; previously amended effective January 1, 2010.)*

27  
28 (f) \* \* \*

29  
30 (g) **Notice of petition and hearing (§§ 388, 778)**

31  
32 The clerk must cause notice of the hearing to be given to the persons and in the  
33 same manner prescribed by rule 5.524. The ~~present custodian~~ caregiver of a  
34 ~~dependent~~ the child, nonminor, or nonminor dependent and the tribe of an  
35 ~~dependent~~ Indian child must be similarly notified. The parent or legal guardian of a  
36 nonminor dependent must not be notified unless the nonminor dependent requests  
37 that he or she receive notice or the parent or legal guardian is receiving court-  
38 ordered family reunification services.

39  
40 *(Subd (g) amended effective January 1, 2014; repealed and adopted as subd (e);*  
41 *previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, and July 1,*  
42 *2002; previously amended and relettered as subd (g) effective January 1, 2007.)*



1 (h) Conduct of hearing (§ 388)

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

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

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

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

20  
21 (B) If the request is to modify an order that reunification services were not  
22 needed under section 361.5(b)(4), (5), or (6) or to modify any orders  
23 related to custody or visitation of the child for whom reunification  
24 services were not ordered under section 361.5(b)(4), (5), or (6), the  
25 petitioner must show by clear and convincing evidence that the  
26 proposed change is in the best interests of the child.

27  
28 ~~(D)~~ (C) All other requests require a preponderance of the evidence to  
29 show that the child’s welfare requires such a modification.

30  
31 (2) The hearing must be conducted as a dispositional hearing under rules 5.690  
32 and 5.695 if:

33  
34 ~~(A)~~—The request is for removal from the home of the parent or guardian or  
35 to a more restrictive level of placement;

36  
37 ~~(B)~~ (A) The request is for termination of court-ordered reunification  
38 services; or

39  
40 ~~(C)~~ (B) There is a due process right to confront and cross-examine  
41 witnesses.

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

3  
4 *(Subd (h) amended effective January 1, 2014; adopted as subd (f); previously amended and*  
5 *relettered effective January 1, 2007; previously amended effective July 1, 2000, July 1,*  
6 *2002, January 1, 2003, and January 1, 2010.)*

7  
8 **(i) \* \* \***

9  
10 **(j) Petitions for juvenile court to resume jurisdiction over nonminors (§ 388(e))**

11  
12 A petition filed by or on behalf of a nonminor requesting that the court resume  
13 jurisdiction over the nonminor as a nonminor dependent is not subject to this rule.  
14 Petitions filed under subdivision (e) of section 388 are subject to rule 5.906.

15  
16 *(Subd (j) adopted effective January 1, 2014.)*

17  
18 *Rule 5.570 amended effective January 1, 2014; adopted as rule 1432 effective January 1, 1991;*  
19 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
20 *January 1, 1992, July 1, 1995, July 1, 2000, July 1, 2002, January 1, 2003, January 1, 2009, and*  
21 *January 1, 2010.*

22  
23 **Rule 5.616. Interstate Compact on the Placement of Children**

24  
25 **(a) \* \* \***

26  
27 **(b) Definitions (Fam. Code, § 7900 et seq.; ICPC Regulations)**

28  
29 (1) “Placement” is defined in article 2(d) of the compact. It includes placements  
30 with a relative, as defined in Regulation No. 3, paragraph 4, item 56; a legal  
31 guardian of the child; a placement recipient who is not related to the child;  
32 or a residential agency or institution, facility or a group home as defined in  
33 Regulation No. 4.

34  
35 (A)–(B) \* \* \*

36  
37 (2)–(3) \* \* \*

38  
39 (4) ICPC Regulations Nos. 3, 4, 5, 9, 10, ~~and 11~~, and 12 contain additional  
40 definitions that apply to California ICPC cases, except where inconsistent  
41 with this rule or with California law.  
42

1 (Subd (b) amended effective January 1, 2014; previously amended effective January 1,  
2 2007, and January 1, 2013.)

3  
4 **(c) Compact requirements (Fam. Code, § 7901; ICPC Regulations)**

5  
6 Whenever the juvenile court makes a placement in another jurisdiction included in  
7 the compact or reviews a placement plan, the court must adhere to the provisions  
8 and regulations of the compact.

9  
10 (1)–(2) \* \* \*

11  
12 (3) Cases in which out-of-state placement is proposed in order to place a child in  
13 a residential facility or group home must meet all the requirements of  
14 Regulation No. 4, except where inconsistent with California law.

15  
16 (Subd (c) amended effective January 1, 2014; previously amended effective January 1,  
17 2007, and January 1, 2013.)

18  
19 **(d) \* \* \***

20  
21 **(e) Placement of delinquent children in institutional care (Fam. Code, §§ 7901,**  
22 **art. 6, and 7908; ICPC Reg. No. 4, § 2)**

23  
24 A child declared a ward of the court under Welfare and Institutions Code section  
25 602 may be placed in an institution in another jurisdiction under the compact only  
26 when:

27  
28 (1)–(2) \* \* \*

29  
30 (3) Institutional care in the other jurisdiction is in the best interest of the child  
31 and will not produce undue hardship for the child or his or her family.

32  
33 (Subd (e) amended effective January 1, 2014; previously amended effective January 1,  
34 2007, and January 1, 2013.)

35  
36 **(f)–(h) \* \* \***

37  
38 **(i) Authority of sending court or agency to place child; timing (ICPC Reg. No. 2,**  
39 **§ 8(d), and Reg. No. 4, § 8)**

40  
41 (1) When the receiving state has approved a placement resource, the sending  
42 court has the final authority to determine whether to use the approved

1 placement resource. The sending court may delegate that decision to the  
2 sending state child welfare agency or probation department.

3  
4 (2) For proposed placements of children for adoption, in foster care, or with  
5 relatives, The determination to place the child in the approved home must be  
6 made within the receiving state's approval expires six months from the date  
7 form ICPC-100A was signed by the receiving state.  
8

9 (3) For proposed placements of children in residential facilities or group homes,  
10 the receiving state's approval expires 30 calendar days from the date form  
11 ICPC-100A was signed by the receiving state. The 30-day time frame can be  
12 extended by mutual agreement between the sending and receiving states.  
13

14 *(Subd (i) amended effective January 1, 2014; adopted effective January 1, 2013.)*

15  
16 (j) \* \* \*

17  
18 *Rule 5.616 amended effective January 1, 2014; adopted as rule 1428 effective January 1, 1999;*  
19 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
20 *January 1, 2013.*

21  
22 **Rule 5.620. Orders after filing under section 300**

23  
24 (a) \* \* \*

25  
26 (b) **Restraining orders (§ 213.5)**

27  
28 After a petition has been filed under section 300, and until the petition is dismissed  
29 or dependency is terminated, the court may issue restraining orders as provided in  
30 rule 5.630. ~~The restraining orders~~ A temporary restraining order must be prepared  
31 on *Notice of Hearing and Temporary Restraining Order—Juvenile (CLETS)* (form  
32 JV-250). An order after hearing must be prepared on *Restraining Order—Juvenile*  
33 (form JV-255).  
34

35 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
36 *2007.)*

37  
38 (c)–(e) \* \* \*

39  
40 *Rule 5.620 amended effective January 1, 2014; adopted as rule 1429.1 effective January 1, 2000;*  
41 *previously amended and renumbered effective January 1, 2007.*  
42

1 **Rule 5.625. Orders after filing of petition under section 601 or 602**

2  
3 **(a) Restraining orders (§ 213.5)**

4  
5 After a petition has been filed under section 601 or 602, and until the petition is  
6 dismissed or wardship is terminated, the court may issue restraining orders as  
7 provided in rule 5.630. ~~The restraining orders~~ A temporary restraining order must  
8 be prepared on Notice of Hearing and Temporary Restraining Order—Juvenile  
9 ~~(CLETS—JUV)~~ (form JV-250). An order after hearing must be prepared on  
10 Restraining Order—Juvenile (form JV-255).

11  
12 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
13 *2003, and January 1, 2007.)*

14  
15 **(b) \* \* \***

16  
17 *Rule 5.625 amended effective January 1, 2014; adopted as rule 1429.3 effective January 1, 2000;*  
18 *previously amended effective January 1, 2003; previously amended and renumbered effective*  
19 *January 1, 2007.*

20  
21 **Rule 5.630. Restraining orders**

22  
23 **(a)–(c) \* \* \***

24  
25 **(d) Applications—procedure**

26  
27 The application may be submitted without notice, and the court may grant the  
28 petition and issue a temporary order.

29  
30 **(1) \* \* \***

31  
32 **(2)** The temporary restraining order must be prepared on Notice of Hearing and  
33 Temporary Restraining Order—Juvenile ~~(CLETS—JUV)~~ (form JV-250) and  
34 must state on its face the date of expiration of the order.

35  
36 *(Subd (d) amended effective January 1, 2014; adopted as subd (c); previously amended*  
37 *and relettered as subd (f) effective January 1, 2003; previously amended effective January*  
38 *1, 2007; previously amended and relettered effective January 1, 2012.)*

39  
40 **(e) Reissuance**

41  
42 **(1)–(2) \* \* \***

1 (3) Either Application and Order for Reissuance of ~~Order to Show Cause~~  
2 Temporary Restraining Order—Juvenile (form ~~FL-306~~ JV-251) or a new  
3 Notice of Hearing and Temporary Restraining Order—Juvenile (form JV-  
4 250) must be used for this purpose.

5  
6 (Subd (e) amended effective January 1, 2014; adopted as subd (g) effective January 1,  
7 2003; previously amended effective January 1, 2004, and January 1, 2007; amended and  
8 relettered effective January 1, 2012.)

9  
10 **(f) Hearing on application for restraining order**

11  
12 (1) \* \* \*

13  
14 (2) The order after hearing must be prepared on *Restraining Order—Juvenile*  
15 (~~CLETS—JUV~~) (form ~~JV-250~~ JV-255) and must state on its face the date of  
16 expiration of the order.

17  
18 (Subd (f) amended effective January 1, 2014; adopted as subd (d); previously amended  
19 effective January 1, 2007; previously amended and relettered as subd (h) effective January  
20 1, 2003, and as subd (f) effective January 1, 2012.)

21  
22 **(g) Service of restraining order**

23  
24 When service of Notice of Hearing and Temporary Restraining Order—Juvenile  
25 (form JV-250) or Restraining Order—Juvenile (form JV-255) is made, it must be  
26 served with a blank Proof of Firearms Turned In or Sold (form DV-800/JV-252)  
27 and How Do I Turn In or Sell Firearms? (form DV-800-INFO/JV-252-INFO).  
28 Failure to serve form JV-252 or JV-252-INFO does not make service of form JV-  
29 250 or form JV-255 invalid.

30  
31 (Subd (g) amended effective January 1, 2014; adopted effective January 1, 2012.)

32  
33 **(h)–(i)** \* \* \*

34  
35 **(j) Modification of restraining order**

36  
37 (1) \* \* \*

38  
39 (2) A termination or modification order must be made on *Change to Restraining*  
40 *Order After Hearing* (form ~~JV-255~~ JV-257). A new Restraining Order—  
41 Juvenile (form JV-255) may be prepared in addition to form JV-257.

42  
43 (Subd (j) amended effective January 1, 2014; adopted effective January 1, 2012.)

1  
2 **(k) \* \* \***

3  
4 *Rule 5.630 amended effective January 1, 2014; adopted as rule 1429.5 effective January 1, 2000;*  
5 *amended and renumbered effective January 1, 2007; previously amended effective January 1,*  
6 *2003, January 1, 2004, and January 1, 2012.*

7  
8 **Rule 5.640. Psychotropic medications**

9  
10 **(a)–(b) \* \* \***

11  
12 **(c) Procedure to obtain authorization**

13  
14 (1)–(2) \* \* \*

15  
16 (3) Local county practice and local rules of court determine the procedures for  
17 completing and filing the forms and for the provision of notice, except as  
18 otherwise provided in this rule. The person or persons responsible for  
19 providing notice as required by local court rules or local practice protocols  
20 are encouraged to use the most expeditious manner of service possible to  
21 ensure timely notice.

22  
23 (4)–(6) \* \* \*

24  
25 (7) Notice must be provided to the parents or legal guardians, their attorneys of  
26 record, the child’s attorney of record, the child’s Child Abuse Prevention and  
27 Treatment Act guardian ad litem, the child’s current caregiver, the child’s  
28 Court Appointed Special Advocate, if any, and where a child has been  
29 determined to be an Indian child, the Indian child’s tribe (see also 25 U.S.C.  
30 § 1903(4)–(5); Welf. and Inst. Code, §§ 224.1(a) and (e) and 224.3).

31  
32 Notice must be provided as follows:

33  
34 (A)–(C) \* \* \*

35  
36 (D) Notice to the Indian child’s tribe must include:

37  
38 (i) A statement that a physician is asking to treat the child’s  
39 emotional or behavioral problems by beginning or continuing the  
40 administration of psychotropic medication to the child, and the  
41 name of the psychotropic medication;  
42

1 (ii) A statement that an *Application Regarding Psychotropic*  
2 *Medication* (form JV-220) and a *Prescribing Physician's*  
3 *Statement—Attachment* (form JV-220(A)) are pending before the  
4 court;  
5

6 (iii) A copy of *Information About Psychotropic Medication Forms*  
7 (form JV-219-INFO) or information on how to obtain a copy of  
8 the form; and  
9

10 (iv) A blank copy of *Opposition to Application Regarding*  
11 *Psychotropic Medication* (form JV-222) or information on how  
12 to obtain a copy of the form.  
13

14 ~~(D)~~(E) \* \* \*

15  
16 (8) A parent or guardian, his or her attorney of record, a child's attorney of  
17 record, ~~or~~ a child's Child Abuse Prevention and Treatment Act guardian ad  
18 litem appointed under rule 5.662 of the California Rules of Court, or the  
19 Indian child's tribe ~~who~~ that is opposed to the administration of the proposed  
20 psychotropic medication must file a completed *Opposition to Application*  
21 *Regarding Psychotropic Medication* (form JV-222) within ~~two~~ four court  
22 days of ~~receiving~~ service of notice of the pending application for  
23 psychotropic medication.  
24

25 (9) The court may grant the application without a hearing or may set the matter  
26 for hearing at the court's discretion. If the court sets the matter for a hearing,  
27 the clerk of the court must provide notice of the date, time, and location of  
28 the hearing to the parents or legal guardians, their attorneys of record, the  
29 dependent child if 12 years of age or older, a ward of the juvenile court of  
30 any age, the child's attorney of record, the child's current caregiver, the  
31 child's social worker, the social worker's attorney of record, the child's Child  
32 Abuse Prevention and Treatment Act guardian ad litem, ~~and~~ the child's Court  
33 Appointed Special Advocate, if any, and the Indian child's tribe at least two  
34 court days before the hearing. Notice must be provided to the child's  
35 probation officer and the district attorney, if the child is a ward of the juvenile  
36 court.  
37

38 (Subd (c) amended effective January 1, 2014; previously amended effective January 1,  
39 2007, January 1, 2008, and January 1, 2009.)  
40

41 (d)-(h) \* \* \*  
42



1 *Rule 5.640 amended effective January 1, 2014; adopted as rule 1432.5 effective January 1, 2001;*  
2 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
3 *January 1, 2003, January 1, 2008, and January 1, 2009.*

4  
5 **Rule 5.649. Right to make educational or developmental-services decisions**

6  
7 The court must identify the educational rights holder for the child on form JV-535 at each  
8 hearing in a dependency or delinquency proceeding. Unless his or her rights have been  
9 limited by the court under this rule, the parent or guardian holds the educational and  
10 developmental-services decisionmaking rights for his or her child. In addition, a  
11 nonminor or nonminor dependent youth holds the rights to make educational and  
12 developmental-services decisions for himself or herself unless rule 5.650(b) applies.

13  
14 **(a) Order (§§ 361, 366, 366.27, 366.3, 726, 727.2; 20 U.S.C. § 1415; 34 C.F.R. §**  
15 **300.300)**

16  
17 At the dispositional hearing and each subsequent review or permanency hearing,  
18 the court must determine whether the rights of a parent or guardian to make  
19 educational or developmental-services decisions for the child should be limited.

20  
21 If necessary to protect a child who is adjudged a dependent or ward of the court  
22 under section 300, 601, or 602, the court may limit a parent's or guardian's rights  
23 to make educational or developmental-services decisions for the child by making  
24 appropriate, specific orders on *Order Designating Educational Rights Holder* (form  
25 JV-535).

26  
27 **(b) Temporary order (§ 319)**

28  
29 At the initial hearing on a petition filed under section 325 or at any time before a  
30 child is adjudged a dependent or the petition is dismissed, the court may, on  
31 making the findings required by section 319(g)(1), use form JV-535 to temporarily  
32 limit a parent's or guardian's rights to make educational or developmental-services  
33 decisions for the child. An order made under section 319(g) expires on dismissal of  
34 the petition, but in no circumstances later than the conclusion of the hearing held  
35 under section 361.

36  
37 If the court does temporarily limit the parent's or guardian's rights to make  
38 educational or developmental-services decisions, the court must, at the  
39 dispositional hearing, reconsider the need to limit those rights and must identify the  
40 authorized educational rights holder on form JV-535.

41  
42 **(c) No delay of initial assessment**

1 The child’s initial assessment to determine any need for special education or  
2 developmental services need not be delayed to obtain parental or guardian consent  
3 or for the appointment of an educational rights holder if one or more of the  
4 following circumstances is met:

5  
6 (1) The court has limited, even temporarily, the educational or developmental-  
7 services decisionmaking rights of the parent or guardian, and consent for an  
8 initial assessment has been given by an individual appointed by the court to  
9 represent the child;

10  
11 (2) The local educational agency or regional center, after reasonable efforts,  
12 cannot locate the parent or guardian; or

13  
14 (3) Parental rights have been terminated or the guardianship has been set aside.

15  
16 **(d) Judicial Determination**

17  
18 If the court determines that the child is in need of any assessments, evaluations, or  
19 services—including special education, mental health, developmental, and other  
20 related services—the court must direct an appropriate person to take the necessary  
21 steps to request those assessments, evaluations, or services.

22  
23 **(e) Filing of order**

24  
25 Following the dispositional hearing and each statutory review hearing, the party  
26 that has requested a modification, limitation, or restoration of educational or  
27 developmental-services decisionmaking rights must complete form JV-535 and any  
28 required attachments to reflect the court’s orders and submit the completed form  
29 within five court days for the court’s review and signature. If no request is made,  
30 the child’s or youth’s attorney must complete and file the form. The court may  
31 direct the appropriate party to attach *Attachment to Order Designating Educational*  
32 *Rights Holder* (form JV-535(A)) to document the court’s findings and orders.

33  
34 *Rule 5.649 adopted effective January 1, 2014.*

35  
36 **Rule 5.650. Appointment of educational representative-Appointed educational**  
37 **rights holder**

38  
39 ~~(a) — Parent’s or guardian’s educational rights limited (§§ 319, 361, 366, 366.27,~~  
40 ~~726; 20 U.S.C. § 1415; 34 C.F.R. §§ 300.519, 300.300)~~

41  
42 ~~The court may limit a parent’s or guardian’s right to make educational decisions for~~  
43 ~~a child who is declared a dependent or ward of the court under section 300, 601, or~~

1 602, but the limitations may not exceed those necessary to protect the child. Before  
2 disposition, the court may temporarily limit a parent's or guardian's right to make  
3 educational decisions under section 319(g). The court may limit a parent's or  
4 guardian's educational rights regardless of whether the child is, or may be eligible  
5 for, special education and related services.

6  
7 (1) If the court temporarily limits the parent's or guardian's right to make  
8 educational decisions under section 319(g), the court must reconsider the  
9 need, if any, to limit educational rights at the disposition hearing.

10  
11 (2) The child's initial evaluation for special education services need not be  
12 postponed to await parental or guardian consent or appointment of an  
13 educational representative if one or more of the following circumstances are  
14 met:

15  
16 (A) The court has limited or temporarily limited the educational rights of  
17 the parent or guardian, and consent for an initial assessment has been  
18 given by an individual appointed by the court to represent the child;

19  
20 (B) The local education agency cannot discover the whereabouts of the  
21 parent or guardian; or

22  
23 (C) The parent's rights have been terminated or the guardianship has been  
24 set aside.

25  
26 (3) If the court determines that the child is in need of any assessments,  
27 evaluations, or services, including special education, mental health, and other  
28 related services, the court must direct an appropriate person to take the  
29 necessary steps to request those assessments, evaluations, or services.

30  
31 **(b)(a) Order and Appointment of educational representative (§§ 319, 361, 366,**  
32 **366.27, 366.3, 726, 727.2; Gov. Code, §§ 7579.5–7579.6; 20 U.S.C. § 1415; 34**  
33 **C.F.R. § 300.519)**

34  
35 The court must use *Findings and Orders Limiting Right to Make Educational*  
36 *Decisions for the Child, Appointing Educational Representative, and Determining*  
37 *Child's Educational Needs* (form JV-535) when it limits the rights of a parent or  
38 guardian to make educational decisions for the child. In its order, Whenever it  
39 limits, even temporarily, the rights of a parent or guardian to make educational or  
40 developmental-services decisions for a child, the court must document that use  
41 form JV-535 to appoint a responsible adult as educational rights holder or to  
42 document that one of the following circumstances exists: one of the following

1 actions in (1) or (2) has been taken, or, in the alternative, that a finding under (3)  
2 has been made:

3  
4 (1) ~~The court has appointed an educational representative for the child;~~

5  
6 ~~(2) The court has ordered a permanent plan for the child, and the court finds that~~  
7 ~~the foster parent, relative caregiver, or nonrelative extended family member~~  
8 The child is a dependent child or ward of the court and has a court-ordered  
9 permanent plan of placement in a planned permanent living arrangement. The  
10 caregiver may, without a court order, exercise educational decisionmaking  
11 rights as provided in under Education Code section 56055 and  
12 developmental-services decisionmaking rights rule 5.502(13) under section  
13 361 or 726, and is not prohibited from exercising educational those rights by  
14 section 361, or 726, or 4701.6(b), or by 34 Code of Federal Regulations  
15 section 300.519 or 303.49422; or

16  
17 ~~(3)~~(2) The court cannot identify a responsible adult to serve as the child's  
18 educational representative; rights holder under section 319, 361, or 726 or  
19 under Education Code section 56055; and

20  
21 (A) The child is a dependent child or ward of the court and is or may be  
22 eligible for special education and related services or already has a valid  
23 individualized education program, and the court; is referring

24  
25 (i) Refers the child to the responsible local educational agency for  
26 the appointment of a surrogate parent under section 361 or 726,  
27 Government Code section 7579.5, and title 20 United States  
28 Code section 1415, and rules 5.502 and 5.650; and

29  
30 (ii) Will, with the input of any interested person, make  
31 developmental-services decisions for the child; or

32  
33 (B) The appointment of a surrogate parent is not warranted, child is not  
34 eligible for special education and related services, there is no foster  
35 parent to exercise the authority granted by section 56055 of the  
36 Education Code, and the court will, with the input of any interested  
37 person, make educational and developmental-services decisions for the  
38 child.

39  
40 (C) If the court must temporarily make educational or developmental-  
41 services decisions for a child before disposition, it must order that  
42 every effort be made to identify a responsible adult to make future  
43 educational or developmental-services decisions for the child.

1  
2 (Subd (a) amended and relettered effective January 1, 2014; adopted as subd (b) effective  
3 January 1, 2004; previously amended effective January 1, 2007, and January 1, 2008.)  
4

5 **(b) Nonminor and nonminor dependent youth (§§ 361, 726, 366.3)**

6  
7 The court may, using form JV-535, appoint or continue the appointment of an  
8 educational rights holder to make educational or developmental-services decisions  
9 for a nonminor or nonminor dependent youth if:

- 10  
11 (1) The youth has chosen not to make educational or developmental-services  
12 decisions for himself or herself or is deemed by the court to be incompetent;  
13 and  
14  
15 (2) With respect to developmental-services decisions, the court also finds that the  
16 appointment or continuance of a rights holder would be in the best interests  
17 of the youth.

18  
19 (Subd (b) adopted effective January 1, 2014.)  
20

21 **(c) Limits on appointment (§§ 319, 361, 726; Ed. Code, § 56055; Gov. Code,**  
22 **§ 7579.5(i)-(j); 34 C.F.R. §§ 300.519, 303.19422)**

- 23  
24 (1) The court must determine whether should consider appointing a responsible  
25 adult relative, nonrelative extended family member, ~~foster parent, family~~  
26 ~~friend, mentor, or CASA volunteer~~ or other adult known to the child is  
27 available and willing to serve as the educational representative rights holder  
28 and, if one of those adults is available and willing to serve, should consider  
29 appointing that person before appointing or temporarily appointing a  
30 responsible adult not known to the child.  
31  
32 (2) The court may not appoint any individual as the educational ~~representative~~  
33 rights holder if that person is excluded under, or would have a conflict of  
34 interest as defined by, section 361(a) or 726(b)(c); Education Code section  
35 56055; Government Code section 7579.5(i)-(j); title 20 United States Code  
36 section 1415(b)(2); or 34 Code of Federal Regulations section 300.519 or  
37 303.19422.

38  
39 (Subd (c) amended effective January 1, 2014; adopted effective January 1, 2004;  
40 previously amended effective January 1, 2007, and January 1, 2008.)  
41

1 (d) **Referral to local educational agency to for appointment a of surrogate parent**  
2 **~~for a child who is or may be eligible for special education and related services~~**  
3 **(§§ 361, 726; Gov. Code, § 7579.5; 20 U.S.C. § 1415)**  
4

- 5 (1) If the court has limited a parent’s or guardian’s right to make educational  
6 decisions for a child ~~but~~ and cannot identify ~~an~~ a responsible adult to act as  
7 the educational representative rights holder, for the child and the child is or  
8 may be eligible for special education and related services or already has an  
9 individualized education program, the court must use form JV-535 to refer  
10 the child to the responsible local educational agency for prompt appointment  
11 of a surrogate parent under Government Code section 7579.5.  
12
- 13 (2) If the court refers a child to the local educational agency for appointment of a  
14 surrogate parent, the court must order that *Local Educational Agency*  
15 *Response to JV-535—Appointment of Surrogate Parent* (form JV-536) be  
16 attached to form JV-535 and served by first-class mail on the local  
17 educational agency ~~along with form JV-535~~, no later than ~~seven calendar five~~  
18 court days after from the date ~~of~~ the order is signed.  
19
- 20 (3) The court must direct the local educational agency that when the ~~local~~  
21 ~~education~~ agency receives form JV-535; requesting prompt appointment of a  
22 surrogate parent, the ~~local education~~ agency must make reasonable efforts to  
23 assign identify and appoint a surrogate parent within 30 calendar days ~~after of~~  
24 service of the court’s referral.  
25
- 26 (A) Whenever the local educational agency appoints a surrogate parent for  
27 a dependent or ward under Government Code section 7579.5(a)(1), it  
28 must notify the court on form JV-536 within ~~seven calendar five court~~  
29 days of the appointment and, at the same time, must send copies of the  
30 notice to the child’s attorney and to the social worker or probation  
31 officer identified on the form.  
32
- 33 (B) If the local educational agency does not appoint a surrogate parent  
34 within 30 days of receipt of ~~the form a judicial request, within the next~~  
35 ~~seven calendar days~~ it must notify the court within the next five court  
36 days on form JV-536 of the following:  
37
- 38 (i) Its inability to identify and appoint a surrogate parent; and  
39
- 40 (ii) Its continuing reasonable efforts to ~~assign~~ identify and appoint a  
41 surrogate parent.  
42

1 (4) Whenever ~~the a~~ surrogate parent resigns or the local educational agency  
2 terminates the appointment of a surrogate parent, ~~for a dependent or ward~~  
3 ~~under Government Code section 7579.5(h) or~~ replaces ~~the a~~ surrogate parent  
4 ~~for any other reason,~~ or appoints another surrogate parent, it must notify the  
5 court, ~~and the child's attorney,~~ and the social worker or probation officer on  
6 form JV-536 within ~~seven calendar~~ five court days of the resignation,  
7 termination, ~~or replacement,~~ or appointment. The child's attorney, the social  
8 worker, or the probation officer may request a hearing for appointment of a  
9 new educational ~~representative~~ rights holder by filing *Request for Hearing*  
10 *Regarding Child's ~~Education~~ Access to Services* (form JV-539) and must  
11 provide notice of the hearing as provided in (g)(2). The court may, on its own  
12 motion, ~~may~~ direct the clerk to set a hearing.  
13

14 *(Subd (d) amended effective January 1, 2014; adopted as subd (b); previously amended*  
15 *and relettered effective January 1, 2004; previously amended effective January 1, 2007,*  
16 *and January 1, 2008.)*  
17

18 **(e) Transfer of parent's or guardian's educational or developmental-services**  
19 **decisionmaking rights to educational representative rights holder**  
20

21 When ~~the court appoints an educational representative is appointed~~ rights holder  
22 after limiting a parent's or guardian's educational or developmental-services  
23 decisionmaking rights, the educational those parental decisionmaking rights of the  
24 parent or guardian—including the right to notice of educational or developmental-  
25 services meetings and activities, to participation in educational or developmental-  
26 services meetings and activities, and to decisionmaking authority regarding the  
27 child's education or developmental services, including the authority under sections  
28 4512 and 4701.6, Education Code section 56028, title-20 United States Code  
29 sections 1232g and 1401(23), and 34 Code of Federal Regulations section 300.30;  
30 ~~and Education Code section 56028~~—are transferred to the educational  
31 representative rights holder unless the court specifies otherwise in its order.  
32

33 (1) When returning a child to a parent or guardian, the court must consider the  
34 child's educational and developmental-services needs. The parent's or  
35 guardian's educational and developmental-services decisionmaking rights are  
36 reinstated when the court returns custody to the parent or guardian unless the  
37 court finds specifically that the parent is not able to act in the child's best  
38 interest regarding education continued limitation of parental decisionmaking  
39 rights is necessary to protect the child.  
40

41 (2) If the court appoints a guardian for the child under rule 5.735 or 5.815, all of  
42 the parent's or previous guardian's educational and developmental-services  
43 decisionmaking rights transfer to the newly appointed guardian unless the

1 court determines that ~~the guardian is not able to act in the child's best interest~~  
2 ~~regarding education~~ limitation of the new guardian's decisionmaking rights is  
3 necessary to protect the child.  
4

5 *(Subd (e) amended effective January 1, 2014; adopted effective January 1, 2004;*  
6 *previously amended effective January 1, 2007, and January 1, 2008.)*  
7

8 **(f) Authority and responsibilities of educational representative (§§ 317, 319, 360,**  
9 **361, 635, 706.5, 726, 4514, 4646–4648, 4700–4731, 5328; Ed. Code, §§ 56055,**  
10 **56340, 56345; Gov. Code, §§ 7579.5, 95014–95020; 34 C.F.R. § 300.519)**  
11

12 (1) The educational rights holder acts as and holds the rights of the parent or  
13 guardian with respect to all decisions regarding the child's education and  
14 developmental services, and is entitled:  
15

16 (A) To access records and to authorize the disclosure of information to the  
17 same extent as a parent or guardian under the Family Educational  
18 Rights and Privacy Act (FERPA), 20 United States Code section  
19 1232g;  
20

21 (B) To be given notice of and participate in all meetings or proceedings  
22 relating to school discipline;  
23

24 (C) To advocate for the interests of a child or youth with exceptional needs  
25 in matters relating to:  
26

27 (i) The identification and assessment of those needs;  
28

29 (ii) Instructional or service planning and program development—  
30 including the development of an individualized family service  
31 plan, an individualized educational program, an individual  
32 program plan, or the provision of other services and supports, as  
33 applicable;  
34

35 (iii) Placement in the least restrictive program appropriate to the  
36 child's or youth's educational or developmental needs;  
37

38 (iv) The review or revision of the individualized family service plan,  
39 the individualized education program, or the individual program  
40 plan; and  
41

42 (v) The provision of a free, appropriate public education.  
43



1 (D) To attend and participate in the child’s or youth’s individualized family  
2 service plan, individualized education program, individual program  
3 plan, and other educational or service planning meetings; to consult  
4 with persons involved in the provision of the child’s or youth’s  
5 education or developmental services; and to sign any written consent to  
6 educational or developmental services and plans; and

7  
8 (E) Notwithstanding any other provision of law, to consent to the child’s or  
9 youth’s individualized family service plan, individualized education  
10 program, or individual program plan, including any related  
11 nonemergency medical services, mental health treatment services, and  
12 occupational or physical therapy services provided under sections  
13 7570–7587 of the Government Code.

14  
15 (1)(2) ~~The educational representative rights holder is responsible for investigating~~  
16 the child’s or youth’s educational and developmental-services needs,  
17 determining whether those needs are being met, and representing-acting on  
18 behalf of the child or youth in the identification, evaluation, and educational  
19 placement of the child and with the provision of the child’s free, appropriate  
20 public education. This includes representing the child in all matters relating  
21 to the child’s provision of educational or developmental services, as  
22 applicable, including to ensure:

23  
24 (A) The stability of the child’s or youth’s school placement. At any hearing  
25 following a change of educational placement, the educational rights  
26 holder must submit a statement to the court indicating whether the  
27 proposed change of placement is in the child’s or youth’s best interest  
28 and whether any efforts have been made to keep the pupil in the school  
29 of origin;

30  
31 (B) Placement in the least restrictive educational program appropriate to the  
32 child’s or youth’s individual needs;

33  
34 (C) The child’s or youth’s access to academic resources, services, and  
35 extracurricular and enrichment activities;

36  
37 (D) The child’s or youth’s access to any educational and developmental  
38 services and supports necessary-needed to meet state standards for  
39 academic achievement and functional performance or, with respect to  
40 developmental services, to promote community integration, an  
41 independent, productive, and normal life, and a stable and healthy  
42 environment;

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- (E) ~~School~~ The prompt and appropriate resolution of school disciplinary matters; and
- (F) ~~Other aspects of~~ The provision of any other elements of a free, appropriate public education; and
- (G) The provision of any appropriate early intervention or developmental services required by law, including the California Early Intervention Services Act or the Lanterman Developmental Disabilities Services Act.

~~(2)~~(3) The educational representative rights holder is also responsible for: has the following additional responsibilities:

- (A) Meeting with the child or youth at least once and as often as necessary to make educational or developmental-services decisions that are in the best interest of the child or youth;
- (B) Being culturally sensitive to the child or youth;
- (C) Complying with all federal and state confidentiality laws, including, but not limited to, sections 362.5, 827, 4514, and 5328, as well as and Government Code section 7579.1(f)7579.5(f);
- (D) Participating in, and making decisions regarding, all matters affecting the child's or youth's educational or developmental-services needs— including, as applicable, the individualized family service planning process, the individualized education program planning process, the individual program planning process, the fair hearing process (including mediation and any other informal dispute resolution meetings), and as otherwise specified in the court order—in a manner consistent with the child's or youth's best interest; and
- (E) ~~Having~~ Maintaining knowledge and skills that ensure adequate representation of the child's or youth's needs and interests with respect to education and developmental services.

~~(3)~~ The educational representative acts as the parent or guardian in all educational matters regarding the child and has a right to the following:

- (A) ~~To the rights afforded the parent or guardian under the Family Education Rights and Privacy Act, title 20 United States Code section 1232g;~~

- 1  
2       ~~(B) — To the right of a parent relating to school discipline issues, meetings,~~  
3           ~~and proceedings;~~  
4  
5       ~~(C) — To represent a child with exceptional needs in matters relating to~~  
6           ~~identification and assessment of those needs, instructional planning and~~  
7           ~~development, educational placement, reviewing and revising the~~  
8           ~~individualized education program, and other aspects of the provision of~~  
9           ~~a free, appropriate public education;~~  
10  
11       ~~(D) — To attend the child’s individualized education program and other~~  
12           ~~educational meetings, to consult with persons involved in the child’s~~  
13           ~~education, and to sign any consents to education-related services and~~  
14           ~~plans; and~~  
15  
16       ~~(E) — Notwithstanding any other provision of law, to consent to the child’s~~  
17           ~~individualized education program, nonemergency medical services,~~  
18           ~~mental health treatment services, and occupational or physical therapy~~  
19           ~~services provided under chapter 26.5 of title 1 of the Government Code.~~

20  
21       (4) Before each statutory review hearing, the educational rights holder must do  
22       one or more of the following:

- 23  
24       (A) Provide information and recommendations concerning the child’s or  
25       youth’s educational or developmental-services needs to the assigned  
26       social worker or probation officer;  
27  
28       (B) Make written recommendations to the court concerning the child’s or  
29       youth’s educational or developmental-services needs;  
30  
31       (C) Attend the review hearing and participate in any part of the hearing that  
32       concerns the child’s or youth’s education or developmental services.

33  
34       (5) The educational rights holder may provide the contact information for the  
35       child’s or youth’s attorney to the local educational agency.

36  
37       *(Subd (f) amended effective January 1, 2014; adopted effective January 1, 2008.)*

38  
39       (g) **Educational representative’s Term of service; resignation (§§ 319, 361, 726;**  
40       **Gov. Code § 7579.5)**

41  
42       (1) ~~The~~ An appointed educational representative rights holder must make  
43       educational or developmental-services decisions for the child or youth until:

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(A) The dismissal of the petition or the conclusion of the dispositional hearing, if the rights holder is appointed under section 319(g);

(B) ~~The court restores~~ The rights of the parent or guardian to make educational or developmental-services decisions for the child are fully restored;

~~(B)~~(C) ~~The child~~ dependent or ward reaches 18 years of age, unless the child he or she chooses not to make his or her own educational or developmental-services decisions or is deemed incompetent by the court, in which case the court may, if it also finds that continuation would be in the best interests of the youth, continue the appointment until the youth reaches 21 years of age or the court's jurisdiction is terminated;

~~(C)~~(D) ~~The court appoints another responsible adult as educational representative~~ rights holder for the child or youth under this rule;

~~(D)~~(E) \* \* \*

~~(E)~~(F) ~~The court finds that the~~ designates an identified foster parent, relative caregiver, or nonrelative extended family member may to make educational or developmental-services decisions for the child under Education Code section 56055(a) because:

(i) ~~The Reunification services have been terminated and the child is placed in a planned permanent living arrangement with the identified caregiver under section 366.21(g)(35), 366.22, 366.26, 366.3(i), 727.3(b)(5), or 727.3(b)(6); and~~

(ii) ~~The court has limited the parent's or guardian's educational rights; and~~

~~(iii)~~—The foster parent, relative caregiver, or nonrelative extended family member is not otherwise excluded from making education or developmental-services decisions by the court, by section 361 or 726, or by 34 Code of Federal Regulations section 300.519 or 303.19422.

(2) ~~If the~~ an appointed educational representative rights holder resigns from the his or her appointment, he or she must provide-give notice to the court and to the child's attorney and may use Educational Representative or Surrogate

1 Parent Information Rights Holder Statement (form JV-537) to provide this  
2 notice. Once notice is received, the child's or youth's attorney, or the social  
3 worker or probation officer may request a hearing for appointment of a new  
4 educational ~~representative~~ rights holder by filing form JV-539.

5  
6 The attorney for the party requesting the hearing ~~and~~ must provide notice of  
7 the hearing to ~~the following~~:

8  
9 (A) The parents or guardians, unless otherwise indicated on the most recent  
10 form JV-535, parental rights have been terminated, or the child has  
11 reached 18 years of age;

12  
13 (B) Each attorney of record;

14  
15 (C) The social worker; ~~the~~ or probation officer;

16  
17 (D) The ~~Court Appointed Special Advocate (CASA)~~ volunteer; and

18  
19 (E) All other persons ~~required to be given~~ or entities entitled to notice  
20 under section 293.

21  
22 The hearing must be set within 14 days of receipt of the request for hearing.  
23 The court may, on its own motion, ~~may~~ direct the clerk to set a hearing.

24  
25 *(Subd (g) amended effective January 1, 2014; adopted effective January 1, 2008.)*

26  
27 **(h) Service of order**

28  
29 Whenever the order identifies or appoints a new or different educational rights  
30 holder or includes any other changes, the clerk will provide a copy of the  
31 completed and signed form JV-535, form JV-535(A) if attached, and any received  
32 form JV-536 or JV-537 to:

33  
34 (1) The child, if 10 years of age or older, or youth;

35  
36 (2) The ~~child's~~ attorney; for the child or youth;

37  
38 (3) The social worker ~~and the~~ or probation officer;

39  
40 (4) The Indian child's tribe, if applicable, as defined in rule 5.502;

41  
42 (5) The local foster youth educational liaison, as defined in Education Code  
43 section 48853.5; and

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- (6) The county office of education foster youth services coordinator;
- (7) The regional center service coordinator, if applicable; and
- (8) The educational ~~representative~~ rights holder.

~~at the end of the proceeding or~~ The completed and signed form must be provided no later than ~~seven calendar~~ five court days after ~~from~~ the date ~~of~~ the order is signed. The clerk must also ensure that any immediately preceding educational rights holder, surrogate parent, or authorized representative, if any, is notified that the previous court order has been vacated and their appointment terminated.

The clerk will make copies of the form available to the parents or guardians, unless otherwise indicated on the form, parental rights have been terminated, or the child has reached 18 years of age and reunification services have been terminated; to the CASA volunteer; and, if requested, to all other persons ~~provided~~ or entities entitled to notice under section 293. ~~Whoever is directed by the court on form JV-535 must provide a copy of the form to the local education agency.~~

*(Subd (h) amended effective January 1, 2014; adopted effective January 1, 2008.)*

**(i) Education and training of educational ~~representative~~ rights holder**

If the educational ~~representative~~ rights holder, including a biological or adoptive parent, asks for assistance in obtaining education and training in the laws incorporated in rule 5.651(a), the court must direct the clerk, social worker, or probation officer to inform the educational representative rights holder of all available resources, including resources available through the California Department of Education, the California Department of Developmental Services, ~~and~~ the local educational agency, and the local regional center.

*(Subd (i) amended effective January 1, 2014; adopted effective January 1, 2008.)*

**(j) Notice of and participation in ~~juvenile court~~ hearings**

(1) The educational ~~representative~~ rights holder must receive notice of all regularly scheduled juvenile court hearings ~~regarding or affecting the child's~~ and other judicial hearings that might affect the child's or youth's education and developmental services, including joint assessment hearings under rule 5.512 and joinder proceedings under rule 5.575. ~~This includes the notice and participation provided in rule 5.530 for all regularly scheduled juvenile~~

1 hearings, rule 5.512 for joint assessment hearings, and rule 5.575 for joinder  
2 proceedings.

- 3  
4 (2) The educational ~~representative~~ rights holder may use form JV-537 to explain  
5 ~~the child's any educational or developmental-services needs to the court.~~ The  
6 court ~~may allow~~ must permit the educational ~~representative~~ rights holder  
7 ~~to be present for the purposes of participating in the portions of the juvenile~~  
8 ~~court hearing that concern the child's education, including school placement,~~  
9 ~~and of responding to questions or issues raised by the form. The court may~~  
10 ~~allow the educational representative to participate in any mediation as~~  
11 ~~provided in rule 5.518~~ attend and participate in those portions of a court  
12 hearing, nonjudicial hearing, or mediation that concern education or  
13 developmental services.

14  
15 *(Subd (j) amended effective January 1, 2014; adopted effective January 1, 2008.)*

16  
17 *Rule 5.650 amended effective January 1, 2014; adopted as rule 1499 effective July 1, 2002;*  
18 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
19 *January 1, 2004, and January 1, 2008.*

#### 20 21 **Advisory Committee Comment**

22  
23 Under the Individuals With Disabilities Education Act (IDEA), the court may appoint a surrogate  
24 ~~parent for a child to represent the child to speak and act on behalf of a pupil~~ in all matters relating  
25 to the identification, evaluation, and educational placement of the child and to the provision of the  
26 child's free, appropriate public education. (20 U.S.C. § 1415(b)(2); 34 C.F.R. § 300.519.) Under  
27 Welfare and Institutions Code sections 361 and 726, the court ~~may~~ must appoint a responsible  
28 adult as an educational representative ~~or rights holder~~ to represent ~~make decisions regarding~~ the  
29 child's educational ~~or developmental-services~~ needs when the parent's ~~educational~~ rights to make  
30 those decisions have been limited. ~~When the court appoints an~~ A court-appointed educational  
31 ~~representative, that person~~ rights holder is responsible for ~~representing all~~ protecting the child's  
32 rights and interests with respect to educational or developmental services needs, including any  
33 special education and related services ~~needs~~. ~~When making this appointment, the court and all~~  
34 ~~court participants are encouraged to look to all persons in the child's life, including relatives,~~  
35 ~~nonrelated extended family members, and those persons with whom the child has an important~~  
36 ~~relationship, to represent the child's educational needs.~~

37  
38 If the court limits the parent's decisionmaking rights and cannot find anyone ~~identify a~~  
39 responsible adult to appoint as the child's educational representative ~~rights holder,~~ and special  
40 education needs are not indicated ~~the appointment of a surrogate parent is not warranted,~~ sections  
41 361 and 726 ~~state that~~ authorize the court ~~can~~ to make educational ~~or developmental-services~~  
42 decisions for the child with the input of interested persons. ~~However, If, however,~~ the court  
43 cannot ~~find someone~~ identify a responsible adult to appoint as educational ~~representative~~ rights

1 holder and there is reason to believe that the child needs special education is indicated and related  
2 services, the court must refer the matter-child to the local educational agency (LEA) for the  
3 appointment of a surrogate parent. Sections 361 and 726 do not permit-authorize the court to  
4 make educational decisions for a child in these cases-circumstances. The surrogate parent  
5 assigned-appointed by the LEA acts as a parent for the purpose of making educational decisions  
6 with respect to special education and related services and the provision of a free, appropriate  
7 public education on behalf of the child. (Gov. Code, § 7579.5(c); Ed. Code, § 56028; 34 C.F.R.  
8 § 300.30(b)(2); see 20 U.S.C. §§ 1401(9), 1414(d).) If, however, the LEA does not appoint a  
9 surrogate parent in a timely manner, the court has the authority to join the LEA in the dependency  
10 proceedings under section 362 and rule 5.575. In the period between the setting of the joinder  
11 hearing and the appointment of a surrogate parent by the LEA, the court may make educational  
12 decisions for the child under the general authority granted by section 362(a). The appointment of  
13 a surrogate parent notwithstanding, the court holds the authority under sections 361 and 726 to  
14 make developmental-services decisions if it cannot identify a responsible adult to do so.

15  
16  
17 **Rule 5.651. Educational and developmental-services decisionmaking rights-of**  
18 **children before the juvenile court**

19  
20 (a) **Applicability (§§ 213.5, 319(g), 358, 358.1, 361(a), 362(a), 364, 366.21, 366.22,**  
21 **366.23, 366.26, 366.27(b), 366.28, 366.3(e), 726, 727.2(e), 4500 et seq., 11404.1;**  
22 **Ed. Code, §§ 48645 et seq., 48850 et seq., 49069.5, 56028, 56055, and 56155 et**  
23 **seq.; Gov. Code, § 7579.1 §§ 7573–7579.6; 20 U.S.C. § 1400 et seq.; 29 U.S.C. §**  
24 **794; 42 U.S.C. § 12101 et seq.)**

25  
26 This rule incorporates all rights with respect to education or developmental services  
27 recognized or established by state or federal law and applies: has the following  
28 applicability and incorporates the rights established by the following laws:

- 29  
30 (1) The rule applies To all-any child, or any nonminor or nonminor dependent  
31 youth, ren-for whom a petitions have-has been filed under section 300, 601,  
32 or 602 until the petition is dismissed or the court has terminated dependency,  
33 delinquency, or transition jurisdiction over that person; and  
34  
35 (2) The rule applies To every judicial hearing before the court affecting or  
36 related to, or that might affect, the child’s or youth’s education or receipt of  
37 developmental services, including the detention, jurisdiction, disposition,  
38 and all regularly scheduled review hearings; and  
39  
40 (3) The rule incorporates the rights established by the following laws: the  
41 Individuals With Disabilities Education Act (20 U.S.C. § 1400 et seq.), the  
42 Americans With Disabilities Act (42 U.S.C. § 12101 et seq.), section 504 of  
43 the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), and the education



1 ~~rights of foster children as provided in Assembly Bill 490 (Stats. 2003, ch.~~  
2 ~~862) and Assembly Bill 1858 (Stats. 2004, ch. 914).~~

3  
4 *(Subd (a) amended effective January 1, 2014.)*

5  
6 **(b) Conduct of hearings ~~related to, or that may affect, a child's education~~**

7  
8 (1) To the extent the information is available, at the initial or detention hearing  
9 the court must consider:

10  
11 (A) Who holds educational and developmental-services decisionmaking  
12 rights, and identify the rights holder or holders;

13  
14 (B) Whether If the child or youth is was enrolled in, and is attending, the  
15 child's or youth's school of origin, as that term is as defined in  
16 Education Code section 48853.5(e)(f);

17  
18 (C) If the child or youth is at risk of removal from or is no longer attending  
19 the school of origin, whether;

20  
21 (i) In accordance with the child's or youth's best interest, the  
22 educational liaison, as ~~defined~~ described in Education Code  
23 section 48853.5(b), (d), and (e), in consultation with, and with the  
24 agreement of, the child or youth and the parent, ~~or~~ guardian, or  
25 other person holding educational representative decisionmaking  
26 rights, recommends the waiver of that the child's or youth's right  
27 to attend the school of origin be waived;

28  
29 (ii) ~~Prior to~~ Before making any recommendation to move a foster  
30 child or youth from his or her school of origin, the educational  
31 liaison provided the child or youth and the person holding the  
32 right to make educational decisions for the child or youth with a  
33 written explanation stating of the basis for the recommendation  
34 and how this recommendation serves the foster child's or youth's  
35 best interest as provided in Education Code section  
36 ~~48853.5(d)(3)~~ 48853.5(e)(7);

37  
38 (iii) If the child or youth is no longer attending the school of origin,  
39 the local educational agency obtained a valid waiver of the  
40 child's or youth's right to continue in the school of origin under  
41 Education Code section 48853.5(e)(1) before moving the child or  
42 youth from that school; Without first obtaining a waiver of the  
43 right, the child was not afforded his or her right local educational

1 agency did not permit the pupil to continue to attend his or her  
2 school of origin under as required by Education Code section  
3 48853.5(d)(1)48853.5(e)(1); and  
4

5 (iv) The child or youth was immediately enrolled in the new school as  
6 provided in Education Code section ~~48853.5(d)(4)~~48853.5(e)(8).  
7

8 (D) ~~Whether~~In a dependency proceeding, whether the parent's or  
9 guardian's educational or developmental-services decisionmaking  
10 rights should be temporarily limited and an educational rights holder  
11 temporarily appointed using form JV-535; and  
12

13 (E) Taking into account other statutory considerations regarding placement,  
14 whether the out-of-home placement:  
15

16 (i) Is the environment best suited to meet the ~~unique exceptional~~  
17 needs of a children or youth with disabilities and to serve the  
18 child's or youth's best interest if he or she has a disability; and  
19

20 (ii) Promotes educational stability through proximity to the child's or  
21 youth's school of origin.  
22

23 (2) At the dispositional hearing and at all subsequent hearings ~~provided for~~  
24 described in (a)(2), the ~~juvenile~~-court must:  
25

26 (A) ~~address and~~Consider and determine whether the child's or youth's  
27 general and special educational, physical, mental health, and  
28 developmental needs, including any need for special education and  
29 related services, are being met;  
30

31 (B) Identify the educational rights holder on form JV-535; and  
32

33 (C) Direct the rights holder to take all appropriate steps to ensure that the  
34 child's or youth's educational and developmental needs are met,  
35 identify a plan for meeting those needs, and provide a clear, written  
36 statement using *Findings and Orders Limiting Right to Make*  
37 *Educational Decisions for the Child, Appointing Educational*  
38 *Representative, and Determining Child's Educational Needs* (form JV-  
39 535), specifying the person who holds the educational rights for the  
40 child.  
41

42 The court's findings and orders must address the following:  
43

1 (AD) Whether the child's or youth's educational, physical, mental health, and  
2 developmental-services needs are being met;

3  
4 (BE) ~~Any~~ What services, assessments, or evaluations, including those for  
5 developmental services or for special education and related services,  
6 ~~that~~ the child or youth may need;

7  
8 (CF) Who ~~is directed to~~ must take the necessary steps for the child or youth  
9 to begin receiving receive any necessary assessments, evaluations, or  
10 services;

11  
12 (DG) If the child's or youth's educational placement changed during the  
13 reporting period under review, whether:

14  
15 (i) The child's or youth's educational records, including any  
16 evaluations of a child or youth with a disability, were transferred  
17 to the new educational placement within two business days of the  
18 request for the child's or youth's enrollment in the new  
19 educational placement; and

20  
21 (ii) The child or youth is enrolled in and attending school; ~~and~~

22  
23 (EH) Whether the parent's or guardian's educational or developmental-  
24 services decisionmaking rights should be limited or, if previously  
25 limited, whether those rights should be restored;

26  
27 (i) If the court finds that the parent's or guardian's educational or  
28 developmental-services decisionmaking rights should not be  
29 limited or should be restored, the court must ~~direct~~ explain to the  
30 parent or guardian ~~to~~ his or her rights and responsibilities in  
31 regard to the child's education and developmental services as  
32 provided in rule 5.650(e), ~~and (f), and (j);~~ or

33  
34 (ii) If the court finds that the parent's or guardian's educational or  
35 developmental-services decisionmaking rights should be or  
36 remain limited, the court must ~~determine who will hold the~~  
37 child's educational designate the holder of those rights. The court  
38 must explain to the parent or guardian why the court is limiting  
39 his or her educational or developmental-services decisionmaking  
40 rights and must ~~direct the parent or guardian to~~ explain the rights  
41 and responsibilities of the educational rights holder ~~representative~~  
42 as provided in rule 5.650(e), ~~and (f), and (j);~~ and

1 (I) Whether, in the case of a nonminor or nonminor dependent youth who  
2 has chosen not to make educational or developmental-services  
3 decisions for himself or herself or has been deemed incompetent, it is in  
4 the best interests of the youth to appoint or to continue the appointment  
5 of an educational rights holder.  
6

7 *(Subd (b) amended effective January 1, 2014.)*  
8

9 (c) **Reports for hearings related to, or that may affect, a child's education or**  
10 **developmental services**

11  
12 This subdivision applies at all hearings, including dispositional and joint  
13 assessment hearings. The court must ensure that, to the extent the information was  
14 available, the social worker ~~and or~~ the probation officer provided the following  
15 information in the report for the hearing:  
16

- 17 (1) The child's or youth's age, behavior, educational level, and developmental  
18 ~~achievement status~~; and any discrepancies ~~in-between that person's age and~~  
19 his or her level of achievement in education ~~and in or~~ level of cognitive,  
20 physical, and emotional development;  
21  
22 (2) ~~Identification of~~ The child's or youth's educational, physical, mental health,  
23 or developmental needs;  
24  
25 (3) Whether the child or youth is participating in developmentally appropriate  
26 extracurricular and social activities;  
27  
28 (4) Whether the child or youth is attending a comprehensive, regular, public or  
29 private school;  
30  
31 (5) Whether the child or youth may have physical, mental, or learning-related  
32 disabilities or other ~~special education needs and is in need of or is already~~  
33 ~~receiving~~ characteristics indicating a need for developmental services or  
34 special education and related services as provided by the laws incorporated in  
35 rule 5.651(a)(3)-state or federal law;  
36  
37 (6) If the child is 0 to 3 years old, whether the child may be eligible for or is  
38 already receiving early intervention services or services available under the  
39 California Early Intervention Services Act (Gov. Code, § 95000 et seq.); and  
40 ~~whether those services are appropriate, if the child is already receiving~~  
41 services, the specific nature of those services;  
42

- 1 (7) If the child is between 3 and 5 years old and is or may be eligible for special  
2 education and related services, whether the child is receiving the early  
3 educational opportunities provided by Education Code section 56001 and, if  
4 so, the specific nature of those opportunities;
- 5
- 6 (8) Whether the child or youth is receiving ~~appropriate~~ special education and  
7 related services or any other services through a current individualized  
8 education program and, if so, the specific nature of those services;
- 9
- 10 (i) A copy of the current individualized education program should be  
11 attached to the report unless disclosure would create a risk of harm. In  
12 that case, the report should explain the risk.;
- 13
- 14 (9) Whether the child or youth is receiving services under section 504 of the  
15 Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and, if so, the specific  
16 nature of those services;
- 17
- 18 (i) A copy of any current Section 504 plan should be attached to the report  
19 unless disclosure would create a risk of harm. In that case, the report  
20 should explain the risk.;
- 21
- 22 (10) Whether the child or youth is or may be eligible for ~~regional-center~~  
23 developmental services or is already receiving ~~regional-center~~ developmental  
24 services and, if that person is already receiving services, the specific nature of  
25 those services;
- 26
- 27 (i) ~~Copies~~ A copy of the any current individualized family service plan as  
28 defined in section 1436 under title 20 of the United States Code and the  
29 current life quality assessments as defined in Welfare and Institutions  
30 Code section 4570 or individual program plan should be attached to the  
31 report unless disclosure would create a risk of harm. In that case, the  
32 report should explain the risk.;
- 33
- 34 (11) Whether the parent's or guardian's educational or developmental-  
35 services decisionmaking rights have been or should be limited or restored;
- 36
- 37 (12) If the social worker or probation officer recommends that the court  
38 limiting the parent's or guardian's rights to make educational or  
39 developmental-services decisions, the reasons those rights should be limited  
40 and the actions that the parent or guardian may take to restore those rights if  
41 they are limited;
- 42

1 (1213) If the parent's or guardian's educational or developmental-services  
2 decisionmaking rights have been limited, ~~who holds the identity of the child's~~  
3 designated or appointed educational rights holder or surrogate parent;

4  
5 (1314) Recommendations and case plan goals to meet the child's or youth's  
6 identified educational, physical, mental health, and developmental-services  
7 needs, including all related information listed in section 16010(a) as required  
8 by section 16010(b);

9  
10 (1415) Whether any orders to direct an appropriate person to take the  
11 necessary steps for the child to ~~begin receiving~~ receive assessments,  
12 evaluations, or services, including those for developmental services or for  
13 special education and related services, are requested; and

14  
15 (1516) In the case of a joint assessments, a separate statements by each of the  
16 two departments regarding the child welfare department and the probation  
17 department, each addressing whether the respective social worker and  
18 probation officer believe that the child or youth may have a disability and  
19 whether the child or youth is in needs of developmental services or special  
20 education and related services or requires-qualifies for any assessment or  
21 evaluation as required by title 20 United States Code section 1412(a)(3),  
22 Education Code section 56425, or section 504 of the Rehabilitation Act of  
23 1973 required by state or federal law.

24  
25 *(Subd (c) amended effective January 1, 2014.)*

26  
27 **(d) Continuances or stay of jurisdiction, stay, or suspension (§§ 357, 358, 702, 705)**

28  
29 If ~~any continuance provided for in the court continues the dispositional hearing~~  
30 under rules 5.686 and or 5.782 or stays of jurisdiction provided for in the  
31 proceedings or suspends jurisdiction under rule 5.645 is granted, the child must  
32 continue to receive all services or accommodations required by ~~the laws~~  
33 incorporated in rule 5.651(a)(3) state or federal law.

34  
35 *(Subd (d) amended effective January 1, 2014.)*

36  
37 **(e) Change of placement affecting the child's or youth's educational stability right**  
38 **to attend the school of origin (§§ 16010, 16010.6; Ed. Code §§ 48850–48853.5)**

39  
40 This subdivision applies to all changes of placement, including the initial  
41 placement and ~~all~~ any subsequent changes of placement.

1 (1) At any hearing ~~that relates to or may affect the child's education and to which~~  
2 this rule applies that follows a decision to change the child's or youth's  
3 placement to a location that could lead to removal of the child from the  
4 school of origin, the placement agency must demonstrate that, and the court  
5 must find that determine whether:  
6

7 (A) The social worker or probation officer notified the court, the child's or  
8 youth's attorney, and the educational representative rights holder or  
9 surrogate parent, no more than one court day after making the  
10 placement decision, that of the proposed placement or change of  
11 placement decision, would result in a the pupil's removal of the child  
12 from the child's school of origin. The court must find that the notice  
13 was provided within 24 hours, excluding nonjudicial days, of the social  
14 worker's or probation officer's determination that the proposed change  
15 of placement would result in removal of the child from the school of  
16 origin.  
17

18 (B) If the child or youth had a disability and an active individualized  
19 education program prior to before removal, the social worker or  
20 probation officer, at least 10 days before the change of placement,  
21 notified in writing the local educational agency that provided a special  
22 education program for the child or youth before prior to removal and  
23 the receiving special education local plan area, as ~~defined~~ described in  
24 Government Code section 7579.1, of the impending change of  
25 placement.  
26

27 (2) After receipt of the notice in (1):  
28

29 (A) The child's or youth's attorney must, as appropriate, discuss the  
30 proposed move from placement change and its effect on the child's or  
31 youth's right to attend the school of origin with the child or youth and  
32 the person who holds educational rights. The child's or youth's attorney  
33 may request a hearing by filing *Request for Hearing Regarding Child's*  
34 *Education* (form JV-539). If requesting a hearing, the ~~child's~~ attorney  
35 must:  
36

37 (i) \* \* \*

38  
39 (ii) Provide notice of the court hearing date, which will be no later  
40 than ~~seven calendar~~ five court days after the form was filed, to  
41 the parents or guardians, unless otherwise indicated on form JV-  
42 535, parental rights have been terminated, or the youth has  
43 reached 18 years of age and reunification services have been

1 terminated; the social worker; ~~the~~ or probation officer; the  
2 educational ~~representative rights holder~~ or surrogate parent; the  
3 foster youth educational liaison, ~~as defined in Education Code~~  
4 ~~section 48853.5~~; the Court Appointed Special Advocate (CASA)  
5 volunteer; and all other persons required by or entities entitled to  
6 notice under section 293.

7  
8 (B)–(C) \* \* \*

- 9  
10 (3) If removal from the school of origin is disputed, the child or youth must be  
11 allowed to remain in the school of origin pending this hearing and pending  
12 the resolution of any disagreement between the child or youth, the parent,  
13 guardian, or educational ~~representative rights holder~~, and the ~~school district~~  
14 local educational agency.
- 15  
16 (4) If the court sets a hearing, ~~the child’s attorney, or the person who holds~~  
17 ~~educational rights requests a hearing~~, ~~at the hearing the court must find that~~  
18 the social worker or probation officer must provided a report no later than  
19 two court days after ~~form JV 539 was filed and the hearing is set that the~~  
20 ~~report included~~includes the information required by (b)(1)(C)(i) ~~and (ii) and~~  
21 as well as the following:
- 22  
23 (A) Whether the foster child or youth has been allowed to continue his or  
24 her education in the school of origin ~~for the duration of the academic~~  
25 ~~school year~~ to the extent required by Education Code section  
26 48853.5(e)(1);
- 27  
28 (B) Whether a dispute exists regarding the request of a foster child or youth  
29 to remain in the school of origin and whether the foster child or youth  
30 has been ~~afforded the right~~ allowed to remain in the school of origin  
31 pending resolution of the dispute;
- 32  
33 (C) Information addressing whether the information-sharing and other  
34 requirements in section 16501.1(c)(24) and Education Code section  
35 49069.5 have been ~~followed~~ met;
- 36  
37 (D) Information addressing how the proposed change serves the best  
38 interest of the child or youth;
- 39  
40 (E) The responses ~~to the proposed change of placement from of~~ the child, if  
41 over 10 years old, or youth; the child’s or youth’s attorney; the parent,  
42 ~~or~~ guardian, or other educational rights holder; the foster youth  
43 educational liaison, ~~as defined in Education Code section 48853.5~~; and



1 the child's or youth's CASA volunteer to the proposed change of  
2 placement, specifying whether each person agrees or disagrees with the  
3 proposed change and, if any person disagrees, stating why the reasons;  
4 and  
5

6 (F) ~~A statement from the person holding educational rights regarding~~  
7 ~~whether the proposed change of placement is in the child's best interest~~  
8 ~~and what efforts have been made to keep the child in the school of~~  
9 ~~origin; and~~

10  
11 (G) A statement from the social worker or probation officer confirming that  
12 the child or youth has not been segregated in a separate school, or in a  
13 separate program within a school, ~~based on the child's status as a child~~  
14 because the child or youth is placed in foster care.  
15

16 *(Subd (e) amended effective January 1, 2014.)*  
17

18 **(f) Court review of proposed change of placement affecting the ~~child's~~ right to**  
19 **attend the school of origin**  
20

21 (1) At ~~the~~ a hearing set under (e)(2), the court must:  
22

23 (A) Determine whether the placement agency and other relevant parties and  
24 advocates have fulfilled their obligations under section 16000(b),  
25 16010(a), and 16501.1(f)(8);  
26

27 (B) Determine whether the proposed school placement meets the  
28 requirements of this rule and Education Code sections 48853.5 and  
29 49069.5, and whether the ~~proposed plan~~ placement is ~~based on~~ in the  
30 best interest of the child or youth;  
31

32 (BC) Determine what actions are necessary to ensure the protection of the  
33 child's or youth's educational and developmental-services ~~disability~~  
34 rights; and  
35

36 (CD) Make ~~the necessary~~ any findings and orders needed to enforce ~~these~~  
37 those rights, which may include an order to set a hearing under section  
38 362 to join the necessary agencies regarding provision of services,  
39 including the provision of transportation services, so that the child or  
40 youth may remain in his or her school of origin.  
41

- 1 (2) When considering whether it is in the child's or youth's best interest to  
2 ~~remain in~~ remove him or her from the school of origin, the court must  
3 consider the following:  
4  
5 (A) Whether the parent, guardian, or other educational ~~representative rights~~  
6 holder believes that ~~remaining in removal from~~ the school of origin is  
7 in the child's or youth's best interest;  
8  
9 (B) How the proposed change of placement will affect the stability of the  
10 child's or youth's school placement and the child's or youth's access to  
11 academic resources, services, and extracurricular and enrichment  
12 activities;  
13  
14 (C) Whether the proposed school placement would allow the child or youth  
15 to be placed in the least restrictive educational program; and  
16  
17 (D) Whether the child or youth has the educational and developmental  
18 services and supports ~~necessary~~, including those for special education  
19 and related services, necessary to meet state academic achievement  
20 standards.

21  
22 (3) \* \* \*

23  
24 *(Subd (f) amended effective January 1, 2014.)*

25  
26 *Rule 5.651 amended effective January 1, 2014; adopted effective January 1, 2008.*

27  
28 **Advisory Committee Comment**

29  
30 ~~This rule incorporates the requirement of, and rights established by, Assembly Bill 490~~  
31 ~~(Steinberg; Stats. 2003, ch. 862), Assembly Bill 1858 (Steinberg; Stats. 2004, ch. 914), the~~  
32 ~~Individuals With Disabilities Education Act (IDEA), the Americans With Disabilities Act (ADA),~~  
33 ~~and section 504 of the Rehabilitation Act of 1973. This rule does not limit these requirements or~~  
34 ~~rights. To the extent necessary, this rule establishes procedures to make these laws meaningful to~~  
35 ~~children in foster care.~~

36  
37 ~~With the passage of Assembly Bill 490, A~~ child or youth in, or at risk of entering, foster care has  
38 a statutory right to a meaningful opportunity to meet the state's academic achievement standards  
39 ~~to which all students are held. To afford the child~~ protect this right, the juvenile court, advocates,  
40 placing agencies, care providers, ~~and educators,~~ and service providers must work together to  
41 maintain stable school placements and ensure that the child or youth is placed in the least  
42 restrictive educational programs and has access to the academic resources, services, and  
43 extracurricular and enrichment activities that are available to other ~~students~~ pupils. This rule,

1 sections 362 and 727, and rule 5.575 provide procedures for ~~ensuring~~ coordinating the provision  
2 of services to ensure that the child's or youth's educational and developmental-services needs are  
3 met.

4  
5 Congress has found that improving the educational performance of children with disabilities is an  
6 essential prerequisite to ensuring their equality of opportunity, full participation in education, and  
7 economic self-sufficiency. Children and youth in foster care are disproportionately represented in  
8 the population of ~~children-pupils~~ with disabilities and ~~inherently~~ face systemic challenges to  
9 attaining self-sufficiency. Children and youth in foster care have rights arising out of federal and  
10 state law, including the IDEA, the ADA, and section 504 of the Rehabilitation Act of 1973. To  
11 comply with federal requirements regarding the identification of children and youth with  
12 disabilities and the provision of services to those children and youth who qualify, the court,  
13 parent or guardian, placing agency, attorneys, CASA volunteer, local educational agencies, and  
14 educational ~~representatives~~ rights holders must affirmatively address the child's or youth's  
15 educational and developmental-services needs. The court must continually inquire about the  
16 educational and developmental-services needs of the child or youth and the progress being made  
17 to enforce any rights the child or youth has under these laws.

18  
19 **Rule 5.660. Attorneys for parties (§§ 317, 317.6, 353, 366.26, 16010.6, 366.26)**

20  
21 **(a)–(c) \* \* \***

22  
23 **(d) Competent counsel**

24  
25 \* \* \*

26  
27 (1)–(4) \* \* \*

28  
29 (5) *Attorney contact information*

30  
31 The attorney for a child for whom a dependency petition has been filed must  
32 provide his or her contact information to the child's caregiver no later than 10  
33 days after receipt of the name, address, and telephone number of the child's  
34 caregiver. If the child is 10 years of age or older, the attorney must also  
35 provide his or her contact information to the child for whom a dependency  
36 petition has been filed no later than 10 days after receipt of the caregiver's  
37 contact information. The attorney may give contact information to a child for  
38 whom a dependency petition has been filed who is under 10 years of age. At  
39 least once a year, if the list of educational liaisons is available online from the  
40 California Department of Education, the child's attorney must provide, in any  
41 manner permitted by section 317(e)(4), his or her contact information to the  
42 educational liaison of each local educational agency serving the attorney's  
43 clients in foster care in the county of jurisdiction.

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43

(6) \* \* \*

*(Subd (d) amended effective January 1, 2014; adopted as subd (b); amended and relettered as subd (c) effective July 1, 2001; previously relettered effective January 1, 2006; previously amended effective July 1, 1999, January 1, 2005, and January 1, 2007.)*

(e)–(g) \* \* \*

*Rule 5.660 amended effective January 1, 2014; adopted as rule 1438 effective January 1, 1996; previously amended effectively July 1, 1999, July 1, 2001, January 1, 2003, January 1, 2005, and January 1, 2006; previously amended and renumbered effective January 1, 2007.*

**Rule 5.695. Findings and orders of the court—disposition**

(a)–(b) \* \* \*

(c) **Limitations on parental control (§§ 245.5, ~~319, 361, 362~~; Gov. Code, § 7579.5)**

(1)–(2) \* \* \*

(3) The court must consider whether it is necessary to limit the rights of the parent or guardian to make educational or developmental-services decisions for the child or youth. If the court limits ~~the those rights~~, it must follow the procedures ~~stated in rules 5.649–5.650~~1.

*(Subd (c) amended effective January 1, 2014; adopted as subd (b); relettered effective July 1, 1995; previously amended effective July 1, 2002, January 1, 2004, January 1, 2007, and January 1, 2008.)*

(d)–(e) \* \* \*

(f) **Family-finding determination (§ 309)**

(1) ~~The~~If the child is removed, the court must consider whether the social worker has ~~used~~exercised due diligence in conducting the investigation to identify, locate, and notify the child’s relatives. The court may consider ~~the activities listed in (g)~~ as examples of due diligence~~the activities listed in subdivision (g) of this rule.~~

If the disposition hearing is continued, the court may set a hearing to be held at any time after 30 days from the date of removal or as soon as possible thereafter to consider whether the social worker has ~~used~~exercised due

1 diligence in conducting the investigation to identify, locate, and ~~contact~~  
2 notify the child's relatives.

3  
4 (2) ~~The court must make one of the following findings:~~

5  
6 (A) ~~The social worker has used due diligence in conducting its the~~  
7 ~~investigation to identify, locate, and notify the child's relatives; or~~

8  
9 (B) ~~The social worker has not used due diligence in conducting its~~  
10 ~~investigation to identify, locate, and notify the child's relatives. If the~~  
11 ~~court makes this finding, the court may order the social worker to use~~  
12 ~~due diligence in conducting an investigation to identify, locate, and~~  
13 ~~notify the child's relatives—except for any individual the social worker~~  
14 ~~identifies who is inappropriate to notify under rule 5.637(b)—and may~~  
15 ~~require a written or oral report to the court at a later time.~~

16  
17 (2) If the court finds that the social worker has not exercised due diligence, the  
18 court may order the social worker to exercise due diligence in conducting an  
19 investigation to identify, locate, and notify the child's relatives—except for  
20 any individual the social worker identifies as inappropriate to notify under  
21 rule 5.637(b)—and may require a written or oral report to the court.

22  
23 *(Subd (f) amended effective January 1, 2014; adopted effective January 1, 2011.)*

24  
25 (g) **Due Diligence (§ 309)**

26  
27 When making the finding-inquiry required ~~under paragraph in~~ (f)(2) of this rule, the  
28 court may consider, among other examples of due diligence ~~to identify, locate, and~~  
29 ~~notify the child's relatives~~, whether the social worker has done any of the  
30 following:

31  
32 (1)–(7) \* \* \*

33  
34 *(Subd (g) amended effective January 1, 2014; adopted effective January 1, 2011.)*

35  
36 (h) **Provision of reunification services (§ 361.5)**

37  
38 (1)–(12) \* \* \*

39  
40 (13) If the mother, statutorily presumed father, or guardian is institutionalized, ~~or~~  
41 incarcerated, or detained by the United States Department of Homeland  
42 Security, or has been deported to his or her country of origin, the court must  
43 order reunification services unless it finds by clear and convincing evidence

1 that the services would be detrimental to the child, with consideration of the  
2 factors in section 361.5(e). The court may order reunification services with an  
3 institutionalized, ~~or~~ incarcerated, detained, or deported biological father  
4 whose paternity has been declared by the juvenile court or another court of  
5 competent jurisdiction, if the court determines that such services would  
6 benefit the child, with consideration of the factors in section 361.5(e).

7  
8 (14) If, with the exception of (6)(A), the court orders no reunification services for  
9 every parent otherwise eligible for such services under ~~(#)~~(1) and (2), the  
10 court must conduct a hearing under section 366.26 within 120 days and:

11  
12 (A) Order that the social worker provide a copy of the child's birth  
13 certificate to the caregiver consistent with sections 16010.4(e)(5) and  
14 16010.5(b)-(c); and

15  
16 (B) Order that the social worker provide a child or youth 16 years of age or  
17 older with a certified copy of his or her birth certificate unless the court  
18 finds that provision of the birth certificate would be inappropriate.

19  
20 (15)-(19) \* \* \*

21  
22 *(Subd (h) amended effective January 1, 2014; adopted as subd (e); previously amended*  
23 *effective January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1995, January 1,*  
24 *1996, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July 1,*  
25 *2002, January 1, 2007, and January 1, 2010; previously relettered as subd (f) effective*  
26 *July 1, 1995, and as subd (h) January 1, 2011.)*

27  
28 **(i)-(l) \* \* \***

29  
30 *Rule 5.695 amended effective January 1, 2014; adopted as rule 1456 effective January 1, 1991;*  
31 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
32 *January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, January 1, 1996,*  
33 *January 1, 1997, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July*  
34 *1, 2002, January 1, 2004, January 1, 2006, January 1, 2008, January 1, 2010, and January 1,*  
35 *2011.*

36  
37 **Rule 5.707. Review hearing requirements for child approaching majority (§§ 224.1,**  
38 **366(a)(1)(F), ~~366.3(l)-(n)~~, 366.31, 16501.1(f)(16))**

39  
40 **(a)-(b) \* \* \***

41  
42 **(c) Findings**

1 (1) At the last review hearing before the child attains 18 years of age held under  
2 section 366.21, 366.22, 366.25, or 366.3, in addition to complying with all  
3 other statutory and rule requirements applicable to the hearing, the court must  
4 make the following findings find on the record and in the written court  
5 documentation of the hearing, signed orders:

6  
7 (A)–(I) \* \* \*

8  
9 (2) \* \* \*

10  
11 *(Subd (c) amended effective January 1, 2014; previously amended effective July 1, 2012.)*

12  
13 (d) \* \* \*

14  
15 *Rule 5.707 amended effective January 1, 2014; adopted effective January 1, 2012; previously*  
16 *amended effective July 1, 2012.*

17  
18 **Rule 5.708. General review hearing requirements**

19  
20 (a) \* \* \*

21  
22 (b) **Notice of hearing (§ 293)**

23  
24 The petitioner or the court clerk must serve written notice of review hearings on  
25 *Notice of Review Hearing* (form JV-280), in the manner provided in section 293, to  
26 all persons or entities entitled to required to receive notice under section 293 and to  
27 any CASA volunteer, educational rights holder, or surrogate parent who has been  
28 appointed on a given the case.

29  
30 *(Subd (b) amended effective January 1, 2014.)*

31  
32 (c)–(e) \* \* \*

33  
34 (f) **Child's Educational and developmental-services needs (§§ 361, 366, 366.1,**  
35 **366.3)**

36  
37 The court must consider the child's educational and developmental-services needs  
38 of each child and nonminor or nonminor dependent youth, including whether it is  
39 necessary to limit the rights of the parent or legal guardian to make educational or  
40 developmental-services decisions for the child or youth. If the court limits those  
41 rights or, in the case of a nonminor or nonminor dependent youth who has chosen  
42 not to make educational or developmental-services decisions for him- or herself or  
43 has been deemed incompetent, finds that appointment would be in the best interests

1 of the youth, the court must appoint a responsible adult as the educational rights  
2 holder as defined in rule 5.502. Any limitation on the rights of a parent or guardian  
3 to make educational or developmental-services decisions for the child or youth  
4 must be specified in the court order. The court must follow the procedures in rules  
5 5.649–5.651, following the requirements and procedures in rules 5.650 and 5.651  
6 and in section 361(a).

7  
8 *(Subd (f) amended effective January 1, 2014.)*

9  
10 **(g) Case plan (§§ 16001.9, 16501.1)**

11  
12 The court must consider the case plan submitted for the hearing and must ~~find as~~  
13 ~~follows~~ determine:

14  
15 (1) Whether the child or youth was actively involved, as age- and  
16 developmentally appropriate, in the development of his or her own case plan  
17 and plan for permanent placement as age and developmentally appropriate;  
18 ~~or~~

19  
20 ~~(2) The child was not actively involved in the development of his or her own~~  
21 ~~case plan and plan for permanent placement. If the court makes such a~~  
22 ~~finding finds that the child or youth was not appropriately involved, the court~~  
23 ~~must order the agency to actively involve the child or youth in the~~  
24 ~~development of his or her own case plan and plan for permanent placement,~~  
25 ~~unless the court finds that the child is unable, unavailable, or unwilling to~~  
26 ~~participate; and~~

27  
28 ~~(3)(2) Whether each parent was actively involved in the development of the case~~  
29 ~~plan and plan for permanent placement; or~~

30  
31 ~~(4) Each parent was not actively involved in the development of the case plan~~  
32 ~~and plan for permanent placement. If the court makes such a finding finds~~  
33 ~~that any parent was not actively involved, the court must order the agency to~~  
34 ~~actively involve each that parent in the development of the case plan and plan~~  
35 ~~for permanent placement, unless the court finds that each the parent is unable,~~  
36 ~~unavailable, or unwilling to participate; and~~

37  
38 ~~(5)(3) In the case of an Indian child, whether the agency consulted with the Indian~~  
39 ~~child's tribe, as defined in rule 5.502, and the tribe was actively involved in~~  
40 ~~the development of the case plan and plan for permanent placement,~~  
41 ~~including consideration of whether tribal customary adoption is as an~~  
42 ~~appropriate permanent plan for the child if reunification is unsuccessful; or~~  
43



1           ~~(6) In the case of an Indian child, the agency did not consult with the child's~~  
2           ~~tribe. If the court makes such a finding finds that the agency did not consult~~  
3           ~~the Indian child's tribe, the court must order the agency to consult with the~~  
4           ~~tribe do so, unless the court finds that the tribe is unable, unavailable, or~~  
5           ~~unwilling to participate; and~~

6  
7           ~~(7)(4) For a child or youth 12 years of age or older and in a permanent placement,~~  
8           ~~the court must make a finding whether or not the child was given the~~  
9           ~~opportunity to review the case plan, sign it, and receive a copy. If the court~~  
10           ~~finds that the child or youth was not given this opportunity, the court must~~  
11           ~~order the agency to give the child the opportunity to review the case plan,~~  
12           ~~sign it, and receive a copy.~~

13  
14           *(Subd (g) amended effective January 1, 2014; previously amended effective July 1, 2010.)*

15  
16           **(h)–(m) \* \* \***

17  
18           **(n) Requirements upon setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

19           \* \* \*

20  
21  
22           (1) The court must terminate reunification services to the parent or legal  
23           guardian; and:

24  
25           (A) Order that the social worker provide a copy of the child's birth  
26           certificate to the caregiver as consistent with sections 16010.4(e)(5) and  
27           16010.5(b)–(c); and

28  
29           (B) Order that the social worker provide a child or youth 16 years of age or  
30           older with a copy of his or her birth certificate unless the court finds  
31           that provision of the birth certificate would be inappropriate.

32  
33           (2)–(6) \* \* \*

34  
35           *(Subd (n) amended effective January 1, 2014; previously amended effective July 1, 2010.)*

36  
37           **(o) \* \* \***

38  
39           *Rule 5.708 amended effective January 1, 2014; adopted effective January 1, 2010; previously*  
40           *amended effective July 1, 2010.*

41  
42           **Rule 5.710. Six-month review hearing**

43

1 (a)–(b) \* \* \*

2  
3 (c) **Setting a section 366.26 hearing (§§ 366.21, 366.215)**

4  
5 (1) The court may set a hearing under section 366.26 within 120 days if:

6  
7 (A)–(C) \* \* \*

8  
9 (D) The child was under the age of three when initially removed, or a  
10 member of a sibling group described in section 361.5(a)(1)(C), and the  
11 court finds by clear and convincing evidence that the parent has failed  
12 to participate regularly and make substantive progress in any court-  
13 ordered treatment plan. If, however, the court finds a substantial  
14 probability that the child may be returned within 6 months or within 12  
15 months of the date the child entered foster care, whichever is sooner, or  
16 that reasonable services have not been offered or provided, the court  
17 must continue the case to the 12-month permanency hearing.

18  
19 (i) \* \* \*

20  
21 (ii) The court, in determining whether court-ordered services may be  
22 extended to the 12-month point, must take into account any  
23 particular barriers to a parent’s ability to maintain contact with  
24 his or her child due to the parent’s incarceration, ~~or~~  
25 institutionalization, detention by the United States Department of  
26 Homeland Security, or deportation. The court may also consider,  
27 among other factors, whether the incarcerated, ~~or~~  
28 institutionalized, detained, or deported parent has made good  
29 faith efforts to maintain contact with the child and whether there  
30 are any other barriers to the parent’s access to services.

31  
32 (2) \* \* \*

33  
34 *(Subd (c) amended effective January 1, 2014; repealed and adopted as subd (e); previously*  
35 *amended and relettered as subd (f) effective January 1, 1992; previously amended effective*  
36 *January 1, 1993, January 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1,*  
37 *2000, January 1, 2001, July 1, 2002, January 1, 2004, January 1, 2005, January 1, 2006,*  
38 *January 1, 2007, January 1, 2010, and January 1, 2011.)*

39  
40 (d) \* \* \*

41  
42 *Rule 5.710 amended effective January 1, 2014; adopted as rule 1460 effective January 1, 1990;*  
43 *previously amended and renumbered effective January 1, 2007; previously amended effective*

1 *January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999,*  
2 *July 1, 1999, January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004, January 1, 2005,*  
3 *January 1, 2006, January 1, 2010, and January 1, 2011.*

4  
5 **Rule 5.715. Twelve-month permanency hearing**

6  
7 (a) \* \* \*

8  
9 (b) **Determinations and conduct of hearing (§§ 361.5, 366, 366.1, 366.21)**

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

15  
16 (1)–(3) \* \* \*

17  
18 (4) If the court does not order return of the child to the parent or legal guardian  
19 and the time period for providing court-ordered services has been met or  
20 exceeded, as provided in section 361.5(a)(1), the court must specify the  
21 factual basis for its finding of risk of detriment to the child and proceed as  
22 follows in selecting a permanent plan:

23  
24 (A) If the court finds that there is a substantial probability that the child will  
25 be returned within 18 months or that reasonable services have not been  
26 offered or provided, the court must continue the case for a permanency  
27 review hearing to a date not later than 18 months from the date of the  
28 initial removal. If the court continues the case for an 18-month  
29 permanency review hearing, the court must inform the parent or legal  
30 guardian that if the child cannot be returned home by the next hearing,  
31 a proceeding under section 366.26 may be instituted.

32  
33 (i) \* \* \*

34  
35 (ii) In determining whether court-ordered services may be extended  
36 to the 18-month point, the court must consider the special  
37 circumstances of a parent or legal guardian who is incarcerated,  
38 institutionalized or court-ordered to a residential substance abuse  
39 treatment program, or arrested and issued an immigration hold,  
40 detained by the United States Department of Homeland Security,  
41 or deported to his or her country of origin, including, but not  
42 limited to, barriers to the parent’s or legal guardian’s access to  
43 services and ability to maintain contact with his or her child. The

1 court must also consider, among other factors, good faith efforts  
2 that the parent or legal guardian has made to maintain contact  
3 with the child.

4  
5 (B)–(C) \* \* \*

6  
7 *(Subd (b) amended effective January 1, 2014; repealed and adopted as subd (c)(2);*  
8 *previously amended and relettered as subd (c) effective July 1, 1999, as subd (d) effective*  
9 *January 1, 2002, as subd (c) effective January 1, 2001, and as subd (b) effective January 1,*  
10 *2010; previously amended effective January 1, 1992, January 1, 1993, January 1, 1995,*  
11 *July 1, 1995, July 1, 1997, January 1, 1999, January 1, 2004, January 1, 2005, January 1,*  
12 *2007, and July 1, 2010.)*

13  
14 *Rule 5.715 amended effective January 1, 2014; adopted as rule 1461 effective January 1, 1990;*  
15 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
16 *January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997,*  
17 *January 1, 1999, July 1, 1999, January 1, 2000, January 1, 2001, January 1, 2004, January 1,*  
18 *2005, January 1, 2006, January 1, 2010, and July 1, 2010.*

19  
20 **Rule 5.720. Eighteen-month permanency review hearing**

21  
22 (a) \* \* \*

23  
24 (b) **Determinations and conduct of hearing (§§ 361.5, 366.22)**

25  
26 At the hearing the court and all parties must comply with all relevant requirements  
27 and procedures in rule 5.708, General review hearing requirements. The court must  
28 make all appropriate findings and orders specified in rule 5.708 and proceed as  
29 follows:

30  
31 (1)–(2) \* \* \*

32  
33 (3) If the court does not order return of the child to the custody of the parent or  
34 legal guardian, the court must specify the factual basis for its finding of risk  
35 of detriment and do one of the following:

36  
37 (A) Continue the case for a subsequent permanency review hearing not  
38 later than 24 months from the date of the initial removal if the court  
39 finds that there is a substantial probability that the child will be  
40 returned within that time or that reasonable services have not been  
41 offered or provided. To extend services to the 24-month point, the court  
42 must also find by clear and convincing evidence that additional  
43 reunification services are in the best interest of the child and that the

1 parent or legal guardian is making significant and consistent progress in  
2 a substance abuse treatment program, or a parent is recently discharged  
3 from incarceration, ~~or institutionalization,~~ or the custody of the United  
4 States Department of Homeland Security, and making significant and  
5 consistent progress in establishing a safe home for the child's return.  
6 The court must also inform the parent or legal guardian that, if the child  
7 cannot be returned home by the subsequent permanency review  
8 hearing, a hearing under section 366.26 may be instituted.

9  
10 In order to find a substantial probability that the child will be returned  
11 within the 24-month period, the court must find all of the following:

12  
13 (i)-(ii) \* \* \*

14  
15 (iii) The parent or legal guardian has demonstrated the capacity and  
16 ability both to complete the objectives of his or her substance  
17 abuse treatment plan as evidenced by reports from a substance  
18 abuse provider, as applicable, or to complete a treatment plan  
19 postdischarge from incarceration, ~~or institutionalization,~~ or  
20 detention or following deportation to his or her country of origin  
21 or his or her return to the United States, and to provide for the  
22 child's safety, protection, physical and emotional health, and  
23 special needs.

24  
25 (B)-(C) \* \* \*

26  
27 (4) \* \* \*

28  
29 *(Subd (b) amended effective January 1, 2014; repealed and adopted as subd (b);*  
30 *previously amended and relettered as subd (c) effective January 1, 2005, and as subd (b)*  
31 *effective January 1, 2010; previously amended effective July 1, 1991, January 1, 1992,*  
32 *January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, January 1,*  
33 *2006, July 1, 2006, January 1, 2007, July 1, 2007, and July 1, 2010.)*

34  
35 *Rule 5.720 amended effective January 1, 2014; repealed and adopted as rule 1462 effective*  
36 *January 1, 1990; previously amended and renumbered effective January 1, 2007; previously*  
37 *amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1994, January 1,*  
38 *1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, January 1,*  
39 *2005, January 1, 2006, July 1, 2006, July 1, 2007, January 1, 2010, and July 1, 2010.*

40  
41 **Rule 5.790. Orders of the court**  
42

1 (a) \* \* \*

2  
3 (b) **Conditions of probation (§§ 725, 726, 727, 729.2, 729.9, 729.10)**

4  
5 (1)—If the child is placed on probation, with or without wardship, the court must  
6 set reasonable terms and conditions of probation. Unless the court finds and states  
7 its reasons on the record that any of the following conditions is inappropriate, the  
8 court must:

9  
10 ~~(A)~~(1) Require the child to attend school;

11  
12 ~~(B)~~(2) Require the parent to participate with the child in a counseling or  
13 education program; and

14  
15 ~~(C)~~(3) Require the child to be at the child's residence between 10:00 p.m. and  
16 6:00 a.m. unless accompanied by a parent or a guardian or an adult custodian.

17  
18 ~~(2)—If the child is declared a ward, the court may limit the control over the child  
19 by a parent or guardian. Orders must clearly specify the limitations.~~

20  
21 *(Subd (b) amended effective January 1, 2014; previously amended effective July 1, 2002,  
22 and January 1, 2007.)*

23  
24 (c)–(e) \* \* \*

25  
26 (f) **Family-finding determination (§ 628(d))**

27  
28 (1) If the child is detained and at risk of entering foster care, the court must  
29 consider whether the probation officer has exercised due diligence in  
30 conducting the investigation to identify, locate, and notify the child's  
31 relatives. The court may consider the activities listed in (g) as examples of  
32 due diligence.

33  
34 If the dispositional hearing is continued, the court may set a hearing to be  
35 held 30 days from the date of detention or as soon as possible thereafter to  
36 consider whether the probation officer has exercised due diligence in  
37 conducting the investigation to identify, locate, and notify the child's  
38 relatives.

39  
40 (2) If the court finds that the probation officer has not exercised due diligence,  
41 the court may order the probation officer to exercise due diligence in  
42 conducting an investigation to identify, locate, and notify the child's  
43 relatives—except for any individual the probation officer identifies who is

1 inappropriate to notify under rule 5.637(b)—and may require a written or oral  
2 report to the court.

3  
4 *(Subd (f) adopted effective January 1, 2014.)*

5  
6 **(g) Due Diligence**

7  
8 When making the inquiry required under (f), the court may consider, among other  
9 examples of due diligence, whether the probation officer has done any of the  
10 following:

- 11  
12 (1) Asked the child, in an age-appropriate manner and consistent with the child’s  
13 best interest, about his or her relatives;  
14  
15 (2) Obtained information regarding the location of the child’s relatives;  
16  
17 (3) Reviewed the child’s case file for any information regarding relatives;  
18  
19 (4) Telephoned, e-mailed, or visited all identified relatives;  
20  
21 (5) Asked located relatives for the names and locations of other relatives;  
22  
23 (6) Used Internet search tools to locate relatives identified as supports; or  
24  
25 (7) Developed tools, including a genogram, family tree, family map, or other  
26 diagram of family relationships, to help the child or parents to identify  
27 relatives.

28  
29 *(Subd (g) adopted effective January 1, 2014.)*

30  
31 **(h) Wardship orders (§§ 726, 727, 727.1, 730, 731)**

32  
33 The court may make any reasonable order for the care, supervision, custody,  
34 conduct, maintenance, support, and medical treatment of a child ~~declared~~ adjudged  
35 a ward of the court.

36  
37 (1)–(4) \* \* \*

- 38  
39 (5) The court may limit the control exercised over the ward by a parent or  
40 guardian. Orders must clearly specify all limitations. In particular, the court  
41 must consider whether it is necessary to limit the rights of the parent or  
42 guardian to make educational or developmental-services decisions for the

1 child. If the court limits ~~this right~~ those rights, it must follow the procedures  
2 ~~stated~~ in rules 5.649–5.6501.

3  
4 *(Subd (h) amended and relettered effective January 1, 2014; adopted as subd (d);*  
5 *previously amended and relettered as subd (e) effective July 1, 2002, and as subd (f)*  
6 *effective January 1, 2007; previously amended effective January 1, 2004, and January 1,*  
7 *2008.)*

8  
9 ~~(g)~~(i) \* \* \*

10  
11 *(Subd (i) relettered effective January 1, 2014; adopted as subd (e); previously amended*  
12 *effective January 1, 2006; previously amended and relettered as subd (f) effective July 1,*  
13 *2002, and as subd (g) effective January 1, 2007.)*

14  
15 ~~(h)~~(j) \* \* \*

16  
17 *(Subd (j) relettered effective January 1, 2014; adopted as subd (f); previously amended*  
18 *and relettered as subd (g) effective July 1, 2002, and as subd (h) effective January 1,*  
19 *2007.)*

20  
21 *Rule 5.790 amended effective January 1, 2014; adopted as rule 1493 effective January 1, 1991;*  
22 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
23 *January 1, 1998, July 1, 2002, January 1, 2004, January 1, 2006, and January 1, 2008.*

24  
25 **Rule 5.805. California Department of Corrections and Rehabilitation, Division of**  
26 **Juvenile Justice, commitments**

27  
28 If the court orders the youth committed to the California Department of Corrections and  
29 Rehabilitation, Division of Juvenile Justice (DJJ):

30  
31 (1) \* \* \*

32  
33 (2) The court must specify whether the offense is one listed in section 707(b) or  
34 subdivision (c) of Penal Code section 290.008.

35  
36 (3)–(5) \* \* \*

37  
38 *Rule 5.805 amended effective January 1, 2014; adopted as rule 1494.5 effective January 1, 2003;*  
39 *previously amended effective January 1, 2006; previously amended and renumbered effective*  
40 *January 1, 2007.*

41  
42 **Rule 5.810. Reviews, hearings, and permanency planning**



1 (a) Six-month status review hearings (§§ 727.2, 11404.1)

2  
3 \* \* \*

4  
5 (1)–(2) \* \* \*

6  
7 (3) Findings and orders (§ 727.2(d)(e))

8  
9 The court must consider the safety of the ward and make findings and orders  
10 that determine the following:

11  
12 (A)–(B) \* \* \*

13  
14 (C) Whether it is necessary to limit the rights of the parent or guardian to  
15 make educational or developmental-services decisions for the child. If  
16 the court limits ~~this right~~ those rights or, if the ward is 18 years of age  
17 or older and has chosen not to make educational or developmental-  
18 services decisions for him- or herself or has been deemed incompetent,  
19 finds that it is in the best interests of the ward, it-the court must appoint  
20 a responsible adult as the educational ~~representative~~ rights holder as  
21 defined in rule 5.502. Any limitation on the rights of a parent or  
22 guardian to make educational or developmental-services decisions for  
23 ~~the child~~ a ward must be specified in the court order. The court must  
24 follow the procedures ~~stated~~ in rules 5.649–5.650;

25  
26 (D)–(E) \* \* \*

27  
28 (F) In the case of a child or youth who is 16 years of age or older, ~~the court~~  
29 ~~must determine~~ the services needed to assist the child or youth in  
30 making the transition from foster care to independent living; ~~and~~

31  
32 (G) Whether ~~or not~~ the child or youth was actively involved, as age- and  
33 developmentally appropriate, in the development of his or her own case  
34 plan and plan for permanent placement. If the court ~~makes such a~~  
35 ~~finding~~ finds that the child or youth was not appropriately involved, the  
36 court must order the probation department to actively involve the child  
37 or youth in the development of his or her own case plan and plan for  
38 permanent placement, unless the court finds that the child or youth is  
39 unable, unavailable, or unwilling to participate; and

40  
41 (H) Whether each parent was actively involved in the development of the  
42 case plan and plan for permanent placement; ~~or~~

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

9 (4) Basis for Findings and Orders (§ 727.2(e))

10  
11 The determinations required by (a)(3) must be made on a case-by-case basis,  
12 and the court must reference, in its written findings, the probation officer's  
13 report and any other evidence relied on in reaching its decision.  
14

15 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
16 *1998, January 1, 2001, January 1, 2003, January 1, 2004, and January 1, 2007.)*  
17

18 **(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**

19 \* \* \*

20 (1) \* \* \*

21  
22 (2) Findings and orders (§§ 727.2(e), 727.3(a))

23  
24  
25  
26 At each permanency planning hearing, the court must consider the safety of  
27 the ward and make findings and orders regarding the following:  
28

29 (A)–(C) \* \* \*

30  
31 (D) The permanent plan for the child or youth, as described in (3);  
32

33 (E) Whether ~~or not~~ the child or youth was ~~not~~ actively involved, as age-  
34 and developmentally appropriate, in the development of his or her own  
35 case plan and plan for permanent placement. If the court finds that the  
36 child or youth was not ~~actively~~ appropriately involved, ~~in the~~  
37 ~~development of his or her own case plan and plan for permanent~~  
38 ~~placement,~~ the court must order the probation officer to actively  
39 involve the child or youth in the development of his or her own case  
40 plan and plan for permanent placement, unless the court finds that the  
41 child or youth is unable, unavailable, or unwilling to participate; and  
42

1 (F) Whether each parent was actively involved in the development of the  
2 case plan and plan for permanent placement; ~~or~~

3  
4 ~~(G) Each parent was not actively involved in the development of the case~~  
5 ~~plan and plan for permanent placement.~~ If the court ~~makes such a~~  
6 ~~finding~~ finds that any parent was not actively involved, the court must  
7 order the agency-probation department to actively involve ~~each~~ that  
8 parent in the development of the case plan and plan for permanent  
9 placement, unless the court finds that ~~each~~ the parent is unable,  
10 unavailable, or unwilling to participate.

11  
12 (3)-(4) \* \* \*

13  
14 *(Subd (b) amended effective January 1, 2014; adopted effective January 1, 2001;*  
15 *previously amended effective January 1, 2003, and January 1, 2007.)*

16  
17 **(c) Postpermanency status review hearings (§ 727.2)**

18 \* \* \*

19  
20  
21 (1) \* \* \*

22  
23 (2) *Findings and orders* (§ 727.2(g))

24  
25 At each postpermanency status review hearing, the court must consider the  
26 safety of the ward and make findings and orders regarding the following:

27  
28 (A)-(C) \* \* \*

29  
30 (D) ~~Whether or not~~ the child or youth was actively involved, as age- and  
31 developmentally appropriate, in the development of his or her own case  
32 plan and plan for permanent placement. If the court ~~makes such a~~  
33 ~~finding~~ finds that the child or youth was not appropriately involved, the  
34 court must order the agency-probation department to actively involve  
35 the child or youth in the development of his or her own case plan and  
36 plan for permanent placement, unless the court finds that the child or  
37 youth is unable, unavailable, or unwilling to participate.

38  
39 *(Subd (c) amended effective January 1, 2014; adopted effective January 1, 2001;*  
40 *previously amended effective January 1, 2003, and January 1, 2007.)*

41  
42 **(d) Notice of hearings; service; contents (§ 727.4)**

43

1 Not earlier than 30 nor later than 15 calendar days before each hearing date, the  
2 probation officer must serve written notice on all persons ~~required~~ entitled to  
3 ~~receive~~ notice under section 727.4, as well as the ~~child's present~~ current caregiver,  
4 any CASA volunteer or educational rights holder, and ~~the~~ all counsel of record. A  
5 *Notice of Hearing—Juvenile Delinquency Proceeding* (form JV-625) must be used.

6  
7 *(Subd (d) amended effective January 1, 2014; adopted effective January 1, 2001;*  
8 *previously amended effective January 1, 2003, January 1, 2006, and January 1, 2007.)*

9  
10 **(e) Report (§§ 706.5, 706.6, 727.2(c), 727.3(a)(1), 727.4(b))**

11  
12 Before each hearing described above, the probation officer must investigate and  
13 prepare a social study report, ~~including an updated case plan~~, that must include an  
14 updated case plan and all of the information required in sections 706.5, 706.6,  
15 727.2, and 727.3.

16  
17 (1)–(2) \* \* \*

18  
19 *(Subd (e) amended effective January 1, 2014; adopted as subd (b); previously amended*  
20 *and relettered as subd (e) effective January 1, 2001; previously amended effective January*  
21 *1, 1998, January 1, 2003, and January 1, 2007.)*

22  
23 **(f) \* \* \***

24  
25 *Rule 5.810 amended effective January 1, 2014; adopted as rule 1496 effective January 1, 1991;*  
26 *previously amended effective January 1, 1998, January 1, 2001, January 1, 2003, January 1,*  
27 *2004, and January 1, 2006; previously amended and renumbered effective January 1, 2007.*

28  
29 **Rule 5.812. Additional requirements for any hearing to terminate jurisdiction over**  
30 **child in foster care and for status review hearing for child approaching**  
31 **majority (§§ 450, 451, 727.2(i)–(j), 778)**

32  
33 **(a)–(c) \* \* \***

34  
35 **(d) Findings**

36  
37 (1) At the hearing described in (a)(1)–(4), in addition to complying with all other  
38 statutory and rule requirements applicable to the hearing, the court must  
39 make the following findings ~~find on the record and~~ in the written  
40 documentation of the hearing, ~~signed orders~~:

41  
42 (A)–(D) \* \* \*

1 (2) At the review hearing held on behalf of a child approaching majority  
2 described in (a)(1) and any hearing under (a)(2) or (a)(3) held on behalf of a  
3 child more than 17 years, 5 months old and less than 18 years of age, in  
4 addition to complying with all other statutory and rule requirements  
5 applicable to the hearing, the court must make the following findings find on  
6 ~~the record and~~ in the written documentation of the hearing, signed orders:

7  
8 (A)–(J) \* \* \*

9  
10 *(Subd (d) amended effective January 1, 2014; previously amended effective July 1, 2012.)*

11  
12 (e)–(f) \* \* \*

13  
14 *Rule 5.812 amended effective January 1, 2014; adopted effective January 1, 2012; previously*  
15 *amended effective July 1, 2012.*

16  
17 **Rule 5.813. Modification to transition jurisdiction for a ward older than 18 years**  
18 **and younger than 21 years of age (§§ 450, 451)**

19  
20 **(a) Purpose**

21  
22 This rule provides the procedures that must be followed when it appears to a  
23 probation officer that a ward who is at least 18 years of age and younger than 21  
24 years of age has met his or her rehabilitative goals and wants to remain in extended  
25 foster care under the jurisdiction of the court.

26  
27 **(b) Setting and conduct of hearing**

28  
29 (1) The probation officer must request a hearing for the court to consider  
30 modifying delinquency jurisdiction to transition jurisdiction.

31  
32 (2) The hearing must be held before a judicial officer and recorded by a court  
33 reporter.

34  
35 (3) The hearing must be continued for no more than five court days for the  
36 submission of additional evidence as ordered by the court if the court finds  
37 that the report and, if required, the Transitional Independent Living Case Plan  
38 submitted by the probation officer do not provide the information required by  
39 (d) and the court is unable to make all the findings required by (e).  
40

1 **(c) Notice of hearing**

2  
3 (1) The probation officer must serve written notice of the hearing in the manner  
4 provided in section 295.

5  
6 (2) Proof of service of notice must be filed by the probation officer at least five  
7 court days before the hearing.

8  
9 **(d) Reports**

10  
11 At least 10 calendar days before the hearing, the probation officer must submit a  
12 report to the court that includes information regarding:

13  
14 (1) Whether the ward is a nonminor who was subject to an order for foster care  
15 placement on the day of the ward's 18th birthday and is within the age  
16 eligibility requirements for extended foster care;

17  
18 (2) Whether the ward was removed from the physical custody of his or her  
19 parents, adjudged to be a ward of the juvenile court under section 725, and  
20 ordered into foster care placement as a ward; or whether the ward was  
21 removed from the custody of his or her parents as a dependent of the court  
22 with an order for foster care placement in effect at the time the court  
23 adjudged him or her to be a ward of the juvenile court under section 725 and  
24 was ordered into a foster care placement as a ward, including the date of the  
25 initial removal findings—"continuance in the home is contrary to the child's  
26 welfare" and "reasonable efforts were made to prevent removal"—as well as  
27 whether the ward continues to be removed from the parents or legal guardian  
28 from whom the child was removed under the original petition;

29  
30 (3) Whether the ward's rehabilitative goals as stated in the case plan have been  
31 met and whether juvenile court jurisdiction over the ward is no longer  
32 required;

33  
34 (4) Whether the probation officer recommends the modification of juvenile court  
35 jurisdiction over the ward from that of a ward under section 601 or 602 to  
36 that of a nonminor dependent under section 450 and the facts in support of  
37 that recommendation;

38  
39 (5) Whether the ward signed a mutual agreement with the probation department  
40 or social services agency for placement in a supervised setting as a nonminor  
41 dependent and, if so, a recommendation as to which agency should be  
42 responsible for placement and care of the nonminor dependent;

43

- 1           (6) Whether the ward plans to meet at least one of the conditions in section  
2           11403(b) and what efforts the probation officer has made to help the ward  
3           meet any of the conditions;  
4  
5           (7) When and how the ward was informed of the benefits of remaining under  
6           juvenile court jurisdiction as a nonminor dependent and the probation  
7           officer’s assessment of the ward’s understanding of those benefits;  
8  
9           (8) When and how the ward was informed that he or she may decline to become  
10          a nonminor dependent and have the juvenile court terminate jurisdiction at a  
11          hearing under section 391 and rule 5.555; and  
12  
13          (9) When and how the ward was informed that if juvenile court jurisdiction is  
14          terminated, he or she can file a request to return to foster care and have the  
15          court resume jurisdiction over him or her as a nonminor.

16  
17 **(e) Findings**

18  
19 At the hearing described in (a), the court must make the following findings:

- 20  
21          (1) Whether notice has been given as required by law;  
22  
23          (2) Whether the nonminor comes within the description of section 450;  
24  
25          (3) Whether the ward has been informed that he or she may decline to become a  
26          nonminor dependent and have juvenile court jurisdiction terminated at a  
27          hearing set under rule 5.555;  
28  
29          (4) Whether the ward was informed that if juvenile court jurisdiction is  
30          terminated, the ward can file a request to return to foster care and may have  
31          the court resume jurisdiction over the ward as a nonminor;  
32  
33          (5) Whether the benefits of remaining under juvenile court jurisdiction as a  
34          nonminor dependent were explained and whether the ward understands them;  
35  
36          (6) Whether the ward has signed a mutual agreement with the probation  
37          department for placement in a supervised setting as a nonminor dependent;  
38  
39          (7) Whether the ward’s Transitional Independent Living Case Plan includes a  
40          plan for the ward to satisfy at least one of the conditions in section 11403(b);  
41          and  
42  
43          (8) Whether the ward has had an opportunity to confer with his or her attorney.

1  
2 **(f) Orders**

3  
4 For a child who comes within the description of section 450(a), the court must enter  
5 the following orders:

6  
7 (1) An order modifying the court’s jurisdiction over the child from delinquency  
8 to transition jurisdiction and setting a nonminor dependent status review  
9 hearing under section 366.31 and rule 5.903 within six months of the last  
10 hearing held under section 727.2 or 366.31. The order modifying the court’s  
11 jurisdiction must contain all of the following provisions:

12  
13 (A) A reference to the initial removal findings, the date those findings were  
14 made, and a statement that the findings—“continuance in the home is  
15 contrary to the child’s welfare” and “reasonable efforts were made to  
16 prevent removal”—made at that hearing remain in effect;

17  
18 (B) A statement that the nonminor dependent continues to be removed from  
19 the parents or legal guardian from whom the nonminor dependent was  
20 removed under the original petition; and

21  
22 (C) Identification of the agency that is responsible for placement and care  
23 of the nonminor dependent based on the modification of jurisdiction.

24  
25 (2) An order continuing the appointment of the attorney of record or appointing a  
26 new attorney as the attorney of record for the nonminor dependent.

27  
28 *Rule 5.813 adopted effective January 1, 2014.*

29  
30 **Rule 5.814. Modification to transition jurisdiction for a ward older than 17 years, 5**  
31 **months of age and younger than 18 years of age (§§ 450, 451)**

32  
33 **(a) Purpose**

34  
35 This rule provides the procedures that must be followed to modify delinquency  
36 jurisdiction to transition jurisdiction for a ward who is older than 17 years, 5  
37 months of age, younger than 18 years of age, and:

38  
39 (1) Has met his or her rehabilitative goals;

40  
41 (2) Is under a foster care placement order;



1           (3) Wants to remain in extended foster care under the transition jurisdiction of  
2           the juvenile court;

3  
4           (4) Is not receiving reunification services; and

5  
6           (5) Does not have a hearing set for termination of parental rights or  
7           establishment of guardianship.

8  
9           **(b) Setting and conduct of hearing**

10  
11           (1) The probation officer must request a hearing for the court to consider  
12           modifying delinquency jurisdiction to transition jurisdiction.

13  
14           (2) The hearing must be held before a judicial officer and recorded by a court  
15           reporter.

16  
17           (3) The hearing must be continued for no more than five court days for the  
18           submission of additional evidence as ordered by the court if the court finds  
19           that the report and, if required, the Transitional Independent Living Case Plan  
20           submitted by the probation officer, do not provide the information required  
21           by (d) and the court is unable to make all the findings required by (e).

22  
23           **(c) Notice of hearing**

24  
25           (1) The probation officer must serve written notice of the hearing in the manner  
26           provided in section 295.

27  
28           (2) Proof of service of notice must be filed by the probation officer at least five  
29           court days before the hearing.

30  
31           **(d) Reports**

32  
33           At least 10 calendar days before the hearing, the probation officer must submit a  
34           report to the court that includes information regarding:

35  
36           (1) Whether the ward is subject to an order for foster care placement and is older  
37           than 17 years, 5 months of age and younger than 18 years of age;

38  
39           (2) Whether the ward was removed from the physical custody of his or her  
40           parents, adjudged to be a ward of the juvenile court under section 725, and  
41           ordered into foster care placement as a ward; or whether the ward was  
42           removed from the custody of his or her parents as a dependent of the court  
43           with an order for foster care placement in effect at the time the court

1 adjudged him or her to be a ward of the juvenile court under section 725 and  
2 was ordered into a foster care placement as a ward, including the date of the  
3 initial removal findings—“continuance in the home is contrary to the child’s  
4 welfare” and “reasonable efforts were made to prevent removal”—as well as  
5 whether the ward continues to be removed from the parents or legal guardian  
6 from whom the child was removed under the original petition;

7  
8 (3) Whether the ward’s rehabilitative goals as stated in the case plan have been  
9 met and whether juvenile court jurisdiction over the ward is no longer  
10 required;

11  
12 (4) Whether each parent or legal guardian is currently able to provide the care,  
13 custody, supervision, and support the child requires in a safe and healthy  
14 environment;

15  
16 (5) Whether the probation officer recommends the modification of the juvenile  
17 court’s jurisdiction over the ward from that of a ward under section 601 or  
18 602 to that of a transition dependent under section 450;

19  
20 (6) Whether the ward signed a mutual agreement with the probation department  
21 or social services agency for placement in a supervised setting as a transition  
22 dependent and, if so, a recommendation as to which agency should be  
23 responsible for placement and care of the transition dependent;

24  
25 (7) Whether the ward plans to meet at least one of the conditions in section  
26 11403(b) and what efforts the probation officer has made to help the ward  
27 meet any of these conditions;

28  
29 (8) When and how the ward was informed of the benefits of remaining under  
30 juvenile court jurisdiction as a transition dependent and the probation  
31 officer’s assessment of the ward’s understanding of those benefits;

32  
33 (9) When and how the ward was informed that he or she may decline to become  
34 a transition dependent and have the juvenile court terminate jurisdiction at a  
35 hearing under section 391 and rule 5.555; and

36  
37 (10) When and how the ward was informed that if juvenile court jurisdiction is  
38 terminated, he or she can file a request to return to foster care and have the  
39 court resume jurisdiction over him or her as a nonminor.

40  
41 **(e) Findings**

42  
43 At the hearing, the court must make the following findings:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
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14  
15  
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41  
42  
43

- (1) Whether notice has been given as required by law;
- (2) Whether the ward comes within the description of section 450;
- (3) Whether the ward has been informed that he or she may decline to become a transition dependent and have juvenile court jurisdiction terminated at a hearing set under rule 5.555;
- (4) Whether the ward’s return to the home of his or her parent or legal guardian would create a substantial risk of detriment to the ward’s safety, protection, or physical or emotional well-being. The facts supporting this finding must be stated on the record;
- (5) Whether reunification services have been terminated;
- (6) Whether the ward’s case has been set for a hearing to terminate parental rights or establish a guardianship;
- (7) Whether the ward intends to sign a mutual agreement with the probation department or social services agency for placement in a supervised setting as a nonminor dependent;
- (8) Whether the ward was informed that if juvenile court jurisdiction is terminated, the ward can file a request to return to foster care and may have the court resume jurisdiction over the ward as a nonminor dependent;
- (9) Whether the benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained and whether the ward understands them;
- (10) Whether the ward’s Transitional Independent Living Case Plan includes a plan for the ward to satisfy at least one of the conditions in section 11403(b); and
- (11) Whether the ward has had an opportunity to confer with his or her attorney.

**(f) Orders**

For a child who comes within the description of section 450(a), the court must enter the following orders:

- (1) An order modifying the court’s jurisdiction over the child from delinquency to transition jurisdiction and adjudging the ward a transition dependent

1 pending his or her 18th birthday and status as a nonminor dependent under  
2 the transition jurisdiction of the court. The order modifying the court's  
3 jurisdiction must contain all of the following provisions:

4  
5 (A) A reference to the initial removal findings, the date those findings were  
6 made, and a statement that the findings—"continuance in the home is  
7 contrary to the child's welfare" and "reasonable efforts were made to  
8 prevent removal"—made at that hearing remain in effect;

9  
10 (B) A statement that the child continues to be removed from the parents or  
11 legal guardian from whom the child was removed under the original  
12 petition; and

13  
14 (C) Identification of the agency that is responsible for placement and care  
15 of the child based on the modification of jurisdiction.

16  
17 (2) An order continuing the appointment of the attorney of record, or appointing  
18 a new attorney, as the attorney of record for the nonminor dependent.

19  
20 (3) An order setting a nonminor dependent status review hearing under section  
21 366.31 and rule 5.903 within six months of the last hearing held under section  
22 727.2 or 727.3.

23  
24 *Rule 5.814 adopted effective January 1, 2014.*

25  
26 **Rule 5.900. Nonminor dependent—preliminary provisions (§§ 224.1(b), 295, 303,**  
27 **366, 366.3, 388, 391, 607(a))**

28  
29 (a) \* \* \*

30  
31 (b) **Purpose**

32  
33 (1) Maintaining juvenile court jurisdiction under sections 300, ~~or 450, 601, or~~  
34 ~~602~~ over a person as a nonminor dependent is the result of a consensual  
35 agreement between the person and child welfare services agency or the  
36 probation department for a voluntary placement in a supervised setting and  
37 includes the agreement between the social worker or probation officer and the  
38 person to work together to implement ~~facilitate the implementation of~~ the  
39 mutually developed supervised placement agreement or reentry agreement,  
40 ~~and Transitional Independent Living Case Plan.~~

41  
42 (2) Maintaining juvenile court jurisdiction and supervision by the child welfare  
43 services agency or probation department under sections 300, 450, 601, or 602

1            over a person as a nonminor dependent is for the purpose of implementing  
2            the mutually developed Transitional Independent Living Case Plan and  
3            ~~providing~~ providing support, guidance, and foster care services to the person  
4            as a nonminor dependent so he or she is able to successfully achieve  
5            independence-, including relationships with caring and committed adults who  
6            can serve as lifelong connections.

7  
8            *(Subd (b) amended effective January 1, 2014.)*

9  
10        **(c) Legal status**

11  
12            (1)    \* \* \*

13  
14            (2)    A nonminor dependent retains all his or her legal decisionmaking authority as  
15            an adult. The decisionmaking authority of a nonminor dependent under  
16            delinquency jurisdiction may be limited by and subject to the care,  
17            supervision, custody, conduct, and maintenance orders in section 727.

18  
19            *(Subd (c) amended effective January 1, 2014.)*

20  
21        **(d)–(e)**    \* \* \*

22  
23        **(f) Separate court file**

24  
25            The clerk of the superior court must open a separate court file for nonminor  
26            dependents under the dependency, delinquency, or transition jurisdiction of the  
27            court that ensures the confidentiality of the nonminor dependent and allows access  
28            only to those listed in section 362.5.

29  
30            *(Subd (f) adopted effective January 1, 2014.)*

31  
32        *Rule 5.900 amended effective January 1, 2014; adopted effective January 1, 2012.*

33  
34        **Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, ~~366(f)~~,**  
35            **366.1, 366.3, 366.31)**

36  
37        **(a)–(c)**    \* \* \*

38  
39        **(d) Reports**

40  
41            (1)    The social worker or probation officer must submit a report to the court that  
42            includes information regarding:

1 (A)–(I) \* \* \*

2  
3 (J) The efforts made by the social worker or probation officer to establish  
4 or maintain the nonminor dependent’s relationship with his or her  
5 siblings who are under the juvenile court’s jurisdiction as required in  
6 section 366(a)(1)(D);

7  
8 (K) For a nonminor dependent whose case plan is continued court-ordered  
9 family reunification services, the information required in section  
10 366.31(d); and

11  
12 (L) For a nonminor who has returned to the home of the parent or former  
13 legal guardian, whether continued juvenile court jurisdiction is  
14 necessary and the facts in support of that conclusion.

15  
16 (2)–(3) \* \* \*

17  
18 *(Subd (d) amended effective January 1, 2014.)*

19  
20 **(e) Findings and orders**

21  
22 The court must consider the safety of the nonminor dependent, and the following  
23 judicial findings determinations and orders must be made ~~on the record~~ and  
24 included in the written, ~~signed~~ court documentation of the hearing:

25  
26 (1) *Findings*

27  
28 (A)–(N) \* \* \*

29  
30 (O) Whether reasonable efforts were made by the social worker or  
31 probation officer to maintain relationships between the nonminor  
32 dependent and individuals who are important to him or her, including  
33 the efforts made to establish and maintain relationships with caring and  
34 committed adults who can serve as lifelong connections; ~~and~~

35  
36 (P) Whether reasonable efforts were made by the social worker or  
37 probation officer to establish or maintain the nonminor dependent’s  
38 relationship with his or her siblings who are under the juvenile court’s  
39 jurisdiction as required in section 366(a)(1)(D);

40  
41 (Q) For a nonminor dependent whose case plan is continued court-ordered  
42 family reunification services, the findings required in section  
43 366.31(d); and

1  
2           (R) For a nonminor who has returned to the home of the parent or former  
3           legal guardian, whether continued juvenile court jurisdiction is  
4           necessary.

5  
6           (2) *Orders*

7  
8           (A) Order the continuation of juvenile court jurisdiction and set a nonminor  
9           dependent review hearing under this rule within six months, and:

10  
11           (i) \* \* \*

12  
13           (ii) Specify the likely date by which independence is anticipated to  
14           be achieved; ~~or~~ and

15  
16           (iii) For a nonminor dependent whose parents are receiving court-  
17           ordered family reunification services:

18  
19           a. Order the continuation of reunification services;

20  
21           b. Order the termination of reunification services; or

22  
23           c. Order that the nonminor may reside in the home of the parent  
24           or former legal guardian and that juvenile court jurisdiction  
25           is terminated or that juvenile court jurisdiction is continued  
26           under section 303(a) and a status review hearing is set for  
27           within six months.

28  
29           (B)–(C) \* \* \*

30  
31           *(Subd (e) amended effective January 1, 2014.)*

32  
33           *Rule 5.903 amended effective January 1, 2014; adopted effective January 1, 2012.*

34  
35           **Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction**  
36           **(§§ 224.1(b), 303, 388(e))**

37  
38           **(a) Purpose**

39  
40           This rule provides the procedures that must be followed when a nonminor wants to  
41           have juvenile court jurisdiction resumed over him or her as a nonminor dependent  
42           as defined in section 11400(v).

1 (Subd (a) amended effective January 1, 2014; previously amended effective July 1, 2012.)

2  
3 (b)–(c) \* \* \*

4  
5 (d) **Determination of prima facie showing**

6  
7 (1) Within three court days of the filing of form JV-466 with the clerk of the  
8 juvenile court of general jurisdiction, a juvenile court judicial officer must  
9 review the form JV-466 and determine whether a prima facie showing has  
10 been made that the nonminor meets all of the criteria set forth below in  
11 (d)(1)(A)–(D) and enter an order as set forth in (d)(2) or (d)(3).

12  
13 (A) \* \* \*

14  
15 (B) ~~On and after January 1, 2012, the nonminor will not have not attained~~  
16 ~~19 years of age; or commencing January 1, 2013, he or she will not~~  
17 ~~have attained 20 years of age; or commencing on January 1, 2014, he or~~  
18 ~~she will not have~~ The nonminor has not attained 21 years of age;

19  
20 (C)–(D) \* \* \*

21  
22 (2)–(3) \* \* \*

23  
24 (Subd (d) amended effective January 1, 2014; previously amended effective July 1, 2012.)

25  
26 (e)–(g) \* \* \*

27  
28 (h) **Reports**

29  
30 (1) The social worker, probation officer, or Indian tribal agency case worker  
31 (tribal case worker) must submit a report to the court that includes:

32  
33 (A) Confirmation that the nonminor was previously under juvenile court  
34 jurisdiction subject to an order for foster care placement when he or she  
35 attained 18 years of age and that ~~on and after January 1, 2012, the~~  
36 ~~nonminor will not have not attained 19 years of age; or commencing~~  
37 ~~January 1, 2013, he or she will not have attained 20 years of age; or~~  
38 ~~commencing on January 1, 2014, he or she will not have~~ has not  
39 attained 21 years of age;

40  
41 (B)–(F) \* \* \*

42  
43 (2)–(3) \* \* \*



1  
2 (Subd (h) amended effective January 1, 2014; previously amended effective July 1, 2012.)  
3

4 **(i) Findings and orders**  
5

6 The court must read and consider, and state on the record that it has read and  
7 considered, the report; the supporting documentation submitted by the social  
8 worker, probation officer, or tribal case worker; the evidence submitted by the  
9 nonminor; and any other evidence. The following judicial findings and orders must  
10 be made ~~on the record~~ and included in the written, ~~signed~~ court documentation of  
11 the hearing:  
12

13 (1) *Findings*  
14

15 (A)–(B) \* \* \*

16  
17 (C) ~~Whether on and after January 1, 2012, the nonminor will not have~~  
18 ~~attained 19 years of age; or commencing January 1, 2013, he or she will~~  
19 ~~not have attained 20 years of age; or commencing on January 1, 2014,~~  
20 ~~he or she will not have~~ the nonminor has attained 21 years of age;  
21

22 (D)–(H) \* \* \*

23  
24 (2) *Orders*  
25

26 (A) If the court finds that the nonminor ~~comes within the age requirements~~  
27 ~~under (i)(1)(C),~~ has not attained 21 years of age, that the nonminor  
28 intends to satisfy at least one condition under section 11403(b), and that  
29 the nonminor and placing agency have entered into a reentry  
30 agreement, the court must:  
31

32 (i)–(v) \* \* \*

33  
34 (B) If the court finds that the nonminor ~~comes within the age requirements~~  
35 ~~under (i)(1)(C),~~ has not attained 21 years of age, but the nonminor does  
36 not intend to satisfy at least one of the conditions under section  
37 11403(b) and/or the nonminor and placing agency have not entered into  
38 a reentry agreement, the court must:  
39

40 (i)–(iii) \* \* \*

41  
42 (C) If the court finds that the nonminor ~~does not come within the age~~  
43 ~~requirements under (i)(1)(C),~~ is over 21 years of age, the court must:

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43

(i)–(ii) \* \* \*

(3) \* \* \*

*(Subd (i) amended effective January 1, 2014; previously amended effective July 1, 2012.)*

*Rule 5.906 amended effective January 1, 2014; adopted effective January 1, 2012; previously amended effective July 1, 2012.*

**Rule 7.101. Use of Judicial Council forms**

(a) \* \* \*

**(b) Alternative mandatory forms**

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

(1) \* \* \*

(2) *Petition for Appointment of Temporary Guardian* (form GC-110) and *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P));

(3) \* \* \*

*(Subd (b) amended effective January 1, 2014; adopted effective January 1, 2007; previously amended effective January 1, 2010.)*

(c) \* \* \*

*Rule 7.101 amended effective January 1, 2014; adopted effective January 1, 2001; previously amended effective January 1, 2002, January 1, 2007, and January 1, 2010.*

**Rule 8.42. Requirements for signatures of multiple parties on filed documents**

When a document to be filed, such as a stipulation, requires the signatures of multiple parties, the original signature of at least one party must appear on the document filed in the reviewing court; the other signatures may be in the form of copies of the signed signature page of the document.

1 Rule 8.42 adopted effective January 1, 2014.

2  
3 **Advisory Committee Comment**

4  
5 Please note that rule 8.77 establishes different requirements for documents that are electronically  
6 filed.

7  
8 **Article 3. Sealed and Confidential Records**

9 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
10 *Chapter 1, General Provisions—Article 3, Sealed and Confidential Records; adopted effective*  
11 *January 1, 2014.*

12  
13 **Rule 8.45. General provisions**

14  
15 **(a) Application**

16  
17 The rules in this article establish general requirements regarding sealed and  
18 confidential records in appeals and original proceedings in the Supreme Court and  
19 Courts of Appeal. Where other laws establish specific requirements for particular  
20 types of sealed or confidential records that differ from the requirements in this  
21 article, those specific requirements supersede the requirements in this article.

22  
23 **(b) Definitions**

24  
25 As used in this article:

- 26  
27 (1) “Record” means all or part of a document, paper, exhibit, transcript, or other  
28 thing filed or lodged with the court.  
29  
30 (2) A “lodged” record is a record temporarily deposited with the court but not  
31 filed.  
32  
33 (3) A “sealed” record is a record that is closed to inspection by the public or a  
34 party by order of a court under rules 2.550–2.551 or rule 8.46.  
35  
36 (4) A “conditionally sealed” record is a record that is filed or lodged subject to a  
37 pending application or motion to file it under seal.  
38  
39 (5) A “confidential” record is a record that, in court proceedings, is required by  
40 statute, rule of court, or other authority except a court order under rules  
41 2.550–2.551 or rule 8.46 to be closed to inspection by the public or a party.  
42

1 (6) A “redacted version” is a version of a filing from which all portions that  
2 disclose material contained in a sealed, conditionally sealed, or confidential  
3 record have been removed.

4  
5 (7) An “unredacted version” is a version of a filing or a portion of a filing that  
6 discloses material contained in a sealed, conditionally sealed, or confidential  
7 record.

8  
9 (c) **Format of sealed and confidential records**

10  
11 (1) Unless otherwise provided by law or court order, sealed or confidential  
12 records that are part of the record on appeal or the supporting documents or  
13 other records accompanying a motion, petition for a writ of habeas corpus,  
14 other writ petition, or other filing in the reviewing court must be kept  
15 separate from the rest of a clerk’s or reporter’s transcript, appendix,  
16 supporting documents, or other records sent to the reviewing court.

17  
18 (A) If the records are in paper format, they must be placed in a sealed  
19 envelope or other appropriate sealed container. This requirement does  
20 not apply to a juvenile case file but does apply to any record contained  
21 within a juvenile case file that is sealed or confidential under authority  
22 other than Welfare and Institutions Code section 827 et seq.

23  
24 (B) Sealed records, and if applicable the envelope or other container, must  
25 be marked as “Sealed by Order of the Court on (Date).”

26  
27 (C) Confidential records, and if applicable the envelope or other container,  
28 must be marked as “Confidential (Basis)—May Not Be Examined  
29 Without Court Order.” The basis must be a citation to or other brief  
30 description of the statute, rule of court, case, or other authority that  
31 establishes that the record must be closed to inspection in the court  
32 proceeding.

33  
34 (D) The superior court clerk or party transmitting sealed or confidential  
35 records to the reviewing court must prepare a sealed or confidential  
36 index of these materials. If the records include a transcript of any in-  
37 camera proceeding, the index must list the date and the names of all  
38 parties present at the hearing and their counsel. This index must be  
39 transmitted and kept with the sealed or confidential records.

40  
41 (2) Except as provided in (3) or by court order, the alphabetical and  
42 chronological indexes to a clerk’s or reporter’s transcript, appendix,  
43 supporting documents, or other records sent to the reviewing court that are

1 available to the public must list each sealed or confidential record by title, not  
2 disclosing the substance of the record, and must identify it as “Sealed” or  
3 “Confidential”—May Not Be Examined Without Court Order.”  
4

- 5 (3) Records relating to a request for funds under Penal Code section 987.9 or  
6 other proceedings the occurrence of which is not to be disclosed under the  
7 court order or applicable law must not be bound together with other sealed or  
8 confidential records and must not be listed in the index required under (1)(D)  
9 or the alphabetical or chronological indexes to a clerk’s or reporter’s  
10 transcript, appendix, supporting documents to a petition, or other records sent  
11 to the reviewing court.  
12

13 **(d) Transmission of and access to sealed and confidential records**  
14

- 15 (1) Unless otherwise provided by (2)–(4) or other law or court order, a sealed or  
16 confidential record that is part of the record on appeal or the supporting  
17 documents or other records accompanying a motion, petition for a writ of  
18 habeas corpus, other writ petition, or other filing in the reviewing court must  
19 be transmitted only to the reviewing court and the party or parties who had  
20 access to the record in the trial court or other proceedings under review and  
21 may be examined only by the reviewing court and that party or parties. If a  
22 party’s attorney but not the party had access to the record in the trial court or  
23 other proceedings under review, only the party’s attorney may examine the  
24 record.  
25  
26 (2) Except as provided in (3), if the record is a reporter’s transcript or any  
27 document related to any in-camera hearing from which a party was excluded  
28 in the trial court, the record must be transmitted to and examined by only the  
29 reviewing court and the party or parties who participated in the in-camera  
30 hearing.  
31  
32 (3) A reporter’s transcript or any document related to an in-camera hearing  
33 concerning a confidential informant under Evidence Code sections 1041–  
34 1042 must be transmitted only to the reviewing court.  
35  
36 (4) A probation report must be transmitted only to the reviewing court and to  
37 appellate counsel for the People and the defendant who was the subject of the  
38 report.  
39

40 *Rule 8.45 adopted effective January 1, 2014.*  
41

42 **Advisory Committee Comment**  
43

1 **Subdivision (b)(5).** Examples of confidential records are records in juvenile proceedings (Welf.  
2 & Inst. Code, § 827 and California Rules of Court, rule 8.401), records of the family conciliation  
3 court (Fam. Code, § 1818(b)), fee waiver applications (Gov. Code, § 68633(f)), probation reports  
4 (Penal Code, § 1203.05), and court-ordered diagnostic reports (Penal Code, § 1203.03). This term  
5 also encompasses records closed to inspection by a court order other than an order under rules  
6 2.550–2.551 or 8.46, such as situations in which case law, statute, or rule has established a  
7 category of records that must be closed to inspection and a court has found that a particular record  
8 falls within that category and has ordered that it be closed to inspection. Examples include  
9 discovery material subject to a protective order under Code of Civil Procedure sections section  
10 2030.090, 2032.060, or 2033.080 and records closed to inspection by court order under *People v.*  
11 *Marsden* (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531. For more  
12 examples of confidential records, please see appendix 1 of the *Trial Court Records Manual* at  
13 [www.courts.ca.gov/documents/trial-court-records-manual.pdf](http://www.courts.ca.gov/documents/trial-court-records-manual.pdf).

14  
15 **Subdivisions (c) and (d).** The requirements in this rule for format and transmission of and access  
16 to sealed and confidential records apply only unless otherwise provided by law. Special  
17 requirements that govern transmission of and/or access to particular types of records may  
18 supersede the requirements in this rule. For example, rules 8.619(g) and 8.622(e) require copies  
19 of reporters’ transcripts in capital cases to be sent to the Habeas Corpus Resource Center and the  
20 California Appellate Project in San Francisco, and under rules 8.336(d) and 8.409(d), in non-  
21 capital felony appeals, if the defendant—or in juvenile appeals, if the appellant, the respondent, or  
22 the minor—is not represented by appellate counsel when the transcripts are certified as correct,  
23 the clerk must send that counsel’s copy of the transcripts to the district appellate project.

24  
25 **Subdivision (c)(1)(C).** For example, for juvenile records, this mark could state “Confidential—  
26 Welf. & Inst. Code, § 827” or “Confidential—Juvenile Case File”; for a fee waiver application,  
27 this mark could state “Confidential—Gov. Code, § 68633(f)” or “Confidential—Fee Waiver  
28 Application”; for a probation report, this mark could say “Confidential—Pen. Code, § 1203.05”  
29 or “Confidential—Probation Report”; and for a transcript of an in-camera hearing under *People v.*  
30 *Marsden* (1970) 2 Cal.3d 118, this mark could say “Confidential—*Marsden* Hearing.”

31  
32 **Subdivision (c)(2).** Subdivision (c)(2) requires that, with certain exceptions, the alphabetical and  
33 chronological indexes to the clerk’s and reporter’s transcripts, appendixes, and supporting  
34 documents must list any sealed and confidential records but identify them as sealed or  
35 confidential. The purpose of this provision is to assist the parties in making—and the court in  
36 adjudicating—motions to unseal sealed records or to provide confidential records to a party. To  
37 protect sealed and confidential records from disclosure until the court issues an order, however,  
38 each index must identify sealed and confidential records without disclosing their substance.

39  
40 **Subdivision (c)(3).** Under certain circumstances, the Attorney General has a statutory right to  
41 request copies of documents filed under Penal Code section 987.9(d). To facilitate compliance  
42 with such requests, this subdivision requires that such documents not be bound with other  
43 confidential documents.

1  
2 **Subdivision (d).** See rule 8.47(b) for special requirements concerning access to certain  
3 confidential records.

4  
5 **Rule 8.46. Sealed records**

6  
7 **(a) Application**

8  
9 This rule applies to sealed records and records proposed to be sealed on appeal and  
10 in original proceedings, but does not apply to confidential records ~~required to be~~  
11 ~~kept confidential by law.~~

12  
13 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
14 *2006, and January 1, 2007.)*

15  
16 ~~(b)~~ **Definitions**

17  
18 (1) ~~“Record” means all or part of a document, paper, exhibit, transcript, or other~~  
19 ~~thing filed or lodged with the court.~~

20  
21 (2) ~~A “sealed” record is a record closed to public inspection by court order.~~

22  
23 ~~(3) A “lodged” record is a record temporarily deposited with the court but not~~  
24 ~~filed.~~

25  
26 ~~(e)~~**(b) Record sealed by the trial court**

27  
28 If a record sealed by order of the trial court is part of the record on appeal or the  
29 supporting documents or other records accompanying a motion, petition for a writ  
30 of habeas corpus, other writ petition, or other filing in the reviewing court:

31  
32 (1) The sealed record ~~must be filed under seal in the reviewing court and remain~~  
33 ~~sealed unless that the reviewing court orders otherwise under (f)(e).~~ Rule 8.45  
34 governs the form and transmission of and access to sealed records.

35  
36 (2) The record on appeal or supporting documents filed in the reviewing court  
37 must also include:

38  
39 (A) The motion or application to seal filed in the trial court;

40  
41 (B) All documents filed in the trial court supporting or opposing the motion  
42 or application; and

1 (C) The trial court order sealing the record.

2  
3 ~~(3) The reviewing court may examine the sealed record.~~

4  
5 *(Subd (b) amended and relettered effective January 1, 2014; adopted as subd (c);*  
6 *previously amended effective January 1, 2004, and January 1, 2007.)*

7  
8 ~~(d)(c)~~ \* \* \*

9  
10 *(Subd (c) relettered effective January 1, 2014; adopted as subd (d).)*

11  
12 **~~(e)(d)~~ Record not filed in the trial court; motion or application to file under seal**

13  
14 (1) A record not filed in the trial court may be filed under seal in the reviewing  
15 court only by order of ~~that~~ the reviewing court; it must not be filed under seal  
16 solely by stipulation or agreement of the parties.

17  
18 (2) \* \* \*

19  
20 (3) To lodge a record, the party must ~~put the record in an envelope or other~~  
21 ~~appropriate container, seal it, and attach~~ transmit the record separate from the  
22 rest of a clerk's or reporter's transcript, appendix, supporting documents, or  
23 other records sent to the reviewing court with a cover sheet that complies  
24 with rule 8.40(c) and labels the contents as "CONDITIONALLY UNDER  
25 SEAL." If the record is in paper format, it must be placed in a sealed  
26 envelope or other appropriate sealed container.

27  
28 (4) If necessary to prevent disclosure of material contained in a conditionally  
29 sealed record, any motion or application, any opposition, and any supporting  
30 documents must be filed in a ~~public~~ redacted version and lodged in a  
31 complete unredacted version conditionally under seal. The cover of the  
32 redacted version must identify it as "Public—Redacts material from  
33 conditionally sealed record." In juvenile cases, the cover of the redacted  
34 version must identify it as "Redacted version—Redacts material from  
35 conditionally sealed record." The cover of the unredacted version must  
36 identify it as "May Not Be Examined Without Court Order—Contains  
37 material from conditionally sealed record." Unless the court orders otherwise,  
38 any party that ~~already possesses copies of the records to be placed under seal~~  
39 had access to the record in the trial court or other proceedings under review  
40 must be served with a complete, unredacted version of all papers as well as a  
41 redacted version.

42  
43 (5)–(6) \* \* \*



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(7) If the court denies the motion or application, the clerk must not place the lodged record in the case file but must return it to the submitting party unless that party notifies the clerk in writing ~~within 10 days after the order denying the motion or application~~ that the record is to be filed. Unless otherwise ordered by the court, the submitting party must notify the clerk within 10 days after the order denying the motion or application.

(8) \* \* \*

(9) Unless the sealing order provides otherwise, it prohibits the parties from disclosing the contents of any materials that have been sealed in anything that is subsequently publicly filed ~~records or papers~~.

*(Subd (d) amended and relettered effective January 1, 2014; adopted as subd (e); previously amended effective July 1, 2002, January 1, 2004, and January 1, 2007.)*

**(f)(e) Unsealing a record in the reviewing court**

(1) \* \* \*

(2) Any person or entity may serve and file a motion, application, or petition in the reviewing court to unseal a record. ~~If necessary to preserve confidentiality, the motion, application, or petition; any opposition; and any supporting documents must be filed in both a public redacted version and a sealed complete version.~~

(3) If the reviewing court proposes to order a record unsealed on its own motion, the court must mail notice to the parties. Unless otherwise ordered by the court, any party may serve and file an opposition within 10 days after the notice is mailed, or as the court specifies, and any other party may file a response within 5 days after an opposition is filed.

(4) If necessary to prevent disclosure of material contained in a sealed record, the motion, application, or petition under (2) and any opposition, response, and supporting documents under (2) or (3) must be filed in both a redacted version and a complete unredacted version. The cover of the redacted version must identify it as “Public—Redacts material from sealed record.” In juvenile cases, the cover of the redacted version must identify it as “Redacted version—Redacts material from sealed record.” The cover of the unredacted version must identify it as “May Not Be Examined Without Court Order—Contains material from sealed record.” Unless the court orders otherwise, any party that had access to the sealed record in the trial court or other

1 proceedings under review must be served with a complete, unredacted  
2 version of all papers as well as a redacted version. If a party's attorney but  
3 not the party had access to the record in the trial court or other proceedings  
4 under review, only the party's attorney may be served with the complete,  
5 unredacted version.

6  
7 ~~(4)~~(5) \* \* \*

8  
9 ~~(5)~~(6) \* \* \*

10  
11 ~~(6)~~(7) If, in addition to the records in the sealed envelope or container that is the  
12 subject of the sealing order, a court has previously ordered the sealing order  
13 itself, the register of actions, or any other court records relating to the case to  
14 be sealed, the unsealing order must state whether these additional records are  
15 unsealed.

16  
17 *(Subd (e) amended and relettered effective January 1, 2014; adopted as subd (f);*  
18 *previously amended effective January 1, 2004, and January 1, 2007.)*

19  
20 **(g)(f) Disclosure of nonpublic material in public records filings prohibited**

21  
22 ~~(1)~~ A record Nothing filed publicly in the reviewing court—including any  
23 application, brief, petition, or memorandum—must not may disclose material  
24 contained in a record that is sealed, lodged conditionally under seal, or  
25 otherwise subject to a pending motion to file under seal.

26  
27 (2) If it is necessary to disclose material contained in a sealed record in a filing in  
28 the reviewing court, two versions must be filed:

29  
30 (A) A public redacted version. The cover of this version must identify it as  
31 “Public—Redacts material from sealed record.” In juvenile cases, the  
32 cover of the redacted version must identify it as “Redacted Version—  
33 Redacts material from sealed record.”

34  
35 (B) An unredacted version. If this version is in paper format, it must be  
36 placed in a sealed envelope or other appropriate sealed container. The  
37 cover of this version, and if applicable the envelope or other container,  
38 must identify it as “May Not Be Examined Without Court Order—  
39 Contains material from sealed record.” Sealed material disclosed in this  
40 version must be identified and accompanied by a citation to the court  
41 order sealing that material.  
42

1 (C) Unless the court orders otherwise, any party who had access to the  
2 sealed record in the trial court or other proceedings under review must  
3 be served with both the unredacted version of all papers as well as the  
4 redacted version. Other parties must be served with only the public  
5 redacted version. If a party’s attorney but not the party had access to  
6 the record in the trial court or other proceedings under review, only the  
7 party’s attorney may be served with the unredacted version.  
8

9 (3) If it is necessary to disclose material contained in a conditionally sealed  
10 record in a filing in the reviewing court:  
11

12 (A) A public redacted version must be filed. The cover of this version must  
13 identify it as “Public—Redacts material from conditionally sealed  
14 record.” In juvenile cases, the cover of the redacted version must  
15 identify it as “Redacted version—Redacts material from conditionally  
16 sealed record.”  
17

18 (B) An unredacted version must be lodged. If this version is in paper  
19 format, it must be placed in a sealed envelope or other appropriate  
20 sealed container. The cover of this version, and if applicable the  
21 envelope or other container, must identify it as “May Not Be Examined  
22 Without Court Order—Contains material from conditionally sealed  
23 record.” Conditionally sealed material disclosed in this version must be  
24 identified.  
25

26 (C) Unless the court orders otherwise, any party who had access to the  
27 conditionally sealed record in the trial court or other proceedings under  
28 review must be served with both the unredacted version of all papers as  
29 well as the redacted version. Other parties must be served with only the  
30 public redacted version.  
31

32 (D) If the court denies the motion or application to seal the record, the clerk  
33 must not place the unredacted version lodged under (B) in the case file  
34 but must return it to the party who filed the application or motion to  
35 seal unless that party notifies the clerk that the record is to be publicly  
36 filed, as provided in (d)(7).  
37

38 *(Subd (f) amended and relettered effective January 1, 2014; adopted as subd (g);*  
39 *previously amended effective January 1, 2007.)*  
40

41 *Rule 8.46 amended effective January 1, 2014; repealed and adopted as rule 12.5 effective*  
42 *January 1, 2002; previously amended effective July 1, 2002, January 1, 2004, and January 1,*

1 2006; previously amended and renumbered as rule 8.160 effective January 1, 2007; previously  
2 renumbered effective January 1, 2010.

### 3 4 **Advisory Committee Comment**

5  
6 This rule and rules 2.550–2.551 for the trial courts provide a standard and procedures for courts to  
7 use when a request is made to seal a record. The standard is based on *NBC Subsidiary (KNBC-*  
8 *TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. The sealed records rules apply to civil and  
9 criminal cases. They recognize the First Amendment right of access to documents used at trial or  
10 as a basis of adjudication. ~~The rules do not apply to records that courts must keep confidential by~~  
11 ~~law. Examples of confidential records to which public access is restricted by law are records of~~  
12 ~~the family conciliation court (Fam. Code, § 1818, subd. (b)) and in forma pauperis applications~~  
13 ~~(Cal. Rules of Court, rule 8.26).~~ Except as otherwise expressly provided in this rule 8.26, motions  
14 in a reviewing court relating to the sealing or unsealing of a record must follow rule 8.54.

### 15 16 **Rule 8.47. Confidential records**

#### 17 18 **(a) Application**

19  
20 This rule applies to confidential records but does not apply to records sealed by  
21 court order under rules 2.550–2.551 or rule 8.46 or to conditionally sealed records  
22 under rule 8.46. Unless otherwise provided by this rule or other law, rule 8.45  
23 governs the form and transmission of and access to confidential records.

#### 24 25 **(b) Records of Marsden hearings and other in-camera proceedings**

26  
27 (1) This subdivision applies to reporter’s transcripts of and documents filed or  
28 lodged by a defendant in connection with:

29  
30 (A) An in-camera hearing conducted by the superior court under *People v.*  
31 *Marsden* (1970) 2 Cal.3d 118; or

32  
33 (B) Another in-camera hearing at which the defendant was present but from  
34 which the People were excluded in order to prevent disclosure of  
35 information about defense strategy or other information to which the  
36 prosecution was not allowed access at the time of the hearing.

37  
38 (2) Except as provided in (3), if the defendant raises a *Marsden* issue or an issue  
39 related to another in-camera hearing covered by this rule in a brief, petition,  
40 or other filing in the reviewing court, the following procedures apply:

41  
42 (A) The brief, including any portion that discloses matters contained in the  
43 transcript of the in-camera hearing and other documents filed or lodged

1 in connection with the hearing, must be filed publicly. The requirement  
2 to publicly file this brief does not apply in juvenile cases; rule 8.401  
3 governs the format of and access to such briefs in juvenile cases.

4  
5 (B) The People may serve and file an application requesting a copy of the  
6 reporter’s transcript of and documents filed or lodged by a defendant in  
7 connection with the in-camera hearing.

8  
9 (C) Within 10 days after the application is filed, the defendant may serve  
10 and file opposition to this application on the basis that the transcript or  
11 documents contain confidential material not relevant to the issues  
12 raised by the defendant in the reviewing court. Any such opposition  
13 must identify the page and line numbers of the transcript or documents  
14 containing this irrelevant material.

15  
16 (D) If the defendant does not timely serve and file opposition to the  
17 application, the reviewing court clerk must send to the People a copy of  
18 the reporter’s transcript of and documents filed or lodged by a  
19 defendant in connection with the in-camera hearing.

20  
21 (3) A defendant may serve and file a motion or application in the reviewing court  
22 requesting permission to file under seal a brief, petition, or other filing that  
23 raises a *Marsden* issue or an issue related to another in-camera hearing  
24 covered by this subdivision and requesting an order maintaining the  
25 confidentiality of the relevant material from the reporter’s transcript of or  
26 documents filed or lodged in connection with the in-camera hearing.

27  
28 (A) Except as otherwise provided in this rule, rule 8.46(d) governs a motion  
29 or application under this subdivision.

30  
31 (B) The declaration accompanying the motion or application must contain  
32 facts sufficient to justify an order maintaining the confidentiality of the  
33 relevant material from the reporter’s transcript of or documents filed or  
34 lodged in connection with the in-camera hearing and sealing of the  
35 brief, petition, or other filing.

36  
37 (C) At the time the motion or application is filed, the defendant must:

38  
39 (i) File a public redacted version of the brief, petition, or other filing  
40 that he or she is requesting be filed under seal. The cover of this  
41 version must identify it as “Public—Redacts material from  
42 conditionally sealed record.” The requirement to publicly file the  
43 redacted version does not apply in juvenile cases; rule 8.401

1 generally governs access to filings in juvenile cases. In juvenile  
2 cases, the cover of the redacted version must identify it as  
3 “Redacted version—Redacts material from conditionally sealed  
4 record.”

5  
6 (ii) Lodge an unredacted version of the brief, petition, or other filing  
7 that he or she is requesting be filed under seal. If this version is in  
8 paper format, it must be placed in a sealed envelope or other  
9 appropriate sealed container. The cover of the unredacted version  
10 of the document, and if applicable the envelope or other  
11 container, must identify it as “May Not Be Examined Without  
12 Court Order—Contains material from conditionally sealed  
13 record.”

14  
15 (D) If the court denies the motion or application to file the brief, petition, or  
16 other filing under seal, the clerk must not place the unredacted brief,  
17 petition, or other filing lodged under (C)(ii) in the case file but must  
18 return it to the defendant unless the defendant notifies the clerk in  
19 writing that it is to be filed. Unless otherwise ordered by the court, the  
20 defendant must notify the clerk within 10 days after the order denying  
21 the motion or application.

22  
23 (c) **Other confidential records**

24  
25 Except as otherwise provided by law or order of the reviewing court:

26  
27 (1) Nothing filed publicly in the reviewing court—including any application,  
28 brief, petition, or memorandum—may disclose material contained in a  
29 confidential record, including a record that, by law, a party may choose be  
30 kept confidential in reviewing court proceedings and that the party has  
31 chosen to keep confidential.

32  
33 (2) To maintain the confidentiality of material contained in a confidential record,  
34 if it is necessary to disclose such material in a filing in the reviewing court, a  
35 party may serve and file a motion or application in the reviewing court  
36 requesting permission for the filing to be under seal.

37  
38 (A) Except as otherwise provided in this rule, rule 8.46(d) governs a motion  
39 or application under this subdivision.

40  
41 (B) The declaration accompanying the motion or application must contain  
42 facts sufficient to establish that the record is required by law to be

1 closed to inspection in the reviewing court and to justify sealing of the  
2 brief, petition, or other filing.

3  
4 (C) At the time the motion or application is filed, the party must:

5  
6 (i) File a redacted version of the brief, petition, or other filing that he  
7 or she is requesting be filed under seal. The cover of this version  
8 must identify it as “Public—Redacts material from conditionally  
9 sealed record.” In juvenile cases, the cover of this version must  
10 identify it as “Redacted version—Redacts material from  
11 conditionally sealed record.”

12  
13 (ii) Lodge an unredacted version of the brief, petition, or other filing  
14 that he or she is requesting be filed under seal. If this version is in  
15 paper format, it must be placed in a sealed envelope or other  
16 appropriate sealed container. The cover of the unredacted version  
17 of the document, and if applicable the envelope or other  
18 container, must identify it as “May Not Be Examined Without  
19 Court Order—Contains material from conditionally sealed  
20 record.” Material from a confidential record disclosed in this  
21 version must be identified and accompanied by a citation to the  
22 statute, Rule of Court, case, or other authority establishing that  
23 the record is required by law to be closed to inspection in the  
24 reviewing court.

25  
26 (D) If the court denies the motion or application to file the brief, petition, or  
27 other filing under seal, the clerk must not place the unredacted brief,  
28 petition, or other filing lodged under (C)(ii) in the case file but must  
29 return it to the lodging party unless the party notifies the clerk in  
30 writing that it is to be filed. Unless otherwise ordered by the court, the  
31 party must notify the clerk within 10 days after the order denying the  
32 motion or application.

33  
34 *Rule 8.47 adopted effective January 1, 2014.*

35  
36 **Advisory Committee Comment**

37  
38 Note that there may be special requirements that govern particular types of confidential records  
39 that supersede the requirements in this rule. This rule does not alter any existing authority for a  
40 court to open a confidential record to inspection by the public or another party to a proceeding.

1 **Subdivision (c)(1).** The reference in this provision to records that a party may choose be kept  
2 confidential in reviewing court proceedings is intended to encompass situations in which a record  
3 may be subject to a privilege that a party may choose to maintain or choose to waive.

4  
5 **Subdivision (c)(2).** Note that when a record has been sealed by court order, rule 8.46(f)(2)  
6 requires a party to file redacted (public) and unredacted (sealed) versions of any filing that  
7 discloses material from the sealed record; it does not require the party to make a motion or  
8 application for permission to do so. By contrast, this rule requires court permission before  
9 redacted (public) and unredacted (sealed) filings may be made to prevent disclosure of material  
10 from confidential records.

11  
12 **Rule 8.77. Requirements for signatures on documents**

13  
14 **(a) Documents signed under penalty of perjury**

15  
16 If a document to be filed electronically must be signed under penalty of perjury, ~~the~~  
17 ~~document may be filed electronically provided that the original, signed verification~~  
18 ~~page or pages are filed with the court within 5 calendar days.~~ the following  
19 procedure applies:

- 20  
21 (1) The document is deemed signed by the declarant if, before filing, the  
22 declarant has signed a printed form of the document.  
23  
24 (2) By electronically filing the document, the electronic filer certifies that (1) has  
25 been complied with and that the original signed document is available for  
26 inspection and copying at the request of the court or any other party.  
27  
28 (3) At any time after the document is filed, any other party may serve a demand  
29 for production of the original signed document. The demand must be served  
30 on all other parties but need not be filed with the court.  
31  
32 (4) Within five days of service of the demand under (3), the party on whom the  
33 demand is made must make the original signed document available for  
34 inspection and copying by all other parties.  
35  
36 (5) At any time after the document is filed, the court may order the filing party to  
37 produce the original signed document in court for inspection and copying by  
38 the court. The order must specify the date, time, and place for the production  
39 and must be served on all parties.

40  
41 *(Subd (a) amended effective January 1, 2014.)*  
42



1 (b) \* \* \*

2  
3 (c) Documents requiring signatures of ~~opposing~~ multiple parties

4  
5 When a document to be filed electronically, such as a stipulation, requires the  
6 signatures of ~~opposing~~ multiple parties, the following procedure applies:

7  
8 (1) The party filing the document must obtain the signatures of all parties either  
9 in the form of an original signature on a printed form of the document or in  
10 the form of a copy of the signed signature page of the document. By  
11 electronically filing the document, the electronic filer indicates that all parties  
12 have signed the document and that the filer has the ~~signed original~~ signatures  
13 of all parties in a form permitted by this rule in his or her possession.

14  
15 (2) The party filing the document must maintain the original signed document  
16 and any copies of signed signature pages and must make them available for  
17 inspection and copying as provided in (a)(2). The court and any other party  
18 may demand production of the original signed document and any copies of  
19 signed signature pages in the manner provided in (a)(3)–(5).

20  
21 ~~(2) The party filing the document must maintain the original, signed document~~  
22 ~~and must make it available for inspection and copying at the request of the~~  
23 ~~court or any other party.~~

24  
25 ~~(3) At any time after the document is filed, any other party may serve a demand~~  
26 ~~for production of the original signed document. The demand must be served~~  
27 ~~on all other parties but need not be filed with the court.~~

28  
29 ~~(4) Within five days of service of the demand under (3), the party on whom the~~  
30 ~~demand is made must make the original signed document available for~~  
31 ~~inspection and copying by all other parties.~~

32  
33 ~~(5) At any time after the document is filed, the court may order the filing party to~~  
34 ~~produce the original signed document in court for inspection and copying by~~  
35 ~~the court. The order must specify the date, time, and place for the production~~  
36 ~~and must be served on all parties.~~

37  
38 *(Subd (c) amended effective January 1, 2014.)*

39  
40 (d)–(e) \* \* \*

41  
42 *Rule 8.77 amended effective January 1, 2014; adopted effective July 1, 2010.*

43

1 **Rule 8.100. Filing the appeal**

2  
3 (a)–(f) \* \* \*

4  
5 **(g) Civil case information statement**

6  
7 ~~(1) On receiving notice of the filing of a notice of appeal under (e)(1), the~~  
8 ~~reviewing court clerk must promptly mail the appellant a copy of the *Civil*~~  
9 ~~*Case Information Statement* (form APP-004) and a notice that the statement~~  
10 ~~must be filed within 10 days.~~

11  
12 ~~(2)~~(1) Within ~~10~~ 15 days after the superior court clerk mails the ~~notice~~ notification  
13 of the filing of the notice of appeal required by (e)(1), the appellant must  
14 serve and file in the reviewing court a completed *Civil Case Information*  
15 *Statement* (form APP-004), attaching a copy of the judgment or appealed  
16 order that shows the date it was entered.

17  
18 ~~(3)~~(2) If the appellant fails to timely file a case information statement under ~~(2)~~(1),  
19 the reviewing court clerk must notify the appellant by mail that the appellant  
20 must file the statement within 15 days after the clerk’s notice is mailed and  
21 that if the appellant fails to comply, the court may either impose monetary  
22 sanctions or dismiss the appeal. If the appellant fails to file the statement as  
23 specified in the notice, the court may impose the sanctions specified in the  
24 notice.

25  
26 *(Subd (g) amended effective January 1, 2014; adopted as subd (f) effective January 1,*  
27 *2003; previously amended effective January 1, 2007; previously amended and relettered*  
28 *effective January 1, 2008.)*

29  
30 *Rule 8.100 amended effective January 1, 2014; repealed and adopted as rule 1 effective January*  
31 *1, 2002; previously amended and renumbered effective January 1, 2007; previously amended*  
32 *effective January 1, 2003, August 17, 2003, January 1, 2008, July 1, 2009, and July 27, 2012.*

33  
34 **Article 34. Applications and Motions; Extending and Shortening Time**

35 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
36 *Chapter 1, General Provisions—Article 4, Applications and Motions; Extending and Shortening Time;*  
37 *renumbered effective January 1, 2014; adopted as Article 3.*

38  
39 **Article 45. E-filing**

40 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
41 *Chapter 1, General Provisions—Article 5, E-filing; renumbered effective January 1, 2014; adopted as*  
42 *Article 4.*

1  
2  
3 **Rule 8.120. Record on appeal**

4  
5 \* \* \*

6 **Advisory Committee Comment**

7  
8 Rules 8.45–8.47 address the appropriate handling of sealed and confidential records that are  
9 included in the record on appeal. Examples of confidential records include records of the family  
10 conciliation court (Fam. Code, § 1818 (b)) and fee waiver applications (Gov. Code, § 68633(f)).

11  
12 **Rule 8.122. Clerk’s transcript**

13  
14 **(a)–(b)** \* \* \*

15  
16 **(c) Deposit for cost of transcript**

17  
18 (1)–(2) \* \* \*

19  
20 (3) Unless otherwise provided by law, within 10 days after the clerk sends a  
21 notice under (1), the appellant and any party wanting to purchase a copy of  
22 the clerk’s transcript must either deposit the estimated cost specified in the  
23 notice under (1) with the clerk, unless otherwise provided by law or the party  
24 submits an application for, or an order granting, a waiver of the cost.

25  
26 (4) If the appellant does not submit a required deposit or an application for, or an  
27 order granting, a waiver of the cost within the required period, the clerk must  
28 promptly issue a notice of default under rule 8.140.

29  
30 *(Subd (c) amended effective January 1, 2014; previously amended effective January 1,*  
31 *2007, January 1, 2008, and July 1, 2009.)*

32  
33 **(d) Preparation of transcript**

34  
35 (1) ~~Within 30 days after the appellant deposits the estimated cost of the transcript~~  
36 ~~or the court files an order waiving that cost~~ the time specified in (2), the clerk  
37 must:

38  
39 (A) ~~Prepare an original and one copy of the transcript, and certify the~~  
40 original transcript;

41  
42 (B) Prepare one copy of the transcript for the appellant; and  
43



1 Other appellants may not apply for a waiver until after they receive the estimate of the cost for the  
2 clerk's transcript, in which case the time for preparing the transcript runs from the granting of that  
3 waiver.

4  
5 In cases in which a reporter's transcript has been designated, subdivision (d)(3) gives the clerk the  
6 option of waiting until the deposit for the reporter's transcript has been made before beginning  
7 preparation of the clerk's transcript.

8  
9 **Rule 8.130. Reporter's transcript**

10  
11 **(a) Notice**

12  
13 (1) ~~If in the A notice designating the record on appeal under rule 8.121, the~~  
14 ~~appellant elects to use~~ designating a reporter's transcript, in that notice the  
15 ~~appellant~~ must specify the date of each proceeding to be included in the  
16 transcript and may specify portions of designated proceedings that are not to  
17 be included. The notice must identify any proceeding for which a certified  
18 transcript has previously been prepared by checking the appropriate box on  
19 Appellant's Notice Designating Record on Appeal (Unlimited Civil) (form  
20 APP-003) or, if that form is not used, placing an asterisk before that  
21 proceeding in the notice.

22  
23 (2) \* \* \*

24  
25 (3) If the appellant serves and files a notice designating a reporter's transcript,  
26 the respondent may, within 10 days after such service, serve and file a notice  
27 in superior court designating any additional proceedings the respondent wants  
28 included in the transcript. The notice must identify any proceeding for which  
29 a certified transcript has previously been prepared by checking the  
30 appropriate box on Respondent's Notice Designating Record on Appeal  
31 (Unlimited Civil Case) (form APP-010) or, if that form is not used, placing an  
32 asterisk before that proceeding in the notice.

33  
34 (4) \* \* \*

35  
36 (5) Except when a party submits a certified transcript that contains all the  
37 designated proceedings under (b)(3)(C) with the notice of designation, the  
38 ~~any~~ notice of designation must be served on each known reporter of the  
39 designated proceedings.

40  
41 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
42 *2005, January 1, 2007, and January 1, 2008.)*

1 (b) **Deposit or substitute for cost of transcript**

2  
3 (1) With its notice of designation, a party must deposit with the superior court  
4 clerk the approximate cost of transcribing the proceedings it designates, ~~using~~  
5 and a fee of \$50 for the superior court to hold this deposit in trust. The  
6 deposit must be either:

7  
8 (A) The amount specified in the reporter's written estimate; or

9  
10 (B) An amount calculated ~~at~~ as follows:

11  
12 (i) For proceedings that have not previously been transcribed: \$325  
13 per fraction of the day's proceedings that did not exceed three  
14 hours, or \$650 per day or fraction that exceeded three hours.

15  
16 (ii) For proceedings that have previously been transcribed: \$80 per  
17 fraction of the day's proceedings that did not exceed three hours,  
18 or \$160 per day or fraction that exceeded three hours.

19  
20 (2) If the reporter believes the deposit is inadequate, within 15 days after the  
21 clerk mails the notice under (d)(1) the reporter may file with the clerk and  
22 mail to the designating party an estimate of the transcript's total cost at the  
23 statutory rate, showing the additional deposit required. The party must  
24 deposit the additional sum within 10 days after the reporter mails the  
25 estimate.

26  
27 (3) Instead of a deposit under (1), the party may substitute:

28  
29 (A) The reporter's written waiver of a deposit; ~~a copy of a Transcript~~  
30 Reimbursement Fund application filed under (c)(1), or a certified  
31 transcript of the designated proceedings. A reporter may waive the  
32 deposit for—~~and a party may submit a certified transcript of—~~a part of  
33 the designated proceedings, but such a waiver ~~or transcript~~ replaces the  
34 deposit for only that part.

35  
36 (B) A copy of a Transcript Reimbursement Fund application filed under  
37 (c)(1).

38  
39 (C) A certified transcript of all of the proceedings designated by the party.  
40 The transcript must comply with the format requirements of rule 8.144.

41  
42 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
43 *2007, and January 1, 2010.)*

1  
2 **(c) Transcript Reimbursement Fund application**

3  
4 (1) \* \* \*

5  
6 (2) Within 90 days after the appellant serves and files a copy of its application to  
7 the Court Reporters Board, the appellant must either file with the superior  
8 court a copy of the Court Reporters Board's provisional approval of the  
9 application or take one of the following actions:

10  
11 (A) Deposit the amount required under (b) or the reporter's written waiver  
12 of this deposit;

13  
14 (B) File an agreed statement or a stipulation that the parties are attempting  
15 to agree on a statement under rule 8.134;

16  
17 (C) File a motion to use a settled statement instead of a reporter's transcript  
18 under rule 8.137;

19  
20 (D) Notify the superior court clerk that it elects to proceed without a record  
21 of the oral proceedings; or

22  
23 (E) Serve and file an abandonment under rule 8.244.

24  
25 (3) Within 90 days after the respondent serves and files a copy of its application  
26 to the Court Reporters Board, the respondent must either file with the  
27 superior court a copy of the Court Reporters Board's provisional approval of  
28 the application or take one of the following actions:

29  
30 (A) Deposit the amount required under (b) or the reporter's written waiver  
31 of this deposit; or

32  
33 (B) Notify the superior court clerk that it no longer wants the additional  
34 proceedings it designated for inclusion in the reporter's transcript.

35  
36 (4) If the appellant fails to timely take one of the actions specified in (2) or the  
37 respondent fails to timely make the deposit or send the notice under (3), the  
38 superior court clerk must promptly issue a notice of default under rule 8.140.

39  
40 ~~(2)~~(5) If the Court Reporters Board provisionally approves the application for  
41 payment or reimbursement, the reporter's time to prepare the transcript under  
42 (f)(1) begins when the reporter receives notice of the provisional approval  
43 from the clerk under (d)(2).

1  
2 ~~(3) — If the Court Reporters Board denies the application for payment or~~  
3 ~~reimbursement, the party's time to deposit the reporter's fee or substitute~~  
4 ~~under (b), or to file an agreed or settled statement under rule 8.134 or 8.137,~~  
5 ~~is extended until 30 days after the board mails notice of the denial.~~  
6

7 *(Subd (c) amended effective January 1, 2014; previously amended effective January 1,*  
8 *2007.)*  
9

10 **(d) Superior court clerk's duties**  
11

12 (1) The clerk must file a party's notice of designation even if the party does not  
13 present the required deposit under (b)(1) or a substitute under (b)(3) with its  
14 notice of designation.  
15

16 ~~(1)(2) If a party designates proceedings to be included in a reporter's transcript and~~  
17 ~~has presented the fee deposit, or a substitute under (b)(3),~~ The clerk must  
18 promptly mail the reporter notice of the designation and of the deposit or  
19 substitute; and notice to prepare the transcript, showing the date the notice  
20 was mailed to the reporter, when the court receives: The notice must show  
21 the date it was mailed.  
22

23 (A) The required deposit under (b)(1);  
24

25 (B) A reporter's written waiver of a deposit under (b)(3); or  
26

27 (C) A copy of the Court Reporters Board's provisional approval of the  
28 party's application for payment from the Transcript Reimbursement  
29 Fund under (c).  
30

31 ~~(2)(3) If a party the appellant does not present the deposit under (b)(1) or a~~  
32 ~~substitute under (b)(3) with its notice of designation; or does not present an~~  
33 ~~additional deposit required under (b)(2):~~  
34

35 (A) The clerk must file the notice and promptly issue a notice of default  
36 under rule 8.140 notify the appellant by mail that, within 15 days after  
37 the notice is mailed, the appellant must take one of the following  
38 actions or the court may dismiss the appeal:  
39

40 (i) Deposit the amount required or a substitute permitted under (b);  
41

42 (ii) File an agreed statement or a stipulation that the parties are  
43 attempting to agree on a statement under rule 8.134;



1  
2 (iii) File a motion to use a settled statement instead of a reporter's  
3 transcript under rule 8.137;

4  
5 (iv) Notify the superior court clerk that it elects to proceed without a  
6 record of the oral proceedings; or

7  
8 (v) Serve and file an abandonment under rule 8.244.

9  
10 (B) If the appellant elects to use a reporter's transcript and fails to take one  
11 of the actions specified in the notice under (A), rule 8.140(b) and (c)  
12 apply.

13  
14 (4) If the respondent does not present the deposit under (b)(1) or a substitute  
15 under (b)(3) with its notice of designation or does not present an additional  
16 deposit required under (b)(2), the clerk must file the notice of designation and  
17 promptly issue a notice of default under rule 8.140.

18  
19 ~~(3)~~(5) The clerk must promptly notify the reporter if a check for a deposit is  
20 dishonored or an appeal is abandoned or is dismissed before the reporter has  
21 filed the transcript.

22  
23 *(Subd (d) amended effective January 1, 2014; previously amended effective January 1,*  
24 *2007, and January 1, 2008.)*

25  
26 **(e) Contents of transcript**

27  
28 (1) Except when a party deposits a certified transcript of all the designated  
29 proceedings under (b)(3)(C), the reporter must transcribe all designated  
30 proceedings that have not previously been transcribed and include in the  
31 transcript a copy of all designated proceedings that have previously been  
32 transcribed for which a certified transcript has not been substituted under  
33 ~~(b)(3), and~~ The reporter must note in the transcript where any proceedings  
34 were omitted and the nature of those proceedings. The reporter must also note  
35 where any exhibit was marked for identification and where it was admitted or  
36 refused, identifying such exhibits by number or letter.

37  
38 (2)–(3) \* \* \*

39  
40 *(Subd (e) amended effective January 1, 2014; previously amended effective January 1,*  
41 *2007, and January 1, 2008.)*

1 **(f) Filing the transcript; copies; payment**

- 2
- 3 (1) Within 30 days after notice is ~~received under (e)(2)~~ or mailed under (d)(1)(2),
- 4 the reporter must prepare and certify an original of the transcript and file it in
- 5 superior court. The reporter must also file one copy of the original transcript,
- 6 or more than one copy if multiple appellants equally share the cost of
- 7 preparing the record (see rule 8.147(a)(2)). Only the reviewing court can
- 8 extend the time to prepare the reporter's transcript (see rule 8.60).
- 9
- 10 (2) When the transcript is completed, the reporter must notify all parties to the
- 11 appeal that the transcript is complete, bill each designating party at the
- 12 statutory rate, and send a copy of the bill to the superior court clerk. The clerk
- 13 must pay the reporter from that party's deposited funds and refund any excess
- 14 deposit or notify the party of any additional funds needed. In a multiple
- 15 reporter case, the clerk must pay each reporter who certifies under penalty of
- 16 perjury that his or her transcript portion is completed.
- 17
- 18 (3) \* \* \*
- 19
- 20 (4) On request, and unless the superior court orders otherwise, the reporter must
- 21 provide the Court of Appeal or any party with a copy of the reporter's
- 22 transcript in computer-readable format. Each computer-readable copy must
- 23 comply with the format, labeling, content, and numbering requirements of
- 24 Code of Civil Procedure section 271(b).
- 25

26 *(Subd (f) amended effective January 1, 2014; previously amended effective January 1,*

27 *2007, and July 1, 2008.)*

28

29 **(g) Disputes over transcript costs**

30

31 Notwithstanding any dispute that may arise over the estimated or billed costs of a

32 reporter's transcript, a designating party must timely comply with the requirements

33 under this rule regarding deposits for transcripts. If a designating party believes that

34 a reporter's estimate or bill is excessive, the designating party may file a complaint

35 with the Court Reporters Board.

36

37 *(Subd (g) adopted effective January 1, 2014.)*

38

39 **(g)(h) \* \* \***

40

41 *(Subd (h) relettered effective January 1, 2014; adopted as subd (g); previously amended*

42 *effective January 1, 2007.)*

43

1 Rule 8.130 amended effective January 1, 2014; repealed and adopted as rule 4 effective January  
2 1, 2002; previously amended and renumbered effective January 1, 2007; previously amended  
3 effective January 1, 2005, January 1, 2008, July 1, 2008, and January 1, 2010.

#### 4 5 **Advisory Committee Comment**

6  
7 Under rule 8.121 an appellant may serve and file a notice *designating* a reporter’s transcript and  
8 the notice must identify the proceedings to be *included*. The wording recognizes that under rule  
9 8.130(b)(3) the appellant, instead of depositing the reporter’s cost to transcribe the proceedings,  
10 may substitute certified transcripts of proceedings that have already been transcribed (e.g., daily  
11 transcripts) and hence need only be designated for inclusion in the transcript.

12  
13 **Subdivision (a).** Subdivision (a)(1) requires that every notice designating a reporter’s transcript  
14 identify which proceedings are to be included, and that it do so by specifying the date or dates on  
15 which those proceedings took place; Those proceedings for which a certified transcript has  
16 previously been prepared must be identified in the party’s designation. If the appellant does not  
17 want a portion of the proceedings on a given date to be included, the notice should identify that  
18 portion by means of a descriptive reference (e.g., “August 3, 2004, but not the proceedings on  
19 defendant’s motion to tax costs”).

20  
21 As used in subdivision (a)(1), the phrase “proceedings” includes all instructions that the court  
22 gives, whether or not submitted in writing, and any instructions that counsel orally propose but  
23 the court refuses; all such instructions are included in the reporter’s transcript if designated under  
24 this rule. All instructions that counsel submit in writing, whether or not given to the jury, are  
25 lodged with the superior court clerk and are included in the clerk’s transcript if designated under  
26 rule 8.122.

27  
28 Under subdivision (a), portions of depositions read in open court but not reported, or not read but  
29 lodged with the superior court clerk, are included in the clerk’s transcript if designated under rule  
30 8.122.

31  
32 **Subdivision (b).** Where a certified transcript has been previously prepared, subdivision (b) makes  
33 clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the  
34 certified transcript contains all of the proceedings identified in the notice of designation and the  
35 transcript complies with the format requirements of rule 8.144. Otherwise, where a certified  
36 transcript has been previously prepared for only some of the designated proceedings, subdivision  
37 (b)(1) authorizes a reduced fee to be deposited for those proceedings. This reduced deposit  
38 amount was established in recognition of the holding in *Hendrix v. Superior Court of San*  
39 *Bernardino County* (2011) 191 Cal.App.4th 889 that the statutory rate for an original transcript  
40 only applies to the first transcription of the reporter’s notes. The amount of the deposit is based on  
41 the rate established by Government Code section 69950(b) for a first copy of a reporter’s  
42 transcript purchased by any court, party, or other person who does not simultaneously purchase  
43 the original.

1  
2 To eliminate any ambiguity, subdivision (b)(3) recognizes, first, that a party may substitute a  
3 court reporter’s written waiver or a certified transcript of a deposit for part of the designated  
4 proceedings and, second, that in such event the waiver ~~or transcript~~ replaces the deposit for only  
5 that part.

6  
7 Subdivision (b) and subdivision (f) refer to the “statutory rate” for reporter’s transcripts. The fees  
8 for reporter’s transcripts are established by Government Code sections 69950 and 69554.

9  
10 **Subdivision (c).** Under subdivision (c), an application to the Court Reporters Board for payment  
11 or reimbursement of the cost of the reporter’s transcript from the Transcript Reimbursement Fund  
12 (Bus. & Prof. Code, § 8030.8) is a permissible substitute for the required deposit of the reporter’s  
13 fee (subd. (b)(3)) and thereby prevents issuance of a notice of default (subd. (d)~~(4)~~(5)).

14  
15 Business and Professions Code sections 8030.6 and 8030.8 use the term “reimbursement” to  
16 mean not only a true reimbursement, i.e., repaying a party who has previously paid the reporter  
17 out of the party’s own funds (see *id.*, § 8030.8, subd. (d)), but also a direct payment to a reporter  
18 who has not been previously paid by the party (see *id.*, § 8030.6, subs. (b) and (d)). Subdivision  
19 (f) recognizes this special dual meaning by consistently using the compound phrase “payment or  
20 reimbursement.”

21  
22 **Subdivision (d).** Under subdivision (d)~~(4)~~(2), the clerk’s notice to the reporter must show the date  
23 on which the clerk mailed the notice. This provision is intended to establish the date when the  
24 period for preparing the reporter’s transcript under subdivision (f)(1) begins to run.

25  
26 **Subdivision (e).** Subdivision (e)(1) clarifies that: (1) when a certified transcript containing all of  
27 the proceedings identified in the notice of designation is submitted in lieu of a deposit, the court  
28 reporter will not prepare a reporter’s transcript; and (2) that the court reporter will only transcribe  
29 those proceedings that have not previously been transcribed and will include a copy of those  
30 proceedings that have previously been transcribed in the reporter’s transcript. Under rule 8.144,  
31 the full transcript, including the previously transcribed material, must meet the format  
32 requirements for a reporter’s transcript.

33  
34 Subdivision (e)(3) is not intended to relieve the reporter of the duty to report all oral proceedings,  
35 including the reading of instructions or other documents.

36  
37 **Subdivision (f).** Subdivision (f)(1) requires the reporter to prepare and file additional copies of  
38 the record “if multiple appellants equally share the cost of preparing the record. . . .” The reason  
39 for the requirement is explained in the comment to rule 8.147(a)(2).

40  
41 Subdivision (f)(4) is intended to implementing statutory provisions (e.g., Code Civ. Proc., § 271;  
42 Gov. Code, § 69954), subdivision (f)(4) Code of Civil Procedure section 271, which allows any  
43 court, party, or other person entitled to a reporter’s transcript to request that it be delivered in

1 computer-readable format (except that an original transcript must be on paper) and requires the  
2 reporter to provide a party, on request, with a copy of the reporter's transcript in computer-  
3 readable that format upon request if the proceedings were produced utilizing computer-aided  
4 transcription equipment. But in recognition of the fact that in some instances the reporter may be  
5 unable to provide a copy in that format, This the subdivision establishes procedures relating to  
6 such requests and also authorizes procedures for the court reporters to apply to the superior court  
7 for relief from this requirement if the proceedings were not produced utilizing computer-aided  
8 transcription equipment. Government Code section 69954 establishes the fees for reporter's  
9 transcripts in computer-readable format.

10  
11 **Rule 8.140. Failure to procure the record**

12  
13 **(a) Notice of default**

14  
15 Except as otherwise provided by these rules, if a party fails to timely do an act  
16 required to procure the record, the superior court clerk must promptly notify the  
17 party by mail that it must do the act specified in the notice within 15 days after the  
18 notice is mailed, and that if it fails to comply, the reviewing court may impose one  
19 of the following sanctions:

20  
21 (1)–(2) \* \* \*

22  
23 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
24 *2007, and January 1, 2008.)*

25  
26 **(b) Sanctions**

27  
28 If a party fails to take the action specified in a notice given under (a), the superior  
29 court clerk must promptly notify the reviewing court of the default, and the  
30 reviewing court may impose one of the following sanctions:

31  
32 (1) If the defaulting party is the appellant, the reviewing court may dismiss the  
33 appeal. If the appeal is dismissed, the reviewing court must promptly notify  
34 the superior court. The reviewing court ~~but~~ may vacate the dismissal for good  
35 cause. ~~or~~

36  
37 (2) \* \* \*

38  
39 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
40 *2007, and January 1, 2008.)*

41  
42 **(c) \* \* \***

1 *Rule 8.140 amended effective January 1, 2014; adopted as rule 8 effective January 1, 2002;*  
2 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
3 *January 1, 2008.*

4  
5 **Rule 8.144. Form of the record**

6  
7 **(a) Paper and format**

8  
9 (1) In the clerk's and reporter's transcripts:

10  
11 (A) The paper must be white or unbleached, ~~recycled~~, 8 1/2 by 11 inches,  
12 and of at least 20-pound weight;

13  
14 (B)–(E) \* \* \*

15  
16 (2)–(3) \* \* \*

17  
18 (4) The clerk's and reporter's transcripts must comply with rules 8.45–8.47  
19 relating to sealed and confidential records.

20  
21 *(Subd (a) amended effective January 1, 2014; previously amended effective January 1,*  
22 *2007.)*

23  
24 **(b) Indexes**

25  
26 Except as provided in rule 8.45, at the beginning of the first volume of each:

27  
28 (1)–(3) \* \* \*

29  
30 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
31 *2007, and January 1, 2008.)*

32  
33 **(c) Binding and cover**

34  
35 (1) \* \* \*

36  
37 (2) Each volume's cover, ~~preferably of recycled stock~~, must state the title and  
38 trial court number of the case, the names of the trial court and each  
39 participating trial judge, the names and addresses of appellate counsel for  
40 each party, the volume number, and the inclusive page numbers of that  
41 volume.

42  
43 (3) \* \* \*

1  
2 (Subd (c) amended effective January 1, 2014.)  
3

4 **(d)–(f) \* \* \***  
5

6 *Rule 8.144 amended effective January 1, 2014; repealed and adopted as rule 9 effective January*  
7 *1, 2002; previously amended and renumbered effective January 1, 2007; previously amended*  
8 *effective January 1, 2008.*  
9

10 **Advisory Committee Comment**  
11

12 **Subdivisions (a) and (b).** Subdivisions (a)(1) and (b)(1) refer to special requirements concerning  
13 sealed and confidential records established by rules 8.45–8.47. Rule 8.45(c)(2) and (3) establish  
14 special requirements regarding references to sealed and confidential records in the alphabetical  
15 and chronological indexes to clerk’s and reporter’s transcripts.  
16

17 **Rule 8.149. When the record is complete**  
18

19 **(a) Record of written documents**  
20

21 If the appellant elected to proceed without a record of the oral proceedings in the  
22 trial court and the parties are not proceeding by appendix under rule 8.124, the  
23 record is complete:  
24

25 (1) If a clerk’s transcript will be used, when the clerk’s transcript is certified  
26 under rule 8.122(d);  
27

28 (2) If the original superior court file will be used instead of the clerk’s transcript,  
29 when that original file is ready for transmission as provided under rule  
30 8.128(b);  
31

32 (3) If an agreed statement will be used instead of the clerk’s transcript, when the  
33 appellant files the agreed statement under rule 8.134(b);  
34

35 (4) If a settled statement will be used instead of the clerk’s transcript, when the  
36 statement has been certified by the trial court under rule 8.137(c); or  
37

38 (5) If any party requested that a record of an administrative proceeding held by  
39 the superior court be transmitted to the reviewing court, when that record of  
40 that administrative proceeding is ready for transmittal to the reviewing court  
41 and any clerk’s transcript or other record of the documents from the trial  
42 court is complete as provided in (1)–(4).  
43

1 **(b) Record of the oral proceedings**

2  
3 (1) If the parties are not proceeding by appendix under rule 8.124 and the  
4 appellant elected to proceed with a record of the oral proceedings in the trial  
5 court, the record is complete when the clerk’s transcript or other record of the  
6 documents from the trial court is complete as provided in (a) and:

7  
8 (A) If the appellant elected to use a reporter’s transcript, when the certified  
9 reporter’s transcript is delivered to the court under rule 8.130;

10  
11 (B) If an agreed statement will be used instead of the reporter’s transcript,  
12 when the appellant files the agreed statement under rule 8.134(b); or

13  
14 (C) If a settled statement will be used instead of the reporter’s transcript,  
15 when the statement has been certified by the trial court under rule  
16 8.137(c).

17  
18 (2) If the parties are proceeding by appendix under rule 8.124 and the appellant  
19 elected to proceed with a record of the oral proceedings in the trial court, the  
20 record is complete when the record of the oral proceedings is complete—as  
21 provided in (1)(A), (B), or (C)—and the record of any administrative  
22 proceeding held by the superior court that a party requested be transmitted to  
23 the reviewing court is ready for transmittal to the reviewing court.

24  
25 *Rule 8.149 adopted effective January 1, 2014.*

26  
27 **Rule 8.204. Contents and form of briefs**

28  
29 **(a) \* \* \***

30  
31 **(b) Form**

32  
33 (1) A brief may be reproduced by any process that produces a clear, black image  
34 of letter quality. The paper must be white or unbleached, ~~recycled~~, 8 1/2 by 11  
35 inches, and of at least 20-pound weight.

36  
37 (2)–(9) \* \* \*

38  
39 (10) The cover, ~~preferably of recycled stock~~, must be in the color prescribed by  
40 rule 8.40(b) and, in addition to providing the cover information required by  
41 rule 8.40(c), must state:

42  
43 (A)–(D) \* \* \*



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42

(11) \* \* \*

*(Subd (b) amended effective January 1, 2014; previously amended effective January 1, 2004, July 1, 2004, January 1, 2006, January 1, 2007, and January 1, 2013.)*

(c)–(e) \* \* \*

*Rule 8.204 amended effective January 1, 2014; repealed and adopted as rule 14 effective January 1, 2002; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2004, July 1, 2004, January 1, 2006, January 1, 2011, and January 1, 2013.*

**Rule 8.212. Service and filing of briefs**

(a) \* \* \*

**(b) Extensions of time**

(1) Except as otherwise provided by statute, the parties may extend each period under (a) by up to 60 days by filing one or more stipulations in the reviewing court before the brief is due. Stipulations must be signed by and served on all parties. ~~The original signature of at least one party must appear on the stipulation filed in the reviewing court; the signatures of the other parties may be in the form of copies of the signed signature page of the stipulation.~~

(2)–(4) \* \* \*

*(Subd (b) amended effective January 1, 2014; previously amended effective January 1, 2003, July 1, 2005, January 1, 2007, January 1, 2010, January 1, 2011, and January 1, 2013.)*

(c) \* \* \*

*Rule 8.212 amended effective January 1, 2014; repealed and adopted as rule 15 effective January 1, 2002; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2003, January 1, 2004, January 1, 2005, July 1, 2005, January 1, 2008, January 1, 2010, January 1, 2011, and January 1, 2013.*

**Advisory Committee Comment**

**Subdivision (a).** \* \* \*

1 **Subdivision (b).** Extensions of briefing time are limited by statute in some cases. For example,  
2 under Public Resources Code section 21167.6(h) in cases under section 21167, extensions are  
3 limited to one 30-day extension for the opening brief and one 30-day extension for “preparation  
4 of responding brief.”

5  
6 Under rule 8.42, the original signature of only one party is required on the stipulation filed with  
7 the court; the signatures of the other parties may be in the form of copies of the signed signature  
8 page of the document.

9  
10 Subdivision (b)(2) clarifies that a party seeking an extension of time from the presiding justice  
11 must proceed by application under rule 8.50 rather than by motion under rule 8.54.

12  
13 **Subdivision (c).** \* \* \*

14  
15 **Rule 8.320. Normal record; exhibits**

16  
17 **(a)** \* \* \*

18  
19 **(b) Clerk’s transcript**

20  
21 The clerk’s transcript must contain:

22  
23 (1)–(12) \* \* \*

24  
25 (13) And, if the appellant is the defendant:

26  
27 (A)–(B) \* \* \*

28  
29 (C) Any document admitted in evidence to prove a prior juvenile  
30 adjudication, criminal conviction, or prison term ~~If a record was closed~~  
31 ~~to public inspection in the trial court because it is required to be kept~~  
32 ~~confidential by law, it must remain closed to public inspection in the~~  
33 ~~reviewing court unless that court orders otherwise;~~

34  
35 (D)–(E) \* \* \*

36  
37 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
38 *2005, January 1, 2007, January 1, 2008, and January 1, 2010.)*

39  
40 **(c)–(f)** \* \* \*

41  
42 **(g) Form of record**

1 The clerk's and reporter's transcripts must comply with rule 8.144, 8.328, and  
2 8.336.

3  
4 *Rule 8.320 amended effective January 1, 2014; repealed and adopted as rule 31 effective January*  
5 *1, 2004; previously amended and renumbered effective January 1, 2007; previously amended*  
6 *effective January 1, 2005, January 1, 2008, January 1, 2010, and January 1, 2013.*

7  
8 **Advisory Committee Comment**

9  
10 ~~**Subdivisions (b)(13) and (d)(1)(G).**~~ Rules ~~8.336(g)~~ 8.45–8.46 addresses the appropriate  
11 handling of ~~probation officers' reports and court ordered diagnostic reports~~ sealed and  
12 confidential records that must be included in the clerk's transcript-~~record on appeal.~~ Examples of  
13 confidential records include probation reports, Penal Code section 1203.03 diagnostic reports,  
14 records closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 or  
15 *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings on a confidential  
16 informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v. Superior Court*  
17 (1982) 31 Cal.3d 424, 430).

18  
19 **Subdivision (d)(1)(E).** \* \* \*

20  
21 **Rule 8.328. Confidential records**

22  
23 **(a) Application**

24  
25 This rule ~~applies to records required to be kept confidential by law but does not~~  
26 ~~apply to records sealed under rules 2.550–2.551 or records proposed to be sealed~~  
27 ~~under rule 8.46.~~

28  
29 **(b) *Marsden* hearing**

30  
31 (1) ~~The reporter's transcript of any hearing held under *People v. Marsden* (1970)~~  
32 ~~2-Cal.3d 118 must be kept confidential. The chronological index to the~~  
33 ~~reporter's transcript must include the *Marsden* hearing but list it as~~  
34 ~~"CONFIDENTIAL" or the equivalent.~~

35  
36 (2) ~~The superior court clerk must send the original and one copy of the~~  
37 ~~confidential transcript to the reviewing court with the record.~~

38  
39 (3) ~~The superior court clerk must send one copy of the confidential transcript to~~  
40 ~~the defendant's appellate counsel or, if the defendant is not yet represented by~~  
41 ~~appellate counsel, to the appellate project for the district.~~

1           (4) — If the defendant raises a *Marsden* issue in the opening brief, the defendant  
2           must serve and file with the brief a notice stating whether the confidential  
3           transcript contains any confidential material not relevant to the issues on  
4           appeal. If the defendant states that the transcript contains confidential  
5           material not relevant to the issues on appeal, the notice must identify the page  
6           and line numbers of the transcript containing this irrelevant material.

7  
8           (5) — If the defendant serves and files a notice under (4), stating that the transcript  
9           contains confidential material not relevant to the issues on appeal, the People  
10          may move to obtain a copy of any relevant portion of the confidential  
11          transcript. If the defendant serves and files a notice under (4), stating that no  
12          such irrelevant material is contained in the transcript, the reviewing court  
13          clerk must send a copy of the confidential transcript to the People.

14  
15          (6) — If the defendant raises a *Marsden* issue in the opening brief but does not  
16          serve and file a notice under (4), on written application the People may  
17          request a copy of the confidential transcript. Within 10 days after the  
18          application is filed, the defendant may serve and file opposition to this  
19          application on the basis that the transcript contains confidential material not  
20          relevant to the issues on appeal. Any such opposition must identify the page  
21          and line numbers of the transcript containing this irrelevant material. If the  
22          defendant does not timely serve and file opposition to the application, the  
23          reviewing court clerk must send a copy of the confidential transcript to the  
24          People.

25  
26        **(e) — Other in-camera proceedings and confidential records**

27  
28          (1) — Any party may apply to the superior court for an order that the record  
29          include:

30  
31                (A) — A confidential, separately paginated reporter's transcript of any in-  
32                camera proceeding at which a party was not allowed to be represented;  
33                and

34  
35                (B) — Any item that the trial court withheld from a party on the ground that it  
36                was confidential.

37  
38          (2) — The application and any ruling under (1) must comply with rule 8.324.

39  
40          (3) — If the court grants an application for a reporter's transcript of any in-camera  
41          proceeding, it may order the reporter who attended the in-camera proceeding  
42          to personally prepare the transcript. The chronological index to the reporter's

1 transcript must include the proceeding but list it as “CONFIDENTIAL—MAY  
2 NOT BE EXAMINED WITHOUT COURT ORDER” or the equivalent.

3  
4 (4) ~~The superior court clerk must send the transcript of the in-camera proceeding  
5 or the confidential item to the reviewing court in a sealed envelope labeled  
6 “CONFIDENTIAL—MAY NOT BE EXAMINED WITHOUT COURT  
7 ORDER.” The reviewing court clerk must file the envelope and store it  
8 separately from the remainder of the record.~~

9  
10 (5) ~~The superior court clerk must prepare an index of any material sent to the  
11 reviewing court under (4), except confidential material relating to a request  
12 for funds under Penal Code section 987.9, showing the date and the names of  
13 all parties present at each proceeding, but not disclosing the substance of the  
14 sealed matter, and send the index:~~

15  
16 (A) ~~To the People; and~~

17  
18 (B) ~~To the defendant’s appellate counsel or, if the defendant is not yet  
19 represented by appellate counsel, to the appellate project for the  
20 district.~~

21  
22 (6) ~~Unless the reviewing court orders otherwise, confidential material sent to the  
23 reviewing court under (4) may be examined only by a reviewing court justice  
24 personally; but parties and their attorneys who had access to the material in  
25 the trial court may also examine it.~~

26  
27 **(d) Omissions**

28  
29 If at any time the superior court clerk or the reporter learns that the record omits  
30 material that any rule requires to be included and that this rule requires to be kept  
31 confidential:

32  
33 (1) ~~The clerk and the reporter must comply with rule 8.340(b); and~~

34  
35 (2) ~~The clerk must comply with the provisions of this rule requiring that the  
36 record be kept confidential and prescribing which party’s counsel, if any,  
37 must receive a copy of sealed material.~~

38  
39 *Rule 8.328 repealed effective January 1, 2014; adopted as rule 31.2 effective January 1, 2004;*  
40 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
41 *January 1, 2005, and January 1, 2011.*

42  
43 **Advisory Committee Comment**

1  
2 ~~Subdivision (c). Subdivision (c)(5) requires the clerk to prepare and send to the parties an index~~  
3 ~~of any confidential materials sent to the reviewing court, showing the date and the names of all~~  
4 ~~parties present. The purpose of this provision is to assist the parties in making and the court in~~  
5 ~~adjudicating motions to unseal portions of the record. To protect confidentiality until a record is~~  
6 ~~unsealed, however, the index must endeavor to identify the sealed matter without disclosing its~~  
7 ~~substance.~~

8  
9  
10 **Rule 8.336. Preparing, certifying, and sending the record**

11  
12 **(a)–(c) \* \* \***

13  
14 **(d) Reporter’s transcript**

15  
16 (1) \* \* \*

17  
18 (2) The reporter must prepare an original and the same number of copies of the  
19 reporter’s transcript as (c) requires of the clerk’s transcript, and must certify  
20 each as correct. On request, and unless the trial court orders otherwise, the  
21 reporter must provide the Court of Appeal and any party with a copy of the  
22 reporter’s transcript in computer-readable format. Each computer-readable  
23 copy must comply with the format, labeling, content, and numbering  
24 requirements of Code of Civil Procedure section 271(b).

25  
26 (3)–(5) \* \* \*

27  
28 *(Subd (d) amended effective January 1, 2014; previously amended effective January 1,*  
29 *2007.)*

30  
31 **(e) Extension of time**

32  
33 (1) \* \* \*

34  
35 (2) The reviewing court may order one or more extensions of time for preparing  
36 the record, including a reporter’s transcript, not exceeding a total of 60 days,  
37 on receipt of:

38  
39 (A) ~~An affidavit~~ A declaration showing good cause; and

40  
41 (B) In the case of a reporter’s transcript, certification by the superior court  
42 presiding judge, or a court administrator designated by the presiding

1 judge, that an extension is reasonable and necessary in light of the  
2 workload of all reporters in the court.

3  
4 *(Subd (e) amended effective January 1, 2014; previously amended effective January 1,*  
5 *2007.)*

6  
7 **(f) Form of record**

8  
9 The clerk’s and reporter’s transcripts must comply with rules 8.45–8.47, relating to  
10 sealed and confidential records, and rule 8.144.

11  
12 *(Subd (f) adopted effective January 1, 2014.)*

13  
14 **(f)(g) \* \* \***

15  
16 *(Subd (g) relettered effective January 1, 2014; adopted as subd (f); previously amended*  
17 *effective January 1, 2007.)*

18  
19 **(g) — Probation officer’s reports and court-ordered diagnostic reports**

20  
21 ~~A probation officer’s report or court-ordered diagnostic report included in the~~  
22 ~~clerk’s transcript under rule 8.320(b)(13)(D) or (E) must appear in all only the~~  
23 ~~copies of the appellate record that are sent to the reviewing court, to appellate~~  
24 ~~counsel for the People, and to appellate counsel for the defendant who was the~~  
25 ~~subject of the report. The reviewing court’s copy of the report must be placed in a~~  
26 ~~sealed envelope marked “CONFIDENTIAL—MAY NOT BE EXAMINED~~  
27 ~~WITHOUT COURT ORDER.”~~

28  
29 **(h) \* \* \***

30  
31 *Rule 8.336 amended effective January 1, 2014; repealed and adopted as rule 32 effective January*  
32 *1, 2004; previously amended and renumbered effective January 1, 2007; previously amended*  
33 *effective January 1, 2010.*

34  
35 **Advisory Committee Comment**

36  
37 **Subdivision (a). \* \* \***

38  
39 Subdivision (d). This subdivision is intended to implement Code of Civil Procedure section 271,  
40 which allows any court, party, or other person entitled to a reporter’s transcript to request that it  
41 be delivered in computer-readable format (except that an original transcript must be on paper) and  
42 requires the reporter to provide the transcript in that format upon request if the proceedings were  
43 produced using computer-aided transcription equipment. This subdivision establishes procedures

1 relating to such requests and procedures for court reporters to apply to the superior court for relief  
2 from this requirement if the proceedings were not produced using computer-aided transcription  
3 equipment. Government Code section 69954 establishes the fees for reporter’s transcripts in  
4 computer-readable format.

5  
6 **Subdivision (f).** Examples of confidential records include probation reports, Penal Code section  
7 1203.03 diagnostic reports, records closed to inspection by court order under *People v. Marsden*  
8 (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings  
9 on a confidential informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v.*  
10 *Superior Court* (1982) 31 Cal.3d 424, 430).

11  
12 **Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by**  
13 **an attorney**

14  
15 (a) \* \* \*

16  
17 (b) **Form and content**

18  
19 A petition filed under (a) need not comply with the provisions of rules 8.40, 8.204,  
20 or 8.486 that prescribe the form and content of a petition and require the petition to  
21 be accompanied by a memorandum. If any supporting documents accompanying  
22 the petition are sealed or confidential records, rules 8.45–8.47 govern these  
23 documents.

24  
25 *(Subd (b) amended effective January 1, 2014; adopted as part of subd (a) effective January*  
26 *1, 2005; previously amended and lettered effective January 1, 2009.)*

27  
28 (c) \* \* \*

29  
30 *Rule 8.380 amended effective January 1, 2014; repealed and adopted as rule 60 effective January*  
31 *1, 2005; previously amended and renumbered effective January 1, 2007; previously amended*  
32 *effective January 1, 2006, and January 1, 2009.*

33  
34 **Advisory Committee Comment**

35  
36 **Subdivision (b).** Examples of confidential records include probation reports, Penal Code section  
37 1203.03 diagnostic reports, records closed to inspection by court order under *People v. Marsden*  
38 (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings  
39 on a confidential informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v.*  
40 *Superior Court* (1982) 31 Cal.3d 424, 430).

41  
42 **Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party**  
43



1 (a) \* \* \*

2  
3 (b) **Supporting documents**

4  
5 (1)–(3) \* \* \*

6  
7 (4) If any supporting documents accompanying the petition are sealed or  
8 confidential records, rules 8.45–8.47 govern these documents.

9  
10 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
11 *2007, and January 1, 2009.)*

12  
13 (c)–(d) \* \* \*

14  
15 *Rule 8.384 amended effective January 1, 2014; adopted as rule 60.5 effective January 1, 2006;*  
16 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
17 *January 1, 2009.*

18  
19 **Advisory Committee Comment**

20  
21 **Subdivision (b)(4).** Examples of confidential records include probation reports, Penal Code  
22 section 1203.03 diagnostic reports, records closed to inspection by court order under *People v.*  
23 *Marsden* (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera  
24 proceedings on a confidential informant, and defense expert funding requests (Pen. Code,  
25 § 987.9; *Keenan v. Superior Court* (1982) 31 Cal.3d 424, 430).

26  
27 **Rule 8.385. Proceedings after the petition is filed**

28  
29 (a) **Production of record**

30  
31 Before ruling on the petition, the court may order the custodian of any relevant  
32 record to produce the record or a certified copy to be filed with the court. Sealed  
33 and confidential records are governed by rules 8.45–8.47.

34  
35 *(Subd (a) amended effective January 1, 2014.)*

36  
37 (b) **Informal response**

38  
39 (1) \* \* \*

40  
41 (2) The response must be served and filed within 15 days or as the court  
42 specifies. If the petitioner is not represented by counsel in the habeas corpus  
43 proceeding, one copy of the informal response and any supporting documents



1 petitioner is ~~not~~ represented by ~~privately retained~~ for the habeas corpus  
2 proceeding by court-appointed counsel other than the State Public Defender's  
3 Office or Habeas Corpus Resource Center, one copy must be served on the  
4 ~~district~~ applicable appellate project.

5  
6 *(Subd (b) amended effective January 1, 2014.)*

7  
8 **(c) Form and content of return**

9  
10 (1) The return must be either typewritten or produced on a computer and must  
11 comply with Penal Code section 1480 and rules 8.40(b)–(c) and 8.204(a)–(b).  
12 Except in habeas corpus proceedings related to sentences of death, any  
13 memorandum accompanying a return must also comply with the length limits  
14 in rule 8.204(c).

15  
16 (2)–(3) \* \* \*

17  
18 *(Subd (c) amended effective January 1, 2014.)*

19  
20 **(d) Traverse**

21  
22 (1) \* \* \*

23  
24 (2) Any traverse must be either typewritten or produced on a computer and must  
25 comply with Penal Code section 1484 and rules 8.40(b)–(c) and 8.204(a)–(b).  
26 Except in habeas corpus proceedings related to sentences of death, any  
27 memorandum accompanying a traverse must also comply with the length  
28 limits in rule 8.204(c).

29  
30 (3) Rule 8.486(c)(1) and (2) govern the form of any supporting documents  
31 accompanying the traverse.

32  
33 (3)(4) \* \* \*

34  
35 (4)(5) \* \* \*

36  
37 *(Subd (d) amended effective January 1, 2014.)*

38  
39 **(e)–(g) \* \* \***

40  
41 *Rule 8.386 amended effective January 1, 2014; adopted effective January 1, 2009.*

42

1 **Rule 8.387. Decision in habeas corpus proceedings**

2  
3 (a)–(e) \* \* \*

4  
5 (f) **Remittitur**

6  
7 (1) A Court of Appeal must issue a remittitur in a habeas corpus proceeding  
8 under this chapter except when the court denies the petition without issuing  
9 an order to show cause or orders the return filed in the superior court.

10  
11 (2) A Court of Appeal must also issue a remittitur if the Supreme Court issues a  
12 remittitur to the Court of Appeal.

13  
14 (3) Rule 8.272(b)–(d) governs issuance of a remittitur by a Court of Appeal in  
15 habeas corpus proceedings, including the clerk’s duties; immediate issuance,  
16 stay, and recall of remittitur; and notice of issuance.

17  
18 *(Subd (f) amended effective January 1, 2014; adopted as unlettered subd effective January*  
19 *1, 2008; previously amended and lettered effective January 1, 2009.)*

20  
21 *Rule 8.387 amended effective January 1, 2014; adopted as rule 8.386 effective January 1, 2008;*  
22 *previously amended and renumbered effective January 1, 2009.*

23  
24 **Advisory Committee Comment**

25  
26 A party may seek review of a Court of Appeal decision in a habeas corpus proceeding by way of  
27 a petition for review in the Supreme Court under rule 8.500.

28  
29 **Subdivision (f).** Under this rule, a remittitur serves as notice that the habeas corpus proceedings  
30 have concluded.

31  
32 **Rule 8.401. Confidentiality**

33  
34 (a) \* \* \*

35  
36 (b) **Access to filed documents**

37  
38 (1) Except as provided in (2)–(3), the record on appeal and documents filed by  
39 the parties in proceedings under this chapter may be inspected only by the  
40 reviewing court and appellate project personnel, the parties or their attorneys,  
41 and other persons the court may designate.  
42

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

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

7  
8 *(Subd (b) amended effective January 1, 2014; adopted as subd (a); previously amended*  
9 *and relettered effective January 1, 2012.)*

10  
11 (c) \* \* \*

12  
13 *Rule 8.401 amended effective January 1, 2014; adopted effective July 1, 2010; previously*  
14 *amended effective January 1, 2012.*

15  
16 **Rule 8.407. Record on appeal**

17  
18 (a)–(d) \* \* \*

19  
20 (e) — **Form of record**

21  
22 ~~Except in cases governed by rule 8.416(b), the clerk’s and reporter’s transcripts~~  
23 ~~must comply with rule 8.144.~~

24  
25 (f)(e) \* \* \*

26  
27 *(Subd (f) relettered effective January 1, 2014; adopted as subd (f); previously amended*  
28 *effective January 1, 2007.)*

29  
30 *Rule 8.407 amended effective January 1, 2014; adopted as rule 37.1 effective January 1, 2005;*  
31 *previously amended and renumbered as rule 8.404 effective January 1, 2007, and as rule 8.407*  
32 *effective July 1, 2010.*

33  
34 **Advisory Committee Comment**

35  
36 Rules 8.45–8.47 address the appropriate handling of sealed or confidential records that must be  
37 included in the record on appeal. Examples of confidential records include records of proceedings  
38 closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 and in-camera  
39 proceedings on a confidential informant.

40  
41 **Subdivision (b).** \* \* \*

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

2  
3 (a) \* \* \*

4  
5 **(b) Form of record**

6  
7 The clerk’s and reporter’s transcripts must comply with rules 8.45–8.46, relating to  
8 sealed and confidential records, and, except in cases governed by rule 8.416(b),  
9 with rule 8.144.

10  
11 *(Subd (b) adopted effective January 1, 2014.)*

12  
13 **(b)(c) Preparing and certifying the transcripts**

14  
15 Within 20 days after the notice of appeal is filed:

16  
17 (1) \* \* \*

18  
19 (2) The reporter must prepare, certify as correct, and deliver to the clerk an  
20 original of the reporter’s transcript and the same number of copies as (1)  
21 requires of the clerk’s transcript. On request, and unless the trial court orders  
22 otherwise, the reporter must provide the Court of Appeal and any party with a  
23 copy of the reporter’s transcript in computer-readable format. Each  
24 computer-readable copy must comply with the format, labeling, content, and  
25 numbering requirements of Code of Civil Procedure section 271(b).

26  
27 *(Subd (b) amended and relettered effective January 1, 2014; adopted as subd (b);*  
28 *previously amended effective January 1, 2007.)*

29  
30 **(e)(d) Extension of time**

31  
32 (1) \* \* \*

33  
34 (2) The reviewing court may order one or more extensions of time for preparing  
35 the record, including a reporter’s transcript, not exceeding a total of 60 days,  
36 on receipt of:

37  
38 (A)—(B) \* \* \*

39  
40 *(Subd (d) amended and relettered effective January 1, 2014; adopted as subd (c);*  
41 *previously amended effective January 1, 2007.)*

1 ~~(d)~~(e) \* \* \*

2  
3 (Subd (e) relettered effective January 1, 2014; adopted as subd (d); previously amended  
4 effective January 1, 2007, and January 1, 2013.)

5  
6 Rule 8.409 amended effective January 1, 2014; adopted as rule 37.2 effective January 1, 2005;  
7 previously amended and renumbered as rule 8.408 effective January 1, 2007, and as rule 8.409  
8 effective July 1, 2010; previously amended effective January 1, 2013.

9  
10 **Advisory Committee Comment**

11  
12 **Subdivision (a).** \* \* \*

13  
14 **Subdivision (b).** Examples confidential records include records closed to inspection by court  
15 order under *People v. Marsden* (1970) 2 Cal.3d 118 and in-camera proceedings on a confidential  
16 informant.

17  
18 **Subdivision (c)(2).** This subdivision is intended to implement Code of Civil Procedure section  
19 271, which allows any court, party, or other person entitled to a reporter's transcript to request  
20 that it be delivered in computer-readable format (except that an original transcript must be on  
21 paper) and requires the reporter to provide the transcript in that format upon request if the  
22 proceedings were produced using computer-aided transcription equipment. This subdivision  
23 establishes procedures relating to such requests and procedures for court reporters to apply to the  
24 superior court for relief from this requirement if the proceedings were not produced using  
25 computer-aided transcription equipment. Government Code section 69954 establishes the fees for  
26 reporters' transcripts in computer-readable format.

27  
28 **Subdivision (de).** \* \* \*

29  
30 **Rule 8.485. Application**

31  
32 **(a)** \* \* \*

33  
34 **(b) Writ proceedings not governed**

35  
36 These rules do not apply to ~~petitions~~ proceedings for writs of mandate, certiorari, or  
37 prohibition in the appellate division of the superior court under rules 8.930–8.936,  
38 ~~petitions for~~ writs of supersedeas under rule 8.116, ~~petitions for~~ writs of habeas  
39 corpus except as provided in rule 8.384, writs to review orders setting a hearing  
40 under Welfare and Institutions Code section 366.26, writs under Welfare and  
41 Institutions Code section 366.28 to review orders designating or denying a specific  
42 placement of a dependent child after termination of parental rights, and writs under

1 rules 8.450–8.456 except as provided in rules 8.452 and 8.456, or petitions for writs  
2 under rules 8.495–8.498.

3  
4 *(Subd (b) amended effective January 1, 2014; previously amended effective July 1, 2012.)*

5  
6 *Rule 8.485 amended effective January 1, 2014; adopted effective January 1, 2009; previously*  
7 *amended effective July 1, 2012.*

8  
9 **Rule 8.486. Petitions**

10  
11 **(a) \* \* \***

12  
13 **(b) Contents of supporting documents**

14  
15 **(1) \* \* \***

16  
17 **(2)** In exigent circumstances, the petition may be filed without the documents  
18 required by (1)(A)–(C) ~~if counsel or, if the petitioner is unrepresented, the~~  
19 ~~petitioner files~~ but must include a declaration that explains the urgency and  
20 the circumstances making the documents unavailable and fairly summarizes  
21 their substance.

22  
23 **(3)** If a transcript under (1)(D) is unavailable, the record must include a  
24 declaration ~~by counsel or, if the petitioner is unrepresented, the petitioner:~~

25  
26 **(A)** Explaining why the transcript is unavailable and fairly summarizing the  
27 proceedings, including the parties' arguments and any statement by the  
28 court supporting its ruling. This declaration may omit a full summary  
29 of the proceedings if part of the relief sought is an order to prepare a  
30 transcript for use by an indigent criminal defendant in support of the  
31 petition and if the declaration demonstrates the ~~petitioner's~~ need for  
32 and entitlement to the transcript; or

33  
34 **(B) \* \* \***

35  
36 **(4)** If the ~~petitioner~~ does not ~~submit~~ include the required record or explanations  
37 or does not present facts sufficient to excuse the failure to submit them, the  
38 court may summarily deny a stay request, the petition, or both.

39  
40 *(Subd (b) amended effective January 1, 2014; adopted as subd (c); previously amended*  
41 *and relettered effective January 1, 2009; previously amended effective January 1, 2006,*  
42 *July 1, 2006, January 1, 2007, and July 1, 2009.)*



1 (c) \* \* \*

2  
3 (d) **Sealed and confidential records**

4  
5 Rules ~~8.46~~ applies if a party seeks to lodge or file a 8.45–8.47 govern records  
6 sealed and confidential records ~~or to unseal a record~~ in proceedings under this  
7 chapter.

8  
9 *(Subd (d) amended effective January 1, 2014; adopted as subd (e); previously relettered*  
10 *effective January 1, 2009; previously amended effective January 1, 2007, and January 1,*  
11 *2011.)*

12  
13 (e) \* \* \*

14  
15 *Rule 8.486 amended effective January 1, 2014; repealed and adopted as rule 56 effective January*  
16 *1, 2005; previously amended and renumbered as rule 8.490 effective January 1, 2007, and as*  
17 *rule 8.486 effective January 1, 2009; previously amended effective July 1, 2005, January 1, 2006,*  
18 *July 1, 2006, January 1, 2008, July 1, 2009, and January 1, 2011.*

19  
20 **Advisory Committee Comment**

21  
22 **Subdivision (a).** \* \* \*

23  
24 **Subdivision (d).** Examples of confidential records include records of the family conciliation  
25 court (Fam. Code, § 1818 (b)) and fee waiver applications (Gov. Code, § 68633(f)).

26  
27 **Subdivision (e).** \* \* \*

28  
29 **Rule 8.487. Opposition and Attorney General amicus briefs**

30  
31 (a)–(b) \* \* \*

32  
33 (c) **Supporting documents**

34  
35 Any supporting documents accompanying a preliminary opposition, return or  
36 opposition, or reply must comply with rule 8.486(c)–(d).

37  
38 *(Subd (c) adopted effective January 1, 2014.)*

39  
40 ~~(e)~~(d) \* \* \*

41  
42 *(Subd (d) relettered effective January 1, 2014; adopted as subd (c).)*

43

1 *Rule 8.487 amended effective January 1, 2014; adopted effective January 1, 2009.*

2  
3 **Advisory Committee Comment**

4  
5 \* \* \*

6  
7 **Subdivision (a)–(b).** \* \* \*

8  
9 **Subdivision (c).** Examples of confidential records include records of the family conciliation court  
10 (Fam. Code, § 1818 (b)) and fee waiver applications (Gov. Code, § 68633(f)).

11  
12 **Rule 8.490. Filing, finality, and modification of decisions; rehearing; remittitur**

13  
14 (a) \* \* \*

15  
16 (b) **Finality of decision**

17  
18 (1) Except as otherwise ordered by the court, the denial of a following decisions  
19 regarding petitions for a writs within the court’s original jurisdiction are final  
20 in the issuing court when filed:

21  
22 (A) An order denying or dismissing such a petition without issuance of an  
23 alternative writ, or order to show cause is final in that court when filed,  
24 or writ of review; and

25  
26 (B) An order denying or dismissing such a petition as moot after issuance  
27 of an alternative writ, order to show cause, or writ of review.

28  
29 (2) ~~Except as otherwise provided in this rule, a~~ All other decisions in a writ  
30 proceeding is are final 30 days after the decision is filed, except as follows:-

31  
32 (3)(A) If necessary to prevent mootness or frustration of the relief granted or  
33 to otherwise promote the interests of justice, the court may order early  
34 finality in that court of a decision granting a petition for a writ within  
35 its original jurisdiction or denying such a petition after issuing an  
36 alternative writ, or order to show cause, or writ of review. The decision  
37 may provide for finality in that court on filing or within a stated period  
38 of less than 30 days.

39  
40 (4)(B) If a Court of Appeal certifies its opinion for publication or partial  
41 publication after filing its a decision and before its the decision  
42 becomes final in that court, the 30 days or other finality period ordered  
43 under (A) runs from the filing date of the order for publication.



1 **(b) Confidential records**

2  
3 Rules 8.45–8.47 govern sealed and confidential records in appeals under this  
4 chapter.

5  
6 ~~(1) All documents filed or lodged confidentially under Penal Code section 987.9~~  
7 ~~or 987.2 must be sealed. Documents filed or lodged under Penal Code section~~  
8 ~~987.9 must be bound separately from documents filed under Penal Code~~  
9 ~~section 987.2. Unless otherwise ordered, copies must be provided only to the~~  
10 ~~Supreme Court and to counsel for the defendant to whom the documents~~  
11 ~~relate.~~

12  
13 ~~(2) All reporter’s transcripts of in-camera proceedings must be sealed. Unless~~  
14 ~~otherwise ordered, copies must be provided only to the Supreme Court and to~~  
15 ~~counsel for parties present at the proceedings.~~

16  
17 ~~(3) Records sealed under this rule must comply with rule 8.328.~~

18  
19 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
20 *2007.)*

21  
22 **(c) \* \* \***

23  
24 **(d) Form of record**

25  
26 The clerk’s transcript and the reporter’s transcript must comply with rules 8.45–  
27 8.47, relating to sealed and confidential records, and rule 8.144, ~~but the indexes~~  
28 ~~for the clerk’s transcript must separately list all sealed documents in that transcript,~~  
29 ~~and the indexes for the reporter’s transcript must separately list all sealed reporter’s~~  
30 ~~transcripts with the date and the names of all parties present. The indexes must not~~  
31 ~~list any confidential material relating to a request for funds under Penal Code~~  
32 ~~section 987.9 or disclose the substance of any sealed matter.~~

33  
34 *(Subd (d) amended effective January 1, 2014; previously amended effective January 1,*  
35 *2005; and January 1, 2007.)*

36  
37 *Rule 8.610 amended effective January 1, 2014; adopted as rule 34.1 effective January 1, 2004;*  
38 *previously amended effective January 1, 2005; previously amended and renumbered effective*  
39 *January 1, 2007.*

40  
41 **Advisory Committee Comment**

42  
43 **Subdivision (a). \* \* \***

1  
2 **Subdivision (b).** Examples of confidential records include probation reports, Penal Code section  
3 1203.03 diagnostic reports, records closed to inspection by court order under *People v. Marsden*  
4 (1970) 2 Cal.3d 118 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings  
5 on a confidential informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v.*  
6 *Superior Court* (1982) 31 Cal.3d 424, 430). Under the third sentence of (b)(1), copies of sealed  
7 documents must be given only to the Supreme Court and to the defendant concerned “[u]nless  
8 otherwise ordered.” The qualification recognizes the statutory right of the Attorney General to  
9 request, under certain circumstances, copies of documents filed confidentially under Penal Code  
10 section 987.9(d). To facilitate compliance with such requests, the second sentence of rule  
11 8.610(b)(1) requires such documents to be bound separately from documents filed confidentially  
12 under Penal Code section 987.2.

13  
14 **Subdivision (d).** ~~Subdivision (d) requires that the master indexes of the clerk and reporter’s~~  
15 ~~transcripts separately list all documents and transcripts each contains that were filed in sealed~~  
16 ~~form under subdivision (b). The purpose of this provision is to assist the parties in making—and~~  
17 ~~the court in adjudicating—motions to unseal portions of the record. To protect confidentiality~~  
18 ~~until a record is unsealed, however, each index must endeavor to identify the sealed matter it lists~~  
19 ~~without disclosing its substance.~~

## 20 21 **Rule 8.804. Definitions**

22  
23 As used in this division, unless the context or subject matter otherwise requires:

24  
25 (1)–(19) \* \* \*

26  
27 ~~(20) “Recycled” as applied to paper means “recycled printing and writing paper”~~  
28 ~~as defined by Public Contract Code section 12209.~~

29  
30 ~~(21)–(20)~~ “Trial court” means the superior court from which an appeal is taken.

31  
32 ~~(22)–(21)~~ “Reviewing court” means the appellate division of the superior court.

33  
34 ~~(23)–(22)~~ “Judgment” includes any judgment or order that may be appealed.

35  
36 *Rule 8.804 amended effective January 1, 2014; adopted effective January 1, 2009.*

## 37 38 **Rule 8.832. Clerk’s transcript**

39  
40 **(a)–(b)** \* \* \*

41  
42 **(c) Deposit for cost of clerk’s transcript**

43

1 (1)–(2) \* \* \*

2  
3 (3) Unless otherwise provided by law, within 10 days after the clerk sends a  
4 notice under (1), the appellant and any party wanting to purchase a copy of  
5 the clerk’s transcript must either deposit the estimated cost specified in the  
6 notice under (1) with the clerk, unless otherwise provided by law or the party  
7 submits an application for a waiver of the cost under rule 8.818 or an order  
8 granting a waiver of this cost.

9  
10 (4) If the appellant does not submit a required deposit or an application for, or an  
11 order granting a waiver of the cost within the required period, the clerk must  
12 promptly issue a notice of default under rule 8.842.

13  
14 *(Subd (c) amended effective January 1, 2014; previously amended effective July 1, 2009.)*

15  
16 **(d) Preparing the clerk’s transcript**

17  
18 (1) ~~Within 30 days after the appellant deposits the estimated cost of the transcript~~  
19 ~~or the court files an order waiving that cost.~~ The clerk must:

20  
21 (A) ~~Prepare an original and one copy of the transcript, and certify the~~  
22 ~~original transcript;~~

23  
24 (B) Prepare one copy of the transcript for the appellant; and

25  
26 ~~(B)(C)~~ Prepare any additional copies for which the parties that have requested  
27 a copy of the clerk’s transcript and have made deposits as provided in  
28 (c)(3) or received an order waiving the cost.

29  
30 (2) Except as provided in (3), the clerk must complete preparation of the  
31 transcripts required under (1) within 30 days after either:

32  
33 (A) The appellant deposits either the estimated cost of the clerk’s transcript  
34 or a preexisting order granting a waiver of that cost; or

35  
36 (B) The court grants an application submitted under (c)(3) to waive that  
37 cost.

38  
39 (3) If the appellant elects under rule 8.831 to proceed with a reporter’s transcript,  
40 the clerk need not complete preparation of the transcripts required under (1)  
41 until 30 days after the appellant deposits the estimated cost of the reporter’s  
42 transcript or one of the substitutes under rule 8.834(b).

43



1 proceedings the respondent wants included in the reporter's transcript. The  
2 notice must identify any proceeding for which a certified transcript has  
3 previously been prepared by checking the appropriate box on *Respondent's*  
4 *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110)  
5 or, if that form is not used, placing an asterisk before that proceeding.  
6

- 7 (4) Except when a party deposits a certified transcript of all the designated  
8 proceedings under (b)(2)(D) with the notice of designation, ~~T~~the clerk must  
9 promptly mail a copy of each notice to the reporter. The copy must show the  
10 date it was mailed.

11  
12 *(Subd (a) amended effective January 1, 2014.)*  
13

14 **(b) Deposit or ~~waiver~~ substitute for cost of transcript**  
15

- 16 (1) Within 10 days after the clerk mails a notice under (a)(4), the reporter must  
17 file the estimate with the clerk—or notify the clerk in writing of the date that  
18 he or she notified the appellant directly—of the estimated cost of preparing  
19 the reporter's transcript at the statutory rate.  
20
- 21 (2) Within 10 days after the clerk notifies the appellant of the estimated cost of  
22 preparing the reporter's transcript—or within 10 days after the reporter  
23 notifies the appellant directly—the appellant must do one of the following:  
24
- 25 (A) Deposit with the clerk an amount equal to the estimated cost and a fee  
26 of \$50 for the superior court to hold this deposit in trust; ~~or~~  
27
- 28 (B) File with the clerk a written waiver of the deposit signed by the  
29 reporter;  
30
- 31 (C) File a copy of a Transcript Reimbursement Fund application filed under  
32 (3);  
33
- 34 (D) File a certified transcript of all of the designated proceedings. The  
35 transcript must comply with the format requirements of rule 8.144; or  
36
- 37 (E) Notify the clerk that:  
38
- 39 (i) He or she now elects to use a statement on appeal instead of a  
40 reporter's transcript. The appellant must prepare, serve, and file a  
41 proposed statement on appeal within 20 days after serving and  
42 filing the notice and must otherwise comply with the  
43 requirements for statements on appeal under rule 8.837;



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(ii) He or she now elects to proceed without a record of the oral proceedings in the trial court; or

(iii) He or she is abandoning the appeal by filing an abandonment in the reviewing court under rule 8.825.

(3) With its notice of designation, a party may serve and file a copy of its application to the Court Reporters Board for payment or reimbursement from the Transcript Reimbursement Fund under Business and Professions Code section 8030.2 et seq.

(A) Within 90 days after the appellant serves and files a copy of its application to the Court Reporters Board, the appellant must either file with the court a copy of the Court Reporters Board’s provisional approval of the application or take one of the following actions:

(i) Deposit the amount required under (2) or the reporter’s written waiver of this deposit;

(ii) Notify the superior court that he or she now elects to use a statement on appeal instead of a reporter’s transcript. The appellant must prepare, serve, and file a proposed statement on appeal within 20 days after serving and filing the notice and must otherwise comply with the requirements for statements on appeal under rule 8.837;

(iii) Notify the superior court that that he or she elects to proceed without a record of the oral proceedings; or

(iv) Notify the superior court that he or she is abandoning the appeal by filing an abandonment in the reviewing court under rule 8.825.

(B) Within 90 days after the respondent serves and files a copy of its application to the Court Reporters Board, the respondent must either file with the court a copy of the Court Reporters Board’s provisional approval of the application or take one of the following actions:

(i) Deposit the amount required under (2) or the reporter’s written waiver of this deposit; or

1 (ii) Notify the superior court that the respondent no longer wants the  
2 additional proceedings it designated for inclusion in the reporter's  
3 transcript.

4  
5 (C) If the appellant fails to timely take one of the actions specified in (A) or  
6 the respondent fails to timely make the deposit or send the notice under  
7 (B), the clerk must promptly issue a notice of default under rule 8.842.

8  
9 (D) If the Court Reporters Board provisionally approves the application, the  
10 reporter's time to prepare the transcript under (d)(1) begins when the  
11 clerk mails notice of the provisional approval under (4).

12  
13 (4) The clerk must ~~then~~ promptly notify the reporter to prepare the transcript  
14 when the court receives:

15  
16 (A) The required deposit under (2)(A);

17  
18 (B) A waiver of the deposit signed by the reporter under (2)(B); or

19  
20 (C) A copy of the Court Reporters Board's provisional approval of the  
21 party's application for payment from the Transcript Reimbursement  
22 Fund under (3).

23  
24 *(Subd (b) amended effective January 1, 2014.)*

25  
26 **(c) Contents of reporter's transcript**

27  
28 (1) Except when a party deposits a certified transcript of all the designated  
29 proceedings under (b)(2)(D), the reporter must transcribe all designated  
30 proceedings that have not previously been transcribed and provide a copy of  
31 all designated proceedings that have previously been transcribed.-and The  
32 reporter must note in the transcript where any proceedings were omitted and  
33 the nature of those proceedings. The reporter must also note where any  
34 exhibit was marked for identification and where it was admitted or refused,  
35 identifying such exhibits by number or letter.

36  
37 (2)-(4) \* \* \*

38  
39 *(Subd (c) amended effective January 1, 2014.)*

40  
41 **(d) Filing the reporter's transcript; copies; payment**

42

1 (1) Within 20 days after the clerk notifies the reporter to prepare the transcript  
2 under (b)(2), ~~or the reporter receives the fees from the appellant~~—the  
3 reporter must prepare and certify an original of the reporter’s transcript and  
4 file it in the trial court. The reporter must also file one copy of the original  
5 transcript or more than one copy if multiple appellants equally share the cost  
6 of preparing the record.

7  
8 (2) When the transcript is completed, the reporter must notify all parties to the  
9 appeal that the transcript is complete, bill each designating party at the  
10 statutory rate, and send a copy of the bill to the clerk. The clerk must pay the  
11 reporter from that party’s deposited funds and refund any excess deposit or  
12 notify the party of any additional funds needed. In a multiple reporter case,  
13 the clerk must pay each reporter who certifies under penalty of perjury that  
14 his or her transcript portion is completed.

15  
16 (3) \* \* \*

17  
18 (4) On request, and unless the trial court orders otherwise, the reporter must  
19 provide the reviewing court or any party with a copy of the reporter’s  
20 transcript in computer-readable format. Each computer-readable copy must  
21 comply with the format, labeling, content, and numbering requirements of  
22 Code of Civil Procedure section 271(b).

23  
24 *(Subd (d) amended effective January 1, 2014.)*

25  
26 **(e) Disputes over transcript costs**

27  
28 Notwithstanding any dispute that may arise over the estimated or billed costs of a  
29 reporter’s transcript, a designating party must timely comply with the requirements  
30 under this rule regarding deposits for transcripts. If a designating party believes that  
31 a reporter’s estimate or bill is excessive, the designating party may file a complaint  
32 with the Court Reporters Board.

33  
34 *(Subd (e) adopted effective January 1, 2014.)*

35  
36 **(e)(f) \* \* \***

37  
38 *(Subd (f) relettered effective January 1, 2014; adopted as subd (e).)*

39  
40 *Rule 8.834 amended effective January 1, 2014; adopted effective January 1, 2009.*

41  
42 **Advisory Committee Comment**

1 **Subdivision (d)(4).** This subdivision is intended to implement Code of Civil Procedure section  
2 271, which allows any court, party, or other person entitled to a reporter's transcript to request  
3 that it be delivered in computer-readable format (except that an original transcript must be on  
4 paper) and requires the reporter to provide the transcript in that format upon request if the  
5 proceedings were produced utilizing computer-aided transcription equipment. This subdivision  
6 establishes procedures relating to such requests and procedures for court reporters to apply to the  
7 superior court for relief from this requirement if the proceedings were not produced utilizing  
8 computer-aided transcription equipment. Government Code section 69954 establishes the fees for  
9 reporter's transcripts in computer-readable format.

10  
11 **Rule 8.838. Form of the record**

12  
13 (a)–(b) \* \* \*

14  
15 (c) **Binding and cover**

16  
17 (1) \* \* \*

18  
19 (2) Each volume's cover, ~~preferably of recycled stock,~~ must state the title and  
20 trial court number of the case, the names of the trial court and each  
21 participating trial judge, the names and addresses of appellate counsel for  
22 each party, the volume number, and the inclusive page numbers of that  
23 volume.

24  
25 (3) \* \* \*

26  
27 *(Subd (c) amended effective January 1, 2014.)*

28  
29 *Rule 8.838 amended effective January 1, 2014; adopted effective January 1, 2009.*

30  
31 **Rule 8.840. Completion and filing of the record**

32  
33 (a) **When the record is complete**

34  
35 (1) If the appellant elected under rule 8.831 or 8.834(b) to proceed without a  
36 record of the oral proceedings in the trial court, the record is complete:

37  
38 (A) If a clerk's transcript will be used, when the clerk's transcript is  
39 certified under rule 8.832(d);

40  
41 (B) If the original trial court file will be used instead of the clerk's  
42 transcript, when that original file is ready for transmission as provided  
43 under rule 8.833(b); or

1  
2 (C) If an agreed statement will be used instead of the clerk’s transcript,  
3 when the appellant files the agreed statement under rule 8.836(b).  
4

5 (2) If the appellant elected under rule 8.831 to proceed with a record of the oral  
6 proceedings in the trial court, the record is complete when the clerk’s  
7 transcript or other record of the documents from the trial court is complete as  
8 provided in (1) and:  
9

10 (A) If the appellant elected to use a reporter’s transcript, when the certified  
11 reporter’s transcript is delivered to the court under rule 8.834(d);  
12

13 (B) If the appellant elected to use a transcript prepared from an official  
14 electronic recording, when the transcript has been prepared under rule  
15 8.835;  
16

17 (C) If the parties stipulated to the use of an official electronic recording of  
18 the proceedings, when the electronic recording has been prepared under  
19 rule 8.835; or  
20

21 (D) If the appellant elected to use a statement on appeal, when the  
22 statement on appeal has been certified by the trial court or a transcript  
23 or an official electronic recording has been prepared under rule  
24 8.837(d)(6).  
25

26 *(Subd (a) amended and lettered effective January 1, 2014; adopted as unlettered subd.)*  
27

28 **(b) Filing the record**  
29

30 When the record is complete, the trial court clerk must promptly send the original  
31 to the appellate division and send to the appellant and respondent copies of any  
32 certified statement on appeal and any copies of transcripts or official electronic  
33 recordings that they have purchased. The appellate division clerk must promptly  
34 file the original and mail notice of the filing date to the parties.  
35

36 *(Subd (b) amended and lettered effective January 1, 2014; adopted as unlettered subd.)*  
37

38 *Rule 8.840 amended effective January 1, 2014; adopted effective January 1, 2009.*  
39

40 **Rule 8.842. Failure to procure the record**

41  
42 **(a) Notice of default**  
43

1            Except as otherwise provided by these rules, if a party fails to do any act required  
2            to procure the record, the trial court clerk must promptly notify that party by mail  
3            that it must do the act specified in the notice within 15 days after the notice is  
4            mailed and that, if it fails to comply, the reviewing court may impose the following  
5            sanctions:

6  
7            (1)–(2)       \* \* \*

8  
9            *(Subd (a) amended effective January 1, 2014.)*

10  
11        **(b) Sanctions**

12  
13            If the party fails to take the action specified in a notice given under (a), the trial  
14            court clerk must promptly notify the appellate division of the default, and the  
15            appellate division may impose one of the following sanctions:

16  
17            (1)    If the defaulting party is the appellant, the reviewing court may dismiss the  
18            appeal. If the appeal is dismissed, the reviewing court must promptly notify  
19            the superior court. The reviewing court ~~but~~ may vacate the dismissal for good  
20            cause.~~;~~~~or~~

21  
22            (2)       \* \* \*

23  
24            *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
25            *2011.)*

26  
27        *Rule 8.842 amended effective January 1, 2014; adopted effective January 1, 2009; previously*  
28        *amended effective January 1, 2011.*

29  
30        **Rule 8.883. Contents and form of briefs**

31  
32        **(a)–(b)**   \* \* \*

33  
34        **(c) Form**

35  
36            (1)    A brief may be reproduced by any process that produces a clear, black image  
37            of letter quality. The paper must be white or unbleached, ~~recycled,~~ 8 1/2 by 11  
38            inches, and of at least 20-pound weight. Both sides of the paper may be used  
39            if the brief is not bound at the top.

40  
41            (2)–(3)   \* \* \*

1 (4) Except as provided in (4011), the type size, including footnotes, must not be  
2 smaller than 13-point.

3

4 (5)–(11) \* \* \*

5

6 *(Subd (c) amended effective January 1, 2014; previously amended effective January 1,*  
7 *2011, and January 1, 2013.)*

8

9 **(d) \* \* \***

10

11 *Rule 8.883 amended effective January 1, 2014; adopted effective January 1, 2009; previously*  
12 *amended effective January 1, 2011, and January 1, 2013.*

13

14 **Rule 8.928. Contents and form of briefs**

15

16 **(a)–(b) \* \* \***

17

18 **(c) Form**

19

20 (1) A brief may be reproduced by any process that produces a clear, black image  
21 of letter quality. The paper must be white or unbleached, ~~recycled~~, 8 1/2 by 11  
22 inches, and of at least 20-pound weight. Both sides of the paper may be used  
23 if the brief is not bound at the top.

24

25 (2)–(11) \* \* \*

26

27 *(Subd (c) amended effective January 1, 2014, previously amended effective January 1,*  
28 *2013.)*

29

30 **(d) \* \* \***

31

32 *Rule 8.928 amended effective January 1, 2014; adopted effective January 1, 2009; previously*  
33 *amended effective January 1, 2011, and January 1, 2013.*

34

35 **Rule 8.931. Petitions filed by persons not represented by an attorney**

36

37 **(a) \* \* \***

38

39 **(b) Contents of supporting documents**

40

41 (1) The petition must be accompanied by an adequate record, including copies  
42 of:

43

1 (A)–(C) \* \* \*

2  
3 (D) A reporter’s transcript, a transcript of an electronic recording or, if the  
4 court has a local rule permitting this, an electronic recording of the oral  
5 proceedings that resulted in the ruling under review.  
6

7 (2) In extraordinary circumstances, the petition may be filed without the  
8 documents required by (1)(A)–(C) ~~if the petitioner files~~ but must include a  
9 declaration that explains the urgency and the circumstances making the  
10 documents unavailable and fairly summarizes their substance.  
11

12 (3) If a transcript or electronic recording under (1)(D) is unavailable, the record  
13 must include a declaration ~~by the petitioner~~:

14  
15 (A) Explaining why the transcript or electronic recording is unavailable and  
16 fairly summarizing the proceedings, including the ~~petitioner’s~~ parties’  
17 arguments and any statement by the court supporting its ruling. This  
18 declaration may omit a full summary of the proceedings if part of the  
19 relief sought is an order to prepare a transcript for use by an indigent  
20 criminal defendant in support of the petition and if the declaration  
21 demonstrates the ~~petitioner’s~~ need for and entitlement to the transcript;  
22 or  
23

24 (B) \* \* \*

25  
26 (4) If the ~~petitioner~~ petition does not ~~submit~~ include the required record or  
27 explanations or does not present facts sufficient to excuse the failure to  
28 submit them, the court may summarily deny a stay request, the petition, or  
29 both.  
30

31 *(Subd (b) amended effective January 1, 2014; previously amended effective January 1,*  
32 *2009.)*  
33

34 (c)–(d) \* \* \*

35  
36 *Rule 8.931 amended effective January 1, 2014; adopted effective January 1, 2009; previously*  
37 *amended effective January 1, 2009, and January 1, 2011.*  
38

39 **Advisory Committee Comment**  
40

41 **Subdivision (a).** *Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)* (form APP-  
42 151) is available at any courthouse or county law library or online at ~~www.courtinfo.ca.gov/forms~~  
43 www.courts.ca.gov/forms.



1  
2 **Subdivision (b).** Rule 2.952 addresses the use of electronic recordings and transcripts of such  
3 recordings as the official record of proceedings.

4  
5 **Subdivision (d).** \* \* \*

6  
7 **Rule 8.933. Opposition**

8  
9 **(a)–(b)** \* \* \*

10  
11 **(c) Form of preliminary opposition, return, or opposition**

12  
13 Any preliminary opposition, return, or opposition must comply with rule 8.931(c).  
14 If it is filed by an attorney, it must also comply with rule 8.932(b)(3)–(7).

15  
16 *(Subd (c) adopted effective January 1, 2014.)*

17  
18 *Rule 8.933 amended effective January 1, 2014; adopted effective January 1, 2009.*

19  
20 **Rule 8.935. Filing, finality, and modification of decisions; rehearing; remittitur**

21  
22 **(a) Filing of decision**

23  
24 (1) The appellate division clerk must promptly file all opinions and orders of the  
25 court and promptly send copies showing the filing date to the parties and,  
26 when relevant, to the trial court.

27  
28 (2) A decision must identify the participating judges, including the author of any  
29 majority opinion and of any concurring or dissenting opinion, or the judges  
30 participating in a “by the court” decision.

31  
32 *(Subd (a) adopted effective January 1, 2014.)*

33  
34 **~~(a)~~(b) Finality of decision**

35  
36 (1) Except as otherwise ordered by the court, the following appellate division  
37 decisions regarding petitions for writs within the court’s original jurisdiction  
38 are final in the issuing court when filed:

39  
40 (A) An order denying or dismissing such a petition without issuance of an  
41 alternative writ, order to show cause, or writ of review; and  
42

1           (B) An order denying or dismissing such a petition as moot after issuance  
2           of an alternative writ, order to show cause, or writ of review.

3  
4       ~~(1)(2)~~ Except as otherwise provided in ~~this rule (3)~~, an all other appellate division  
5       decisions in a writ proceeding is are final 30 days after the decision is filed.

6  
7       ~~(2) The denial of a petition for a writ within the appellate division's original~~  
8       ~~jurisdiction without issuance of an alternative writ or order to show cause is~~  
9       ~~final in that court when filed.~~

10  
11       (3) If necessary to prevent mootness or frustration of the relief granted or to  
12       otherwise promote the interests of justice, an appellate division may order  
13       early finality in that court of a decision granting a petition for a writ within its  
14       original jurisdiction or denying such a petition after issuing an alternative  
15       writ, ~~or~~ order to show cause, or writ of review. The decision may provide for  
16       finality in that court on filing or within a stated period of less than 30 days.

17  
18       *(Subd (b) amended and relettered effective January 1, 2014; adopted as subd (a).)*

19  
20       **(c) Modification of decisions**

21  
22       Rule 8.888(b) governs the modification of appellate division decisions in writ  
23       proceedings.

24  
25       *(Subd (c) adopted effective January 1, 2014.)*

26  
27       **(d) Rehearing**

28  
29       Rule 8.889 governs rehearing in writ proceedings in the appellate division.

30  
31       *(Subd (d) adopted effective January 1, 2014.)*

32  
33       **(b)(e) Remittitur**

34  
35       Except as provided in rule 8.1018 for cases transferred to the Courts of Appeal, the  
36       appellate division must issue a remittitur after the court issues a decision in a writ  
37       proceeding, ~~denies the petition without issuing an alternative writ or order to show~~  
38       ~~cause~~ except when the court issues one of the orders listed in (b)(1). Rule 8.890(b)-  
39       (d) governs issuance of a remittitur in these proceedings, including the clerk's  
40       duties, immediate issuance, stay, and recall of remittitur, and notice of issuance.

41  
42       *(Subd (e) amended and relettered effective January 1, 2014; adopted as subd (e).)*

1 *Rule 8.935 amended effective January 1, 2014; adopted effective January 1, 2009.*

2  
3 **Advisory Committee Comment**

4  
5 **Subdivision (b).** This provision addresses the finality of decisions in proceedings relating to writs  
6 of mandate, certiorari, and prohibition. See rule 8.888(a) for provisions addressing the finality of  
7 decisions in appeals.

8  
9 **Subdivision (b)(1).** Examples of situations in which the appellate division may issue an order  
10 dismissing a writ petition include when the petitioner fails to comply with an order of the court,  
11 when the court recalls the alternative writ, order to show cause, or writ of review as  
12 improvidently granted, or when the petition becomes moot.

13  
14 **Subdivision (d).** Under this rule, a remittitur serves as notice that the writ proceedings have  
15 concluded.

16  
17 **Rule 10.503. Use of recycled paper by all courts**

18  
19 ~~All courts must use recycled paper for all purposes except for uses for which recycled~~  
20 ~~paper is not practically available.~~

21  
22 *Rule 10.503 repealed effective January 1, 2014; adopted as rule 989.1 effective January 1, 1994;*  
23 *previously amended and renumbered effective January 1, 2007.*

24  
25 **Rule 10.609. Notification to State Bar of attorney misconduct**

26  
27 **(a) Notification by judge**

28  
29 When notification to the State Bar is required under Business and Professions Code  
30 section 6086.7, the judge issuing the order that triggers the notification requirement  
31 under section 6086.7 is responsible for notifying the State Bar. The judge may  
32 direct court staff to notify the State Bar.

33  
34 **(b) Contents of notice**

35  
36 The notice must include the State Bar member's full name and State Bar number, if  
37 known, and a copy of the order that triggered the notification requirement.

38  
39 **(c) Notification to attorney**

40  
41 If notification to the State Bar is made under this rule, the person who notified the  
42 State Bar must also inform the attorney who is the subject of the notification that  
43 the matter has been referred to the State Bar.

1  
2 *Rule 10.609 adopted effective January 1, 2014.*

3  
4 **Advisory Committee Comment**

5  
6 Business and Professions Code section 6086.7 requires a court to notify the State Bar of any of  
7 the following: (1) a final order of contempt imposed on an attorney that may involve grounds  
8 warranting discipline under the State Bar Act; (2) a modification or reversal of a judgment in a  
9 judicial proceeding based in whole or in part on the misconduct, incompetent representation, or  
10 willful misrepresentation of an attorney; (3) the imposition of any judicial sanctions on an  
11 attorney of \$1,000 or more, except sanctions for failure to make discovery; or (4) the imposition  
12 of any civil penalty on an attorney under Family Code section 8620. If the notification pertains to  
13 a final order of contempt, Business and Professions Code section 6086.7(a)(1) requires the court  
14 to transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one  
15 exists. This rule is intended to clarify who has the responsibility of notifying the State Bar under  
16 section 6086.7 and the required contents of the notice.

17  
18 In addition to the requirements stated in Business and Professions Code section 6086.7, judges  
19 are subject to canon 3D(2) of the California Code of Judicial Ethics, which states: “Whenever a  
20 judge has personal knowledge, or concludes in a judicial decision, that a lawyer has committed  
21 misconduct or has violated any provision of the Rules of Professional Conduct, the judge shall  
22 take appropriate corrective action, which may include reporting the violation to the appropriate  
23 authority.” The Advisory Committee Commentary states: “Appropriate corrective action could  
24 include direct communication with the judge or lawyer who has committed the violation, other  
25 direct action, such as a confidential referral to a judicial or lawyer assistance program, or a report  
26 of the violation to the presiding judge, appropriate authority, or other agency or body. Judges  
27 should note that in addition to the action required by Canon 3D(2), California law imposes  
28 mandatory additional reporting requirements on judges regarding lawyer misconduct. See  
29 Business and Professions Code section 6086.7.”

30  
31 **Rule 10.614. Local court forms**

32  
33 Local forms must comply with the following:

34  
35 (1)–(6)

36  
37 ~~(7) All forms and copies of forms made available by, or presented for filing to,~~  
38 ~~the court must be reproduced on recycled paper as defined in rule 2.102(2).~~

39  
40 ~~(8)~~ \* \* \*

41  
42 ~~(9)~~ \* \* \*

1 *Rule 10.614 amended effective January 1, 2014; adopted as rule 201.3 effective January 1, 2003;*  
2 *previously amended and renumbered effective January 1, 2007.*

3  
4 **Rule 10.951. Duties of supervising judge of the criminal division**

5  
6 **(a)–(b)** \* \* \*

7  
8 **(c) Mental health case protocols**

9  
10 The presiding judge, supervising judge, or other designated judge, in conjunction  
11 with the justice partners designated in rule 10.952, is encouraged to develop local  
12 protocols for cases involving offenders with mental illness or co-occurring  
13 disorders to ensure early identification of and appropriate treatment for offenders  
14 with mental illness or co-occurring disorders with the goals of reducing recidivism,  
15 responding to public safety concerns, and providing better outcomes for those  
16 offenders while using resources responsibly and reducing costs.

17  
18 *(Subd (c) adopted effective January 1, 2014.)*

19  
20 ~~**(e)(d)**~~ \* \* \*

21  
22 *(Subd (d) relettered effective January 1, 2014; adopted as subd (c).)*

23  
24 ~~**(d)(e)**~~ \* \* \*

25  
26 *(Subd (e) relettered effective January 1, 2014; adopted as subd (d); previously amended*  
27 *effective January 1, 2007.)*

28  
29 *Rule 10.951 amended effective January 1, 2014; adopted as rule 227.2 effective January 1, 1985;*  
30 *previously amended and renumbered effective January 1, 2007; previously amended effective*  
31 *January 1, 2008.*

32  
33 **Rule 10.952. Meetings concerning the criminal court system**

34  
35 The supervising judge or, if none, the presiding judge must designate judges of the court  
36 to attend regular meetings to be held with the district attorney; public defender;  
37 representatives of the local bar; probation department; parole office, sheriff department,  
38 police departments, and Forensic Conditional Release Program (CONREP); county  
39 mental health director or his or her designee; county director of the California  
40 Department of Alcohol and Drug Programs or his or her designee; court personnel; and  
41 other interested persons to identify and eliminate problems in the criminal court system  
42 and to discuss other problems of mutual concern.

1  
2 *Rule 10.952 amended effective January 1, 2014; adopted as rule 227.8 effective January 1, 1985;*  
3 *previously amended and renumbered effective January 1, 2007.*  
4

5 **Rule 10.1017. Notification to State Bar of attorney misconduct**

6  
7 **(a) Notification by justice**  
8

9 When notification to the State Bar is required under Business and Professions Code  
10 section 6086.7, the senior justice issuing the order or the justice authoring the  
11 opinion that triggers the notification requirement under section 6086.7 is  
12 responsible for notifying the State Bar. The justice may direct the Clerk to notify  
13 the State Bar.  
14

15 **(b) Contents of notice**  
16

17 The notice must include the State Bar member's full name and State Bar number, if  
18 known, and a copy of the order or opinion that triggered the notification  
19 requirement.  
20

21 **(c) Notification to attorney**  
22

23 If notification to the State Bar is made under this rule, the person who notified the  
24 State Bar must also inform the attorney who is the subject of the notification that  
25 the matter has been referred to the State Bar.  
26

27 *Rule 10.1017 adopted effective January 1, 2014.*  
28

29 **Advisory Committee Comment**  
30

31 Business and Professions Code section 6086.7 requires a court to notify the State Bar of any of  
32 the following: (1) a final order of contempt imposed on an attorney that may involve grounds  
33 warranting discipline under the State Bar Act; (2) a modification or reversal of a judgment in a  
34 judicial proceeding based in whole or in part on the misconduct, incompetent representation, or  
35 willful misrepresentation of an attorney; (3) the imposition of any judicial sanctions on an  
36 attorney of \$1,000 or more, except sanctions for failure to make discovery; or (4) the imposition  
37 of any civil penalty on an attorney under Family Code section 8620. If the notification pertains to  
38 a final order of contempt, Business and Professions Code section 6086.7(a)(1) requires the court  
39 to transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one  
40 exists. This rule is intended to clarify which justice has the responsibility of notifying the State  
41 Bar under section 6086.7 and the required contents of the notice.  
42

1 In addition to the requirements stated in Business and Professions Code section 6086.7, judges  
2 are subject to canon 3D(2) of the California Code of Judicial Ethics, which states: “Whenever a  
3 judge has personal knowledge, or concludes in a judicial decision, that a lawyer has committed  
4 misconduct or has violated any provision of the Rules of Professional Conduct, the judge shall  
5 take appropriate corrective action, which may include reporting the violation to the appropriate  
6 authority.” The Advisory Committee Commentary states: “Appropriate corrective action could  
7 include direct communication with the judge or lawyer who has committed the violation, other  
8 direct action, such as a confidential referral to a judicial or lawyer assistance program, or a report  
9 of the violation to the presiding judge, appropriate authority, or other agency or body. Judges  
10 should note that in addition to the action required by Canon 3D(2), California law imposes  
11 mandatory additional reporting requirements on judges regarding lawyer misconduct. See  
12 Business and Professions Code section 6068.7.”

AMENDMENTS TO THE CALIFORNIA RULES OF COURT  
Adopted by the Judicial Council on October 25, 2013  
effective on March 1, 2014

1  
2 **Rule 8.810. Extending time**

3  
4 (a) \* \* \*

5  
6 (b) **Extension by trial court**

7  
8 (1) \* \* \*

9  
10 (2) The trial court may not extend:

11  
12 (A) The time to do an act if that time—including any valid extension—has  
13 expired; or

14  
15 (B) The time for a court reporter to prepare a transcript.

16  
17 (3) \* \* \*

18  
19 *(Subd (b) amended effective March 1, 2014.)*

20  
21 (c) \* \* \*

22  
23 (d) **Application for extension**

24  
25 (1) An application to extend time, including an application requesting an  
26 extension of time to prepare a transcript from either a court reporter or a  
27 person preparing a transcript of an official electronic recording, must include  
28 a declaration stating facts, not mere conclusions, and must be served on all  
29 parties. For good cause, the presiding judge of the appellate division, or his or  
30 her designee, may excuse advance service.

31  
32 (2) The application must include a declaration stating facts, not mere  
33 conclusions, that establish good cause for granting the extension. For  
34 applications filed by counsel or self-represented litigants, the facts provided  
35 to establish good cause must be consistent with the policies and factors stated  
36 in rule 8.811.

37  
38 ~~(2)~~(3) The application must state:

39  
40 (A) \* \* \*



1 (B) The length of the extension requested; and

2  
3 (C) Whether any earlier extensions have been granted and, if so, their  
4 lengths; ~~and~~

5  
6 ~~(D) Good cause for granting the extension, consistent with the policies and~~  
7 ~~factors stated in rule 8.811.~~

8  
9 *(Subd (d) amended effective March 1, 2014.)*

10  
11 (e) \* \* \*

12  
13 *Rule 8.810 amended effective March 1, 2014; adopted effective January 1, 2009.*

14  
15 **Rule 8.822. Time to appeal**

16  
17 (a) **Normal time**

18  
19 (1) Unless a statute or rule 8.823 provides otherwise, a notice of appeal must be  
20 filed on or before the earliest of:

21  
22 (A) 30 days after the trial court clerk ~~mails~~ serves the party filing the notice  
23 of appeal a document entitled “Notice of Entry” of judgment or a file-  
24 stamped copy of the judgment, showing the date ~~either it was mailed~~  
25 served;

26  
27 (B)–(C) \* \* \*

28  
29 (2)–(3) \* \* \*

30  
31 *(Subd (a) amended effective March 1, 2014; previously amended effective January 1, 2011,*  
32 *and July 1, 2012.)*

33  
34 (b)–(d) \* \* \*

35  
36 *Rule 8.822 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
37 *amended effective January 1, 2011, and July 1, 2012.*

38  
39 **Rule 8.823. Extending the time to appeal**

40  
41 (a) \* \* \*

1 **(b) Motion for a new trial**

2  
3 If any party serves and files a valid notice of intention to move for a new trial, the  
4 following extensions of time apply:

5  
6 (1) If the motion is denied, the time to appeal from the judgment is extended for  
7 all parties until the earliest of:

8  
9 (A) 15 days after the trial court clerk ~~mails~~, or a party serves; an order  
10 denying the motion or a notice of entry of that order;

11  
12 (B)–(C) \* \* \*

13  
14 (2) \* \* \*

15  
16 *(Subd (b) amended effective March 1, 2014; previously amended effective July 1, 2012.)*

17  
18 **(c) Motion to vacate judgment**

19  
20 If, within the time prescribed by rule 8.822 to appeal from the judgment, any party  
21 serves and files a valid notice of intention to move to vacate the judgment or a valid  
22 motion to vacate the judgment, the time to appeal from the judgment is extended  
23 for all parties until the earliest of:

24  
25 (1) 15 days after the trial court clerk ~~mails~~, or a party serves; an order denying  
26 the motion or a notice of entry of that order;

27  
28 (2)–(3) \* \* \*

29  
30 *(Subd (c) amended effective March 1, 2014.)*

31  
32 **(d) Motion for judgment notwithstanding the verdict**

33  
34 (1) If any party serves and files a valid motion for judgment notwithstanding the  
35 verdict and the motion is denied, the time to appeal from the judgment is  
36 extended for all parties until the earliest of:

37  
38 (A) 15 days after the trial court clerk ~~mails~~, or a party serves; an order  
39 denying the motion or a notice of entry of that order;

40  
41 (B)–(C) \* \* \*

42  
43 (2) \* \* \*

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42

*(Subd (d) amended effective March 1, 2014.)*

**(e) Motion to reconsider appealable order**

If any party serves and files a valid motion to reconsider an appealable order under Code of Civil Procedure section 1008(a), the time to appeal from that order is extended for all parties until the earliest of:

- (1) 15 days after the superior court clerk ~~mails~~, or a party serves, an order denying the motion or a notice of entry of that order;
- (2)–(3) \* \* \*

*(Subd (e) amended effective March 1, 2014.)*

**(f)** \* \* \*

**(g) Cross-appeal**

- (1) If an appellant timely appeals from a judgment or appealable order, the time for any other party to appeal from the same judgment or order is extended until 10 days after the trial court clerk ~~mails~~ serves notification of the first appeal.
- (2) If an appellant timely appeals from an order granting a motion for a new trial, an order granting—within 75 days after entry of judgment—a motion to vacate the judgment, or a judgment notwithstanding the verdict, the time for any other party to appeal from the original judgment or from an order denying a motion for judgment notwithstanding the verdict is extended until 10 days after the clerk ~~mails~~ serves notification of the first appeal.

*(Subd (g) amended effective March 1, 2014; adopted as subd (f); previously relettered effective January 1, 2011.)*

**(h) ~~Showing date of order or notice;~~ Proof of service**

- ~~(1) An order or notice mailed by the clerk under this rule must show the date it was mailed.~~
- (2) Service under this rule may be by any method permitted by the Code of Civil Procedure, including electronic service when permitted under Code of Civil

1 Procedure section 1010.6 and rules 2.250–2.261. An order or notice that is  
2 served ~~by a party~~ must be accompanied by proof of service.

3  
4 *(Subd (h) amended effective March 1, 2014; adopted as subd (g); previously amended and*  
5 *relettered effective January 1, 2011.)*

6  
7 *Rule 8.823 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
8 *amended effective January 1, 2011, and July 1, 2012.*

9  
10 **Rule 8.834. Reporter’s transcript**

11  
12 **(a)–(c) \* \* \***

13  
14 **(d) Filing the reporter’s transcript; copies; payment**

15  
16 (1) Within 20 days after the clerk notifies the reporter to prepare the transcript  
17 under (b)(2) the reporter must prepare and certify an original of the reporter’s  
18 transcript and file it in the trial court. The reporter must also file one copy of  
19 the original transcript or more than one copy if multiple appellants equally  
20 share the cost of preparing the record. Only the presiding judge of the  
21 appellate division, or his or her designee, may extend the time to prepare the  
22 reporter’s transcript (see rule 8.810).

23  
24 (2)–(3) \* \* \*

25  
26 *(Subd (d) amended effective March 1, 2014.)*

27  
28 **(f) Notice when proceedings cannot be transcribed**

29  
30 (1) If any portion of the designated proceedings were not reported or cannot be  
31 transcribed, the trial court clerk must so notify the designating party by mail;  
32 the notice must:

33  
34 (A) Indicate whether the identified proceedings were officially  
35 electronically recorded under Government Code section 69957; and

36  
37 (B) Show the date it was mailed.

38  
39 (2) Within 10 days after the notice under (1) is mailed, the designating party  
40 must file a new election notifying the court whether the party elects to  
41 proceed with or without a record of the identified oral proceedings ~~that were~~  
42 ~~not reported or cannot be transcribed~~. If the party elects to proceed with a  
43 record of these oral proceedings, the notice must specify which form of the

1 record listed in rule 8.830(a)(2) ~~other than a reporter's transcript~~ the party  
2 elects to use.

3  
4 (A) The party may not elect to use a reporter's transcript.

5  
6 (B) The party may not elect to use an official electronic recording or a  
7 transcript prepared from an official electronic recording under rule  
8 8.835 unless the clerk's notice under (1) indicates that proceedings  
9 were officially electronically recorded under Government Code section  
10 69957.

11  
12 (C) The party must comply with the requirements applicable to the form of  
13 the record elected.

14  
15 (3) \* \* \*

16  
17 *(Subd (f) amended effective March 1, 2014; adopted as subd (e); previously relettered*  
18 *effective January 1, 2014.)*

19  
20 *Rule 8.834 amended effective March 1, 2014; adopted effective January 1, 2009.*

21  
22 **Rule 8.835. Record when trial proceedings were officially electronically recorded**

23  
24 **(a)–(c) \* \* \***

25  
26 **(d) Notice when proceedings were not officially electronically recorded or cannot**  
27 **be transcribed**

28  
29 (1) If the appellant elects under rule 8.831 to use a transcript prepared from an  
30 official electronic recording or the recording itself, the trial court clerk must  
31 notify the appellant by mail if any portion of the designated proceedings was  
32 not officially electronically recorded or cannot be transcribed. The notice  
33 must:

34  
35 (A) Indicate whether the identified proceedings were reported by a court  
36 reporter; and

37  
38 (B) Show the date it was mailed.

39  
40 (2) Within 10 days after the notice under (1) is mailed, the appellant must file a  
41 new election notifying the court whether the appellant elects to proceed with  
42 or without a record of the oral proceedings that were not recorded or cannot  
43 be transcribed. If the party appellant elects to proceed with a record of these

1 oral proceedings, the notice must specify which form of the record listed in  
2 rule 8.830(a)(2) ~~other than an electronic recording~~ the appellant elects to use.

3  
4 (A) The appellant may not elect to use an official electronic recording or a  
5 transcript prepared from an official electronic recording.

6  
7 (B) The appellant may not elect to use a reporter's transcript unless the  
8 clerk's notice under (1) indicates that proceedings were reported by a  
9 court reporter.

10  
11 (C) The appellant must comply with the requirements applicable to the  
12 form of the record elected.

13  
14 *(Subd (d) amended effective March 1, 2014.)*

15  
16 *Rule 8.835 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
17 *amended effective July 1, 2010.*

18  
19 **Rule 8.837. Statement on appeal**

20  
21 **(a) \* \* \***

22  
23 **(b) Preparing the proposed statement**

24  
25 (1) If the appellant elects in its notice designating the record under rule 8.831 to  
26 use a statement on appeal, the appellant must serve and file a proposed  
27 statement within 20 days after filing the notice under rule 8.831. If the  
28 appellant does not serve and file a proposed statement within this time, rule  
29 8.842 applies. ~~the trial court clerk must promptly notify the appellant by mail~~  
30 ~~that it must file the proposed statement within 15 days after the notice is~~  
31 ~~mailed and that failure to comply will result in the appeal being dismissed.~~

32  
33 (2) \* \* \*

34  
35 *(Subd (b) amended effective March 1, 2014.)*

36  
37 **(c) Contents of the proposed statement**

38  
39 The proposed statement must contain:

40  
41 (1) ~~A condensed narrative of the oral proceedings that the appellant believes~~  
42 ~~necessary for the appeal and a summary of the trial court's holding and~~

1 judgment. Subject to the court's approval, the appellant may present some or  
2 all of the evidence by question and answer.

3  
4 ~~(2)~~(1) A statement of the points the appellant is raising on appeal. If the condensed  
5 narrative under ~~(A)~~(3) covers only a portion of the oral proceedings, then the  
6 appeal is limited to the points identified in the statement unless the appellate  
7 division determines that the record permits the full consideration of another  
8 point or, on motion, the appellate division permits otherwise.

9  
10 (A) \* \* \*

11  
12 ~~(B)~~ The statement must include as much of the evidence or proceeding as  
13 necessary to support the stated grounds. Any evidence or portion of a  
14 proceeding not included will be presumed to support the judgment or  
15 order appealed from.

16  
17 ~~(C)~~(B) \* \* \*

18  
19 ~~(D)~~—If one of the grounds of appeal challenges the giving, refusal, or  
20 modification of a jury instruction, the statement must include any  
21 instructions submitted orally and identify the party that requested the  
22 instruction and any modification.

23  
24 (2) A summary of the trial court's rulings and judgment.

25  
26 (3) A condensed narrative of the oral proceedings that the appellant believes  
27 necessary for the appeal.

28  
29 (A) The condensed narrative must include a concise factual summary of the  
30 evidence and the testimony of each witness that is relevant to the points  
31 which the appellant states under (1) are being raised on appeal. Any  
32 evidence or portion of a proceeding not included will be presumed to  
33 support the judgment or order appealed from.

34  
35 (B) If one of the points which the appellant states under (1) is being raised  
36 on appeal is a challenge to the giving, refusal, or modification of a jury  
37 instruction, the condensed narrative must include any instructions  
38 submitted orally and not in writing and must identify the party that  
39 requested the instruction and any modification.

40  
41 *(Subd (c) amended effective March 1, 2014.)*  
42

1 (d) **Review of the appellant’s proposed statement**

2  
3 (1)–(2) \* \* \*

4  
5 ~~(4)~~(3) Except as provided in (6), if no hearing is ordered, no later than 10 days after  
6 the time for requesting a hearing expires, the trial court judge must review the  
7 proposed statement and any proposed amendments filed by the respondent  
8 and take one of the following actions:

9  
10 (A) If the proposed statement does not contain material required under (c),  
11 the trial judge may order the appellant to prepare a new proposed  
12 statement. The order must identify the additional material that must be  
13 included in the statement to comply with (c) and the date by which the  
14 new proposed statement must be served and filed. If the appellant does  
15 not serve and file a new proposed statement as directed, rule 8.842  
16 applies.

17  
18 (B) If the trial judge does not issue an order under (A), the trial judge must  
19 and either:

20  
21 (i) Make any corrections or modifications to the statement necessary  
22 to ensure that it is an accurate summary of the ~~trial court~~  
23 ~~proceedings~~ evidence and the testimony of each witness that is  
24 relevant to the points which the appellant states under (c)(1) are  
25 being raised on appeal; or

26  
27 (ii) Identify the necessary corrections and modifications and order  
28 the appellant to prepare a statement incorporating these  
29 corrections and modifications. If a hearing is ordered, the trial  
30 court judge must make any corrections or modifications to the  
31 statement within 10 days after the hearing.

32  
33 ~~(3)~~(4) If a hearing is ordered, the court must promptly set the hearing date and  
34 provide the parties with at least 5 days’ written notice of the hearing date. No  
35 later than 10 days after the hearing, the trial court judge must either:

36  
37 (A) Make any corrections or modifications to the statement necessary to  
38 ensure that it is an accurate summary of the evidence and the testimony  
39 of each witness that is relevant to the points which the appellant states  
40 under (c)(1) are being raised on appeal; or



1 (B) Identify the necessary corrections and modifications and order the  
2 appellant to prepare a statement incorporating these corrections and  
3 modifications.  
4

5 (5) \* \* \*

6  
7 (6) If the trial court proceedings were reported by a court reporter or officially  
8 electronically recorded under Government Code section 69957 and the trial  
9 court judge determines that it would save court time and resources, instead of  
10 correcting a proposed statement on appeal:

11  
12 (A) \* \* \*

13  
14 (B) ~~Unless~~ If the court has a local rule providing otherwise permitting this,  
15 the trial court judge may order that a transcript be prepared as the  
16 record of the oral proceedings. The court will pay for any transcript  
17 ordered under this subdivision.  
18

19 *(Subd (d) amended effective March 1, 2014.)*  
20

21 **(e) Review of the corrected statement**  
22

23 (1) If the trial court judge makes any corrections or modifications to the  
24 proposed statement under (d), the clerk must ~~send~~ serve copies of the  
25 corrected or modified statement ~~to~~ on the parties. If under (d) the trial court  
26 judge orders the appellant to prepare a statement incorporating corrections  
27 and modifications, the appellant must serve and file the corrected or modified  
28 statement within the time ordered by the court. If the appellant does not serve  
29 and file a corrected or modified statement as directed, rule 8.842 applies.  
30

31 (2) Within 10 days after the corrected or modified statement is ~~sent to~~ served on  
32 the parties, any party may serve and file proposed modifications or objections  
33 to the statement.  
34

35 (3) Within 10 days after the time for filing proposed modifications or objections  
36 under (2) has expired, the judge must review the corrected or modified  
37 statement and any proposed modifications or objections to the statement filed  
38 by the parties. The procedures in (d)(3) or (4) apply if the judge determines  
39 that further corrections or modifications are necessary to ensure that the  
40 statement is an accurate summary of the evidence and the testimony of each  
41 witness relevant to the points which the appellant states under (c)(1) are  
42 being raised on appeal.  
43

1 (Subd (e) amended effective March 1, 2014.)

2  
3 **(f) Certification of the statement on appeal**

4  
5 (1) If the trial court judge does not make or order any corrections or  
6 modifications to the proposed statement under ~~(d)(3), (d)(4), or (e)(3)~~ and  
7 does not order either the use of an official electronic recording or the  
8 preparation of a transcript in lieu of correcting the proposed statement under  
9 (d)(6), the judge must promptly certify the statement.

10  
11 ~~(2) If the trial court judge corrects or modifies an appellant’s proposed statement~~  
12 ~~under (d), within five days after the time for filing proposed modifications or~~  
13 ~~objections has expired, the judge must review any proposed modifications or~~  
14 ~~objections to the statement filed by the parties, make any corrections or~~  
15 ~~modifications to the statement necessary to ensure that it is an accurate~~  
16 ~~summary of the trial court proceedings, and certify the statement.~~

17  
18 (Subd (f) amended effective March 1, 2014.)

19  
20 Rule 8.837 amended effective March 1, 2014; adopted effective January 1, 2009.

21  
22 **Advisory Committee Comment**

23  
24 **Subdivision (b)(2).** *Proposed Statement on Appeal (Limited Civil Case)* (form AP-104) is  
25 available at any courthouse or county law library or online at ~~www.courtinfo.ca.gov/forms~~  
26 www.courts.ca.gov/forms.

27  
28 **Subdivision (d).** \* \* \*

29  
30 **Subdivisions (d)(3)(B), (d)(4), and (f).** The judge need not ensure that the statement as modified  
31 or corrected is complete, but only that it is an accurate summary of the evidence and testimony  
32 relevant to the issues identified by the appellant.

33  
34 **Rule 8.851. Appointment of appellate counsel**

35  
36 **(a)** \* \* \*

37  
38 **(b) Application; duties of trial counsel and clerk**

39  
40 (1)–(2) \* \* \*

41  
42 (3) ~~When the trial court receives~~ Within 15 court days after an application is filed  
43 in the trial court, the clerk must promptly send it to the appellate division. A

1 defendant may, however, apply directly to the appellate division for  
2 appointment of counsel at any time after filing the notice of appeal.

3  
4 (4) The appellate division must grant or deny a defendant's application for  
5 appointment of counsel within 30 days after the application is filed.

6  
7 *(Subd (b) amended effective March 1, 2014.)*

8  
9 (c) \* \* \*

10  
11 *Rule 8.851 amended effective March 1, 2014; adopted effective January 1, 2009.*

12  
13 **Rule 8.864. Record of oral proceedings**

14  
15 (a)–(b) \* \* \*

16  
17 (c) **Failure to file election**

18  
19 If the appellant does not file an election within the time specified in (b), rule 8.874  
20 applies. the trial court clerk must promptly notify the appellant by mail that the  
21 election must be filed within 15 days after the notice is mailed and that failure to  
22 comply will result in the appeal proceeding without a record of the oral  
23 proceedings.

24  
25 *(Subd (c) amended effective March 1, 2014; adopted effective January 1, 2010.)*

26  
27 ~~(d) **Statement on appeal when proceedings cannot be transcribed or were not**~~  
28 ~~**recorded**~~

29  
30 ~~(1) If the appellant elects under (a) to use a reporter's transcript or a transcript~~  
31 ~~prepared from an official electronic recording or the recording itself, the trial~~  
32 ~~court clerk must notify the appellant within 10 days after the appellant files~~  
33 ~~this election if any portion of the oral proceedings listed in rule 8.865 was not~~  
34 ~~reported or officially recorded electronically or cannot be transcribed. The~~  
35 ~~notice must indicate that the appellant may use a statement on appeal as the~~  
36 ~~record of the portion of the proceedings that was not recorded or cannot be~~  
37 ~~transcribed.~~

38  
39 ~~(2) Within 15 days after this notice is mailed by the clerk, the appellant must file~~  
40 ~~a notice with the court stating whether the appellant elects to use a statement~~  
41 ~~on appeal as the record of the portion of the proceedings that was not~~  
42 ~~recorded or cannot be transcribed.~~

1 Rule 8.864 amended effective March 1, 2014; adopted effective January 1, 2009; previously  
2 amended effective January 1, 2010.

3  
4 **Rule 8.865. Contents of reporter’s transcript**

5  
6 **(a) Normal contents**

7  
8 Except in appeals covered by rule 8.867, ~~or~~ when the parties have filed a stipulation  
9 under rule 8.860(b), or when, under a procedure established by a local rule adopted  
10 pursuant to (b), the trial court has ordered that any of these items is not required for  
11 proper determination of the appeal, the reporter’s transcript must contain:

12  
13 (1)–(9) \* \* \*

14  
15 *(Subd (a) amended and lettered effective March 1, 2014; adopted as unlettered subd.)*

16  
17 **(b) Local procedure for determining contents**

18  
19 A court may adopt a local rule that establishes procedures for determining whether  
20 any of the items listed in (a) is not required for proper determination of the appeal  
21 or whether a form of the record other than a reporter’s transcript constitutes a  
22 record of sufficient completeness for proper determination of the appeal.

23  
24 *(Subd (b) adopted effective March 1, 2014.)*

25  
26 *Rule 8.865 amended effective March 1, 2014; adopted effective January 1, 2009.*

27  
28 **Advisory Committee Comment**

29  
30 **Subdivision (b).** Both the United States Supreme Court and the California Supreme Court have  
31 held that, where the State has established a right to appeal, an indigent defendant convicted of a  
32 criminal offense has a constitutional right to a “‘record of sufficient completeness’ to permit  
33 proper consideration of [his] claims.” (Mayer v. Chicago (1971) 404 U.S. 189, 193–194; March  
34 v. Municipal Court (1972) 7 Cal.3d 422, 427–428.) The California Supreme Court has also held  
35 that an indigent appellant is denied his or her right under the Fourteenth Amendment to the  
36 competent assistance of counsel on appeal if counsel fails to obtain an appellate record adequate  
37 for consideration of appellant’s claims of errors (People v. Barton (1978) 21 Cal.3d 513, 518–  
38 520).

39  
40 The Mayer and March decisions make clear, however, that the constitutionally required “record  
41 of sufficient completeness” does not necessarily mean a complete verbatim transcript; other forms  
42 of the record, such as a statement on appeal, or a partial transcript may be sufficient. The record  
43 that is necessary depends on the grounds for the appeal in the particular case. Under these

1 decisions, where the grounds of appeal make out a colorable need for a complete transcript, the  
2 burden is on the State to show that only a portion of the transcript or an alternative form of the  
3 record will suffice for an effective appeal on those grounds. The burden of overcoming the need  
4 for a verbatim reporter’s transcript appears to be met where a verbatim recording of the  
5 proceedings is provided. (Mayer, supra, 404 U.S. at p. 195; cf. Eyrich v. Mun. Court (1985) 165  
6 Cal.App.3d 1138, 1140 [“Although use of a court reporter is one way of obtaining a verbatim  
7 record, it may also be acquired through an electronic recording when no court reporter is  
8 available”].)

9  
10 Some courts have adopted local rules that establish procedures for determining whether only a  
11 portion of a verbatim transcript or an alternative form of the record will be sufficient for an  
12 effective appeal, including (1) requiring the appellant to specify the points the appellant is raising  
13 on appeal; (2) requiring the appellant and respondent to meet and confer about the content and  
14 form of the record; and (3) holding a hearing on the content and form of the record. Local  
15 procedures can be tailored to reflect the methods available in a particular court for making a  
16 record of the trial court proceedings that is sufficient for an effective appeal.

17  
18 **Rule 8.866. Preparation of reporter’s transcript**

19  
20 **(a) When preparation begins**

21  
22 (1) Unless the court has adopted a local rule under rule 8.865(b) that provides  
23 providing otherwise, the reporter must immediately begin preparing the  
24 reporter’s transcript if the notice sent to the reporter by the clerk under rule  
25 8.864(a)(1) indicates either:

26  
27 (A)–(B) \* \* \*

28  
29 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates  
30 that the appellant is the defendant and that the defendant was not represented  
31 by appointed counsel at trial:

32  
33 (A) Within 10 days after the date the clerk mailed the notice under rule  
34 8.864(a)(1), the reporter must file with the clerk the estimated cost of  
35 preparing the reporter’s transcript, ~~and~~

36  
37 (B) \* \* \*

38  
39 (C) Within 10 days after the date the clerk mailed the notice under (B), the  
40 appellant must do one of the following:

41  
42 (i) \* \* \*

- 1 (ii) File a waiver of the deposit signed by the reporter;  
2  
3 ~~(ii)~~(iii) File a declaration of indigency supported by evidence in the  
4 form required by the Judicial Council; or  
5  
6 (iv) File a certified transcript of all of the proceedings required to be  
7 included in the reporter's transcript under rule 8.865. The  
8 transcript must comply with the format requirements of rule  
9 8.144;  
10  
11 ~~(iii)~~(v) Notify the clerk by filing a new election that he or she will be  
12 using a statement on appeal instead of a reporter's transcript. The  
13 appellant must prepare, serve, and file a proposed statement on  
14 appeal within 20 days after serving and filing the notice and must  
15 otherwise comply with the requirements for statements on appeal  
16 under rule 8.869; or  
17  
18 (vi) Notify the clerk by filing a new election that he or she now elects  
19 to proceed without a record of the oral proceedings in the trial  
20 court; or  
21  
22 (vii) Notify the clerk that he or she is abandoning the appeal by filing  
23 an abandonment in the reviewing court under rule 8.855.  
24  
25 (D) If the trial court determines that the appellant is not indigent, within 10  
26 days after the date the clerk mails notice of this determination to the  
27 appellant, the appellant must do one of the following:  
28  
29 (i) Deposit with the clerk an amount equal to the estimated cost of  
30 preparing the transcript;  
31  
32 (ii) File with the clerk a waiver of the deposit signed by the reporter;  
33  
34 (iii) File a certified transcript of all of the proceedings required to be  
35 included in the reporter's transcript under rule 8.865. The  
36 transcript must comply with the format requirements of rule  
37 8.144;  
38  
39 (iv) Notify the clerk by filing a new election that he or she will be  
40 using a statement on appeal instead of a reporter's transcript. The  
41 appellant must prepare, serve, and file a proposed statement on  
42 appeal within 20 days after serving and filing the notice and must

1 otherwise comply with the requirements for statements on appeal  
2 under rule 8.869;

3  
4 (v) Notify the clerk by filing a new election that he or she now elects  
5 to proceed without a record of the oral proceedings in the trial  
6 court; or

7  
8 (vi) Notify the clerk that he or she is abandoning the appeal by filing  
9 an abandonment in the reviewing court under rule 8.855.

10  
11 ~~(D)~~(E) The clerk must promptly notify the reporter to begin preparing the  
12 transcript when:

13  
14 (i) The clerk receives the required deposit under (C)(i) or (D)(i);

15  
16 (ii) The clerk receives a waiver of the deposit signed by the reporter  
17 under (C)(ii) or (D)(ii); or

18  
19 ~~(ii)~~(iii) The trial court determines that the ~~defendant~~ appellant is  
20 indigent and orders that the ~~defendant~~ appellant receive the  
21 transcript without cost.

22  
23 *(Subd (a) amended effective March 1, 2014.)*

24  
25 **(b)–(c) \* \* \***

26  
27 **(d) When preparation must be completed**

28  
29 The reporter must deliver the original and all copies to the trial court clerk as soon  
30 as they are certified but no later than 20 days after the reporter is required to begin  
31 preparing the transcript under (a). Only the presiding judge of the appellate division  
32 or his or her designee may extend the time to prepare the reporter’s transcript (see  
33 rule 8.810).

34  
35 *(Subd (d) amended effective March 1, 2014.)*

36  
37 **(e) \* \* \***

38  
39 **(f) Notice when proceedings were not reported or cannot be transcribed**

40  
41 **(1) If any portion of the oral proceedings to be included in the reporter’s**  
42 **transcript was not reported or cannot be transcribed, the trial court clerk must**  
43 **so notify the parties by mail. The notice must:**

1  
2 (A) Indicate whether the identified proceedings were officially  
3 electronically recorded under Government Code section 69957; and  
4

5 (B) Show the date it was mailed.  
6

7 (2) Within 15 days after this notice is mailed by the clerk, the appellant must  
8 serve and file a notice with the court stating whether the appellant elects to  
9 proceed with or without a record of the identified proceedings. When the  
10 party elects to proceed with a record of these oral proceedings:  
11

12 (A) If the clerk's notice under (1) indicates that the proceedings were  
13 officially electronically recorded under Government Code section  
14 69957, the appellant's notice must specify which form of the record  
15 listed in rule 8.864(a) other than a reporter's transcript the appellant  
16 elects to use. The appellant must comply with the requirements  
17 applicable to the form of the record elected.  
18

19 (B) If the clerk's notice under (1) indicates that the proceedings were not  
20 officially electronically recorded under Government Code section  
21 69957, the appellant must prepare, serve, and file a proposed statement  
22 on appeal within 20 days after serving and filing the notice.  
23

24 (Subd (f) adopted effective March 1, 2014.)  
25

26 Rule 8.866 amended effective March 1, 2014; adopted effective January 1, 2009.  
27

### 28 **Advisory Committee Comment**

29

30 **Subdivision (a).** If the appellant was not represented by the public defender or other appointed  
31 counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility*  
32 *for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form  
33 MC-210) to show indigency. This form is available at any courthouse or county law library or  
34 online at ~~[www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)~~ [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).  
35

36 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will  
37 purchase a reporter's transcripts of all or part of the proceedings before any appeal is filed. In  
38 recognition of the fact that such transcripts may already have been purchased, this rule allows an  
39 appellant, in lieu of depositing funds for a reporter's transcript, to deposit with the trial court a  
40 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and  
41 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a  
42 reporter's transcript only where the certified transcript contains all of the proceedings required  
43 under rule 8.865 and the transcript complies with the format requirements of rule 8.144.



1  
2 **Rule 8.867. Limited normal record in certain appeals**

3  
4 **(a) Application and additions**

5  
6 This rule establishes a limited normal record for certain appeals. This rule does not  
7 alter the parties' right to request that exhibits be transmitted to the reviewing court  
8 under rule 8.870 nor preclude either an application in the superior court under (e)  
9 for additions to the limited normal record or a motion in the reviewing court for  
10 augmentation under rule 8.841.

11  
12 *(Subd (a) adopted effective March 1, 2014.)*

13  
14 **(b) Pretrial appeals of rulings on motions under Penal Code section 1538.5**

15  
16 If before trial either the defendant or the People appeal a ruling on a motion under  
17 Penal Code section 1538.5 for the return of property or the suppression of evidence,  
18 the normal record is composed of:

19  
20 **(1) Record of the documents filed in the trial court**

21  
22 A clerk's transcript or original trial court file containing:

23  
24 **(A) The complaint, including any notice to appear, and any amendment;**

25  
26 **(B) The motion under Penal Code section 1538.5, with supporting and**  
27 **opposing memoranda, and attachments;**

28  
29 **(C) The order on the motion under Penal Code section 1538.5;**

30  
31 **(D) Any court minutes relating to the order; and**

32  
33 **(E) The notice of appeal.**

34  
35 **(2) Record of the oral proceedings in the trial court**

36  
37 If an appellant wants to raise any issue that requires consideration of the oral  
38 proceedings in the trial court, a reporter's transcript, a transcript prepared  
39 under rule 8.868, an official electronic recording under rule 8.868, or a  
40 statement on appeal under rule 8.869 summarizing any oral proceedings  
41 incident to the order on the motion under Penal Code section 1538.5.

42  
43 *(Subd (b) adopted effective March 1, 2014.)*

1  
2 **(c) Appeals from judgments on demurrers or certain appealable orders**

3  
4 If the People appeal from a judgment on a demurrer to the complaint, including any  
5 notice to appear, or if the defendant or the People appeal from an appealable order  
6 other than a ruling on a motion for new trial or a ruling covered by (a), the normal  
7 record is composed of:

8  
9 (1)–(2) \* \* \*

10  
11 *(Subd (c) amended and lettered effective March 1, 2014; adopted as unlettered subd.)*

12  
13 **(d) Appeals of the conditions of probation**

14  
15 If a defendant’s appeal of the judgment contests only the conditions of probation,  
16 the normal record is composed of:

17  
18 (1) Record of the documents filed in the trial court

19  
20 A clerk’s transcript or original trial court file containing:

21  
22 (A) The complaint, including any notice to appear, and any amendment;

23  
24 (B) The judgment or order appealed from and any abstract of judgment or  
25 commitment;

26  
27 (C) Any court minutes relating to the judgment or order appealed from and:

28  
29 (i) If there was a trial in the case, any court minutes of proceedings  
30 at the time the original verdict is rendered and any subsequent  
31 proceedings; or

32  
33 (ii) If the original judgment of conviction is based on a guilty plea or  
34 nolo contendere plea, any court minutes of the proceedings at the  
35 time of entry of such plea and any subsequent proceedings;

36  
37 (D) The notice of appeal; and

38  
39 (E) All probation officer reports.

40  
41 (2) Record of the oral proceedings in the trial court

42  
43 If an appellant wants to raise any issue that requires consideration of the oral

1 proceedings in the trial court, a reporter’s transcript, a transcript prepared  
2 under rule 8.868, an official electronic recording under rule 8.868, or a  
3 statement on appeal under rule 8.869 summarizing any oral proceedings  
4 from:

5  
6 (A) The sentencing proceeding; and

7  
8 (B) If the judgment of conviction is based on a guilty plea or nolo  
9 contendere plea, the proceedings at the time of entry of such plea.

10  
11 *(Subd (d) adopted effective March 1, 2014.)*

12  
13 **(e) Additions to the record**

14  
15 Either the People or the defendant may apply to the superior court for inclusion in  
16 the record under (b), (c), or (d) of any item that would ordinarily be included in the  
17 clerk’s transcript under rule 8.861 or a reporter’s transcript under rule 8.865.

18  
19 (1) An application for additional record must describe the material to be included  
20 and explain how it may be useful in the appeal.

21  
22 (2) The application must be filed in the superior court with the notice of appeal  
23 or as soon thereafter as possible, and will be treated as denied if it is filed  
24 after the record is sent to the reviewing court.

25  
26 (3) The clerk must immediately present the application to the trial judge.

27  
28 (4) Within five days after the application is filed, the judge must order that the  
29 record include as much of the additional material as the judge finds proper to  
30 fully present the points raised by the applicant. Denial of the application does  
31 not preclude a motion in the reviewing court for augmentation under rule  
32 8.841.

33  
34 (5) If the judge does not rule on the application within the time prescribed by (4),  
35 the requested material—other than exhibits—must be included in the clerk’s  
36 transcript or the reporter’s transcript without a court order.

37  
38 (6) The clerk must immediately notify the reporter if additions to the reporter’s  
39 transcript are required under (4) or (5).

40  
41 *(Subd (e) adopted effective March 1, 2014.)*

1 Rule 8.867 amended effective March 1, 2014; adopted effective January 1, 2009; previously  
2 amended effective January 1, 2013.

3  
4 **Advisory Committee Comment**

5  
6 **Subdivisions ~~(b)(1)(D), (c)(1)(E), and (d)(1)(C)~~.** ~~This rule identifies.~~ These provisions identify  
7 the minutes that must be included in the record. The trial court clerk may include additional  
8 minutes beyond those identified in these subdivisions if that would be more cost-effective.

9  
10 **Subdivisions ~~(c)(1)(G) and (d)(1)(E)~~.** Rule 8.862(c) addresses the appropriate handling of  
11 probation officers' reports that must be included in the clerk's transcript ~~under (1)(G)~~.

12  
13 **Rule 8.868. Record when trial proceedings were officially electronically recorded**

14  
15 **(a)–(c) \* \* \***

16  
17 **(d) Contents**

18  
19 Except in appeals when either the parties have filed a stipulation under rule  
20 8.860(b) or the trial court has ordered that any of these items is not required for  
21 proper determination of the appeal, rules 8.865 and 8.867 govern the contents of a  
22 transcript of an official electronic recording.

23  
24 *(Subd (d) adopted effective March 1, 2014.)*

25  
26 **~~(d)~~(e) When preparation begins**

27  
28 **(1) \* \* \***

29  
30 **(2) If the appellant is the defendant and the defendant was not represented by**  
31 **appointed counsel at trial:**

32  
33 **(A) \* \* \***

34  
35 **(B) Within 10 days after the date the clerk mailed the notice under (A), the**  
36 **appellant must do one of the following:**

37  
38 **(i) \* \* \***

39  
40 **(ii) File a declaration of indigency supported by evidence in the form**  
41 **required by the Judicial Council; ~~or~~**

1 (iii) Notify the clerk by filing a new election that he or she will be  
2 using a statement on appeal instead of a transcript or copy of the  
3 recording. The appellant must prepare, serve, and file a proposed  
4 statement on appeal within 20 days after serving and filing the  
5 notice and must otherwise comply with the requirements for  
6 statements on appeal under rule 8.869;

7  
8 (iv) Notify the clerk by filing a new election that he or she now elects  
9 to proceed without a record of the oral proceedings in the trial  
10 court; or

11  
12 (v) Notify the clerk that he or she is abandoning the appeal by filing  
13 an abandonment in the reviewing court under rule 8.855.

14  
15 (C) If the trial court determines that the appellant is not indigent, within 10  
16 days after the date the clerk mails notice of this determination to the  
17 appellant, the appellant must do one of the following:

18  
19 (i) Deposit with the clerk an amount equal to the estimated cost of  
20 preparing the transcript or the copy of the recording;

21  
22 (ii) Notify the clerk by filing a new election that he or she will be  
23 using a statement on appeal instead of a reporter's transcript. The  
24 appellant must prepare, serve, and file a proposed statement on  
25 appeal within 20 days after serving and filing the notice and must  
26 otherwise comply with the requirements for statements on appeal  
27 under rule 8.869;

28  
29 (iii) Notify the clerk by filing a new election that he or she now elects  
30 to proceed without a record of the oral proceedings in the trial  
31 court; or

32  
33 (iv) Notify the clerk that he or she is abandoning the appeal by filing  
34 an abandonment in the reviewing court under rule 8.855.

35  
36 ~~(C)~~(D) Preparation of the transcript or the copy of the recording must  
37 begin when:

38  
39 (i) The clerk receives the required deposit under (B)(i) or (C)(i); or

40  
41 (ii) \* \* \*

42  
43 *(Subd (e) amended and relettered effective March 1, 2014; adopted as subd (d).)*

1  
2 **(f) Notice when proceedings were not officially electronically recorded or cannot**  
3 **be transcribed**  
4

5 (1) If any portion of the oral proceedings to be included in the transcript was not  
6 officially electronically recorded under Government Code section 69957 or  
7 cannot be transcribed, the trial court clerk must so notify the parties by mail.  
8 The notice must:  
9

10 (A) Indicate whether the identified proceedings were reported by a court  
11 reporter; and  
12

13 (B) Show the date it was mailed.  
14

15 (2) Within 15 days after this notice is mailed by the clerk, the appellant must  
16 serve and file a notice with the court stating whether the appellant elects to  
17 proceed with or without a record of the identified oral proceedings. When the  
18 party elects to proceed with a record of these oral proceedings:  
19

20 (A) If the clerk's notice under (1) indicates that the proceedings were  
21 reported by a court reporter, the appellant's notice must specify which  
22 form of the record listed in rule 8.864(a) other than an official  
23 electronic recording or a transcript prepared from an official electronic  
24 recording the appellant elects to use. The appellant must comply with  
25 the requirements applicable to the form of the record elected.  
26

27 (B) If the clerk's notice under (1) indicates that the proceedings were not  
28 reported by a court reporter, the appellant must prepare, serve, and file  
29 a proposed statement on appeal within 20 days after serving and filing  
30 the notice.  
31

32 *(Subd (f) adopted effective March 1, 2014.)*  
33

34 *Rule 8.868 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
35 *amended effective July 1, 2010.*  
36

37 **Rule 8.869. Statement on appeal**  
38

39 (a) \* \* \*

40  
41 (b) **Preparing the proposed statement**  
42

43 (1)–(2) \* \* \*

1  
2  
3  
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43

(3) If the appellant does not serve and file a proposed statement within the time specified in (1), rule 8.874 applies. ~~the trial court clerk must promptly notify the appellant by mail that the proposed statement must be filed within 15 days after the notice is mailed and that failure to comply will result in the appeal being dismissed.~~

*(Subd (b) amended effective March 1, 2014.)*

**(c) Contents of the proposed statement on appeal**

A proposed statement prepared by the appellant must contain:

~~(1) A condensed narrative of the oral proceedings that the appellant believes necessary for the appeal and a summary of the trial court's holding and the sentence imposed on the defendant. Subject to the court's approval, the appellant may present some or all of the evidence by question and answer; and~~

~~(2)~~(1) A statement of the points the appellant is raising on appeal. The appeal is then limited to those points unless the appellate division determines that the record permits the full consideration of another point.

(A) \* \* \*

~~(B) The statement must include as much of the evidence or proceeding as necessary to support the stated grounds. Any evidence or portion of a proceeding not included will be presumed to support the judgment or order appealed from.~~

~~(C)~~(B) \* \* \*

~~(D) If one of the grounds of appeal challenges the giving, refusal, or modification of a jury instruction, the statement must include any instructions submitted orally and identify the party that requested the instruction and any modification.~~

(2) A summary of the trial court's rulings and the sentence imposed on the defendant.

(3) A condensed narrative of the oral proceedings that the appellant believes necessary for the appeal.

1 (A) The condensed narrative must include a concise factual summary of the  
2 evidence and the testimony of each witness that is relevant to the points  
3 which the appellant states under (1) are being raised on appeal. Any  
4 evidence or portion of a proceeding not included will be presumed to  
5 support the judgment or order appealed from.

6  
7 (B) If one of the points which the appellant states under (1) is being raised  
8 on appeal is a challenge to the giving, refusal, or modification of a jury  
9 instruction, the condensed narrative must include any instructions  
10 submitted orally and not in writing and must identify the party that  
11 requested the instruction and any modification.

12  
13 *(Subd (c) amended effective March 1, 2014; previously amended effective July 1, 2009.)*

14  
15 **(d) Review of the appellant's proposed statement**

16  
17 (1)–(2) \* \* \*

18  
19 ~~(4)~~(3) Except as provided in (6), if no hearing is ordered, no later than 10 days after  
20 the time for requesting a hearing expires, the trial court judge must review the  
21 proposed statement and any proposed amendments filed by the respondent  
22 and take one of the following actions:

23  
24 (A) If the proposed statement does not contain material required under (c),  
25 the trial court judge may order the appellant to prepare a new proposed  
26 statement. The order must identify the additional material that must be  
27 included in the statement to comply with (c) and the date by which the  
28 new proposed statement must be served and filed. If the appellant does  
29 not serve and file a new proposed statement as directed, rule 8.874  
30 applies.

31  
32 (B) If the trial court judge does not issue an order under (A), the trial court  
33 judge must ~~and~~ either:

34  
35 (i) Make any corrections or modifications to the statement necessary  
36 to ensure that it is an accurate summary of the ~~trial court~~  
37 ~~proceedings~~ evidence and the testimony of each witness that is  
38 relevant to the points which the appellant states under (c)(1) are  
39 being raised on appeal; or

40  
41 (ii) Identify the necessary corrections and modifications and order  
42 the appellant to prepare a statement incorporating these  
43 corrections and modifications. If a hearing is ordered, the trial



1 court judge must make any corrections or modifications to the  
2 statement within 10 days after the hearing.  
3

4 (3)(4) If a hearing is ordered, the court must promptly set the hearing date and  
5 provide the parties with at least 5 days' written notice of the hearing date. No  
6 later than 10 days after the hearing, the trial court judge must either:

7  
8 (A) Make any corrections or modifications to the statement necessary to  
9 ensure that it is an accurate summary of the evidence and the testimony  
10 of each witness that is relevant to the points which the appellant states  
11 under (c)(1) are being raised on appeal; or

12  
13 (B) Identify the necessary corrections and modifications and order the  
14 appellant to prepare a statement incorporating these corrections and  
15 modifications.

16  
17 (5) \* \* \*

18  
19 (6) If the trial court proceedings were reported by a court reporter or officially  
20 electronically recorded under Government Code section 69957 and the trial  
21 court judge determines that it would save court time and resources, instead of  
22 correcting a proposed statement on appeal:

23  
24 (A) \* \* \*

25  
26 (B) ~~Unless~~ If the court has a local rule ~~providing otherwise permitting this,~~  
27 the trial court judge may order that a transcript be prepared as the  
28 record of the oral proceedings. The court will pay for any transcript  
29 ordered under this subdivision.

30  
31 *(Subd (d) amended effective March 1, 2014.)*  
32

33 (e) **Review of the corrected or modified statement**  
34

35 (1) If the trial court judge makes any corrections or modifications to the  
36 proposed statement under (d), the clerk must ~~send~~ serve copies of the  
37 corrected or modified statement ~~to~~ on the parties. If under (d) the trial court  
38 judge orders the appellant to prepare a statement incorporating corrections  
39 and modifications, the appellant must serve and file the corrected or modified  
40 statement within the time ordered by the court. If the appellant does not serve  
41 and file a corrected or modified statement as directed, rule 8.874 applies.  
42

1 (2) Within 10 days after the corrected or modified statement is ~~sent to~~ served on  
2 the parties, any party may serve and file proposed modifications or objections  
3 to the statement.  
4

5 (3) Within 10 days after the time for filing proposed modifications or objections  
6 under (2) has expired, the judge must review the corrected or modified  
7 statement and any proposed modifications or objections to the statement filed  
8 by the parties. The procedures in (d)(3) or (4) apply if the judge determines  
9 that further corrections or modifications are necessary to ensure that the  
10 statement is an accurate summary of the evidence and the testimony of each  
11 witness relevant to the points which the appellant states under (c)(1) are  
12 being raised on appeal.  
13

14 *(Subd (e) amended effective March 1, 2014.)*

15  
16 **(f) Certification of the statement on appeal**

17  
18 (1)—If the trial court judge does not make or order any corrections or  
19 modifications to the proposed statement under (d)(3), (d)(4), or (e)(3) and  
20 does not order either the use of an official electronic recording or preparation  
21 of a transcript in lieu of correcting the proposed statement under (d)(6), the  
22 judge must promptly certify the statement.  
23

24 ~~(2) If the trial court judge corrects or modifies an appellant's proposed statement~~  
25 ~~under (d), within five days after the time for filing proposed modifications or~~  
26 ~~objections under (e) has expired, the judge must review any proposed~~  
27 ~~modifications or objections to the statement filed by the parties, make any~~  
28 ~~corrections or modifications to the statement necessary to ensure that it is an~~  
29 ~~accurate summary of the trial court proceedings, and certify the statement.~~  
30

31 *(Subd (f) amended effective March 1, 2014.)*

32  
33 **(g) \* \* \***

34  
35 *Rule 8.869 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
36 *amended effective July 1, 2009.*

37  
38 **Advisory Committee Comment**

39  
40 Rules 8.806, 8.810, and 8.812 address applications for extensions of time and relief from default.  
41

1 **Subdivision (b)(2).** *Proposed Statement on Appeal (Misdemeanor)* (form CR-135) is available at  
2 any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)  
3 [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

4  
5 **Subdivision (d).** \* \* \*

6  
7 **Subdivisions (d)(3)(B), (d)(4), and (f).** The judge need not ensure that the statement as modified  
8 or corrected is complete, but only that it is an accurate summary of the evidence and testimony  
9 relevant to the issues identified by the appellant.

10  
11 **Rule 8.874. Failure to procure the record**

12  
13 **(a) Notice of default**

14  
15 If a party fails to do any act required to procure the record, the trial court clerk must  
16 promptly notify that party by mail that it must do the act specified in the notice  
17 within 15 days after the notice is mailed and that, if it fails to comply, the appellate  
18 division may impose the following sanctions:

19  
20 (1) When the defaulting party is the appellant:

21  
22 (A) If the appellant is the defendant and is represented by appointed  
23 counsel on appeal, the appellate division may relieve that appointed  
24 counsel and appoint new counsel; or

25  
26 (B) If the appellant is the People or the appellant is the defendant and is not  
27 represented by appointed counsel, the appellate division may dismiss  
28 the appeal.

29  
30 (2) When the defaulting party is the respondent:

31  
32 (A) If the respondent is the defendant and is represented by appointed  
33 counsel on appeal, the appellate division may relieve that appointed  
34 counsel and appoint new counsel; or

35  
36 (B) If the respondent is the People or the respondent is the defendant and is  
37 not represented by appointed counsel, the appellate division may  
38 proceed with the appeal on the record designated by the appellant.

39  
40 **(b) Sanctions**

41  
42 If the party fails to take the action specified in a notice given under (a), the trial  
43 court clerk must promptly notify the appellate division of the default and the

1 appellate division may impose the sanction specified in the notice. If the appellate  
2 division dismisses the appeal, it may vacate the dismissal for good cause. If the  
3 appellate division orders the appeal to proceed on the record designated by the  
4 appellant, the respondent may obtain relief from default under rule 8.812.  
5

6 *Rule 8.874 adopted effective March 1, 2014.*  
7

8 **Rule 8.882. Briefs by parties and amici curiae**  
9

10 **(a)–(b) \* \* \***  
11

12 **(c) Failure to file a brief**  
13

14 (1)–(2) \* \* \*  
15

16 (3) If the respondent in a misdemeanor appeal ~~is the defendant and the~~  
17 ~~respondent~~ fails to timely file a brief, the appellate division clerk must  
18 promptly notify the respondent by mail that the brief must be filed within 30  
19 days after the notice is mailed and that if the respondent fails to comply, the  
20 court ~~will~~ may impose one of the following sanctions:  
21

22 (A) If the respondent is the defendant and is represented by appointed  
23 counsel on appeal, the court may relieve that appointed counsel and  
24 appoint new counsel; or  
25

26 (B) In all other cases, the court may decide the appeal on the record, the  
27 appellant’s opening brief, and any oral argument by the appellant.  
28

29 (4) \* \* \*  
30

31 *(Subd (c) amended effective March 1, 2014; adopted as subd (b); previously relettered*  
32 *effective January 1, 2009.)*  
33

34 **(d)–(e) \* \* \***  
35

36 *Rule 8.882 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
37 *amended effective January 1, 2009, January 1, 2010, and January 1, 2013.*  
38

39 **Rule 8.887. Decisions**  
40

41 **(a)–(b) \* \* \***  
42

1 **(c) Opinions certified for publication**

2  
3 (1) \* \* \*

4  
5 (2) ~~When the decision is final as to the appellate division in a case in which the~~  
6 opinion is certified for publication, the clerk must immediately send:

7  
8 (A)–(B) \* \* \*

9  
10 *(Subd (c) amended effective March 1, 2014; previously effective January 1, 2011.)*

11  
12 *Rule 8.887 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
13 *amended effective January 1, 2011.*

14  
15 **Rule 8.890. Remittitur**

16  
17 **(a)–(b)** \* \* \*

18  
19 **(c) Immediate issuance, stay, and recall**

20  
21 (1) The appellate division may direct immediate issuance of a remittitur only on  
22 the parties' stipulation or on dismissal of the appeal on the request or  
23 stipulation of the parties under rule 8.825(eb)(2).

24  
25 (2)–(3) \* \* \*

26  
27 *(Subd (c) amended effective March 1, 2014.)*

28  
29 **(d)** \* \* \*

30  
31 *Rule 8.890 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
32 *amended effective January 1, 2011.*

33  
34 **Rule 8.915. Record of oral proceedings**

35  
36 **(a)–(b)** \* \* \*

37  
38 **(c) Failure to file election**

39  
40 If the appellant does not file an election within the time specified in (b), rule 8.924  
41 applies. ~~the trial court clerk must promptly notify the appellant by mail that the~~  
42 ~~election must be filed within 15 days after the notice is mailed and that failure to~~

1 comply will result in the appeal proceeding without a record of the oral  
2 proceedings.

3  
4 *(Subd (c) amended effective March 1, 2014; adopted effective January 1, 2010.)*

5  
6 **~~(d) Statement on appeal when proceedings cannot be transcribed or were not~~**  
7 **~~recorded~~**

8  
9 (1) ~~If the appellant elects under (a) to use a reporter's transcript or a transcript~~  
10 ~~prepared from an official electronic recording or the recording itself, the trial~~  
11 ~~court clerk must notify the appellant within 10 days after the appellant files~~  
12 ~~this election if any portion of the oral proceedings listed in rule 8.918 was not~~  
13 ~~reported or officially recorded electronically or cannot be transcribed. The~~  
14 ~~notice must indicate that the appellant may use a statement on appeal as the~~  
15 ~~record of the portion of the proceedings that was not recorded or cannot be~~  
16 ~~transcribed.~~

17  
18 (2) ~~Within 15 days after this notice is mailed by the clerk, the appellant must~~  
19 ~~serve and file a notice with the court stating whether the appellant elects to~~  
20 ~~use a statement on appeal as the record of the portion of the proceedings that~~  
21 ~~was not recorded or cannot be transcribed.~~

22  
23 *Rule 8.915 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
24 *amended effective January 1, 2010.*

25  
26 **Rule 8.916. Statement on appeal**

27  
28 **(a) \* \* \***

29  
30 **(b) Preparing the proposed statement**

31  
32 (1)-(2) \* \* \*

33  
34 (3) If the appellant does not serve and file a proposed statement within the time  
35 specified in (1), rule 8.924 applies. ~~the trial court clerk must promptly notify~~  
36 ~~the appellant by mail that the proposed statement must be filed within 15~~  
37 ~~days after the notice is mailed and that failure to comply will result in the~~  
38 ~~appeal being dismissed.~~

39  
40 *(Subd (b) amended effective March 1, 2014.)*

41  
42 **(c) Contents of the proposed statement on appeal**

43

1 A proposed statement prepared by the appellant must contain:

2  
3 ~~(1) A condensed narrative of the oral proceedings that the appellant believes~~  
4 ~~necessary for the appeal and a summary of the trial court's holding and the~~  
5 ~~sentence imposed on the defendant. Subject to the court's approval, the~~  
6 ~~appellant may present some or all of the evidence by question and answer;~~  
7 ~~and~~  
8

9 ~~(2)~~(1) A statement of the points the appellant is raising on appeal. The appeal is  
10 then limited to those points unless the appellate division determines that the  
11 record permits the full consideration of another point.  
12

13 (A) \* \* \*

14  
15 ~~(B) The statement must include as much of the evidence or proceeding as~~  
16 ~~necessary to support the stated grounds. Any evidence or portion of a~~  
17 ~~proceeding not included will be presumed to support the judgment or~~  
18 ~~order appealed from.~~  
19

20 ~~(C)~~(B) If one of the grounds of appeal is insufficiency of the evidence, the  
21 statement must specify how it is insufficient.  
22

23 (2) A summary of the trial court's rulings and the sentence imposed on the  
24 defendant.  
25

26 (3) A condensed narrative of the oral proceedings that the appellant believes  
27 necessary for the appeal. The condensed narrative must include a concise  
28 factual summary of the evidence and the testimony of each witness that is  
29 relevant to the points which the appellant states under (1) are being raised on  
30 appeal. Any evidence or portion of a proceeding not included will be  
31 presumed to support the judgment or order appealed from.  
32

33 *(Subd (c) amended effective March 1, 2014; previously amended effective July 1, 2009.)*  
34

35 **(d) Review of the appellant's proposed statement**  
36

37 (1)–(2) \* \* \*

38  
39 ~~(4)~~(3) Except as provided in (6), if no hearing is ordered, no later than 10 days after  
40 the time for requesting a hearing expires, the trial court judge must review the  
41 proposed statement and any proposed amendments filed by the respondent  
42 and take one of the following actions:  
43

1 (A) If the proposed statement does not contain material required under (c),  
2 the trial court judge may order the appellant to prepare a new proposed  
3 statement. The order must identify the additional material that must be  
4 included in the statement to comply with (c) and the date by which the  
5 new proposed statement must be served and filed. If the appellant does  
6 not serve and file a new proposed statement as directed, rule 8.924  
7 applies.

8  
9 (B) If the trial court judge does not issue an order under (A), the trial court  
10 judge must either:

11  
12 (i) Make any corrections or modifications to the statement necessary  
13 to ensure that it is an accurate summary of the ~~trial court~~  
14 ~~proceedings~~ evidence and the testimony of each witness that is  
15 relevant to the points which the appellant states under (c)(1) are  
16 being raised on appeal; or

17  
18 (ii) Identify the necessary corrections and modifications and order  
19 the appellant to prepare a statement incorporating these  
20 corrections and modifications. ~~If a hearing is ordered, the trial~~  
21 ~~court judge must make any corrections or modifications to the~~  
22 ~~statement within 10 days after the hearing.~~

23  
24 ~~(3)~~(4) If a hearing is ordered, the court must promptly set the hearing date and  
25 provide the parties with at least 5 days' written notice of the hearing date. No  
26 later than 10 days after the hearing, the trial court judge must either:

27  
28 (A) Make any corrections or modifications to the statement necessary to  
29 ensure that it is an accurate summary of the evidence and the testimony  
30 of each witness that is relevant to the points which the appellant states  
31 under (c)(1) are being raised on appeal; or

32  
33 (B) Identify the necessary corrections and modifications and order the  
34 appellant to prepare a statement incorporating these corrections and  
35 modifications.

36  
37 (5) \* \* \*

38  
39 (6) If the trial court proceedings were reported by a court reporter or officially  
40 electronically recorded under Government Code section 69957 and the trial  
41 court judge determines that it would save court time and resources, instead of  
42 correcting a proposed statement on appeal:



1 (A) \* \* \*

2  
3 (B) ~~Unless~~ If the court has a local rule ~~providing otherwise permitting this,~~  
4 the trial court judge may order that a transcript be prepared as the  
5 record of the oral proceedings. The court will pay for any transcript  
6 ordered under this subdivision.

7  
8 *(Subd (d) amended effective March 1, 2014.)*  
9

10 **(e) Review of the corrected or modified statement**

- 11  
12 (1) If the trial court judge makes any corrections or modifications to the  
13 proposed statement under (d), the clerk must ~~send~~ serve copies of the  
14 corrected or modified statement ~~to~~ on the parties. If under (d) the trial court  
15 judge orders the appellant to prepare a statement incorporating corrections  
16 and modifications, the appellant must serve and file the corrected or modified  
17 statement within the time ordered by the court. If the prosecuting attorney did  
18 not appear at the trial, ~~the clerk will not send a no~~ copy of the statement is to  
19 be sent to or served on the prosecuting attorney. If the appellant does not  
20 serve and file a corrected or modified statement as directed, rule 8.924  
21 applies.  
22  
23 (2) Within 10 days after the statement is ~~sent to~~ served on the parties, any party  
24 may serve and file proposed modifications or objections to the statement.  
25  
26 (3) Within 10 days after the time for filing proposed modifications or objections  
27 under (2) has expired, the judge must review the corrected or modified  
28 statement and any proposed modifications or objections to the statement filed  
29 by the parties. The procedures in (d)(3) or (d)(4) apply if the judge  
30 determines that further corrections or modifications are necessary to ensure  
31 that the statement is an accurate summary of the evidence and the testimony  
32 of each witness relevant to the points which the appellant states under (c)(1)  
33 are being raised on appeal.  
34

35 *(Subd (e) amended effective March 1, 2014.)*  
36

37 **(f) Certification of the statement on appeal**

- 38  
39 (1) If the trial court judge does not make or order any corrections or  
40 modifications to the proposed statement under (d)(3), (d)(4), or (e)(3) and  
41 does not direct the preparation of a transcript in lieu of correcting the  
42 proposed statement under (d)(6), the judge must promptly certify the  
43 statement.

1  
2 ~~(2) If the trial court judge corrects or modifies an appellant's proposed statement~~  
3 ~~under (d), within five days after the time for filing proposed modifications or~~  
4 ~~objections under (e) has expired, the judge must review any proposed~~  
5 ~~modifications or objections to the statement filed by the parties, make any~~  
6 ~~corrections or modifications to the statement necessary to ensure that it is an~~  
7 ~~accurate summary of the trial court proceedings, and certify the statement.~~  
8

9 *(Subd (f) amended effective March 1, 2014.)*

10  
11 **(g) \* \* \***

12  
13 *Rule 8.916 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
14 *amended effective July 1, 2009.*

15  
16 **Advisory Committee Comment**

17  
18 Rules 8.806, 8.810, and 8.812 address applications for extensions of time and relief from default.

19  
20 **Subdivision (b)(2).** *Proposed Statement on Appeal (Infraction)* (form CR-143) is available at any  
21 courthouse or county law library or online at ~~www.courtinfo.ca.gov/forms~~  
22 www.courts.ca.gov/forms.

23  
24 **Subdivision (d).** \* \* \*

25  
26 **Subdivisions (d)(3)(B), (d)(4), and (f).** The judge need not ensure that the statement as modified  
27 or corrected is complete, but only that it is an accurate summary of the evidence and testimony  
28 relevant to the issues identified by the appellant.

29  
30 **Rule 8.917. Record when trial proceedings were officially electronically recorded**

31  
32 **(a)–(c) \* \* \***

33  
34 **(d) Contents**

35  
36 Except in appeals when either the parties have filed a stipulation under rule  
37 8.910(b) or the trial court has ordered that any of these items is not required for  
38 proper determination of the appeal, rules 8.918 and 8.920 govern the contents of a  
39 transcript of an official electronic recording.

40  
41 *(Subd (d) adopted effective March 1, 2014.)*  
42

1 ~~(d)~~(e) When preparation begins

2  
3 (1) \* \* \*

4  
5 (2) If the appellant is the defendant:

6  
7 (A) \* \* \*

8  
9 (B) Within 10 days after the date the clerk mailed the notice under (A), the  
10 appellant must do one of the following:

11  
12 (i)–(ii) \* \* \*

13  
14 (iii) Notify the clerk by filing a new election that he or she will be  
15 using a statement on appeal instead of a transcript or copy of the  
16 recording. The appellant must prepare, serve, and file a proposed  
17 statement on appeal within 20 days after serving and filing the  
18 notice and must otherwise comply with the requirements for  
19 statements on appeal under rule 8.869;

20  
21 (iv) Notify the clerk by filing a new election that he or she now elects  
22 to proceed without a record of the oral proceedings in the trial  
23 court; or

24  
25 (v) Notify the clerk that he or she is abandoning the appeal by filing  
26 an abandonment in the reviewing court under rule 8.904.

27  
28 (C) If the trial court determines that the appellant is not indigent, within 10  
29 days after the date the clerk mails notice of this determination to the  
30 appellant, the appellant must do one of the following:

31  
32 (i) Deposit with the clerk an amount equal to the estimated cost of  
33 preparing the transcript or the copy of the recording;

34  
35 (ii) Notify the clerk by filing a new election that he or she will be  
36 using a statement on appeal instead of a reporter's transcript. The  
37 appellant must prepare, serve, and file a proposed statement on  
38 appeal within 20 days after serving and filing the notice and must  
39 otherwise comply with the requirements for statements on appeal  
40 under rule 8.869;

1 (iii) Notify the clerk by filing a new election that he or she now elects  
2 to proceed without a record of the oral proceedings in the trial  
3 court; or

4  
5 (iv) Notify the clerk that he or she is abandoning the appeal by filing  
6 an abandonment in the reviewing court under rule 8.904.

7  
8 ~~(C)~~(D) Preparation of the transcript or the copy of the recording must  
9 begin when:

10  
11 (i) The clerk receives the required deposit under (B)(i) or (C)(i); or

12  
13 (ii) \* \* \*

14  
15 *(Subd (e) amended and relettered effective March 1, 2014; adopted as subd (d).)*

16  
17 **(f) Notice when proceedings were not officially electronically recorded or cannot**  
18 **be transcribed**

19  
20 (1) If any portion of the oral proceedings to be included in the transcript were not  
21 officially electronically recorded under Government Code section 69957 or  
22 cannot be transcribed, the trial court clerk must so notify the parties by mail.  
23 The notice must:

24  
25 (A) Indicate whether the identified proceedings were reported by a court  
26 reporter; and

27  
28 (B) Show the date it was mailed.

29  
30 (2) Within 15 days after this notice is mailed by the clerk, the appellant must  
31 serve and file a notice with the court stating whether the appellant elects to  
32 proceed with or without a record of the identified proceedings. When the  
33 party elects to proceed with a record of these oral proceedings:

34  
35 (A) If the clerk's notice under (1) indicates that the proceedings were  
36 reported by a court reporter, the appellant's notice must specify which  
37 form of the record listed in rule 8.915(a) other than an official  
38 electronic recording or a transcript prepared from an official electronic  
39 recording the appellant elects to use. The appellant must comply with  
40 the requirements applicable to the form of the record elected.

41  
42 (B) If the clerk's notice under (1) indicates that the proceedings were not  
43 reported by a court reporter, the appellant must prepare, serve, and file

1 a proposed statement on appeal within 20 days after serving and filing  
2 the notice.

3  
4 *(Subd (f) adopted effective March 1, 2014.)*

5  
6 *Rule 8.917 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
7 *amended effective July 1, 2010.*

8  
9 **Rule 8.918. Contents of reporter’s transcript**

10  
11 **(a) Normal contents**

12  
13 Except in appeals covered by rule 8.920, ~~or~~ when the parties have filed a stipulation  
14 under rule 8.910(b), or when, under a procedure established by a local rule adopted  
15 pursuant to (b), the trial court has ordered that any of these items is not required for  
16 proper determination of the appeal, the reporter’s transcript must contain:

17  
18 (1)–(7) \* \* \*

19  
20 *(Subd (a) amended and lettered effective March 1, 2014; adopted as unlettered subd.)*

21  
22 **(b) Local procedure for determining contents**

23  
24 A trial court may adopt a local rule that establishes procedures for determining  
25 whether any of the items listed in (a) is not required for proper determination of the  
26 appeal or whether a form of the record other than a reporter’s transcript constitutes  
27 a record of sufficient completeness for proper determination of the appeal.

28  
29 *(Subd (b) adopted effective March 1, 2014.)*

30  
31 *Rule 8.918 amended effective March 1, 2014; adopted effective January 1, 2009.*

32  
33 **Advisory Committee Comment**

34  
35 **Subdivision (b).** Both the United States Supreme Court and the California Supreme Court have  
36 held that, where the State has established a right to appeal, an indigent defendant convicted of a  
37 criminal offense has a constitutional right to a “record of sufficient completeness’ to permit  
38 proper consideration of [his] claims.” (*Mayer v. Chicago* (1971) 404 U.S. 189, 193–194; *March*  
39 *v. Municipal Court* (1972) 7 Cal.3d 422, 427–428.) The California Supreme Court has also held  
40 that an indigent appellant is denied his or her right under the Fourteenth Amendment to the  
41 competent assistance of counsel on appeal if counsel fails to obtain an appellate record adequate  
42 for consideration of appellant’s claims of errors (*People v. Barton* (1978) 21 Cal.3d 513, 518–  
43 520).

1  
2 The *Mayer* and *March* decisions make clear, however, that the constitutionally required “record  
3 of sufficient completeness” does not necessarily mean a complete verbatim transcript; other forms  
4 of the record, such as a statement on appeal or a partial transcript, may be sufficient. The record  
5 that is necessary depends on the grounds for the appeal in the particular case. Under these cases,  
6 where the grounds of appeal make out a colorable need for a complete transcript, the burden is on  
7 the State to show that only a portion of the transcript or an alternative form of the record will  
8 suffice for an effective appeal on those grounds. The burden of overcoming the need for a  
9 verbatim reporter’s transcript appears to be met where a verbatim recording of the proceedings is  
10 provided. (*Mayer, supra*, 404 U.S. at p. 195; cf. *Eyrich v. Mun. Court* (1985) 165 Cal.App.3d  
11 1138, 1140 [“Although use of a court reporter is one way of obtaining a verbatim record, it may  
12 also be acquired through an electronic recording when no court reporter is available.”].)

13  
14 Some courts have adopted local rules that establish procedures for determining whether only a  
15 portion of a verbatim transcript or an alternative form of the record will be sufficient for an  
16 effective appeal, including: (1) requiring the appellant to specify the points the appellant is raising  
17 on appeal; (2) requiring the appellant and respondent to meet and confer about the content and  
18 form of the record; and (3) holding a hearing on the content and form of the record. Local  
19 procedures can be tailored to reflect the methods available in a particular court for making a  
20 record of the trial court proceedings that is sufficient for an effective appeal.

21  
22 **Rule 8.919. Preparation of reporter’s transcript**

23  
24 **(a) When preparation begins**

25  
26 (1) Unless the court has adopted a local rule under rule 8.920(b) that provides  
27 otherwise, the reporter must immediately begin preparing the reporter’s  
28 transcript if the notice sent to the reporter by the clerk under rule 8.915(a)(3)  
29 indicates that the appellant is the People.

30  
31 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates  
32 that the appellant is the defendant:

33  
34 (A)–(B) \* \* \*

35  
36 (C) Within 10 days after the date the clerk mailed the notice under (B), the  
37 appellant must do one of the following:

38  
39 (i) \* \* \*

40  
41 (ii) File a waiver of the deposit signed by the reporter;  
42

1                   ~~(ii)~~(iii) File a declaration of indigency supported by evidence in the  
2                   form required by the Judicial Council; ~~or~~

3  
4                   (iv) File a certified transcript of all of the proceedings required to be  
5                   included in the reporter’s transcript under rule 8.918. The  
6                   transcript must comply with the format requirements of rule  
7                   8.144;

8  
9                   ~~(iv)~~(v) Notify the clerk by filing a new election that he or she will be  
10                   using a statement on appeal instead of a reporter’s transcript. The  
11                   appellant must prepare, serve, and file a proposed statement on  
12                   appeal within 20 days after serving and filing the notice and must  
13                   otherwise comply with the requirements for statements on appeal  
14                   under rule 8.916;

15  
16                   ~~(iii)~~(vi) Notify the clerk by filing a new election that he or she now  
17                   elects to proceed without a record of the oral proceedings in the  
18                   trial court; or

19  
20                   (vii) Notify the clerk that he or she is abandoning the appeal by filing  
21                   an abandonment in the reviewing court under rule 8.904.

22  
23                   (D) If the trial court determines that the appellant is not indigent, within 10  
24                   days after the date the clerk mails notice of this determination to the  
25                   appellant, the appellant must do one of the following:

26  
27                   (i) Deposit with the clerk an amount equal to the estimated cost of  
28                   preparing the transcript;

29  
30                   (ii) File with the clerk a waiver of the deposit signed by the reporter;

31  
32                   (iii) File a certified transcript of all of the proceedings required to be  
33                   included in the reporter’s transcript under rule 8.918. The  
34                   transcript must comply with the format requirements of rule  
35                   8.144;

36  
37                   (iv) Notify the clerk by filing a new election that he or she will be  
38                   using a statement on appeal instead of a reporter’s transcript. The  
39                   appellant must prepare, serve, and file a proposed statement on  
40                   appeal within 20 days after serving and filing the notice and must  
41                   otherwise comply with the requirements for statements on appeal  
42                   under rule 8.916;

43

1 (v) Notify the clerk by filing a new election that he or she now elects  
2 to proceed without a record of the oral proceedings in the trial  
3 court; or

4  
5 (vi) Notify the clerk that he or she is abandoning the appeal by filing  
6 an abandonment in the reviewing court under rule 8.904.

7  
8 ~~(D)~~(E) The clerk must promptly notify the reporter to begin preparing the  
9 transcript when:

10  
11 (i) The clerk receives the required deposit under (C)(i) or (D)(i); or

12  
13 (ii) The clerk receives a waiver of the deposit signed by the reporter  
14 under (C)(ii) or (D)(ii); or

15  
16 ~~(ii)~~(iii) \* \* \*

17  
18 *(Subd (a) amended effective March 1, 2014.)*

19  
20 **(b)–(c) \* \* \***

21  
22 **(d) When preparation must be completed**

23  
24 The reporter must deliver the original and all copies to the trial court clerk as soon  
25 as they are certified but no later than 20 days after the reporter is required to begin  
26 preparing the transcript under (a). Only the presiding judge of the appellate division  
27 or his or her designee may extend the time to prepare the reporter’s transcript (see  
28 rule 8.810).

29  
30 *(Subd (d) amended effective March 1, 2014.)*

31  
32 **(e) \* \* \***

33  
34 **(f) Notice when proceedings cannot be transcribed**

35  
36 (1) If any portion of the oral proceedings to be included in the reporter’s  
37 transcript was not reported or cannot be transcribed, the trial court clerk must  
38 so notify the parties by mail. The notice must:

39  
40 (A) Indicate whether the identified proceedings were officially  
41 electronically recorded under Government Code section 69957; and

42  
43 (B) Show the date it was mailed.



1  
2 (2) Within 15 days after this notice is mailed by the clerk, the appellant must  
3 serve and file a notice with the court stating whether the appellant elects to  
4 proceed with or without a record of the identified proceedings. When the  
5 party elects to proceed with a record of these oral proceedings:

6  
7 (A) If the clerk’s notice under (1) indicates that the proceedings were  
8 officially electronically recorded under Government Code section  
9 69957, the appellant’s notice must specify which form of the record  
10 listed in rule 8.915(a) other than a reporter’s transcript the appellant  
11 elects to use. The appellant must comply with the requirements  
12 applicable to the form of the record elected.

13  
14 (B) If the clerk’s notice under (1) indicates that the proceedings were not  
15 officially electronically recorded under Government Code section  
16 69957, the appellant must prepare, serve, and file a proposed statement  
17 on appeal within 20 days after serving and filing the notice.

18  
19 *(Subd (f) adopted effective March 1, 2014.)*

20  
21 *Rule 8.919 amended effective March 1, 2014; adopted effective January 1, 2009.*

22  
23 **Advisory Committee Comment**

24  
25 **Subdivision (a).** The appellant must use *Defendant’s Financial Statement on Eligibility for*  
26 *Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-  
27 210) to show indigency. This form is available at any courthouse or county law library or online  
28 at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

29  
30 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will  
31 purchase a reporter’s transcripts of all or part of the proceedings before any appeal is filed. In  
32 recognition of the fact that such transcripts may already have been purchased, this rule allows an  
33 appellant, in lieu of depositing funds for a reporter’s transcript, to deposit with the trial court a  
34 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and  
35 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a  
36 reporter’s transcript only where the certified transcript contains all of the proceedings required  
37 under rule 8.865 and the transcript complies with the format requirements of rule 8.144.

38  
39 **Rule 8.924. Failure to procure the record**

40  
41 **(a) Notice of default**

1 If a party fails to do any act required to procure the record, the trial court clerk must  
2 promptly notify that party by mail that it must do the act specified in the notice  
3 within 15 days after the notice is mailed and that, if it fails to comply, the  
4 reviewing court may impose the following sanctions:

5  
6 (1) If the defaulting party is the appellant, the court may dismiss the appeal or, if  
7 the default relates only to procurement of the record of the oral proceedings,  
8 may proceed on the clerk's transcript or other record of the written  
9 documents from the trial court proceedings; or

10  
11 (2) If the defaulting party is the respondent, the court may proceed with the  
12 appeal on the record designated by the appellant.

13  
14 **(b) Sanctions**

15  
16 If the party fails to take the action specified in a notice given under (a), the trial  
17 court clerk must promptly notify the appellate division of the default and the  
18 appellate division may impose the sanction specified in the notice. If the appellate  
19 division dismisses the appeal, it may vacate the dismissal for good cause. If the  
20 appellate division orders the appeal to proceed on the record designated by the  
21 appellant, the respondent may obtain relief from default under rule 8.812.

22  
23 *Rule 8.924 adopted effective March 1, 2014.*

24  
25 **Rule 8.927. Briefs**

26  
27 **(a) \* \* \***

28  
29 **(b) Failure to file a brief**

30  
31 (1) \* \* \*

32  
33 (2) ~~If the respondent is the defendant and the respondent~~ fails to timely file a  
34 brief, the appellate division clerk must promptly notify the respondent by  
35 mail that the brief must be filed within 20 days after the notice is mailed and  
36 that if the respondent fails to comply, the court will decide the appeal on the  
37 record, the appellant's opening brief, and any oral argument by the appellant.

38  
39 (3) \* \* \*

40  
41 *(Subd (b) amended effective March 1, 2014.)*

1 (c) \* \* \*

2

3 *Rule 8.927 amended effective March 1, 2014; adopted effective January 1, 2009.*

4

5 **Rule 8.928. Contents and form of briefs**

6

7 (a)–(b) \* \* \*

8

9 (c) **Form**

10

11 (1)–(3) \* \* \*

12

13 (4) Except as provided in (4011), the type size, including footnotes, must not be  
14 smaller than 13-point.

15

16 (5)–(11) \* \* \*

17

18 *(Subd (c) amended effective March 1, 2014; previously amended effective January 1,*  
19 *2013.)*

20

21 (d) \* \* \*

22

23 *Rule 8.928 amended effective March 1, 2014; adopted effective January 1, 2009; previously*  
24 *amended effective January 1, 2011, January 1, 2013, and January 1, 2014.*

25