

Rule 900. Juvenile Court Rules

The Superior Court of California, County of Orange adopts by reference the California Rules of Court and the Welfare and Institutions Code Sections pertaining to juveniles as its Rules of Court.

(Renumbered effective March 15, 1984)

Rule 906. Judicial Council Court-Appointed Special Advocate (CASA) Grant Program Guidelines

The Superior Court of California, County of Orange adopts by incorporation the Judicial Council Court-Appointed Special Advocate (CASA) Grant Program Guidelines which implement the requirements of Welfare and Institutions Code section 100, which establishes an optional, state-assisted program of court-appointed special advocates for children involved in juvenile dependency proceedings, including guardianships, adoptions, and actions to terminate parental rights to custody and control. Any grant funds received under the CASA Grant Program are to be administered in accordance with the CASA Grant Program Guidelines.

(Adopted effective July 1, 1991)

Rule 907. Attorneys Representing Parties in Dependency Proceedings

A. General Competency Requirement

All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies and attorneys appointed by the juvenile court to represent any party in a juvenile dependency proceeding.

B. Screening for Competency

1. Effective July 1, 1996, all attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Any attorney appearing in a dependency matter shall, within 10 days of his or her first appearance in dependency court, have on file with the administrative assistant of the juvenile court a Certificate of Competency.
2. Attorneys who meet the minimum standards of training and/or experience as set forth in Section C, as demonstrated by the information contained in the Certification of Competency submitted to the juvenile court, shall be

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deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision B.3 of this rule.

3. Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the presiding judge of the juvenile court may determine, based on conduct or performance of counsel before the juvenile court in a dependency case within the six month period prior to the submission of the Certification to the juvenile court, that a particular attorney does not meet minimum competency standards. In such case, the juvenile court shall proceed as set forth in Section E hereinafter.
4. If an attorney fails to complete such training, the presiding judge of the juvenile court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training.
5. In the case of an attorney who maintains his or her principle office outside of Orange County, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in Orange County.

C. Minimum Standards of Education and Training

1. Each attorney appearing in a dependency matter before the juvenile court shall not seek certification of competency and shall not be certified by the juvenile court as competent until the attorney has completed the following minimum training and educational requirements.
 - a. Prior to certification, the attorney shall have either:
 - (1) Participated in at least eight hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation and reasonable efforts, or
 - (2) At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the presiding judge

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of the juvenile court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

- b. In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the juvenile court shall submit a new Certificate of Competency to the administrative assistant of the juvenile court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach to the renewal Certificate of Competency evidence that he or she has completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider: a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is an MCLE provider, a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court sponsored or approved program will also fulfill this requirement.
- c. The attorney's continuing training or education shall be in the areas set forth in subdivision C.a.(1) of this rule, or in other areas related to juvenile dependency practice or including, but not limited to, special education, mental health, health care, immigration issues, the rules of evidence, adoption practices and parentage issues, the Uniform Child Custody Jurisdiction Act, the Parental Kidnaping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice and the rules of civil procedure.
- d. When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the presiding judge of the juvenile court shall notify the attorney that he or she will be decertified. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the presiding judge of the

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juvenile court shall order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training.

D. Standards of Representation

All attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

1. The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client, if four years of age or older, to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the juvenile court with respect to matters which are beyond the expertise of the attorney and/or the juvenile court; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the juvenile court.
2. The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts are unknown, or where the client is a child under the age of four years, this shall include a comprehensive interview with the client. If the client is a minor child who is placed locally out of the home, in addition to interviewing the child, the attorney shall also interview the child's caretaker. The attorney or the attorney's agent shall make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or the attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing.
3. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for a hearing and of the necessity for adhering to juvenile court mandated time limits.
4. The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the juvenile court, to explore ways to resolve disputed matters without contested hearing if it is possible to do so in a

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way which is consistent with the client’s interests, and to comply with local rules and procedures as well as with statutorily mandated timelines.

E. Procedures for Reviewing and Resolving Complaints

1. Any party to a dependency proceeding may lodge a written complaint with the presiding judge of the juvenile court concerning appointed counsel in a dependency proceeding. In the case of such a complaint concerning an attorney appointed to represent a minor, the complaint may be lodged on the child’s behalf by the social worker, a caretaker relative or a foster parent.
2. Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints. The notice shall be given to the client within 10 days of the attorney’s appointment to represent the client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the presiding judge of the juvenile court within 10 days of a request therefore from the juvenile court. In the case of a minor client, the notice shall be mailed or given to the current caretaker of the child. If the minor is 12 years of age or older, a copy of the notice shall also be sent or given to the minor.
3. If the complaint is lodged during or within 10 days prior to any pending hearing, the presiding judge of the juvenile court, or designee, shall hear the complaint at the hearing in which the complaint is lodged or at the first hearing after the complaint is lodged.
4. If the complaint is lodged more than 10 days prior to any pending hearing, the presiding judge of the juvenile court, or designee, shall, within 10 days of its receipt, determine whether the complaint presents reasonable cause to believe the attorney failed to act competently or has violated local court rules. If the presiding judge of the juvenile court, or designee, finds reasonable cause exists, the court shall set the matter for hearing within a reasonable time. Notice of the hearing shall be served by the clerk of the court at least 10 days prior to the time appointed for the hearing. In cases where service of the notice of hearing is by mail, service shall be governed by the provisions of sections 1013 and 1013 (a) of the Code of Civil Procedure.
5. In all cases, the court shall provide counsel a copy of the complaint as soon as practicable after its receipt. Counsel may submit a written response to any complaint filed. And in any case, the parties to a complaint shall be permitted to present evidence or argument at any hearing provided under this subsection.

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6. If, after the hearing, the court finds the attorney violated local court rules, the presiding judge, or designee, may reprove the attorney, either privately or publicly, and may, in case of willful or egregious violations of the local rules, issue such reasonable sanctions against the attorney as the court may deem appropriate.
7. If, after the hearing, the court finds that the attorney acted incompetently, the presiding judge, or designee, may order that the attorney practice under the supervision of a mentor attorney for a period of at least six months, that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney's incompetence caused actual harm to his or her client, the presiding judge, or designee, shall order that competent counsel be substituted for the attorney found to have been incompetent and may, in the discretion of the presiding judge, refer the matter to the State Bar of California for further action.
8. A hearing under this subsection may be continued by the court upon a showing of good cause.

F. Procedures for Informing the Court of the Interests of a Dependent Child

1. At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right requiring further investigation, intervention, or litigation which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest requiring further investigation, intervention, or litigation, which needs to be protected or pursued in another judicial or administrative forum, counsel for the minor shall notify the court of such right or interest requiring further investigation, intervention, or litigation as soon as it is reasonably possible for counsel to do so.
2. Notice to the court may be given by the filing of an application, petition, motion or declaration. In any case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there.
3. If the person filing the notice is the counsel for the minor, the motion shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that agency or court may be necessary or appropriate, whether the

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appointment of a guardian ad litem may be necessary to initiate or pursue the proposed action, whether joinder of an administrative agency to the juvenile court proceedings pursuant to Welfare and Institutions Code section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

4. If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, the notice shall so state.
5. The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.
6. If the court determines that further action on behalf of the child is required, the court shall do one or more of the following:
 - a. Authorize the minor's attorney to pursue the matter on the child's behalf;
 - b. Appoint an attorney for the child if the child is unrepresented. Any appointment under this subsection may be terminated for good cause. Attorney's fees for representation of a child's interests beyond the scope of dependency proceedings shall be subject to the approval of the presiding judge of the juvenile court. However, when attorney's fees are to be paid to a minor under circumstances described in Probate Code 3600, the approval of such fees shall be in accordance with the provisions of Probate Code section 3601.
 - c. Notice a joinder hearing pursuant to WIC 362 compelling the responsible agency to report to the court with respect to whether it has carried out its statutory duties with respect to the child;
 - d. Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);
 - e. Take any other action the court may deem necessary or appropriate to protect the welfare, interests and rights of the child.

G. Appointment for Parents

The juvenile court shall appoint the Public Defender to represent parents and guardians who qualify for appointed counsel as provided by Welfare and Institutions Code section 317(b). However, should a bench officer determine, after consultation with the Supervising Attorney of the Juvenile Court Office of the Public Defender, that there is legal cause not to appoint the Public Defender, the Juvenile Court Presiding Judge shall

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be so advised. The Juvenile Court Presiding Judge shall make the final determination as to whether such legal cause exists and state the reasons therefore on the record.

1. Parents and guardians seeking appointed counsel shall make either an oral or written request.
2. Notification of the appointment shall be made telephonically by the courtroom clerk.
3. A copy of the appointment minute order shall be forwarded to the Office of the Public Defender within 24 hours of the hearing.

H. Appointment for Children

The juvenile court has entered into a contractual agreement for the representation of dependent minors. The juvenile court shall appoint the attorneys holding this contractual agreement to represent all minors whom the juvenile court determines would benefit from the appointment of counsel as provided by Welfare and Institutions Code section 317 (c).

1. Notification of the appointment shall be made telephonically by the courtroom clerk.
2. A copy of the appointment minute order shall be forwarded to the attorney within 24 hours of the hearing.
3. The attorney for a minor must have a caseload that allows the attorney to perform the duties required by Welfare and Institutions Code section 317(e) and this rule and to otherwise adequately counsel and represent the child. To enhance the quality of representation afforded to children, attorneys appointed under this rule must not maintain a maximum full-time caseload that is greater than that which allows them to meet requirements set forth in C. and D.

I. Conflicts

1. The juvenile court has entered into a primary contractual agreement and a secondary contractual agreement for attorney representation of parents or guardians of dependent children. In the event the Public Defender declares a conflict in the representation of a parent or guardian, the court shall first appoint the primary attorney provider. In the event the primary attorney provider declares a conflict in the representation of a parent or guardian, the court shall appoint the secondary attorney provider. In the event that the secondary contract attorney provider declares a conflict, the court shall appoint an attorney from the juvenile court panel of attorneys.

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- a. Notification of the appointment shall be made telephonically by the courtroom clerk.
 - b. A copy of the appointment minute order shall be forwarded to the attorney within 24 hours of the hearing.
2. In the event the contract attorney declares a conflict in the representation of a minor, the court shall appoint an attorney from the juvenile court panel of attorneys.
- a. Notification of the appointment shall be made telephonically by the courtroom clerk.
 - b. A copy of the appointment minute order shall be forwarded to the attorney within 24 hours of the hearing.

J. Dependency Timelines

Attorneys for the parties are required to adhere to the statutory timelines for all hearings. Except as provided by Welfare and Institutions Code section 322 and California Rules of Court, rule 5.668, time waivers will be accepted and continuances granted only on a showing of good cause and in accordance with the provisions of Welfare and Institutions Code sections 352, 354, 358 and California Rules of Court, rule 5.686.

K. Adoption Procedures

The petition for the adoption of a dependent child who has been freed for adoption by the Orange County Juvenile Court may be filed in the Orange County Juvenile Court. When filed in the Orange County Juvenile Court, the petition shall be completed on Judicial Council form Adoption Request (ADOPT-200) and shall be verified.

A petitioner seeking to adopt an Indian child shall also complete Judicial Council form Adoption Proceedings for a Possible Indian Child (ADOPT-226).

The juvenile court shall not hear or consider the adoption petition until the time for appeal has expired.

(Adopted July 1, 1996; revised eff. January 1, 1997; revised eff. January 1, 1998; revised eff. January 1, 2003; revised eff. January 1, 2007)

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SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE COUNTY
JUVENILE DIVISION
CERTIFICATION OF COMPETENCY

I, _____,
(full name)

(office address)
(_____) _____,
(telephone number)

am an attorney at law licensed to practice in the State of California. My State Bar Number is _____. I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of Court, rule 5.660, and local rule _____, and that I have completed the minimum requirements for training, education and/or experience as set forth below.

Training and Education: (Attach copies of MCLE certificates or other documentation of attendance)

<u>Course Title</u>	<u>Date Completed</u>	<u>Hours</u>	<u>Provider</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Juvenile Dependency Experience:

<u>Case Number</u>	<u>Number of Contested Hearings</u>	<u>Date of Last Appearance</u>	<u>Party Represented</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Date

Signature