

Title 5. Family and Juvenile Rules

Rule 5.1. Title

The rules in this title may be referred to as the Local Family and Juvenile Rules.

Rule 5.1 adopted effective January 1, 2008.

Division 1. Family Rules

Chapter 1. General Provisions

Rule 5.5. Division title

The rules in this division may be referred to as the Local Family Rules.

Rule 5.5 adopted effective January 1, 2008.

Rule 5.10. Office of the Family Law Facilitator

In addition to the services and duties the family law facilitator must perform to comply with the requirements of state law, the family law facilitator will also perform the services set out in Family Code section 10005, consistent with funding restrictions and priorities for service that are periodically set by the court.

Rule 5.10 amended and renumbered effective January 1, 2008; adopted as rule 11.11 effective May 19, 1998; previously amended effective January 1, 2004.

Rule 5.15. Declaration of notice on application for emergency orders

Parties may use the *Declaration Regarding Notice of Application for Emergency Order* (Local Form ALA FL-010) to provide the required declaration regarding notice of an application for emergency orders.

Rule 5.15 amended effective January 1, 2013; adopted as rule 11.0.1 effective May 19, 1998; previously amended effective July 1, 1999, January 1, 2004, July 1, 2004, January 1, 2006, and January 1, 2007; previously amended and renumbered effective January 1, 2008; previously amended January 1, 2009.

Rule 5.17. Service of notice of initial status conference

The court may issue a notice of initial status conference in a dissolution, legal separation, nullity, or parentage action. If a response to the petition has not been served when the notice of initial status conference is issued, the petitioner must serve a copy of the notice on respondent.

Rule 5.17 amended effective January 1, 2016; adopted effective January 1, 2012.

Rule 5.20. Child visitation by a nonprofessional supervisor

In any proceeding in which a party seeks an order that child visitation be supervised by a nonprofessional supervisor, the party must provide a copy of the *Guidelines for Child Visitation Supervision (Local Form ALA FL-015-INFO)* to the proposed supervisor(s) and thereafter file an *Agreement For Child Visitation Supervision (Local Form ALA FL-015)* signed by the nonprofessional supervisor(s) before any visit occurs.

Rule 5.20 amended effective January 1, 2009; adopted effective January 1, 2008.

Rule 5.25. Requests to set settlement conferences and trial dates

(a) Request for trial or settlement conference

Either party may request the court set a trial date or settlement conference date by (1) making the request at a status conference or case resolution conference, or (2) serving and filing a *Request for Case Resolution Conference* (form ALA FL-050).

(b) Stipulation for voluntary settlement conference

The parties may request a settlement conference for the entire matter or for bifurcated issues ready for a settlement conference. If the court grants the request, the court will notify the parties of the date, time, and place of the voluntary settlement conference. The parties must use the *Stipulation and Order for Voluntary Settlement Conference* (form ALA FL-045).

Rule 5.25 amended effective January 1, 2016; adopted as rules 11.0.4 and 11.0.5 effective May 19, 1998; previously amended effective January 1, 2004; previously amended and renumbered to Rule 5.25 effective January 1, 2008; previously amended effective January 1, 2012.

Rule 5.30. Motions and hearings

(a) Duty to meet and confer

- (1) Before court hearing on a request for order, order to show cause, or motion

Unless the court orders another time period, no later than five days before a hearing on a request for order, order to show cause, or motion, the parties must meet and confer, in person or by telephone, to discuss all pending issues and, to the extent not previously served and filed, exchange all documents and information relevant to such issues.

(2) Before settlement conference or trial

Unless the court orders another time period, no later than five days before a settlement conference or trial, the parties must meet and confer, in person or by telephone, to discuss all pending issues and, to the extent not previously served and filed, must exchange all documents and information relevant to such issues.

(b) Attaching order or judgment if modification is requested

In any proceeding to modify or enforce an existing order or judgment, a copy of the order or judgment must be attached to the moving papers. Any order or judgment required by this rule that is not attached to the moving papers must be attached to the responsive papers.

(c) Declaration of unresolved issues required

If a hearing on a request for order, order to show cause, or motion is continued for more than 60 days, each party must serve and file a declaration setting forth the issues that remain unresolved. Parties must use the *Summary of Contested and Resolved Issues (Local Form ALA FL-030)* for this purpose.

(d) No appearance on application for emergency orders

No personal appearance is permitted or required on presentation of an application for emergency orders, unless otherwise ordered by the court.

Rule 5.30 amended effective January 1, 2013; adopted effective January 1, 2008; previously amended January 1, 2012.

Rule 5.35. Requests to continue or drop a short-cause hearing, family law status conference, or a family centered case resolution conference

An application requesting that a hearing on a request for order that is set on the court's short-cause calendar or a family law status conference or family centered case resolution conference be continued or dropped may be made by submitting a written stipulation between the parties making the request. The signed stipulation must be filed five court days prior to the date scheduled for the hearing or conference. The parties must use the *Application and Order for Continuance of Hearing, Status Conference, or Case Resolution Conference (Local Form ALA FL-035)* form to submit this request.

Rule 5.35 amended effective July 1, 2014; adopted effective January 1, 2008; previously amended effective January 1, 2012.

Rule 5.37. Application and Order for Telephone Appearance

(a) Application

This rule applies to all family law cases, including those brought under the Domestic Violence Prevention Act, except Title IV-D child support hearings and conferences.

(b) General provision regarding telephone appearance at family law status conferences, family centered case resolution conferences, and hearings to review the dismissal of an action

Telephone appearances by a party or an attorney for a party may be authorized for appearances at family law status conferences, family centered case resolution conferences, and hearings to review the dismissal of an action.

(c) Required personal appearances

A personal appearance is required for hearings, conferences, and proceedings not listed in subsection (b), including the following:

- (1) Trials and hearings at which witnesses are expected to testify;
- (2) Settlement conferences, whether mandatory or voluntary;
- (3) Hearings on motions in limine;
- (4) Hearings on an order to show cause why sanctions should not be imposed for violation of a court order or rule, provided that the personal appearance is required only of the person to whom the order is directed;
- (5) Persons ordered to appear in any order or citation issued under the Probate Code.

(d) Court discretion to deny or grant an individual request

Notwithstanding the provisions of subsections (b) and (c) above, the court may deny or grant a request to appear by telephone if the court determines that it is appropriate to do so in an individual case.

(e) Need for personal appearance

If, at any time during a hearing, conference, or proceedings conducted while any person is appearing by telephone, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(f) Notice by party

- (1) A party or attorney who wishes to appear by telephone at a family law proceeding must file and serve an *Application and Order for*

Telephone Appearance (ALA FL-037) at least 12 court days before the date set for the proceedings.

- (2) Service of the *Application and Order for Telephone Appearance (ALA FL-037)* must be made by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.
- (3) If, after receiving notice from another party or attorney provided under subsection (1), a party or attorney that has not given notice also decides to request authorization to appear by telephone, that party must file and serve an *Application and Order for Telephone Appearance (ALA FL-037)* no later than noon on the court day before the conference or hearing. Service of the *Application and Order for Telephone Appearance (ALA FL-037)* must be made by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(g) Response to notice

- (1) If, after receiving notice from another party or attorney provided under subsection (1), a party or attorney that has not given notice also decides to request authorization to appear by telephone, that party must file and serve an *Application and Order for Telephone Appearance (ALA FL-037)* no later than noon on the court day before the conference or hearing. Service of the *Application and Order for Telephone Appearance (ALA FL-037)* must be made by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.
- (2) If, after receiving notice from another party or attorney provided under subsection (1), a party or attorney that has not given notice objects to the request, that party must file and serve an objection to the request. The objection may be filed by using pleading paper or the Judicial Council form MC-030 and must be labeled Objection to Application and Order for Telephone Appearance. Any objection must state the reasons for objecting to the requested telephone appearance. An objection must be filed and served at least seven court days before the date set for the proceedings.

(h) Provision of telephone appearance services

The provisions for telephone appearances that apply to general civil actions, including provisions concerning the method, fees to appear by

telephone and collection of those fees, effect of fee waivers, audibility procedures, reporting of proceedings during which a party or attorney appears by telephone, apply to telephone appearances in family law matters.

Rule 5.37 adopted effective January 1, 2013.

Rule 5.40. Requests to continue settlement conferences, long-cause hearings, and trials

Settlement conferences, long-cause hearings, and trials may only be continued upon approval of the court assigned to conduct the settlement conference, long-cause hearing, or trial. The parties must use the *Joint Application and Order for Continuance of Settlement Conference, Long Cause Hearing, or Trial (Local Form ALA FL-055)* form to make this request if it is a joint application for continuance.

Rule 5.40 amended effective October 1, 2014; adopted effective January 1, 2008; previously amended effective January 1, 2012.

Rule 5.45. Conduct of status, case resolution, and settlement conferences

Unless otherwise ordered by the court, the following provisions apply to all status, case resolution, and settlement conferences held in family law cases.

(a) Status and case resolution conferences

(1) Status conferences. Fifteen days before any status conference, each party must file and serve a description of the current status of the case. The parties must use the *Status Conference Questionnaire* (form ALA FL-040) form for this purpose unless the court has ordered that the party file a *Case Management Conference Questionnaire* (form ALA FL-041).

(2) Case resolution conferences. Fifteen days before any case resolution conference, each party must file and serve a description of the current status of the case. The parties must use the *Case Management Conference Questionnaire* (form ALA FL-041).

(b) Settlement conference (voluntary and mandatory)

At least fifteen days before any settlement conference, all attorneys and all parties must conduct a face to face meeting to confer in good faith in an effort to settle all issues in the case. This meeting must be scheduled by counsel or self-represented parties at the time the settlement

conference is set to assure that the meeting takes place in a timely manner. If a restraining order prohibits face to face contact between the parties, the parties may attend the meeting by telephone or in separate locations. At least ten days before any settlement conference, each party must provide the other party a written offer of sufficient specificity to be enforceable that, if accepted, would resolve all issues remaining in dispute; a copy of this offer must be brought to the settlement conference. At least five days before any settlement conference, each party must serve and file a settlement conference statement that must contain the information set forth below:

- (1) A summary of all contested and uncontested issues, including a brief description of the terms of any stipulations, agreements, or settlements.
- (2) A statement describing all efforts made by the parties prior to the settlement conference to settle the remaining contested issues, including a summary of the face to face settlement meeting or a detailed statement indicating why the face to face meeting did not occur.
- (3) **Statistical facts:**
 - (a) Date of marriage or registration of domestic partnership; date of separation; length of marriage or partnership in years and months.
 - (b) Names and ages of minor children.
 - (c) Ages of parties.
 - (d) Disputed issues as to statistical facts.
 - (e) All material facts upon which a party relies regarding any disputed issues as to statistical facts.
- (4) **Child custody and visitation:**
 - (a) Terms of existing custody and visitation orders and agreements.
 - (b) A detailed proposal for custody and visitation orders and all material facts in support of the proposal.
- (5) **Child support:**
 - (a) Terms of existing child support orders and agreements.

- (b) Proposal for child support orders.
- (c) All material facts in support of any special circumstances regarding income, expenses, ability to earn, or other facts relevant to child support.
- (d) A DissoMaster or other approved printout setting forth all proposed findings regarding child support.

(6) Spousal support:

- (a) Terms of existing spousal support orders.
- (b) Proposal for spousal support orders.
- (c) A full item-by-item analysis of all material facts as they relate to the factors set forth in Family Code section 4320.
- (d) A DissoMaster or other approved printout showing the tax consequences of the party's proposed spousal support order.

(7) Contested assets:

- (a) The date the asset was acquired.
- (b) The manner in which title of the asset is currently vested and, if different, was vested at time of acquisition.
- (c) The character of the asset as community, separate, or quasi-community property, or a combination thereof.
- (d) All material facts in support of the party's characterization of the asset.
- (e) The current fair market value, the nature, extent, and terms of any encumbrances against the asset, and the current net equity in the asset.
- (f) A complete statement setting forth the factual and legal basis for apportionment or reimbursement, the formula for apportionment or reimbursement, and the calculated value of each party's community and separate interests in the asset.

(8) Debts or obligations:

- (a) A list of all debts or obligations of the parties that are claimed to be community liabilities or separate liabilities of the parties

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with a description of all facts and legal authority that support the claim that each such debt or obligation is community or separate.

- (b) For each such debt or obligation, the name of the creditor, the balance due on the date of separation, the current balance due, and the nature, extent, and terms of any security for the debt.
 - (c) If there is a claim for reimbursement, the name of the creditor, the total amount paid on the debt, and the date and source of each payment for which reimbursement is sought.
 - (d) A summary of existing orders regarding payment of debts or obligations and reimbursement thereof.
- (9) Attorney's fees, expert's fees, and costs:**
- (a) A summary of existing orders.
 - (b) A list of all amounts paid by each party on account of the other party's attorney's fees, expert's fees, and costs, and the balance due, if any.
 - (c) A list of all amounts paid by each party on account of his or her own attorney's fees, expert's fees, and costs, and the balance due, if any.
- (10) Documents, schedules, summaries, appraisals, and expert reports:**
- (a) Copies of all appraisals and reports of experts that will or may be offered at trial.
 - (b) A list with a description and summary of the contents of all documents, schedules, and summaries that will or may be offered at trial with copies attached if relevant to any significant contested issues.
 - (c) The name, business address, and telephone number of any expert witness whom a party intends to call as a trial witness, with a brief statement setting forth the substance of the expert's testimony.
- (11) Other witnesses:**

The name, address, and telephone number of any non-expert witness, other than the parties, whom a party intends to call as a

trial witness, and a brief summary of the anticipated testimony of the witness.

(12) Points and authorities:

All points and authorities and legal argument upon which a party intends to rely must be set forth in the appropriate section of the settlement conference statement.

(13) Income and expense declaration:

A current Income and Expense Declaration on the appropriate Judicial Council form, with all required attachments, must be filed with the settlement conference statement if financial issues are relevant to any contested issue. A party may not rely on a previously filed Income and Expense Declaration.

(14) Schedule of Assets and Debts:

A current Schedule of Assets and Debts on the appropriate Judicial Council form, with all required attachments, must be brought to the settlement conference. A party may not rely on a previously filed Schedule of Assets and Debts.

(15) Settlement proposals:

Each party must bring to the settlement conference a written offer that would settle all issues remaining in dispute. The parties may request that such written offers be held in confidence by the court.

(c) Consequences of noncompliance

In the discretion of the trial judge, the consequences of noncompliance with this rule may include imposition of any sanction or order authorized by law including, without limitation, restricting evidence, continuing the trial, excluding an exhibit, precluding the testimony of a witness, or imposing monetary sanctions.

Rule 5.45 amended effective January 1, 2016; adopted effective January 1, 2008; previously amended effective July 1, 2014, July 1, 2009, January 1, 2012, and January 1, 2015.

Rule 5.50. Conduct of trials

Unless otherwise ordered, the local civil rules governing the conduct of trials will

apply to any issue set for trial or for a hearing of longer than one hour.

Rule 5.50 adopted effective January 1, 2008.

Rule 5.60. Preparation of orders after hearing [Repealed]

Rule 5.60 repealed effective January 1, 2012; adopted effective January 1, 2008.

Rule 5.65. Attorney's fees and expert's fees [Repealed]

Rule 5.65 repealed effective January 1, 2012; adopted as rule 11.0.8.C effective May 19, 1998; previously amended effective July 1, 1999, January 1, 2004, July 1, 2004, January 1, 2006, and January 1, 2007; previously amended and renumbered to Rule 5.65 effective January 1, 2008.

Rule 5.70. Guideline for spousal or partner support

The following discretionary guideline is adopted for temporary spousal support or partner support in marital and domestic partnership dissolution cases.

(a) Non-child support cases

In cases where there is no child support, the guideline spousal or partner support is 40% of the net income of the payor or minus 50% of the net income of the payee.

(b) Child support cases

In cases where there is to be child support, the guideline spousal or partner support uses the components set forth in Family Code sections 4055 through 4069 in the following formula:

$$SS = [HN-(HN) (M) (K) (1+H \%)] [.35] - [LN-(LN) (M) (K) (1+H \%)] [.4]$$

(If H% is greater than 50%, use 2-H% instead of 1+H%)
(M = Fam. Code §4055(b)(4) child multiplier.)

(c) Adjustment for tax consequences

In domestic partnership cases, the court will adjust the formula to account for tax treatment under state and federal laws if necessary.

Rule 5.70 amended and renumbered effective January 1, 2008; adopted as rule 11.2 effective May 19, 1998;

Rule 5.71. Marital settlement agreements

A marital settlement agreement that is incorporated by reference in a proposed judgment must be physically attached to the judgment.

Rule 5.71 adopted effective January 1, 2015.

Rule 5.72. Judgments involving child custody, child support, or spousal support

Judgments involving child custody, child support, or spousal support must set forth all terms in full. Judgments involving child or spousal support must include the commencement and termination dates.

Use of the *Child Support Information and Order Attachment* (form FL-342) is mandatory.

A calculation of guideline child support must be attached to form FL-342 unless the form FL-342 sets out the inputs used in making the guideline calculation. Use of the *Non-Guideline Child Support Findings Attachment* (form FL-342(A)) is mandatory where the judgment will include child support that deviates from the guideline calculation under Family Code § 4050, et seq.

The Court encourages use of other applicable Judicial Council Family Law forms in proposed judgments.

Rule 5.72 amended effective January 1, 2016; adopted effective July 1, 2010.

Rule 5.73. Submission of earning assignment orders

A copy of the judgment or order for child, partner, spousal, or family support must be submitted with any proposed earning assignment order.

Rule 5.73 adopted effective January 1, 2015.

Rule 5.75. Child custody recommending counseling

(a) Complaints regarding child custody recommending counselors

- (1) A person having a complaint regarding the professional conduct of a child custody recommending counselor may make the complaint orally or in writing with the Family Court Services Program Supervisor no later than 20 days after discovering the conduct giving rise to the complaint. The program supervisor will review the matter, confer with the child custody recommending counselor, and resolve the complaint directly with the person making the complaint.

- (2) If the person making the complaint is not satisfied with the response of the Family Court Services Program Supervisor, he or she may appeal the program supervisor's action in writing to the Bureau Chief of the Families & Children's Bureau within 30 days after receipt of the program supervisor's response. The Bureau Chief will acknowledge receipt of the appeal to the person who made the complaint in writing. The Bureau Chief may refer the complaint to an internal committee for review and recommendation or respond to the appeal without such referral. The response of the Bureau Chief on appeal will be provided to the person making the complaint in writing.
- (3) If the person making the complaint is not satisfied with the response of the Bureau Chief, he or she may appeal in writing to the Court Executive Officer within 30 days of receiving the response from the bureau chief. The action of the Court Executive Officer on the appeal will be provided to the person making the complaint in writing and will be final.

(b) Ex parte communications with child custody recommending counselors

There must be no ex parte communications between any court appointed child custody recommending counselor and any attorney or party involved in the case except as provided in Family Code section 216. No attorney or party to the action may provide the child custody recommending counselor with documents about the case without first giving the other party, and minor's counsel if any, a copy of the documents.

Rule 5.75 amended effective January 1, 2012; adopted as rules 11.3.4 and 11.4.7 effective May 19, 1998; previously amended effective January 1, 2004, July 1, 2006, and January 1, 2007; previously amended and renumbered to Rule 5.75 effective January 1, 2008.

Rule 5.80. Child custody evaluation

(a) Challenge of the evaluator

No peremptory challenge of a child custody evaluator appointed by the court is permitted.

(b) Withdrawal by evaluator

An evaluator may make application to the court for an order permitting the evaluator to withdraw from a case by noticed motion and may submit an

ex parte application for an order shortening time for the service and hearing of such a motion.

(c) Complaints about evaluator performance

- (1) For purposes of this process, "action" means the family law proceeding wherein the evaluator was appointed by the court.
- (2) A party to the action, including a guardian ad litem, and any counsel appointed to represent a minor may file a complaint about the performance of an evaluator.
- (3) A party who wishes to complain about the performance of an evaluator must do so in writing and serve the original of the complaint on the evaluator no later than 20 days after the event giving rise to the complaint or within 20 days of receipt of the evaluator's report, whichever is later.
- (4) No later than ten court days after the receipt of a complaint, the evaluator must serve the complainant with a written response to the complaint. Without conceding the accuracy of the contents of the complaint, an evaluator may ask the court to relieve him or her of the appointment and, if appropriate, appoint another evaluator.
- (5) If the response served by the evaluator does not resolve the complaint, the complainant must serve a copy of the complaint and the response of the evaluator, if any, on the presiding judge for family law matters whose decision concerning the complaint, which may include removing the evaluator from the panel of child custody evaluators used by the court, will be final.

(d) Confidentiality of reports

In any proceeding involving the custody or visitation of minor children, any written report or recommendation must be marked and kept confidential and unavailable to any person except the court, minor's counsel, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has gained access to this type of a confidential report may make copies of it or disclose its contents to any child or any other third party absent an order that provides for disclosure.

(e) Ex parte communications with evaluators

There must be no ex parte communications between the court appointed child custody evaluator and any attorney or party involved in the case except as provided in Family Code section 216. No attorney or party to the

action may provide the evaluator with documents about the case without first giving the other party, and minor's counsel if any, a copy of the documents. Nothing in this rule prohibits the evaluator from contacting any person the evaluator determines is necessary to consult in order to complete the report.

Rule 5.80 amended and renumbered effective January 1, 2008; adopted as rules 11.4 and 11.6 effective May 19, 1998; previously amended effective January 1, 2004, July 1, 2006, and January 1, 2007.

Rule 5.82. Complaints regarding court-appointed counsel for a child

In a family law proceeding in which the court has appointed counsel for a minor child or children, any party or counsel or minor child may present a complaint about the performance of appointed counsel. The complaint must be in writing and served on all counsel and self-represented parties, and the original complaint must be delivered to the courtroom clerk for the presiding judge of family law with a copy delivered to the courtroom clerk of the assigned bench officer in the case. The presiding judge of family law may refer the complaint to the assigned bench officer or handle the matter directly and may do any or all of the following:

- (1) Respond to the complaint;
- (2) Request a written response or written comments;
- (3) Investigate the complaint; or,
- (4) Set a hearing on the complaint.

A written response will be provided to the person presenting the complaint and all counsel and self-represented parties, with a copy sent to the assigned bench officer in the case. All material reviewed in connection with responding to the complaint shall be maintained by the court in accordance with the court's record retention policy.

Rule 5.82 adopted effective July 1, 2010.

Rule 5.85. Private mediation by stipulation

A stipulation for appointment of a private recommending mediator may be made by submission of the *Stipulation and Order Appointing Private Child Custody Recommending Mediator (Local Form ALA FL-002)*.

Rule 5.85 adopted effective January 1, 2008.

Rule 5.95. Title IV-D commissioners

All Title IV-D cases will be heard in the George E. McDonald Hall of Justice or the Hayward Hall of Justice. Cases originating in the Gale/Schenone Courthouse will be assigned to a commissioner sitting in the Hayward Hall of Justice for all purposes so long as the Department of Child Support Services is engaged in an enforcement action.

Rule 5.95 amended effective January 1, 2012; adopted as rule 11.10 effective May 19, 1998; previously amended effective January 1, 2004; previously amended and renumbered to Rule 5.95 effective January 1, 2008.

Rule 5.100. Sanctions

Any party or attorney who fails to comply with the provisions of this chapter or who fails to make a timely appearance at any hearing, conference, or trial, is subject to the imposition of sanctions against that party or attorney, including but not limited to summary determination of any contested issues in accordance with the other party's papers, the assessment of attorney's fees and costs, or the taking of appropriate calendar action.

Rule 5.100 amended and renumbered effective January 1, 2008; adopted as rule 11.7 effective May 19, 1998.

Division 2. Juvenile Rules

Chapter 1. General Provisions

Rule 5.501. Division title

The rules in this division may be referred to as the Local Juvenile Rules.

Rule 5.501 adopted effective January 1, 2008.

Rule 5.502. Juvenile court administration

(a) Commissioner deemed juvenile court temporary judge

Whenever a commissioner presides over a juvenile court hearing, that commissioner, unless otherwise expressly specified and without further order of the court, shall act as a temporary judge with respect to any and all dependency actions, causes, or proceedings.

(b) Juvenile court committees

With the prior approval of the presiding judge, the presiding judge of the juvenile court may authorize and establish such informal committees

related to juvenile court work and activities as the presiding judge deems appropriate.

Rule 5.502 amended effective January 1, 2011; adopted as rule 10.1.1 effective January 1, 2004; previously amended January 1, 2006, and January 1, 2007; previously amended and renumbered effective January 1, 2008.

Rule 5.503. Filing reports

(a) Time for filing

Detention reports and uncontested jurisdictional hearing reports will be considered timely if filed on the day of such hearing.

(b) Additional judge's copy required for next-day hearings

Whenever any report, pleading, or other paper is filed in connection with a hearing scheduled for two or fewer days from the date of filing, the party must file the original and an additional judge's copy of the document in the department where the matter is scheduled to be heard.

Rule 5.503 amended and renumbered effective January 1, 2008; adopted as rule 10.1.2 effective January 1, 2004.

Rule 5.504. Calendaring and continuances

(a) Setting matters

No matter may be set for a certain date without the prior approval of the judge in the department.

(b) Continuances

A request for continuance may be submitted on the local form adopted for that purpose, *Application and Order to Change or Add a Juvenile Court Date (Local Form ALA JV-001)*. The matter is not continued unless the order granting a continuance is filed.

Rule 5.504 amended and renumbered effective January 1, 2008; adopted as rule 10.1.3 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.505. Required attendance at hearings

All parties and attorneys must attend each scheduled hearing unless excused by the court. However, unless the court directs a party or attorney to appear, parties and attorneys are excused from attending placement reviews and dismissals.

Rule 5.505 amended and renumbered effective January 1, 2008; adopted as rule 10.1.4 effective January 1, 2004.

Rule 5.506. Discovery

(a) Mandatory disclosure

All discoverable material specified in California Rules of Court, rule 5.546(d) must be disclosed to all parties, without the need for an informal request, no later than five court days before any contested hearing.

(b) Meet and confer required before discovery motion may be filed

Attorneys must meet and confer and attempt to resolve all discovery disputes informally. A party may file a discovery motion only after all informal means have been exhausted. Any noticed discovery motion shall state the relevancy of the information sought and the reasons the informal discussions have been unsuccessful in securing the information. The motion shall be served on all parties no less than five court days before the date set for hearing the discovery motion. The hearing date shall have been previously approved and reserved by the department where the matter is to be heard. Responsive papers shall be filed and served no less than two court days prior to the hearing.

Rule 5.506 amended and renumbered effective January 1, 2008; adopted as rule 10.1.5 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.507. Ex parte requests for orders

(a) Ex parte requests for orders other than orders for psychotropic medications

The following procedure must be followed in making any request for an order other than an order for psychotropic medications.

- (1) Before submitting a request for an ex parte order to the court for consideration, the applicant must give prior notice of the request to all counsel, parties, child welfare workers, and probation officers. The Social Services Agency shall continue to use its standard ex parte forms. Notice shall be given at least 24 hours before the application is submitted to the court. The court may waive notice only upon a showing of good cause that is set forth by clear facts in a supporting declaration. An ex parte application lacking a statement explaining whether the parties were notified will be summarily denied.
- (2) The request must include the following information:

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- (A) A description of the efforts made to obtain the consent of or to give notice to the parties, the parents or legal guardians of the minor, and their attorneys of record or a statement indicating the reasons why said consent or notice should not be required;
 - (B) An indication of whether the minor, the parents or legal guardians of the minor, or their attorneys refused to agree to the proposal that is the subject of the ex parte request including the grounds for the person's refusal, if known; and
 - (C) A full disclosure of any prior requests and the court's action thereon whenever a request for an ex parte order of the same character or for the same relief has been made to the court.
- (3) All ex parte applications and proposed orders must be delivered during regular business hours to the clerk's office where the matter is pending. The clerk's office will forward the matter to the appropriate judicial officer.
- (4) The following ex parte requests will be determined by the presiding judge of the juvenile court:
- (A) Termination of life support and do not resuscitate requests;
and
 - (B) Requests for permission to perform surgical or other medical procedures over the religious objections of the parents.
- (5) An opposing party must present any written opposition to the court within 24 hours of receipt of notice of the ex parte application. Upon receipt of the ex parte application and any opposition, the court will render its decision on the application or set the matter for hearing. The applicant must serve notice of the court's order on all parties. If the matter is set for hearing, the applicant must give notice of such hearing to all parties, unless ordered otherwise by the court. Any party disagreeing with the order may request that the matter be placed on calendar for further consideration.
- (6) The following requests may be submitted without notice to other parties:
- (A) Orders for temporary removal of prisoners or wards and production as a party;

- (B) Orders to preserve dispatch transmissions (“CAD purges”);
and
- (C) Orders for copies of booking photographs.

(b) Ex parte requests for orders for psychotropic medications

The following procedure must be followed in making any request for an order for psychotropic medications.

- (1) Ex parte requests for authority to administer psychotropic medications will be decided in the department where the case is normally calendared.
- (2) If the matter is set for hearing and the minor has already been prescribed psychotropic drugs, the attending psychiatrist or physician may continue the administration of those drugs at his or her discretion. However, there shall be no increase in the previously authorized dosage without approval from the juvenile court.
- (3) Whenever a dependent child or ward of the court, or minor in placement at Juvenile Hall or the Social Services Assessment Center, or other juvenile facility is moved to a new placement or to a facility pursuant to Welfare and Institutions Code section 5000 et seq., and the child is receiving prescribed medication, the medical or other supervisor at the new placement may continue to administer that medication under supervision of the medical staff or the child’s physician. No further order of the court is required and the child’s medication must not be abruptly discontinued for lack of such an order.
- (4) All orders authorizing the administration of psychotropic drugs must be submitted to the court for renewal no later than six months from the date of initial issuance, following the ex parte procedure described in this subsection.

(c) Ex parte requests for medical authorizations

When a social worker or probation officer seeks permission to authorize a specific course of medical treatment such as surgery, the request must be supported by a completed and legible *Recommendation, Certification, and Order for Medical, Surgical, Dental or Other Remedial Care (Local Form ALA JV-002)*.

Rule 5.507 amended and renumbered effective January 1, 2008; adopted as rules 10.1.6, 10.1.7, and 10.1.8 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.508. Health assessments

(a) When health assessments should occur

Juveniles confined in an Alameda County Probation Department detention facility, including any Probation Department Assessment Center, or retained in any Alameda County Social Services Agency shelter care facility, including any Social Services Agency Assessment Center, may undergo a health assessment at the first possible opportunity after the initial admission to the facility.

(b) Contents of health assessment

The health assessment, which may be conducted by the Alameda County Health Care Agency's designee, should be comprehensive and may consist of the following components:

- (1) A complete history and physical examination.
- (2) A mental health status evaluation. In the event that the juvenile needs an extensive mental health evaluation by a psychiatrist or psychologist, the attorney for the minor will be notified.
- (3) A social and emotional development assessment.
- (4) A dental assessment.
- (5) Any clinical laboratory tests the physician determines are necessary for the evaluation of the juvenile's physical or mental health status.
- (6) Any immunizations necessary to bring the juvenile's immunization status up to date following the guidelines of the American Academy of Pediatrics.
- (7) An assessment of the appropriateness of continuing or discontinuing the prescription of any medicines, including psychotropic medications, the minor may be taking.
- (8) Evaluation and continuing care of acute or chronic medical problems.

- (9) Authority to request or release medical records to appropriate persons or organizations.
- (10) Any outside medical consultation deemed appropriate by Juvenile Justice Health Services medical staff.

(c) Consent of parent or guardian to be sought at detention hearing

At the time of the detention hearing, an attempt should be made to obtain the consent of the parent or guardian for ongoing medical care while the juvenile is in a detention, shelter care, or residential treatment facility. In the event that parental consent cannot be obtained, the Social Services Agency or the Probation Department may authorize any licensed physician to provide any emergency or routine physical or mental health care that will protect the minor's physical and mental health status.

Rule 5.508 amended and renumbered effective January 1, 2008; adopted as rule 10.1.9 effective January 1, 2004.

Rule 5.510. Court Appointed Special Advocates (CASA)

(a) Use of the CASA program

The court utilizes the services of the CASA program. The court may appoint CASA to represent the best interests of the child in any dependency or delinquency action.

(b) Calendaring preference

Because advocates serve as volunteers, matters on which they appear will be granted priority on the court's calendar whenever possible.

(c) Continuation of advocate's appointment

In the event the court dismisses a dependency case and issues family court orders under Welfare and Institutions Code section 362.4, the advocate's appointment may be continued in the family court proceeding, and the juvenile court order shall set forth the nature, extent, and duration of the advocate's duties in the family court proceeding.

(d) Advocates' reports

CASA may submit a report to the court for any of the following hearings: six-month review; twelve-month review; eighteen-month review; selection and implementation hearing; and post-permanency planning reviews. Any such report must be submitted at least two court days before the hearing. Only parties and their counsel are entitled to receive copies of CASA

reports. Relatives, de facto parents, foster parents, and service providers are not entitled to receive copies of CASA reports. CASA reports will be copied and distributed by the CASA program office staff.

Rule 5.510 amended and renumbered effective January 1, 2008; adopted as rule 10.1.10 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.511. Interagency information sharing

(a) Court and other agencies involved with minors

A number of court and other public agencies may be involved with a minor. These include the Social Services Agency's Department of Children & Family Services ("DCFS"); the Adult Protective Services ("APS"); Juvenile Probation Department ("JPD") Families and Children's Bureau ("FCB") mediators, facilitators, and case managers; evaluators; probate court investigators ("PCI"), and Court Appointed Special Advocates ("CASA").

(b) Information-sharing protocol

The following protocol applies to information sharing between and among the court, FCB, PCI, JPD, DCFS, CASA, and APS staff. Each agency staff person may orally disclose to each of the other respective agency staff, the following information:

- (1) Whether a child or his or her parents, guardians, or caretakers are or have been the subject of a child abuse, neglect, probate, criminal, or delinquency investigation, the findings and status of that investigation, the recommendations made or anticipated to be made by the respective agency, the progress while under court supervision including compliance with court orders, and a copy of any court order in existence as well as probation conditions with respect to the child, parents, guardians, or caretakers.
- (2) Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon on the issue of the best interest of that child, or a sibling or half-sibling living with or visiting with that child, who is involved in a pending family or probate court matter. Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's dependency or delinquency or any disposition in the dependency or delinquency proceedings.
- (3) FCB may include this information in the confidential portion of their court reports and keep such information in their case files.

(4) The respective agencies may provide written documents to each other. The documents may include, but are not limited to, relevant portions of investigation notes, progress notes and summaries, and court reports containing information described above. However, child abuse and neglect reports described by Penal Code section 11167.5 (*Suspected Child Abuse Report, Form #S-8572*), information disclosing the identity of a reporting party, or court-ordered psychological evaluations will not be exchanged between the agencies absent a court order. Copies of DCFS, APS or JPD documents, used by FCB, or PCI shall not be attached to their respective court reports and shall not be made available to the public without a court order.

(5) FCB and PCI will designate an appropriate staff person to maintain a current list of court mediators, facilitators, evaluators, and probate investigators, and periodically distribute this list to DCFS and JPD.

(c) Modification of family court orders

When a new dependency petition has been filed involving an existing family court case, the parties by stipulation may allow the juvenile court to modify the existing family court orders, where modification of the existing custody and visitation orders may remove the risk that led to the filing of the juvenile dependency petition. The juvenile court may then, where appropriate, order dismissal of the dependency petition. The process is as follows:

- (1) The parties and their counsel may agree on the record that the juvenile court bench officer may hear the matter as a family court judge. If an agreement is reached after or outside of a hearing, the parties and their counsel must execute their stipulation on the appropriate Judicial Council form and the juvenile court judge will attach a signed *Family Court Stipulation and Order Dismissing Juvenile Court Case (Local Form ALA JV-004)*.
- (2) The stipulation will be filed in the family court action and the juvenile dependency petition will be dismissed without prejudice.

Rule 5.511 amended and renumbered effective January 1, 2008; adopted as rule 10.1.11 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.512. Application for access to juvenile court records

The provisions in this rule apply to persons and agencies not designated in Welfare and Institutions Code section 827.

(a) Inspection and copying

The following persons and agencies may have access to juvenile court records and may obtain photocopies of records without a prior court order, subject to the conditions specified, if disclosure will be in the best interest of the child whose records are sought and the information contained in those records is necessary and relevant to a juvenile dependency or delinquency proceeding; a civil or criminal investigation or proceeding; a proceeding involving child custody or visitation; a proceeding involving adoption, guardianship, or emancipation of a minor; a proceeding involving probate or conservatorship; or a proceeding involving domestic violence.

- (1) County Counsel, for the purpose of representing the Social Services Agency in a dependency case or civil action.
- (2) Alameda County Juvenile Probation Officers, when the child who is the subject of the records is also the subject of juvenile court proceedings under Welfare and Institutions Code sections 601 or 602.
- (3) CASAs, as provided under Welfare and Institutions Code sections 105 and 107.
- (4) An Indian child's tribe, as provided under Title 25, United States Code chapter 21 [Indian Child Welfare Act].
- (5) Employees or agents of Alameda County Superior Court Families and Children's Bureau.
- (6) Employees or agents of Alameda County Mental Health Services agencies.
- (7) Any licensed psychiatrist, psychologist, or other mental health professional ordered by a family court judge to examine or treat the child or the child's family.
- (8) Any hospital providing inpatient psychiatric treatment to the child, for purposes of treatment or discharge planning.
- (9) The county Victim-Witness Assistance Program and the State Board of Control Victims of Crime Program, for the purpose of providing services to a victim of or a witness to a crime.

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- (10) The Parole Services Division of the California Department of Corrections.
- (11) The California Board of Parole Hearings, as provided under Penal Code section 11167.5, subdivision (b)(9).
- (12) Investigators employed by attorneys who represent parties in dependency proceedings, when seeking records that may be released to the attorney without a court order under Welfare and Institutions Code section 827.
- (13) The Social Security Administration, for the purpose of determining a child's eligibility for benefits.
- (14) The Regional Center.
- (15) The county probation department, when performing its duty under Penal Code section 1203.097 to certify treatment programs for domestic violence offenders, for purposes of documenting a treatment program's failure to adhere to certification standards and identifying serious practice problems in such treatment programs, provided that in any proceeding for the suspension or revocation of a treatment provider's certification or in any document related thereto, the department shall not disclose any child's name.

(b) Procedure for making request

Persons seeking access to or photocopies of documents under this rule must complete a *Declaration and Application for Access to Juvenile Court Records (Local Form ALA JV-003)*. The completed form will be kept in the file that is the subject of the Application For Access. If copies are requested, the requesting party shall pay the cost of any copying. The applicant must submit the completed form to the one of the juvenile court clerk's offices.

(c) Inspection or oral information only

The following may inspect or receive oral or written information regarding the contents of juvenile court records without a prior court order, but must file a *Petition for Disclosure of Juvenile Court Records (JV-570)* to obtain photocopies, subject to the conditions specified, if disclosure will be in the best interest of the child whose records are sought and the information contained in those records is necessary and relevant to the proceeding or purpose for which the records are sought:

- (1) U.S. Department of Justice prosecutors or their agents.

- (2) U.S. military prosecutors or their agents.
- (3) Federal Bureau of Investigation agents.
- (4) California Attorney General's Office prosecutors.
- (5) Any other agency or office authorized to investigate or prosecute criminal or juvenile cases under state or federal law.

(d) No disclosure

Persons or agencies obtaining records under this rule shall not disclose such records to another person or agency unless authorized to do so by the juvenile court.

Rule 5.512 amended and renumbered effective January 1, 2008; adopted as rules 10.1.13, 10.1.14, and 10.1.15 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.514. Visitation before detention hearing

(a) Visits before hearing

A child taken into temporary custody shall have supervised visitation with one or both parents or guardians before the detention hearing, unless the Child Welfare Worker has a reasonable belief that the child or the temporary caregiver would be endangered by such contact. The address of the child and the temporary caregiver may remain confidential notwithstanding this rule.

(b) Notation of absence of visits or telephone calls

If the child has not received regular phone contact or supervised visits with his or her parents or guardians, the Child Welfare Worker shall state the reasons therefore in the detention report.

Rule 5.514 amended and renumbered effective January 1, 2008; adopted as rule 10.2.5 effective January 1, 2004.

Rule 5.520. Objections in the nature of a general demurrer to a petition

(a) Motions to object to a petition

A motion to challenge the legal sufficiency of the petition may be made orally or in writing at the initial detention hearing or at the jurisdictional hearing. A party may object on the ground that the petition alleges facts that, even if determined to be true, either are not sufficient to state a cause of action, or are not stated with sufficient clarity and precision to enable

the party to determine what must be defended. The court may entertain the objection by oral argument when made, or may set it for further hearing. No objection in the nature of a special demurrer to particular allegations shall lie to challenge only certain paragraphs under a particular subdivision of Welfare and Institutions Code section 300; a party must challenge all allegations, not selected ones.

(b) Hearings on motions

If the court sets a hearing on the objection, counsel for the moving party may file a supporting memorandum of points and authorities. The memorandum must be filed at least 48 hours before the hearing in the department where the hearing is scheduled. Petitioner may file a memorandum of points and authorities in opposition to the objection. The memorandum in opposition must be filed by 9 a.m. on the day of the hearing in the department where the matter is set for hearing. All memoranda of points and authorities, whether in support of or in opposition to the objection, must be served on all other counsel and the petitioner by personal service or by fax.

(c) Amendments to petition after objection filed

Petitioner may not amend the petition without leave of court once a written objection to the sufficiency of the petition has been raised.

(d) Entry of plea

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

(e) Leave to amend

If the court sustains the objection to the sufficiency of a petition, the court may grant leave to amend the petition upon any terms as may be just and shall fix the time within which the amended petition shall be filed.

(f) Detention of minor

During the time that the petition is being amended, the minor may continue to be detained if the court finds that a prima facie case for detention exists.

Rule 5.520 amended and renumbered effective January 1, 2008; adopted as rule 10.2.8 effective January 1, 2004.

Rule 5.522. Uncontested jurisdiction hearing settings; use as settlement conference

(a) Setting uncontested jurisdictional hearing

All cases in which the minor has been detained shall be set for an uncontested jurisdictional hearing within ten court days of the initial or detention hearing. In cases in which the minor has not been detained, the uncontested jurisdictional hearing shall be set within 20 calendar days of the initial or detention hearing.

(b) Uncontested jurisdictional hearing as settlement conference

The uncontested jurisdictional hearing shall serve the same purposes as a settlement conference. Unless excused by the court or as otherwise provided in these rules, all parties and counsel are required to appear at the uncontested jurisdictional hearing. At the uncontested jurisdictional hearing the parties shall meet and confer and attempt to resolve the case or to narrow the issues to be addressed at any subsequent contested jurisdictional hearing.

Rule 5.522 amended and renumbered effective January 1, 2008; adopted as rule 10.2.9 effective January 1, 2004.

Rule 5.530. Procedures governing CALICO videotapes

The provisions of this rule apply to all videotapes produced by the Child Abuse Listening Interviewing and Coordination Center ("CALICO").

- (1) No individual copy of a CALICO videotape will be provided to any party or attorney involved in a dependency case.
- (2) Counsel representing parties in dependency proceedings may view the tape, by appointment, on the premises of the CALICO Center.
- (3) Private parties may not come to the CALICO Center to view CALICO tapes.
- (4) Upon issuance of a court order, the CALICO Center will provide a copy of the tape to the court for viewing by the parties. At the conclusion of the viewing, the court will notify the CALICO Center and an employee of the center will retrieve the tape, unless the parties plan to introduce the tape into evidence at a hearing.

- (5) If a CALICO tape is introduced into evidence, it shall remain in the custody of the court. The court shall not permit any copying of the tape.
- (6) Upon final disposition of the case, all but one copy of the CALICO tape will be destroyed. The single remaining copy of the tape will be maintained at the CALICO Center for a period of not less than five years after the date it was made, after which time it may be subject to destruction upon court order.

Rule 5.530 amended and renumbered effective January 1, 2008; adopted as rule 10.2.10 effective January 1, 2004.

Rule 5.532. De facto parents

The following provisions govern de facto parent applications, standing of de facto parents, and duration of status as a de facto parent.

(a) Application for de facto parent status

De facto parent status will be granted by the court only upon written application on the mandatory Judicial Council form. Notice of such application will be given to the parties and their counsel of record by the clerk of the court. Any party who objects to the application shall file an opposition within ten court days from the date of mailing of notice. If an opposition is filed, the court will set the matter for hearing, and notice of the hearing will be given to all parties and their attorneys by the courtroom clerk. If no opposition is received, the court may grant, deny, or set the matter for hearing. At the hearing on such application, the court shall consider the contents of the dependency file, any report filed by the social worker or the CASA advocate for the child, and any other relevant and admissible evidence presented by the parties. The court may consider the declarations filed in support of or in opposition to such application if the declarants are made available for cross-examination. Before granting de facto parent status, the court shall find, by a preponderance of the evidence, that the moving party meets the criteria set forth in this rule. An application for de facto parent status shall not, in itself, constitute good cause for continuing any other hearing in the dependency action.

(b) Standing of a de facto parent

If the court grants the application for de facto parent status, the de facto parent shall have standing as a party to the proceedings to the degree that the proceedings directly affect the de facto parent's legally recognizable interests in the child.

(c) Representation of de facto parent

A de facto parent may be represented by counsel at his or her own expense. A de facto parent shall not be entitled to appointed counsel unless the court finds that the de facto parent is financially eligible for appointed counsel and appointment of counsel would substantially benefit the resolution of issues before the court. No right to appointment of counsel shall exist for the purpose of making the application for de facto parent status.

(d) Discovery orders

Upon granting de facto parent status, the court may make such discovery orders as are necessary and appropriate.

(e) Duration of status as de facto parent

De facto parent status shall continue only so long as the psychological bond continues to exist between the de facto parent and the child. De facto parent status automatically terminates upon the termination of dependency jurisdiction or upon order of the court.

Rule 5.532 amended and renumbered effective January 1, 2008; adopted as rule 10.2.11 effective January 1, 2004; previously amended January 1, 2006.

Rule 5.533. Dependency mediation

(a) Mediation required

All appropriate cases will be referred to mediation through the Dependency Mediation Program of the Juvenile Court prior to a contested hearing. Parties must fully cooperate with the mediator throughout the process.

(b) Confidentiality of mediation

Mediation conferences are confidential and any disclosures made in mediation are inadmissible in Juvenile Court proceedings with the exception of mandated reporting pursuant to Penal Code section 11166. It is the responsibility of attorneys to advise their clients of the limitations on mediation confidentiality.

(c) Report by mediator

The mediator must advise the court as to whether mediation occurred and what, if any, agreement was reached.

(d) Court order required

The court must approve agreements reached in mediation in order to be enforceable.

Rule 5.533 amended and renumbered effective January 1, 2008; adopted as rule 10.2.13 effective January 1, 2004.

Rule 5.534. Standing referral to dependency mediation in anticipation of dismissal

(a) Contact with Dependency Mediation Program approved upon stipulation

Whenever it is anticipated that a dependency action may be dismissed at an upcoming hearing, a parent, a parent's attorney, and/or the assigned Child Welfare Worker may directly contact the Dependency Mediation Program, prior to the date of any hearing at which dismissal will be recommended, to arrange mediation regarding proposed custody and visitation orders, provided that all interested parties stipulate to such mediation.

(b) Protocols for mediation

The Dependency Mediation Program will distribute to the court, the Social Services Agency, Children & Family Services, the Public Defender, County Counsel, and the Court Appointed Attorneys Program protocols for the mediations contemplated by this rule.

Rule 5.534 amended and renumbered effective January 1, 2008; adopted as rule 10.2.14 effective January 1, 2004.

Rule 5.535. Standing referral to dependency mediation for family matters

(a) Contact with Dependency Mediation Program approved upon stipulation

A parent, a parent's attorney, or the assigned Child Welfare Worker may directly contact the Dependency Mediation Program to arrange mediation of issues related to visitation, communication, house rules, and other "family matters" during the interval between dependency status review hearings, provided that all interested parties stipulate to such mediation.

(b) Protocols for mediation

The Dependency Mediation Program shall distribute to the court, the Social Services Agency, Children and Family Services, the Public

Defender, County Counsel, and the Court Appointed Attorneys Program protocols for the mediations contemplated by this local rule.

Rule 5.535 amended and renumbered effective January 1, 2008; adopted as rule 10.2.15 effective January 1, 2004.

Rule 5.536. Attorney competency requirements

(a) General standard for attorneys in juvenile proceedings

All court-appointed attorneys appearing in juvenile proceedings must be members in good standing of the State Bar of California and must meet the minimum standards of competency set forth in the following subsections of this rule.

(b) Minimum standard for client communications

Attorneys representing children and parents in dependency cases must make all reasonable efforts to meet face-to-face or by telephone with their clients at least once during each six-month review period. A conference with the client at a scheduled court appearance shall not count as the required minimum meeting.

(c) Minimum standards of education and training for appointment as a dependency attorney

Each court-appointed attorney shall complete one of the following minimum training and educational requirements:

- (1) At least eight hours of training or education in juvenile dependency law, which must include applicable case law and statutes, rules of evidence, state and local 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, reasonable efforts, the educational rights of children, the Uniform Child Custody Jurisdiction and Enforcement Act, the Interstate Compact on the Placement of Children, and the Indian Child Welfare Act; or
- (2) At least six months of experience in dependency proceedings in which the attorney has had primary responsibility for representation of his or her clients in such proceedings, and has demonstrated competency in representing his or her clients. To qualify for certification under this subparagraph the attorney must have made at least five appearances on behalf of parties and handled a variety of dependency hearings including contested hearings. In determining whether the attorney has demonstrated competency,

the court shall consider, among other things, whether the attorney's performance has demonstrated knowledge of the topics referred to in subsection (c)(1) of this rule.

(d) Continuing education requirement

(1) Time for submitting report regarding continuing education

Each court-appointed attorney, on or before January 31st of the same year in which the attorney must certify his or her continuing education credits to the State Bar of California, must submit to the court a statement certifying that the attorney has completed 18 hours of continuing dependency education or training in the prior three years.

(2) Content of continuing education

At least one-half of the attorney's continuing training or education hours must be in the areas set forth in subdivision (c)(1) of this rule. The remaining hours may be in other areas related to juvenile dependency practice, including the following:

- (A) Ethics;
- (B) Domestic violence;
- (C) Use of psychological experts, including direct and cross-examination;
- (D) Trial skills;
- (E) Rules of evidence;
- (F) Training programs that include information on child development, substance abuse, mental health issues, incarcerated parents, and related matters;
- (G) The child witness;
- (H) Training specifically related to dependency practice such as reasonable efforts, .26 hearings, and similar issues;
- (I) Mental health issues;
- (J) Health care;
- (K) Immigration;

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- (L) Adoptions and guardianships;
 - (M) Parentage;
 - (N) The Parental Kidnapping Prevention Act;
 - (O) State and federal public assistance programs;
 - (P) Client interviewing and counseling techniques;
 - (Q) Case investigation;
 - (R) Settlement negotiations and mediation; and
 - (S) Programs that provide information on community resources.
- (3) Providers or sources for education and training

Some of the required hours may be acquired through attendance at brown-bag lunches, lecture series, or training programs offered by the court, including the juvenile court, family court, and other court-related or court-sponsored entities. Some of the required hours may also be acquired through self-study.

- (4) Failure to meet requirements

The court may suspend or remove an attorney from the panel of court-appointed attorneys or take other actions it considers appropriate for any of the following:

- (A) Failure to meet minimum education and training standards;
- (B) Failure to meet required continuing education standards; or
- (C) Consistent or repeated failure to provide adequate, professional and civil representation of dependency clients.

Rule 5.536 amended and renumbered effective January 1, 2008; adopted as rules 10.2.16, 10.2.17, and 10.2.18 effective January 1, 2004.

Rule 5.537. Motions to be relieved as counsel for a parent

(a) Timing of motion

If a parent is not present at a review hearing, counsel for parents must advise the court of all efforts made to communicate with the client prior to

the hearing. If counsel has not communicated with the client since the last review hearing or it otherwise appears to counsel that such parent does not wish to have continued representation, counsel must notify the client that counsel will seek to be relieved as counsel at the next scheduled review hearing.

(b) Notice of motion

Counsel must notice the motion for the next regularly scheduled review hearing. The notice of motion must be served by first class mail sent to the parent's last known address, not more than 30 nor less than 15 calendar days prior to such scheduled review hearing.

(c) Hearing on motion

At the review hearing at which the motion to be relieved as counsel is set to be heard, counsel shall appear and, at the beginning of the hearing, shall seek the court's ruling on the motion to be relieved as counsel. If the motion is granted, counsel may be excused from further participation in that review hearing.

(d) Service of order

Counsel shall serve an endorsed-filed copy of the order granting counsel's motion to be relieved as counsel on his or her former client and on the Court Appointed Attorney's Program.

Rule 5.537 amended and renumbered effective January 1, 2008; adopted as rule 10.2.19 effective January 1, 2004.

Rule 5.540. Procedure for complaints concerning dependency attorneys

The provisions of this rule apply to complaints concerning an attorney who has been appointed to represent a child or a parent under the court's dependency contracts. Such an attorney is referred to as an appointed dependency attorney in this rule.

(a) Lodging a complaint

Any party who has a complaint about the performance of an appointed dependency attorney may lodge a written complaint with the judge hearing the matter. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged by the child or on the child's behalf by the social worker, a caretaker, a relative, a foster parent, or a child advocate.

(b) Notification of attorney

Within ten days of receipt of the written complaint, the court will notify the attorney in writing, enclosing a copy of the complaint. The judge will also inform the client in writing that the complaint has been received and that the attorney will be contacting the client to discuss resolution of the complaint. In addition, the judge will notify the Public Defender's Office if the complaint involves the performance of a deputy public defender, or the Alameda County Bar Association's Court Appointed Attorney's Program if the complaint involves the performance of a court appointed panel attorney.

(c) Contact by attorney required

Within ten days of the court's notification, the attorney shall contact the complainant and attempt to obtain an informal resolution of the matter with the client before responding to the complaint. If the matter is resolved, the attorney shall notify the judge in writing within 20 days of the judge's notification, and shall send a copy of such notice to the client.

(d) Procedure if complaint not resolved informally

If the matter is not resolved informally, the judge will request the attorney to move to withdraw or to submit a written response to the client's complaint within five days and thereafter determine whether the attorney acted contrary to the local rules or practice guidelines or whether the attorney acted incompetently. If the judge determines the attorney acted improperly or incompetently, the judge may reprove the attorney privately or on the record in chambers or otherwise outside the presence of others and may take any other action that the judge deems appropriate.

Rule 5.540 amended and renumbered effective January 1, 2008; adopted as rule 10.2.21 effective January 1, 2004.

Rule 5.541. Informing the court of other interests of a dependent child

(a) Counsel's duty to investigate

Counsel for the minor shall make an independent investigation as reasonably necessary to ascertain the facts and to determine any interests of the minor beyond the scope of the juvenile proceeding which may need judicial protection pursuant to Welfare and Institutions Code section 317, subdivision (e). If the child is four years of age or older, such investigation shall include an interview with the minor.

(b) Notification by other interested parties

At any time while a dependency proceeding is pending, any interested person may notify the court that the child who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum.

(c) Form for notice

Notice to the court may be given by the filing of a *Request to Change Court Order* (JV-180), by filing a declaration, or, in the case of an individual who is not a party to the action, by sending a signed letter addressed to the court.

(d) Description of minor's interest

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, the nature of the proceedings being contemplated or conducted there, and any case number or other identifying information regarding the proceeding.

(e) Other information to be included

If known to the person giving notice, the notice shall also set forth what action on the child's behalf the person believes is necessary, whether counsel on a pro bono or contingency basis may be necessary or appropriate to take action on behalf of the child in the other forum, whether the nomination of a guardian ad litem to initiate or pursue a proposed action may be appropriate, whether joinder of an administrative agency to the juvenile court proceedings may be appropriate or necessary to protect or pursue the child's interest, and whether further investigation may be necessary.

(f) Service of the notice

A copy of the notice must be served on the child's social worker and on the child's attorney and CASA, if any, before the notice is filed with the court. Such service may be effected by personal service, first-class mail, or the equivalent, and shall be indicated on a proof of service filed with the notice. If separate counsel does not represent the child, the notice shall so state. In the case of an individual who is not a party to the action who files a letter with the court, the clerk of the court shall serve a copy of the letter on the child's social worker and on the child's attorney and on the CASA, if any.

(g) Hearing on the notice

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 and whether steps need to be taken to protect or pursue that right or interest in another forum.

(h) Court orders

If the court determines that further action on behalf of the child is required, the court may do one or more of the following:

- (1) If the child is unrepresented, appoint an attorney for the child in the dependency proceedings and direct that such attorney investigate the matter and report back to the court under Welfare and Institutions Code section 317, subdivision (e).
- (2) Authorize an attorney to pursue the matter on the child's behalf in the other forum on a pro bono or contingency basis.
- (3) Nominate a guardian ad litem for the child for appointment by the other forum for the purposes of initiating or pursuing appropriate action on behalf of the child in that forum.
- (4) Notice a joinder hearing compelling a responsible agency to report to the court as to whether it has fulfilled its legal obligation to provide services to the child.
- (5) Make such other orders the court may deem necessary or appropriate to protect the welfare, interests, and rights of the child.

(i) Use of court or county funds

Neither court nor county funds will be used to fund legal or other services in another forum outside the juvenile dependency proceedings.

Rule 5.541 amended and renumbered effective January 1, 2008; adopted as rule 10.2.22 effective January 1, 2004.

Rule 5.542. Authorization for foster parents to approve school activities

Foster parents may give consent for foster youth to participate in school-sponsored activities, including but not limited to field trips and athletic events, without the prior permission of the Alameda County Social Services Agency or the court.

Rule 5.542 adopted effective January 1, 2008.

Rule 5.543. Travel with foster parents and group homes

(a) Travel within California

With prior approval from the Social Services Agency, foster parents and group homes may travel with any child who is the subject of a dependency or delinquency petition, to any place within California during day and evening hours, including overnight trips within the state of up to 30 consecutive days, without prior written permission of the court, provided that, when overnight trips of three or more consecutive nights are planned, the Child Welfare Worker or probation officer, at least three calendar days before such overnight trips, notifies all attorneys of record and all parents whose parental rights have not been terminated, of the dates of such overnight trips.

(b) Travel outside California

Foster parents and group homes may not travel outside California with any child who is the subject of a dependency or delinquency petition, unless the foster parent or group home has obtained the prior permission of the Social Services Agency and the court and the Child Welfare Worker or probation officer has given notice of the dates of such trip to all attorneys of record and all parents whose parental rights have not been terminated at least five days prior to departure.

Rule 5.543 amended and renumbered effective January 1, 2008; adopted as rule 10.2.23 effective January 1, 2004.

Rule 5.544. Disclosure of medical information to foster parents and other care providers

Upon discharge of an infant who is a dependent of the court or who is on a "hospital hold" under Welfare and Institutions Code section 309, subdivision (b), or section 16525.14, and the release of such infant is to a foster parent under the Welfare and Institutions Code or other care provider as permitted by law, the health care provider discharging the infant may provide to the foster parent or other care provider a written summary of the infant's medical history, diagnosis, and treatment, if necessary for the proper treatment of the infant after discharge. Such information is confidential, and shall be disclosed only to such others who need to know the information in order to provide proper treatment or care of the minor.

Rule 5.544 amended and renumbered effective January 1, 2008; adopted as rule 10.2.5 effective January 1, 2004.

Rule 5.545. Disclosure of education and medical information to social workers and children's attorneys

In any case where a child is under the dependency jurisdiction of the court or is under informal supervision, the social worker assigned to the child's case and the attorney representing the child in dependency proceedings may receive, upon request, copies of any written individualized education programs, immunization records, and any other school or health records maintained by a public school district or private school in which the child is or was enrolled; a hospital to which the child is or was admitted; or a health care provider who is or was providing medical, dental, psychiatric, or psychological treatment to the child.

Rule 5.545 amended and renumbered effective January 1, 2008; adopted as rule 10.2.25 effective January 1, 2004.

Rule 5.546. Welfare and Institutions Code section 388 petitions

(a) Location for filing

Welfare and Institutions Code section 388 petitions must be filed with the clerk's office where the next hearing is scheduled to occur. If there is no future hearing, the petition must be filed with the clerk's office where the presiding judge of the juvenile court is located or as otherwise directed by that clerk's office.

(b) Contents of petition

The petition must include the department in which the next scheduled court hearing is calendared and the date of the hearing. The petition must be accompanied by a proof of service showing that a copy of the petition has been served on all parties and attorneys, including the Social Services Agency and County Counsel.

(c) Action on petition

The clerk will direct the petition to the department in which the next scheduled court date in the matter is calendared. If no date is calendared, the petition will be sent to the presiding judge of the juvenile court. Within five calendar days of receipt of the petition for a hearing, the court will either grant or deny the petition and will immediately notify the parties and counsel, including the Social Services Agency and County Counsel, of its decision.

(d) Hearing on a petition

- (1) If the court grants a hearing on the petition, the hearing shall be calendared within 30 days after the petition is filed, or the next

scheduled court date, whichever occurs first. All hearings shall occur in the department where the case is pending. The courtroom clerk will send notices of the hearing to all parties and counsel, including the Social Services Agency and County Counsel, at least ten court days prior to the hearing.

- (2) If there is no previously calendared court date, the presiding judge of the juvenile court will calendar the hearing for a date that will allow ten court days notice to all parties and counsel, unless the presiding judge determines it is in the best interests of the minor to hear the matter on shorter notice. The presiding judge's clerk will send notice of such hearing to all parties and counsel, including the Social Services Agency and County Counsel.

Rule 5.546 amended and renumbered effective January 1, 2008; adopted as rule 10.2.26 effective January 1, 2004; previously amended January 1, 2007.

Rule 5.547. Appearances on behalf of the Social Services Agency

(a) Appearance at dependency hearings

At each dependency hearing, one of the following individuals must appear on behalf of the Social Services Agency: a court officer, the Child Welfare Worker, or an attorney with the County Counsel's office.

(b) Appearance at contested hearings or hearings to terminate parental rights

In addition to any other agency representative, the Social Services Agency must appear through an attorney with the County Counsel's office at a contested hearing and at a hearing to terminate parental rights.

Rule 5.547 amended and renumbered effective January 1, 2008; adopted as rule 10.2.27 effective January 1, 2004.

Rule 5.551. Pretrial hearings

Pretrial hearings are set five court days after the detention hearing for minors who have been ordered held in custody. For those out of custody, the date is set at least ten court days from the date of filing of the petition.

Rule 5.551 amended and renumbered effective January 1, 2008; adopted as rule 10.3.2 effective January 1, 2004.

Rule 5.553. Calendaring cases involving placement failures and run-aways

When possible in compliance with applicable deadlines, all camp and private placement failures and run-aways will be set in the department of the judge that made the original placement order.

Rule 5.553 amended and renumbered effective January 1, 2008; adopted as rule 10.3.4 effective January 1, 2004.

Rule 5.555. Designation of statutory basis for declaring a section 707(b) offense

The Probation Department must designate the specific subdivision of Welfare and Institutions Code section 707 it relies on in all reports to the court in which it is necessary to advise the court whether a section 707(b) offense is involved, including, but not limited to, Intake/Jurisdictional Reports and Disposition reports.

Rule 5.555 amended and renumbered effective January 1, 2008; adopted as rule 10.3.6 effective January 1, 2004.

Rule 5.557. Notice to dependency attorney of section 241.1 reports

Where a dependent is the subject of a delinquency petition, the report required by Welfare and Institutions Code section 241.1 must contain evidence of notice to the child's dependency attorney as well as other parties to the dependency action.

Rule 5.557 adopted effective January 1, 2008.