

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

JUVENILE RULES

INTRODUCTION

1	GENERAL PROVISIONS	1
	A. JUDICIAL ADMINISTRATION.....	1
	B. RELATIONSHIP OF THE JUVENILE COURT TO OTHER CALENDARS.....	1
	C. NOTICED MOTIONS.....	2
	<u>D. PROPOSED ORDERS</u>	2
	D. <u>E.</u> PRE-HEARING DISCOVERY.....	2
	E. <u>F.</u> EX PARTE ORDERS.....	3
	F. <u>G.</u> ATTENDANCE AT HEARINGS (CRC 1410).....	4
	G. <u>H.</u> SETTLEMENT CONFERENCES.....	4
	H. <u>I.</u> ACCESS TO COURTROOM BY NON-PARTIES.....	4
	I. <u>J.</u> RELEASE OF INFORMATION RELATING TO JUVENILES.....	4
	J. <u>K.</u> RELEASE OF INFORMATION RELATING TO JUVENILES BY LAW ENFORCEMENT.....	7
	K. <u>L.</u> MEDICAL ISSUES.....	8
	L. <u>M.</u> LINE-UPS.....	12
	M. <u>N.</u> EDUCATIONAL RIGHTS IN JUVENILE COURT.....	13
	N. <u>O.</u> INSPECTION OF LAW ENFORCEMENT LOCK-UPS.....	13
	O. <u>P.</u> LOCAL RULES RELATING TO CHILD ADVOCATES.....	13
2	RULES RELATING TO DEPENDENCY	18
	A. DE FACTO PARENTS / RELATIONS / INTERESTED PERSONS.....	18
	B. MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION.....	19
	C. PRESENTATION OF EVIDENCE.....	19
	D. REPRESENTATION OF PARTIES (W&I Code §§ 317, 317.6, CRC 5.660).....	19
	E. ACCESS TO MINORS PETITIONED PURSUANT TO W & I Code § 300.....	23
	F. CREATION OF A FAMILY COURT ORDER IN JUVENILE COURT.....	24
	G. GUARDIANS AD LITEM.....	25
	H. PARENTAL VISITATION.....	26
	I. DEPENDENCY MEDIATION.....	27
	J. COURT ORDERED MENTAL HEALTH EVALUATION.....	30
3	RELATIONSHIPS AMONG DIFFERENT DIVISIONS OF THE SUPERIOR COURT	30
	A. JUVENILE DEPENDENCY, JUVENILE DELINQUENCY <u>JUSTICE</u> , FAMILY AND PROBATE COURTS EXCHANGE OF INFORMATION.....	30
	B. FOREIGN CONSULATES.....	35
	C. COURT COMMUNICATION REGARDING RESTRAINING ORDERS.....	35
	D. FAMILY AND JUVENILE COURT MANAGEMENT OF CHILD ABUSE CASES.....	37
	E. DUAL STATUS HEARINGS (W & I Code § 241.1).....	39

ATTACHMENTS JV-2000 – JV-2009

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

RULE 1 GENERAL PROVISIONS

A. JUDICIAL ADMINISTRATION

(1) PRESIDING JUDGE OF THE JUVENILE COURT

There shall be one Presiding Judge of the Juvenile Court. The Presiding Judge shall be selected by the Presiding Judge of the Superior Court. To the extent possible the Presiding Judge of the Juvenile Court shall remain in that position for at least 3 years.

(2) JUVENILE COURT ACTIONS

The Juvenile Court hears both dependency and juvenile justice actions. Juvenile justice actions were formerly called “delinquency” actions. All references to Juvenile Delinquency Court, Delinquency judicial officers, delinquency, juvenile delinquency, and delinquency actions, cases, calendars, or matters shall now be referred to as Juvenile Justice Court, Juvenile Justice judicial officers, juvenile justice, and juvenile justice actions, cases, calendars, or matters.

(Eff. 1/1/10)

~~(2)~~ (3) SUPERVISING JUDGE IN THE JUVENILE COURT

There shall be a Supervising Judge of both the dependency and ~~delinquency~~ **juvenile justice** actions in the Juvenile Court. The Presiding Judge of the Juvenile Court in most cases will be the Supervising Judge of either the dependency or the ~~delinquency~~ **juvenile justice** calendars.

(Eff. 1/1/10)

~~(3)~~ (4) JUVENILE COURT COMMITTEE

There shall be a Juvenile Court Committee of the Superior Court. That committee shall consist of all judicial officers sitting in Juvenile Court and any other judges the Presiding Judge of the Superior Court or the Presiding Judge of the Juvenile Court may designate.

(Eff. 1/1/95)

B. RELATIONSHIP OF THE JUVENILE COURT TO OTHER CALENDARS

(1) ASSIGNMENT OF JUVENILE COURT CASES

It is the policy of the Juvenile Court to have all matters heard by a judicial officer assigned to the Juvenile Court. All cases in Juvenile Court shall be subject to assignment to a judicial officer for all purposes at the time of filing of the action who shall thereafter handle all proceedings involving the matter, including trial, except as otherwise provided or required by law.

(Eff. 1/1/09)

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(2) MASTER CALENDAR REFERRALS (LONG CAUSE CASES)

Only the Presiding Judge of the Juvenile Court, the Supervising Judge of the dependency/delinquency **juvenile justice** calendar or some judicial officer acting in one of those capacities shall assign any case to the Supervising Judge of the Civil Division in all dependency cases, and to the Supervising Judge of the Criminal Division in all delinquency **juvenile justice** cases.

(Eff. 1/1/10)

(3) CASES INVOLVING EMPLOYEES

If a court employee or deputy sheriff working at Juvenile Court, or a member of his or her family, is a party to a case, the clerk or Presiding Judge of the Juvenile Court shall transfer the case to another facility or Division.

(Eff. 1/1/10)

~~(3)~~ (4) MEETINGS WITH OTHER SUPERVISORS

The Presiding Judge of the Juvenile Court shall take steps to ensure that there are regular meetings with the Presiding Judge of the Court and with supervising judges in the family, probate, mental health, civil and criminal calendars, so that communication among these different calendars is maximized.

(Eff. 7/1/95)

C. NOTICED MOTIONS

No noticed motion shall be accepted by the Court Clerk unless it is accompanied by a proof of service.

(Eff. 1/1/04)

D. PROPOSED ORDERS

Any proposed order submitted to the Court for signature must contain a footer with the title of the order on every page, including the signature page, unless it is a Judicial Council form. In addition, the Court signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

(Eff. 1/1/10)

~~D.~~ E. PRE-HEARING DISCOVERY

(1) TIMELY DISCLOSURE OF INFORMAL DISCOVERY

Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. In re Jose Z. (1970) 3 Cal.3d 797, CRC 1420.

(2) FORMAL MOTIONS

a. FORMAL DISCOVERY

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least 5 judicial days before the hearing date. The date for the hearing shall be obtained from the Court Clerk, Juvenile Division. A copy shall be served on the Court before whom the matter is scheduled to be heard.

(Eff. 1/1/04)

Any responsive papers shall be filed and served 2 judicial days prior to the hearing.

b. CIVIL DISCOVERY

In order to coordinate the logistics of any such discovery, there shall be no depositions, requests for production of documents, interrogatories, requests for admissions or other similar types of civil discovery without approval of a judge of the Juvenile Court upon noticed motion.

(Eff. 1/1/05)

E. F. EX PARTE ORDERS

- (1) Before submitting ex parte orders to a judge or commissioner for approval, the applicant must give notice to all counsel, social workers, and parents who are not represented by counsel or explain the reason notice has not been given.
- (2) The party requesting ex parte orders must inform the judge or commissioner that notice has been given by completing a “Declaration Re Notice of Ex Parte Application” form. (See attached form JV-2000.) The original Declaration and accompanying Application for Order must be submitted to the courtroom clerk in the juvenile department where the pending action would normally be heard.

(Eff. 7/1/08)

- (3) An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within 24 hours of receipt of notice or may have their opposition noted on the Application form. The Court may render its decision on the ex parte application or set the matter for hearing, unless an opposition is filed in which case the matter will be set for a hearing. The applicant is responsible for serving all noticed parties with copies of the Court’s decision or notice that the Court has calendared the matter, and the applicant shall notify all parties of any hearing date and time set by the Court.

(Eff. 1/1/09)

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(4) Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child to suffer immediate and irreparable injury.

(Eff. 1/1/05)

(5) Notice may also be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing parties do not object to the requested ex parte orders.

(Eff. 1/1/05)

F. G. ATTENDANCE AT HEARINGS (CRC 1410)

Unless excused by the Court and except as indicated in Rule 2 subdivision (E) (2) of these rules, each party and attorney shall attend each scheduled Juvenile Court hearing.

(Eff. 1/1/05)

G. H. SETTLEMENT CONFERENCES (No Statute) (No Court Rule)

Settlement conferences shall be held prior to every contested hearing, unless expressly deemed unnecessary by the judicial officer setting the contested hearing.

The trial attorneys and all parties shall be present at the settlement conference, unless expressly excused by the Court.

Prior to the calling of the case the parties or their attorneys shall meet in order to determine the issues to be tried and any areas of agreement.

(Eff. 1/1/95)

H. I. ACCESS TO COURTROOM BY NON-PARTIES (W & I CODES §§ 345, 346, 676)

Unless specifically permitted by statute, Juvenile Court proceedings are confidential and shall not be open to the general public.

Upon a sufficient showing the Court may permit relatives and any non-relative extended family members of the child to be present at the hearing and address the Court. The Court shall hear from all parties before granting such permission.

(Eff. 1/1/09)

The Court encourages interested persons including trainees and students to attend juvenile proceedings in order to better understand the workings of the Juvenile Court. The Court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom.

The Court or its agent shall remind each such nonparty that the names of parties and/or identifying information from any case are confidential and shall not be repeated to anyone outside court. Any such person may be required by the Court to sign an acknowledgment and agreement relating to his/her observation of court proceedings.

(Eff. 7/1/08)

I. J. RELEASE OF INFORMATION RELATING TO JUVENILES

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(1) DISCOVERY OF JUVENILE RECORDS

Except as indicated within this rule or as specified in W & I Code §§ 827 and 828 and CRC 5.552, in all cases in which a person or agency seeks access to Juvenile Court records, including records maintained by the Juvenile Court Clerk, the Probation Department or the Department of Family and Children’s Services, the person or agency shall file a Petition for Disclosure (JV-570) with the Supervising Judge of either the Delinquency or Dependency Courts. This Rule applies even if no action has been commenced in Juvenile Court under W & I Code §§300, 601, or 602. The Petition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action. The Petition shall state with specificity the information sought and the relevance to any related legal action, including the specific details of the related legal action including the date(s) of occurrence. The Petition shall be supported by a declaration of counsel and if necessary a memorandum of points and authorities.

(Eff. 7/1/08)

In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding children who are the subject of juvenile Court proceedings, the person or agency shall submit a petition to obtain report of Law Enforcement Agency/Juvenile (JV-575) to the Court Clerk’s office.

(Eff. 1/1/04)

The person or agency seeking the records shall give notice to all necessary parties. (See Welfare and Institutions Code § 827 and JV-570.)

This section does not apply to those persons and agencies designated by Welfare and Institutions Code § 827(a).

(2) ACCESS TO JUVENILE COURT LEGAL FILES BY SIXTH DISTRICT APPELLATE PROGRAM

Attorneys and legal assistants from the Sixth District Appellate Program are hereby granted access to Juvenile Court legal files in which an appeal may be taken. The attorneys and legal assistants shall identify themselves to the staff in the Court Clerk’s office, and shall present a Declaration regarding their request. (See attached form JV-2002.) Thereafter they may inspect such files at the Court Clerk’s office.

(Eff. 7/1/08)

The Sixth District Appellate Program shall use the information gained from such file inspection solely to determine whether a notice of appeal and/or extraordinary writ should be filed and/or to determine the selection and recruitment of appointed appellate counsel.

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

A copy of the Declaration shall be filed in the Court file.

**(3) ACCESS TO PSYCHOLOGICAL RECORDS BY JUVENILE HALL
MEDICAL DIRECTOR**

The Medical Director of Juvenile Hall or his/her designee shall be provided a copy of all mental health evaluations of minors housed in Juvenile Hall. If the Probation Officer or Supervising Probation Officer finds that the contents of a diagnostic report rendered by the Division of Juvenile Justice are relevant to the duties of the Medical Director, the Medical Director shall also be provided with a copy of that diagnostic report. Such reports and evaluations shall be used exclusively by the medical personnel in Juvenile Hall and shall not be released to any third parties without Court approval.

(Eff. 7/1/08)

**(4) RELEASE OF RECORDS TO PARTIES AND THEIR ATTORNEYS
IN DEPENDENCY CASES**

Any party or his/her attorney in any W & I Code § 300 matter shall be given access to all records relating to the child which are held by the Court Clerk. Said party or counsel shall also have the right to secure copies of such records. The party or counsel shall be responsible for the cost of any copying. (See attached form JV-2002.)

(Eff. 7/1/08)

The party, counsel or investigator shall fill out and present a Declaration regarding the request for records. (See attached form JV-2002.) A copy of the Declaration shall be filed in the Court file.

(Eff. 7/1/08)

**(5) ACCESS TO COURT FILES BY SANTA CLARA COUNTY
VICTIM WITNESS ASSISTANCE CENTER STAFF**

The Santa Clara County Victim Witness Assistance Center staff shall be permitted to review any Juvenile Court file in which a minor has been committed to the Division of Juvenile Justice and when the minor has a restitution order as a condition of parole. The information gathered from any such review shall be used only with respect to the Victim Witness Assistance Center carrying out its duties with regard to restitution to victims or the State Restitution Fund.

(Eff. 7/1/08)

The staff member asking to review the file shall fill out and present a Declaration regarding his/her request. A copy of the Declaration shall be filed in the Court file.

The party, counsel or investigator shall fill out and present a Declaration regarding the request for records. (See attached form JV-2002.) A copy of the Declaration shall be filed in the Court file.

(Eff. 7/1/08)

**RULE 1 – con't SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

J. K. RELEASE OF INFORMATION RELATING TO JUVENILES BY LAW ENFORCEMENT

Pursuant to the cases of T.N.G. v. Superior Court, 4 Cal.3d 767, and Westcott v. County of Yuba, 104 C.A.3d 103, this rule applies to all law enforcement agencies and officials in Santa Clara County:

(1) IDENTITY OF JUVENILE

Do not release your arrest reports or other information in regard to the identity of individual juveniles under the age of 18 who are the subject of Juvenile Court proceedings to the press or other media or to any persons or public agency except as set forth in Rule 1 subdivision (K) (2) of these rules (immediately below).

(Eff. 1/1/05)

(2) INFORMATION RE INCIDENT

You may release the police report or information in regard to the incident, with exceptions noted, to:

- a. The minor, if he is representing himself in a Juvenile Court proceeding, or to his attorney pursuant to the standing Juvenile Court discovery order.
- b. The District Attorney of Santa Clara County.
- c. The law enforcement agency of minor's residence.
- d. Other law enforcement agencies who require it for criminal investigation or reporting purposes.
- e. The Santa Clara County Probation Department.
- f. Court personnel.
- g. The Santa Clara County Department of Family and Children's Services.
- h. The parents or legal guardian of the minor, unless there is a reference to another minor in the reports. In that situation, the request must be approved by the Juvenile Court.
- i. The school attended by the minor.
- j. Victims of juvenile crime. They may be given the names and addresses of the persons mentioned in the report, without reference to the status of any minors. The release of further information must be approved by the Juvenile Court.

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- k.** Hospitals, schools, camps, Job Corps or placement agencies which require the information for the placement, treatment or rehabilitation of the minor.
- l.** The persons entitled there to under Vehicle Code §§20008-20012.
- m.** Any coroner or medical examiner.
- n.** The name of a minor 14 years of age or older taken into custody for the commission of a serious felony as defined by subdivision (c) of § 1192.7 of the Penal Code, and the offenses allegedly committed may be released at the request of any interested party if a hearing has commenced that is based upon a petition that alleges that the minor is a person within the description of §602. (W & I Code § 827.5.)

(3) COMMISSION OF FELONY

After your department received notice of the disposition of the case, if the minor was found by the Court to have committed a felony, you may send the usual information to the CII, FBI or other police agencies within California, but to no other persons or agencies (except as otherwise authorized herein).

(4) CONTENTS OF REPORTS

Note that the order does not prohibit release of information by law enforcement agencies about crimes or the contents of arrest reports, except insofar as they disclose the identity of the juvenile subject of Juvenile Court proceedings.

(5) CORONER’S REPORTS

This order does not apply to Coroner’s reports.

(Eff. 7/1/95)

K. L. MEDICAL ISSUES

(1) STANDING ORDER PERMITTING HEALTH ASSESSMENT, PHYSICAL EXAMINATION, LABORATORY TESTS, VENEREAL DISEASE SCREENING AND FURNISHING OF CONTRACEPTIVES, IMMUNIZATIONS, ROUTINE MEDICAL CARE, MENTAL HEALTH EVALUATION AND SERVICES, AND DENTAL ASSESSMENT AND TREATMENT OF TEMPORARILY DETAINED MINORS

In order that juveniles confined in the Santa Clara County Probation Department and Department of Family and Children’s Services’ temporary holding facilities (i.e., Children’s Shelter, Juvenile Hall,

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

Juvenile Rehabilitation Facilities, Emergency Satellite Homes, and alternative shelter programs) receive necessary care of their physical and mental health, and do not endanger the health and welfare of other persons in these facilities, the Santa Clara Valley Medical Center medical clinics are hereby authorized to provide the following services to all such juveniles, which services follow the “Statement of Committee On Adolescents of the American Academy of Pediatrics, Health Care for Children and Adolescents in Detention Centers, Jails, Lock-ups, and other Court-Sponsored Residential Facilities:”

- a.** A comprehensive health assessment and physical examination.
- b.** Any clinical laboratory tests and limited, non-intrusive diagnostic tests such as blood tests, x-rays and CAT scans, etc. the physician determines are necessary for the evaluation of the juvenile’s health status.
- c.** Upon consent of the juvenile, sexually active juveniles may be screened for venereal disease. Contraceptive devices may be furnished to any juvenile upon the minor’s request.
- d.** Any standard childhood immunizations recommended by the American Academy of Pediatrics necessary to bring a child’s immunizations up-to-date. However, no immunizations shall be administered before: (1) making a reasonable attempt to obtain parental consent; (2) checking the county immunization registry; (3) contacting the child’s personal pediatrician; and (4) if the child is of school age, contacting the child’s school for immunization records. If a parent objects to the child receiving immunizations, then no immunizations shall be administered without a Court order. Further, if no parent is available to give consent, then no immunization may be given until the above conditions have been met and seven days have elapsed since the child’s admission to custody.
- e.** Any routine medical care required based on the results of the comprehensive health assessment, and any routine medical care required for the care of illnesses and injury, including the use of standard X-rays, stitches for cuts and casts for broken bones. Routine medical care as referred to above includes:
 - i.** first aid care for conditions which require immediate assistance from a person trained in basic first aid as defined by the American Red Cross or its equivalent;

(Eff. 1/1/05)

(Eff. 1/1/05)

(Eff. 1/1/05)

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- ii. clinic care for ambulatory juveniles with health care complaints which are evaluated and treated at sick call or by special appointment; and
 - iii. inpatient bed care for illness or injury which requires limited observation and/or management and does not require admission to a licensed hospital. Routine medical care does not include blood transfusions or inpatient care for illness or diagnosis which requires optimal observation and/or management in a licensed hospital.
- f. A mental health status evaluation and necessary mental health services except no placement in an inpatient psychiatric facility shall occur without compliance with W & I Code §§319.1, 635.1 and 5150, et seq.
- g. A dental assessment, including X-rays when appropriate, and any routine dental treatment required based on the results of the dental assessment.

At the time of admission to the temporary holding facility all reasonable efforts should be made to obtain the consent of the parent or legal guardian for non-routine medical care while the juvenile is temporarily detained or placed out-of-home. In the event said consent cannot be obtained (e.g., parent or guardian is not available to give consent), the medical clinic shall request a Court order for any non-routine health care.

- h. This rule also applies to dependent children in Court-ordered placement as well as children who are the subject of a section 300 petition and who are temporarily placed with relatives or non-relative extended family members.
- i. The Department of Family and Children’s Services social workers are authorized to sign necessary documentation and consent forms, including school medical consent forms, for the provision of medical services described in this section.

(Eff. 1/1/05)

(Eff. 1/1/05)

(2) AUTHORIZATION FOR USE OF PSYCHOTROPIC DRUGS

If a child is adjudged a dependent child of the Court under W & I Code § 300 and the child has been removed from the physical custody of the parent under W & I Code § 361, or if a child is adjudged to be a ward of the Court on the basis that he or she is a person described in W & I Code § 602 and is removed from the physical custody of the parent and placed in foster care as defined in W & I Code § 727.4, only a Juvenile Court

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

judicial officer shall have the authority to make orders regarding the administration of psychotropic medications for the minor. The Juvenile Court judicial officer may issue a specific order delegating this authority to a parent upon appropriate findings. Court authorization for the administration of psychotropic medication shall be based on a request from a physician in compliance with W & I Code §§ 369.5 and 739.5.

(Eff. 1/1/09)

Pursuant to CRC 5.640(h), in all cases concerning the administration of psychotropic medications for a child declared a ward of the Court under W & I Code § 602 and removed from the custody of the parent or guardian for placement in a facility that is not considered a foster care placement, the parent or guardian shall continue to have the authority to authorize the administration of psychotropic medications. However, if the parent or guardian is unwilling or unable to make decisions concerning the administration of psychotropic medications, the decision shall be made by Juvenile Court judicial officers and the procedures outlined in W & I Code § 739.5 and Judicial Council forms JV 219 through 223 shall be utilized.

In all cases where a minor is in custody in Santa Clara County before wardship, the parent or guardian shall continue to have the authority to authorize the administration of psychotropic medications. However, if the parent or guardian is unwilling or unable to make decisions concerning the administration of psychotropic medications, in accordance with the Juvenile Court judicial officers’s duty to review, order, and enforce the delivery of services and to secure for the minor the care and discipline as nearly as possible equivalent to that which should have been given by his or her parents consistent with his or her best interest, the decision shall be made by the Juvenile Court judicial officers. See W&I Code § 202 and Standards of Judicial Administration, Standard 24 (e)(3). The procedures outlined in W & I Code § 739.5 and Judicial Council forms JV 219 through 223 shall be utilized.

(Eff. 1/1/10)

a. INITIATION OR CHANGES IN MEDICATION

The Court finds that immediate and special mental health intervention may be necessary for disturbed, psychotic, depressed or suicidal minors who are impacted by the unusual life situations and the stress of institutional placements. Accordingly, the administering psychiatrist shall have the discretion to initiate the use of psychotropic drugs ~~for a 14 day period~~ **as provided by CRC 5.640(g)** while attempting to obtain parental, **or** guardian consent or **C**ourt authorization if, after weighing the risks and benefits of such medication, the psychiatrist

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

concludes there is no significant risk of irreversible side effects. **However, in all cases where consent from a parent or guardian has not been obtained or the Court has retained the right to make the decision, the administering psychiatrist shall approach the Court as soon as possible but never more than two court days after administering the psychotropic medication, utilizing the procedure to obtain authorization set forth in CRC 5.640 (c).**

(Eff. 1/1/10)

If the administering psychiatrist learns that the parent, guardian or attorney for the child objects to the utilization of such drugs, the matter shall be set for hearing before a ~~Judge or Commissioner of the~~ Juvenile Court **judicial officer** on an expedited basis.

(Eff. 1/1/10)

- b.** The psychotropic medication authorization by the Juvenile Court shall be reviewed by the Juvenile Court judicial officer to determine that it is still necessary and proper unless the Court has previously delegated authority to the parents for the administration of psychotropic medications. If any party objects to the continued use of the medication, the Juvenile Court judicial officer shall set it for a hearing on an expedited basis. Further, pursuant to CRC 5.640(f), any order for authorization by the Court is effective until terminated or modified by the Court, or until 180 calendar days from the order, whichever is earlier.

(Eff. 1/1/09)

(c) CONTINUATION OF MEDICATION UPON CHANGE IN PLACEMENT

Whenever a dependent child of the Court, or minor in placement at the Children’s Shelter, is moved to a new placement or to a facility pursuant to W & I Code § 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 is not to be abruptly discontinued for lack of such an order.

- (d)** This rule does not override any inherent authority a physician may have to provide treatment and care in emergency situations. (Cal.Code Regs., Title 9, § 853.)

L. M. LINE-UPS

No minor who is detained in any County facility (Juvenile Hall, Juvenile Rehabilitation Facility or Children’s Shelter) in Santa Clara County or who has a pending court hearing

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

shall participate in any line-up conducted by law enforcement or probation without Court authorization. Authorization shall be sought by noticed motion before the Supervising Judge of the ~~delinquency~~ **Juvenile Justice** calendar if the minor is pending a ~~delinquency~~ **juvenile justice** matter, or before the Supervising Judge of the dependency calendar if the minor is pending a dependency matter. All parties shall receive notice of any such motion.

(Eff. 1/1/10)

M. N. EDUCATIONAL RIGHTS IN JUVENILE COURT

- (1) At every hearing in Dependency and ~~Delinquency~~ **Juvenile Justice** Court, including detention, jurisdiction, and disposition hearings, as well as all review hearings, the Court, to the extent that information is available, must consider who holds the educational rights of the minor and whether the parent or guardian’s educational rights should be limited, and whether the Court shall reserve those rights, appoint a responsible adult, or appoint an educational representative.

(Eff. 1/1/10)

N. O. INSPECTION OF LAW ENFORCEMENT LOCK-UPS

Pursuant to W & I Code § 209, the Juvenile Justice Commission shall conduct an annual inspection of all law enforcement facilities in Santa Clara County which contain a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

The results of each inspection shall be presented in writing to the Presiding Judge of the Juvenile Court or the Supervising Judge of the Juvenile ~~Delinquency~~ **Justice** Court during the calendar year.

(Eff. 1/1/10)

O. P. LOCAL RULES RELATING TO CHILD ADVOCATES

(1) THE ADVOCATE PROGRAM

The Juvenile Court may appoint child advocates to represent the interests of dependent or delinquent children. In order to qualify for appointment the child advocate must be trained by and function under the auspices of a Court appointed special advocate program, formed and operating under the guidelines established by the California Judicial Council (W & I § 356.5).

The advocate program shall report regularly to the Presiding Judge of the Juvenile Court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for Child Advocates.

(2) CHILD ADVOCATES

a. ADVOCATES’ FUNCTIONS

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate’s functions are as follows:

- i.** to support the child throughout the Court proceedings;
- ii.** to establish a relationship with the child to better understand his or her particular needs and desires;
- iii.** to communicate the child’s needs and desires to the Court in written reports and recommendations;
- iv.** to identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
- v.** to provide continuous attention to the child’s situation to ensure that the Court’s plans for the child are being implemented;
- vi.** to the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer/social worker);
- vii.** to the fullest extent possible, to communicate and coordinate efforts with the child’s attorneys; and
- viii.** to investigate the interests of the child in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with the approval of the Court, offer his/her services on behalf of the child to such other Courts or tribunals.

b. SWORN OFFICER OF THE COURT

An advocate is an officer of the Court and is bound by these rules. Each advocate shall be sworn in by a Superior Court Judge/Referee/Commissioner before beginning his/her duties, and shall subscribe to the written oath set forth in attached form JV - 2003.

(Eff. 7/1/08)

c. SPECIFIC DUTIES

The Court shall, in its initial order of appointment, and thereafter subsequent order as appropriate, specifically delineate the advocate’s duties in each case, which may include independent investigation of the circumstances of the case, interviewing and

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child’s grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by Court order, the advocate shall discharge his/her obligation to the child and the Court in accordance with the general duties set forth in these rules.

d. PROCEDURES IN ~~DELINQUENCY~~ JUVENILE JUSTICE CASES

(Eff 1/1/10)

i. A request for appointment of a child advocate in a ~~delinquency~~ **juvenile justice** case may be made orally or in writing in open court or ex parte by the probation officer or any party to the case, or by the Court on its own motion. If the Court grants the request, it shall order that the case be referred to Court Appointed Child Advocates (CASA) for screening. (See attached form JV-2001.) The order shall be transmitted to CASA by the courtroom clerk.

(Eff. 1/1/10)

ii. When CASA receives a referral, it shall screen it, and if it determines that the minor is a suitable subject for the appointment of a child advocate and if there is a suitable child advocate available for appointment, CASA shall complete an application for the appointment of a designated child advocate and present the application ex parte to the referring court which may then grant the application or set the matter for hearing. (See attached form JV-2004.)

(Eff. 7/1/08)

iii. When the Court grants the application for appointment of a child advocate (either at the time of application or after hearing), CASA shall prepare and present to the Court an order appointing the child advocate. (See attached form JV-2005.)

(Eff. 7/1/08)

iv. Any party to the proceeding may petition the Court for a hearing to reconsider the appointment.

v. A child advocate may petition the Court to set the minor’s case for a review hearing. (See attached form JV-2009.)

(Eff. 7/1/08)

vi. The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child advocate. The Court will determine whether there

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

will be a hearing on such a motion. (See attached form JV - 2006.)

(Eff. 7/1/08)

- vii.** Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the child advocate program. The Court will determine whether there shall be a hearing on such a petition.

e. PROCEDURES IN DEPENDENCY CASES (W & I CODE § 300)

- i.** A request for appointment of a child advocate in a dependency case may be made orally or in writing in open court or ex parte by the social worker, any party to the case or by the Court on its own motion. Unless there is opposition, the referral shall be forwarded to the child advocate office for screening and assignment.

- ii.** When an appropriate child advocate has been identified, that person’s name shall be submitted to the Court for appointment. (See attached form JV-2007.)

(Eff. 7/1/08)

- iii.** Any party to the case may petition the Court for a hearing to reconsider the appointment.

- iv.** The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child advocate. The Court will determine whether there will be a hearing on such a motion. (See attached form JV-2006.)

(Eff. 7/1/08)

- v.** Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the Child Advocate program. The Court will determine whether there shall be a hearing on such a petition.

(3) RELEASE OF INFORMATION TO ADVOCATE

a. TO ACCOMPLISH APPOINTMENT

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

To accomplish the appointment of an advocate, the Judge/Referee/Commissioner making the appointment shall sign an order granting the advocate the authority to review specific relevant documents. In addition, the advocate will have the authority to interview parties involved in the case and other persons having significant information relating to the child. The advocate shall have the same authority as any other officer appointed to investigate proceedings on behalf of the Court.

(Eff. 7/1/08)

b. ACCESS TO RECORDS

An advocate shall have the same legal right to records relating to the child he/she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his or her identification as a Court-appointed advocate to any such record holder in support of his/her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

c. REPORT OF CHILD ABUSE

An advocate is a mandated child abuse reporter with respect to the case to which he/she is appointed.

d. COMMUNICATION

There shall be ongoing, regular communication concerning the child’s best interests, current status, and significant case developments maintained among the advocate, case manager, child’s attorney, attorneys for parents, relatives, foster parents and any therapist for the child.

(4) RIGHT TO TIMELY NOTICE

In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice.

(5) CALENDAR PRIORITY

In light of the fact that advocates are rendering a volunteer service to children and the Court, matters on which they appear should be granted priority on the Court’s calendar, whenever possible.

**RULE 1 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(6) VISITATION THROUGHOUT DEPENDENCY

Child Advocates shall have the right to regular unsupervised contact with the child. An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed.

(Eff. 1/1/05)

(7) FAMILY LAW ADVOCACY

Should the Juvenile Court dismiss dependency and create family law orders pursuant to W & I Code § 362.4, the advocate’s appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate’s duties in the family law proceeding.

(8) RIGHT TO APPEAR

An advocate shall have the right to be present and be heard at all Court hearings, and shall not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a “party”, as described in Title 3 of Part II of the Code of Civil Procedure. However, the Court, in its discretion, shall have the authority to grant the advocate *amicus curiae* status, which includes the right to appear with counsel.

(Eff. 7/1/96)

RULE 2 RULES RELATING TO DEPENDENCY

A. DE FACTO PARENTS/RELATIONS/INTERESTED PERSONS

(1) DE FACTO PARENTS

Upon a sufficient showing the Court may recognize the child’s present or previous custodians as *de facto* parents and grant standing to participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking *de facto* parent status shall file a noticed motion before the Court setting out the reasons in support of the motion, unless the Court shall for good cause permit an oral motion to be made. (Judicial Council Form JV-295-298).

(Eff. 1/1/05)

The *de facto* parent shall have the rights outlined in CRC 5.534(e). The *de facto* parent shall be able to have access to and inspect and copy only those juvenile court records authorized by the Court.

(Eff. 7/1/08)

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

B. MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION

In any dependency proceeding, the Court may entertain a pre-hearing challenge to the petition’s sufficiency by a motion akin to a demurrer. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible.

The Court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive points and authorities from counsel.

If the Court sustains the motion, the Court may grant leave to amend the pleading in the petition upon any terms as may be just and shall fix the time within which the amendment or amended petition shall be filed within the statutory time for the hearing on jurisdiction.

In re Fred J. (1979) 89 Cal.App.3d 168 CCP 472(a).

(Eff. 1/1/95)

C. PRESENTATION OF EVIDENCE

(1) OFFERS OF PROOF

The party presenting evidence may utilize an offer of proof with regard to any witness. Other parties shall have an opportunity to examine the witness after any offer of proof is made.

D. REPRESENTATION OF PARTIES (W&IC Code §§ 317, 317.6, CRC 5.660)
(Eff. 7/1/08)

(1) EXPERIENCE, TRAINING AND EDUCATION OF ATTORNEYS

a. GENERAL COMPETENCY REQUIREMENT

All court-appointed attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules.

b. STANDARDS OF EDUCATION AND TRAINING

i. Each court-appointed attorney appearing in a dependency matter before the Juvenile Court shall complete the following minimum training and educational requirements. The attorney shall have either:

- Participated in at least 36 hours of training and education in juvenile dependency law and practice, which training shall have included comprehensive information on §§ 202, 213.5, 214, 241.1, 281.5, 300 et seq.; Family Code §7900 et seq. (Interstate

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

Compact), and § 7600 et seq. (Uniform Parentage Act); Education Code §5000 et seq. (Special Education Programs); 8 United States Code (USC) § 1101 (Special Immigrant Status for Undocumented Dependent Children), 25 USC § 1901 et seq. (Indian Child Welfare Act), 28 USC § 1738 (Parental Kidnapping Prevention Act), and 42 USC § 620 et seq. and § 670 et seq. (Adoption and Safe Families Act); the California Rules of Court, Local Rules of Court, the rules of evidence as set forth in the California Evidence Code, and the applicable case law as well as practical training on Judicial Council forms, motions, writs and mediation, family group conferencing, team decision making, the Family to Family initiative, domestic violence projects (the Greenbook Project, for example), child development, child abuse and neglect, family reunification and preservation, restraining orders, rights of de facto parents, reasonable efforts, or

(Eff. 1/1/05)

- At least 6 months of experience within the last 12 months in dependency proceedings in another county in which the attorney has had primary responsibility for representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney’s performance has substantially complied with the requirements of these rules.

(Eff. 1/1/05)

- ii. Each court-appointed attorney who practices before the Juvenile Dependency Court shall complete within every 1 year period at least 12 hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education shall be retained by the attorney and may include a copy of a certificate of attendance issued by a California MCLE provider or a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider. Attendance at a Court sponsored or approved program will also fulfill this requirement.

(Eff. 1/1/05)

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- iii.** The attorney’s continuing training or education shall be in the areas set forth in subdivision I of this rule (immediately above).
- iv.** To enhance the practice of law before the Juvenile Dependency Court of this County, and to recognize the unique qualities of juvenile dependency law, a standing committee of the Juvenile Court shall review and recommend modifications to these rules in the areas of training, education and standards of representation.

(Eff. 1/1/05)

c. STANDARDS OF REPRESENTATION

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

- i.** Attorneys are expected to meet regularly with clients, including clients who are children, to contact social workers and other professionals associated with the client’s case, to work with other counsel and the Court to resolve disputed aspects of a case without hearing, and to adhere to the mandated time lines.
- ii.** If the client is a child, the attorney or attorney’s agent should have contact with the client prior to each hearing. The attorney or attorney’s agent shall interview all children 4 years of age or older in person unless it is impracticable. Whenever possible, the child shall be interviewed at the child’s placement. The attorney or attorney’s agent should also interview the child’s caretaker, particularly when the child is under 4 years of age.
- iii.** If the client is not the child, the attorney or attorney’s agent shall interview the client at least once prior to the jurisdictional hearing unless that client is unavailable. Thereafter, the attorney or the attorney’s agent shall contact the client at least once prior to each hearing unless that client is unavailable.

(2) COMPLAINTS

- a.** Any party to a juvenile proceeding may lodge a written complaint with the Court concerning the performance of his/her appointed attorney in a Juvenile Court proceeding as follows:

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- i.** Complaints or questions shall initially be referred to that attorney’s supervisor within the agency, association or law firm appointed to represent the client.
 - ii.** If the issue remains unresolved or if there is no designated agency, association or law firm, the party may submit a written complaint to the Court in which the matter is pending. The Court shall within 10 days conduct its own review of the complaint or question. That review may include a hearing in chambers. The Court may take any appropriate action required, including relieving counsel and appointing new counsel and/or holding a formal hearing on the matter.
- b.** 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’s advocate.

(3) INFORMING THE COURT OF THE INTEREST OF THE CHILD

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 that needs to be protected or pursued.

- a.** This may be done by filing a petition to modify a previous order, under W & I Code § 388 (JV-180). The petition shall set forth the nature of the interest or right to be protected and the action on the child’s behalf that is being requested.
- b.** If counsel for the child becomes aware that the child may have a right or interest that needs to be protected or pursued in another judicial or administrative forum, counsel for the child shall notify the Court in the manner indicated above as soon as it is reasonably possible to do so.
- c.** The Court upon receiving such notification may make any orders that are appropriate to protect the rights of the child, including, but not limited to:
 - i.** Determining if the child’s attorney is willing and able to pursue the matter on the child’s behalf. If the Court finds that the child’s attorney is willing and qualified to initiate and pursue appropriate action, it may make any orders necessary to facilitate this representation;

(Eff 7/1/08)

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- ii. Appoint counsel for the child specializing in the practice before the agency or court in which the proceeding will occur.
 - iii. Appoint a guardian ad litem for the child to initiate or pursue the proposed action;
 - iv. Join an administrative agency to the Juvenile Court proceedings pursuant to W & I Code § 362;
 - v. Take any other action to protect the interest and rights of the child.
- d. The person filing the W & I Code § 388 petition or an Application for Order and Order re Interest of the Child shall serve a copy of the notice on each of the parties or their attorneys, the child advocate and others as prescribed by law. Notice may be dispensed with upon Order of the Court.

(Eff. 7/1/96)

E. ACCESS TO MINORS PETITIONED PURSUANT TO W & I CODE § 300

No party or attorney (other than the social worker) in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor’s attorney or Court order.

(Eff. 1/1/05)

No party or attorney in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation except as authorized by law.

(Eff. 1/1/05)

The Court shall make the selection of the person to perform any such examination. Each party shall have the right to notice and to be heard on the person to be selected.

(1) INTERVIEWING MINORS WHO ARE ALLEGED VICTIMS OF CHILD ABUSE

All dependency investigators in the Probation Department and the Department of Family and Children’s Services, all attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident shall first review the comprehensive interview taken by the investigating officer.

(2) PRESENCE OF CHILD IN COURT

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

All children are entitled to attend Court hearings. Every child 4 years or older shall be told of his or her right to attend Court hearings by the investigating/supervising social worker and attorney for the child.

(Eff. 1/1/05)

All children are entitled and encouraged to come to Court. However, their appearance may be excused for any of the following reasons:

(Eff. 1/1/05)

- a. the minor’s attorney waives the minor’s appearance;
- b. the minor chooses not to attend;
- c. the minor is excused by the Court;
- d. the child is hospitalized or physically unable to attend.

If the child is present, the judicial officer hearing the case may view and speak with the child.

(Eff. 1/1/05)

(3) NOTICE RE CHANGE IN PLACEMENT

In order to ensure that proper notice is received by attorneys for parents and children of any change in a child’s placement after the original dispositional hearing:

- a. In non-emergency situations, the Department shall give notice at least 5 working days prior to the change in placement.
- b. Prior to removal of a child from one county to another, the Department shall provide notice at least 14 calendar days unless emergency circumstances prevent such notice.
- c. In emergency circumstances the Department shall give notice immediately following the child’s change in placement.
- d. Notice may be given in writing or orally and by telephone.

(Eff. 1/1/05)

(Eff. 1/1/05)

(Eff. 1/1/95)

F. CREATION OF A FAMILY COURT ORDER IN JUVENILE COURT

(1) PETITION FOR DISMISSAL

Whenever any interested party believes that Juvenile Court intervention on behalf of a child is no longer necessary, application may be made to the Juvenile Court pursuant to W & I Code § 388 or at any regularly scheduled hearing to have the case dismissed. Thereafter, any future litigation relating to the custody, visitation and control of the child shall be heard in the Family Court or other appropriate Superior Court Civil Department.

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(2) JUVENILE COURT CUSTODIAL ORDER

If the Juvenile Court determines that jurisdiction of the Juvenile Court is no longer necessary for the protection of the child, the Court may create a custodial order on Judicial Council Form JV-200 consistent with the needs of the child and thereafter dismiss the juvenile petition and case (W & I Code §§ 361.2, 362.4). Any party may object to the proposed dismissal and be heard on the issues.

(Eff. 1/1/05)

(3) MAINTENANCE OF ORDERS IN COURT FILES

a. JUVENILE COURT

The original court order shall be filed in the Family Court or civil file and endorsed copies shall be filed in the Juvenile Court file. A copy of the endorsed-filed order shall be mailed to the attorneys and parties.

b. SUPERIOR COURT

If no Court file exists in the Family Court or other Superior Court division or in any other jurisdiction, the Court Clerk shall create a file under the names of the child’s parents. The file shall contain a copy of the Juvenile Court order. There shall be no filing fee.
W & I Code § 362.4.

(Eff. 1/1/04)

G. GUARDIANS AD LITEM

(1) FOR PARENTS

a. The Court shall appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the Juvenile Court pursuant to a dependency petition (W & I Code § 300 et seq.). The determination of incompetency may be made by the Court at any time in the proceeding based upon evidence received from any interested party.

b. The parent or guardian must be present in Court for the informal closed proceeding, and the Court must explain the proceeding to the parent or guardian in plain language. If the Court finds by a preponderance of the evidence that the parent or guardian does not understand the nature or consequences of the proceeding, or that the parent or guardian cannot assist their attorney in the preparation of their case, then the Court shall appoint a guardian ad litem.

(Eff. 1/1/05)

c. The guardian ad litem’s role is to protect the rights of the ward. He or she has the right to control the litigation on behalf of the

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

ward. Among the guardian’s powers are the rights to compromise or settle the action, to control the procedural steps incident to the conduct of the litigation, and, with the approval of the Court, to make stipulations or concessions that are binding on the ward, provided they are not prejudicial to the ward’s interests. The guardian ad litem’s role is more than an attorney’s but less than a party’s. The guardian ad litem may make tactical and even fundamental decisions affecting the litigation, but always with the interest of the ward in mind. However, the guardian may not compromise fundamental rights, including the right to trial, without some countervailing and significant benefit.

(Eff. 7/1/08)

(2) NOTICE TO GUARDIANS AD LITEM, ACCESS TO RECORDS, RIGHT TO APPEAR

- a.** In all proceedings the guardian ad litem shall be given the same notice as any party.
- b.** The guardian ad litem shall have the same access to all records relating to the case as would any party.
- c.** The guardian ad litem shall have the right to appear at all hearings.

(Eff. 7/1/96)

H. PARENTAL VISITATION

(1) VISITATION BEFORE DETENTION HEARING

- a.** Any child taken into temporary custody shall have supervised visitation with one or both parents or guardians before the detention hearing takes place unless the social worker has a reasonable belief that the child or his or her temporary custodian would be endangered by the disclosure of the child’s exact whereabouts or that the disclosure would cause the custody of the child to be disturbed (W & I Code § 308).
- b.** Whenever a child is taken into temporary custody, the social worker shall inform the parent or guardian of the child’s condition and his or her general location and offer supervised visitation pursuant to subdivision a. (immediately above).
- c.** Immediately after a child is taken into temporary custody the social worker shall ensure that the child has regular telephone contact with his or her parent pursuant to W & I Code § 308, unless that contact would be detrimental to the child.

(Eff. 1/1/05)

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- d.** If the social worker fails to follow the procedures listed in subdivision a. (immediately above), he or she shall note the reasons therefore in the papers prepared for the detention hearing.

(Eff. 1/1/05)

(2) VISITATION AFTER DETENTION HEARING

- a.** The determination of the right to visitation, the length of any visitation, whether any visitation will be supervised, and the frequency of visitation are a part of the judicial function and must be made by the Court. The implementation and administration of the Court’s order, however, may be delegated to the social worker. These ministerial tasks that may be delegated to the social worker include the time, place and manner of visitation. The Court may also delegate discretion to the social worker to increase the frequency and duration of the visits, and to permit unsupervised visits (sometimes with the explicit condition that the attorney for the minor be given notice). The Court’s order cannot, however, delegate to the social worker, the child’s therapist, or other person unlimited discretion to determine whether visitation shall occur.

(Eff. 1/1/05)

- b.** Absent exigent circumstances indicating detriment to the child, only the Court may reduce visits for a parent. Juvenile Court visitation orders may be modified by an application for modification pursuant to W & I Code § 388 or by Application and Order, or by motion of a party at a regularly scheduled review hearing.

(Eff. 1/1/05)

- c.** Visitation should be as frequent as possible, consistent with the well-being of the child.

(Eff. 1/1/05)

I. DEPENDENCY MEDIATION

- (1)** The Court, pursuant to W & I Code § 350 and at any stage of the dependency court process, upon the request of any person who the court deems to have a direct and legitimate interest in the particular case or on the court’s own motion, will order all parties and counsel to participate in confidential mediation in an attempt to resolve jurisdictional and/or dispositional issues in dispute, or case related problems, and to develop a related plan that is in the best interests of the child. The preference of the Court is that mediation services be provided by a male/female co-mediation team.

- (2)** Dependency Mediators shall be either California Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, or Licensed Psychologists employed by Santa Clara County Family Court Services

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

who meet the training and experience requirements included within the current *Santa Clara County Dependency Mediation Protocol & Dependency Mediation Domestic Violence Protocol*, CRC 5.518, Court-connected dependency mediation.

(Eff. 7/1/08)

(3) CALENDARING AND REFERRAL

- a.** The Court will calendar appointments for cases ordered to mediation with the Dependency Mediation Program, whenever possible scheduling cases expected to require extensive attorney participation for afternoon appointments and cases expected to require less attorney participation for morning appointments. The Court will, at the time of calendaring, attempt to identify all the individuals whose participation in mediation may be helpful in resolving the case so that their participation may be either ordered or invited as appropriate.
- b.** The Court will distribute *Juvenile Dependency Court Mediation* brochures to the parties at the time of referral.
- c.** The Court will complete the *Dependency Mediation Referral* form at the time of calendaring and referral, identifying the participants and issues referred to mediation. The Court will also indicate on that form whether domestic violence has ever been an issue in the case and, if so, hand out the *Dependency Mediation Procedural Rights in Domestic Violence Cases* form to the victim party or parties. The Court will also determine whether a Domestic Violence Protective Order is in effect, and if so, forward a copy of said order to the Dependency Mediation Program along with the referral.
- d.** The Court will review the Court file and forward to the Dependency Mediation Program background information on the case in the form of copies of reports and documents related to child abuse and/or neglect and any history of domestic violence to assist the mediators in preparing for the case.

- (4)** The parties, assigned DFCS social workers, all assigned counsel, and any CASA must attend all scheduled mediation appointments. The subject child has a right to participate in the dependency mediation process accompanied by his or her attorney unless the child makes an informed choice not to participate.

(Eff. 1/1/05)

- a.** Failure to attend mediation by the mandated participants may result in the imposition of sanctions pursuant to Code of Civil Procedure § 177.5.

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- (5) Upon the concurrence of the mediator(s) and counsel, other individuals will be permitted to participate in the mediation on a voluntary basis.
- (6) Dependency Mediation in Santa Clara County is a confidential and non-recommending process operating in compliance with Chapter 2, §§ 1115 through 1128, of the Evidence Code of the State of California with the following exceptions to confidentiality: 1) Santa Clara County Dependency Mediators are mandatory child abuse reporters as defined within § 11166.5 of the Penal Code and have a duty to report in the event they develop a reasonable suspicion of child abuse not formerly reported; 2) Santa Clara County Dependency Mediators have a duty when confronted with serious threats of violence against reasonably identifiable victims to make reasonable efforts to communicate such threats to the victim or victims and to a law enforcement agency (*Tarasoff v. Regents of University of California, supra, 17 Cal.3d at pp.431, 438, 131 Cal. Rptr. 14, 551 P.2d 334*); 3) It is the duty of mediators to disclose information otherwise as may be compelled by statute or case law.
- (7) Dependency Mediation must be conducted in accordance with the *Santa Clara County Dependency Mediation Protocol and Dependency Mediation Domestic Violence Protocol* and CRC 5.518, Court-connected dependency mediation, and must involve, at a minimum, all the mandatory participants as defined in subdivision (4) above at various stages throughout the process.
- a. All mandatory mediation participants and the mediators must appear on time for all scheduled mediation appointments.
- b. Dependency Mediators must make every reasonable effort to release the attorneys involved in mediation during the middle stages of the process, consistent with their clients’ need to consult with them during the course of mediation, so that the attorneys may make themselves available to the Court and facilitate the conducting of Court business in the most efficient manner possible.
- c. Dependency Mediators must make every reasonable attempt to insure that morning mediation appointments are completed no later than 11:30 a.m., and that afternoon mediation appointments are completed no later than 4:30 p.m., so that the parties and attorneys may report back to the Court in a timely manner.
- d. Each area of agreement resulting from mediation must be approved by all the mandatory participants including the family members who are parties, the assigned DFCS Social Worker, all the involved attorneys, and any participating Court Appointment

(Eff. 7/1/08)

**RULE 2 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

Special Advocate.

(Eff. 7/1/08)

- e. The attorney from the Office of the County Counsel assigned to represent the assigned social worker from the DFCS will be responsible for recording all aspects of any partial or complete agreement, and for recording any areas of remaining disagreement.
- f. Immediately upon completion of the mediation appointment, all the mandatory participants may proceed to court. The attorney from the Office of the County Counsel will report to the Court the exact nature of any areas of agreement and/or disagreement, and/or any request for an additional mediation appointment. The Court will take whatever action is deemed necessary to confirm the nature of agreement/disagreement with the parties and attorneys, and to assure itself that all parties and attorneys understand the nature of any agreement. The Court must also approve/disapprove any request for an additional mediation appointment, and if approved, calendar the return appointment.
- g. The Court must review the proposed agreement and determine whether to approve any portion or all of it. The Court must make any orders and/or findings deemed appropriate. The Court must determine any necessary subsequent action including trial setting.
- h. The attorney representing the Office of the County Counsel will be responsible for preparing any orders made by the Court related to the mediated agreement.

(Eff. 1/1/05)

J. COURT ORDERED MENTAL HEALTH EVALUATION

Where the Court has ordered a mental health or psychological evaluation, the Court shall determine what court reports and other information shall be released to the evaluator.

(Eff. 1/1/05)

**RULE 3 RELATIONSHIPS AMONG DIFFERENT DIVISIONS OF THE
SUPERIOR COURT**

**A. JUVENILE DEPENDENCY, JUVENILE ~~DELINQUENCY~~ JUSTICE,
FAMILY, AND PROBATE COURTS EXCHANGE OF INFORMATION**

(Eff. 1/1/10)

This rule addresses the exchange of information between Family Court Services staff (FCS), Juvenile Probation Department (JPD), the Department of Family and Children’s Services (DFCS), the Adult Probation Department (APD), and the Probate Court Investigator’s (PCI) staff.

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

The Court hereby finds that the best interests of children and victims appearing before the Juvenile, Family, Criminal and Probate Courts, the public interest in avoiding duplication of effort by the Courts and by the investigative and supervisory agencies serving the Juvenile, Court or Court-serving agency outweighs the confidentiality interest reflected in Penal Code §§ 11167 and 11167.5, W & I Code §§ 827 and 10850, Family Code § 1818, and Probate Code § 1513, and therefore good cause exists for the following rule:

(1) JUVENILE DEPENDENCY

FCS, PCI, APO, and JPD staff may orally disclose to DFCS staff who are investigating or supervising a child abuse or neglect case the following information:

- a. Whether the child, his/her parents, guardians, or caretakers are or have been the subject of a custody, ~~delinquency~~ **juvenile justice**, criminal or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by FCS, PCI, APO, or JPD, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence with respect to the child, parents, guardians, or caretakers.
- b. Any statement made by the child of the child’s parents, guardians, or caretakers which might bear upon the issue of the child’s best interests in the pending child abuse or neglect case.
- c. DFCS may include this information in Court reports and keep such information in their case files.
- d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code § 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 DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a court order.

(Eff. 1/1/10)

(Eff. 1/1/05)

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(2) CUSTODY DISPUTES

JPD, PCI, APO or DFCS may orally disclose to FCS staff who are mediating, evaluating, or investigating a child custody or visitation dispute the following information:

a. Whether the child or his/her parents or caretaker are or have been the subject of a child abuse, neglect, probate, criminal or ~~delinquency~~ **juvenile justice** investigation, the findings and status of that investigation, the recommendations made or-anticipated to be made to the Court by DFCS, PCI, APO or JPD, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence and probation conditions with respect to the child, parents or caretakers.

(Eff. 1/1/10)

b. Any statements made by the child or the child’s parents, guardians or caretakers which might bear upon the issue of the child’s best interests in the pending Family Court matter.

c. FCS may include this information in court reports and keep such information in their case files.

d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code § 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 DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Eff. 1/1/05)

(3) JUVENILE ~~DELINQUENCY~~ JUSTICE

(Eff. 1/1/10)

FCS, PCI, APO, or DFCS staff may orally disclose to JPD staff who are investigating or supervising a ~~delinquency~~ **juvenile justice** case the following information:

FCS, PCI, APO, or DFCS staff may orally disclose to JPD staff who are investigating or supervising a delinquency case the following information:

a. Whether the child or his/her parents, guardian, or caretakers have been the subject of a child abuse, neglect, custody, criminal or

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by DFCS, FCS, APO or PCI staff, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence with respect to the child, parents, guardians or caretaker(s).

b. Any statements made by the child or the child’s parents, guardians, or caretakers which might bear upon the child’s ~~delinquency~~ **status** or any disposition in the ~~delinquency~~ **juvenile justice** proceeding.

(Eff. 1/1/10)

c. JPD may include this information in court reports and keep such information in their case files.

d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code § 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 DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Eff. 1/1/05)

(4) PROBATE

FCS, DFCS, APO and JPD staff may orally disclose to PCI staff who are investigating or supervising a probate guardianship or conservatorship matter the following information:

a. Whether the child or his/her parents, guardians, or caretakers have been the subject of a child abuse, neglect, custody, criminal or ~~delinquency~~ **juvenile justice** investigation; the findings and status of that investigation; the recommendations made or anticipated to be made to the Court by DFCS, FCS, APO or JPD staff; the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders including probation conditions in existence with respect to the child, parents, guardians or caretakers.

(Eff. 1/1/10)

b. Any statement made by the child or the child’s parents, guardians, or caretakers which might bear upon the issue of the child’s best interest in the probate matter.

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

- c. PCI may include this information in court reports and keep such information in their case files.
- d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code § 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 DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Eff. 1/1/05)

(5) ADULT PROBATION

FCS, DFCS, JPD and PCI staff may orally disclose to APO staff who are investigating a criminal case or who are supervising a criminal defendant the following information:

- a. Whether the child victim, his/her parents, guardians, or caretakers are or have been the subject of a custody, child abuse or neglect, ~~delinquency~~ **juvenile justice**, or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by FCS, DFCS, JPD or PCI staff, the progress while under Court supervision including compliance with Court orders and a copy of any court orders including probation conditions in existence with respect to the child, parents, guardians, or caretakers.
- b. Any statement made by the child or the child’s parents, guardians, or caretakers which might bear upon the issue of the child’s or victim’s best interests in the pending criminal action.
- c. APO may include this information in court reports and keep such information in their case files.
- d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code § 11167.5 (Suspected Child Abuse Report form #S-8572), information disclosing the identity of a reporting party, or Court-ordered psychological

(Eff. 1/1/10)

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Eff. 1/1/05)

B. FOREIGN CONSULATES

Whenever there is reason to believe that a child appearing before the Juvenile Court is a foreign national, the DFCS may orally disclose to the foreign consulate the following information about each child and parent: address, phone number, date of birth and the reason the child was brought into protective custody.

C. COURT COMMUNICATION REGARDING RESTRAINING ORDERS

(1) PROCEDURE IN JUVENILE COURT

- a.** Subject to available resources, the Family, Juvenile, and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS Civil Restraining Orders.
- b.** Any order of the Family, Juvenile, or Probate Court that permits contact between a defendant/restrained person subject to either CLETS Civil Restraining Orders or Criminal Protective Orders and his or her children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the children, including the safe exchange of the children, in accordance with § 3100 of the Family Code. Such an order shall not contain language that conflicts with a Criminal Protective Order. Safety of all parties shall be the Court’s paramount concern. The Court or a Court-related agency may recommend safe and specific contact with the children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

(2) MODIFICATION OF CRIMINAL PROTECTIVE ORDERS

- a.** Any court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a Criminal Protective Order may modify the Criminal Protective Order if all of the following circumstances are satisfied:

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

i. Both the defendant/ restrained person and the victim/ protected person are subject to the jurisdiction of the Family, Juvenile, or Probate Court, and both parties are present before the Court.

ii. The defendant/restrained person is on probation (formal or court) for a domestic violence offense in Santa Clara County or is currently charged with a domestic violence related offense in Santa Clara County and a Criminal Protective Order has issued.

(Eff. 1/01/06)

iii. The Family, Juvenile, or Probate Court identifies a Criminal Protective Order issued against the defendant, which is inconsistent with a proposed Family, Juvenile, or Probate Court Order, such that the Family, Juvenile, or Probate Order is/will be more restrictive than the Criminal Protective Order or there is a proposed custody or visitation order which requires recognition in the Criminal Protective Order (Boxes 12 or 13 or both on the Criminal Protective Order form).

(Eff. 1/01/07)

iv. The defendant signs an appropriate waiver of rights form or enters a waiver of rights on the record.

v. Both the victim/protected person and the defendant/ restrained person agree that the Criminal Protective Order may be modified to a more restrictive order or to add Box 12 or 13 or both to the Criminal Protective Order.

(Eff. 1/01/07)

b. The Family, Juvenile, or Probate Court may not modify existing Criminal Protective Orders to be less restrictive. Only if children are not listed as protected persons, a modification of the Criminal Protective Order to check Box 12 or 13 or both shall not be considered less restrictive.

(Eff. 1/01/07)

c. The Family, Juvenile, or Probate Court may on its own motion or at the request of defendant, protected person or other interested party, calendar a hearing before the Criminal Court on the issue of whether a Criminal Protective Order should be modified. The Family, Juvenile, or Probate Court shall provide the Criminal Court with copies of existing or proposed Orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

(Eff. 1/01/07)

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

**D. FAMILY AND JUVENILE COURT MANAGEMENT OF CHILD ABUSE
CASES**

It is the policy of the Superior Court to identify and coordinate custody proceedings involving the same child which may appear in multiple legal settings. It is further the policy of the Superior Court to coordinate the efforts of the different court systems so that the child’s needs are served and the resources of the family and the Court are not wasted. To these ends the Superior Court and the agencies serving the Court shall cooperate to increase the exchange of information and to determine the most appropriate forum for the resolution of the issues relating to the child.

(1) REPORT PURSUANT TO PENAL CODE SECTION 11166

If during the pendency of a family law proceeding a child abuse allegation against one of the child’s parents comes to the attention of a FCS staff member or other mediator or evaluator, that person shall first determine whether the allegation must be reported to a child protection agency pursuant to Penal Code § 11166. If that person determines the allegation does not fall within the description of § 11166, he/she need not make a report. However, any other person may report the allegation to a child protection agency.

(2) CHILD ABUSE INVESTIGATION

When the DFCS receives a report of suspected child abuse during the pendency of a family law proceeding, it shall investigate the matter immediately or within three or ten days pursuant to DSS Regulations 30-132. The DFCS shall coordinate its investigation with the reporting police agency. The DFCS shall inform FCS of any decisions it makes concerning the child abuse investigation. If the DFCS determines that further investigation is necessary, it shall contact the investigating agency immediately so that all investigative efforts can be coordinated.

(3) W & I CODE § 329 APPLICATION

If the DFCS decides not to intervene or fails to report to the reporting party within 10 days, any person may apply to the social worker pursuant to W & I Code § 329. In that application the affiant shall give notice and identifying information of any pending family law proceeding. A copy of the application shall be sent to FCS by the moving party. The social worker shall respond to the application as soon as possible or within three weeks after submission of the application. (W & I Code § 329.) The social worker shall orally notify FCS of the response.

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(See Judicial Council Forms JV-210 and JV-215 for application and order forms.)

(Eff. 1/1/05)

(4) SUSPENSION OF FAMILY COURT PROCEEDINGS

a. DFCS REPORT

After a report of suspected child abuse has been made to a child protection agency, custody and visitation proceedings in the Family Court are suspended, except that the Family Court shall have the power to make temporary protective orders to ensure the safety of the child. The suspension shall remain for 18 calendar days from the report or until the DFCS indicates in writing that it will take no action in the matter, whichever occurs first.

b. W & I CODE § 300 PETITION, JUVENILE COURT

If a petition pursuant to W & I Code § 300 is filed in the Juvenile Court, all custody and visitation proceedings in the Family Court are suspended. Thereafter custody and visitation issues shall be determined by the Juvenile Court. The Family Court shall resume custody or visitation litigation only after written authorization is received from the Juvenile Court.

(5) REVIEW OF DEPENDENCY DECISION

If the DFCS worker decides not to initiate dependency proceedings, any person may apply to the Juvenile Court to review that decision pursuant to W & I Code § 331. The application shall include a copy of any application made pursuant to W & I Code § 329 if one was made. The Juvenile Court shall rule on the application as soon as possible and in no event later than 30 days after receipt of the application. (See Judicial Council Forms JV-210 and JV-215 for application and order forms.)

(Eff. 1/1/05)

(6) INFORMAL SUPERVISION AGREEMENT

If during the DFCS worker’s investigation one or both parents reach an informal supervision agreement pursuant to W & I Code § 330, a copy of that agreement shall be sent immediately to the DFCS, to FCS and to each parent.

(7) FAMILY CODE § 3150 APPOINTMENT OF COUNSEL

During family law proceedings in which allegations of child abuse have been made, the Family Court Judge may appoint counsel for the child (Family Code § 3150) to protect the child’s interests and/or expedite the policy stated herein and carry out the terms of this protocol.

**RULE 3 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

JUVENILE RULES

(8) COORDINATION OF CASES

At any time during the process described herein, the supervising judges of the Family and Juvenile Courts are encouraged to discuss problems relating to the coordination of cases involving child abuse allegations.

(Eff. 1/1/05)

E. DUAL STATUS HEARINGS (W & I Code § 241.1)

The juvenile dependency and ~~delinquency~~ **juvenile justice** courts shall follow the Santa Clara County Dual Status Protocol. Before any hearing conducted pursuant to W & I Code § 241.1 at which the judicial officer in Juvenile ~~Delinquency~~ **Justice** Court makes a finding or order affecting the legal status of the child in Dependency Court, the judicial officer making the finding or order or his/her designee shall confer with the judicial officer in the other juvenile court proceeding by telephone or email of his or her intended finding or order. This rule is intended to promote the best interests of children before the Juvenile Court by better communication between the ~~delinquency~~ **juvenile justice** and dependency judicial officers in cases in which a child is the subject of proceedings in both courts. Similarly, before the ~~Delinquency~~ **Juvenile Justice** Court judicial officer sends the matter to the Dependency Court judge for the filing of a new Dependency Court case on behalf of the minor, the judges must confer and agree to move forward with the new W & I Code § 300 petition.

(Eff. 1/1/10)

JUVENILE COURT RULES

ATTACHMENTS

ATTACHMENT JV-2000	Declaration Re Notice of Ex Parte Application
ATTACHMENT JV-2001	Order Referring Case to Court Designated Child Advocates for Screening
ATTACHMENT JV-2002	Declaration for Juvenile Court Record
ATTACHMENT JV-2003	Court Designated Child Advocate Oath
ATTACHMENT JV-2004	Application and Order Re Appointment of Court Designated Child Advocate
ATTACHMENT JV-2005	Order Appointing Court Designated Child Advocate
ATTACHMENT JV-2006	Termination of Appointment of Court Designated Child Advocate
ATTACHMENT JV-2007	Application and Order Appointing Court Designated Child Advocate
ATTACHMENT JV-2009	Petition and Order Re Hearing to Review Case

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> : TELEPHONE NUMBER: ATTORNEY FOR: <i>(name)</i> :	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH:	
Name of Child:	
DECLARATION RE NOTICE OF EX PARTE APPLICATION (JUVENILE)	CASE NUMBER: DEPT. NUMBER:

I, the undersigned, declare:

1. I am counsel social worker mother father minor Department of Family and Children's Services probation officer or other *(explain)* _____ in this juvenile matter.
2. Pursuant to Juvenile Court Rules I have given notice of, and a copy of this application for ex parte orders, to the following persons: _____

Notice to the above name persons was given in the following manner:

- a. By telephone at _____ (AM PM) _____, 20____.
- b. By letter mailed or hand delivered to *(insert name and address)*: _____

3. I have received the following response: _____

4. I have not given notice of this application for ex parte orders for the following reason(s):
 - a. Would frustrate the purpose of the orders requested.
 - b. Minor child would suffer immediate and irreparable harm before the orders could issue.
 - c. No significant burden or inconvenience to the responding party will result from the orders requested.
 - d. I made reasonable, good faith efforts to give notice, as follows: _____
 - e. Other: _____

I declare under penalty of perjury the laws of the State of California the foregoing is true and correct, at _____, California this ____ day of _____ 20____, at _____ (AM PM)

Signature of Declarant

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>NAME AND ADDRESS</i>): _____ ATTORNEY FOR (<i>Name</i>):	TELEPHONE NO.:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA Street Address, Delinquency: 840 Guadalupe Parkway City and Zip Code: San Jose, CA 95113</p>		
In the Matter of: (Name of Child), a Minor. [D.O.B. _____]		
<p style="text-align: center;">ORDER REFERRING CASE TO COURT DESIGNATED CHILD ADVOCATES FOR SCREENING</p>		Case No:

The Minor having been adjudged a ward of the Juvenile Court (Welfare & Institutions Code section 602) and good cause appearing therefore, the Court orders that this case be referred to Court Designated Child Advocates for a screening to determine whether the Child Advocate program can undertake the case. To aid in this determination, Court Designated Child Advocates shall have access to the records and files of the Court and the Probation Department with respect to the Minor for a period of 90 days after the date of this Order. All confidential information acquired during the course of this determination shall remain confidential and may be disclosed only to a Probation Officer, attorneys representing parties to this case, or the Court, unless specifically authorized by the Court.

Dated: _____

Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA Street Address: Delinquency: 840 Guadalupe Parkway Street Address: Dependency: 115 Terraine Street Mailing Address: 191 North First Street, San Jose, CA 95113	
In the Matter of: (Name of Child), a Minor. [D.O.B. _____]	
<p style="text-align: center;">DECLARATION FOR JUVENILE COURT RECORD</p>	CASE NUMBER:

I am requesting access to the following record(s): _____

held by:

- Court Clerk, _____ Division
- Juvenile Probation Department
- Department of Family & Children Services
- Other _____

Minor's Name: _____

Petition Number: _____

Other Identifying Information: _____

I am:

- Defense Attorney - State Bar Number:** _____
- Parent/Guardian of the named juvenile
- Court-Appointed Special Advocate (CASA)
- Staff of Santa Clara County Victim Witness Assistance Center
- District Attorney - **State Bar Number:** _____
- Sixth Appellate District Program Member
- Other: (specify) _____

Address: _____

I will use this information for the following purpose(s): _____

I understand these records are confidential and can be used only for the purposes stated herein.

I declare under penalty of perjury the forgoing is true and correct.

Dated this _____ day of _____, 20____, at San Jose, California

Signature: _____

Type or print name: _____

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> : TELEPHONE NUMBER: ATTORNEY FOR: <i>(Name)</i> :	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 115 Terraine Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH: Terraine Courthouse – Juvenile Division	
In the Matter of (Name of Child), a Minor, [D.O.B. _____]	
<p style="text-align: center;">COURT DESIGNATED CHILD ADVOCATE OATH</p>	CASE NUMBER:

COURT DESIGNATED CHILD ADVOCATE

CDCA

Print your full legal name

OATH

I do solemnly swear that I will perform the duties of a Court Designated Child Advocate to the best of my ability and will serve the best interest of the child.

As an officer of the Court, I will respect the rules of the Court and will to the best of my ability, maintain fairness, impartiality, and integrity.

I will adhere to the rules of confidentiality and will respect the privacy of all parties.

I will not take a case where I have any prior knowledge of the child or family members.

I will not take my Advocate child to my home. I will secure permission from probation officers/social workers should I plan to bring my child to my home. I will be directly responsible for the supervision of the child at all times he or she is under my care.

Date:

Appointed Child Advocate

Judicial Officer
 Superior Court of California, County of Santa Clara

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): ATTORNEY FOR (Name):	TELEPHONE NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA Street Address, Dependency: 115 Terraine Street City and Zip Code, San Jose, CA 95113		
In the Matter of: (Name of Child), a Minor. [D.O.B. _____]		
APPLICATION AND ORDER RE APPOINTMENT OF COURT DESIGNATED CHILD ADVOCATE (CRC Appendix §24.5 [f])		Case No.:

Court Designated Child Advocates applies to the Court for the appointment of _____ as the Child Advocate in behalf of the Minor.

Check one:

_____ This case was referred by the Court to Court Designated Child Advocates for a determination whether the Child Advocate program can undertake the case.

_____ The Child advocate designated above is currently serving as the Court appointed child advocate in behalf of the Minor in a proceeding brought pursuant to Welfare & Institutions Code section 300.

Dated: _____

COURT DESIGNATED CHILD ADVOCATES

By _____

Type/Print Name: _____

COURT ORDER

_____ The Application is granted. Applicant shall submit an Appointment Order.
 The Application is set for hearing on _____. Applicant shall give ten days' notice of hearing date to:

- | | |
|--------------------------------|----------------------------|
| _____ District Attorney | _____ Attorney for child |
| _____ Parent(s) or guardian(s) | _____ Probation Department |
| _____ Child | |
| _____ Other: _____ | |

_____ The Application is denied.

_____ Additional Orders: _____

Dated: _____

Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address)</i> : _____ TELEPHONE NUMBER: _____	FOR COURT USE ONLY
ATTORNEY FOR: <i>(Name)</i> : _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 840 Guadalupe Parkway MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH: Guadalupe Courthouse – Juvenile Division	
In the Matter of (Name of Child), a Minor, [D.O.B. _____]	
ORDER APPOINTING COURT DESIGNATED CHILD ADVOCATE	CASE NUMBER: _____

The above-named Minor is alleged to come within the provisions of Section 602 of the Welfare and Institutions Code.

Pursuant to Welfare & Institutions Code, Section 202, and the inherent powers of the Juvenile Court, an advocate may be appointed on behalf of the above named child. Application is hereby made for the appointment of a Child Advocate. If any party to the above entitled delinquency proceeding wishes to contest this appointment, they should contact their attorney or the Child Advocate's office immediately. This case is presently supervised by the following:

Probation Officer: _____ Phone: _____

_____ Date: _____

Executive Director, Child Advocates (408) 416-0400

IT IS ORDERED THAT: _____

Supervised by: _____

1. Is appointed as the Child Advocate for the above named child under the general supervision of the Court Designated Child Advocate program, 509 Valley Way, Milpitas, CA 95035.
2. The Child Advocate shall have access to the child and to available records and files of the court, the Probation Department, the Social Services Agency, any school records, and medical records regarding the above named child. A certified copy of this order will be the only authorization necessary for such purpose.
3. The Child Advocate shall not disclose any information received in connection with their investigation of this case to anyone other than the assigned Probation Officer, attorneys representing parties to this action, or the court, unless specifically authorized by the court;
4. The Child Advocate shall be given notice of, and shall be authorized to attend all court hearings and other proceedings regarding the child.
5. The Child Advocate shall have access to all reports of the Probation Officers at least 48 hours prior to court hearings.
6. The Child Advocate shall in coordination with the other parties, investigate the circumstances surrounding the case and report the results of the investigation to the court. Reports prepared by the Child Advocate shall be filed with the court at least five days prior to the court hearing.
7. The Child Advocate shall follow the direction and orders of the court and shall provide information specifically requested by the court.
8. This Ordering Appointing the Child Advocate can only be modified by further order of the court.

Date: _____

Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and Address):</i> _____ TELEPHONE NUMBER: _____	FOR COURT USE ONLY
ATTORNEY FOR: <i>(Name):</i> _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 115 Terraine Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH: Terraine Courthouse – Juvenile Division	
In the Matter of (Name of Child), a Minor, [D.O.B. _____]	
APPLICATION AND ORDER APPOINTING DESIGNATED CHILD ADVOCATE	CASE NUMBER: _____

The above-named child is alleged to come within the provisions of Section 300 of the Welfare and Institutions Code.

Pursuant to Welfare & Institutions Code, Sections 202 et seq and 356.5, an advocate may be appointed on behalf of the above named child by the Juvenile Court. Application is hereby made for the appointment of a Child Advocate. If any party to the above entitled dependency proceeding wishes to contest this appointment, they should contact their attorney or the Child Advocate's office immediately. This case is presently supervised by the following:

Social Worker: _____ Phone: _____

_____ Date: _____

Executive Director, Child Advocates, (408) 416-0400

IT IS ORDERED THAT: _____

Supervised by: _____

1. Is appointed as a Child Advocate for the above named child/ren under the general supervision of the Court Designated Child Advocate program, 509 Valley Way, Milpitas, CA 95035
2. The Child Advocate shall have access to the child and to available records and files of the Court, of the Social Services Agency, any school records and medical records regarding the above named child. A copy of this order will be the only authorization necessary for such purpose;
3. The Child Advocate shall not disclose any information received in connection with their investigation of this case to anyone other than the assigned social worker, attorneys representing parties to this action, or the court unless specifically authorized by the court;
4. The Child Advocate shall be given notice of , and shall be authorized to attend all court hearings and other proceedings regarding this child;
5. The Child Advocate shall have access to all reports fro the Social Worker at least 48 hours prior to court hearings;
6. The Child Advocate shall, in coordination with the other parties, investigate the circumstances surrounding the case and report the results of the investigation to the court. Reports prepared by the Child Advocate shall be filed with the court at least five days prior to the court hearing;
7. The Child Advocate shall follow the direction and orders of the court and shall provide information specifically requested by the court.
8. This Order Appointing the Child Advocate can only be modified by further order of the court.

Date: _____

Judicial Officer

