

New Section Added by 2010 CALIFORNIA COURT ORDER 0088 (C.O. 0088) Not Included Below:

WEST CALIFORNIA CODES  
CALIFORNIA LOCAL COURT RULES  
EL DORADO COUNTY  
SUPERIOR COURT  
SUPERIOR COURT OF CALIFORNIA COUNTY OF EL DORADO LOCAL RULES OF COURT  
RULE 11.00.00. JUVENILE PROCEEDINGS  
**Rule 11.00.12. Appointment of Private Attorneys**

**A. Purpose.** This rule is established to comply with California Rules of Court, Rule 5.660.

**B. General Competency Requirement.** All attorneys appearing in juvenile dependency proceedings must meet minimum standards of competence as set forth in these rules. These rules are applicable to attorneys employed by public agencies, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

**C. Screening for Competency.**

(1) All attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Any attorney appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the Court within 10 days of his or her first appearance in a dependency matter.

(2) Attorneys who meet the minimum standards of training and/or experience as set forth in subsection 11.00.12D, as demonstrated by the information contained in the Certification of Competency submitted to the court, shall be deemed competent to practice before the Juvenile Court in dependency cases except as provided in subsection 11.00.12C(3) of this rule.

(3) Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the Court may determine, based on conduct or performance of counsel before the Court in a dependency case within the six-month period prior to the submission of the certification to the court, that a particular attorney does not meet minimum competency standards. In that case, the Court shall proceed as set forth in subsection 11.00.12F(6) of this rule.

(4) In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the Juvenile Court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

**D. Minimum Standards of Education and Training.**

(1) Prior to certification, the attorney shall have either:

(a) Participated in at least eight hours of training or education on juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation of reasonable efforts;

(b) At least six months of experience during which the attorney has demonstrated competence in representing clients in

juvenile dependency proceedings. In determining whether competence has been demonstrated, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

(2) In order to retain certification to practice before the juvenile court, each attorney who has been previously certified shall submit a new Certificate of Competency to the court on or before January 31 of the third year after the year in which the attorney was first certified and then every third year thereafter. The attorney shall attach to the renewal Certification of Competency evidence that he or she has completed at least eight hours of continuing education or training directly related to dependency hearings since the attorney was last certified.

Evidence of completion of the required number of hours of education or training may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at the program; or such other documentation as may be reasonably considered to demonstrate the attorney's attendance at the program. Attendance at a court-sponsored or approved program will also fulfill this requirement.

(3) The attorney's continuing education or training shall be in the areas set forth in subsection 11.00.12D(1)(a), or in other areas relating to juvenile dependency practice, including, but not limited to, special education; mental health; health care; immigration issues; the rules of evidence; adoption practice and parentage issues; the Uniform Child Custody Jurisdiction Act; the Parental Kidnapping Prevention Act; state and federal public assistance programs; the Indian Child Welfare Act; client interviewing and counseling techniques; case investigation and settlement negotiations; mediation; basic motion practice; and the rules of civil procedure.

(4) When a certified attorney fails to submit evidence that he or she has completed at least the minimum required education and training to the court by the due date, the Court shall notify the attorney that he or she will be decertified. The attorney shall have 20 days from the date of the mailing of notice to submit evidence that he or she has completed the required education or training. If the attorney fails to submit the required evidence or fails to complete the minimum number of required hours of continuing education or training, the Court shall order that certified counsel be substituted for the attorney who failed to complete the required continuing education, except in the case of retained counsel.

In the case of retained counsel, the Court shall notify the party that his or her attorney has failed to meet the minimum standards required by these rules. The determination whether to retain substitute counsel shall be solely within the discretion of the party so notified.

**E. Standards of Representation.** All attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

(1) The attorney shall thoroughly and completely investigate the accuracy of the allegations of the Petition or other moving papers and the filed court reports supporting those allegations. The attorney shall conduct a comprehensive interview with the client to ascertain the client's knowledge or involvement in the matters alleged or reported; shall contact social workers and other professionals associated with the case to ascertain whether the allegations and reports are supported by accurate facts and reliable information; shall consult with experts, and, if necessary, seek to have the expert(s) appointed by the court, in order to advise the attorney or the court on matters which are beyond the expertise of the attorney or the Court; and shall obtain any other facts, evidence, or information necessary to effectively present the client's position to the Court.

(2) The attorney shall determine the client's interests and the position the client wishes to take in the proceeding. Except in those cases in which the whereabouts of the client is unknown, this shall include a comprehensive interview with the

client. If the client is a minor child who is placed outside of the home, in addition to interviewing the child the attorney shall interview the child's caretaker. The attorney or the attorney's agent shall make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or the attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing.

(3) The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for adhering to court mandated time limits.

(4) The attorney shall vigorously represent the child within applicable legal and ethical boundaries. Representation shall include the duty to work cooperatively with other counsel and the court; to explore alternative methods of resolving disputes without the necessity for a hearing if possible to do so consistent with the client's interests; and to comply with local rules and procedures as well as with statutorily mandated time lines.

#### **F. Procedures for Reviewing and Resolving Complaints.**

(1) Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the performance of the client's appointed counsel in the proceeding. Where the complaint concerns the performance of counsel appointed to represent a minor, the Complaint may be lodged on behalf of the child by the social worker, a caretaker relative, or a foster parent.

(2) Promptly after appointment, each appointed attorney shall have an affirmative obligation to advise his or her client of the right to lodge a written complaint with the court concerning the performance of the appointed attorney. If the client is a minor, the caretaker of the child shall be advised of the right to lodge a written complaint; if the minor is twelve years of age or older, the minor shall be so advised as well.

(3) The Court shall review a complaint within ten days of receipt. If the Court determines that the Complaint presents reasonable cause to believe that the attorney may have failed to act competently or may have violated local rules, the Court shall notify the attorney of the Complaint, shall provide a copy of the Complaint to him or her, and shall give the attorney 20 days from the date of the notice to respond to the Complaint in writing.

(4) After a response has been filed by the attorney or the time for submission of a response has passed, the Court shall review the complaint and any response thereto and determine whether the attorney has acted incompetently or has violated local rules. The Court may seek additional information from the complainant or the attorney prior to making its determination.

(5) If the Court determines that the attorney has violated Local Rules of Court, the attorney may be sanctioned as provided in Local Rule 7.12.12.

If the Court determines that the attorney has acted incompetently, the Court may order that the attorney practice under the supervision of a mentor attorney for a period to be determined by the Court in its discretion; that the attorney complete a specified number of hours of continuing education or training in the area in which the attorney was found to be incompetent; or a combination of the two.

If the Court finds that the attorney's incompetence has resulted in actual harm to the client, the Court shall remove the attorney and substitute other counsel. The matter may be referred to the State Bar of California in the Court's discretion.

(6) The Court shall notify the attorney and the complaining party in writing of its determination. If the Court makes a finding pursuant to subsection 11.00.12F(5), the attorney shall have 10 days from the date of the notice to request a

hearing before the Court concerning the Court's proposed action. If the attorney does not request a hearing within that period of time, the Court's determination shall become final.

(7) If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the request has been made, but in no case shall it be held more than 30 days after the date of the request, except upon stipulation of the attorney and the complainant.

The attorney and the complainant shall be given at least 10 days notice of the hearing. The hearing may be held in chambers, and shall not be open to the public. The Court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

(8) At the hearing, each party shall have the right to present arguments to the Hearing Officer concerning the Court's determination. The arguments shall be based on the evidence before the Court at the time the determination was made. No new evidence may be presented unless the proponent of that evidence can demonstrate to the Hearing Officer that it was not reasonably available to the party at the time that the Court made its determination.

Within 10 days after the hearing, the Court or the Hearing Officer shall issue a written determination upholding, reversing, or modifying the original determination. This written determination shall be the final determination of the Court on the matter. A copy of the determination shall be provided to both the complainant and the attorney.

#### **G. Procedures for Informing the Court of the Interests of a Dependent Child.**

(1) At any time during the pendency of a juvenile 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 which needs to be protected or pursued in another judicial or administrative forum. If the attorney for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, he or she shall promptly notify the court of that right or interest.

(2) Notice of the minor's right or interest may be given by filing Judicial Council form JV-180 or by filing a declaration. In either case, the person giving notice shall set forth the nature of the right or interest to be protected or pursued, the name and address, if known, of the judicial or administrative forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there.

(3) If the person filing the notice is the attorney for the minor, the notice shall state what action on the child's behalf counsel believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that court or administrative agency may be necessary or appropriate, whether appointment of a guardian ad litem is necessary for the proceedings in the other forum, whether joinder of an administrative agency to the juvenile court proceedings pursuant to Welfare and Institutions Code, section 362, may be appropriate or necessary, and what if any further investigation may be necessary.

(4) If the person filing the notice is not the attorney for the minor, a copy of the notice shall be served upon the minor's attorney. If the minor is not represented, the notice shall so state.

(5) The Court may set a hearing on the notice if it deems a hearing is necessary to determine the minor's right or interest, and whether that interest should be protected or pursued.

(6) If the Court determines that further action on behalf of the minor is required, the Court shall do one or more of the following:

- (a) Authorize the minor's attorney to pursue the matter on the minor's behalf;
- (b) Appoint an attorney for the minor if the minor is not represented;
- (c) Notice a joinder hearing pursuant to Welfare and Institutions Code, section 362, compelling the responsible agency to report to the court as to whether it has carried out its statutory duties concerning the minor;
- (d) Appoint a guardian ad litem for the minor to initiate or pursue appropriate action in the other forum(s);
- (e) Take any other action the Court may deem necessary or appropriate to protect the welfare, interests, and rights of the minor.

**H. Time Lines.** Attorneys for parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances. The statutory time lines for hearings are as follows:

- (1) Detention Hearing. A detention hearing shall be held no later than the next court day after the Petition has been filed [W&I C § 315; CRC 1440].
- (2) Jurisdiction Hearing. If the minor is not detained, the hearing on the Petition shall begin within 30 calendar days from the date of the filing of the Petition. If the minor has been detained, the hearing shall begin within 15 court days from the date of the detention order [W&I C § 334; CRC 1447].
- (3) Disposition Hearing. If the minor has been detained, the Disposition Hearing shall begin within 10 court days from the date on which the petition was sustained. If the minor has not been detained, the disposition hearing shall begin no later than 30 calendar days after jurisdiction is found [W&I C § 358; CRC 1451].
- (4) Six-Month Review Hearing. The Court is required to review the status of every dependent child within six months of the declaration of dependency and at least every six months thereafter [W&I C §§ 364, 366, 366.21; CRC 1460].
- (5) Twelve-Month Review. The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve months of the declaration of dependency [W&I C § 366.21; CRC 1461].
- (6) Eighteen-Month Review. If the child has not been returned at the twelvemonth review, the Court is required to conduct a review no later than eighteen months from the *date of the original detention* [W&I C §§ 366.21, 366.22; CRC 1462].
- (7) Notice of Intent to File Writ Petition. A notice of intent to file a petition for an extraordinary writ shall be filed within 7 days of the date of the order setting a hearing pursuant to W&I C § 366.26, with an extension of 5 days if the party received notice of the order only by mail [CRC 39.1B].
- (8) Petition for Writ. A petition seeking writ review of orders setting a hearing under the Welfare and Institutions Code shall be served and filed within 10 days after the filing of the record in the reviewing court [CRC 39. 1B].
- (9) Response to Writ Petition. Any response to a writ petition shall be served and filed within 10 days after the filing of the writ petition, or within 10 days of receiving a request for response from the reviewing court [CRC 39.1B].
- (10) Selection Hearing for Permanent Placement. The hearing shall begin within 120 days of the review at which reunification services are terminated and a hearing pursuant to W&I C § 366.26 was ordered [W&I C §§ 366.31, 399.22;

CRC 1460, 1461, 1462].

(11) Notice of Appeal. A notice of appeal shall be filed within 60 days after the rendition of the judgment.

**I. Certificate of Competency.**

**SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO  
JUVENILE COURT  
CERTIFICATE OF ATTORNEY COMPETENCY**

I, \_\_\_\_\_  
(Name - Office Address - Telephone Number)

am an attorney licensed to practice law in the State of California. My State Bar Number is \_\_\_\_\_. I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of court, Rule 5.660 and Local Rule 11.00.12 and that I have completed the minimum requirements for training, education and/or experience as set forth below.

This is a  New Certification  Recertification

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

Course Title	Date Completed	Hours	Provider
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Summary of Juvenile Dependency Experience:

Date \_\_\_\_\_ Signature \_\_\_\_\_

Current with amendments received through through 1/1/2010