

CHAPTER 9 JUVENILE JUSTICE PROCEEDINGS

Rule 6.9.1

Preliminary Provisions

Rule 6.1.1 applies equally to juvenile justice proceedings.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2018)

Rule 6.9.2

Definitions, Construction of Terms

A. As used in these rules, unless the context or subject matter otherwise requires:

1. "Clerk" means the clerk of the juvenile court;
2. "Court" means the juvenile court, and includes any judge, commissioner, referee, or referee pro tem of the juvenile court, unless otherwise specified;
3. "D.A." means District Attorney;
4. "JPD" means the Juvenile Probation Department of the County of San Diego;
5. "Law Enforcement Agency" includes the San Diego County Sheriff's Department, all city police departments in San Diego County, and all school district police or security departments in San Diego County;
6. "Minor" or "child" means a person under the age of 18 years;
7. "P.O." means Probation Officer;

B. Construction of terms:

1. "Shall" or "must" is mandatory; "may" is permissive;
2. The past, present, and future tenses include the others;
3. The singular and plural numbers include the other.

(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010)

Rule 6.9.3

Assignment of Cases and Peremptory Challenges

The court assigns juvenile justice cases on an independent calendar system. Under that system, a juvenile justice case assigned to a particular judge, commissioner, or referee will remain with that judicial officer until the termination of jurisdiction, unless otherwise ordered. Under the independent calendar system, a peremptory challenge to any judge, commissioner, or referee must be made pursuant to Code of Civil Procedure section 170.6. Such a challenge must be made prior to any determination of contested issues of fact relating to the merits and within 15 days after notice of the assignment of the case to a specific judge, commissioner, or referee, or it will be deemed untimely. Notice of the assignment is complete upon service of such notice or initial appearance in court. The prosecution and the defense will each be allowed only one peremptory challenge per case. (This rule is adopted pursuant to *Daniel V. v. Superior Court* (2006) 139 Cal.App.4th 28.)

(Adopted 1/1/2005; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2012; Rev. 1/1/2018)

Rule 6.9.4

Continuances

Continuances of hearings will be granted only upon a showing of good cause and in accordance with the procedural requirements of Welfare and Institutions Code section 682 and California Rules of Court, rules 5.550 and 5.776. A continuance may be granted following a time waiver by the minor.

(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.9.5

Ex Parte Applications and Orders

A. No party may submit an ex parte application to the court for an order unless it appears by affidavit or declaration that one of the following is true:

1. Within a reasonable time before the application, the party informed all other parties or their attorney(s) when and where the application would be made and provided a copy of the application and proposed order to the attorney(s).

2. The party in good faith attempted to inform all other parties or their attorney(s) of the application but was unable to do so, describing with particularity the efforts made to inform each party.

3. The party should not be required to inform all other parties or their attorney(s) for the reasons specified. The court in its discretion may choose to inform the other parties of the reasons specified in the ex parte application.

B. The affidavit or declaration must also state whether the request is opposed, unopposed, or the declarant is unaware of the other parties' position on the request.

C. If the JPD files an ex parte application for an order terminating jurisdiction, the JPD must also serve notice thereof on the D.A. and minor's counsel. Any objection(s) must be submitted in writing to the court within 10 court days of the filing of the application. Failure to timely submit a written objection constitutes a waiver of the objection. If a written objection is timely filed, the court will set a hearing on the application and serve notice of the hearing on all parties.

D. An ex parte application or report may be used to request modifications of previous orders that have been so stipulated, to correct or clarify orders, to get permission from the court to proceed in a certain manner with a case, to update information to the court, or to give the court additional information. Examples of matters that are appropriate for ex parte handling: funding orders that were not included in the original court order but that are essential to carry out the order; requests to vacate orders that are no longer needed; 15-day reviews if the parties have stipulated that the review may be handled without an appearance; permission for travel outside the county; unopposed sealing requests; termination of jurisdiction when it was previously stipulated that jurisdiction would terminate once the minor complied with specific orders.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2014; Rev. 1/1/2016; Rev. 1/1/2018)

Rule 6.9.6

Requirements for Noticed Motions

A. All motion papers, opposition papers, and reply papers must be in writing and must display on the first page the motion hearing date, time, department, and a time estimate for the motion hearing.

B. Time for Service When the Minor Is Detained. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least five court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least two court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least one court day before the time appointed for the hearing.

C. Time for Service When the Minor Is Not Detained. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least 10 court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least five court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least two court days before the time appointed for the hearing.

D. Time for Service of Motion to Suppress Evidence. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least five court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least two court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least one court day before the time appointed for the hearing.

E. Proof of Service. Proof of service must be filed the next court day after service is complete.

F. Points and Authorities.

1. All moving and opposing papers must be accompanied by supporting points and authorities.

2. A memorandum of points and authorities must include a statement of the case and a statement of facts setting forth all procedural and factual matters relevant to the issue presented.

3. The memorandum of points and authorities must clearly specify the factual and legal issues raised and the specific legal authority relied upon for the motion.

4. Only the factual and legal issues set forth in the memorandum will be considered in the ruling on the motion unless it is established that the new issues were not reasonably discoverable before the motion was filed.

5. Failure of the moving party to serve and file points and authorities within the time permitted without good cause may be considered by the court as an admission that the motion is without merit.

6. Failure of the responding party to serve and file points and authorities within the time permitted without good cause may be considered by the court as an admission that the motion is meritorious.

7. In case of a failure of either party to serve and file points and authorities within the time permitted, the court may find good cause to continue the hearing.

G. Abandonment of Motions. Any party intending to abandon a motion already filed must immediately notify opposing counsel and the clerk of the department in which the motion is to be heard, and must also notify the clerk immediately if the case is disposed of by plea prior to the hearing or if the motion should be taken off calendar because the minor is found not to be competent.

H. Concession That Motion Is Meritorious. If the responding party elects not to oppose the motion, the respondent must immediately notify opposing counsel and the clerk of the department in which the motion is to be heard.

I. Length of Points and Authorities. No opening or responding memorandum of points and authorities exceeding 15 pages may be filed, absent an order from the judge of the court in which the motion is calendared. Such an order will be granted only upon a written application including a declaration setting forth good cause for the order. (Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2012; Rev. 1/1/2014; Rev. 1/1/2016)

Rule 6.9.7

Fax Filing

Some documents in a juvenile justice case may be filed by fax. Further details about fax filing requirements, including the fax number and the hours during which fax filings will be accepted, may be obtained by contacting the Juvenile Court Business Office. Fax filings must comply with the requirements of California Rules of Court, rule 5.522.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2013; Rev. 1/1/2018)

Rule 6.9.8

Warrants

All warrants of arrest and juvenile detention orders, including those stored in electronic form, are deemed authenticated at the time a Juvenile Court judge issues an order authorizing the issuance of the arrest warrant or juvenile detention order.

(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.9

Reciprocal Discovery

The discovery provisions of Penal Code section 1054 et seq. apply to juvenile justice cases.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2018)

Rule 6.9.10

Public and Media Access: Juvenile Justice

In most cases, juvenile justice proceedings are presumed to be confidential and closed to the public. However, any person whom the court deems to have a direct and legitimate interest in a particular case or in the work of the court may be admitted. Furthermore, hearings concerning petitions that include any of the offenses listed in Welfare and Institutions Code section 676, subdivision (a), are presumptively open to the public. A request for media coverage must be submitted to the judicial officer presiding over the matter on Media Request and Agreement to Be Admitted to Juvenile Court Hearing (SDSC form JUV-029). A request for permission to photograph, record, or broadcast any portion of the hearing must be submitted to the judicial officer presiding over the matter on Media Request to Photograph, Record, or Broadcast (Judicial Council form MC-500) and Order on Media Request to Permit Coverage (Judicial Council form MC-510) at least five court days before the hearing unless good cause for noncompliance is shown.

To request access for juvenile justice matters outside of court proceedings, the media representative must initiate contact with the San Diego County Public Safety Group Communications Officer. To request access at the Juvenile Court in areas outside of courtrooms, the media representative may also contact the Juvenile Court Operations Manager. "Access" means the ability to observe, interview, film, photograph, videotape, or record the voices of children who are under the jurisdiction or supervision of the Juvenile Court, their caretakers, or members of their families, regardless of the location. Alternatively, "access" may refer to permission to enter certain facilities which

are not open to the public and/or permission to observe, interview, film, photograph, videotape, or record the voices of children in such facilities.

Forms and copies of the Juvenile Court Media Policy are available from Juvenile Court Administration, which is in room 254 at the Meadow Lark courthouse. This rule is not meant to affect the rights of any victim or other person entitled by statute to be present. (See Welf. & Inst. Code, §§ 676.5, 679.)

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2013; Rev. 1/1/2016; Rev. 1/1/2018)

Rule 6.9.11

Competence and Mental Health Evaluations

Whenever a minor's competence or mental health is in doubt, an evaluation must be done as soon as possible after the juvenile justice case is initiated to determine whether the minor is incompetent or in need of emergency inpatient mental health services. When indicated, services must be provided in a timely manner. Requests for such evaluations must comply with the Juvenile Court's protocols for competence evaluations and court-ordered inpatient mental health evaluations.

(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2018)

Rule 6.9.12

Administration of Psychotropic Medications

After a child is declared a ward of the court under Welfare and Institutions Code section 601 or 602 and removed, either temporarily or permanently, from the physical custody of his or her parent or guardian, only a Juvenile Court judicial officer is authorized to make orders regarding the administration of psychotropic medication to the child unless the court orders that the parent or legal guardian is authorized to approve or deny the medication. The procedures and forms described in California Rules of Court, rule 5.640 apply in juvenile justice cases. Requests for orders for psychotropic medications for 601 and 602 wards must comply with the requirements of California Rules of Court, rule 5.640.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2018; Rev. 1/1/2019)

Rule 6.9.13

Initial Health Screening

Prior medical authorization will not be required for the initial health screening of minors at Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility. Initial health screenings must be performed within 96 hours of detention and will include a physical examination, laboratory tests, immunizations, and X-rays. The Probation Department will attempt to obtain parental consent for medical care. If such consent cannot be obtained, the Probation Department will seek a court order authorizing medical care. In an emergency situation, medical care may be delivered to minors in detention without parental consent or a court order. (See Welf. & Inst. Code, § 739.)

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007)

Rule 6.9.14

Immunizations

All minors detained in the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility, where medical records are unavailable and/or due diligence efforts are unsuccessful in locating a parent, guardian, or other responsible adult relative, will receive all necessary immunizations against poliomyelitis, diphtheria, pertussis, tetanus, measles, rubella, mumps, hepatitis B, varicella, and haemophilus influenzae type b. Such immunizations are reasonable and necessary under section 120335 of the Health and Safety Code to enable attendance in school programs operated by the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility. All immunizations must be performed by a licensed health care provider.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2014; Rev. 1/1/2016)

Rule 6.9.15

Sex Education

The Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility, in conjunction with the County Office of Education, the Department of Public Health, and approved community-based organizations, may conduct sex education classes as part of the education curricula for all minors detained in the Kearny Mesa Juvenile

Detention Facility and/or East Mesa Juvenile Detention Facility. These classes may include information on AIDS and its transmission.

(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.16

Off-Site Counseling

Any minor detained in the Kearny Mesa Juvenile Detention Facility, the East Mesa Juvenile Detention Facility, Camp Barrett, or the Girls Rehabilitation Facility may be transported off site for counseling or other rehabilitative treatment, provided the assigned probation officer consents to the off-site treatment.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2014; Rev. 1/1/2017)

Rule 6.9.17

Travel Out of San Diego County

The JPD is authorized to grant permission to wards to travel out of the County of San Diego but within the State of California for trips of up to 72 hours. An ex parte order from the Juvenile Court is required for trips over 72 hours and/or outside the State of California.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2012; Rev. 1/1/2014)

Rule 6.9.18

Disclosure of Medical Information

All records related to the medical or psychological treatment of a minor who is the subject of a juvenile justice petition shall be made available upon request to the court and the JPD by all individuals, agencies, and entities that are either paying for or providing medical or psychological treatment or assessment services to the minor. These individuals, agencies, and entities include: hospitals, laboratories, health insurers, health plans, health maintenance organizations, clinics, physicians, psychologists, psychotherapists, counselors, and any other individual or entity providing medical or psychological treatment or assessment services to the minor.

The minor's treatment records include, but are not limited to: medical history and physical examination, discharge summaries, progress notes, medication records, drug and alcohol test results, x-rays and their interpretation, laboratory results, dental records, psychiatric records including consultations, physician orders, pharmacy records, nursing notes, mental health records, and alcohol and substance abuse treatment records. Treatment records do not include any document if the release of that document would violate the attorney-client or attorney work product privileges.

(Adopted 1/1/2011; Rev. 1/1/2014; Rev. 1/1/2018)

Rule 6.9.19

Sharing of Information

Court personnel, the Probation Department, the ward's defense attorney, the prosecuting attorney, Vista Hill Juvenile Court Clinic staff, Juvenile Forensic Services staff, and treatment and service providers actively involved in the ward's case management, placement, or treatment may communicate with one another regarding the ward's case, including the ward's medical and mental health needs. If the ward is also a dependent, the HHSA, County Counsel, and the ward's dependency attorney are included in the above list. Communication may include the exchange of relevant documents, including but not limited to court orders, probation reports, medical records, and mental health records. The information described in this rule must be kept in a confidential manner by the person who receives it, unless otherwise authorized by law or ordered by the court. This rule is intended to facilitate the work of multidisciplinary teams and does not waive any legal privilege.

(Adopted 1/1/2012; Rev. 1/1/2014; Rev. 1/1/2016)

Rule 6.9.20

Habeas Corpus Petitions

A petition for writ of habeas corpus in a juvenile case must be filed with the clerk in the Juvenile Court Business Office or other clerk designated to receive such petitions. If the Juvenile Court Presiding Judge determines that no judge of the Juvenile Court can decide the petition, it will be assigned to a judge on the criminal writ panel.

(Adopted 1/1/2016)

Rule 6.9.21

Settlement Conference

A. The court need not follow the procedures outlined in this rule where there is clear evidence that a settlement conference will not resolve the matter.

B. If a matter is set for a contested hearing, the court may order the parties and their counsel to appear at a settlement conference, and may schedule dates for both the settlement conference and the hearing. (The hearing will proceed as scheduled only if the matter does not settle.) Unless expressly excused by the court, if any party fails to appear at the settlement conference, the court may issue a bench warrant for that party.

C. Before the settlement conference, the defense attorney must conduct a comprehensive interview with his or her client, and each attorney must make any further investigations that he or she deems necessary to ascertain the facts.

D. At the settlement conference, the attorneys must be prepared to discuss the legal and factual issues and must negotiate the case in good faith. Each attorney must be prepared to submit to the court and provide to each other attorney:

1. a list of issues to be litigated;
2. a list of proposed documentary evidence;
3. a list of intended witnesses;
4. a written request for judicial notice (Evid. Code, § 450 et seq.);
5. a list of stipulated evidence which will be presented at the time of trial.

E. If a matter is not resolved at the settlement conference, the court will address pretrial issues. Counsel should be prepared to submit pretrial worksheets addressing the continuing necessity for trial, the identification of contested and uncontested issues, the time estimated for trial, the exchange of witness lists, the filing of motions, the presentation of stipulated and documentary evidence, and requests for judicial notice.

(Adopted 1/1/2016)

Rule 6.9.22

Exhibits: Permissible Filings Defined

A. Permissible Exhibits for Motions and Pleadings: Absent leave of court, all exhibits in support of motions and pleadings in dependency or adoption cases shall be paper filings, must be legible and complete, and must not require the use of another resource or medium to view the exhibit. Compact Discs (CDs) Digital Video Discs (DVDs), thumb drives, and/or other types of digital storage devices may not be submitted as exhibits to motions or pleadings, and will not be accepted by the clerk for filing.

B. Use of Recorded or Digital Evidence: Any party intending to seek the admission of an electronic sound or sound-and-video recording, or digitally stored evidence as an exhibit at a contested hearing, including trial, must lodge the recorded or digital evidence and file a transcript of the relevant portions. The lodged material must be accompanied by an original notice of lodgment that includes: 1) a numbered listing of all of the lodged items; 2) a brief description of each lodged item, and 3) an addressed envelope with sufficient postage for return of the material to the party lodging it. (Cal. Rules of Court, rules 2.1040 and 3.1302(b).)

(Adopted 1/1/2017; Rev. 1/1/2018)