

Superior Court of California, County of Los Angeles, Court Rules, Rule 17.16

WEST'S ANNOTATED CALIFORNIA CODES

CALIFORNIA LOCAL COURT RULES

LOS ANGELES COUNTY

SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES COURT RULES

CHAPTER SEVENTEEN. SUPERIOR COURT, JUVENILE DIVISION DEPENDENCY AND DELINQUENCY PROCEEDINGS

Rule 17.16. Legal Representation

(a) Appointment of Counsel for Adults. A "client" is defined as any parent, or guardian, or other adult who has been determined by the Court to have standing. A client is entitled to be represented by competent legal counsel if they so desire. Competency is defined by Rule 5.660 of the California Rules of Court.

When it appears to the Court that a client is presently financially unable to afford and cannot for that reason employ counsel, the Court shall appoint counsel unless the client has made a knowing and intelligent waiver of the right to counsel.

Attorneys shall be appointed to represent clients in dependency proceedings at the earliest possible stage of proceedings when parties must appear before the Juvenile Court and at all subsequent proceedings. Appointed counsel shall continue to represent the client unless properly relieved by the Court.

All attorneys representing clients in the dependency court shall affirmatively inquire of their client as to whether he/she has reason to believe that any child appearing in the dependency court has Indian heritage under the **Indian Child Welfare Act (ICWA)**. Every effort should be made by counsel to assist confirmation of a child's Indian status and tribal membership.

Any client who is appointed legal counsel by the Court shall go to the financial office in the Children's Court, or as directed, on the date of the appointment, or as soon thereafter as possible, for a determination of the client's ability to reimburse the County for the cost of appointed counsel. It shall be the responsibility of appointed counsel to make sure the client has all of the necessary paperwork for the financial office and has given the client directions on how to get there.

(b) Appointment of Counsel for Children.

(1) At the arraignment and detention hearing, or as soon thereafter as possible, the Court shall appoint counsel for each child who is the subject of any dependency petition who shall also serve in the capacity of a Child Abuse Prevention and

Treatment Act (CAPTA) Guardian ad Litem for the child, unless the Court finds that the child would not benefit from the appointment of counsel for any purpose and makes this finding, and the reasons therefor, on the record. See Rule 5.660 of the California Rules of Court for the specific factual findings that the Court must make in order to not appoint counsel for a child.

(2) If, pursuant to California Rules of Court, rule 5.660, the Court does not appoint an attorney for the child, the Court shall make a referral for the appointment of a CASA (Court-Appointed Special Advocate) for the child to act in the capacity of a GAL (Guardian ad Litem).

(3) Any appointment of counsel for a child shall first be referred to the Children's Law Center of Los Angeles (CLC) for representation.

(4) In the event that no CLC attorney is available to represent a child, an attorney from the Welfare and Institutions Code section 317 attorney panel who, by training and experience, is competent to represent the interests of children in dependency court proceedings shall be appointed to represent the child.

(5) No child shall be represented by any attorney from County Counsel, or by any other attorney representing the Department of Children and Family Services (DCFS).

(c) Eligibility for Appointment as Counsel for Adults.

(1) *California State Bar Membership.* The attorney must be in good standing with the California State Bar at all times in order to be appointed to represent any party in dependency proceedings.

(2) *Education/Training.* An attorney must complete a minimum of 8 hours of training or education in the area of juvenile dependency law or be able to show recent experience which demonstrates a competency in the area of juvenile dependency law to become eligible for appointment to represent any party in a dependency proceeding.

i. The attorney shall have a solid familiarity with Welfare and Institutions Code statutory requirements, the Evidence Code, local and state court rules, court policies, relevant case law, the practice guidelines set forth in the Local Rules, and the substantive, ethical, and procedural issues unique to the Dependency Court.

ii. The attorney shall be familiar with the various stages of the court proceedings from arraignment and detention through review of permanency hearings. This includes, but is not limited to, the following: the structure and functioning of the Juvenile Court, the Court-Appointed Special Advocate program (CASA), DCFS programs, policies, and procedures, issues related to reunification, placement, reasonable efforts, adoption, and permanency, and familiarity with the Court Mediation program.

iii. The attorney shall be familiar with appellate and other review procedures including writs, rehearings, appeals, and other extraordinary remedies.

iv. An attorney new to Dependency Court must observe and/or be available to participate in each type of dependency hearing from detention through review of a permanency plan prior to accepting an appointment in Dependency Court.

v. With the exception of CLC attorneys, an attorney new to Dependency Court should work and consult with an assigned mentor (experienced dependency attorney) for the first three months of initial appointment. A mentor shall be assigned to the new attorney by the Juvenile Courts Bar Association (JCBA) or the Court to which the attorney is assigned.

vi. An attorney new to Dependency Court shall visit three types of placements used to house dependent children such as emergency shelters, foster homes, or group homes.

vii. All attorneys shall be familiar with the effects of racial, cultural, ethnic, sexual orientation issues, and language differences with regard to child rearing, treatment, and placement practices and issues.

(d) Eligibility for Appointment as Counsel for Children In addition to meeting the eligibility requirements for appointment as counsel for adults as provided in Local Rule 17.16(c) above, the attorney shall be familiar with the following areas:

(1) Child development stages including a child's cognitive, emotional, and social growth stages, language development, and patterns of child growth related to neglect and non-organic failure to thrive.

(2) Interviewing techniques for children. The techniques used by the attorney should be age-appropriate and take into consideration the type of abuse the child is alleged to have suffered.

(3) Child development as it relates to children as witnesses and the impact of the court process on the child.

(4) The types of placements available to children, and issues related to placement including, but not limited to:

i. A working knowledge of licensing requirements for foster care and relative placements.

ii. The impact of multiple placements on the child, and the importance of maintaining sibling groups versus the best interests of each child in the sibling group.

iii. The effect placement will have on visitation issues and on the delivery of services to children in placement.

(5) The educational, medical, mental health, dental, and other resources available for children in the dependency court system, and the funding therefor, and the means of identifying the need for and the accessing of such resources.

(6) A working knowledge of the emancipation laws, and the resources available to assist the dependent child to emancipate, including, but not limited to, knowledge of DCFS's Independent Living Program, the requirements for and the availability of transitional housing, and the availability of funding to assist emancipating children in living independently.

(7) Familiarity with the Court's policy regarding joint reports for Welfare and Institutions Code section 300/602 children pursuant to Welfare and Institutions Code section 241.1; and familiarity with all other policies and protocols regarding dependent children contained in Chapter Seventeen of the Los Angeles Superior Court Local Rules.

(e) General Practice Guidelines for Court-Appointed Attorneys in Dependency Court.

(1) The attorney shall make inquiries necessary to determine at the outset of the proceedings whether a conflict exists in the representation of a party.

(2) At a party's first appearance, the attorney shall verify with the client, to the extent the information is known, the names, addresses, telephone numbers, and relationships of all persons entitled to receive notice of the proceedings, including the birth dates of each party and child. The attorney shall also inquire as to the name, address, telephone number, and relationship of all known relatives and/or non-relative family members for possible placement of any detained child. If any relative and/or non-relative family member is identified, then the Los Angeles County Dependency Court form entitled "Relative Information Sheet" shall be completed and filed with the Court.

(3) At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to the applicability of **ICWA**, and so inform the Court, in order for the Court to comply with Local Rule 17.8(a).

(4) At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to paternity issues in order to resolve the status of paternity. The Los Angeles County Dependency Court paternity questionnaire form shall be completed by mother and father in all cases and filed with the Court. The "Paternity -- Waiver of Rights" form (Judicial Council form JV-505) shall be completed by any person claiming paternity status or non-paternity, which shall also be filed with the Court.

(5) The attorney should have a complete familiarity with the facts of the case by reviewing the court file, especially when appointed to represent a party in the middle of an ongoing case, and by bringing discovery motions, interviewing witnesses, procuring experts, and otherwise conducting an independent investigation.

(6) The attorney should make all reasonable efforts to ensure that the client understands the court processes, proceedings, and the potential and actual consequences of the proceedings. Special efforts should be taken to ensure that a client understands these matters if the client demonstrates any evidence of being developmentally delayed, or exhibits signs that he/she is suffering from any cognitive or emotional problems which would affect the client's ability to comprehend any aspect of the dependency proceedings.

(7) The attorney shall maintain a current business address and working telephone number and promptly notify clients of any change of address or telephone number. The attorney should provide the client with his or her business card.

(8) The attorney shall show courtesy and respect to judicial officers, DCFS social workers, CASA, DCFS court officers, courtroom personnel, witnesses and all counsel.

(9) The attorney should be aware of children present in the courtroom, so that discussions of sensitive case issues, whether pertaining to a particular child or other children, are not overheard by the children or made in an insensitive manner.

(10) Settlement should be considered as soon as enough information is known about the case to make settlement discussions meaningful. In every case, the attorney should consider whether the client's interests could best be served and whether the case could be more appropriately resolved by mediation or other settlement discussions. In that regard, the attorney should be familiar with the Court Mediation program. Mediation is an integral part of the Dependency Court procedures which can be utilized at any state of a proceeding.

(f) Practice Guidelines for Representing Children in Dependency Court. In addition to the general practice guidelines, attorneys representing children shall have the following additional duties and responsibilities:

(1) The attorney shall be thoroughly familiar with the requirements of Welfare and Institutions Code section 317(e) for the representation of children, Rule 5.660 of the California Rules of Court regarding standards of representation, and Rule 5.660 of the California Rules of Court regarding caseload size.

(2) The attorney or his/her staff shall separately interview each child four years of age or older unless it is determined that the child has sufficient language skills to communicate at an earlier age. The attorney shall ascertain the child's wishes, needs, and background. Interviews should be done in an atmosphere where the child feels comfortable and privacy is ensured.

(3) At the initial interview, where possible, the attorney shall inform the child, in language the child can comprehend, the nature of dependency proceedings, the role of a lawyer, the child's rights including the right to confidentiality, and the nature of the subject matter of any petition and the contents of any related report.

(4) The attorney should be actively involved in, and vigorously advocate at, every stage of the proceedings involving a child client and take any necessary legal steps that would promote and advance a child's right to receive all appropriate reunification and permanent placement services and all other services and resources to meet the child's educational, dental, medical, and mental health needs.

(g) Eligibility for Continued Practice in Dependency Court.

(1) *Education/Training.*

i. Attorneys must complete a total of 12 hours of continuing education credits each year. This training shall include, but not be limited to mandatory attendance at the annual conference sponsored by the Juvenile Court and the California State University, Los Angeles, and at least five hours of training offered at the Children's Court, or, in lieu thereof, other training approved by the Juvenile Court.

ii. Ongoing training shall also include, but not be limited to, summaries of current changes in the dependency laws and statutes, summaries of recent and relevant case law, and information and instruction on child development, child abuse and neglect, family reunification and preservation, reasonable efforts, domestic violence, substance abuse, special education, mental health, government benefits, and cultural diversity issues.

(2) *Evidence of Competence.* The attorney shall file in the Office of the Presiding Judge, a certification of satisfaction, signed under penalty of perjury, of the continuing education requirements specified in this Rule not later than February 15 of each year (Appendix 4). Failure to comply with this requirement may result in the Court not appointing the attorney to represent clients.

(h) Caseloads for Children's Attorneys. The Superior Court for the County of Los Angeles hereby adopts any caseload standards for children's attorneys established by the Judicial Council.

Current with amendments received through through 1/1/2010