

12 Juvenile Dependency

12.0 Authority.

These LRSF are intended to supplement state statutes which are found principally in the Welfare and Institutions Code (W&I) and to supplement the California Rules of Court (CRC) relating to Unified Family Court matters (see CRC 5.501-5.562). For the authority for the creation of these rules see Government Code § 68070; W&I Code §§ 317.6(b) and 350 and CRC 5.534. These rules adopt the rules of construction and the severability of clauses in CRC 5.501.

These rules together with the protocols found at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency> constitute the working procedures of juvenile dependency proceedings (hereinafter referred to as “dependency”) in the San Francisco County Unified Family Court. Failure to abide by these rules may subject both child welfare workers and counsel to fines and sanctions.

12.1 Abbreviations

The following abbreviations are used throughout these rules:

BASF	=	Bar Association of San Francisco
CASA	=	Court Appointed Special Advocate from SFCASA
CPS	=	Child Protective Services
CRC	=	California Rules of Court
DRP	=	Dependency Representation Program
DSR	=	Dependency Status Review
HSA	=	San Francisco Human Services Agency
IEP	=	Individualized Education Program
LRIS	=	Lawyer Referral Information Service
MDI	=	Multi-Disciplinary Interview
MDT	=	Multi-Disciplinary Team
PPH	=	Post Permanency Planning Hearing
PPX	=	Post Permanency—Non-Minor Dependents
SFUFC	=	SF Unified Family Court
UFC	=	Unified Family Court
W&I	=	California Welfare & Institutions Code

12.2 Judicial Departments, Assignment of Cases and Calendaring.

For information about courtroom assignment of dependency cases, scheduling of hearings and trial setting orders, see the Court's website at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

12.3 Procedure for Incorporating Petitions by Reference.

When the Court orders several petitions incorporated by reference under a single petition number, the Court will select the most recent petition number as the designated number for all future documents. Any paper subsequently filed or received by the clerk of the Court must refer to the new number.

12.4 Court Policy Regarding Attorneys and Child Welfare Workers.

It is the policy of the UFC to resolve dependency matters in the least adversarial manner that is possible. Attorneys are expected to provide effective and professional representation while at the same time avoiding an escalation of any animosities that might exist. Counsel and child welfare workers must treat each other, parents, witnesses, children, and court staff with dignity and respect.

12.5 Standards of Representation and Practice.

All attorneys practicing in the Dependency Court of SFUFC are governed by the Practice Guidelines for Attorneys, available at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

12.6 Dependency Representation Program.

A. Appointment of Counsel.

All children for whom a juvenile dependency petition is filed and all parents and legal guardians who appear and meet guidelines for indigent representation will be appointed counsel from the juvenile dependency panel of attorneys (panel) administered by BASF pursuant to W&I § 317. No appointment of counsel will be made to a parent/guardian who does not appear, unless the parent/guardian is incarcerated or hospitalized or the Court, in its discretion, deems it appropriate to appoint counsel. Parents/guardians not eligible for the appointment of counsel will be referred to BASF/LRIS (see www.sfbar.org/lawyerreferrals/requestalawyer-phone.aspx).

B. Requirements of Dependency Panel Attorneys.

Panel members must comply with the procedures for admission to each panel as set forth at www.sfbar.org/lawyerreferrals/requestalawyer-phone.aspx.

New panel members are subject to a minimum six-month probationary period on each panel. All panel members are subject to ongoing peer review as both parents' counsel and children's counsel.

All panel attorneys must complete a minimum of fifteen (15) hours of continuing education each year in areas relevant to dependency practice. Areas that qualify as "relevant to dependency practice" include, but are not limited to, the following:

- 1) Use of psychological experts, including direct and cross-examination;
- 2) Trial skills;
- 3) Rules of evidence;
- 4) Training programs that include information on child development, substance abuse, mental health issues, incarcerated parents, etc.;
- 5) The child witness;
- 6) Training specifically related to dependency practice such as reasonable efforts, W & I 366.26 hearings, etc.;
- 7) Programs that provide information on community resources;
- 8) Domestic violence training;
- 9) Custody, visitation, and child support issues; and
- 10) Indian Child Welfare Act issues.

In addition to the Practice Guidelines, Dependency Panel attorneys are further governed by the Dependency Representation Program (DRP) manual of the Bar Association of San Francisco available at www.sfbar.org/forms/lawyerreferrals/drp/procedures_manual.pdf. Failure to abide by these Local Rules for Juvenile Dependency, the Practice Guidelines for Attorneys Practicing in the Juvenile Dependency Court or the DRP manual can result in probation, suspension, or removal from the BASF Juvenile Dependency Panel and/or other sanctions or appropriate action by the supervising judge of the Unified Family Court.

12.7 Procedures for Reviewing and Resolving Complaints About the Performance of a Child's Court Appointed Counsel [CRC 5.240(e)].

In the event of a complaint concerning the performance of an attorney appointed to represent a child, the complaint must be submitted in writing to the assigned bench officer or the supervising judge of the UFC by the child or on the child's behalf by the social worker, a caretaker, a relative, a foster parent, or a child advocate. The Court may proceed as follows:

- A. Request the attorney to move to withdraw from the case, and/or
- B. Request the attorney to submit a written response to the client's complaint within five (5) days and thereafter determine:
 - 1) whether the attorney acted contrary to the LRSF or practice guidelines. If the Court so determines, the Court may reprove the attorney either privately or on the record, and/or take any other action that the judge deems appropriate, and /or
 - 2) whether that attorney acted incompetently. If the Court so determines, the Court may reprove the attorney either privately and/or on the record, and/or take any other action that the judge deems appropriate.

12.8 Pre-Jurisdiction/Disposition Timelines and Trial Setting.

At an initial petition hearing at which time is waived, the Court will set further hearings according to the protocol available at

<http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

12.9 Discovery.

Discovery will be provided to counsel for presumed parents/guardians and upon court order to counsel for non-presumed and/or de facto parents, if any, as follows:

A. Detention/Initial Hearing Discovery.

Detention/Initial Hearing Discovery to be provided in court at the first calling of the case or as soon thereafter as practicable includes:

- 1) Petition;
- 2) Detention/Initial Hearing Report and Declaration of Efforts; and
- 3) Documents relied upon in Detention and/or Jurisdiction/Initial Hearing Report to support HSA's request.
- 4) In the event of a contested detention hearing, additional documents in HSA's possession including, but not limited to, prior voluntary agreements, MDI interviews and recordings, police reports and most recent child abuse referral will be provided to counsel in advance of the contested detention hearing.

B. Further Discovery.

Further Discovery will be provided by the City Attorney's office in electronic format pursuant to the Juvenile Dependency Pre-Detention Timelines and Trial-Setting protocol available at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency> or by request.

- 1) All petitions, motions, and other filed pleadings;

- 2) Court Reports;
- 3) All medical/psychiatric/psychological reports, evaluations, and/or recommendations;
- 4) All school reports, recommendations, IEPs, and records;
- 5) Police Reports;
- 6) MDI interviews and recordings;
- 7) CPS referrals and/or records;
- 8) Witness statements;
- 9) MDT Service Assessments;
- 10) Multi Agency Screening Team (MAST) results/records;
- 11) Child welfare worker's dictation/notes;
- 12) Electronic communication between HSA, parents, providers, and others including, but not limited, to e-mail and text messages;
- 13) Drug test results;
- 14) Visitation notes;
- 15) Any other documents in the HSA's actual or constructive possession that were considered or relied upon by the HSA in the evaluation of the case whether favorable or unfavorable to the HSA's position.

C. Subsequent Requests for Discovery.

Subsequent requests for discovery must be made on SFUFC Form 12.9. When a request is filed, it must be served on all attorneys of record. The City Attorney's office will make the documents produced available to counsel in an electronic format within fourteen (14) days.

D. Ongoing Duty to Produce.

The duty to provide discovery as described in this rule continues through the completion of the hearing, so that any items which are actually or constructively obtained by or become known to the City Attorney/HSA or any of his or her deputies, investigators, or employees, pursuant to this rule, must also be made available forthwith to counsel, entitled to discovery.

E. Court-Ordered Evaluations.

All attorneys entitled to discovery must receive copies of any court-ordered psychological, medical, substance abuse, or other evaluation conducted upon any party as soon as possible after completion.

Upon the approval of the subject of an evaluation, the evaluation may be shared with the subject's treating mental health professional or expert witness.

Absent a court order based upon a specific showing of good cause, copies of any evaluations provided under this section must not be disseminated to the party who is the subject of the evaluation, other parties in the case, or to any third party. If necessary to assist counsel in preparing for the pending juvenile dependency litigation, counsel for the subject of the evaluation may permit the client who is the subject to read the evaluation or portions thereof. No other parties may review the evaluation.

The Court may also, on a showing of good cause, make any other orders it determines to be necessary further restricting disclosure of the information contained in these evaluations.

F. Protective Order.

If at any time during a dependency case, a protective order is desired (e.g., domestic violence and sexual abuse cases), counsel for the party wishing to protect confidential information may file a declaration and proposed order with the Court requesting a protective order and inform all counsel.

12.10 Visitation.

Any child taken into temporary custody pursuant to W&I §§ 300, et seq., must have visitation with his/her parent(s) or guardian(s), as follows:

- A.** HSA must set the first visit to occur within five (5) days of the date the child was taken into temporary custody unless HSA can show good cause as to why such visitation should not be granted or should be decreased.
- B.** From the time of detention and until disposition, the visitation must be set as follows unless the HSA can show good cause as to why such visitation should not be granted or should be decreased:
 - 1) Newborns to five-year-olds must have at least six (6) hours of visitation with their parent(s) or guardian(s) per week.
 - 2) Six-year-olds to eighteen-year-olds must have at least three (3) hours of visitation with their parent(s) or guardian(s) per week.
 - 3) Visitation should be as frequent and convenient as possible for all parties.

- C.** If the HSA believes that it cannot comply with a specific visitation order or these local rules, it must immediately notify all parties in writing. As soon as practicable, the parties will meet and confer in an effort to resolve the matter and take appropriate steps thereafter.
- D.** If a parent or guardian misses two (2) visits after confirming and without reasonable justification, visitation may be terminated by written notice to the parent(s) or guardian(s). Reinstatement of visitation suspended pursuant to this paragraph may only be accomplished by agreement with the child welfare worker or by a motion to reinstate visits after counsel have met and conferred. All moving and supporting papers must be served and filed a minimum of ten (10) court days prior to the hearing to be scheduled on the appropriate calendar based upon the phase of the case. All papers opposing the motion must be filed and served at least five (5) court days before the hearing and all reply papers at least two (2) court days before the hearing.
- E.** When the Court has ordered a parent to have reasonable visitation with his or her child and that parent has failed to have any visits with the child or has failed to contact his/her child for a period of not less than six (6) months, the following will apply:
- 1) If a parent requests a resumption of visitation in a pre-permanent plan case, and if the child welfare worker assigned to the case determines that a resumption of visitation would be detrimental to the child, the child welfare worker must so inform the parent and his/her attorney in writing. The child welfare worker must, through counsel, file and serve a declaration documenting the lack of contact between the parent and child as well as efforts that have been made by the child welfare worker to encourage visitation and contact. The child welfare worker must direct the parent to contact his/her attorney to initiate a visitation motion. If the parent is not represented, the child welfare worker must direct the parent to contact a HSA court officer for appointment of counsel. Where reasonable grounds exist, counsel for the parent may file a visitation motion to reinstate visitation.
 - 2) If a permanent plan has been adopted by the Court in a particular case, and the child welfare worker has denied further visitation because of a failure of the parent to visit or contact the child in six (6) months, the burden will be on the parent to file a motion for a resumption of visitation and to demonstrate that the visitation sought is in the best interests of the child.

12.11 Jurisdiction/Disposition Recommendation.

The Human Services Agency must electronically serve the jurisdiction/disposition report to all counsel at least four (4) days before a jurisdiction/disposition settlement conference.

If the report is not filed and served at least four (4) days before the scheduled settlement conference, the HSA Court Officer or City Attorney must explain the reason for the failure to do so. The failure to file and serve a timely report may result in the imposition of sanctions on the child welfare worker or Agency.

12.12 Dependency Review Hearings.

- A. Immediately upon receipt of a report for a review hearing, including DSR, PPH, PPX and Adoption, all counsel must contact their clients. If the client intends to appear and contest the recommendation, the attorney must notify all counsel at least 24 hours before the scheduled hearing.
- B. When any party opposes the recommendation set forth in the review report, the matter will be set for a contested evidentiary hearing unless the parties agree that further efforts to meet and confer may be successful and, in those cases, the matter will be continued for no more than two (2) weeks for further review or mediation except under extraordinary circumstances.

12.13 Requests for Continuance.

Any request for a continuance of any hearing shall be granted only upon a showing of good cause. A continuance must be requested in writing at least two (2) days prior to the date set for hearing unless the Court for good cause entertains an oral motion for continuance. Counsel seeking a request for continuance of any contested hearing must endeavor to calendar the written notice and affidavits/declarations in support thereof as soon as practicable.

12.14 Protocol for Telephone and Videoconference Appearances (CRC 5.531).

A child may appear by telephone or by videoconference, if available, with 24 hours notice by counsel for the child to all parties and the Court. This provision does not excuse HSA from its obligation to transport a child to court.

Non-minor dependents may appear by telephone or by videoconference, if available, with 24 hours notice by counsel for the non-minor dependent to all parties and the Court.

If a parent is unable to appear in court for a previously scheduled hearing, counsel may submit a request to the Court on the 12.14A form available at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency> for the parent to appear by telephone or videoconference, if available, with 48 hours notice to all counsel and the Court and the completion of form 12.14B. The Court will endeavor to approve or reject counsel's request in advance of the hearing. In the event of an emergency, counsel may request telephone or videoconference appearance in person at the court hearing.

Domestic telephone appearances will be initiated by the courtroom clerk on the courtroom's speaker phone. International telephone appearances and videoconferences must be arranged for and initiated by counsel.

12.15 Motions.

A. Meet and Confer.

All attorneys must meet and confer prior to filing any noticed motion. All motions must be supported by a declaration by counsel for the moving party concerning efforts to meet and confer.

B. Hearings.

Motions will be set for hearing in the case's assigned department. Motions will be set on the calendar appropriate to the phase of the case. See www.sfsuperiorcourt.org for calendaring schedule and courtroom information.

C. Filing of Moving and Opposing Papers.

The filing of moving and opposing papers must conform to the time requirements of the Code of Civil Procedure, § 1005 and CRC 3.1110, *et. seq.*, unless otherwise described by these local rules or an order shortening time has been granted. In addition, CRC 3.1112 and 3.1113 apply to the content and length of any memorandum of points and authorities.

All papers filed in support or opposition to any motion must indicate the time, calendar, and department on the front page.

Example:

Date: August 2, 2016
Time: 1:15 p.m.
Dept: 406
Calendar: DSR

Courtesy copies of all motions must be provided to the San Francisco HSA court office. In addition, a courtesy copy of all motions must be delivered to the assigned bench officer at least five (5) days before the scheduled hearing unless there has been an order shortening time, in which case courtesy copies should be provided as soon as possible.

D. In Limine Motions.

All in limine motions must be filed and served five (5) days before the first day of trial. The hearing on such motions will be heard on or prior to the first day of trial by the judicial officer conducting the trial.

12.16 Procedure for Filing of Petitions Pursuant to W&I § 388.

Petitions seeking to modify court orders based upon a change of circumstance or new evidence, pursuant to W&I § 388, must be filed in room 402, the UFC court clerk's office. Counsel should propose hearing dates on the calendar appropriate for the phase of the case. Any person submitting such a petition on behalf of a currently represented party must meet and confer with other counsel concerning the request for the proposed change of order and use Judicial Council Form JV-180 (Request to Change Court Order). The original and at least one copy must be submitted to the court clerk with a stamped self-addressed envelope. Upon submission to the court clerk's office, the petition will be presented to the judicial officer in whose department the matter is pending. Pursuant to JV-183, Court Order on form JV-180, (Request to Change Court Order), the judicial officer will sign the order: (a) denying the request on its face, (b) granting the request without a hearing, (c) setting a hearing to determine whether the Court should grant or deny the evidentiary hearing, or (a) setting a hearing because the best interest of the child may be promoted by the request.

Once the JV-183 is signed by the judicial officer it will be filed by the clerk. Upon filing, a copy of the signed order will be returned to the person seeking the request. If the judicial officer determines that a hearing will be held, the matter will be set for a hearing. Unless the Court makes a special setting order, the case will be calendared at the appropriate time on the appropriate calendar in the department in which the matter is pending.

Within 24 hours of receipt of the signed and endorsed-filed copy of the order, the person seeking the request must provide notice of the date and time of the hearing, and serve the petition by e-mail, facsimile or U.S. mail, on all parties and the HSA court office.

If the person seeking the order is not a party to the case, the UFC court clerk will give notice to all parties and counsel.

12.17 Ex Parte Applications (See CRC 5.151 for appropriate use).

A. Filing of Ex Parte Application

The court clerk will set the matter for ex parte hearing upon the filing of an ex parte application, which must be filed in room 402, the UFC court clerk's office on or before the next court day prior to the ex parte hearing.

B. Notice Requirements.

Notice of an ex parte hearing must be provided to counsel by telephone or email no later than 10:00 a.m. on the court day prior to the hearing. Notice must include the date, time, and department of the ex parte hearing. In extraordinary circumstances, if good cause is shown that immediate danger and/or irreparable harm is likely if notice is provided to the other party, the Court may waive this notice requirement.

C. Proof of Notice Requirements.

At the time of the ex parte hearing, the party seeking ex parte relief must file a declaration under penalty of perjury regarding compliance with the notice requirements. If the other parties are not timely and properly noticed, the party seeking ex parte relief must file a declaration under penalty of perjury detailing the efforts made to provide notice and why those efforts were unsuccessful.

D. No Notice Required.

Notwithstanding the noticing requirements set out above, ex parte applications for the following orders do not require notice: orders for the appearance of prisoners; orders for out of court interpreter services; orders concerning representation of a party; and requests for orders for the authorization of funds for expert witnesses or for any individual whose work will be considered to be the attorney's work product.

Orders for the appearance of prisoners must be presented to the courtroom bailiff for processing. Other procedures concerning the transportation of prisoners are available in the dependency courtrooms.

All other requests must be presented to the courtroom clerk where the matter is pending. Signed orders may be picked up from the courtroom clerk.

E. Pleading Requirements.

All ex parte applications must include:

- 1) A Declaration in support of an ex parte application based upon personal knowledge, signed under penalty of perjury, specifically including the reason relief is requested, the factual basis for that relief, the nature of the emergency

requiring immediate relief, and whether the relief requested changes an existing court order;

- 2) Proof of timely notice to all parties;
- 3) Request for order;
- 4) A proposed order.

F. Service of Pleadings.

Absent good cause, the party seeking ex parte relief must provide copies of all documents in support of the ex parte application to the other parties no later than 10:00 a.m. on the court day prior to the ex parte hearing.

G. Hearing Dates.

See the Court's website at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency> for time and location of ex parte hearings.

H. Hearing Procedures.

The Court will decide the ex parte application on the papers. The Court, in its sole discretion, may conduct some or all of the ex parte proceedings in open court.

12.18 Access to and Copying of Juvenile Court Records.

Access to and copying of juvenile court records are governed by W&I § 827 and CRC 5.552.

- A.** All Petitions for Disclosure of Juvenile Dependency Court Records must be filed in room 402, the UFC court clerk's office at the Civic Center Courthouse, 400 McAllister Street using Judicial Council form JV-570.
- B.** When a hearing is required, it will be set within 30 days of the date the application is filed. The court clerk will notice all relevant parties of the hearing date. Any request to have the hearing set in less than 30 days must be done in a separate application for order shortening time.
- C.** If the petition is granted, the judicial officer will conduct an in camera review to determine what documents will be copied and produced. The documents will generally be available within two (2) weeks of the hearing date.
- D.** The moving party must notify the court clerk if the documents are no longer needed or the matter is to be taken off calendar. Failure to provide such notice may result in sanctions.

12.19 Dependency Mediation Program.

The San Francisco Superior Court has a dependency mediation program to provide a problem solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The protocol for the

Court's dependency mediation program can be found at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

12.20 Procedure for Protecting the Interests of Child.

At any time following the filing of a petition under W&I § 300 and until UFC jurisdiction is terminated, any interested person may advise the Court of information regarding an interest or right of the child to be protected or pursued in other judicial or administrative forums.

Judicial Council Caregiver Information Form (JV-290), Juvenile Dependency Petition (JV-100) and Modification Petition Attachment (JV-180) may be utilized.

12.21 CASA Referrals.

A. Time of Appointment of CASA.

The Court may order the appointment of a CASA volunteer at or after the dispositional order of the Juvenile Court. The judge hearing a dependency case may order the appointment of a CASA volunteer earlier in the proceedings if warranted by the special circumstances of a child.

B. Requests for Referrals.

Any party, attorney representing a party or child, the child welfare worker, or other person having an interest in the welfare of the child may request that the Court make a referral to San Francisco CASA using form 12.21. CASA referral forms are available at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

C. Assignment of CASA Volunteer.

San Francisco CASA must evaluate the referral on the basis of the criteria then in effect, CRC 5.655, and the availability of volunteers.

If SFCASA rejects the referral, it must send a letter explaining the rejection to the Court.

If SFCASA accepts a referral, it will assign a volunteer, submit an order to the Court appointing a specific volunteer, and notify the following of the appointment: child welfare worker, mother's, father's, and child's attorneys, CASA volunteer, foster parent(s) or other placement, and CASA records.

If there are additional parties (e.g., de facto parents or guardians), SFCASA must serve those parties with a copy of the order.

D. CASA Reports.

Court reports prepared by CASA volunteers must be filed with the Court and served upon all counsel at least ten days prior to the hearing for which they are prepared.

E. CASA Volunteers Serve at the Pleasure of the Court.

A CASA volunteer serves at the pleasure of the Court. A CASA volunteer is an officer of the Court who is appointed to investigate the proceedings on behalf of the Court and serves until he or she resigns, is removed by the SFCASA Director, or by further order of this court. The appointment of the CASA volunteer terminates once the entire action has been dismissed or the jurisdiction of the Court has been terminated.

12.22 Notification of Change in Placement.

In order to ensure that proper notice is received by parents or legal guardians and attorneys for parents, legal guardians, de facto parents, and children of any change in a child's placement, HSA must, in addition to any notice required by statute (W&I § 361.2(h)), provide notice of the change in placement to the attorneys for the parents, de facto parents, and child as follows:

- 1) In non-emergency situations, notice of the change of placement must be given at least five (5) days prior to a move within San Francisco.
- 2) Prior to any change of placement outside of San Francisco, HSA must provide notice 14 days prior to a move unless emergency circumstances prevent such notice.
- 3) In emergency circumstances, as mentioned in parts 1 and 2 above, HSA must give notice within 48 hours (two days) following the child's removal from his/her placement.
- 4) For changes of placement within San Francisco, notice may be by telephone or in writing, and must include the anticipated:
 - a) date of the move, and
 - b) type of placement
- 5) For changes of placement within the United States but outside of San Francisco, notice must be in writing, and must include the anticipated:
 - a) date of the move,
 - b) type of placement, and
 - c) city of new placement.

12.23 Authorization for Travel by Out of Home Placement Dependent Children Within the United States and United States Territories.

- A.** In cases where there is a request for a child who is in the custody of HSA to travel within the United States and its territories (for less than 30 days), HSA may authorize such travel without a court order. HSA must provide reasonable notice to parents and all attorneys of record.
- B.** In cases where the request for a child to travel is for over 30 days or for travel outside the United States and its territories, HSA must obtain authorization from the Court with a minimum of 15 days notice to parents and all attorneys of record.

12.24 Participating in Extracurricular, Enrichment, and Social Activities.

See W&I § 362.05.

12.25 Authorization to Administer Psychotropic Medication to Out of Home Dependent Children of the Court.

The policies and procedures that implement the requirements of W&I § 369.5 and CRC 5.640 and JV-220, *et. seq.* for the administration of psychotropic medications for out of home dependent children are set forth in the protocol available at <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

12.26 Authorization for Ordinary Medical, Dental, and Mental Health Treatment.

A. Definition of Ordinary, Medical, Dental, and Mental Health Treatment.

Ordinary medical, dental, and mental health care includes but is not limited to:

- 1) Comprehensive health assessments and physical examinations, including but not limited to: sight, speech, and hearing examinations as well as all Child Health and Disability Program (“CHDP”) medical assessments;
- 2) Any routine medical care required, based on the results of the comprehensive health assessment, including but not limited to: hearing aids, glasses, and physical therapy, or for the care of any illness or injury;
- 3) First aid care for conditions which require immediate assistance;
- 4) Administration of routine medication, including but not limited to: analgesics, insulin, cold medication, or antibiotics;
- 5) Medical care for minors with health care complaints, including but not limited to colds, flu, chicken pox, cuts, broken bones;
- 6) Clinical laboratory tests necessary for evaluation or diagnosis of the minor's health status, including but not limited to: blood tests, X-Rays, and CT Scans;

- 7) Immunizations recommended by the American Academy of Pediatrics;
- 8) Mental health assessment required for mental health services, including but not limited to Child and Adolescent Needs and Strengths (“CANS”) Assessments;
- 9) Mental health services, based upon the results of the CANS assessment or any other mental health assessment; and
- 10) Dental assessment and any routine dental treatment required pursuant to the results of the dental assessment, or for the ordinary treatment of dental health, including but not limited to teeth cleanings and x-rays.

B. Procedure for Obtaining Order for Consent to Treatment.

- 1) **Generally.** W&I § 369 sets forth the responsibilities of the Court and the HSA for handling the consent to, and treatment of, minors in the dependency system with respect to their ordinary medical, dental, and mental health care. HSA is responsible for obtaining required authorization for ordinary medical, dental, and mental health care for minors who appear to come within the provisions of W&I § 300.

Before requesting court authorization, HSA must first seek parental consent. When parental consent cannot be obtained, HSA may then seek court authorization.

- 2) **When Court Order is Required for Ordinary Medical, Dental, and Mental Health Care.** If the parent or guardian is unavailable (e.g. whereabouts unknown), unable (e.g. incarcerated or incompetent), or unwilling to consent to ordinary medical, dental, or mental health care, court authorization is required.

- 3) **Parent Unavailable, Unable, or Unwilling.**

- a. Where HSA seeks court authorization without parental consent, HSA must submit an application for a proposed order for court authorization that includes:

1. Request by HSA for authority to consent to ordinary medical, dental, and mental health treatment and release of information, on behalf of the minor only as it is required to obtain such treatment.
2. Request by HSA for authority to release information on behalf of the minor only as it is required to obtain such treatment.
3. Sunset provision indicating the order expires at such time as a parent presents him or herself to HSA and is able and willing to sign consents and releases of information, on behalf of the minor.

- b. To support the proposed order, HSA must provide a declaration by a HSA City Attorney stating that all counsel have been provided 24 hours notice and do not object; as well as, when necessary, evidence from the HSA Child Welfare Worker describing efforts to locate and engage a parent. For all

pre-jurisdictional proceedings, the evidence must include a statement that the health care provider is recommending that the treatment is necessary.

- c. If there is an objection to the request for an order authorizing ordinary medical, dental, or mental health treatment, and consent **is not required on an emergency basis**, the Court will conduct a hearing on the objection before ruling on the request for court authorization.

Procedure

The Court will set the matter in Department 405 on the following JV-220 calendar if the objection cannot be addressed on another calendar. See <http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency>.

- d. If HSA seeks consent for ordinary medical, dental, or mental health treatment that is needed on an **emergency** basis (e.g. consent to treat required for placement of a minor), and a minor's parent is unwilling to consent, HSA must submit an application for a proposed order for court authorization that includes:
 1. Request by HSA for authority to consent to ordinary medical, dental, and mental health treatment and release of information, on behalf of the minor only as it is required to obtain such treatment.
 2. Sunset provision indicating the order expires at a hearing set for the parent to object before the Court on the JV-220 calendar.
 3. To support the proposed order, HSA must provide a declaration by a HSA City Attorney stating all counsel have been noticed; as well as, evidence from the HSA Child Welfare Worker describing the emergency nature of the request and efforts to locate and engage a parent.
- 4) **Medical Screening.** To ensure the safety and physical well-being of minors after they are taken into protective custody and temporarily detained in out-of-home placement and prior to any juvenile court intervention, HSA may authorize a non-invasive medical screening for purposes, including but not limited to:
- a. To determine whether the child has an urgent medical need that requires immediate attention.
 - b. To determine whether the child poses a health risk to other persons.
 - c. To determine an appropriate placement to meet the child's needs.

The HSA Child Welfare worker must make reasonable attempts to notify the parent(s) that the minor will be undergoing a non-invasive initial medical, dental,

and mental health screening. If a parent objects, the screening may be conducted only upon an order of the Court.

Adopted: July 1, 1998

Last Revised: January 1, 2017