



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 14–15, 2016

Title	Agenda Item Type
Juvenile Law: Delinquency Defense Attorney Qualifications	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rule 5.664; approve form JV-700	July 1, 2016
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	March 25, 2016
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Nicole Giacinti, 415-865-7598 nicole.giacinti@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting rule 5.664 of the California Rules of Court and approving optional form JV-700, *Declaration of Eligibility for Appointment to Represent Youth in Delinquency Court*, to conform to recent statutory changes that establish training requirements for attorneys who represent delinquent youth under Welfare and Institutions Code sections 601 and 602.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2016:

1. Adopt California Rules of Court, rule 5.664 (Training requirements for children's counsel in delinquency proceedings), which establishes training requirements for attorneys who are appointed to represent delinquent youth.

2. Approve optional Judicial Council form JV-700, *Declaration of Eligibility for Appointment to Represent Youth in Delinquency Court*, which can be used by courts to confirm that attorneys representing delinquent youth have complied with the training standards stated in rule 5.664, including completing continuing education requirements.

The text of the proposed rule is attached at pages 6–8. A copy of the proposed optional form is attached at page 9.

Previous Council Action

Proposed new California Rules of Court, rule 5.664, is a result of the passage of Assembly Bill 703 (Bloom; Stats 2015, ch. 369), which added Welfare and Institutions Code section 634.3, requiring the Judicial Council to promulgate rules establishing minimum training requirements for attorneys appointed to represent delinquent youth.¹ On the recommendation of the Family and Juvenile Law Advisory Committee, on April 9, 2015, the Policy Coordination and Liaison Committee took a support position on Assembly Bill 703 on the Judicial Council’s behalf.²

Rationale for Recommendation

Assembly Bill 703 added section 634.3 to the Welfare and Institutions Code to establish training requirements for attorneys who are appointed to represent delinquent youth. Section 634.3 mandates establishment of a minimum number of training hours that attorneys must complete before accepting appointment to represent delinquent youth, as well as establishment of topics that must be included in the training hours. The Judicial Council is required to adopt rules of court to implement the requirements stated in section 634.3. The addition of rule 5.664 to the rules of court will ensure conformance with Welfare and Institutions Code section 634.3.

As mandated by section 634.3, rule 5.664 would establish “minimum hours of training and education.” Specifically, proposed rule 5.664 requires that attorneys who represent delinquent youth complete a minimum of 12 hours of training or education in juvenile law before representing delinquent youth—and eight hours each year thereafter. Recognizing that experienced delinquency attorneys may possess the knowledge and skills expected to be gained from the initial training, section 634.3 and rule 5.664 provide an alternative eligibility requirement for attorneys with recent delinquency experience. Specifically, attorneys who have dedicated at least 50 percent of their practice over the most recent three years to the representation of delinquent youth and exhibited competence in their representation may waive the 12-hour requirement. However, all attorneys must comply with the 8 hours per year of continuing education and training. Proof of compliance with the training requirement will be

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise stated.

² California Rules of Court, rule 10.12, authorizes the Policy Coordination and Liaison Committee to take a position on behalf of the Judicial Council on pending legislative bills, provided that the position is consistent with the established policies and precedents and after considering input from advisory bodies, Judicial Council staff, and courts.

required annually based on the date the individual attorney became eligible to represent delinquent youth.

Section 634.3 mandates establishment of “required training areas” that include, at a minimum, “an overview of juvenile delinquency law and procedure, child and adolescent development, special education, competence and mental health issues, counsel’s ethical duties, advocacy in the postdispositional phase, appellate issues, direct and collateral consequences of court involvement for a minor, and securing effective rehabilitative resources.” Rule 5.664 specifies the following topic areas that must be included in the 12 hours of training and education:

- An overview of delinquency law and related statutes and cases;
- Trial skills, including giving instruction on pretrial motions, introducing evidence at trial, preserving the record for appeal, filing writs, notices of appeal, and posttrial motions;
- Advocacy at the detention phase;
- Advocacy at the dispositional phase;
- Child and adolescent development, including training on interviewing and working with adolescent clients;
- Competence and mental health issues, including capacity to commit a crime and the effects of trauma, child abuse, and family violence, as well as crossover issues presented by youth involved in the dependency system;
- Police interrogation methods, suggestibility of juveniles, and false confessions;
- Counsel’s ethical duties, including providing racial, ethnic, and cultural understanding and addressing bias;
- Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth;
- Understanding of the effects of and how to work with victims of human trafficking and commercial sexual exploitation of children and youth;
- Immigration consequences and the requirements of Special Immigrant Juvenile Status;
- General and special education, including information on school discipline;
- Extended foster care;
- Substance abuse;
- How to secure effective rehabilitative resources, including information on available community-based resources;
- Direct and collateral consequences of court involvement;
- Fitness hearings and advocacy in adult court;
- Appellate advocacy; and
- Advocacy in the postdispositional phase.

Comments, Alternatives Considered, and Policy Implications

This proposal circulated for comment as part of the winter 2016 invitation-to-comment cycle, from December 11, 2015, to January 22, 2016, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court

administrators and clerks, attorneys, family law facilitators and self-help center staff, social workers, probation officers, and other juvenile law professionals. Eleven comments were received; 10 of the 11 commentators supported the proposal in principle. Seven commentators agreed with the proposal as circulated and 3 commentators suggested minor modifications. A chart with the full text of the comments received and the committee's responses is attached at pages 10–43.

The Invitation to Comment requested comment on the number of initial hours of training, proposed as 12 hours; three commentators suggested that the rule require attorneys to complete 16 hours of initial training to be eligible to be appointed to represent delinquent youth; and one commentator disputed the necessity of a rule requiring qualifications and continuing training. After consideration, the committee elected to retain the 12 hours of initial training proposed in the rule. Another question in the invitation to comment that garnered several comments related to whether the proposed form should include language explaining how competence by an attorney currently representing indigent youth could be demonstrated. The committee agreed with the commentators that guidance should be provided and modified the form to include the following instruction: describe trial work, including types; describe motion work, including types of motions drafted and argued; describe other criminal law practice experience.

Commentators also submitted suggestions related to the training topics and continuing training hours. Three commentators suggested including the following knowledge areas: police interrogation methods, interrogative suggestibility of juveniles and false confessions, advocacy on detention issues, advocacy on disposition, advocacy in relation to fitness and the representation of youth in adult court. The committee agreed that the suggested knowledge areas were important and modified the rule to include them in the list of training topics. In regard to the number of required continuing training hours, one commentator suggested that the continuing training hours be reduced to 16 hours over three years, while two commentators suggested it be increased to 12 or 16 hours per year. After consideration, the committee concluded that eight hours of continuing training hours per year struck the appropriate balance between maintaining high quality representation and sensitivity to attorney time and workload.

In response to a question in the invitation to comment, four commentators suggested annual compliance with the continuing training requirements and one commentator recommended that compliance with the ongoing training requirements be required every three years on the same schedule as the individual attorney's MCLE compliance cycle. After discussion, the committee determined that requiring compliance every three years in accordance with the individual attorney's MCLE compliance cycle would be the least burdensome on courts and attorneys. As such, the committee revised the optional form to reflect a three year compliance cycle and modified the rule to include guidance on prorating the continuing education hours for attorneys who become eligible for appointment to represent delinquent youth when their MCLE compliance cycle is already underway. The committee also agreed with comments suggesting that item number three on the form, titled "Documentation," be reformatted to include a single check box to be checked if the court requests additional documentation.

Finally, the committee dedicated considerable discussion to whether to provide courts a statewide optional form to document completion of the training requirements. While newly added Welf. & Inst. Code section 634.3 does not require creation of a form to track compliance with the mandates of the statute, the committee felt that such a form would be helpful to those courts that choose to do so. The committee considered creating a mandatory form but decided that creating an optional form would allow interested courts to use the form, without necessitating its use by all courts.

Implementation Requirements, Costs, and Operational Impacts

This proposal may result in minimal additional record keeping if the presiding judge of the juvenile court elects to request use of form JV-700 and therefore copies need to be stored. The committee intentionally did not provide a recommendation or requirement related to storage of the optional form precisely because it is optional. The practice in courts that use a similar form to track compliance with dependency attorney requirements varies: in some courts the juvenile presiding judge maintains the forms, and in others the court clerk keeps the forms. This document management issue is a decision best left to individual courts.

Attachments and Links

1. Cal. Rules of Court, rule 5.664, at pages 6–8
2. Form JV-700, at page 9
3. Chart of comments, at pages 10–43
4. Link A: Assembly Bill 703,
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB703

Rule 5.664 of the California Rules of Court is adopted, effective July 1, 2016, to read:

1 **Rule 5.664. Training requirements for children’s counsel in delinquency**
2 **proceedings (§ 634.3)**

3
4 **(a) Definition**

5
6 “Competent counsel” means an attorney who is a member, in good standing, of the
7 State Bar of California, who provides representation in accordance with Welfare
8 and Institutions Code section 634.3(a)(1)–(3), and who has participated in training
9 in the law and practice of juvenile delinquency as defined in this rule.

10
11 **(b) Education and training requirements**

12
13 (1) Only those attorneys who, during each of the most recent three calendar
14 years, have dedicated at least 50 percent of their practice to juvenile
15 delinquency and demonstrated competence or who have completed a
16 minimum of 12 hours of training or education during the most recent 12-
17 month period in the area of juvenile delinquency, may be appointed to
18 represent youth.

19
20 (2) Attorney training must include:

21
22 (A) An overview of delinquency law and related statutes and cases;

23
24 (B) Trial skills, including drafting and filing pretrial motions, introducing
25 evidence at trial, preserving the record for appeal, filing writs, notices
26 of appeal, and posttrial motions;

27
28 (C) Advocacy at the detention phase;

29
30 (D) Advocacy at the dispositional phase;

31
32 (E) Child and adolescent development, including training on interviewing
33 and working with adolescent clients;

34
35 (F) Competence and mental health issues, including capacity to commit a
36 crime and the effects of trauma, child abuse, and family violence, as
37 well as crossover issues presented by youth involved in the dependency
38 system;

39
40 (G) Police interrogation methods, suggestibility of juveniles, and false
41 confessions;

- 1 (H) Counsel’s ethical duties, including racial, ethnic, and cultural
2 understanding and addressing bias;
3
4 (I) Cultural competency and sensitivity relating to, and best practices for,
5 providing adequate care to lesbian, gay, bisexual, and transgender
6 youth;
7
8 (J) Understanding of the effects of and how to work with victims of human
9 trafficking and commercial sexual exploitation of children and youth;
10
11 (K) Immigration consequences and the requirements of Special Immigrant
12 Juvenile Status;
13
14 (L) General and special education, including information on school
15 discipline;
16
17 (M) Extended foster care;
18
19 (N) Substance abuse;
20
21 (O) How to secure effective rehabilitative resources, including information
22 on available community-based resources;
23
24 (P) Direct and collateral consequences of court involvement;
25
26 (Q) Fitness hearings and advocacy in adult court;
27
28 (R) Appellate advocacy; and
29
30 (S) Advocacy in the postdispositional phase.
31
32

33 **(c) Continuing education requirements**
34

- 35 (1) To remain eligible for appointment to represent delinquent youth, attorneys
36 must engage in annual continuing education in the areas listed in (b)(2), as
37 follows:
38
39 (A) Attorneys must complete at least 8 hours per calendar year of
40 continuing education, for a total of 24 hours, during each MCLE
41 compliance period.
42

1 (B) An attorney who is eligible to represent delinquent youth for only a
2 portion of the corresponding MCLE compliance period must complete
3 training hours in proportion to the amount of time the attorney was
4 eligible. An attorney who is eligible to represent delinquent youth for
5 only a portion of a calendar year must complete two hours of training
6 for every three months of eligibility.

7
8 (C) The 12 hours of initial training may be applied toward the continuing
9 training requirements for the first compliance period.

10
11 (2) Each individual attorney is responsible for complying with the training
12 requirements in this rule; however, offices of the public defender and other
13 agencies that work with delinquent youth are encouraged to provide MCLE
14 training that meets the training requirements in (b)(2).

15
16 (3) Each individual attorney is encouraged to participate in policy meetings or
17 workgroups convened by the juvenile court and to participate in local
18 trainings designed to address county needs.

19
20 **(d) Evidence of competency**

21
22 The court may require evidence of the competency of any attorney appointed to
23 represent a youth in a delinquency proceeding, including requesting documentation
24 of trainings attended. The court may also require attorneys who represent youth in
25 delinquency proceedings to complete Declaration of Eligibility for Appointment to
26 Represent Youth in Delinquency Court (JV-700).

ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____	FOR COURT USE ONLY DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
DECLARATION OF ELIGIBILITY FOR APPOINTMENT TO REPRESENT YOUTH IN DELINQUENCY COURT	

I (*name*): _____ at (*office address*): _____
 and (*phone number*): _____, am an attorney at law licensed to practice in the state of California. My state bar number is: _____. I declare that, in compliance with Welfare and Institutions Code section 634.3 and rule 5.664, I completed the minimum requirements for training, education, and/or experience as stated below.

1. Initial Eligibility for Appointment

I declare that

a. I am eligible for appointment to represent youth in delinquency proceedings because I have completed a minimum of 12 hours of training or education in the areas of juvenile law listed in rule 5.664(b)(2) (*list trainings, including dates*):

or

b. I have dedicated at least 50 percent of my practice each year during the most recent three calendar years to juvenile delinquency and have demonstrated competency in the practice of juvenile delinquency law, as described here (*describe trial work, including types; motion work, including types of motions drafted and argued; and other criminal law practice experience*):

2. Continuing Eligibility

I declare that in the past three years—from February 1, _____, to January 31, _____, which corresponds to my MCLE reporting cycle—I have completed eight hours per year of continuing education training that meets the requirements stated in rule 5.664(c) (*list trainings, including dates; attorneys who are eligible for appointment during a portion of their compliance period must complete proportional hours as stated in rule 5.664*):

Year 1 trainings:

Year 2 trainings:

Year 3 trainings:

3. Documentation

The court has requested documentation (*attach documents*). Number of pages attached: _____

I declare that I must complete this certification every three years, corresponding to my MCLE reporting cycle, as long as I represent any youth in a delinquency proceeding.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this: _____ day of (*month*): _____, (*year*): _____, at (*city*): _____, California.

Business Address:

Business Phone:

(Signature)

W16-09**Juvenile Law: Delinquency Defense Attorney Qualifications** (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
1.	Gloria Brunswick Juvenile Division Manager Imperial County Probation Department	A	I think this is long overdue for attorney representing youth, and would like to see that district attorney and federal attorneys are required to have these types of training so they can better understand our responsibilities to the youth in not only representing them but delivering services for rehabilitation purposes.	No response required.
2.	East Bay Children’s Law Offices Roger Chan, Executive Director	A	<p>These comments are submitted on behalf of East Bay Children’s Law Offices with respect to W16-09 (Delinquency Defense Attorney Qualifications). EBCLO, along with the Youth Law Center and the Pacific Juvenile Defender Center, was the co-sponsor of AB 703. Thank you for the opportunity to participate in the development of the proposed rule and form. Because of my involvement in the rulemaking process, I am in agreement with the proposed rule. I am providing responses to some of the questions posed in the Invitation to Comment.</p> <p>East Bay Children’s Law Offices (EBCLO), a nonprofit law firm in Oakland, California, is court-appointed to represent children and youth in their delinquency, dependency, or probate guardianship proceedings in</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Alameda County. Our office represents more than 2,000 youth every year.</p> <p>In regard to the Request for Specific Comments:</p> <p>Are there knowledge areas integral to the practice of juvenile law that are not included in the enumerated training topic areas?</p> <p>I approached the list of required topics from the perspective of what a defense attorney must know prior to starting representation of a youth in juvenile court so as to avoid compromising a youth's defense. The enumerated areas are sufficiently broad so as to capture the myriad specific legal issues that arise in a juvenile case. For example, an understanding of child and adolescent development should include the impact of youthfulness in assessing the validity of a confession. An overview of delinquency law and procedure should include understanding available pre-adjudication diversion options. A primary objective is to ensure that defenses and arguments are not missed and prevent wrongful conviction or unnecessary/excessive detention.</p> <p>Understanding the effects of, and working</p>	<p>No response required.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>with, victims of child trafficking and commercial sexual exploitation of children and youth is included. As California law and practice moves toward treating exploited youth as victims better suited for treatment in the child welfare system, this training topic has become even more important as a prerequisite area of training.</p> <p>Is 12 hours of initial training in the listed topics sufficient, and is it a standard that attorneys across the state can reasonably meet?</p> <p>Yes, 12 hours is minimally adequate but probably not sufficient. 16 hours would be preferable.</p> <p>Additional training is more desirable, but 12 hours is a reasonable minimum requirement given the number of required topics and consideration of the limited time and resources available to attorneys. A requirement of 16 hours would be even better though. Although the parallel rule for dependency attorneys, promulgated in 2001, requires only 8 hours of initial training, that requirement should not limit the committee's consideration of what a delinquency defense attorney should know</p>	<p>The committee acknowledges the commentator's concern about the sufficiency of 12 hours of training and appreciates that the commenter recognizes a more onerous hours requirement would overburden the limited time and resources of delinquency practitioners.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>in 2016 and beyond. In addition, 8 hours would be insufficient to cover the training areas required by Welfare & Institutions Code Section 634.3.</p> <p>Is the experience alternative that allows attorneys who have dedicated at least 50 percent of their practice over the three most recent years to opt out of the initial training requirement sufficient to ensure the high standard of representation required by AB 703?</p> <p>And: Should item 1b on proposed Form JV-700 provide additional guidance to attorneys about what information should be provided?</p> <p>AB 703 and Welfare and Institutions Code Section 634.3 deliberately placed emphasis on not just the length of time an attorney practiced delinquency law, but whether during that time the attorney “demonstrated competence.”</p> <p>The question of how to demonstrate competence is both subjective and objective. Potential objective measurements include the number of jurisdictional hearings involving the examination of witnesses, the number of contested</p>	<p>The committee agrees that item number 3 on proposed form JV-700 needs to be revised to include a checkbox that says “The court has requested documentation.” The committee will make the suggested modification.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>disposition hearings involving presentation of evidence, other criminal law practice experience, etc. Subjective measurements include evaluations by clients, family members, the court, and other counsel, etc.</p> <p>To that extent, I am in agreement with Item 1b on Form JV-700 allowing the attorney latitude in describing his or her competence, in combination with paragraph (d) of the rule that permits the court to “require evidence of the competency of any attorney.”</p> <p>On Form JV-700, there may need to be an additional section at the bottom for a response from the court regarding whether the declaration is accepted or rejected or if additional documentation is required.</p> <p>What is the appropriate amount of ongoing training that should be required for attorneys who represent delinquent youth?</p> <p>I agree with the proposal to require continuing education of at least 8 hours per calendar year. While additional training requirements are desirable, it is appropriate for the minimum requirement to not exceed the state bar’s requirement of 25 credit</p>	<p>No response required.</p>

W16-09**Juvenile Law: Delinquency Defense Attorney Qualifications** (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>hours of MCLE activities every three years.</p> <p>Should proof of compliance with ongoing training requirements be required annually or every three years?</p> <p>If there is an annual ongoing training requirement, then there should be annual proof of compliance required.</p> <p>Is the format of item 3 on form JV-700 sufficient?</p> <p>As indicated above, there should be an additional box for situations where the court has requested additional documentation with a compliance date.</p>	<p>The committee believes that proof of compliance should be required every three based on the individual attorney's MCLE compliance cycle. The additional record-keeping required by annual compliance would be overly burdensome for courts and attorneys. The rule has been revised to reflect a three year compliance cycle but requires attorneys to list during which year trainings were completed.</p> <p>As stated above, the committee agrees with this comment and will make the suggested modification to proposed form JV-700.</p>
3.	Sydney Hollar, Attorney San Francisco, CA	AM	In order to comply with the training requirements, I would recommend that the JC provide the 12 hours per year - what happens if not enough courses are available to meet this requirement?	The committee appreciates this concern as did the promulgators of AB703; consequently, Welfare and Institutions Code section 634.3 encourages county public defender offices to extend their training opportunities to private practitioners. In addition, trainings that satisfy the 12 hour requirement are currently offered through the Pacific Juvenile Defender Center, as well as the National Association of Counsel for Children. Consequently, the committee is not concerned that a dearth of trainings will preclude compliance with the hours requirement.

W16-09**Juvenile Law: Delinquency Defense Attorney Qualifications** (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
4.	Lisa Chorness Hovden, Attorney Long Beach, CA	N	<p>I have had an opportunity to review the entirety of the Rule as proposed. I am amazed at the onerous and cumbersome requirements that are placed on Juvenile Delinquency attorneys. There are no such similar requirements for practicing family law, dependency law, or, for that matter, representing individuals charged with murder. I have represented clients in all three of these areas from nearly forty years. I do not consider those areas of law to be any less important, impactful, or intricate.</p> <p>Further, the cost factor for the individual attorney can be quite high and thus prohibit competent counsel from representing clients in this most important area. I am shocked and amazed at the brazen attempt to regulate an area of my profession that I have found is replete with dedicated, experienced, and highly professional individuals that do not, in any way, need this type of POLICING.</p>	The proposed rule and form are necessitated by Assembly Bill 703, which enacted a new Welfare and Institutions Code section (section 634.3) that establishes training requirements for delinquency practitioners and required the Judicial Council to devise a concomitant Rule of Court. Welfare and Institutions Code section 634.3 and proposed Rule 5.664 reflect the legislative history, which emphasized the need for well-trained, competent counsel in this critical area of the law. Furthermore, precedent for establishing that minimum standards must be met exists in the form of rule 5.660, which requires attorneys who represent parties in dependency proceedings to meet similar training standards.
5.	Orange County Bar Association Todd G. Friedland, President	AM	Welfare and Institutions Code section 634.3 only applies to counsel appointed pursuant to Welfare and Institutions Code section 634. Privately retained counsel who represent minors in section 601 or 602 actions are not within the purview of this legislation and accordingly, not bound by proposed Rule 5.664. Proposed form JV-	The committee agrees with this recommendation and will make the suggested modification.

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>700 should be entitled, “Declaration of Eligibility for <u>Appointment</u> to Represent Youth in Delinquency Court” in order to clarify its purpose and who is to use it.</p> <p>The suggested experience alternative of 50% juvenile representation over a three year period may be difficult to document and not a good substitute for the training requirement. Perhaps reducing the experience alternative to a two year period coupled with only a six hour initial training period would suffice.</p> <p>Request for Specific Comments</p> <p>Does the proposal appropriately address the stated purpose?</p> <p>The proposal adequately addresses the mandate of Welfare and Institutions Code section 634.3.</p> <p>Are there knowledge areas integral to the practice of juvenile law that are not included in the enumerated training topic areas?</p> <p>Police Interrogation Methods, Interrogative Suggestibility of Juveniles and False Confessions (which are separate topics from</p>	<p>The committee appreciates the commentator’s concern about documenting the sufficient experience alternative and revised the form to provide additional guidance about what information should be included. The committee believes that annual continuing education requirements will provide experienced attorneys with appropriate training and therefore does not recommend shortening the experience requirement to 50% in the previous two years with six hours of required training.</p> <p>No response required.</p> <p>The committee agrees that these are important topics and will revise the rule to include these in the list of training topics.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>pretrial motions) should be considered for inclusion in the training topics.</p> <p>Is 12 hours of initial training in the listed topics sufficient, and is it a standard that attorneys across the state can reasonably meet? If 12 hours is not enough, please explain why and provide an alternative suggestion. If 12 hours is too much, please explain why it is excessive and provide an alternative suggestion.</p> <p>Although the initial 12 hours of training is an arbitrary number, it is not unreasonable. Naturally, the need for training hours will vary greatly based upon an attorney’s actual experience with criminal/juvenile practice and procedure. There must be a starting point. There are many options available for attorney education in counties which do not have a public defender’s office which offer this type of training. In an age of webinars, electronic self-study and statewide organizations such as the California Public Defender’s Association, any attorney practicing in California should be able to meet the 12 hour standard.</p> <p>Is the experience alternative that allows attorneys who have dedicated at least 50</p>	<p>No response required.</p> <p>The committee appreciates the commentator’s perspective, but must await legislative action</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>percent of their practice over the three most recent years to opt out of the initial training requirement sufficient to ensure the high standard of representation required by AB 703 and Welfare and Institutions Code section 634.3?</p> <p>No it is not. If the majority of practitioners were already fulfilling the educational standard of Welfare and Institutions Code section 634.3, then there would be no need for such legislation, a court rule or required training hours. Clearly, there are perceived serious deficiencies in counsel's competency which are sought to be remedied in topics listed in Rule 5.664(b)(D) through 2(b)(K). Sadly, the enactment of section 634.3 attempts to address these issues through a defense lawyer's representation. In most counties, defense counsel has faced an uphill battle by a lack of local available resources and a lack of issue sensitivity by probation, the prosecution and the judiciary. A corresponding section 634.3 educational standard is needed for the prosecution and juvenile probation officers.</p> <p>What is the appropriate amount of ongoing training that should be required for attorneys</p>	<p>to implement the changes suggested by the commentator.</p> <p>The committee acknowledges the importance of the practical application of skills learned in</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>who represent delinquent youth?</p> <p>The 8 hours per calendar year as proposed by Rule 5.664(c)(1) may be excessive. If attorneys are being appointed by the court to represent minors then these attorneys are gaining real experience. A minimum of 16 hours over a three year reporting period should suffice for ongoing training.</p> <p>Should proof of compliance with ongoing training requirements be required annually or every three years? If it is required every three years, should that three-year cycle follow the attorney’s MCLE compliance cycle or should it be three years from the date the attorney became eligible to represent delinquent youth?</p> <p>Proof of compliance with ongoing training should be required every three years and should follow the attorney’s MCLE compliance cycle. Following the compliance cycle effectuates smooth transition of this new requirement for the court, the state bar, the attorney and MCLE providers.</p> <p>Should item 1b. on proposed form JV-700 provide additional guidance to attorneys about what information to include?</p>	<p>training. However, the committee believes that in an area of the law as dynamic and interdisciplinary as delinquency, 8 hours per year of ongoing training is necessary to insure competent representation.</p> <p>The committee agrees that proof of compliance should be required every three years and should follow the individual attorney’s MCLE compliance cycle. The rule has been modified to reflect a three year cycle that tracks the MCLE compliance cycle.</p> <p>The committee agrees that more specific instruction about the information item 1b. seeks may be necessary. As such, the</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>1b gives no guidance at all. How will the court determine the accuracy of counsel’s statements?</p> <p>Is the format of item 3 on form JV-700 sufficient? Instead of having two check boxes, should it simply state that the court may request additional documentation?</p> <p>Item 3 should simply state that the court may request additional documentation.</p>	<p>committee modified the rule to state that competence can be established by providing information about litigation experience, motion practice, and other relevant criminal law experience. In addition, the court may confirm the accuracy of an attorney’s statements by requesting documentation, as set forth in item number 3.</p> <p>The committee agrees that item number 3 needs to be revised and will include an additional checkbox that states “The court has requested documentation.”</p>
6.	Pacific Juvenile Defender Center Sue Burrell, Policy Director Kasie Lee, Project Director	A	<p>These comments are submitted on behalf of the Pacific Juvenile Defender Center, in response to Invitation to Comment W16-09, which will implement the provisions of AB 703 (Bloom) with respect to juvenile defense attorney qualifications.</p> <p>The Pacific Juvenile Defender Center (PJDC) is a regional affiliate of the Washington, D.C.-based National Juvenile Defender Center. PJDC works to build the capacity of the juvenile defense bar and to</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>improve access to counsel and quality of representation for children in the justice system. It provides support to more than 500 juvenile trial lawyers, appellate counsel, law school clinical programs and non-profit law centers to ensure competent representation for children throughout California and around the country. Members of our Board drafted AB 703, and participated in the discussions that led to the proposed rule.</p> <p>AB 703 grew out of our first-hand knowledge about deficits in practitioner training, and some of what we have learned is relevant in developing this rule. PJDC has conducted several surveys of juvenile defense counsel revealing that close to half began representing children in delinquency proceedings with zero training on delinquency specific issues. We have also learned that many delinquency attorneys work in settings that do not provide in-house training. Questions posed on our organization’s listserv have indicated widespread confusion about basic issues such as the duty of confidentiality to the client, the role of counsel to assert the expressed interests of the client, and the duty to provide post-disposition</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>representation. In other words, simply having practiced for a long time has not necessarily resulted in competence in key areas. We are gratified to play a part in developing this rule to assist in addressing the need for increased knowledge among entry level, as well as “experienced” practitioners.</p> <p>Because we have been very involved in the legislative and rulemaking process so far, we agree with and do not have comments on most components of the proposed rule. These comments respond to a few of the questions in the Request for Specific Comments on page 4 of the Invitation to Comment.</p> <p>1. Are there knowledge areas integral to the practice of juvenile law that are not included in the enumerated training topic areas?</p> <p>Comment: Yes. Despite our best efforts, a number of core issues in effective representation are not specifically mentioned in the list of training issues:</p> <ul style="list-style-type: none"> • Advocacy on detention issues • Advocacy on disposition • Advocacy in relation to fitness and 	<p>The committee agrees that these are important topic areas and will revise the rule to include these topics.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>youth in adult court</p> <p>These are things every lawyer representing a young person needs to know about from day one. Adding them would surely be within the broad statutory language of Welfare and Institutions Code section 634.3, and would provide helpful guidance for those developing training programs or seeking training in the core areas of practice. Recommendation: Add these issues to the list of training topic areas.</p> <p>2. Is 12 hours of initial training in the listed topics sufficient, and is it a standard that attorneys across the state can reasonably meet?</p> <p>Comment: No and yes. Of course, if we were designing a system without resource limitations, we would want much more training. The State Bar of California Guidelines for Indigent Defense Service Systems (2006) specifically noted that “With the scope of representation continually expanding, counsel shall be encouraged to exceed the mandatory minimum required by the State Bar with special emphasis on training in the areas of juvenile practice” (at. page 23). Juvenile</p>	<p>The committee appreciates that more training hours would be better; however, the committee believes that 12 hours strikes the appropriate balance between adequate training and not overburdening attorneys who have limited time and resources.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>law courses in law school are typically 24 or 36 hours in length. Juvenile probation officers must have 40 hours of training before beginning to care for youth in juvenile facilities. Police officers receive literally hundreds of hours of training before undertaking their duties.</p> <p>Also, as a practical matter, it will be challenging to provide even cursory instruction on each of the training topics listed in proposed rule 634.3(b)(2) in just 12 hours.</p> <p>At the same time, we recognize that many practitioners work in locations or settings that make it difficult for them to readily access training. Others work in offices that are stretched for person power, so they need to be able to get the training quickly. In the past both issues were made more difficult because practitioners needed to travel long distances to attend conferences or other training programs, and training was not available on demand. Both of these issues will be effectively addressed as on-line training is developed to meet the requirements of AB 703 and rule 5.664. If practitioners are able to participate in training from their home or office (as is the</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>case with MCLE), many potential objections to the amount of hours will be effectively addressed.</p> <p>Also, our information from practitioners suggests that they are comfortable with a two day training requirement of 16 hours. In a 2015 PJDC survey on training, 27 of 31 defender offices said they could provide two days of training. In another section asking about what training <i>should</i> be, a number of responders said that it should be a week long, and another responder said that they wished the annual training put on by the California Public Defenders Association could be two days instead of one for delinquency practice. With increased attention to the requirements of AB 703, there will surely be greater availability of on line training, and more concerted efforts to provide in-person training through Beyond the Bench, PJDC, the Los Angeles County Public Defender’s Office and the California Public Defender’s Association. Two days will be a very reasonable and attainable amount of training.</p> <p>Recommendation: We urge the Council to consider increasing the amount of initial training to 16 hours. While that is still less</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>than any of us would want in a world without resource limitations, it represents an achievable amount of training, particularly if the availability of on line training is factored in.</p> <p>3. Is the experience alternative that allows attorneys who have dedicated at least 50 percent of their practice over the three most recent years to opt out of the initial training requirement sufficient to ensure the high standard of representation required by AB 703 and Welfare and Institutions Code section 634.3?</p> <p>Comment: Actually, the proposed rule also requires that those attorneys have “demonstrated competence during each of the most recent three calendar years.” This is consistent with the language in AB 703 that the Judicial Council shall “Establish minimum hours of training and education, or sufficient recent experience in delinquency proceedings in which the attorney has demonstrated competence” as the requirement for appointment.</p> <p>The real question is whether the proposed language sufficiently protects against practitioners who have been doing it for a</p>	<p>The committee agrees that additional guidance regarding competence is required and revised the form to state that competence can be established by providing information about litigation experience, motion practice, and other relevant criminal law experience.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>long time, but do not have the knowledge required for competent representation. Although the meaning of “has demonstrated competence” is vague, it does appear to give courts authority to deny appointment of experienced practitioners who have not performed competently in the past.</p> <p>The Council should consider whether the rule should suggest ways of determining competence. For example, the Bar Panel application in San Francisco provides that:</p> <p>Within the last three years, applicant must have handled as attorney of record (1) ten Juvenile Delinquency cases - five must have been contested jurisdictional hearings on the merits of the charges which involve the examination of witnesses; AND (2) five motions in delinquency cases for which substantive pleadings were filed; AND, (3) applicant must certify that at least thirty percent of applicant's practice is in juvenile delinquency law; AND (4) must further establish that applicant has a demonstrable working familiarity with the concepts of criminal defense law. (Bar Association of San Francisco, Application For Juvenile Delinquency Law Panel).</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Recommendation: Accept the proposed language, but consider adding additional language about how competence is to be determined. For example, there could be a sentence that competence may be determined through demonstrated skills in adjudication, motion practice, investigation, knowledge of juvenile and criminal law, and knowledge of the training issues set forth in section (b)(2) of this rule. It could also permit approval of attorneys who have provided training to delinquency attorneys on the enumerated topics.</p> <p>4. What is the appropriate amount of ongoing training that should be required for attorneys who represent delinquent youth?</p> <p>Comment: As with the initial training, we would like to see this bumped up a little bit. With the ongoing changes in law, and broad array of areas they need to know about, people who represent young people in juvenile court need to have more than one-day-a-year of training. Probation officers must have 40 hours per year of training. Juvenile Court judges have multiple all-day trainings at least twice a year, plus Beyond the Bench. With the increasing availability of on-line training practitioners should have</p>	<p>The committee appreciates the importance of continuing education but believes that requiring 8 hours of continuing education per year is sufficient to maintain a high level of practice, while also being mindful of attorneys' limited time and resources.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>no major barriers in accessing an additional day of training per year.</p> <p>Recommendation: Increase the annual amount of ongoing training to 16 hours per year.</p> <p>5. Should proof of compliance with ongoing training requirements be required annually or every three years? If it is required every three years, should that three-year cycle follow the attorney’s MCLE compliance cycle or should it be three years from the date the attorney became eligible to represent delinquent youth?</p> <p>Comment: The rule should call for annual reporting of compliance based on the attorney’s initial eligibility to practice date. Our hope should be that counties will develop oversight systems to track appointment of counsel, and annual reporting will help to make such oversight more effective and timely. Also, having annual requirements will help to keep practitioners more engaged with the training requirements. Keeping track of training is not time consuming and does not require additional resources; it is just a matter of good practice, and they already keep track</p>	<p>The committee believes that proof of compliance should be required every three based on the individual attorney’s MCLE compliance cycle. The additional record-keeping required by annual compliance would be overly burdensome for courts and attorneys. The rule has been revised to reflect a three year compliance cycle but requires attorneys to list during which year trainings were completed.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>of their training for MCLE compliance. Many bar panels already require annual reporting, and defender offices surely look at performance, including training, on an annual basis.</p> <p>Recommendation: Require compliance to be demonstrated annually and have it based on the date of eligibility for appointment.</p> <p>6. Should item 1b. on proposed form JV-700 provide additional guidance to attorneys about what information to include?</p> <p>Comment: Yes. The draft form calls for practitioners to report “trainings, including dates.” If one of the purposes of the form is to assist courts in determining eligibility, we should also ask about training topics, length of each training, and training provider.</p> <p>Recommendation: Add additional components to the training records section, including training topics, length of training and training provider.</p> <p>7. Is the format of item 3 on form JV-700 sufficient? Instead of having two check boxes, should it simply state that the court may request additional documentation?</p>	<p>The committee does not believe it is necessary to ask for additional information about the trainings attended since item number three contains a checkbox that allows the court to request additional information. Item 1a. currently requests the title of the training and the date of attendance. The court can request additional information if it feels that is necessary.</p> <p>The committee agrees that the form should contain a checkbox where the court can request more information and revised the form accordingly.</p>

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Comment: On the copy of the form on the Judicial Council web site, there is only one box – for when the court has not requested documentation. We believe there should be an additional box for situations where the court has requested additional documentation, with a space to describe what documentation was requested and a compliance date. There should also be space for the attorney to describe their compliance and when it was completed.</p> <p>Recommendation: Amend the form to provide space to describe and requested documentation and compliance period, as well as the documentation provided and date of compliance.</p> <p>The Pacific Juvenile Defender has very much enjoyed being a part of the efforts leading up to this proposed rule, and appreciates the excellent work of the Family and Juvenile Law Advisory Committee and Nicole Giacinti. Thank you for the opportunity to provide these comments; please let us know if we can provide further explanations about any of the comments in this document.</p>	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

7.	<p>The State Bar of California Office of Legal Services Phong S. Wong, Chair, Standing Committee on Delivery of Legal Services</p>	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes, as to the number of hours required for specialized training in this area. The proposal helps ensure that juvenile clients are represented by competent attorneys who have received specialized training. However, on form JV-700, "Section 2. Continuing Attorney," the language is inconsistent with rule 5.664 of the California Rules of Court and should read "I declare that in the last calendar year,...“ instead of "I declare in the past twelve months,..."</p> <p>Are there knowledge areas integral to the practice of juvenile law that are not included in the enumerated training topic areas?</p> <p>No.</p> <p>Is 12 hours of initial training in the listed topics sufficient, and is it a standard that attorneys across the state can reasonably meet? If 12 hours is not enough, please explain why and provide an alternative suggestion. If 12 hours is too much, please explain why it is excessive and provide an alternative suggestion.</p>	<p>The language on form JV-700 and rule 5.664 is consistent. Section 2 on form JV-700 refers to the required ongoing training and education hours for attorneys who have already complied with the initial eligibility requirements. The committee appreciates this comment as it highlights a potential source of confusion in the rule. The committee renamed section 2 on form JV-700 to provide clarity.</p> <p>No response required.</p> <p>No response required.</p>
----	--	---	---	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

			<p>Yes, 12 hours is sufficient for the initial training.</p> <p>Is the experience alternative that allows attorneys who have dedicated at least 50 percent of their practice over the three most recent years to opt out of the initial training requirement sufficient to ensure the high standard of representation required by AB 703 and Welfare and Institutions Code section 634.3?</p> <p>Yes.</p> <p>What is the appropriate amount of ongoing training that should be required for attorneys who represent delinquent youth?</p> <p>Yes. The proposed eight (8) hours for ongoing training is appropriate.</p> <p>Should proof of compliance with ongoing training requirements be required annually or every three years? If it is required every three years, should that three-year cycle follow the attorney's MCLE compliance cycle or should it be three years from the date the attorney became eligible to represent delinquent youth?</p>	<p>No response required.</p> <p>No response required.</p> <p>The committee believes that proof of compliance should be required every three based on the individual attorney's MCLE compliance cycle. The additional record-keeping required by annual compliance would be overly burdensome for courts and attorneys. The rule has been revised to reflect a three year compliance cycle but requires attorneys to list during which year trainings</p>
--	--	--	---	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

			<p>Proof of compliance should be required annually.</p> <p>Should item 1b. on proposed form JV-700 provide additional guidance to attorneys about what information to include?</p> <p>No, it is unnecessary.</p> <p>Is the format of item 3 on form JV-700 sufficient? Instead of having two check boxes, should it simply state that the court may request additional documentation?</p> <p>It should simply state that the court may request additional documentation.</p>	<p>were completed.</p> <p>The committee agrees with other commentators that additional guidance regarding competence is required and revised the form to state that competence can be established by providing information about litigation experience, motion practice, and other relevant criminal law experience.</p> <p>The committee agrees that item number 3 on proposed form JV-700 needs to be revised to include a checkbox that says “The court has requested documentation.” The committee will make the suggested modification</p>
8.	Superior Court of Los Angeles County	A	No specific comment.	No response required
9.	Superior Court of Riverside County	A	No specific comment.	No response required.
10.	Superior Court of San Diego Mike Roddy, Court Executive Officer	A	No specific comment.	No response required.
11.	Youth Law Center Virginia Corrigan, Youth Law Center	AM	These comments are submitted on behalf of the Youth Law Center pursuant to Invitation to Comment W16-09, which will implement the provisions of AB 703 (Bloom) that deal	

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>with juvenile defense attorney qualifications.</p> <p>The Youth Law Center is a national nonprofit with a longstanding interest in improving the quality of lawyering in the juvenile justice system. Youth Law Center attorneys have worked for many years with the National Juvenile Defender Center, the Pacific Juvenile Defender Center, and have worked with the California Judicial Council’s Center for Families, Children and the courts on training, rulemaking and policy development for juvenile system professionals. YLC has also worked extensively on specific juvenile system issues, including competence to stand trial, collateral consequences of juvenile court involvement, and practice standards for juvenile counsel.</p> <p>The Youth Law Center appreciates the work and thought that have gone into the Council’s proposed rules and forms, which represent an important step forward in ensuring that every young person who appears in juvenile court has competent representation. We offer several recommendations to refine the proposed rules.</p>	
--	--	---	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>Recommendation 1: Additional Training Topics</p> <p>The proposed list of training topics includes many of the most important topics with which a juvenile defender must be familiar. However, we believe that training in the following areas is also critical in order to provide competent representation to youth in the juvenile delinquency court:</p> <ul style="list-style-type: none">• Advocacy on Detention. The rules governing when a young person may be detained and the process and timeline for a case in which a young person is detained differ sharply from what is common in the adult criminal court. These differences can present a source of confusion for attorneys and can result in inadequate representation.• Advocacy at the disposition hearing. Just as the goals of juvenile delinquency differ from the goals of the criminal court, the dispositional options and the matters the court must consider at disposition vary from what an adult criminal court must consider. Disposition hearings entail individualized consideration of a young person’s needs and how	<p>The committee agrees that these are important topic areas and revised the rule to include them.</p>
--	--	--	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

			<p>they can be met by available services. Training is required for effective advocacy within this paradigm.</p> <ul style="list-style-type: none">Extended Foster Care. A number of young people involved in the delinquency system are eligible to participate in extended foster care. Attorneys who represent young people must be aware of this program, its eligibility requirements, and the benefits it provides in order to effectively counsel clients and ensure that eligibility requirements are met. <p>Training on these topics, as well as the topics already included in the proposed rule, is essential for attorneys representing young people in delinquency proceedings. We urge the committee to consider adding these matters to the list of required training topics.</p> <p>Recommendation 2: Additional Initial Training Hours</p> <p>The committee has requested comments on whether 12 hours of initial training on the listed topics is sufficient. The Youth Law Center understands that juvenile delinquency attorneys operate under time</p>	<p>The committee appreciates that more training hours would be better; however, the committee believes that 12 hours strikes the appropriate balance between adequate training and not overburdening attorneys who have limited time and resources.</p>
--	--	--	---	---

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>and resource constraints. Nevertheless, it is the view of the Youth Law Center that additional initial training hours are necessary to achieve the objectives of AB 703. The Youth Law Center proposes and initial training requirement of 16 hours.</p> <p>Additional training hours are needed to adequately cover the required topics contained in the proposed rule. As the proposed rule stands, attorneys will be required to obtain training in fifteen topics. Twelve hours is simply not enough time to give adequate attention to these important areas. Requiring sixteen hours of training will allow attorneys to receive at least an hour of training on each of these topics. Sixteen hours is not an overly-onerous requirement. All of the required training could be completed in two days – over the course of one weekend, for example. The development of online training materials and introductory training courses that the new requirements will undoubtedly encourage will further facilitate training for attorneys, reducing the difficulties associated with increased hour requirements.</p> <p>Recommendation 4: Additional Ongoing Trainings Hours and Requirements</p>	<p>The committee appreciates the importance of continuing education but believes that</p>
--	--	--	---

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>The committee has requested comment on the appropriate amount of ongoing training for attorneys who represent delinquent youth. Given the ongoing changes to juvenile delinquency law and the depth and breadth of knowledge required to effectively represent young people in delinquency court, Youth Law Center proposes an ongoing training requirement of 12 hours. Again, the development of training materials that will be prompted by the passage of AB 703 and by the issuance of the related court rule will make meeting this requirement feasible.</p> <p>We note that the proposed rule does not contain any requirement as to the topics that must be covered in ongoing training. The Youth Law Center agrees that attorneys should be free to pursue training on those topics that appear to them to be most relevant and useful to their practice. However, we propose that attorneys be required to obtain one hour of training on recent updates to delinquency law and practice .This modest substantive requirement will ensure that attorneys remain up-to-date on changes to the law that may affect their requirements while permitting attorneys ample opportunity to</p>	<p>requiring 8 hours of continuing education per year is sufficient to maintain a high level of practice, while also being mindful of attorneys’ limited time and resources. Additionally, proposed rule 5.664 does address the topics that are to be covered in the 8 hours per year of ongoing education. Specifically, rule 5.664(c)(1) states that attorneys must complete “at least eight hours of continuing education in the areas listed in (b)(2).” One of the topic areas listed in (b)(2) is “an overview of delinquency law and related statutes and cases.”</p>
--	--	--	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>obtain training in other areas of their choosing.</p> <p>Recommendation 5: Yearly Training Proof Compliance</p> <p>The committee has requested comment on whether proof of compliance with training requirements should be required yearly or every three years. The Youth Law Center believes that proof of compliance with training requirement should be required yearly. A yearly tracking will be simpler to manage for counties than a requirement of every three years based on initial eligibility data, which would require counties not only to track compliance, but also set different reporting dates for each attorney.</p> <p>Recommendation 6: Requirement to Demonstrate competence for Experience Alternative</p> <p>The committee has requested comment on whether permitting attorneys who have dedicated 50% of their practice to representing juveniles and have demonstrated competence to opt out of initial training requirements will maintain the high standards required by AB 703. The Youth Law Center agrees that attorneys who</p>	<p>The committee believes that proof of compliance should be required every three based on the individual attorney’s MCLE compliance cycle. The additional record-keeping required by annual compliance would be overly burdensome for courts and attorneys. The rule has been revised to reflect a three year compliance cycle but requires attorneys to list during which year trainings were completed.</p> <p>The committee agrees that additional guidance regarding competence is required and has revised the form to state that competence can be established by providing information about litigation experience, motion practice, and other relevant criminal law experience.</p>
--	--	---	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>have devoted significant portions of their career to representing juveniles may, in some cases, be sufficiently competent to be permitted to opt out of initial training requirements. We are convinced however, that length of experience alone is insufficient to permit an attorney to opt out of initial training - it is crucially important that attorneys also be required to demonstrate that such representation has been competent.</p> <p>In order to emphasize the importance of competence, the Youth Law Center suggests that language be included in the rule to explain how competence might be demonstrated. For example, a sentence could be added to the rule explaining that competence could be shown through demonstrated skills in adjudication, motion practice, and investigation, knowledge of juvenile and criminal law, and demonstrated competence with regards to issues set forth in section (b)(2) of this rule.</p> <p>Recommendation 7: Additional Guidance to Attorneys on Declaration of Eligibility</p> <p>The committee has requested comment on whether items on the proposed declaration of eligibility require additional clarification.</p>	<p>The committee agrees that item number three should contain a checkbox that allows the court to request additional information. With the addition of this checkbox, the committee does not believe it is necessary to ask for additional information about the trainings</p>
--	--	--	--

W16-09

Juvenile Law: Delinquency Defense Attorney Qualifications (adopt Cal. Rules of Court, rules 5.664; adopt form JV-700)

All comments are verbatim unless indicated by an asterisk (*)

		<p>We believe that items 1a and 2 of the Declaration of Eligibility should require attorneys to state not only trainings and dates, but also the topics covered by the training and the lengths of the trainings attended. Without this information, courts will lack the necessary information to determine whether attorneys have complied with the training requirements contained in the rule. In addition, we believe that item 3 should include a box to check if the court has requested additional documentation, as well as space to describe the requested documentation.</p>	<p>attended. Item 1a. currently requests the title of the training and the date of attendance. The court can request additional information if it feels that is necessary.</p>
--	--	---	--