



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 14–15, 2017

Title

Juvenile Law: Court Appointed Special
Advocates

Agenda Item Type

Action Required

Effective Date

January 1, 2019

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rule 5.655;
approve form JV-474

Date of Report

August 18, 2017

Recommended by

Family and Juvenile Law Advisory
Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending the rule that establishes requirements for Court Appointed Special Advocate (CASA) programs to clarify the relationship between these programs and the court and to comply with legislation which authorized appointment of CASAs for delinquent youth and nonminor dependents. The committee also recommends approval of a new form to enable CASA programs to obtain consent from the nonminor dependent before reviewing the nonminor dependent's court file.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

1. Amend rule 5.655 of the California Rules of Court to:
 - Clarify that the local court is the entity that designates a CASA program;

- Delete the references to the creation of a policies and procedures manual and clearly state that CASA programs must comply with this rule to be eligible to receive Judicial Council funding;
- Repeal subdivision (b) and incorporate the definition of CASA program that was previously contained in subdivision (b) into current subdivision (a);
- Move current subdivisions (k), (l), and (m) up to become subdivisions (b), (c), and (d), respectively and reletter the remaining subdivisions of the rule;
- State that the relationship between the court and the CASA program must be clearly defined in a memorandum of understanding (MOU);
- Specify that a CASA program may serve more than one court as long as it executes MOUs with each court;
- Define the role of an advisory council for a CASA program serving under the auspices of a public agency or umbrella nonprofit organization;
- Delete the requirement that the presiding juvenile judge participate in the CASA volunteer selection process;
- Include nonminor dependents among the population of young people served by CASA volunteers;
- Include the training topics stated in rule 5.664 among the optional training requirements for CASA volunteers;
- Include the nonminor dependent as a person who should receive information about the roles and responsibilities of the CASA volunteer; and
- Specify that the nonminor dependent must consent to the CASA volunteer accessing his or her nonminor dependent court file.

2. Approve new *Nonminor Dependent—Consent to Copy and Inspect Nonminor Dependent Court File* (form JV-474) to enable CASA programs to obtain consent from the nonminor dependent before reviewing the nonminor dependent's court file.

The text of the amended rule and the new form are attached at pages 10-21.

Previous Council Action

Rule 5.655 was originally adopted as rule 1424 on July 1, 1994. The rule establishes the CASA program and presents the policies and procedures that the CASA program must follow, as well as the requirements one must complete to volunteer as a CASA. The rule was renumbered effective January 1, 2007, and has been amended seven times, most recently in 2016. All of the amendments effect relatively minor technical changes corresponding to legislative updates or clarifications of the business aspect of the CASA programs.

Rationale for Recommendation

Background

Since 2012, two pieces of legislation affecting the CASA rule have been enacted. In 2012, the Legislature passed AB 1712 (Beall; Stats. 2012, ch. 846), which amended Welfare and

Institutions Code sections 101 and 102 to extend the availability of the CASA program to nonminor dependents.¹ Likewise, in 2015, the Legislature passed AB 424 (Gaines; Stats. 2015, ch. 71), which again amended sections 101 and 102; this time to extend the CASA program to delinquent children.

In addition, in 2012, the legislature addressed the confidentiality of the nonminor dependent court file through AB 1712 (Beall; Stats. 2012, ch. 846). Access to nonminor dependent court files is governed by section 362.5. Section 362.5 requires that the clerk of the superior court open a separate file for nonminor dependents and addresses who may have access to the separate nonminor dependent court file. Section 362.5 does not list a CASA as entitled to access to the court file. Section 362.5(d) specifies that all individuals requesting access to the court file, who are not listed as entitled to access, must be designated by court order of the judge of the juvenile court upon filing a petition, which shall be determined pursuant to section 827.

Proposed Amendments to rule 5.655

To ensure conformance with the statutory changes implemented by these bills, the Family and Juvenile Law Advisory Committee (committee) proposes amending rule 5.655 to specifically refer to wards and nonminor dependents as part of the population of children CASA programs are authorized to serve.

The committee also recommends taking this opportunity to further amend rule 5.655 to clarify the relationship between the court and CASA programs. To do so, the committee recommends amending the rule to add a requirement that this relationship be clearly defined through a Memorandum of Understanding (MOU) between the CASA program and the court. This requirement will help ensure that the court and CASA programs are the only parties involved in the agreement, and that it can be amended or dissolved by either party with greater ease.

The committee also recommends restructuring the organization of the rule to reduce redundancy and promote clarity in the rule. Specifically, the committee recommends:

- Deleting the references to the creation of a policies and procedures manual and replacing it with a clear statement that the CASA program must comply with the rule to be eligible to receive Judicial Council funding. Creating the manual was not a mandate and it is not likely that the Judicial Council will have resources to create it. Requiring compliance with the rule only, rather than the manual or other procedures and guidelines set by the Judicial Council or by other organizations will help promote clarity and is in accord with the proposal's recommendation to require a MOU between the court and the CASA program.
- Deleting subdivision (b), "Definitions" The terms that are defined in that section are defined in other rules, and the remainder of the language in that section consists of statements, not definitions.

¹ All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified. All rule references are to the California Rules of Court.

- Moving current subdivisions (k), (l), and (m) up to become subdivisions (b), (c), and (d), respectively, so that the subdivisions describing the process of becoming a CASA program come at the beginning of the rule, and relettering the remaining subdivision of the rule.
- Specifying that a CASA program may serve more than one court as long as it executes MOUs with each court. Many counties currently rely on CASA programs that serve multiple counties. This addition to the rule will allow for greater flexibility to courts and CASA programs.
- Defining the role of an advisory council for a CASA program serving under the auspices of a public agency or umbrella nonprofit organization. The advisory council is a requirement under the current rule, but its role is not defined. By defining the role of the advisory body, the rule will bring more clarity to what is required of an advisory council.
- Deleting the requirement that the presiding juvenile judge participate in the CASA volunteer selection process. The committee is recommending removing this requirement because participation in the CASA volunteer selection process could cause a conflict of interest on the part of the presiding judge;
- Include the training topics stated in rule 5.664 among the optional training requirements for CASA volunteers. Recently adopted rule 5.664 provides a comprehensive list of trainings topics on relevant issues related to serving dependent and delinquent youth.

Access to the Nonminor Dependent's Court File and Proposed New Form JV-474

As noted above, section 362.5 requires that the clerk of the superior court open a separate file for nonminor dependents and addresses who may have access to this file. CASAs are not currently listed in section 362.5 as entitled to access to this nonminor dependent court file. Section 362.5(d) specifies that all individuals who want access to this separate nonminor dependent court file but are not listed as entitled to access in the statute must be designated by court order of the judge of the juvenile court upon filing a petition, which shall be determined pursuant to section 827.

The committee believes that the CASA's absence from section 362.5 may have been an oversight on the part of the Legislature, and believes legislation to ensure that CASAs are granted access to nonminor dependent court files would be helpful. In the interim, the committee is recommending that rule 5.664 be amended to allow the nonminor dependent to consent to have the CASA inspect and copy their nonminor dependent court file. Although Section 362.5 does not specifically indicate that a nonminor dependent may authorize the release of their court file to a CASA or any other party, the committee concluded that this consent procedure was appropriate given the status of the nonminor dependent as an adult and also that the contents of the court file for a nonminor dependent—with the exception of when family reunification services are being provided—deal almost exclusively with information as it relates to the nonminor dependent. Further, the committee was wary of imposing a requirement that a CASA appointed for a nonminor dependent (presumably an appointment that the nonminor dependent has agreed to) file an 827 petition to have access to this file. Such a requirement would be particularly onerous on the CASA programs and the courts.

The committee recommends that rule 5.664 provide that the nonminor dependent must consent to the CASA volunteer accessing his or her nonminor dependent court file. The committee also recommends the adoption of optional form JV-474 to facilitate obtaining the consent of the nonminor dependent to this access. The form includes a space for the nonminor dependents to indicate that they understand that they are not required to consent to release of their file. The form also lists the records that may be included in the file for inspection by the CASA volunteer if the nonminor dependent gives consent. Approving this optional form will relieve CASA programs of the need to create a consent form and the need to pursue a section 827 petition to access the nonminor dependent court file.

The committee also believes that CASA programs should be allowed to screen for nonminor dependents who would be potential good matches for CASA volunteers; however, this cannot happen without a legislative change to section 362.5.

Effective Date

Recognizing that the proposal will result in a significant procedural change, namely the MOU between the court and the CASA program, the committee recommends a delayed effective date of January 1, 2019 for the amendments of rule 5.655 and the approval of form JV-474.

Comments, Alternatives Considered, and Policy Implications

External comments

The invitation to comment on this proposal circulated from February 27, 2017, through April 28, 2017, to the standard mailing list for family and juvenile law proposals, as well as to the regular rules and forms mailing list, which included judges, court administrators, attorneys, mediators, family law facilitators and self-help attorneys, and other family and juvenile law professionals and attorney organizations. Fifteen comments were received (including one joint comment from California CASA and four county CASA programs). One commentator agreed with the proposal as circulated. Two commentators agreed with the proposal if modified. The other commentators did not indicate a position but provided extensive commentary. A chart providing the full text of the comments and the committee responses is attached at pages 23-50. The main substantive comments are discussed below.

Requirement for nonminors' consent to CASA access to juvenile file

California CASA and the four county CASA programs objected to the proposed requirement that a nonminor dependent must consent to the CASA volunteer's accessing his or her court file. The commentators noted that section 103(i) and section 827 are unambiguous in that CASA volunteers can have access to, and make copies of, the juvenile case file.

The legal requirements for confidentiality of a juvenile case file are different from the requirements for the separate nonminor dependent court file. Under section 103(i), CASAs are considered "court personnel" for purposes of section 827, which applies to *juvenile* case files. There is no similar classification for CASAs as "court personnel" for the purpose of section 362.5, and, as noted above, CASAs are not listed in section 362.5 as entitled to access to the

separate nonminor dependent court file. Presumably, CASAs would fall under subsection (d) of section 362.5, which states all other individuals not listed must be designated by court order of the judge of the juvenile court upon filing a petition, which shall be determined pursuant to section 827. In addition, nonminor dependent files are different from juvenile files as they relate to young people who are adults with greater control over who has access to their information.

For all these reasons, the committee declined to eliminate the requirement that CASA volunteers who wish to access the court file of a nonminor dependent must get consent from the nonminor dependent or file a request pursuant to section 827. However, in response to this comment, item 2 on the JV-474 form was modified to make clear that the records the nonminor dependent is consenting to have released to the CASA volunteer are the “nonminor dependent court file,” the term used for the case file in section 362.5(b).

California CASA and the four county CASA programs also requested that form JV-474 be reworked into a form to allow for the release of the nonminor’s confidential records, such as school and hospital records, pursuant to section 107(b). Section 107(b) requires that access to records pursuant to a specific court order requires the explicit written and informed consent of the nonminor dependent. The committee found the creation of such a form to be outside the purview of this proposal. This proposal is limited to developing a form that covers access to the nonminor dependent court file.

Description of who CASAs are authorized to serve

In response to a request for specific comment, several commentators offered opinions on what language should be used in paragraph (a)(1) of the rule to refer to the children and nonminors that CASAs are authorized to serve. California CASA and the four county CASA programs noted that referring to only “nonminor dependents” would leave out the category of youth who fall under the jurisdiction of the juvenile court but don’t meet the definition of a nonminor dependent under Welfare and Institutions Code section 11400(v).

The committee agrees with the commentators and is recommending that the language “children and nonminors under the jurisdiction of the juvenile court, including the dependency and delinquency courts” be inserted in paragraph (a)(1) to refer to the population that CASA programs may serve. This proposed language should also capture the youth who fall under section 450 jurisdiction of the juvenile court. The committee also recommends that the term “nonminor dependents” be replaced throughout the rule with “nonminors.”

In addition, several commentators requested that any reference to delinquency court or wardship be removed from paragraph (a)(1) of the rule and instead state simply “children and nonminors who are under the jurisdiction of the juvenile court.” Several commentators expressed concern about the prospect of CASA programs having to serve delinquent youth. The commentators did not feel that their CASA programs had the capacity or proficiency to serve delinquent youth.

The committee notes that the proposed revision to rule 5.655 is mandated by AB 424, which passed in 2015 and amended the Welfare and Institutions Code to specifically authorize the appointment of CASA volunteers for children in the juvenile justice system. Neither the rule nor the Welfare and Institutions Code require CASA programs to provide services to children in the juvenile justice system; the rule and statute merely authorize the provision of such services to a population of vulnerable youth who often have similar issues as children in the child welfare system. Consequently, trainings that relate to working with dependent children should also help prepare CASA volunteers for working with children in the juvenile justice system. The committee declined to excise the language specifying that CASA programs may serve both dependent and delinquent youth, both because this language was in the rule previously and because it is important to specify that CASA programs may also serve delinquent youth.

CASA programs serving more than one county

In response to the request for specific comment, three commentators expressed the view that a CASA program that serves more than one county should have an advisory board in each county. One commentator believed that variances in practice between counties are substantial enough as to warrant each program having an advisory council comprised of individuals familiar with those practices. The committee recommends not creating a requirement that these advisory councils have representation from each county that the CASA program serves because some counties may not be able to fulfill such a requirement. The committee elected to insert language in the rule as new subdivision (b)(4) stating that for CASA programs that serve more than one county, the program is encouraged to seek representation from each county it serves on the board of directors and/or advisory council from each county it serves.

Memorandum of Understanding

Two commentators recommended that the rule clarify that the CASA program and the designating court must be the only parties to the MOU and that the MOU must indicate when and how the CASA program will access the juvenile court file. The committee agrees with these recommendations and has amended paragraph (b)(1) to reflect these changes. If a MOU is being dissolved, it will become increasingly burdensome if there are more than two parties to the MOU. It would also be beneficial to clarify that the MOU between the CASA programs and courts should specify how CASA programs will access court files.

Presiding judge participation in CASA volunteer selection

As circulated for public comment, the proposed amendments to current subdivision (c) included removing the requirement that the presiding judge approve a person or persons to conduct a personal interview or interviews to probe the essential areas of concern with respect to the qualities of an effective CASA volunteer. This requirement was proposed to be removed from the rule because the committee felt it created a conflict of interest.

California CASA and the four county CASA programs did not feel there was a conflict of interest in having the presiding judge weigh in on the suitability of a CASA volunteer. The commentator noted that CASAs are sworn officers of the court, are court investigators, serve at

the discretion of the court, and are in every way accountable to the judge. The committee, however, elected to remove the requirement to limit the role of the presiding judge in the selection process. The committee reasoned that even though CASAs are sworn officers of the court, a presiding judge's impartiality might be questioned as a result of taking part in the CASA selection process. The revision does not limit the ability of a CASA program to interview and screen potential volunteers; it merely removes the presiding judge from the selection process.

Background checks

The invitation to comment solicited specific comment of whether current best practices related to background checks require amending proposed subdivision (e)(3)(B), only one commentator said that they agreed. The commentator did not provide any further reasoning for their response. The current "Standard Agreement" that the Judicial Council uses requires a background check on all prospective volunteers, boards of directors, and staff through state and federal agencies (both Department of Justice and Federal Bureau of Investigation) and through the Child Abuse Central Index. The committee revised the proposal to reflect these elements of the Standard Agreement, inserting language into subdivision (e)(3)(B) of the rule that the law enforcement agencies contacted as part of the security check, include but are not limited to the Department of Justice, Federal Bureau of Investigations, and the Child Abuse Index.

Suggestions for additional changes to rule 5.665

As part of the reorganization of the rule, several subdivisions of the rule were moved. In the invitation to comment, these subdivisions were shown as underlined, so that they appeared to be new subdivisions of the rule. However, the content of these subdivisions was not changed. The reorganization of the rule generated commentary on these subdivisions even though their content was not being changed, including the following:

- A commentator recommended that paragraph (c)(1) be amended to give the Judicial Council discretion to conduct a "financial review" in lieu of an audit for smaller counties that have difficulty meeting the costs of an audit.
- California CASA and the four county CASA programs recommended that paragraph (i)(2) be amended to prohibit a CASA volunteer from, "Adopting a relationship that confers evidentiary privilege to the CASA's communications, such as it's giving legal advice or therapeutic counseling." The commentator reasoned that the prohibition in the rule against giving legal advice or therapeutic advice is in use to prevent the CASA volunteer from entering into a relationship with the youth whereupon their communication will take on privileged character.

The suggested revisions received from commentators cannot be recommended for adoption by the committee at this time because they were not part of the original proposal and would require public comment before being adopted.

In addition, several more comments were received and technical revisions were made to the proposed form in response to comments outlined in the attached comment chart, on pages 23-50.

Alternatives

In addition to the alternatives considered in response to the public comments, the committee considered not amending the rule. The committee elected, however, to proceed with the proposal to comply with statutory amendments to the Welfare and Institutions Code over the last four years that have broadened the population of young people who are eligible for appointment of a CASA. The committee also believes that it is important to take this opportunity to clarify the relationship between the court and CASA programs.

Implementation Requirements, Costs, and Operational Impacts

The committee anticipates that there will be costs associated with the creation of a MOU between the courts and the CASA programs during the period of 15 months after the adoption of the rule. Costs will vary between counties depending on how involved the process of creating the MOU will be. Some counties may have many of the elements required of the MOU already in place, and costs associated with the creation of the MOU may be minimal. However, the creation and implementation of the MOU may provide cost savings in the long term as it will provide more clarity in the relationship between the CASA program and the courts—thus creating more predictability and certainty in the management of the relationship between the two.

There may also be costs associated with the printing and distribution of the form JV-474. However, the use of the form may provide cost savings because the alternative is for a CASA to file a section 827 petition to get access to the nonminor dependent court file, which is more costly.

Attachments and Links

1. Cal. Rules of Court, rules 5.655, at pages 10–21.
2. Form JV-474, at page 22.
3. Chart of comments received and committee responses, at pages 23–50.

Rule 5.655 of the California Rules of Court is amended, effective January 1, 2019, to read:

Title 5. Family and Juvenile Rules

Chapter 11. Advocate for Parties

Rule 5.655. Program requirements for Court Appointed Special Advocate programs

(a) General provisions

(1) A Court Appointed Special Advocate (CASA) program is a child advocacy program that recruits, screens, selects, trains, supervises, and supports lay volunteers for appointment by the court to help define the best interest of children and nonminors under the jurisdiction of the juvenile court, including the dependency and delinquency courts.

(2) To be authorized to serve children and nonminors in a county, the CASA program must be designated by the presiding judge of the juvenile court.

(3) A CASA program must comply with this rule, to be eligible to receive Judicial Council funding. The Judicial Council may consider compliance with the guidelines delineated in the *CASA Program Policies and Procedures Manual* when determining eligibility for and amount of program funding.

(b) Definitions

(1) ~~A Casa program is the local child advocate program that adheres to this rule; has been designated by the local presiding juvenile court judge to recruit, screen, select, train, supervise, and support lay volunteers for appointment by the court to help define the best interest of children in juvenile court dependency and wardship proceedings; and has completed one development grant year and one “start-up” year.~~

(2) ~~Judicial Council staff may create a *CASA Program Policies and Procedures Manual* containing recommended program policies and procedures. If Judicial Council staff create a manual, it will be developed in collaboration with the California CASA Association and California CASA program directors. The protocols will address program and fiscal management, and the recruitment, screening, selection, training, and supervision of lay volunteers.~~

(3) ~~A CASA volunteer is a person who has been recruited, screened, selected, and trained, who is being supervised and supported by a local CASA program, and who has been appointed by the juvenile court as a sworn officer of the court to help define the best interest of a child or children in juvenile court dependency and wardship proceedings.~~

1 (4) ~~A “dependency proceeding” is a legal action brought on behalf of an~~
2 ~~allegedly abused, neglected, or abandoned child under section 300 et seq. The~~
3 ~~action is designed to protect children, preserve and reunify families, and find~~
4 ~~permanent homes for children who cannot be returned to their parents.~~
5 ~~Dependency proceedings include actions to appoint a legal guardian,~~
6 ~~terminate parental rights, and facilitate adoptions for dependent children of~~
7 ~~the juvenile court.~~

8
9 (5) ~~A “wardship proceeding” is a legal action involving a child under the age of~~
10 ~~18 years who is alleged to be:~~

11
12 (A) ~~A person described under section 601 (who is beyond parental control~~
13 ~~or habitually disobedient or truant); or~~

14
15 (B) ~~A person described under section 602 (who has violated any state or~~
16 ~~federal law or any city or county ordinance).~~

17
18 **(b) CASA program administration and management**

19
20 (1) The court’s designation of the CASA program must take the form of a
21 memorandum of understanding (MOU) between the CASA program and the
22 designating court.

23
24 (A) The MOU must state that the relationship between the CASA program
25 and the designating court can be terminated for convenience by either the
26 CASA program or the designating court.

27
28 (B) A CASA program may serve children and nonminors in more than one
29 court if the program executes an MOU with each court.

30
31 (C) The CASA program and the designating court must be the only parties to
32 the MOU.

33
34 (D) The MOU must indicate when and how the CASA program will have
35 access to the juvenile case file and the nonminor dependent court file if
36 applicable.

37
38 (2) A CASA program must function as a nonprofit organization or under the
39 auspices of a public agency or nonprofit organization, and must adopt and
40 adhere to a written plan for program governance and evaluation. The plan must
41 include the following, as applicable:

42
43 (A) Articles of incorporation, a board of directors, and bylaws that specify a
44 clear administrative relationship with the parent organization and clearly
45 delineated delegations of authority and accountability.
46

- 1 (B) A clear statement of the purpose or mission of the CASA program that
2 express goals and objectives to further that purpose. Where the CASA
3 program is not an independent organization, but instead functions under
4 the auspices of a public agency or a nonprofit organization, an active
5 advisory council must be established. The role of the advisory council for
6 CASA programs functioning under the auspices of a public agency or a
7 nonprofit organization includes but is not limited to developing and
8 approving policies for CASA, developing the CASA program's budget,
9 promoting a collaborative relationship with the umbrella organization,
10 monitoring and evaluating program operations, and developing and
11 implementing fundraising activities to benefit the CASA program. The
12 board of directors for the nonprofit organization or management of the
13 public agency will function as the governing body for the CASA
14 program, with guidance from the advisory council.
- 15
- 16 (C) A procedure for the recruitment, selection, hiring, and evaluation of an
17 executive director for the CASA program.
- 18
- 19 (D) An administrative manual containing personnel policies, record-keeping
20 practices, and data collection practices.
- 21
- 22 (E) Local juvenile court rules developed in consultation with the presiding
23 judge of the juvenile court or a designee, as specified in section 100. One
24 local rule must specify when CASA reports are to be submitted to the
25 court, who is entitled to receive a copy of the report, and who will copy
26 and distribute the report. This rule must also specify that the CASA court
27 report must be distributed to the persons entitled to receive it at least two
28 court days before the hearing for which the report was prepared.
- 29
- 30 (3) No CASA program may function under the auspices of a probation department
31 or department of social services. CASA programs may receive funds from
32 probation departments, local child welfare agencies, and the California
33 Department of Social Services if:
- 34
- 35 (A) The CASA program and the contributing agency develop an MOU-stating
36 that the funds will be used only for general operating expenses as
37 determined by the receiving CASA program, and the contributing agency
38 will not oversee or monitor the funds;
- 39
- 40 (B) A procedure resolving any conflict between the CASA program and
41 contributing agency is implemented so that conflict between the two
42 agencies does not affect funding or the CASA program's ability to retain
43 an independent evaluation separate from that of the contributing
44 agency's; and
- 45

1 (C) Any MOU between a CASA program and the contributing agency is
2 submitted to and approved by Judicial Council staff.

3
4 (4) If a CASA program serves more than one county, the CASA program is
5 encouraged to seek representation on the board of directors and/or advisory
6 council from each county it serves.

7
8 (c) **Finance, facility, and risk management**

9
10 (1) A CASA program must adopt a written plan for fiscal control. The fiscal plan
11 must include an annual audit, conducted by a qualified professional, that is
12 consistent with generally accepted accounting principles and the audit
13 protocols in the program's Judicial Council contract.

14
15 (2) The fiscal plan must include a written budget with projections that guide the
16 management of financial resources and a strategy for obtaining necessary
17 funding for program operations.

18
19 (3) When the program has accounting oversight, it must adhere to written
20 operational procedures in regard to accounting control.

21
22 (4) The CASA program's board of directors must set policies for and exercise
23 control over fundraising activities carried out by its employees and
24 volunteers.

25
26 (5) The CASA program must have the following insurance coverage for its staff
27 and volunteers:

28
29 (A) General liability insurance with liability limits of not less than
30 \$1 million (\$1,000,000) for each person per occurrence/aggregate for
31 bodily injury, and not less than \$1 million (\$1,000,000) per
32 occurrence/aggregate for property damage;

33
34 (B) Nonowned automobile liability insurance and hired vehicle coverage
35 with liability limits of not less than \$1 million (\$1,000,000) combined
36 single limit per occurrence and in the aggregate;

37
38 (C) Automobile liability insurance meeting the minimum state automobile
39 liability insurance requirements, if the program owns a vehicle; and

40
41 (D) Workers' compensation insurance with a minimum limit of \$500,000.

42
43 (6) The CASA program must require staff, volunteers, and members of the
44 governing body, when applicable, to immediately notify the CASA program
45 of any criminal charges against themselves.
46

1 (7) The nonprofit CASA program must plan for the disposition of property and
2 confidential records in the event of its dissolution.

3
4 **(d) Confidentiality**

5
6 The presiding juvenile court judge and the CASA program director must adopt a
7 written plan governing confidentiality of case information, case records, and
8 personnel records. The plan must be included in the MOU or a local rule. The
9 written plan must include the following provisions:

10
11 (1) All information concerning children and families, including nonminors, in the
12 juvenile court process is confidential. Volunteers must not give case
13 information to anyone other than the court, the parties and their attorneys,
14 and CASA staff.

15
16 (2) CASA volunteers are required by law (Pen. Code, § 11166 et seq.) to report
17 any reasonable suspicion that a child is a victim of child abuse or serious
18 neglect as described by Penal Code section 273a.

19
20 (3) The child's original case file must be maintained in the CASA office by a
21 custodian of records and must remain there. Copies of documents needed by
22 a volunteer must be restricted to those actually needed to conduct necessary
23 business outside of the office. No one may have access to the child's original
24 case file except on the approval of the CASA program director or presiding
25 judge of the juvenile court. Controls must be in place to ensure that records
26 can be located at any time. The office must establish a written procedure for
27 the maintenance of case files.

28
29 (4) If the nonminor provides consent for the CASA volunteer to obtain his or her
30 nonminor dependent court file, the procedures stated in paragraph (3) related
31 to maintenance of the case file must be followed.

32
33 (5) The volunteer's personnel file is confidential. No one may have access to the
34 personnel file except the volunteer, the CASA program director or a
35 designee, or the presiding judge of the juvenile court.

36
37 **(e)(e) Recruiting, screening, and selecting CASA volunteers**

38
39 (1) A CASA volunteer is a person who has been recruited, screened, selected,
40 and trained; is being supervised and supported by a local CASA program;
41 and has been appointed by the juvenile court as a sworn officer of the court to
42 help define the best interest of children or nonminors in juvenile court
43 dependency and wardship proceedings. A CASA program must adopt and
44 adhere to a written plan for the recruitment of potential CASA volunteers.
45 The program staff, in its recruitment effort, must address the demographics of
46 the jurisdiction by making all reasonable efforts to ensure that individuals

1 ~~representing all racial, ethnic, linguistic, and economic sectors of the~~
2 ~~community are recruited and made available for appointment as CASA~~
3 ~~volunteers.~~

4
5 (2) A CASA program must adopt and adhere to a written plan for the recruitment
6 of potential CASA volunteers. The program staff, in its recruitment effort, must
7 address the demographics of the jurisdiction by making all reasonable efforts to
8 ensure that individuals representing all racial, ethnic, linguistic, and economic
9 sectors of the community are recruited and made available for appointment as
10 CASA volunteers.

11
12 (3)(2) A CASA program must adopt and adhere to the following minimum written
13 procedures for screening potential CASA volunteers under section 102(e):

- 14
15 (A) A written application that generates minimum identifying data;
16 information regarding the applicant's education, training, and
17 experience; minimum age requirements; and current and past
18 employment.
19
20 (B) Notice to the applicant that a formal security check will be made, with
21 inquiries through appropriate law enforcement agencies including but
22 not limited to the Department of Justice, Federal Bureau of
23 Investigations, and the Child Abuse Index, regarding any criminal
24 record, driving record, or other record of conduct that would disqualify
25 the applicant from service as a CASA volunteer. The security check
26 must include fingerprinting. Refusal to consent to a formal security
27 check is grounds for rejecting an applicant.
28
29 (C) A minimum of three completed references regarding the character,
30 competence, and reliability of the applicant and his or her suitability for
31 assuming the role of a CASA volunteer.
32
33 ~~(D) A personal interview or interviews by a person or persons approved by~~
34 ~~the presiding juvenile court judge or designee, to probe the essential~~
35 ~~areas of concern with respect to the qualities of an effective CASA~~
36 ~~volunteer. A written, confidential record of the interview and the~~
37 ~~interviewer's assessments and observations must be made and retained~~
38 ~~in the advocate's file.~~

39
40 (4)(3) If a CASA program allows its volunteers to transport children, the program
41 must ensure that each volunteer transporting children:

- 42
43 (A) Possesses a valid and current driver's license;
44
45 (B) Possesses personal automobile insurance that meets the minimum state
46 personal automobile insurance requirements;

(C) Obtains permission from the child’s guardian or custodial agency; and

(D) Provides the CASA program with a Department of Motor Vehicles driving record report annually.

~~(5)(4)~~A CASA program must adopt a written preliminary procedure for selecting CASA candidates to enter the CASA training program. The selection procedure must state that any applicant found to have been convicted of or to have current charges pending for a felony or misdemeanor involving a sex offense, child abuse, or child neglect must not be accepted as a CASA volunteer. This policy must be stated on the volunteer application form.

~~(6)(5)~~An adult otherwise qualified to act as a CASA must not be discriminated against based on marital status, socioeconomic factors, race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability or because of any other characteristic listed or defined in Government Code section 11135 or Welfare and Institutions Code section 103.

~~(f)(d)~~ Initial training of CASA volunteers (§ 102(d))

A CASA program must adopt and adhere to a written plan for the initial training of CASA volunteers.

(1) The initial training curriculum must include at least 30 hours of formal instruction. This curriculum must include mandatory training topics as listed in section 102(d). The curriculum may also include additional appropriate topics, such as those stated in California Rules of Court, rule 5.664.

(2) The final selection process is contingent on the successful completion of the initial training program, as determined by the presiding judge of the juvenile court or designee.

~~(g)(e)~~ Oath

At the completion of training, and before assignment to any child’s or nonminor’s case, the CASA volunteer must take a court-administered oath describing the duties and responsibilities of the advocate under section 103(f). The CASA volunteer must also sign a written affirmation of that oath. The signed affirmation must be retained in the volunteer’s file.

~~(h)(f)~~ Duties and responsibilities

CASA volunteers serve at the discretion of the court having jurisdiction over the proceeding in which the volunteer has been appointed. A CASA volunteer is an

officer of the court and is bound by all court rules under section 103(e). A CASA program must develop and adopt a written description of duties and responsibilities, consistent with local court rules.

(i)(g) Prohibited activities

A CASA program must develop and adopt a written description of activities that are prohibited for CASA volunteers. The specified prohibited activities must include:

- (1) Taking a child or nonminor to the CASA volunteer's home;
- (2) Giving legal advice or therapeutic counseling;
- (3) Giving money or expensive gifts to the child, nonminor, or family of the child or nonminor;
- (4) Being related to any parties involved in a case or being employed in a position and/or agency that might result in a conflict of interest; and
- (5) Any other activities prohibited by the local juvenile court.

(j)(h) The appointment of CASA volunteers

The CASA program director must develop, with the approval of the presiding juvenile court judge, a written procedure for the selection of cases and the appointment of CASA volunteers for children and nonminors in juvenile court proceedings.

~~(k) — CASA program administration and management~~

~~A CASA program must adopt and adhere to a written plan for program governance and evaluation that includes the following as applicable:~~

- ~~(1) — Articles of incorporation, bylaws, and a board of directors. Any CASA program that functions under the auspices of a public agency or private entity must specify in its plan a clear administrative relationship with the parent organization and clearly delineated delegations of authority and accountability. No CASA program may function under the auspices of a probation department or department of social services. CASA programs may receive funds from probation departments, local child welfare agencies, and the California Department of Social Services if:~~
 - ~~(A) — The CASA program and the contributing agency develop a memorandum of understanding (MOU) or contract stating that the funds will be used only for general operating expenses as determined~~

1 by the receiving CASA program, and the contributing agency will not
2 oversee or monitor the funds;

3
4 ~~(B) — A procedure resolving any conflict between the CASA program and~~
5 ~~contributing agency is implemented so that conflict between the two~~
6 ~~agencies does not affect funding or the CASA program's ability to~~
7 ~~retain an independent evaluation separate from that of the contributing~~
8 ~~agency's; and~~

9
10 ~~(C) — Any MOU or contract between a CASA program and the contributing~~
11 ~~agency is submitted to and approved by Judicial Council staff.~~

12
13 ~~(2) — A clear statement of the purpose or mission of the CASA program and~~
14 ~~express goals and objectives to further that purpose. Where the CASA~~
15 ~~program is not an independent nonprofit organization, but instead functions~~
16 ~~under the auspices of a public agency or a private entity, an active advisory~~
17 ~~council must be established. The advisory council for CASA programs~~
18 ~~functioning under the auspices of a public agency or a private entity will not~~
19 ~~function as the governing body of the CASA program. The board of directors~~
20 ~~for the private entity or the public agency management will function as the~~
21 ~~governing body for the CASA program, with guidance from the advisory~~
22 ~~council.~~

23
24 ~~(3) — A procedure for the recruitment, selection, hiring, and evaluation of an~~
25 ~~executive director for the CASA program.~~

26
27 ~~(4) — An administrative manual containing personnel policies, record-keeping~~
28 ~~practices, and data collection practices.~~

29
30 ~~(5) — Local juvenile court rules developed in consultation with the presiding judge~~
31 ~~of the juvenile court or a designee, as specified in section 100. One local rule~~
32 ~~must specify when CASA reports are to be submitted to the court, who is~~
33 ~~entitled to receive a copy of the report, and who will copy and distribute the~~
34 ~~report. This rule must also specify that the CASA court report must be~~
35 ~~distributed to the persons entitled to receive it at least two court days before~~
36 ~~the hearing for which the report was prepared.~~

37
38 **(k)(i) Oversight, support, and supervision of CASA volunteers**

39
40 A CASA program must adopt and adhere to a written plan, approved by the
41 presiding juvenile court judge, for the oversight, support, and supervision of CASA
42 volunteers in the performance of their duties. The plan must:

43
44 (1) Include a grievance procedure that covers grievances by any person against a
45 volunteer or CASA program staff and grievances by a volunteer against a
46 CASA program or program staff. The grievance procedure must:

(A) Be incorporated into a document that contains a description of the roles and responsibilities of CASA volunteers. This document must be provided:

(i) When a copy of the court order that appointed the CASA volunteer is provided to any adult involved with the child's or nonminor's case, including but not limited to teachers, foster parents, therapists, and health-care workers;

(ii) To the nonminor upon appointment of the CASA; and

(iii)~~(ii)~~ To any person, including a volunteer, who has a grievance against a volunteer or a CASA program employee.

(B) Include a provision that documentation of any grievance filed by or against a volunteer must be retained in the volunteer's personnel file.

(2) Include a provision for the ongoing training and continuing education of CASA volunteers. Ongoing training opportunities must be provided at least monthly under section 103(a). CASA volunteers must participate in a minimum of 12 hours of continuing education in each year of service.

~~(I)~~ **Finance, facility, and risk management**

~~(1) A CASA program must adopt a written plan for fiscal control. The fiscal plan must include an annual audit, conducted by a qualified professional, that is consistent with generally accepted accounting principles and the audit protocols in the program's contract with the Judicial Council.~~

~~(2) The fiscal plan must include a written budget with projections that guide the management of financial resources and a strategy for obtaining necessary funding for program operations.~~

~~(3) When the program has accounting oversight, it must adhere to written operational procedures in regard to accounting control.~~

~~(4) The CASA program's board of directors must set policies for and exercise control over fundraising activities carried out by its employees and volunteers.~~

~~(5) The CASA program must have the following insurance coverage for its staff and volunteers:~~

~~(A) General liability insurance with limits of liability of not less than \$1 million (\$1,000,000) for each person per occurrence/aggregate for~~

bodily injury and not less than \$1 million (\$1,000,000) per occurrence/aggregate for property damage;

(B) ~~Nonowned automobile liability insurance and hired vehicle coverage with limits of liability of not less than \$1 million (\$1,000,000) combined single limit per occurrence and in the aggregate;~~

(C) ~~Automobile liability insurance meeting the minimum state automobile liability insurance requirements, if the program owns a vehicle; and~~

(D) ~~Workers' compensation insurance with a minimum limit of \$500,000.~~

(6) ~~The CASA program must require staff, volunteers, and members of the governing body, when applicable, to immediately notify the CASA program of any criminal charges against themselves.~~

(7) ~~The nonprofit CASA program must plan for the disposition of property and confidential records in the event of its dissolution.~~

(l)(j) Removal, resignation, and termination of a CASA volunteer

The CASA program must adopt a written plan for the removal, resignation, or involuntary termination of a CASA volunteer, including the following provisions:

- (1) A volunteer may resign or be removed from an individual case at any time by the order of the juvenile court presiding judge or designee.
- (2) A volunteer may be involuntarily terminated from the program by the program director.
- (3) The volunteer has the right to appeal termination by the program director under the program's grievance procedure.

(m) ~~Confidentiality~~

~~The presiding juvenile court judge and the CASA program director must adopt a written plan governing confidentiality of case information, case records, and personnel records. The written plan must include the following provisions:~~

- (1) ~~All information concerning children and families in the juvenile court process is confidential. Volunteers must not give case information to anyone other than the court, the parties and their attorneys, and CASA staff.~~
- (2) ~~CASA volunteers are required by law (Pen. Code, § 11166 et seq.) to report any reasonable suspicion that a child is a victim of child abuse or serious neglect as described by Penal Code section 273.~~

1
2 ~~(3) The child's original case file must be maintained in the CASA office by a~~
3 ~~custodian of records and must remain there. Copies of documents needed by~~
4 ~~a volunteer must be restricted to those actually needed to conduct necessary~~
5 ~~business outside of the office. No one may have access to the child's original~~
6 ~~case file except on the approval of the CASA program director or presiding~~
7 ~~judge of the juvenile court. Controls must be in place to ensure that records~~
8 ~~can be located at any time. The office must establish a written procedure for~~
9 ~~the maintenance of case files.~~

10
11 ~~(4) The volunteer's personnel file is confidential. No one may have access to the~~
12 ~~personnel file except the volunteer, the CASA program director or a~~
13 ~~designee, or the presiding judge of the juvenile court.~~
14

For items 2 through 6, initial the box for each item that applies. If you have a question about an item, ask your attorney or the judge before you initial that item.

Initial

2. I understand that I am not required to give my CASA volunteer consent to inspect and copy my nonminor dependent court file.
3. I understand that my consent includes the inspection and copying of records in my nonminor dependent court file, which may include records from any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic.
4. I hereby give my permission for my assigned CASA volunteer to inspect my nonminor dependent court file.
5. I hereby give my permission for my assigned CASA volunteer to copy my nonminor dependent court file.
6. I understand that I may revoke or modify my consent for the CASA to copy and inspect my nonminor dependent court file at any time after signing this consent form. My revocation may be given orally to my CASA or in writing.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE)

I am the attorney for the nonminor dependent, and I have explained to the nonminor dependent his/her rights and the potential consequences of signing this consent form.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE)

SPR17-14**Juvenile Law: Court Appointed Special Advocate** (Amend Cal. Rules of Court, rule 5.655; approve form JV-474)

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

	Commentator	Position	Comment	Committee Response
1.	<p>Alameda County Court Appointed Special Advocates (CASA) Alameda Co Health Care Services Agency By: Ginni Ring, Executive Director</p> <p>California CASA Association By: Phil Ladew, Associate & Legal Director</p> <p>CASA of Los Angeles By: Wende Nichols-Julien, JD Chief Executive Officer</p> <p>CASA of Ventura County Teresa Romney Executive Director</p> <p>CASA of Contra Costa County Ann Wrixon Executive Director</p>		<p>1. 5.655(a)(1) – This section as written does not mirror statute. WIC § 103 states, “A judge may appoint a CASA when, in the opinion of the judge, a child requires services which can be provided by the CASA, consistent with the local rules of court.” Further, WIC § 101(b) states, ““Child or minor” means a person under the jurisdiction of the juvenile court pursuant to Section 300, 601, or 602.” Also, note that CASA volunteers can also serve dependent non-minors who are not “nonminor dependents” as that term is defined for purposes of eligibility for benefits (WIC § 11400(v)). Therefore, care should be taken when using the term nonminor dependent to mean all youth under juvenile court jurisdiction per WIC § 303.</p> <p>Suggestion: “A Court Appointed Special Advocate (CASA) program is a child advocacy program that recruits, screens, selects, trains, supervises, and supports lay volunteers for appointment by the juvenile court to help define the best interests of children and nonminors who are under the jurisdiction of the juvenile court.”</p> <p>2. As stated above, CASA volunteers can also serve dependent non-minors who are not “nonminor dependents” as that term is defined for purposes of eligibility for benefits (WIC § 11400(v)). Therefore, care should be taken when using the term nonminor dependent to mean all youth</p>	<p>The committee agrees that the term “nonminor dependent” may be construed to limit the universe of young people CASA programs may serve and has made the suggested modification. The rule has been modified to clarify that the rules application covers children and nonminors who remain under the jurisdiction of the dependency or delinquency court. The rule would therefore apply to any nonminor, whether they meet the definition of a “nonminor dependent” under section 11400(v) or not.</p> <p>The committee declines to excise the language specifying that CASA programs may serve children and nonminors under the jurisdiction of both the dependency and delinquency courts, both because this language is in the current version of the rule and because the committee feels it is important to specify that CASA programs may also serve delinquent youth. The Welfare and Institutions Code specifies in section 102(b) “That a CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court.”</p> <p>As stated above, the committee agrees that the term “nonminor dependent” may be construed to limit the universe of young people CASA programs may serve and has made the suggested modification. The rule has been modified to clarify that the rules application covers nonminors who remain under the jurisdiction of the</p>

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		<p>under juvenile court jurisdiction per WIC § 303.</p> <p>Suggestion: Instead of using “nonminor dependent” throughout, use another term, or additional term, like in (a)(1) “...best interests of children and nonminors who have been made...”</p> <p>3. 5.655(a)(2) – This section is written too broadly. For example there are tribal courts were classes [<i>sic</i> where CASAs] will serve. As written it implies that a tribal court could not designate a CASA program. Also, “serve” is an un-clear term. Generally the code uses the term “represent,” or “appointed.” Note that WIC § 102(c) states, “Each CASA shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA has been appointed....” We suggest adopting that language.</p> <p>Suggestion: Each CASA program shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA may be appointed. The presiding judge of the juvenile court shall designate which entity shall serve as the court’s CASA program, and only the program that enjoys that designation shall be a CASA program for purposes of this rule.</p> <p>4. 5.655(a)(3) – “Now that the “Judicial Council” means the actual voting counsel [<i>sic</i> council], as well as its staff, this is an unclear term. Is this to mean that staff at the</p>	<p>dependency or delinquency court.</p> <p>The committee appreciates these points but does not believe that 5.655(a)(2) is written too broadly. First, the rule and applicable sections in the Welfare and Institutions Code do not apply to CASAs programs designated by a tribal court. Section 101(d) defines “court” as a superior court, including the juvenile court. Tribes are sovereign entities and the Judicial Council has no authority to regulate procedures in a tribal court.</p> <p>In addition, as the commentator observes, Welfare and Institutions Code section 102(c) uses the term “serve.” Moreover, the current version of the rule – like the proposed version – states that a CASA program has to be “designated by the local presiding juvenile court judge.” The committee believes this is a concise statement of the process.</p> <p>The committee agrees that the language in the rule should only require a CASA program to comply with the rule and not “other procedures and guidelines as set by the Judicial Council.” The Judicial Council is not able to put specific</p>

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			<p>Judicial Council can set procedures and guidelines at will and all CASA programs are mandated to follow them instantaneously? This can cause confusion, and set programs up for an unexpected loss in funding. Also this might prove especially problematic considering that the Judicial Council does not provide sufficient staff to assist CASA programs.</p> <p>Usually, the Judicial Council will add language to the grant agreement that it has between CASA programs. This allows a CASA program to decide whether they want to accept the funding or the terms.</p> <p>National CASA Standard 13 requires that, “The CASA/GAL program communicates, collaborates and shares information with its fellow programs in the state and is a member of or affiliated with the state organization, association or network, if one exists.” Further, it requires that, “The CASA/GAL program complies with state standards.” This means, that in order to be in compliance with national standards, a local program must be in compliance with state standards (wherein state standards have been written, reviewed and approved by local programs). It would be ideal to add this to 5.655, to allow for needed implementation of uniform standards, and the ability for CASA programs to implement a unified structure. Note that per</p>	<p>requirements into contracts. The rule has been revised to reflect this change.</p> <p>The committee did not elect to reference to the “Standard 13 of the National CASA Standards for Local CASA/GAL Programs” in the rule. While CASA programs must meet the national CASA standards, such standards are not the subject of this rule. And while a CASA’s programs compliance with the National CASA standards is vital, the Rules of Court follow the California Welfare and Institutions Code. CASA standards set by the state legislature may potentially set a standard higher than the national CASA standard. The committee therefore elected not to reference the national CASA standards in the rule.</p>

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		<p>WIC § 100, “At a minimum, the council shall adopt program guidelines consistent with the guidelines established by the National Court Appointed Special Advocate Association, and with California law; but the council may require additional or more stringent standards.” This language is consistent with, the National CASA guidelines and the Judicial Council is expressly permitted by §100 to include this requirement.</p> <p>Suggestion: Amend 5.655(a)(3) to read: “A CASA program must comply with this rule, other requirements as stated in any Judicial Council grant agreement, as well Standard 13 of the National CASA Standards for Local CASA/GAL Programs.”</p> <p>5. 5.655(b) – Often CASA programs will have MOUS with various county stakeholders, and there is a natural pull the have one convenient MOU between the CASA program, the Department of Social Services, and the Court. This is problematic because then the court will not be able to enforce this MOU.</p> <p>Also, the MOU between the CASA program and the court is usually where the CASA program gets the process and permissions to access information from the court. It would be beneficial to ensure the MOU includes that as well.</p> <p>Suggestion: Clarify that the MOU must be a</p>	<p>The committee agrees that the CASA program and the designating court should be the only parties to the MOU. The committee further agrees it would be beneficial to clarify that the MOU between the CASA programs and courts should specify how CASA programs will access files and has modified the rule accordingly. As suggested, subdivision (b)(1) has been modified by adding subdivisions (C) and (D) to add these requirements.</p>

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		<p>two-party MOU between the court and CASA program. Add (b)(1)(C) “The CASA program and the designating court must be the only parties to the MOU.” Also, add (b)(1)(D) “The MOU must indicate when and how the CASA program will have access to the juvenile case file.”</p> <p>6. 5.655(b)(3) – There has been some confusion in the past regarding the application of this section. Noting that Health and Human Services agencies will often provide funding at the county level, and Social Services agencies and “local child welfare agencies” are under that broad umbrella. Current practice is to only require an MOU and review when the funds come from a division of the County that would create a conflict.</p> <p>Suggestion: Add 5.655(b)(3)(D) that states: “This section does not apply to funds received from a parent division, or other division of the county that do not regularly appear before the juvenile court as parties, such as the Health and Human Services agency, unless Judicial Council staff determines an actual conflict of interests exists.”</p> <p>7. 5.655(c)(1) – This section requires that “the fiscal plan must include an annual audit, conducted by qualified professional...” However many CASA programs are very small, and the cost of an annual audit can be oppressive. Therefore the practice is currently, that for smaller counties the</p>	<p>The committee appreciates this point however believes that this issue is sufficiently covered in 5.655(b)(3)(B). The committee believes the rule is sufficiently clear that it applies only to probation departments, local child welfare agencies, and the California Department of Social Services. Adding additional language could potentially create more confusion. In addition, the subdivision exists in the current rule and was unchanged by the proposal except to be moved to a new location in the rule. The suggested addition is one that would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time.</p> <p>The committee is very sympathetic to the burden an audit can place on smaller CASA organizations; however, this subdivision exists in the current rule and was unchanged by the proposal except to be moved to a new location in the rule. The suggested addition is one that would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time.</p>

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		<p>Judicial Council will allow for a financial review, rather than an actual full-blown CPA audit.</p> <p>Suggestion: Clarify that the judicial Council has discretion to allow a review rather than an audit. Change 5.655(c) to read, “A CASA program must adopt a written plan for fiscal control. The fiscal plan must include an annual audit, conducted by a qualified professional, that is consistent with generally accepted accounting principles, or if permitted by the Judicial Council staff, a financial review. The audit or review must comply with any audit protocols contained any grant agreement with the Judicial Council.”</p> <p>8. The proposal states: Add in proposed subdivision (d), “Confidentiality,” a new subparagraph (4) that clarifies that the nonminor dependent must consent to the CASA volunteer’s accessing his or her court file. Reletter current paragraph (4) to paragraph (5). The proposal also has a JV-474 form.</p> <p>This misstates the law. Welfare and Institutions code § 103(i) and § 827 are recent and unambiguous in that CASA volunteers can have access to, and make copies of the juvenile case file. (We recently helped draft the language of 103(i)). However, access to other, additional, records obtained pursuant to a “specific court order and consistent with the rules of</p>	<p>Subdivision (d) of rule 5.655 does not propose to limit access to juvenile files. As noted by the commentator, Welfare and Institutions Code section 827 allows CASA programs to access <i>juvenile</i> files. The subject of this subdivision and the form JV-474 is the nonminor dependent court file. Welfare and Institutions Code section 362.5(a) requires the superior court to open a separate court file for nonminor dependents under the dependency, delinquency or transition jurisdiction of the court. Section 362.5 further controls who has access to this separate nonminor dependent court file. While Welfare and Institutions Code section 103(i) makes CASA volunteers court personnel for the purposes of section 827, it does not do so for section 362.5. Consequently, CASA volunteers who wish to access the court file of a nonminor dependent must get consent from the nonminor dependent or file a request pursuant to section 827.</p>

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			<p>evidence” does require the “explicit written and informed consent of the nonminor dependent,” per § 107(b).</p> <p>Also, this proposal introduces an undefined term, “court file,” which is confusing. What does a court file include?</p> <p>Currently, a CASA obtains access to otherwise confidential records by 1) the records being in the juvenile case file, as defined in Rule 5.552, or 2) the court ordering access pursuant to § 107. This proposal, and the Judicial Council form conflates the two.</p> <p>Form JV-474 it is quite confusing, it does not seem to account for the practical application of accessing certain records, and who in the world might hold them. (Most of these records are not maintained by the court).</p> <p>It would be better to create a release form,</p>	<p>As to the suggestion to create a general release for all agencies that may hold records for nonminor dependents – such as schools and hospitals – that is outside the purview of this proposal. This proposal is limited to developing a form that covers access to <i>court</i> case files, which consist of the documents contained in the record maintained by the court clerk.</p> <p>As to the undefined term “court file” mentioned by the commentator, section 827 refers to the juvenile “case file” and section 362.5 refers to “the nonminor dependent court file.” Subdivision (d)(4) and the JV-474 form has been modified to refer to the “nonminor dependent court file” to reflect the term used in section 362.5(b).</p> <p>As mentioned above, a general release form is outside the purview of this proposal.</p>

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			<p>that, when combined with the order, and it can clear the way for the court to access records by than through its appointed investigator – the CASA. See WIC § 103(h) which states “To accomplish the appointment of a CASA, the judge making the appointment shall sign an order, which may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court.”</p> <p>Suggestion: This form should be discarded, or should be reworked to allow for permission of other records, outside of the juvenile case file. Better yet, a form should be created that is a recognized “release form” that the court and service providers can rely on when making an order pursuant to § 107 for youth aged 18 or older.</p> <p>9. 5.655(d)(4) as proposed reads: “If the nonminor dependent provides consent for the CASA volunteer to obtain his or her case file, the procedures stated in paragraph (3) related to maintenance of the case file must be followed. The nonminor dependent’s consent must be obtained before anyone else may be allowed to access his or her file.”</p>	<p>The committee agrees that the last sentence of (d)(4) is legally confusing and unnecessary given the directives in other parts of the rule and the other rules related to confidentiality mentioned by the commentator. The last sentence of (d)(4) has therefore been removed. Paragraph (d)(4) will now simply state that the procedures in paragraph (3) related to the maintenance of the case file must be followed as it relates to nonminor dependent court files.</p>

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			<p>This is legally confusing for the CASA program. For example as written if the juvenile court judge wanted access to the file the program must then seek permission from the youth – this does not make sense in the context of the current statutory framework. If the goal is to have the CASA program maintain the confidentiality of case files rule 5.655(d)(3) (as renumbered), and the many laws relating to confidentiality of this information will do that just fine.</p> <p>Note that per 5.655(d)(1) (as renumbered), “All information concerning children and families in the juvenile court process is confidential. Volunteers must not give case information to anyone other than the court, the parties and their attorneys, and CASA staff.” And that per WIC § 105, All otherwise confidential records and information acquired or reviewed by a CASA during the course of his or her duties shall remain confidential and shall be disclosed only pursuant to a court order.”</p> <p>Also note, that per rule 5.552, the CASA file is part of the juvenile case file. So this proposed rule is really quite confusing as it interacts with WIC § 827. So the “anyone else” would need a court order before accessing the juvenile case file, or be listed in § 827. Does this rule purport to require the 827 court order and the youth’s consent?</p>	

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			<p>This conflicts with section 827 and rule 5.552.</p> <p>Also note, that CASA's sharing information is more legally restricted than anyone. So the only legal incidences of sharing will occur to these individuals, or pursuant to a court order. This is in addition to the fact that this new language is quite confusing, and sets CASA programs up to not know what to do with records and information that they are legally obligated to share with the court, and may be ordered to share with the social worker, etc.</p> <p>Suggestion: Do not add this proposed language. It will cause confusion, impermissibly conflicts with WIC 827, and not add any protection to the youth's information.</p> <p>10. The proposal states: Amend current subdivision (c), which is proposed subdivision (e), to delete the requirement that the presiding juvenile judge personally interview each CASA volunteer: that requirement may cause a conflict of interest.</p> <p>This misstates the rule. We presume this proposal is referring to 5.655(c)(2)(D), which states: "A personal interview or interviews by a person or persons approved by the presiding juvenile court judge or designee, to probe the essential areas of concern with respect to the qualities of an effective CASA volunteer. A written,</p>	<p>The proposed revision was implemented to limit the role of the presiding judge in the selection process. The committee believed that there is a conflict of interest in this practice. Even though CASA's are sworn officers of the court, impartiality may be a consequence of a presiding judge taking part in the selection process. The revision does not limit the ability of a CASA program to interview and screen potential volunteers; it merely removes the presiding judge from the selection process. As noted in the comment, the presiding judge approves the executives and staff at the CASA program to conduct the interviews when he or she authorizes the CASA program to provide services. That language in the current rule is unnecessary and superfluous.</p>

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			<p>confidential record of the interview and the interviewer's assessments and observations must be made and retained in the advocate's file.” There is no requirement here that the judge personally interview each CASA volunteer. The interview is to be by someone “approved by the presiding juvenile court judge or designee,” so approval is all the juvenile court judge is doing.</p> <p>In practice, the presiding judge designates the CASA director to approve the person to conduct the interviews. There’s nothing wrong with this practice, any personal interview is essential to the selection screening process.</p> <p>Also, the suggestion that there is a conflict of interest is an odd one. CASA volunteers are sworn in by a juvenile court judge. Statutorily they are sworn officers of the court, they are court investigators, serve at the discretion of the court, and for the singular and very limited purpose of accessing juvenile case files are “court personnel” for purposes of § 827, and are in every way accountable to the judge. See WIC § 103(e), (h), There is no conflict of interest in having the judge weigh in on the suitability of a CASA volunteer.</p> <p>Suggestion – Leave this section as is, or perhaps explain the thinking behind deleting.</p>	<p>This subdivision exists in the current rule and was unchanged by the proposal except to be moved to</p>

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			<p>11. 5.655(e)(4)(C) – for clarity purposes, suggest amending to add that permission of the court is sufficient, per WIC section 362, to drive a child as long as all other requirements are met. Suggestion amend 5.655(e)(4)(C) to read: “Obtains permission from the court, child’s guardian, or custodial agency; and”</p> <p>12. 5.655(e)(6) – in this anti-discrimination section, there is an unclear term, namely “age.” There is not clear jurisprudence regarding volunteers and age discrimination. This is especially problematic because National CASA Association Standards require that volunteers be at least 21 years old. Therefore, we suggest to clarify this term to bring it in line with the presumed application (the employment law context) and clarify that the prohibited discrimination is for ages 40 and over. Suggestion: Amend 5.655(e)(6) to read, “An adult otherwise qualified to act as a CASA must not be discriminated against based on marital status, socioeconomic factors, race, national origin, ethnic group identification, religion, age (40 or over), sex, sexual orientation, color, or disability or because of any other characteristic listed or defined in Government Code section 11135 or Welfare and Institutions Code section 103.</p> <p>13. 5.655(i)(2) – This is an often missed understood prohibition. The goal here is to</p>	<p>a new location in the rule. The suggested addition is one that would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time.</p> <p>This subdivision exists in the current rule and was unchanged by the proposal except to be moved to a new location in the rule. The suggested addition is one that would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time.</p> <p>The only change to subdivision (i)(2) of the rule 5.655 is the addition of references to nonminor dependents. The language cited in the comment is a subdivision that exists in the current rule and</p>

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			<p>prevent the CASA volunteer from entering into a relationship with the youth whereupon their communications will take on a privileged character. Such as the lawyer-client, or psychotherapist-patient privilege. Remember, that the CASA is a court appointed investigator, and has an obligation to relay relevant information to the court as requested. Therefore a relationship with the youth that brings evidentiary privilege to the communications is inconsistent with the CASA role.</p> <p>Suggestion: Amend 5.655(i)(2) to read, “Adopting a relationship that confers evidentiary privilege to the CASA’s communications, such as it’s giving legal advice or therapeutic counseling;”</p> <p>14. General comment regarding the term used for the CASA program’s MOU (or contract, or grant agreement) with the Judicial Council exists because of the request for proposal process established by WIC § 100. Therefore when referring to the agreement between the Judicial Council and the CASA program we have suggested the term “grant agreement.” However, “MOU” is a fine term to use, as long as it is consistent throughout the rule, with an understanding that a CASA program might decide not to enter into such an MOU because the funding is not sufficient to cover the requirements contained therein.</p>	<p>was unchanged by the proposal except to be moved to a new location in the rule. The suggested addition is one that would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time.</p> <p>The committee agrees that “MOU with the Judicial Council” is not a term that is often used to refer to contracts between the Judicial Council and CASA programs. The committee has changed the language in subdivision (c)(1) “MOU with the Judicial Council” to the language “Judicial Council Contract.”</p> <p>After considering the various comments on this issue, the committee has elected not to require that</p>

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			15. To the question of, should CASA programs that serve more than one county have an advisory board in each county? Our response: No, they should not. Operating multiple boards is a time consuming and tricky process. Government intervention is not necessary here, as CASA programs will usually have members of the advisory board be from each county. Thus would create much more work.	advisory councils have representation from each county that the CASA program serves. This is because of the issues raised by the commentators and because some counties may not be able to fulfill such a requirement. The committee elected to insert language into the rule that encourages representation from each county it serves.
2.	Child Advocates of El Dorado County By: John R. Adams, M.A., Executive Director		<p>5.655(a)(1) –Suggestion: “A Court Appointed Special Advocate (CASA) program is a child advocacy program that recruits, screens, selects, trains, supervises, and supports lay volunteers for appointment by the juvenile court to help define the best interests of children and nonminors who are under the jurisdiction of the juvenile court.”</p> <p>5.655(a)(2) –Note that WIC § 102(c) states, “Each CASA shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA has been appointed....” We suggest adopting that language. Suggestion: Each CASA program shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA may be appointed. The presiding judge of the juvenile court shall designate which entity shall serve as</p>	<p>The committee declines to excise the language specifying that CASA programs may serve both dependent and delinquent youth, both because this language is in the current version of the rule and because it is important to specify that CASA programs may also serve delinquent youth. Welfare and Institutions code specifies in section 102(b) that “That a CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court.”</p> <p>The committee appreciates this suggestion but declines to make the suggested revision. The current version of the rule – like the proposed version - states that a CASA program has to be “designated by the local presiding juvenile court judge,” which is a concise statement of the process.</p>

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			<p>the court's CASA program, and only the program that enjoys that designation shall be a CASA program for purposes of this rule.</p> <p>5.655(a)(3)- Suggestion: Amend 5.655(a)(3) to read: "A CASA program must comply with this rule, other requirements as stated in any Judicial Council grant agreement, as well Standard 13 of the National CASA Standards for Local CASA/GAL Programs."</p> <p>5.655(b) – Suggestion: Clarify that the MOU must be a two-party MOU between the court and CASA program. Add (b)(1)(C) "The CASA program and the designating court must be the only parties to the MOU." Also, add (b)(1)(D) "The MOU must indicate when and how the CASA program will have access to the juvenile case file."</p> <p>5.655(d)(4) - Suggestion: No not add this proposed language. It will cause confusion, impermissibly conflicts with WIC 827, and not add any protection to the youth's information.</p>	<p>As noted in the response above, the committee declines to include national CASA standards in the rule because while CASA programs must meet the national CASA standards, such standards are not the subject of this rule. A CASA's programs compliance with the National CASA standards is vital, the Rules of Court follow the California Welfare and Institutions Code. Further, CASA standards set by the state legislature may potentially set a standard higher than the national CASA standard.</p> <p>The committee agrees with this suggestion and as mentioned above has made the suggested amendment to the rule.</p> <p>As mentioned above, the committee agrees that the second sentence of paragraph (d)(4) should be removed and has made the amendment to the rule.</p>
3.	Leslie A. Golich, M.S.A. - HCM Director, Public Affairs and Brand Communications		I am writing in response to the proposed changes to CRC 5.655. I am the current President of the Board of Directors for CASA of Kern County. I urge you to wait and seek feedback from the 46 CASA programs in the	The committee appreciates that there are challenges for CASA programs in expanding its services to delinquent youth. However, Assembly Bill 424, which passed in 2015, amended the Welfare and Institutions Code to specifically

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			<p>state of California before moving forward. I have several concerns regarding the proposed changes, a few of which I have outlined below.</p> <ul style="list-style-type: none"> • CASA is a very reputable organization in Kern County and has a long standing history of operating with the highest degree of integrity. We have achieved this reputation because of the solid work we do with our children in dependency and the leadership of our organization. • On average, 93% of our closed cases achieve legal permanency. • Unfortunately, at any given time, Kern County has a wait list of 20-60 children waiting for a CASA. Our judges reserve recommendation of a CASA to the most vulnerable / at risk cases. There are an additional 1600 children in dependency that have not been identified to receive a CASA. • We simply do not have an excess supply of CASA's in Kern County. Our mission has always been to serve our children in dependency, we simply do not have the bandwidth to take on children in delinquency. • Our Officers of the Court (CASA's) receive established and approved training on the CW&I 300's and are coached / mentored by trained Advocate Supervisors. • There is no known approved or established training for the Wardships 602 proceedings. • Recruitment of CASA's for delinquency could be very problematic. Training for these new CASA's could be cost prohibitive. 	<p>authorize the appointment of CASA volunteers for children in the juvenile justice system. Welfare and Institutions code specifies in section 102(b) "That a CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court." The proposed revision to rule 5.655 is mandated by this legislative change. Neither the rule, nor the Welfare and Institutions Code require CASA programs to provide services to children in the juvenile justice system; the rule and statute merely authorize the provision of such services to a population of vulnerable youth who often have the same issues as children in the child welfare system. Consequently, trainings that relate to working with dependent children should also help to prepare CASA volunteers for working with children in the juvenile justice system.</p>

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			<ul style="list-style-type: none"> • CASA of Kern County represents our most vulnerable children in dependency. Mixing dependency and delinquency simply does not make sense and diminishes the role of, and the respect for, our CASA's. 	
4.	Carla Musser Kern CASA Board Member CASA of Kern County Colleen McGauley, MPA Executive Director		<p>I am a CASA of Kern County board member/officer and wanted to take the opportunity to respond to the proposed recommended changes to CRC 5.655, the rule that establishes CASA programs which serve children in dependency court. I am concerned with some of the proposed changes to CRC 5.655, and opposed to some of the recommended edits.</p> <p>To put my comments in perspective, Kern has always had many children in dependency, often twice the state averages per capita. This CASA program has never had enough CASAs to fill the waitlist for children needing a CASA. In the last 12 months, our high priority wait list for children has swung between 19 children to 60 children. We have never served delinquents, and we strive to find permanent legal placements for each child the court assigns to our program. On average 93% of our closed cases achieve legal permanency. We might stick with a child longer, but we hold on to help find lost family, or to urge for guardianships, adoptions or return to safe family. Because of our large waitlist, we do not serve AB12 nonminor dependents nor delinquent youth now.</p>	

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		<p>Below are my comments regarding the proposed changes:</p> <p>RE: Wardships- 602 Proceedings</p> <p>A. I know that many counties are not like Kern. Several have had excess CASA Volunteers who began to help in delinquency matters, especially welcomed by juvenile judges.</p> <p>a. Legal Training: One of the strengths of our CASA organization is that these officers of the juvenile court (CASAs) receive training on the CW&I 300's and the specific hearings that their child is facing in the next six months. In addition to the weekly contact with their child, CASAs are coached by our paid staff on what the judges need to decide on at the upcoming 366.21e or the 366.26 hearing. Each CASA's independent investigation and resulting report includes observations and recommendations that are focused on that hearing. From conversations with California CASA and many CASA colleagues whom serve wards, there is no concrete legal training established for their CASAs and what they will encounter in the 602's. I am saddened when I hear, "Oh CASAs are good mentors for the wards". So, is a mentoring program for these youths what is needed? I know that in Kern, we don't have concrete standing orders that would relate to any new role in delinquency, (access to any record of any organization, i.e., probation) plus the visitation rights, (CASAs in Kern show up announced and</p>	<p>Assembly Bill 424, which passed in 2015, amended the Welfare and Institutions Code to specifically authorize the appointment of CASA volunteers for children in the juvenile justice system. Welfare and Institutions code specifies in section 102(b) that "That a CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court." The proposed revision to rule 5.655 is mandated by this legislative change. Neither the rule, nor the Welfare and Institutions Code require CASA programs to provide services to children in the juvenile justice system; the rule and statute merely authorize the provision of such services to a population of vulnerable youth who often have the same issues as children in the child welfare system. Consequently, trainings that relate to working with dependent children should also help to prepare CASA volunteers for working with children in the juvenile justice system.</p>

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			<p>unannounced into placements per our court order). How will these new partners (district attorneys & probation) welcome this new diplomatic insertion into their work? If CASAs don't have the same access to records as we do in dependency, are we diminishing the CASA role to that of a mentor? Are CASA reports accepted as evidence in the 602 proceedings?</p> <p>b. COST for legal training – since there isn't a curriculum for this area of the law, we would have to hire a competent attorney to assist us in training/creating a curriculum. CASA of Kern County would need to provide training for our 200 active CASAs and seven program staff to gain knowledge and proficiency in this area of the law. This will certainly be costly. Will Judicial Council fund that work locally, statewide?</p> <p>RE: Changes in 5.655 (general) A. In California, we do have some CASA challenge. Two CASA programs lost their court confidence in the last few years. I see, from Central California that California CASA is a guidance organization, but it has no real power to correct a CASA program that has gone rogue. Cal CASA doesn't fund us significantly; we raise most our own funds and we are independent non-profits or under a larger umbrella nonprofit. The Cal CASA Association is strong in helping a CASA program launch, and they oversee the every-four-year onsite visits for Judicial Council. California CASA</p>	<p>The committee appreciates the concerns raised but the suggested additions were not in the original proposal and would likely be of interest to other stakeholders and should receive public comment; therefore, the committee declines to include it at this time. It is hoped that some of the suggestions raised by the commentator can be addressed when the CASA program and the court are creating their MOU.</p>

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			<p>does advocacy work at the state level, and helps with pass through funding among many other initiatives. I wonder if what is needed at this juncture is enhanced connection between the California CASA Association and the Juvenile Court Judges. What interventions can be initiated, that are binding, prior to the Presiding judge in a county removing their total support from a CASA program? Is that what is needed as a change in 5.655? A section that initiates a process by which the Supervising Judge of the Juvenile Court in a County or the Presiding judge of the County notifies leadership of the CASA Program, the Program Director of Cal-CASA, and the National CASA representative that the future of said CASA program is in danger of defaulting their responsibilities due to A, B & C? That there is a 60 to 90-day window for resolution, that mentor CASA EDs & Cal CASA be brought in to evaluate the issues, develop a correction action plan, and reporting vehicle to meet the court's satisfaction? I would recommend exploration of such a process for insertion into this rule.</p> <p>B. Priority of CASA assignment. When a Judge assigns a CASA to a 300 child or a 602 or an AB12 adult do dependent children get priority to a CASA Volunteer? We always have a waiting list for dependent children. We have 1600 children in dependency in Kern that we are not reaching currently. Kern CASA enjoys a strong and positive working relationship with our Juvenile Court Judges, yet what if that should change and a judge insist on CASAs</p>	<p>Assembly Bill 424, which passed in 2015, amended the Welfare and Institutions Code to specifically authorize the appointment of CASA volunteers for children in the juvenile justice system. Welfare and Institutions code specifies in section 102(b) that "That a CASA may be appointed to any dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court." The proposed revision to rule 5.655 is mandated by this legislative change.</p>

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			<p>serving in delinquency, when I do not think we are ready or able to serve with even a baseline of knowledge about the 602 ground rules?</p> <p>C. Delay in implementation is absolutely recommended due to:</p> <p>a. Recruitment Strategies for wards and adults. I would estimate it might be easier to recruit a Volunteer to help a child abuse victim rather than a child whom commits a crime. What are those recruitment strategies? It does take time to create a different marketing campaign for a different type of program, and that is an additional cost. What will it cost to develop tools for the Wardship CASAs? What might be the increased risk when assigned to a youth who has committed several felonies? Will my current insurance/liability coverage be adequate?</p> <p>b. Altering of our current mission statement both internally and with the Attorney General's office would be needed. What if my Board of Directors doesn't want to expand into delinquency? Would Kern face challenges from my Court? From the Judicial Council?</p> <p>D. Concern that "CASA programs must follow guidelines established by the Judicial Council" With all due respect, I am concerned that the National CASA Standards are not noted, nor are the California CASA Association best practices. Could these Judicial Council guidelines be established without consultation with these other important entities? National CASA</p>	<p>Neither the rule, nor the Welfare and Institutions Code require CASA programs to provide services to children in the juvenile justice system; the rule and statute merely authorize the provision of such services to a population of vulnerable youth who often have the same issues as children in the child welfare system. Consequently, trainings that relate to working with dependent children should also help to prepare CASA volunteers for working with children in the juvenile justice system.</p> <p>See comment above.</p> <p>The committee did not elect to reference to the "Standard 13 of the National CASA Standards for Local CASA/GAL Programs" in the rule. While CASA programs must meet the national CASA standards, such standards are not the subject of this rule. A CASA's programs compliance with the National CASA standards is vital, the Rules of Court must follow the California Welfare and</p>

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			<p>Standards clearly defines the amount of gift a child could be given annually (\$25.00), and the confidentiality of the CASA's personal information. Since the Judicial Council staff support given to CASA has evaporated over the past several years, who would be developing these guidelines, and how knowledgeable are they about CASA, our role as "diplomatic irritant", "squeaky wheel" to the system, yet not a provider of services ourselves. Could the Judicial council guidelines insist that CASA programs act one way when to do so would be in violation of our National CASA standards? Which guideline do we follow? Who will be at that decision-making table when these guidelines are created?</p> <p>E. MOU between the CASA Program and the Courts. In the past, Kern's local rules of court have been sufficiently clear and strong to eliminate the need for a distinct MOU with the Court. To establish an MOU with my county department of human services required that we participate in collective bargaining agreements, even though no money was to be exchanged. My corporate counsel advised me to not sign that document. I am concerned that these MOUs might be a vehicle for overreach into our nonprofit practices, mandating additional costs to us in this fiscally challenging time in the County of Kern.</p>	<p>Institutions Code. Further, CASA standards set by the state legislature may potentially set a standard higher than the national CASA standard. The committee further does not believe that the rule creates any conflict with national standards.</p> <p>The committee does not agree that a MOU with a county department of human services is analogous to a MOU with the court. The rule is contemplated for only MOU's between CASA programs and the courts. One of the primary purposes of requiring a MOU is to allow the court or the CASA program to terminate the MOU or allow for greater flexibility to modify the MOU if there are issues such as the one mentioned in the comment.</p>
5.	Superior Court of California, County of San Diego By: Mike Roddy	AM	<ul style="list-style-type: none"> In San Diego County, a delayed effective date should not be necessary. It could go into effect 1/1/18. Our CASA program already adheres to 	No response required.

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	Executive Officer		<p>most, if not all, of these requirements. The requirement of an MOU between the court and the CASA program is new, but our court should be able to get that done before the end of the year.</p> <ul style="list-style-type: none">• (c)(1) mentions an MOU with the Judicial Council. (It used to say contract.) Nowhere else does it mention or clarify the requirements for this MOU.• JV-474: The form is confusing and could be construed as being a little misleading. It is called "Consent to Copy and Inspect Court File" and it states that the youth is giving the CASA volunteer consent to inspect and/or copy "court records". Item 3 does state, "I understand that my consent includes the inspection and copying of records relating to my dependency case from any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic." A reasonable construction of this language is that they are only allowing CASA to look at such documents that are in the court file. It does not make it clear to the nonminor dependent that the CASA volunteer could actually go to the school or doctor or police department and get access to the records, which is what WIC 107(a) allows. The nonminor dependent should also be able to consent to the inspection and/or copying of the court file without also having to consent to the	<p>As mentioned in a previous response, the term "MOU with the Judicial Council" has been replaced with "Judicial Council Contract."</p> <p>The committee agrees that form JV-474 could be confusing. Form JV-474 is not intended to be a general release for all the agencies listed; rather, it is to alert the nonminor dependent that such documents may be contained in nonminor dependent's court file. Form JV-474 has been revised to clarify that point and to specify that the consent is to inspect the "nonminor dependent court file." In addition, the references to section 107(a) and (b) has been removed, as section 362.5 is the applicable statute as it relates to the nonminor dependent court file. The form is thus only intended to allow for consent to copy and inspect the nonminor dependent court file. It has no application for other records that are maintained outside of the nonminor dependent court file. A form for a release for other information pursuant to section 107(b) is not being addressed in this proposal, although the committee has noted that there may be a need for such a form.</p>

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			inspection and/or copying of all those other records. We recommend to change the title of the form to make it more general and also break each type of record out to allow the youth to check which ones the CASA can copy, which ones the CASA can only inspect, and which ones the CASA cannot access at all.	
6.	Orange County Bar Association By: Michael L. Baroni President	AM	<p>The rule changes are appropriate given the changes to the CASA program interactions with the courts, particularly their expansion to delinquents and nonminor dependents. In addition, while demanding an MOU between CASA and the juvenile courts will expend both court and CASA resources, these agreements will help clarify the relationship between these organizations and the courts.</p> <p>As to the specific questions presented: It seems duplicative and burdensome to require CASA programs operating in multiple counties to maintain advisory boards in each under (b)(2)(B), though these boards should if at all possible have some representation from each county the particular CASA agency serves. Also, if the terms are going to be used to designate any person with an assigned CASA, the definition of ‘child/children’ in rule 5.655 should be clarified, for the SOLE purpose of that rule, to include all present delinquents and/or dependents, above the age of 18 or still minors, that have an assigned CASA. In addition, while not strictly necessary (since these minors would come under the definitions already given under subdivision (a)), there is no</p>	<p>No response required.</p> <p>After considering the various comments on this issue, the committee has elected not require that advisory councils have representation from each county that the CASA program serves because of the issues raised by the commentators and that some counties may not be able to fulfill such a requirement. The committee elected to insert language into the rule that encourages representation from each county it serves.</p> <p>As mentioned in a previous response, the committee has elected to change paragraph (a)(1) to remove the reference to “nonminor dependents” to ensure nonminors who do not meet the definition of “nonminor dependents” but still fall under the jurisdiction of the juvenile court are covered by the rule. Youth under section 450</p>

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			objection to specifically designate transition dependents under Welfare and Institutions Code section 450 as included under the eligible population.	jurisdiction of the juvenile court are covered under the new language at the end of the paragraph, “children and nonminors under the jurisdiction of the juvenile court, including the dependency and delinquency courts.”
7.	Superior Court of California, County of Riverside By: Susan D. Ryan Chief Deputy of Legal Services	A	<p>Does the proposal address the stated purpose? <i>Yes.</i></p> <p>Background checks require amending proposed subdivision (e)(3)(B)? <i>Yes.</i></p> <p>Should CASA programs that serve more than one county be required to maintain advisory boards in each county? <i>No.</i></p> <p>Should the rule include a definition of children to avoid confusion about the children CASA programs are authorized to serve? <i>Yes.</i></p> <p>Should the rule explicitly state that the population that CASA can serve included nonminors who have transitioned from delinquency to dependency under WIC 450? <i>Yes.</i></p>	<p>No response required.</p> <p>The committee agrees with providing more specific information about what inquires will be made as part of the formal security check for potential CASA volunteers. Language has been added to the rule that inquires will be made through appropriate law enforcement agencies including but not limited to the Department of Justice, Federal Bureau of Investigations, and the Child Abuse Index.</p> <p>See response above related to advisory councils.</p> <p>The committee has modified subdivision (a)(1) of rule 5.655, which should obviate the need for separate definition of “children.”</p> <p>The rule has been amended to reflect that it covers all nonminors who remain under the jurisdiction of the dependency or delinquency court.</p>

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			<p>Is a delayed effective date necessary? <i>Yes.</i></p> <p>Would the proposal provide a cost savings? <i>No.</i></p> <p>What would be the implementation requirements be for courts? <i>Train staff, inform bench officers, meet/confer and revise MOU with CASA, possible revision of local rule, new codes in case management system.</i></p> <p>Would fifteen 15 months be sufficient time for implementation? <i>This may be enough time.</i></p>	<p>The committee agrees and has proposed a delayed effective date.</p> <p>The committee acknowledges that revising rule 5.655 will not provide an immediate cost saving; however, any associated cost will be moderate and in the end could provide cost savings long term.</p> <p>The committee agrees with the implementation requirements proposed by the commentator.</p> <p>No response necessary.</p>
8.	Superior Court of Orange County Family Law and Juvenile Court Divisions Cynthia Beltrán Administrative Analyst		<p>In subdivision 5(b)(1)(A), the proposed language states the relationship between the CASA program and the court can be terminated for “convenience.” We recommend replacing “convenience” with specific terms that would cause the termination.</p> <p>Q: Would the proposal provide cost savings? If so, please quantify. The proposal would not provide a cost savings to the Court. A team would need to be established between CASA and the Court develop a memorandum of understanding</p>	<p>The committee appreciates this comment but does not agree that the rule should include specific terms that could be the cause of the termination. The committee wants give latitude to both courts and CASA programs to dissolve the relationship at any time. Imposing a requirement in the rule that termination occur only in specific situations would create an undue restriction on the ability of the court and CASA program to dissolve the relationship.</p> <p>The committee appreciates that there may be additional resources used in each county to create the MOU. The goal of this proposal is to ensure that MOU are clearer, thus hopefully preventing</p>

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			(MOU). Q: What would the implementation requirements be for courts? In order to implement the requirements, the court would provide information regarding the change to judges, staff and justice partners. Q: Would fifteen months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Since the proposal requires an MOU to be created between the court and CASA, we are unsure if fifteen months would be sufficient time to implement changes.	problems in the future. The committee agrees with the proposed steps to implement the changes to the rule. The committee appreciates the uncertainty regarding the timeframe of fifteen months. The extension of time beyond fifteen months curtails the movement towards clearer MOU's between courts and CASA programs that should benefit both parties.
9.	The State Bar of California By: Saul Bercovitch Assistant General Counsel Office of General Counsel		SUPPORT WITH COMMENTS The Executive Committee of the Family Law Section of the State Bar (FLEXCOM) supports the proposed changes, with the following comments. FLEXCOM offers the following responses to specific questions in the Invitation to Comment. • Should CASA programs that serve more than one county be required to maintain advisory boards in each county they serve? FLEXCOM believes that variances in practice between counties are substantial enough as to warrant each program having an advisory council comprised of individuals familiar with	After considering the various comments on this issue, the committee has elected not require that advisory councils have representation from each county that the CASA program serves because

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			<p>those practices</p> <ul style="list-style-type: none">• When defining the population of children a CASA program may serve, should the rule explicitly state that population includes nonminors who have transitioned from delinquency to dependency under Welfare and Institutions Code section 450? <p>FLEXCOM believes the rule should be amended to specifically authorize the appointment of advocates for transition dependents. Calling out this authority would help judicial officers avoid uncertainty.</p>	<p>some counties may not be able to fulfill such a requirement. The committee elected to insert language into the rule that encourages representation from each county it serves.</p> <p>The committee elected to refer to youth under section 450 jurisdiction as “children and nonminors under the jurisdiction of the juvenile court, including the dependency and delinquency courts.” This change should clarify that courts are authorized to appoint any child or nonminor who falls under the jurisdiction of the dependency or delinquency court.</p>