

# FRESNO COUNTY SUPERIOR COURT

## CHAPTER 6. JUVENILE RULES

### RULE 6.1 GENERAL PROVISIONS

#### 6.1.7 Remote Proceedings in Juvenile Court Cases

##### A. General Rules for Juvenile Court Remote Appearances.

1. The court uses the Zoom application to conduct remote proceedings. Parties and witnesses must use Zoom to participate in juvenile court proceedings via remote technology. Instructions for using Zoom to participate in juvenile proceedings can be found on the Fresno Superior Court Website, Juvenile Division.

2. All statutory confidentiality requirements applicable to a juvenile proceeding held in person apply equally to a remote proceeding. All parties and witnesses who participate remotely shall ensure that confidentiality is maintained. You may not share or discuss the information, or any reports, you receive with anyone who is not a party to the case. Violations of confidentiality may result in sanctions and/or be punishable by law.

3. If a party's hearing or proceeding is scheduled at 8:00 a.m. and that party is appearing remotely, that party must be available from 8:00 a.m. until 12:00 p.m. or until the party's hearing or proceeding is concluded. If a party's hearing or proceeding is scheduled at 1:00 p.m. and that party is appearing remotely, that party must be available from 1:00 p.m. until 4:30 p.m. or until the party's hearing or proceeding is concluded. Failure to comply with this rule may result in the court proceeding with the hearing or proceeding as if the party failed to appear.

##### B. Requirements for Remote Appearances.

1. A person appearing remotely must:
  - a. Have sufficient internet speed and/or telephone connectivity to fully participate in all aspects of the hearing without disruption.
  - b. Have the ability to clearly communicate with the court and all other participants at the hearing through a cell phone, microphone, headset or other similar device enabling a clear audio stream.
  - c. If appearing by video, have a device capable of capturing and displaying a clear video stream.

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d. Have an indoor location with limited background noise that the person can use for the entire hearing.

e. Ensure there are no interruptions or distractions for the duration of their appearance at the hearing. No other individual, except persons authorized to be present at the juvenile hearing, may appear with the participant or be heard during the hearing without prior court approval.

f. Conduct themselves as if they were appearing in court in person. Those appearing remotely must observe the same degree of courtesy, decorum, and courtroom etiquette as required for an in-person appearance, including be appropriately dressed. Attorneys must appear in professional business attire. Attorneys shall abide by rules of professional responsibility and Rule 1.1.8.

g. Comply with California Rules of Court, rule 1.150 and Rule 1.1.17, by not recording, photographing, capturing an image of, or broadcasting any part of or any participant to a remote proceeding in any manner.

h. Comply with any other instructions for remote appearances given by the judicial officer.

2. The court may reschedule or continue a remote proceeding if the requirements listed above in (B)(1) are not satisfied or if a distraction or disturbance interferes with the hearing.

3. Unless approved by the court, participants must appear with their camera turned on when appearing by video. If a participant has security concerns about appearing on camera, this concern should be brought to the court's attention prior to the hearing.

**C. Court Discretion to Require In-Person Appearance.** Notwithstanding the other provisions of this rule and the availability of remote technology, the court may, in its discretion, consistent with Code of Civil Procedure section 367.75:

1. Require a party, attorney, or other participant to appear at any hearing in person; or

2. On its own motion, conclude a remote proceeding and require a party or attorney to appear in person at a subsequent or continued hearing.

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### D. Remote Proceedings in Juvenile Dependency Cases.

1. Parties, attorneys and other persons entitled to be present at a juvenile dependency hearing are authorized to appear in-person or remotely unless the court requires an in-person appearance. It is not necessary for a party or attorney to file a NOTICE OF REMOTE APPEARANCE (RA-025) before making a remote appearance.

2. Any party may request the court compel the physical presence of any other party or witness at a specific hearing. Such a request *must* be made in writing as well as filed and served no later than three (3) court days prior to the hearing that is the subject of the request. [The RA-030 form may be used for this request.]

3. All trials and evidentiary hearings shall be conducted in person, unless otherwise ordered by the assigned judicial officer.

a. When setting an evidentiary hearing or trial, parties should discuss if the matter will proceed in person or remotely and confirm their request at the Pre-trial settlement conference.

b. If the court determines that the matter will proceed remotely, in whole or in part, at the Pre-Trial Conference, the parties shall discuss whether remote testimony is agreed upon for any witness.

c. The court may grant leave for a witness to appear remotely when stipulated by all parties.

1) A request for a witness to appear remotely with the consent of all parties *must* be made in writing no later than five (5) court days before the hearing. It is the burden of the party proffering the witness to file the request or present the stipulation and to certify that all parties consent to the remote testimony.

2) If a party opposes remote testimony by a witness, that party may seek to compel the physical presence of the witness by following the procedures in paragraph D(2) above.

d. Unless otherwise ordered by the court, a witness appearing remotely must provide their testimony by audio and video technology. Witnesses must be inside, seated in a position where no other individual can see or hear the proceedings, with reliable technology that allows the court to observe their face without obstruction. Video and audio must remain on during the entirety of testimony. Witnesses may not use other devices such as cell phones or computers during their testimony without court permission.

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e. The court may require any person to appear in person if the court determines that:

- 1) One or more of the factors listed in B(1), including the person's limited access to technology, requires the person's physical presence;
- 2) The court cannot ensure that the person's remote appearance will have the privacy and security necessary to preserve the confidentiality of the proceedings; or
- 3) A remote appearance by the person is likely to cause undue prejudice to a party.

**E. Tribal Appearances.** In any proceeding governed by the Indian Child Welfare Act involving an Indian Child, the child's tribe may appear by any means described in California Rules of Court, rule 5.482(g).

**F. Juvenile Justice Cases.**

1. All juvenile justice hearings will presumptively be held in person unless the court orders the proceeding to be held remotely or grants leave for a participant to appear remotely.

2. All parties to a juvenile justice case may agree to a remote proceeding through a written stipulation filed with the court or through an oral stipulation made at a hearing. The court may accept or reject the stipulation.

3. Proceedings other than an evidentiary hearing or trial. At the initial/first appearance, parties are to state on the record whether they intend to appear remotely for the duration of the case unless the court orders the party to appear in person. [It is not necessary for a party or attorney to file a NOTICE OF REMOTE APPEARANCE (RA-10) before making a remote appearance.]

4. Any party may request the court disallow a remote appearance or testimony of any other party at a specific hearing. Such a request *must* be made in writing as well as filed and served no later than three (3) court days prior to the hearing that is the subject of the request. [The RA-015 form may be used for this request.]

5. All trials and evidentiary hearings shall be conducted in person, unless otherwise ordered by the assigned judicial officer. The court may grant leave for a witness to appear remotely when stipulated by all parties.

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a. If a witness or anyone providing testimony intends to appear remotely at an evidentiary hearing or trial, then, at least five (5) court days before the first day of that hearing/trial, the party calling that witness must:

1) File and serve on all other parties a NOTICE OF REMOTE APPEARANCE (form RA-010); and

2) Deliver a courtesy copy of that form as well as a proposed ORDER REGARDING REMOTE APPEARANCE (form RA-020) to the clerk of the department in which that hearing will be held.

b. A party may request that the court disallow a remote appearance or remote testimony by filing Judicial Council of California form RA-015, OPPOSITION TO REMOTE PROCEEDING AT EVIDENTIARY HEARING OR TRIAL/ADJUDICATION, at least three (3) court days before the remote proceeding.

c. Unless otherwise ordered by the court, a witness appearing remotely must provide their testimony by audio and video technology. Witnesses must be inside, seated in a position where no other individual can see or hear the proceedings, with reliable technology that allows the court to observe their face without obstruction. Video and audio must remain on during the entirety of testimony. Witnesses may not use other devices such as cell phones or computers during their testimony without court permission.

d. The court may require any person to appear in person if the court determines that:

1) One or more of the factors listed in B(1), including the person's limited access to technology, requires the person's physical presence;

2) The court cannot ensure that the person's remote appearance will have the privacy and security necessary to preserve the confidentiality of the proceedings; or

3) A remote appearance by the person is likely to cause undue prejudice to a party. (Effective September 15, 2022, New)