

SUBSTANTIVE CHANGES TO APPELLATE RULES EFFECTIVE JANUARY 1, 2007
Excluding Death Penalty Cases

General	Rule	Change
Documents violating rules	8.18	Deletes "briefs" from list of non-conforming documents that must not be filed. Rule 8.204(e) governs such briefs.
Address and telephone number of record	8.32(a),(c),(d)	Subd. (a): New provision -- Address and telephone number of record are those on first document filed in case, unless notice of a change is filed. Subd. (c): If notice of change is filed, the new address and number will be used for all pending and concluded cases unless the notice specifies otherwise. Subd. (d): Attorneys with more than one office may use only one address of record for a case.
Court of Appeal Procedures	Rule	Change
Attachments to briefs	8.204(d)	In addition to matters in record, attachments now may include relevant citable regulations, rules, etc., not readily accessible. Up to 10 pages unless presiding justice permits more. Page limit does not include opinions required by rule 8.1115(c), i.e., those available only in computer-based source.
Reply brief	8.216(b)	Party must confine reply portion of combined respondent's / reply brief to points raised in its appeal. This new provision fills a gap.
Transmittal of exhibits	8.224(a)(1)	Party needs to designate any exhibits to be transmitted to the reviewing court if they were not copied in the clerk's transcript or appendix.
Calendar preference	8.240	Calendar preference defined as "an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument." This new provision clarifies the term.
Criminal Appeals	Rule	Change
Appointed counsel	8.300(b)(2)	Appointments must be based on criteria approved by Judicial Council oversight committee. (Change in wording to conform to long-standing practice.)
Definition of "charged" felony	8.304(a)(2)	Felony is charged when indictment or information is filed or complaint certified to superior court. (This change recognizes that even if alleged in a complaint, a felony is not "charged" for purposes of determining appellate jurisdiction unless the complaint is certified to the superior court or an information or indictment is filed. People v. Nickerson (2005) 128 Cal.App.4th 33.)
Time for filing cross-appeal	8.308(b)	When a party files a notice of appeal, time for any other party to appeal is extended until 30 days after the superior court clerk mails notification of the first appeal. (Fills gap left by earlier rules revision.)
Proof of juvenile prior in clerk's transcript	8.320(b)(13)(C)	Clerk's transcript includes any document used to show prior juvenile adjudication. If closed to public inspection in trial court, it must remain so unless Court of Appeal orders otherwise. (Fills gap.)
Denied defense motions in reporter's transcript	8.320(c)(9)(A)	Reporter's transcript includes proceedings on any defense motion denied in whole or part, except disqualification of judge or Pen. Code, § 995. (Former rule included only denied Pen. Code, § 1538.5 motions.)
Marsden transcript	8.328(b)	Subd. (b)(4): If Marsden issue is raised, defendant must file with opening brief a notice as to whether transcript includes irrelevant confidential material, identifying any such material by page and line. Subd. (b)(5): If notice says there is no such material, clerk must send transcript to People; otherwise, People may request copy of any relevant part. Subd. (b)(6): If notice under (4) not filed, People may request the transcript. Defendant may oppose within 10 days, identifying any confidential irrelevant parts by page and line. (Former rule: Clerk to send transcript to People on written request unless defendant filed with brief a notice that the transcript contained irrelevant material.)
Transcript for People's counsel	8.336(c)(2)&(3), (f)(1)(B)&(C)	Clerk must prepare and send one copy of transcript to Attorney General or district attorney, whichever agency is counsel for the People on appeal, and one copy to the other agency on request. (Former rule did not recognize possibility district attorney might represent People on appeal.)
Augmented and corrected records	8.340(a)(1), (b), (c), (d)	Any augmentation or corrected record must be sent to counsel for each party, on request to the Attorney General or district attorney if not counsel on appeal, and to the district appellate project for any defendant not yet represented by appellate counsel. (Change makes distribution the same for original, augmented, and corrected records.)
Subsequent trial court orders	8.340(a)	The superior court clerk must file as an augmentation any trial court orders made after the record was certified and any related matters. (Former rule did not include related materials.)
Failure to file brief	8.360(c)(5)&(6)	Notice to be sent when brief not filed by due date must say: If AOB is not filed in 30 days and counsel is appointed, court will appoint substitute counsel. No change in consequences for other appellants or for respondents. (Conforms to long-standing practice for appointed appeals. Former rule said case would be dismissed.)

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(Continued)

Juvenile Appeals	Rule	Change
Clerk's transcript	8.404(a)(5)	Normal clerk's transcript includes jurisdictional and dispositional findings and orders.
Application in superior court for addition to normal record	8.404(c)	Subd. (c)(1): Tribe as well as party may apply for additional record. Subd. (c)(2): Must describe additional record and explain relevance. Subd. (c)(3): Application must be filed with notice of appeal or as soon as possible and is deemed denied if filed after record is certified. Subd. (c)(4): Clerk must take it to judge immediately. Subd. (c)(5): Judge must rule in 5 days. Denial does not preclude later augment. Subd. (c)(6): If judge fails to rule, additional material must be included. Subd. (c)(7): Clerk must notify reporter of any additional transcripts required.
Record in multiple appeals in same case	8.406	If several appeals from same judgment or order, only one record need be prepared. Due date set according to latest appeal.
Failure to file brief	8.412(d)	Notice to be sent when brief not filed by due date must say: If AOB is not filed in 30 days and counsel is appointed, court will appoint substitute counsel. No change in consequences for other appellants or for respondents. (Conforms to long-standing practice for appointed appeals. Former rule said case would be dismissed.)
Failure to file brief -- fast-track case	8.416(g)	If appeal is from termination or any dependency appeal in Div. 1 or 3 of 4th District: same as 8.412(d), but period is 15 rather than 30 days.
Juvenile Writs	Rule	Change
Time for filing notice of intent	8.450(e)(4)&(5)	Subd. (e)(4): After order setting case for permanency plan hearing, notice of intent must be filed within: (4)(A) if party present when order made -- 7 days; (4)(B) if party notified by mail -- 12 days; (4)(C) if address outside Cal. but in US -- 17 days; (4)(D) if address outside US -- 27 days; (4)(E) if order by referee not acting as temporary judge -- add 10 days to applicable period (see rule 5.540(c)). Subd. (e)(5): If party incarcerated, timely if delivered to prison official within time prescribed by (4). (Former rule had no gradations in deadline depending on location of petitioner.)
Augmentation or correction of record -- order for permanent plan	8.452(f)	Subd. (f)(2): Petitioner's request to augment must be filed in 5 days if record no more than 300 pp., 7 days if record 301-600 pp., or 10 days if record > 600 pp. Request by respondent must be filed within 5 days of the filing of the petition or issuance of an OSC is issued, whichever is later. Subd. (f)(4): Time to file petition extended by days granted for augment. (Former rule did not have the 300-600 pp. rule, no provision for augmenting after an OSC issued, and no extension of time for the petition.)
Augmentation or correction -- order for placement of child	8.456(f)(2)&(4)	Same provisions as preceding rule.
Supreme Court	Rule	Change
Petition for review -- form and content	8.504(d)(1)&(3), (e)	Subd. (d)(1)&(3): Word limits include footnotes, but not attachments under (e). Subd. (e)(1)(C)&(D) and (e)(2): Attachments may include relevant citable regulations, etc., not readily accessible and opinions required by rule 8.1115(c). Combined attachments, excluding required opinions, may not exceed 10 pages.
Briefs	8.520(c)(1)&(3), (d)(2), & (h)	Same provisions as preceding rule.