

# Ex Parte Requests

(Revised 01/12/24)

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## Forms

The following forms are referenced in this policy:

- Application for Ex Parte and Order (CWS/CMS Court Section)
- 04-24C Order Authorizing Examination and Treatment
- 04-24P Consent to Treat – Parent
- 04-24Psp Consent to Treat – Parent (Spanish)
- 04-86C Application for Medical/ Dental/Surgical Treatment (CWS/CMS Template)
- 04-168A Change of Placement Same Level of Care/PCC Entry (CWS/CMS Template)

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## Resources

The following resources are referenced in this policy:

- Children’s Legal Services Roster
- Dependency Legal Services Roster
- County Counsel Roster

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## Policy

An Ex Parte request is a means for obtaining a court order without a court hearing, or to inform the court of new information. An Ex Parte can be submitted via a form (i.e., 04-168A/04-86C) or the Application for Ex Parte and Order court report. When submitting an Ex Parte, the social worker (SW) will review prior minute orders for any court orders regarding submissions of Ex Partes.

Examples of Ex Parte requests include:

- out of county travel
- extended/recurring out of county travel
- submitting information to the court

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**Policy (cont.)**

The following requests cannot be made via Ex Parte:

- return a child/youth home if prior discretion has not been given by the court.
  - terminate jurisdiction when a child/youth turns 18.
  - terminate jurisdiction without prior discretion from the court unless the case is a finalized adoption or guardianship or a nonminor dependent (NMD) in extended foster care.
  - request paternity testing when the parent tested does not have appointed counsel.
  - move a child/youth to a higher level of care, i.e., from a relative home to resource family home.  
**NOTE:** If parental rights have been terminated, a 387 petition is not required and an Ex Parte is sufficient.
  - change level of visitation, e.g., unsupervised to supervised.
  - request psychotropic medication, see Psychotropic Medications.
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**Noticing**

All parties assigned to the case must be notified of an Ex Parte request at least two (2) business days prior to submitting the request to the Court Unit. Ex parte requests that are informational only (i.e., requesting an Order To Produce, submitting a Case Plan) do not require notice but must include a copy of the Minute Order that reflects the information can be submitted via Ex Parte.

The table below outlines noticing requirements:

| <b>Who</b>  | <b>Action</b>   |
|---|---|
| Parent  | Provide notice via in person, phone or mail.<br><br><b>NOTE:</b> Document if a parent is not located, deceased, or if parental rights have been terminated.   |
| Children’s Legal Services (CLS)/Dependency Legal Services (DLS) | <ul style="list-style-type: none"><li>• Provide notice via email only.</li><li>• Use the following email template:<ul style="list-style-type: none"><li>○ <u>Subject line:</u><ul style="list-style-type: none"><li>▪ list the petition number and the child/youth’s initials (do not list the child/youth’s name)</li></ul></li><li>○ <u>Carbon Copy (CC) line:</u><ul style="list-style-type: none"><li>▪ include the supervising attorney (see CLS roster and/or DLS roster in Resources)</li></ul></li><li>○ <u>Body:</u><ul style="list-style-type: none"><li>▪ summarize the Ex Parte request.</li></ul></li></ul></li></ul><br><b>NOTE:</b> Notice to CLS/DLS cannot be done via JELS. Document if a parent does not have appointed counsel. |

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**Noticing (cont.)**

| Who                       | Action  |
|---------------------------|---|
| Retained/Private Attorney | Provide notice via in person, phone, or encrypted email and mail a paper copy via U.S. mail to the retained/private attorney's business address.<br><br><b>NOTE:</b> A paper copy must be mailed to the retained/private attorney. Staff must manually encrypt any emails containing Personal Identifying Information (PII) or any HIPAA-protected information, not going to a Transport Layer Security (TLS) partner, see Email Policy for more information. If faxing, ensure attorney is willing to receive reports by fax, and SW has confirmed the confidential report will be kept confidential from anyone not entitled to the information provided. |
| CASA                      | Provide notice via in person, phone, or email.  |
| Tribal Representative     | Provide notice via in person, phone, or encrypted email.<br><br><b>NOTE:</b> If faxing, ensure tribal representative is willing to receive reports by fax, and SW has confirmed the confidential report will be kept confidential from anyone not entitled to the information provided.   |
| Other, if applicable      | Provide notice via in person, phone, or encrypted email.  |

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**Responses**

All noticing efforts and responses must be documented in the Ex Parte form or court report. After the two (2) business day timeframe, the SW will document responses as follows:

- Agree
- Disagree
- No response
- No position

If a party objects to an Ex Parte request, contact County Counsel (CC) to consult. The SW will document the reasons provided for the objection on the Ex Parte form/report.

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**Out-of-County Travel**

Travel Ex Parte requests must be submitted at least one week in advance of the travel date. For out-of-county travel requests, the SW will include the following information in the Ex Parte court report:

- Child/youth's current placement
  - Dates of travel
  - Method of travel; car, plane, train, etc.
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**Out-of-County Travel (cont.)**

- Name of accompanying adult the child/youth is traveling with
- Address and phone number of destination (if confidential, include in court and CLS copies only)
- If applicable, documentation that the school has been notified of the planned absence due to travel
- Caregiver’s contact information (for court and CLS copies only)

Refer to the “Travel Policy For Children” for more information on requirements for children/youth traveling out of county.

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**Extended Out-Of-County Travel Requests**

SWs can request an extended out-of-county travel court order if it is expected that a child/youth will make frequent trips out of county, such as when a child/youth travels often to visit family. Extended out-of-county travel requests are approved in three (3) month timeframes.

For extended out-of-county travel requests, the SW will include the following information in the Ex Parte:

- A 3-month timeframe date range, e.g., 02/01/23 through 04/30/23 for travel.
- Name of accompanying adult the child/youth is traveling with.
- Address and phone number of destination (indicate if confidential).
- Information on whether the planned travel will affect family visitation. If so, outline plans to address any interruptions to visits.
- The caregiver has agreed to and will notify the SW at least 72 hours prior to any travel.

The SW will notify attorneys when the child/youth is traveling and provide date of when court authorization was obtained.

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**Expedited Requests**

If the Ex Parte request is urgent, such as for medical treatment or unexpected travel, notice to parties is still required and must be documented. If requesting an Ex Parte be expedited, the SW will prepare the Ex Parte as usual, and add in the subject line, “Expedite Ex Parte” when emailing it to the Court Unit inbox.

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**60-Day Trial Visit Requests**

The court must be informed whenever a child/youth begins a 60-day trial visit, and the outcome of the trial visit. See Change of Placement-Court Requirements for additional information and requirements regarding Ex Parte filings for 60-day trial visits.

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## Submitting Ex Parte Requests

The table below outlines the procedure for submitting an Ex Parte request to court:

| Step | Who        | Action  |
|------|------------|---|
| 1    | SW         | <ul style="list-style-type: none"> <li>• Complete the applicable Ex Parte form/report with all the required documentation.</li> <li>• Ensure Notice and Responses are completed prior to submitting request.</li> <li>• Attach any required documents.</li> <li>• Sign Ex Parte form/report.</li> </ul>   |
| 2    | PSS        | <ul style="list-style-type: none"> <li>• Review and ensure all required information is included in Ex Parte.</li> <li>• Sign Ex Parte form/report.</li> <li>• Return to SW.</li> </ul>  |
| 3    | SW         | <p>Email signed copy and any attachments to the Court Unit Inbox.</p> <p><b>NOTE:</b> for expedited requests, add “Expedite Ex Parte” to the subject line of the email.</p>   |
| 4    | Court Unit | <ul style="list-style-type: none"> <li>• Review the Ex Parte form/report and contact the SW or PSS if revisions are needed.</li> <li>• Log the following information: <ul style="list-style-type: none"> <li>○ Date Ex Parte is received</li> <li>○ Name of the child/youth</li> <li>○ SW name</li> <li>○ Court Department Number</li> <li>○ Reason for Ex Parte request</li> </ul> </li> <li>• Make copies for court and the Court Unit</li> <li>• Court Officer delivers Ex Parte to court clerk for processing</li> <li>• Log date the Ex Parte request was sent to court</li> </ul> |
| 5    | Court      | <ul style="list-style-type: none"> <li>• Reviews Ex Parte and will either: <ul style="list-style-type: none"> <li>○ Approve and sign</li> <li>○ Approve with conditions</li> <li>○ Reject and return</li> <li>○ Return with request for additional information</li> <li>○ Set a Special Hearing</li> </ul> </li> <li>• Returns Ex Parte to Court Unit</li> </ul>  |

**Submitting Ex Parte Requests (cont.)**

| Step | Who        | Action  |
|------|------------|---|
| 6    | Court Unit | <ul style="list-style-type: none"> <li>• If the Ex Parte was signed by court:               <ul style="list-style-type: none"> <li>○ Upload court signed copy and distribute in JELS</li> <li>○ E-mail signed copy of Ex Parte to SW and send hard copy via county mail.</li> <li>○ Log date Ex Parte returned to SW.</li> </ul> </li> <li>• If the Ex Parte was not signed by court:               <ul style="list-style-type: none"> <li>○ Notify SW by email if the court requested additional information or that the request was rejected.</li> </ul> </li> </ul> <p><b>NOTE:</b> Court Unit will contact the court clerk on the status of an Ex Parte if there is a delay.</p>                                      |
| 7    | SW         | <ul style="list-style-type: none"> <li>• Receive Ex Parte from Court Unit</li> <li>• If Ex Parte is signed by court:               <ul style="list-style-type: none"> <li>○ Follow Records Management policy for case filing procedures.</li> <li>○ If applicable, mail paper copy of approved Ex Parte to any private/retained attorneys and tribal representatives.</li> </ul> </li> <li>• If an Ex Parte is rejected or requires additional information:               <ul style="list-style-type: none"> <li>○ re-submit revised Ex Parte to Court Unit (step 3).</li> <li>○ Once approved, mail paper copies of amended Ex Parte to any private/retained attorney and tribal representatives.</li> </ul> </li> </ul> |

**Alignment with SET**

This policy aligns with SET [Value 5](#), maintaining a strong working relationship with our legal partners.