

## **PART VI. APPEALS**

### **Rule 601. Right to Appeal**

- (a) Who May Appeal.** Any aggrieved party may appeal to the Court of Appeals from a final order of the juvenile court. A party is aggrieved under this rule if the final order from which the appeal or cross-appeal is taken denies the party a personal or property right or imposes a substantial burden on the party. A final order includes a final judgment or a final decree.
- (b) Final Orders.** A final order must be in writing, signed by a judge, and filed with the clerk.
- (1)** In delinquency and incorrigibility proceedings:
- (A)** A disposition order for a juvenile who is adjudicated incorrigible or delinquent is a final order.
  - (B)** A restitution order entered after the date of the disposition order is a separately appealable final order, but if a separate appeal is filed and if practicable, it should be consolidated with an appeal of the disposition order.
  - (C)** When the court finds that the juvenile violated probation, its disposition order is a final order.
  - (D)** An order transferring a juvenile for prosecution as an adult is a final order.
  - (E)** Any other order is appealable if it is final pursuant to Arizona case law.
- (2)** In all other juvenile proceedings, final orders include:
- (A)** an order granting a dependency petition and declaring a child dependent, or an order denying or dismissing a dependency petition;
  - (B)** a disposition order entered under Rule 339 after a juvenile has been adjudicated dependent;
  - (C)** an order granting or denying a motion to intervene;
  - (D)** an order entered under Rule 340 relieving DCS of its obligation to provide reunification services;
  - (E)** an order entered in a dependency removing a child who has been adjudicated dependent from a parent's physical custody;
  - (F)** an order terminating visitation;

- (G) an order granting or denying a petition or motion for termination of parental rights;
- (H) an order denying an application for adoption certification under A.R.S. § 8-105 and Rule 408, after a hearing under Rule 408(d);
- (I) an order granting or denying an adoption petition;
- (J) an order granting or denying a Title 8 guardianship motion;
- (K) an order granting or denying a petition for emancipation;
- (L) an order altering or amending a final order under Rule 317 and an order denying a motion to alter or amend a final order under Rule 317;
- (M) an order granting or denying a motion to set aside a final order under Rule 318(c), Rule 407(f), or Rule 417; and
- (N) any other order that is final pursuant to Arizona case law.

#### **COMMENT TO 2022 AMENDMENT**

The Court recognizes that subpart (b)(2)(E) may be considered inconsistent with certain case law. *See, e.g., Jessicah C. v. Dep't of Child Safety*, 248 Ariz. 203, 206 ¶ 14 (App. 2020). However, the Court has rejected a “narrow, technical conception of what constitutes a final order,” specifying that an order is final when it “disposes of an issue such that it conclusively defines the rights and/or duties of a party in a dependency proceeding in the juvenile court of this state.” *In re Yavapai County Juv. Action No. J-8545*, 140 Ariz. 10, 14, 15 (1984).

Consistent with this approach, our courts have treated “change of placement orders affecting the rights of parents” as final orders. *Jewel C. v. Dep't of Child Safety*, 244 Ariz. 347, 350 ¶ 8 (App. 2018); *see also, In re Maricopa County Juv. Action No. JD-500116*, 160 Ariz. 538, 542-43 (App. 1989) (order changing physical placement of child from foster care in Arizona to another state is a final order). This includes case law establishing that analogous orders, such as orders terminating a parent’s visitation, are final and appealable. *In re Maricopa County Juv. Action No. JD-5312*, 178 Ariz. 372, 374 (App. 1994) (finding “juvenile court’s order terminating visitation is a final order because it conclusively defines appellant’s rights regarding visitation of her children”).

Thus, the Court has determined an order encompassed by this subpart should be deemed final and appealable. Nothing in this rule prevents a party from requesting that the appellate court accelerate the processing of the appeal or from seeking appellate review and relief by filing a special action pursuant to Rule 1(a), Arizona Rules of Procedure for

Special Actions, if the party believes the remedy by appeal in a particular case is not equally plain, speedy, and adequate.

## **Rule 602. General Provisions**

- (a) **Priority of Juvenile Appeals.** The appellate court must give a juvenile appeal precedence over all the other actions except extraordinary writs or special actions.
- (b) **Caption on the Notice of Appeal.** The caption of the notice of appeal must state the type of proceeding and the initials of the juvenile's name. Examples: "In re Delinquency of A.B.," "In re Dependency as to C.D and E.F.," or "In re Termination of Parental Rights as to G.H."
- (c) **Suspension of Order.**
- (1) **Generally.** The filing of a notice of appeal does not suspend an order of the juvenile court, and execution of the order is not stayed while the appeal is pending, unless the appellate court suspends the order or stays the execution.
  - (2) **Request for Stay.** A party may file a motion in the appellate court requesting a stay of the order after a notice of appeal has been filed. The filing party must state in that motion whether other parties stipulate or object to staying the order while the appeal is pending.
  - (3) **Factors.** In deciding whether to stay a juvenile court order, the appellate court may consider the best interests of the child, the likelihood that the order will be reversed, and any other relevant legal or equitable matters. If the juvenile court order requires restitution, its clerk will hold monies paid for restitution until the appellate court issues its mandate.
- (d) **Suspension of Rules.** On its own or on a party's motion, the appellate court for good cause may suspend, supplement, or vary the requirements of any provision of Rules 601 through 610, and may substitute another appropriate order of proceeding. However, the time specified in Rule 603(a) for the filing of a notice of appeal or notice of cross-appeal may not be shortened or extended, except as provided in that rule.
- (e) **Appointment of Counsel.**
- (1) **Requirement.** When required by law, the juvenile court or the appellate court must appoint an attorney for a party to an appeal from a final juvenile court order.
  - (2) **Party with Appointed Counsel in the Juvenile Court.** The juvenile court or the appellate court may order the attorney who had been appointed in the juvenile court proceedings to continue representing that party on appeal, unless the juvenile court or appellate court finds that the party is currently able to employ

counsel. Either court may also appoint a different attorney for a party to an appeal.

- (3) ***Party without Appointed Counsel in the Juvenile Court.*** A party who did not have appointed counsel in the juvenile court may request appointed counsel on appeal by filing a request in the juvenile court no later than 10 days after the notice of appeal is filed. If the juvenile court denies the party's request for appointed counsel, the party may request the appellate court to appoint counsel.

(f) **Bond.** A bond is not required on appeal from a juvenile court order.

(g) **Continuing Juvenile Court Jurisdiction.** While an appeal is pending, the juvenile court may proceed on a remaining or new issue to the extent:

- (1) the appellate court has specifically authorized or directed the juvenile court to rule on the issue;
- (2) the juvenile court's ruling on the issue would be in furtherance of the appeal;
- (3) a statute or court rule confers continuing jurisdiction on the juvenile court; or
- (4) the juvenile court's ruling on the issue would not legally or practically prevent the appellate court from granting the relief requested on appeal.

This rule does not authorize the juvenile court to extend the time for filing briefs, motions, transcripts, or other documents or items with the appellate court.

(h) **Service of Filings Under These Rules.** A party who files documents with the superior court clerk or an appellate clerk pursuant to Rules 601 through 610 must serve copies of the documents on the other parties as provided by Rule 106.

(i) **Arizona Rules of Civil Appellate Procedure (ARCAP).** In addition to any ARCAP rule specifically incorporated by these rules, the following apply:

- (1) Rule 2 (Definitions);
- (2) Rule 3(b) (Suspension of an Appeal);
- (3) Rule 4 (Filing Documents with an Appellate Court; Format; Service), except that the caption for all filings in the appellate court must be as provided in Rule 602(b), not as provided in ARCAP 4(a) and the related ARCAP forms;
- (4) Rule 4.1 (Paper Filing);
- (5) Rule 4.2 (Electronic Filing);

- (6) Rule 5 (Computing and Modifying Deadlines), except as provided in Rule 603(a)(5), which permits the juvenile court to excuse the untimely filing of a notice of appeal or cross-appeal;
- (7) Rule 6 (Motions);
- (8) Rule 8(g) (Joint or Consolidated Appeals or Cross-Appeals);
- (9) Rule 9(c) (Filing of Notice of Appeal Before Entry of Judgment);
- (10) Rule 11, (d), (e), and (h) (Narrative Statement, Agreed-Upon Statement, Multiple Appeals from the Same Judgment);
- (11) Rule 17 (Supplemental Citation of Legal Authority);
- (12) Rule 18 (Oral Argument in the Court of Appeals);
- (13) Rule 20 (Notice of Decisions and Orders);
- (14) Rule 24 (Appellate Court Mandates), except that the appellate court may issue its mandate immediately if the appeal is dismissed upon the filing of a notice by counsel under Rule 607(e) or Rule 610, and the party has not filed a brief on the party's own behalf;
- (15) Rule 25 (Sanctions) except that incorporation of ARCAP 25 must not be construed to permit the imposition of sanctions against an appellant, a cross-appellant, or the attorney for either who files a frivolous appeal from a final order in a delinquency or transfer matter;
- (16) Rule 27 (Substitution of Parties); and
- (17) Rule 28(a) through (f) (Decisions; Publication of Opinions).

## **Rule 603. Notice of Appeal**

### **(a) Time for Filing a Notice of Appeal and Notice of Cross-Appeal.**

#### **(1) *Notice of Appeal.***

- (A)** Except as otherwise provided by this rule, a party must file a notice of appeal in the juvenile court no later than 15 days after entry of the final order from which the appeal is taken.
- (B)** An order is entered on the date the clerk files it, as shown by the clerk's date stamp on the filed order.

#### **(2) *Notice of Cross-Appeal.*** Except as otherwise provided by this rule, a party must file a notice of cross-appeal in the juvenile court no later than 10 days after the appellant filed a notice of appeal or 15 days after entry of the final order from which the appeal is taken, whichever is later.

#### **(3) *Effect of Certain Motions on the Time for Filing a Notice of Appeal.*** If, a party, no later than 12 days after entry of a final order, files a motion under Rule 317 to alter or amend the final order, or a motion under Rule 318(c), Rule 407(f), or Rule 417 to set aside the final order, the time to file a notice of appeal or cross-appeal under section (a) may only be extended as follows:

- (A) *No Previous Notice of Appeal.*** If a party has not previously filed a notice of appeal, the time for filing a notice of appeal begins to run on the date of entry of:
  - (i)** the altered or amended order, regardless of whether that order was entered on a party's motion or the court's initiative;
  - (ii)** an order denying a party's motion to alter or amend; or
  - (iii)** an order granting or denying a party's motion to set aside.
- (B) *Previous Notice of Appeal.*** If a party has filed a notice of appeal before filing one of these motions within the 12-day period, or files a notice of appeal while the motion is pending, then after the appellate court assigns a case number under Rule 606(a), the appellant must promptly file a notice of the pending motion with the appellate court. Upon receipt of that notice, the appellate court will suspend the appeal. The appellant must promptly notify the appellate court when the juvenile court has decided the motion. The appellate court will then reinstate the appeal as of the entry of the order disposing of the last motion. A party intending to appeal the juvenile court's ruling on such a motion must file a new or amended notice of appeal or cross-

appeal within the time prescribed in subpart (a)(1) or (a)(2) as measured from the entry of the order disposing of the motion.

(C) *Altering or Amending a Judgment on the Court's Initiative.* If a party has filed a notice of appeal before the court enters an altered or amended final order on its own under Rule 317, the party is not required to file an amended notice of appeal after the court enters the altered or amended order.

(4) *Other Motions Filed After Entry of a Final Order.* Other than as provided in subpart (a)(3), the filing of any motion that concerns the order from which the appeal is taken does not extend the time for filing a notice of appeal or cross-appeal. Once a proper notice of appeal is filed, the juvenile court is divested of jurisdiction to address such motions, unless the appellate court suspends the appeal and re-vests jurisdiction in the juvenile court to rule on the motion. If the appellate court re-vests jurisdiction to address the motion, an aggrieved party who challenges the juvenile court's ruling on the motion must file a new or amended notice of appeal as provided in subpart (a)(1) or (a)(2).

(5) *Delayed Appeal or Cross-Appeal.* If a party fails to file a timely notice of appeal or cross-appeal and the juvenile court finds good cause for the failure, the juvenile court must allow the appeal or cross-appeal to proceed.

(A) To obtain relief under this rule, a party must file a motion in the juvenile court that shows good cause for the failure. Good cause may include but is not limited to clerical errors of counsel that are not attributable to the client.

(B) If the juvenile court enters an order granting the motion, the party must file the delayed notice of appeal or cross-appeal no later than 7 days after entry of the order permitting it.

(C) If a party files an untimely notice of appeal or cross-appeal before the juvenile court enters an order permitting a delayed appeal or cross-appeal, and the appeal remains pending when the court enters its order granting relief under this rule, the appellate court must treat the untimely notice as if it had been timely filed.

(b) **Content of the Notice of Appeal or Cross-Appeal.** The notice of appeal or notice of cross-appeal must be substantially the same as Form 5(a) or (b) and must include the following:

(1) the party filing the notice;

(2) the final order or portion of the order the party is appealing; and

(3) whether the party was represented by appointed or private counsel when the final order was entered, unless the party filing the notice is a government agency.

**(c) Attorney's Avowal.** If the notice of appeal or cross-appeal is filed by an attorney, it must be substantially the same as Form 5, and must include the following statement: "By signing and filing this notice of appeal, undersigned counsel avows that counsel communicated with the client after entry of the order being appealed, discussed the merits of the appeal, and obtained authorization from the client to file this notice of appeal or cross-appeal."

(1) If the attorney for a party files a notice of appeal or cross-appeal that does not contain the required statement, the superior court clerk must refer the notice of appeal or cross-appeal to the juvenile court judge assigned to the case. After reviewing the notice of appeal or cross-appeal, the assigned judge must issue an order informing the attorney and the appellant or cross-appellant that the notice does not comply with this rule and permit counsel to file an amended notice of appeal or cross-appeal no later than 5 days after the order is entered. If a proper notice of appeal or cross-appeal is not filed within that period, the court must strike the notice of appeal or cross-appeal and direct the clerk not to process it under Rules 603, 604, and 606.

(2) If the appellate court receives a notice of appeal or cross-appeal that does not comply with this rule and the juvenile court has taken no action on it, the appellate court must give counsel for the appellant or cross-appellant a reasonable opportunity to file an amended notice and if a compliant notice of appeal or cross-appeal is not filed, the court must dismiss the appeal or cross-appeal.

**(d) Distribution of the Notice.** Unless otherwise provided, no later than two court days after the filing of a notice of appeal or cross-appeal, the superior court clerk must distribute copies of the notice to:

(1) all parties;

(2) each certified court reporter who reported any juvenile court proceeding that is part of the presumptive record as described in Rule 604(a) or the court's designated transcript coordinator, if the record was made by electronic or other means; and

(3) the appellate court clerk. The superior court clerk must include with the copy of the notice served on the appellate court clerk a copy of the order from which the appeal is taken and the names of the persons to whom the clerk distributed a copy of the notice of appeal or cross-appeal.

## **Rule 604. The Record on Appeal**

**(a) Presumptive Record on Appeal.** The presumptive record on appeal consists of documents filed and exhibits admitted in the juvenile court, and transcripts of reported or recorded proceedings as follows:

**(1) Documents and Exhibits.** The presumptive record on appeal:

- (A)** includes all documents filed with the clerk before the record is transmitted, and in a delinquency case, the disposition file under Rule 215(a)(1)(D). No other filings may be transmitted without an order from the appellate court;
- (B)** includes all exhibits admitted into evidence; and
- (C)** must not include any document or exhibit deleted pursuant to Rule 606(c)(2)(B) or any item of a size, bulk, or condition that makes transmission impractical, in which case the provisions of ARCAP 11.1(c)(2) apply.

**(2) Transcripts.** The presumptive record in each of the following types of appeals includes the transcripts respectively specified below:

- (A) From a delinquency or incorrigibility adjudication:** transcripts of the adjudication and disposition hearings and any separate restitution hearing.
- (B) From a probation violation proceeding:** transcripts of the contested violation hearing or the admission hearing and the disposition hearing.
- (C) From an order transferring a juvenile for prosecution as an adult:** transcripts of the probable cause and public safety phases of the transfer hearing.
- (D) From an order adjudicating a child dependent or dismissing a dependency petition:** transcripts of the hearing or hearings that generated the order. If the notice of appeal or cross-appeal states the appeal is also taken from the disposition order, the transcript also includes the disposition hearing.
- (E) From an order granting or denying a motion to intervene:** transcripts of the hearing on the motion.
- (F) From an order relieving DCS of its obligation to provide reunification services, removing a child who has been adjudicated dependent from a parent's physical custody, or terminating visitation:** transcripts of the hearing or hearings that resulted in that order.
- (G) From an order establishing or denying a Title 8 guardianship or an order granting or denying a motion or petition to terminate parental rights:**

transcripts of the contested guardianship, termination, or other hearing that generated the order being appealed.

**(H)** *From an order denying an adoption certification under A.R.S. § 8-105 and Rule 408:* the transcript of the hearing under Rule 408(d).

**(I)** *From an order granting or denying an adoption petition:* transcripts of any hearing on the validity of a parent's consent to adoption and the adoption hearing.

**(J)** *From an order granting or denying a petition for emancipation:* transcripts of any hearings on the petition.

**(K)** *From any other final order:* transcripts of any hearing that resulted in that order.

Notwithstanding the preceding provisions, the certified transcript must not include any proceeding or portion thereof excluded pursuant to section (b).

**(b) Appellant's Supplemental Designation.**

**(1)** No later than 5 days after filing a notice of appeal, the appellant may file "appellant's supplemental designation of record" that requests the superior court clerk to include in the record transmitted to the court of appeals the following, which the party reasonably believes may be necessary for proper consideration of issues likely to be raised on appeal:

**(A)** any exhibit that has been marked and offered but not admitted into evidence, and

**(B)** all or part of the transcript of any designated proceeding that is not part of the presumptive record under section (a), but that directly or indirectly resulted in the order from which the appeal is taken.

**(2)** The appellant's supplemental designation of record also may request the superior court clerk to exclude exhibits or transcripts from the presumptive record that the appellant reasonably believes are not necessary for proper consideration of issues likely to be raised on appeal.

**(3)** The appellant must serve the supplemental designation of record on all parties, on each court reporter who reported a designated proceeding, and as applicable, on the court's transcript coordinator. The certified transcript on appeal must not include any proceeding or portion of any proceeding excluded from the presumptive record under this subpart.

- (c) **Appellee’s Supplemental Designation.** No later than 12 days after the filing of the notice of appeal, any appellee may file with the superior court clerk “appellee’s supplemental designation of record” for any items not included in section (a) or excluded by appellant under section (b)(2) that the appellee reasonably believes may be necessary for proper consideration of issues likely to be raised on appeal. The appellee must serve the supplemental designation as provided in section (b).
- (d) **Supplementing the Record by Motion.** After the time for filing a supplemental designation under section (b) or (c) has passed, a party may request to supplement the record only by motion filed in the appellate court.
- (1) ***No Later Than 7 days After Completion of the Record.*** No later than 7 days after the appellate clerk sends a notice under Rule 606(f) that the record on appeal is complete, a party may file a motion that requests adding to the record on appeal items the party reasonably believes are necessary for proper consideration of issues the party intends to raise on appeal. The motion must:
- (A) show good cause for supplementing the record, and
  - (B) state whether other parties consent or object to the proposed supplementation of the record or explain why the moving party was unable to contact the other parties before filing the motion.
- (2) ***More Than 7 days After Completion of the Record.*** If a party files a motion under this section more than 7 days after the appellate clerk has issued a notice of completion of the record under Rule 606(f), the party must show that the requested records are necessary for the proper consideration of issues the party intends to raise on appeal. The appellate court may not grant a party’s motion to supplement the record under this subpart unless the court finds extraordinary circumstances exist to excuse the party’s failure to file the motion within the time specified in subpart (d)(1), and the party has established the supplemental materials are necessary for the proper consideration of the issues the party intends to raise on appeal.
- (e) **Disputes, Omissions, and Misstatements.** The parties must submit to the juvenile court any dispute about whether the record accurately includes what occurred in the juvenile court to that court, and that court will resolve the dispute. If anything material is omitted from or misstated in the record, the parties may add to or correct the record by a court-approved stipulation. Alternatively, the juvenile court, before the record is transmitted to the appellate court, or the appellate court, on motion by a party or on its own, may direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be certified and transmitted. All other questions

concerning the form and content of the record must be presented to the appellate court.

## **Rule 605. Notice of Non-Participation**

- (a) Generally.** Any party to the case or a party's fiduciary, which includes a personal representative, Title 14 guardian, conservator, or trustee, who has appeared in the proceeding on behalf of a party, may file a notice of non-participation stating that the party or fiduciary does not intend to actively participate in the appeal. Such a notice may provide that the party or party's fiduciary adopts and agrees to be bound by the appellate positions, filings, representations, actions, and omissions of another party or parties who are identified in the notice.
- (b) Time for Filing.** A notice of non-participation may be filed in the juvenile court no later than 10 calendar days after the superior court clerk has distributed copies of the notice of appeal or cross-appeal under Rule 603(c). Otherwise, a notice of non-participation must be filed in the appellate court. A party or fiduciary filing a notice of non-participation must serve a copy of the notice on all persons on whom service was made under Rule 603(c).
- (c) Effect of Filing.** By filing a notice of non-participation, a party or fiduciary does not waive the right to continue to receive orders, notices, or other documents issued by the juvenile court or the appellate court, or service of motions, briefs, notices, or other documents filed by any other party in connection with the appeal. Filing a notice of non-participation does not relieve the party or fiduciary who files it of the obligation to serve upon the remaining parties other documents filed by the party or fiduciary in the juvenile court or the appellate court in connection with the appeal. A notice of non-participation must not be used or relied on as a substitute for a notice of appeal, notice of cross-appeal, petition for review, or cross-petition for review.

**Rule 606. Assigning an Appellate Case Number; Filing, Serving, and Transmitting the Record on Appeal**

**(a) Assigning an Appellate Case Number and Caption.**

- (1) **Generally.** The appellate clerk must assign an appellate case number upon receipt of the notice of appeal from the superior court clerk. The appellate court clerk must establish the official caption of appeal pursuant to the criteria in Rule 602(b).
- (2) **Motion to Stay.** If a party files a timely notice of appeal but the court of appeals has not received the notice before the party files a motion seeking to stay the juvenile court's order pending resolution of the appeal, the appellate court clerk may assign the appeal an appellate case number when the party files that motion. The moving party must attach to the motion a copy of the timely filed notice of appeal.

**(b) Notification of Assignment of the Appellate Case Number.** The appellate court clerk must provide notice of the assigned appellate case number and the official caption to:

- (1) all parties;
- (2) the superior court clerk; and
- (3) the court reporter or authorized transcriber for all presumptive transcripts as provided in Rule 604(a) and for any proceeding or part thereof designated pursuant to Rule 604(b) or (c).

**(c) Filing and Transmitting Documents.** No later than 20 days after the notice of appeal is filed, the superior court clerk must do the following:

- (1) prepare a certified copy of the following by individually numbering each document in filing-date order, beginning with the first-filed document:
  - (A) the documents that are part of the presumptive record, identified in Rule 604(a)(1), except documents excluded from the presumptive record under Rule 604(b)(2);
  - (B) any documents added to the presumptive record under Rule 604(b) or (c);
- (2) identify and assemble all exhibits identified in Rule 604(a)(1)(B) and admitted into evidence except:
  - (A) any exhibit an appellant has excluded under Rule 604(b), unless another party has re-designated the exhibit under Rule 604(c);

- (B) any item of a size, bulk, or condition that makes transmission impractical, in which case the provisions of ARCAP 11.1(c)(2) apply;
- (3) prepare an index of the record on appeal separately listing:
  - (A) the documents prepared pursuant to subpart (c)(1), in numerical order, indicating for each the title or a brief description of the document and its filing date;
  - (B) the exhibits identified and assembled pursuant to subpart (c)(2), by number, with a brief description of each and the date it was admitted into evidence;
  - (C) any exhibits offered and not admitted but designated under Rule 604(b) or (c), specifying any identification number and including a brief description of each and the date it was offered but not admitted into evidence;
- (4) transmit electronically, if feasible, the documents, exhibits, and index to the appellate court clerk; and
- (5) serve copies of the index on all parties to the appeal.

**(d) Filing and Serving Certified Transcripts; Sanctions.**

- (1) **General Requirements.** Unless otherwise ordered by the appellate court, the court reporter or authorized transcriber must file the completed certified transcript with the appellate court clerk and must serve one copy on each appellant and each appellee who has not filed a Notice of Non-Participation under Rule 605. The court reporter or authorized transcriber must file a notice of service with the transcript, stating when, upon whom, and by what means service was made. The transcript must show the assigned appellate court case number.
- (2) **Time for Filing.** The court reporter or authorized transcriber must file the transcript no later than 30 days after whichever of the following events occurs first:
  - (A) the filing of a notice of appeal by a government agency;
  - (B) the filing of a notice of appeal that states that the appealing party was represented by appointed counsel in the juvenile court when the final order was entered;
  - (C) service of notice on the court reporter or authorized transcriber that the juvenile court or the appellate court has appointed counsel to represent the appellant on the appeal; or

- (D) the appellant or cross-appellant has made satisfactory arrangements with the court reporter or authorized transcriber to pay for the certified transcript.
- (3) **Sanctions.** If the certified transcript is not timely filed with the appellate court clerk, a noncomplying court reporter or authorized transcriber may be subject to orders or sanctions by the appellate court.
- (e) **Supplementing the Record by Appellate Court.** On a party's motion filed under Rule 604(d) or on its own initiative, the appellate court may direct the transmission of any document, exhibit, or other item necessary for proper consideration of the appeal that was not transmitted under sections (c) and (d) of this rule.
- (f) **Notice of Completion of the Record.** Upon receipt of all documents, exhibits, and transcripts that are included in the presumptive record, or added to the record by supplemental designation, or by the appellate court's order under section (e), the appellate court clerk must send a notice to all parties of the date on which the record on appeal is complete.

## **Rule 607. Briefing in the Court of Appeals; Transfer to the Supreme Court**

**(a) Generally.** ARCAP 15 (“Due Dates; Filing and Service of Briefs”) applies in appeals from the juvenile court, except that:

- (1) the opening brief must be filed with the Court of Appeals no later than 20 days after the appellate clerk sends the notice of completion of the record required by Rule 606(f), unless the appellate court orders otherwise;
- (2) any answering brief must be filed with the Court of Appeals no later than 20 days after service of the opening brief; and
- (3) a reply brief or a notice stating that no reply brief will be filed, must be filed no later than 10 days after service of appellee’s answering brief.

**(b) Length and Content of Briefs.** ARCAP 13 (“Content of Briefs”), 13.1 (“Appendix”), and 14 (“Length and Form of Briefs”) apply in appeals from the juvenile court, except:

- (1) ***Word Limit for an Electronically Filed Brief.*** An electronically filed opening, answering, or amicus curiae brief must not exceed 7,000 words, and a party’s reply brief must not exceed 3,500 words.
- (2) ***Page Limit for Paper Filed Brief.*** If a brief is submitted for filing at the appellate clerk’s filing counter, an opening, answering, or amicus curiae brief must not exceed 22 pages, and a reply brief must not exceed 12 pages.
- (3) ***Exclusions from Word or Page Limits.*** The word and page limits specified in this rule do not include the table of contents, table of citations, certificate of service, certificate of compliance, and any appendix.
- (4) ***Victim Identification.*** Appellate briefs must use a victim identifier in place of the victim’s name in any case in which a delinquent act is alleged. “Victim identifier” means a victim’s initials, a pseudonym, or other substitute for the victim’s true full name.
- (5) ***Binding a Paper Brief.*** A party permitted to file a brief in paper under ARCAP 4.1(c) must securely bind the brief (for example, the pages of the brief may be clipped or banded), but the binding must not use adhesives, staples, or two-pronged fasteners that perforate the pages of the brief.

**(c) Extensions of Time.**

- (1) A party seeking an extension of time for filing a brief must file a motion stating the reasons the extension is needed, and whether any party objects, or that the

moving party's attempts to communicate with the other parties have been unsuccessful.

- (2) The Court of Appeals for good cause may grant a party an initial extension of 20 days for the filing an opening or answering brief and 10 days for the filing of a reply brief.
- (3) The Court of Appeals may grant further extensions only for extraordinary circumstances.

**(d) Amicus Curiae Brief.** ARCAP 16 (“amicus curiae”) applies to appeals from final orders of the juvenile court. Amicus curiae may not file a reply brief.

**(e) Notice and Avowal in Lieu of Opening Brief; Pro-se Brief.**

- (1) When or before the opening brief is due in an adoption, dependency, Title 8 guardianship, or severance appeal, a court-appointed attorney may file a Notice and Avowal in Lieu of Opening Brief, avowing either or both of the matters in subparts (e)(1)(A) and (e)(1)(B).
  - (A) The appellant has failed to maintain contact with counsel, and despite diligent efforts, counsel has been unable to locate appellant. Counsel must state the last date on which the appellant and counsel had contact, and the efforts counsel has made to locate the appellant. Counsel must avow that for this or any other reason, which counsel must specify, counsel believes the appellant has abandoned the appeal.
  - (B) Counsel has reviewed the entire record on appeal and finds no non-frivolous issue to raise. Counsel must include avowals that counsel has informed the appellant that counsel intends to file a notice under this rule, and that the appellant may file a pro se brief.
- (2) If the appellant's attorney files a notice under subpart (e)(1)(B), the attorney must provide the appellate court with appellant's contact information and inform the court in its notice whether appellant intends to file a pro se brief.
- (3) The Court of Appeals must order appellant to file the pro se brief no later than 15 days after the date of the order. No extensions may be granted absent extraordinary circumstances. Any appellee may file an answering brief and appellant may file a pro se reply brief as respectively provided in subparts (a)(2) and (a)(3).
- (4) If the appellant's attorney files a Notice and Avowal in Lieu of Opening Brief and avows that the appellant does not intend to file a pro se brief, or if the

appellant fails to timely file a pro se brief, the Court of Appeals may dismiss the appeal. If the court dismisses the appeal under this subsection, it may accelerate the case and immediately issue its mandate.

- (f) **“At Issue.”** An appeal will be deemed “at issue” upon the filing of the reply brief, the filing of a notice that no reply brief will be filed, or the expiration of the time for filing the reply brief, whichever occurs first.
- (g) **Petition for Transfer.** ARCAP 19 applies in appeals from final orders of the juvenile court, except that a party’s petition for transfer of the appeal to the Supreme Court must be filed before the case is at issue under section (f).

**Rule 608. Dismissal and Other Action by the Court of Appeals; No Motion for Reconsideration; Motion for Publication**

**(a) Dismissal.** Before or after briefing is completed, the appellate court may dismiss an appeal:

- (1) if it is withdrawn by the appellant, or
- (2) on its own initiative or an appellee's motion, for any legal cause, including lack of jurisdiction or lack of prosecution, unless the appellant shows good cause why the appeal should not be dismissed.

**(b) Action by the Appellate Court.** The appellate court may:

- (1) affirm the order of the juvenile court;
- (2) vacate or reverse the order and remand for appropriate action by the juvenile court;
- (3) take the matter under advisement and order the filing of additional matters in the appellate court;
- (4) take other actions the court deems just and proper under the circumstances, including suspending the appeal and re-vesting jurisdiction in the juvenile court for further proceedings in that court.

**(c) No Motion for Reconsideration.** A party may not file a motion for reconsideration of a final order, decision, or opinion of the Court of Appeals.

**(d) Motion for Publication or De-publication.** A party may file a motion for publication or de-publication no later than 15 days after the filing of the decision and before a petition for review to the Supreme Court is filed.

## **Rule 609. Petition for Review**

(a) **Purpose.** A petition for review or cross-petition for review asks the Supreme Court to review a decision of the Court of Appeals.

(b) **Notice of Intent to File Petition for Review.** No later than 15 days after the Court of Appeals files its decision or final order disposing of the appeal, a party who intends to file a petition for review must file with the Court of Appeals a notice of that intent.

### **(c) Petition or Cross-Petition for Review.**

(1) **Place for Filing.** A party must file a petition or cross-petition for review, a response to a petition or cross-petition for review, or a motion to extend the time for filing any of these documents, with the Supreme Court clerk.

#### **(2) Timing.**

(A) **Petition for Review.** A party must file a petition for review no later than 30 days after Court of Appeals files its decision or any final order disposing of the appeal.

(B) **Cross-Petition for Review.** A party must file a cross-petition for review no later than 15 days after service of a petition for review or no later than 30 days after the Court of Appeals files its decision or final order, whichever is later.

### **(d) Form and Length of the Petition or Cross-Petition.**

(1) **Application of ARCAP 4.** The petition and cross-petition must comply with the provisions of ARCAP 4(a) through (c), (f), and (g), unless the Supreme Court suspends a requirement of that rule.

(2) **Caption.** The parties must use the caption required by Rule 602(b).

(3) **Word Limit for Electronic Filing.** An electronically filed petition for review, response, or cross-petition must not exceed 3,500 words. However, a cross-petition combined with a response to a petition must not exceed 6,500 words.

(4) **Word Limit for Paper Filing; Number of Copies.** A petition, response, or cross-petition filed on paper must not exceed 12 pages. A party who files on paper must file an original and one copy of the document, including any appendix.

(5) **Exclusion from Word or Page Limit.** The word and page limits specified in this rule do not include the table of contents, table of citations, certificate of service, certificate of compliance, and any appendix.

- (6) **References to Case Law.** References to case law must comply with ARCAP 13(f).
- (7) **Certificate of Compliance.** The petition or cross-petition for review must be accompanied by a certificate of compliance, as provided by ARCAP 23(g)(3).
- (e) **Contents of the Petition or Cross-Petition for Review.** The party who files a petition for review must include with the filing a copy of the Court of Appeals decision or final order, and the following information:
- (1) **Statement of the Issues.** A petition or cross-petition must include, without argument, a list of the issues decided by the Court of Appeals that the petitioner or cross-petitioner wishes to present to the Supreme Court for review. The petition or cross-petition for review must also list separately and without argument any additional issues that were presented to but not decided by the Court of Appeals, which the Supreme Court may need to decide if review is granted.
- (2) **Material Facts.** A petition or cross-petition must include the facts material to the issues presented to the Supreme Court for review. No evidentiary matter may be included if it is not material to proper consideration of these issues. The party must include a reference to the record or page of the certified transcript where the material evidence appears.
- (3) **Reasons the Supreme Court Should Grant Review.** A petition or cross-petition must state the reasons the Supreme Court should grant review, which may include the following: no Arizona decision controls the point of law in question; a decision of the Supreme Court should be overruled or qualified; conflicting decisions have been rendered by the Court of Appeals; or important issues of law have been incorrectly decided.
- (4) **Appendix.**
- (A) **Necessity.** If there are documents in the record on appeal that are necessary for determination of the issues raised by the petition or cross-petition, and hyperlinking to the record is unavailable, the petitioner and cross-petitioner must file with the petition or cross-petition an appendix that contains only those documents.
- (B) **Form.** An appendix must comply with the requirements of ARCAP 13.1.
- (5) **Rejection of Petition or Cross-Petition.** The Supreme Court Clerk may return any petition or cross-petition for review presented for filing that does not substantially comply with this rule. The Supreme Court clerk must include with

the returned petition written instructions to the petitioner or cross-petitioner to file a proper petition or cross-petition no later than the date specified in the clerk's instructions.

**(f) Availability of Briefs.** When the Court of Appeals clerk is notified that a petition for review has been filed, the clerk must make available to the Supreme Court clerk the briefs filed in the Court of Appeals.

**(g) Responses to the Petition or Cross-Petition.**

**(1) Timing.** Any party opposing the petition or cross-petition for review may file a response with the Supreme Court no later than 20 days after the date the petition or cross-petition for review was served. However, the Supreme Court will not consider a failure to file a response as an admission that the petition or cross-petition for review should be granted.

**(2) Contents.** If a response is filed, it must list, separately and without argument, any additional issues not listed by the petitioner or cross-petitioner that were presented to but not decided by the Court of Appeals and may need to be decided if review is granted. If the record on appeal contains documents that are necessary for a determination of the issues raised by the petition or cross-petition for review, and hyperlinking to the record is unavailable, a party must file with the response an appendix that complies with the requirements set forth in subpart (d)(4). An appendix to a response may contain only those documents not included in the appendix to the petition or cross-petition for review.

**(3) Reply.** If a response is filed, neither the petitioner nor cross-petitioner may file a reply unless the Supreme Court orders otherwise.

**(h) Service of the Petition, Cross-Petition, and Response.** The petitioner or cross-petitioner must serve a copy of the petition, cross-petition, response, and any appendices, on all parties who appeared in the Court of Appeals and on any person who filed a notice of non-participation under Rule 605.

**(i) Order Granting Review.** If the Supreme Court grants review, it must promptly notify the parties and the Court of Appeals clerk and specify the issue or issues to be reviewed. The Supreme Court may require the parties to file additional briefs, order oral argument, or do both. If the order granting review does not provide for supplementation of briefs or for oral argument, either party, no later than 15 days after the Supreme Court clerk sends notice of the court's order, may request the court to do so by filing a motion that specifies the reasons.

- (j) Availability of the Record.** Upon notification by the Supreme Court clerk that a petition or cross-petition for review has been granted, the Court of Appeals clerk must make the remaining record available to the Supreme Court clerk and the Supreme Court's staff attorneys.
- (k) Order Denying Review.** If the Supreme Court denies review, its order must specify those justices, if any, who voted to grant review. The Supreme Court must notify the Court of Appeals and the parties when all petitions and cross-petitions for review have been decided and must return any original paper copies of the briefs to the Court of Appeals clerk. Unless the Supreme Court permits otherwise, a party may not file a motion for reconsideration of an order denying a petition or cross-petition for review.
- (l) Dispositions.** If the Supreme Court grants review, it may decide the appeal in any manner specified in ARCAP 28(a). The Supreme Court may also do the following:
- (1)** after a petition for review has been filed, if the parties to the appeal resolve the issues by agreement, the Supreme Court may vacate the decision of the Court of Appeals or designate a Court of Appeals opinion as a memorandum decision;
  - (2)** when the Supreme Court grants review, it may remand the appeal to the Court of Appeals for reconsideration in light of authority identified in the Supreme Court's order; or
  - (3)** if the issues were raised in, but not decided by, the Court of Appeals and the Supreme Court grants review, the Supreme Court may consider and decide those issues, may remand the appeal to the Court of Appeals to decide those issues, or may otherwise dispose of those issues as it deems appropriate.
- (m) Motions to Extend Time.** The Supreme Court may grant or deny motions to extend the time to file a petition for review. Such motions must be filed with the Supreme Court Clerk.

## **Rule 610. Appellate Court Mandate**

- (a) Generally.** The Court of Appeals must issue a mandate in the manner and at the times provided in this rule, except as provided in Rule 607(e)(4).
- (b) No Notice of Intent to File Petition for Review.** If a timely notice of intent to file a petition for review is not filed, then the Court of Appeals clerk must issue the mandate.
- (c) No Petition for Review.** If a party files a notice of intent to file a petition for review but does not timely file a petition, then the Court of Appeals clerk must issue the mandate.
- (d) Petition for Review Denied.** If a petition for review is filed, the Court of Appeals clerk must issue a mandate upon receiving an order of the Supreme Court denying the petition for review.
- (e) Petition for Review Granted.** If the Supreme Court grants a petition for review, the Supreme Court clerk issues the mandate.
- (f) Return of Exhibits and Other Objects.** The appellate court clerk must return to the juvenile court with the mandate any exhibits or other objects the juvenile court transmitted as originals. The appellate court may either return to the juvenile court with the mandate or destroy pursuant to rule or the appellate court's administrative orders any papers, exhibits, or other objects that the juvenile court transmitted as certified copies.