Model Standards of Practice for Child Custody Evaluation
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Model Standards of Practice
for Child Custody Evaluation

Prepared by
the Task Force for
Model Standards of Practice
for Child Custody Evaluation

David A. Martindale, Task Force Reporter
Lorraine Martin & William G. Austin, Task Force Co-chairs

Task Force members:
Leslie Drozd, Dianna Gould-Saltman, H. D. Kirkpatrick, Kathryn Kuehnle,
Debra Kulak, Denise McColley, Arnold Sheinvold, Jeffrey Siegel, & Philip M. Stahl.
Leslye Hunter, Past President, AFCC (ex-officio)

Note to users:
Placed directly below the title of all but the brief model standards, readers will find, in bold letters, a summary of the model standard. The summaries have been added in order to facilitate the use of this document. They are not to be viewed as replacements for the fully-articulated model standards.
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INTRODUCTION

I.1 PURPOSE

These Model Standards for Child Custody Evaluation are designed to promote good practice; to provide information to those who utilize the services of custody evaluators; and to increase public confidence in the work done by custody evaluators.

These Model Standards for Child Custody Evaluation are designed to guide custody evaluators in all practice contexts. In disseminating these Model Standards, AFCC’s goal is to contribute to the ongoing education of evaluators, thereby promoting good practice; to provide information to those who utilize the services of custody evaluators; and, to increase public confidence in the work done by custody evaluators. Unless and until these Model Standards are incorporated into law, included in the rules of a court system, or adopted by a licensing board or similar regulatory authority, they do not have the force of law. Nonetheless, the adoption of these Model Standards by AFCC, the sponsoring organization, should alert custody evaluators to the possibility that these Model Standards may be utilized in developing standards of care for custody evaluators.

I.2 ENFORCEMENT

AFCC believes it to be advisable that our members conform their practices to these Model Standards; however, AFCC does not have an enforcement mechanism.

AFCC does not have and does not intend to establish an enforcement mechanism. We believe it to be advisable that our members conform their practices to the Model Standards articulated here, but membership in AFCC does not compel them to do so. These Model Standards may communicate expectations that exceed those established by law or by regulatory bodies. Where conflict exists, law, rules of the court, regulatory requirements, or agency requirements supersede these Model Standards. Where the standard articulated herein is higher than the standard required by law or regulation, it is hoped that AFCC members will be guided by the standard articulated here.

I.3 SCOPE

The Model Standards for Child Custody Evaluation are intended to address common concerns regarding the processes that lead to an analysis of the relative strengths and deficiencies of the litigants or that offer an analysis of different parenting plans under consideration by the evaluator.

The Model Standards of Practice for Child Custody Evaluation are intended to address common concerns. The Model Standards are not intended to establish standards for the various components of those custody evaluation models that are collectively referred to as briefer models, such as focused evaluations, mini-evaluations, and early neutral evaluations. Neither are these Model Standards intended to apply to evaluations that may formally incorporate a settlement component and that are, therefore, hybrid models. It is recognized that reports that are the end products of competently conducted evaluations will often be utilized in a settlement process. Furthermore, the Model Standards are designed to apply only to processes that lead to an analysis of the relative strengths and deficiencies of the litigants or that offer an analysis of different parenting plans under consideration by the evaluator. If, however, a practitioner functioning in a capacity other than as an evaluator is offering an opinion regarding parenting arrangements or regarding relative parenting strengths and
deficiencies, the Model Standards shall be applicable to the evaluative techniques used by the practitioner.

P R E A M B L E

P.1 CONCEPTUALIZATION OF THE CHILD CUSTODY EVALUATION PROCESS

The child custody evaluation process involves the compilation of information and the formulation of opinions pertaining to the custody or parenting of a child and the dissemination of that information and those opinions to the court, to the litigants, and to the litigants’ attorneys. Child custody evaluators shall secure from the court and/or attorneys reasonably detailed information concerning their role and the purpose and scope of the evaluation.

(a) Child custody evaluation is a process through which information and opinions bearing upon the custody of, parenting of, and access to children can be made known to the court, to the litigants, and to the litigants’ attorneys in those cases in which the parents and/or other primary caregivers are unable to develop their own parenting plans. An evaluation may be requested by the parents or by their attorneys or may be ordered by the court. Though these Model Standards focus on evaluations that are being performed within a court system or for a court, they may be useful in other contexts as well. [Refer to Note P.1(a).]

(b) The application of the knowledge and skills of the mental health professions to the resolution of legal matters is, by definition, a forensic endeavor and these Model Standards have been written from that perspective. [Refer to Note P.1.(b)1.] Prior to commencing evaluations, evaluators shall take reasonable steps to secure court orders or consent agreements in which they are specifically named and in which their roles, the purposes of their evaluations, and the focus of their evaluations are clearly defined. [Refer to Note P.1.(b)2.]

(c) Evaluators shall perform their professional activities with a recognition of the investigative nature of the task, an acknowledgment of the limitations inherent in their evaluative procedures, and an understanding of the distinction between mental health issues and the specific legal questions before the court.

P.2 EVALUATORS

Child custody evaluators are qualified mental health professionals who function as impartial examiners.

Evaluations shall be performed by qualified mental health professionals who are part of a family court system or carried out privately by qualified individuals or teams. [Refer to section 1 for information regarding qualifications.] Regardless of the manner in which arrangements for their services have been made and regardless of the source of remuneration, evaluators shall always function as impartial examiners.

P.3 SCOPE OF EVALUATORS’ OBLIGATIONS

Evaluators are responsible to all consumers of their services; namely, the courts, the participants in the evaluation process, and affected others.
(a) Custody evaluators have obligations to consumers of their services (such as the courts that seek their advisory input), to participants in their evaluations (adults and children; parties and non-parties; fee-payers and non-fee-payers), and to affected others (such as people whose privacy rights are affected when the rules of discovery require the disclosure of the contents of evaluators’ files).

(b) Evaluators fulfill a role that is consistent with the needs of and directives from the court. When the specified role(s) cannot ethically be accepted and/or when the directives cannot ethically be followed, evaluators shall decline participation and shall articulate in writing the basis for the decision to decline. When evaluators give notice of their intention to decline an assigned evaluation, the written notice shall be provided to the court and to the attorneys.

P.4 APPLICABILITY

The Model Standards for Child Custody Evaluation apply to any situation in which a mental health professional offers recommendations concerning custody and/or access issues.

The applicability of these Model Standards is to be determined by the nature of the services performed and not by the evaluator’s declared professional affiliation, stated areas of expertise, or customary area(s) of practice. Specifically, these Model Standards are intended to apply in any situation in which mental health professionals who have foreknowledge that custody and/or access issues are involved in a matter offer recommendations concerning such custody and/or access issues to a court.

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1. TRAINING, EDUCATION, & COMPETENCY ISSUES

1.1 CUSTODY EVALUATION AS A SPECIALIZATION

A child custody evaluator shall have specialized knowledge and training in topics related to child custody work and shall keep abreast of the ever evolving research in the field.

Child custody evaluators shall gain specialized knowledge and training in a wide range of topics specifically related to child custody work. Evaluators shall gain broad knowledge of family dynamics. Evaluators conducting evaluations that raise special issues shall obtain specialized training. [Refer to 1.2 for a list of areas in which specialized training is required.] Since research and laws pertaining to the field of divorce or separation and child custody are continually changing and advancing, child custody evaluators shall secure ongoing specialized training.

1.2 EDUCATION AND TRAINING

Child custody evaluators shall have the minimum of a master’s degree in a mental health field that includes formal education and training in the legal, social, familial and cultural issues involved in custody and access decisions.

(a) Child custody evaluators shall have a minimum of a master’s degree (or its regionally-recognized equivalent) in a mental health field that includes formal education and training in child development, child and adult psychopathology, interviewing techniques, and family systems. In addition, by formal education or by supervised work experience, evaluators shall possess advanced knowledge of the complexities of the divorce or separation process, a working knowledge of the legal issues in divorce or separation in their jurisdictions of practice, knowledge of the sources of evaluator bias and methods for maintaining neutrality, and an understanding of the many issues—legal, social, familial, and cultural—involving in custody and access.

(b) Areas of expected training for all child custody evaluators include:

   (1) the psychological and developmental needs of children, especially as those needs relate to decisions about child custody and access;
   (2) family dynamics, including, but not limited to, parent-child relationships, blended families, and extended family relationships;
   (3) the effects of separation, divorce, domestic violence, substance abuse, child alienation, child maltreatment including child sexual abuse, the effects of relocation, sexual orientation issues, and inter-parental conflict on the psychological and developmental needs of children, adolescents, and adults;
   (4) the significance of culture and religion in the lives of parties;
   (5) safety issues that may arise during the evaluation process and their potential effects on all participants in the evaluation;
   (6) when and how to interview or assess adults, infants, and children;
   (7) how to gather information from collateral sources;
   (8) how to collect and assess relevant data and recognize the limits of the reliability and validity of different sources of data;
   (9) how to address issues such as general mental health, medication use, and learning or physical disabilities;
   (10) how to apply comparable interview, assessment, and testing procedures that meet generally accepted forensic standards to all parties;
   (11) when to consult with or involve additional experts or other appropriate persons;

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1.2 (b) continued.

(12) how to inform litigants, children, other participants, and collateral sources, of the purpose, nature, and method of the evaluation and the limits of confidentiality;
(13) how to assess parenting capacity and co-parenting capacity and to construct effective parenting and co-parenting plans;
(14) the legal context within which child custody and access issues are decided and additional legal and ethical standards to consider when serving as a child custody evaluator;
(15) how to make the relevant distinctions among the roles of evaluator, mediator, therapist, parenting coordinator, and co-parenting counselor;
(16) how to write reports for the courts to which they will be presented;
(17) how to prepare for and give testimony at deposition or at trial; and,
(18) how to maintain professional neutrality and objectivity when conducting child custody evaluations.

(c) Areas of additional specialized training include:

(1) the assessment of allegations of child sexual abuse issues;
(2) the assessment of children’s resistance to spending time with a parent or parent figure and allegations of attempts to alienate children from a parent, parent figure, or significant other;
(3) the assessment of children’s best interests in the context of relocation (move-away) requests by one parent;
(4) the assessment of substance abuse; and,
(5) the assessment of child abuse and domestic violence and the assessment of safety plans for both parents and children.

1.3 EXPERIENCE REQUIREMENTS

Child custody evaluators shall possess appropriate education and training. All evaluators who have fewer than two years experience are encouraged to seek ongoing supervision prior to offering to perform or accepting appointments to conduct evaluations.

Since child custody evaluation is a unique specialty area, anyone conducting child custody evaluations shall have obtained appropriate education and professional training prior to offering to perform or accepting an appointment to perform evaluations. Novice evaluators shall obtain supervision or consultation with another professional who meets the education, experience, and training requirements of this section. Evaluators who have fewer than two years of experience conducting custody evaluations are encouraged to continue receiving ongoing supervision or to arrange for consultation to be available and to utilize the services of a consultant when needed. [Refer to Note 1.3.]

2. KNOWLEDGE OF LAW

2.1 KNOWLEDGE OF STATUTES AND LEGAL PRECEDENTS

All child custody evaluators shall have knowledge of the legal and professional standards, laws, and rules applicable to the jurisdiction in which the evaluation is requested.

(a) Evaluators shall be familiar with the applicable statutes, case law, and local rules governing child custody. These will vary from jurisdiction to jurisdiction, and evaluators must be knowledgeable concerning the criteria for original determination of custody, criteria for change of custody, the use of
custody evaluations, qualifications for custody evaluators, and the legal requirements of the custody evaluation process of the jurisdictions in which the evaluators will be performing their evaluations.

(b) Evaluators shall have a fundamental and reasonable level of knowledge and understanding of the legal and professional standards, laws, and rules that govern their participation as experts in the resolution of disputes concerning the custodial placement of children and specific parenting plans. Even if they are qualified to do so, evaluators shall not provide legal advice to those whom they are evaluating or to others with whom they may interact in the course of an evaluation.

2.2 RESPECT FOR THE LEGAL RIGHTS OF LITIGANTS AND OTHERS

Child custody evaluators shall have an understanding of the fundamental legal rights of those who are part of the evaluation process and shall conduct themselves in such a manner as to not violate or diminish those rights.

(a) Evaluators shall have a fundamental and reasonable level of knowledge and understanding of the legal rights of those whom they are evaluating and of individuals who may be affected by the evaluative process or by the evaluators’ reports.

(b) Evaluators shall conduct themselves in such a manner as not to violate or diminish the due process rights of such individuals.

3. RECORD KEEPING AND RELEASE OF INFORMATION

3.1 “RECORD” DEFINED

As used in these Model Standards, the term “record” refers to the following documents relating to the evaluation: notes, recordings, pleadings and other court papers, assessment instruments and testing data.

The term “record”, as used herein, applies to all notes, documents, recordings, correspondence in any form or on any medium, tangible, electronic, hand-written, or mechanical, that are specifically related to the evaluation being conducted. The term “record”, as used herein, includes, but is not limited to, all a) reports, letters, affidavits, and declarations; b) notes, recordings, and transcriptions that were created before, during, or after interactions with persons in connection with the evaluation; c) fully or partially completed assessment instruments; d) scored and un-scored raw test data, scoring reports, and interpretations; e) billing, expense, and income records pertaining to the services provided; f) mechanical, digital, physical or electronic print, film, photocopy, tape, audio, video, or photographic records; and, g) all other notes, records, copies, and communications in any form that were created, received, or sent in connection with the evaluation.

3.2 RECORD-KEEPING OBLIGATIONS

Child custody evaluators have an obligation expeditiously to establish and to maintain a record-keeping system.

(a) Evaluators shall establish and maintain a system of record-keeping and professional communication that is consistent with law, rules, and regulations, and that safeguards applicable privacy, confidentiality, and legal privilege. Evaluators shall create all records expeditiously. Unless laws, rules of the court, directives from the court, rules promulgated by regulatory bodies, or private
agency policy specify otherwise, evaluators shall presume that their records are created, maintained, and preserved in anticipation of their review by others who are legally entitled to possess them and/or to review them.

(b) Records of all aspects of the evaluation shall be created in reasonable detail, shall be legible, shall be stored in a manner that makes expeditious production possible, and shall be made available in a timely manner to those with the legal authority to inspect them or possess copies of them. Excluded from the requirements alluded to in the foregoing discussion of records production are items that may be protected from disclosure by copyright laws.

(c) Where the policies of private agencies conflict with the requirements of law, rules of the court, directives from the court, or rules promulgated by regulatory bodies, the role of private agency policies shall be considered subordinate.

3.3 **ACTIVE CONTROL OF RECORDS**

Child custody evaluators shall maintain active control of their records and shall take reasonable care to prevent the loss or destruction of records.

In creating and organizing their files, evaluators shall conceptualize all items pertaining to a particular case as elements of one file. Evaluators shall be mindful of the fact that distinctions often made in clinical contexts between progress notes and process notes or between a client’s file and a treating practitioner’s personal file are distinctions that are not recognized in child custody work. Evaluators shall maintain active control over records and information. Regardless of the form in which information is presented, once evaluators take possession of an item, it must be retained and reasonable care must be taken to prevent its loss or destruction. For example, evaluators shall not return items to litigants or others unless such return has been authorized by the attorneys for both litigants or by the court. [Refer to Note 3.3.]

3.4 **DISCLOSURE AND/OR RELEASE OF RECORDS**

Child custody evaluators shall establish policies regarding their procedures, including procedures for the release of information and payment of fees.

In describing their policies, procedures, and fees, evaluators shall address all issues pertaining to access to the records that are maintained by them. Evaluators’ policies concerning the release of information and/or copies of portions of their files shall be guided by the policies and directives of the courts for which the evaluations are being or have been conducted.

4. **COMMUNICATION WITH LITIGANTS, ATTORNEYS, & COURTS**

4.1 **WRITTEN INFORMATION TO LITIGANTS**

Child custody evaluators shall provide each litigant with written information outlining the evaluator’s policies, procedures and fees.

(a) Even when litigants are submitting to an evaluation in response to a directive from the court, evaluators shall provide detailed written information concerning their policies, procedures, and fees. In the portion of the document in which fees are outlined, it shall be made clear that the services to be
rendered are neither health services nor health service related and that no claims for health insurance reimbursement will be completed by the evaluator.

(b) The descriptive document provided by the evaluator shall specify the intended uses of the information obtained during the evaluation, shall include a list of those to whom the evaluator will make the report available and the manner in which the report will be released, and shall confirm that evaluator policies governing the release of items in the case file will be in conformance with applicable laws and court rules. This information shall be provided to the litigants and to their attorneys in advance of the first scheduled session, so that litigants may obtain advice of counsel and be able to examine the document in an unhurried manner and in an atmosphere that is free of coercive influences. When the parties are not represented by counsel, the detailed information alluded to herein shall, nevertheless, be forwarded to them prior to the initial evaluative session.

4.2 REVIEWING POLICIES, PROCEDURES, AND FEES

Child custody evaluators shall review their policies and procedures with the litigants prior to commencing an evaluation.

In the initial meeting with the parties, evaluators shall review key elements of their policies and procedures, respond to any questions, and seek assurance that the policies and procedures are fully understood. The obligation to take reasonable steps to avoid harm where it is possible to do so and to minimize harm that is foreseeable but unavoidable extends to all those with whom evaluators professionally interact; to all those who are involved in the evaluative process in any manner, including children; and, to those from whom evaluators seek collateral source information. Evaluators shall inform children of the limits of confidentiality, using language that is chosen based upon each child’s cognitive capacity and receptive language abilities.

4.3 INFORMED CONSENT OF COLLATERALS

Child custody evaluators shall take steps to ensure that collaterals know and understand the potential uses of the information that they are providing.

Individuals from whom information is sought shall be informed in writing of the manner in which information provided by them will be utilized and reminding them that information provided by them is subject to discovery. The aforementioned notice may be provided orally where time constraints make providing written notice not feasible.

4.4 EX PARTE COMMUNICATION

Child custody evaluators shall not have substantive ex parte communications about a case with the Court or with the attorney’s representing the parties.

From the time that evaluators learn of their assignments until the time that their evaluations have been completed and their reports have been submitted, evaluators shall take all reasonable steps to minimize ex parte communication with the court and with attorneys representing the parties. Where ex parte communication occurs, all reasonable steps shall be taken to limit discussions to administrative or procedural matters; to avoid discussion of substantive issues; and, to refrain from accepting or imparting significant information orally. Evaluators shall respect local rules or court orders with respect to ex parte communication with attorneys representing children.
4.5 INTERIM RECOMMENDATIONS

Child custody evaluators shall refrain from making interim recommendations.

Evaluators shall refrain from offering interim recommendations or treatment interventions pertaining to custodial placement, access, or related issues and shall refrain from negotiating settlements with the parties and/or with their attorneys. [Refer to Note 4.5.]

4.6 PRESENTATION OF FINDINGS AND OPINIONS

Child custody evaluators shall strive to be accurate, objective, fair and independent in their work and are strongly encouraged to utilize peer-reviewed published research in their reports.

(a) Evaluators shall not present data in a manner that might mislead the triers of fact or others likely to rely upon the information and/or data reported. In their reports and when offering testimony, evaluators shall strive to be accurate, objective, fair, and independent. Evaluators shall resist partisan pressure to report their information and data or to communicate their opinions in ways that might be misleading. [Refer to 5.3, below.]

(b) Evaluators are strongly encouraged to utilize and make reference to pertinent peer-reviewed published research in the preparation of their reports. Where peer-reviewed published research has been alluded to, evaluators shall provide full references to the cited research.

(c) Evaluators recognize that the use of diagnostic labels can divert attention from the focus of the evaluation (namely, the functional abilities of the litigants whose disputes are before the court) and that such labels are often more prejudicial than probative. For these reasons, evaluators shall give careful consideration to the inclusion of diagnostic labels in their reports. In evaluating a litigant, where significant deficiencies are noted, evaluators shall specify the manner in which the noted deficiencies bear upon the issues before the court.

(d) Evaluators shall recognize that information not bearing directly upon the issues before the court may cause harm when disclosed and may have a prejudicial effect. For these reasons, evaluators shall avoid including information in their reports that is not relevant to the issues in dispute. Notwithstanding the foregoing, evaluators shall retain all information gathered by them and shall be responsive to lawful requests for the production of that information.

5. DATA GATHERING

5.1 ESTABLISHING THE SCOPE OF THE EVALUATION

The scope of the evaluation shall be delineated in a Court order or in a signed stipulation by the parties and their counsel.

(a) Evaluators shall establish the scope of the evaluation as determined by court order or by a signed stipulation by the parties and their attorneys. If issues not foreseen at the outset of an evaluation arise and if it is the evaluator’s professional judgment that the scope of the evaluation must be widened, the evaluator shall seek the approval of the court or of all attorneys prior to going beyond the originally designated scope of the evaluation. Any changes in the scope of the evaluator’s assigned task shall be memorialized in writing and signed by the court or by all attorneys, as applicable. [Refer to Note 5.1(a).]
(b) Evaluators shall employ procedures that are most likely to yield information that will meet the needs of the court and shall conduct the data gathering phase of their evaluations in a manner consistent with state, provincial, or territorial statutes, or with judicial rules governing such evaluations. When circumstances demand that an evaluation be limited in scope, evaluators shall take steps to ensure that the boundaries to the evaluation and the evaluator’s role are clearly defined for the litigants, attorneys, and the court.

5.2 FACTORS OR VARIABLES TO BE ASSESSED

Child custody evaluators shall assess the factors and variables pertinent to the evaluation. These factors or variables shall be determined according to local statutes, case law, referring questions and research.

Evaluators shall assess factors or variables that are statutorily defined; dictated by case law; presented in the referring questions, court orders or stipulations; and/or deemed to be pertinent on the basis of peer-reviewed published research. If additional factors are brought to the evaluator’s attention or emerge during data collection, the evaluator shall use discretion and professional judgment and shall initially seek direction from the attorneys, if needed, as decisions are made concerning the applicability of these factors to the issues before the court. [Refer also to 5.1(a).] If the attorneys are unable to agree or if, for any reason, further guidance is needed, the evaluator shall seek direction from the court.

5.3 COMMITMENT TO ACCURACY

Child custody evaluators shall strive to be accurate, objective, fair and independent in gathering their data and shall be prepared to defend decisions made by them concerning their methodology.

In gathering data, evaluators shall be committed to accuracy, objectivity, fairness, and independence; shall treat all participants and weigh all data, opinions, and alternative hypotheses thoroughly and impartially; and, shall be prepared to articulate the bases for decisions made by them concerning their methodology.

5.4 USE OF DIVERSE METHODS

Child custody evaluators shall strive to use multiple data gathering methods in order to increase accuracy and objectivity.

Evaluators shall use multiple data-gathering methods that are as diverse as possible and that tap divergent sources of data, thereby facilitating the exploration of alternative plausible hypotheses that are central to the case. The referral questions and issues in the case may be cast as testable hypotheses for the evaluator’s investigation. Decisions concerning the selection of data gathering methods shall be made with the circumstances of the evaluation in mind.

5.5 USE OF A BALANCED PROCESS

Child custody evaluators shall strive to use a balanced process in order to increase objectivity, fairness and independence.
(a) Evaluators shall endeavor to employ procedures that will create a sense of balance for those involved in the process. As one element of a balanced process, the evaluative criteria employed shall be the same for each parent-child combination. In the interests of fairness and sound methodology, evaluators shall ensure that any allegation concerning a matter that the evaluator is likely to consider in formulating his/her opinion shall be brought to the attention of the party against whom the allegation is registered so that s/he is afforded an opportunity to respond.

(b) The chosen assessment instruments shall be used with both parties and the interview time with each party shall be essentially the same, except where circumstances warrant a departure from this procedure. Where circumstances warrant a departure from the foregoing standard, the reasons shall be articulated.

5.6 USE OF RELIABLE AND VALID METHODS

Child custody evaluators shall use empirically-based methods and procedures of data collection.

Because evaluators are expected to assist triers of fact, evaluators have a special responsibility to base their selection of assessment instruments and their choice of data gathering techniques on the reliability and validity of those instruments and techniques. Evaluators shall strive to use methods and procedures of data collection that are empirically-based. In the selection of methods and procedures, evaluators shall be aware that the use of greater numbers of instruments (particularly when some of those instruments may be of questionable reliability or validity) does not necessarily produce more reliability and validity in the data set. In selecting methods and procedures, evaluators shall be aware of the criteria concerning admissibility and weight of evidence employed by courts in their jurisdictions.

5.7 ASSESSMENT OF PARENTS AND PARENTING FIGURES

Child custody evaluators shall strive to assess each parent and all adults who perform a caretaking role and/or live in the residence with the children.

(a) Except where contraindicated by special circumstances, evaluators shall assess each parent and any other adults who are currently living in a residence with the children and performing a caretaking role. Additionally, except where contraindicated by special circumstances, evaluators shall assess any other adults who are likely to be living in a residence with the children and performing a caretaking role. [Refer to Note 5.7(a).] Special circumstances may arise in situations in which the court has specified who is to be evaluated and the evaluator believes it is appropriate to evaluate other individuals who are living in the home or who have continued close contacts with the children. In those circumstances, evaluators, using their professional judgment, shall either (1) seek the court's authority to evaluate the additional individuals, if doing so is deemed necessary; (2) decline assignments in which, in the evaluator's judgment, obtaining sufficient information will require the assessment of additional individuals; or (3) clearly articulate the limitations applicable to the information obtained and the opinions expressed in light of being unable to assess the other individuals.

(b) It is recognized that individuals who are not parties to the litigation cannot ordinarily be compelled to participate in an evaluation.

5.8 ASSESSMENT OF CHILDREN

Child custody evaluators shall individually assess each child who is the subject of the evaluation.
(a) Evaluators shall assess each child whose placement is at issue and shall be attentive to any special developmental needs of the children. Evaluators shall consider the stated wishes and concerns of each child as these relate to the allocation of parental rights and responsibilities if the child is of sufficient developmental maturity to independently express informed views. Evaluators shall describe the manner in which information concerning a child’s stated perceptions and/or sentiments was obtained and shall specify the weight given by the evaluator to the child’s stated perceptions and/or sentiments.

(b) Evaluators shall assess and describe sibling relationships. If a parenting plan that is under consideration involves the placement of siblings in different residences, the advantages and disadvantages of such a plan shall be clearly articulated.

5.9 ASSESSMENT OF ADULT-CHILD RELATIONSHIPS

Child custody evaluators shall assess the relationships between each child and all adults who perform a caretaking role and/or living in the residence with the child.

Evaluators shall assess the relationships between each child and all adults residing with the child or functioning in caretaking capacities, or reasonably likely to be functioning in caretaking capacities, except when such adults are paid caretakers, or where the circumstances described in 5.7(a) apply.

5.10 IN PERSON AND TELEPHONIC INTERVIEWS

Child custody evaluators shall conduct at least one in person interview with each parent and other adults who perform a caretaking role and/or are living in the residence with the child(ren). Telephonic interviews are an acceptable means for collecting data from collaterals.

Telephonic communication is an acceptable means for obtaining interview data from collateral sources and as a supplemental technique with primary parties. Except where contraindicated by special circumstances, evaluators shall conduct at least one in person interview with each parent and any other adults who are currently living in a residence with the child(ren) and performing a caretaking role. Additionally, except where contraindicated by special circumstances, evaluators shall conduct at least one in person interview with any other adults who are likely to be living in a residence with the child(ren) and performing a caretaking role.

5.11 DATA BEARING UPON SPECIAL ISSUES

Special issues such as allegations of domestic violence, substance abuse, alienating behaviors, sexual abuse; relocation requests; and, sexual orientation issues require specialized knowledge and training. Evaluators shall only conduct assessments in areas in which they are competent.

Evaluators shall have the professional knowledge and training needed to conduct assessments in which special issues are reasonably likely to arise. Such special issues may include acknowledged or alleged domestic violence, acknowledged or alleged substance abuse, acknowledged or alleged alienating behaviors, acknowledged or alleged child maltreatment including child sexual abuse, relocation requests, and sexual orientation issues. When evaluators lack specialized training in particular areas of concern for the evaluation, they shall either decline the appointment for the evaluation or seek professional consultation in the assessment of that portion of the evaluation. Where
such consultation has been obtained, this shall be noted in the evaluator’s report. Evaluators shall utilize a generally recognized and systematic approach to the assessment of such issues as domestic violence, substance abuse, child alienation, child maltreatment including child sexual abuse, relocation, and sexual orientation issues. [Refer to Note 1.3.]

5.12 INCOMPLETE, UNRELIABLE, OR MISSING DATA

Child custody evaluators shall disclose incomplete, unreliable or missing data.

In their forensic reports, evaluators shall make known to the court when there are incomplete, unreliable, or missing data. Where data are incomplete, unreliable or missing, evaluators shall identify the incomplete, unreliable, or missing data, shall offer an explanation if doing so is possible, and shall articulate the implications of the incomplete, unreliable, or missing data upon any opinions communicated in reports or testimony.

6. USE OF FORMAL ASSESSMENT INSTRUMENTS

6.1 THE DECISION TO USE FORMAL ASSESSMENT INSTRUMENTS

Use of formal assessment instruments is within the discretion of the child custody evaluator.

The use of formal assessment instruments is not always necessary. Where those who are legally permitted to administer and score psychological assessment instruments elect not to do so, they shall recognize that they may be called upon to articulate the basis for that decision. [Refer to Note 6.1.]

6.2 EVALUATOR BACKGROUND IN TESTING

Child custody evaluators not trained and experienced in the selection and administration of formal assessment instruments and not reasonably skilled in data interpretation shall not conduct testing.

Some of the model standards that follow apply to the use of any formal assessment instruments or procedures; some are applicable only when psychometric testing is employed. If testing is advisable and if the evaluator does not have sufficient education, training and/or experience, s/he should refer the testing portion of the evaluation to a case consultant who has sufficient training and experience, including education and training in the interpretation of psychometric test data within a forensic context. [Refer to Note 1.3.]

6.3 SELECTION OF ASSESSMENT INSTRUMENTS

When formal assessment instruments are employed, child custody evaluators shall be prepared to articulate the bases for selecting the specific instruments used.

Evaluators shall be prepared to articulate the criteria utilized by them in selecting assessment instruments and shall be prepared to provide the bases for their selection of the instruments utilized in a particular case. Some assessment instruments, data-gathering techniques, and tests that are acceptable in health care settings may not meet the evidentiary demands associated with forensic work. In selecting methods and procedures, evaluators shall be aware of the criteria employed by
courts in their jurisdictions in rendering decisions concerning admissibility and weight. Evaluators shall be mindful of issues pertaining to the applicability of psychometric test data to the matters before the court and shall be familiar with published normative data applicable to custody litigants. Evaluators shall carefully examine the available written documentation on the reliability and validity of assessment instruments, data gathering techniques, and tests under consideration for use in an evaluation.

6.4 PROPER USE OF ASSESSMENT INSTRUMENTS

Formal assessment instruments shall be used for the purpose for which they have been validated and the testing shall be conducted according to the instructions.

(a) Evaluators shall utilize assessment instruments and tests in accordance with the instructions and guidance contained in the manuals that accompany the instruments and tests. When utilizing tests, evaluators shall not make substantial changes in test format, mode of administration, instructions, language, or content, unless extraordinary circumstances require that such changes be made. When such changes have been made, evaluators shall have an affirmative duty to articulate the rationale for having made such changes.

(b) Evaluators shall not use instruments for purposes other than those for which they have been previously validated. Evaluators shall be mindful of cultural and language diversity and the impact that these may have on test performance and the resultant data.

6.5 INCLUSION IN REPORTS OF DATA FROM PREVIOUS REPORTS

Child custody evaluators shall take note of any prior formal assessments conducted on the subjects of the evaluation.

Evaluators shall give careful consideration to the inclusion of testing data from previous evaluations. In doing so, evaluators shall consider how current the data are; the qualifications of the previous evaluator; the context of the previous evaluation; and, the importance of examining the raw data.

6.6 USE OF COMPUTER-GENERATED INTERPRETIVE REPORTS

Caution shall be exercised by any child custody evaluator when utilizing computer-generated interpretive reports and/or prescriptive texts.

Evaluators shall exercise caution in the use of computer-based test interpretations and prescriptive texts. In reporting information gathered, data obtained, and clinical impressions formed and in explaining the bases for their opinions, evaluators shall accurately portray the relevance of each assessment instrument to the evaluative task and to the decision-making process. Evaluators shall recognize that test data carry an aura of precision that may be misleading. For this reason, evaluators shall not assign to test data greater weight than is warranted, particularly when opinions expressed have been formulated largely on some other bases.

7. THE TEAM APPROACH TO EVALUATION

7.1 COMPETENCE OF TEAM MEMBERS

A team approach to conducting child custody evaluations is appropriate.
A team approach to conducting child custody evaluations is appropriate, provided that all of the mental health professionals are competent to fulfill their assigned roles. In jurisdictions where court-appointed evaluations are governed by licensure laws, unlicensed team members shall receive close supervision by a designated licensed team member.

7.2 RESPONSIBILITY FOR TEAM-CONDUCTED EVALUATIONS

Any team member who signs the forensic report shall be knowledgeable and answerable to the court on all aspects of the final forensic work product.

8. ROLE CONFLICT AND DUAL ROLE ISSUES

8.1 MAINTAINING OBJECTIVITY

Child custody evaluators shall strive for objectivity and shall take reasonable steps to avoid multiple relationships with any and all participants of an evaluation.

The responsible performance of a child custody evaluation requires that evaluators be able to maintain reasonable skepticism, distance, and objectivity. For this reason, evaluators shall take reasonable steps to avoid multiple relationships. Evaluators shall recognize that their objectivity may be impaired when they currently have, have had, or anticipate having a relationship with those being evaluated, with attorneys for the parties or the children, or with the judges. Evaluators shall recognize that relationships cannot be time delimited; specifically, prior relationships or the anticipation of future relationships may have the same deleterious effects upon evaluator objectivity as current relationships would have.

8.2 DISCLOSURE OF POTENTIAL CONFLICTS

Child custody evaluators shall disclose any and all professional and social relationships with any subject of the evaluation, attorney or judge involved in the proceeding.

It is recognized that in some geographic areas evaluators may not be able to avoid professional or social relationships with individuals whom they may subsequently be asked to evaluate, with attorneys for those individuals, or with judges hearing the disputes. When avoiding multiple relationships is not feasible, evaluators shall be alert to the ways in which their objectivity may be impaired and prior to accepting an appointment, they shall provide a reasonably detailed written disclosure of current, prior, or anticipated relationships with others involved in the litigation. Such disclosure shall be made in a timely manner.

8.3 DEALING WITH UNAVOIDABLE MULTIPLE RELATIONSHIPS

Multiple relationships may be unavoidable in some jurisdictions. When an evaluator is asked or ordered to function in multiple roles and where doing so can be avoided, the child custody evaluator shall have the affirmative duty to inform the appointing agent(s) of the disadvantages of multiple roles and to decline one of the assigned roles.
(a) It is recognized that it may sometimes be necessary to provide both forensic and therapeutic services, or both forensic and parenting coordination services, such as when another reasonably skilled and competent provider is unavailable to provide either service.

(b) When requested or ordered by a court to provide either concurrent or sequential forensic and therapeutic, mediation, or parenting coordination services and when the circumstances described in 8.3(a) do not apply, the evaluator shall inform the court of the disadvantages of this arrangement and shall decline one of the assigned tasks.

8.4 AVOIDANCE OF THERAPEUTIC INTERVENTION

Child custody evaluators shall not offer advice or therapeutic interventions to anyone involved in the child custody evaluation process.

Though therapeutic interventions and the offering of advice are deemed inappropriate under most circumstances, it is recognized that it may be necessary for an evaluator to intervene or to offer advice when there is credible evidence of substantial risk of imminent and significant physical or emotional harm to a litigant, child(ren), or others involved in the evaluative process. [Refer also to 4.6.] The term “advice”, as used herein is not intended to include offering information concerning appropriate resources or offering a referral to an appropriate resource. Where therapeutic intervention has been employed or advice has been offered, as soon thereafter as is practical, the evaluator shall prepare a description of the intervention or advice and the bases upon which intervention or advice was deemed necessary, and shall forward the description to the attorneys. [Refer to Note 8.4.]

8.5 ROLE DELINEATION IN CONSULTING

Practitioners who are hired to review the work of a child custody evaluator shall restrict their role to that of a reviewer and shall avoid relationships with the participants in the evaluation.

Practitioners shall consider the importance of role delineation in undertaking reviews of the work of evaluators, shall avoid multiple roles, and shall not meet with litigants, family members, or allies of litigants (other than counsel). Reviewers shall not have had any prior relationship with any member of the family that is the subject of the evaluation being reviewed.

9. INTERVIEWING CHILDREN

9.1 CRITICAL FACTORS IN CHILD INTERVIEWING

Child custody evaluators shall be trained and skilled in interview strategies with children and shall follow generally recognized procedures when conducting interviews with children.

Children who are the focus of custody/access disputes shall be interviewed if they have reasonable receptive and expressive language skills. When structuring interviews, evaluators shall consider a range of hypotheses and base their interview strategies on published research addressing the effects upon children’s responses of various forms of questioning. Evaluators shall have knowledge of and shall consider the factors that have been found to strongly affect children’s capacities as witnesses. Evaluators shall have knowledge of and shall follow generally recognized procedures in establishing the structure and sequence of interviews with children. Evaluators shall commence interviews with children by informing them that what they tell the evaluator is not confidential.
10. OBSERVATIONAL – INTERACTIONAL ASSESSMENT

10.1 AWARENESS OF OBSERVER EFFECTS

Evaluators shall be mindful of the fact that their presence in the same physical environment as those being observed creates a risk that they will influence the very behaviors and interactions that they are endeavoring to observe.

10.2 PARENT-CHILD OBSERVATIONS

Each parent-child combination shall be observed directly by the child custody evaluator, unless there is a risk to the child’s physical or psychological safety.

(a) All children, including pre-verbal children, shall be observed with their parents, unless verifiable threats to a child’s physical or psychological safety will create foreseeable risk of significant harm to the child or where conducting such an observation is impossible (as when a parent is incarcerated or overseas). Where parent-child observations have not been conducted on the basis of possible risk to a child, evaluators shall have an affirmative obligation to articulate the bases for their decisions.

(b) Observations of parents with children shall be conducted in order that the evaluator may view samples of the interactions between and among the children and parents, and may obtain observational data reflecting on parenting skills and on each parent’s ability to respond to the children’s needs. In the course of such observations, evaluators shall be attentive to (1) signs of reciprocal connection and attention; (2) communication skills; (3) methods by which parents maintain control, where doing so is appropriate; (4) parental expectations relating to developmentally appropriate behavior; and, (5) when parents have been asked to bring materials for use during the interactive session, the appropriateness of the materials brought.

(c) Each parent-child combination shall be observed, unless doing so is not feasible [Refer 10.2(a) above.]; parent-child observations shall be conducted subsequent to the first set of interviews with the parents, unless there are compelling reasons to do otherwise; evaluators shall refrain from offering custody and/or access recommendations if observations of both parents with all children have not been completed; and, in formulating their opinions concerning the significance of parent-child interactions, evaluators shall consider religious, cultural, ethnic, and lifestyle factors.

10.3 PROCEDURAL ISSUES

Child custody evaluators shall inform the subjects of the evaluation of the purpose for which observational sessions are conducted and such observations shall be scheduled and overt.

(a) Parent-child observations shall ordinarily be scheduled and overt. Unannounced observations or covert observations (as with hidden cameras or hidden microphones) are deemed unacceptable unless consent to such observational methods has been given in advance by the parties. [Refer to Note 10.3(a).]

(b) The parties shall be provided with information regarding the purpose of the parent-child observation; the manner in which observational sessions differ from other sessions shall be explained; and, the parties shall be made aware of any special guidelines for the visit before the meeting takes place.
(c) A detailed record of the observational session shall be created. If neither audio- nor videotaping is done and if, for any reason, contemporaneous note taking is difficult, notes must be entered as soon as possible following the session.

(d) If and when interviews or observational sessions are being audiotaped or videotaped, all introductory comments, all questions, all responses, and all statements made by the evaluator in providing closure shall be included on the audiotape or videotape.

11. USE OF COLLATERAL SOURCE INFORMATION

11.1 THE IMPORTANCE OF COLLATERAL SOURCE INFORMATION

Valid collateral source information is critical to a thorough evaluation. Sufficiency and reliability of collateral source information is a determination to be made by the child custody evaluator.

(a) Evaluators shall be mindful of the importance of gathering information from multiple sources in order to thoroughly explore alternative hypotheses concerning issues pertinent to the evaluation. Evaluators shall recognize the importance of securing information from collateral sources who, in the judgment of the evaluators, are likely to have access to salient and critical data.

(b) Decisions concerning the sufficiency of collateral source information shall be made by evaluators. Accordingly, the data sources may include, but are not limited to, oral and/or written reports from collateral sources; school, medical, mental health, employment, social service, and law enforcement records; computer files; financial information; and, video and audio data that have been legally obtained.

(c) When collateral and documentary data are not available, then this limitation shall be made known to the court in the forensic report.

11.2 CORROBORATION OF INFORMATION RELIED UPON

Collateral source information is essential. Child custody evaluators shall disclose situations where uncorroborated information was utilized in the formulation of an opinion expressed by the evaluator.

Evaluators shall acknowledge the limits in the ability to discern the truthfulness of oral reports from the primary participants and so shall seek from collateral sources information that may serve either to confirm or to disconfirm oral reports, assertions, and allegations. When assessing the reports of participants in the evaluation, evaluators shall seek from other sources information that may serve either to confirm or disconfirm participant reports on any salient issue, unless doing so is not feasible. Where seeking such confirming or disconfirming information is not feasible, evaluators shall exercise caution in the formulation of opinions based upon unconfirmed reports and shall clearly acknowledge, within the body of their written reports, statements that are not adequately corroborated and why it may or may not be appropriate to give weight to such data.

11.3 AWARENESS OF HEARSAY RULES

Child custody evaluators shall be aware of their local practices regarding hearsay in reports and in testimony.
Because collateral information constitutes hearsay when included in a forensic work product, evaluators shall be aware of exceptions to hearsay rules and other rules governing the admissibility of expert opinion that may apply to forensic evaluations in the legal jurisdictions in which their evaluations have been performed. Evaluators shall also be mindful of the fact that the interpretation of hearsay rules and exceptions may vary considerably from judge to judge and as a function of the unique elements of the case.

11.4 FORMULATION OF OPINIONS

Evaluators shall be prepared to explain how different sources and different types of information were considered and weighted in the formation of their opinions. [Refer to Note 11.4.] In utilizing collateral sources, evaluators shall seek information that will facilitate the confirmation or disconfirmation of hypotheses under consideration.

11.5 IDENTIFICATION OF COLLATERAL SOURCES

All collateral sources contacted shall be disclosed by the child custody evaluator.

Evaluators shall list all collateral informants who were contacted and all data sources that were utilized, whether or not the information obtained was utilized by the evaluators in formulating their opinions. Where unsuccessful attempts have been made to contact collaterals, those collaterals shall be identified and an appropriate notation shall be made.

11.6 SECURING AUTHORIZATION

The subjects of the evaluation shall provide explicit authorization for the child custody evaluator to contact collateral sources unless the authority is provided in the order appointing the evaluator or is statutorily provided. The child custody evaluator shall inform collateral sources that there is no confidentiality in the information that is being discussed between the collateral sources and the evaluator.

(a) Evaluators shall secure authorization to contact collateral sources who, in the evaluators’ judgment, are likely to have information bearing upon the matters before the court. Such authorizations shall be secured from the parties in the legal action, unless such authorization is clearly articulated in the order appointing the evaluator or such authorization is provided by statute. Evaluators shall clearly explain the purpose of the evaluation and how the collateral’s information will be used. Evaluators shall provide potential collateral informants with written information that shall include an unambiguous statement concerning the lack of confidentiality in a forensic mental health evaluation.

(b) The information alluded to in 11.6(a) may be provided orally only where time constraints make providing written information not feasible. Evaluators shall not promise confidentiality to collateral sources who volunteer to contribute information for the evaluation, including children, unless there is a legal exemption by statute, case law, judicial administrative rule, or court order.
12. PRESENTATION AND INTERPRETATION OF DATA

12.1 COMPETENCE

Evaluators shall only offer opinions to the court in those areas where they are competent to do so, based on adequate knowledge, skill, experience, and education.

12.2 ARTICULATION OF THE BASES FOR OPINIONS EXPRESSED

Opinions expressed by child custody evaluators shall be based upon information and data obtained through the application of reliable principles and methods. Evaluators shall differentiate among information gathered, observations made, data collected, inferences made, and opinions formulated.

Evaluators shall only provide opinions and testimony that are a) sufficiently based upon facts or data; b) the product of reliable principles and methods; and c) based on principles and methods that have been applied reliably to the facts of the case. In their reports and in their testimony, evaluators shall be careful to differentiate among information gathered, observations made, data collected, inferences made, and opinions formulated. Evaluators shall explain the relationship between information gathered, their data interpretations, and opinions expressed concerning the issues in dispute. There shall be a clear correspondence between the opinions offered and the data contained in both the forensic report and the case file.

12.3 ADEQUACY OF DATA

An evaluator shall provide written or oral evidence about the personality characteristics of a particular individual only when the evaluator has conducted a direct examination of that individual and has obtained sufficient information or data to form an adequate foundation for the information provided and/or opinions offered.

12.4 ARTICULATION OF LIMITATIONS

In reports and in testimony evaluators shall articulate any limitations to the evaluation with respect to methodology, procedure, data collection, and data interpretation. [Refer to 5.4.] When the available data do not enable evaluators to opine responsibly on the relative advantages and disadvantages of different parenting plans under consideration, they shall decline to offer an opinion.

12.5 RECOGNITION OF THE SCOPE OF THE COURT ORDER

Evaluators shall avoid offering opinions to the court on issues that do not directly follow from the court order of appointment or signed stipulation or are not otherwise relevant to the purpose of the evaluation.
NOTE P.1a: Because of the frequency with which evaluators’ reports are utilized for settlement purposes, evaluators are urged to include in their reports information needed by the families in addition to the information needed by the courts. This includes situations in which disputes arise concerning the need, or lack thereof, to modify an existing parenting plan.

NOTE P.1(b)1: In some jurisdictions, the term “forensic” is not employed in the construction of court orders and the evaluations performed for the courts may be referred to as “clinical” evaluations. Our purpose in emphasizing the forensic nature of the evaluative task is to call attention to two aspects of custody evaluations that distinguish them from other evaluations performed by mental health practitioners. First, because custody evaluations are performed in order that evaluators will be able to assist triers of fact by formulating opinions that can responsibly be expressed with a reasonable degree of professional certainty, sufficiency of information (both from a qualitative and from a quantitative perspective) is judged by a higher standard than that which might be applied to evaluations conducted within a treatment context. Second, notwithstanding the fact that reports prepared by evaluators are used for settlement purposes more often than they are used by the judges who have ordered the evaluations, evaluations must be conducted and reports must be written with the needs of the court in mind.

NOTE P.1(b)2: As used herein, the term “court order” includes orders that result from stipulations by the parties.

NOTE 1.3: When the services of a consultant have been utilized, the consultant shall be identified and his/her role in the evaluative process shall be briefly described.

NOTE 3.4: Evaluators can meet their obligation to retain file items by formally notifying the attorneys and litigants of the intention to copy items and return the originals and retaining original items only if concerns are raised with regard to (a) issues of authenticity, (b) the degree to which the copy is a sufficiently accurate reproduction of the original, or (c) an objection is raised to the return of the originals for any reason.

NOTE 4.5: Attention is called to the introductory section of the Model Standards (in particular, “I.3 Scope”) in which it is stated that the Model Standards are not “intended to apply to evaluations that may formally incorporate a settlement component and that are, therefore, hybrid models.” If an evaluator will be participating in settlement negotiations, this must be established at the outset of the evaluation and the ramifications of this role change shall be fully explained in writing.

NOTE 5.1: Though Standard 5.5 does not specify that approval must be explicit as opposed to tacit, evaluators are urged to obtain legal advice if they are considering a notification/tacit approval approach. In jurisdictions in which evaluators are protected by some form of immunity, the protection may be dependent upon conformity with the terms of the court order and it is possible that anything other than explicit, written direction from the court would void whatever immunity might otherwise be in place.

NOTE 5.7(a): Two examples of such special circumstances follow. (1) A non-party declines to participate. Ordinarily, individuals who are not parties to the litigation cannot be compelled to participate in an evaluation. (2) A current or potential caretaker is deemed acceptable by both parties. Example: one set of grandparents is actively involved in a child’s care; intend to continue being active; and no objections or concerns are expressed by either party.

NOTE 6.1: In these Model Standards, a distinction is made between “formal assessment instruments” and “tests”. The definition of a test has been taken from the Standards for Educational and Psychological testing [American Educational Research Association, American Psychological Association & National Council on Measurement in Education (1999). Standards for educational and
psychological testing. Washington, DC: American Psychological Association.] “A test is an evaluative device or procedure in which a sample of an examinee’s behavior in a specified domain is obtained and subsequently evaluated and scored using a standardized process” (p. 3). The term “formal assessment instruments” includes tests but also includes structured procedures and techniques that are not “scored using a standardized process”. Terms such as “assessment procedures” and “data-gathering techniques” refer to instruments and procedures the data from which are not scored.

NOTE 8.4: The language of the court order, local rule, or local custom may determine whether the information alluded to in 8.4 shall be forwarded to the court at the same time that it is forwarded to the attorneys or, alternatively, included in the custody evaluator’s final report.

NOTE 10.3(a): This standard is not intended to apply to unintentional observations such as those that may occur in the waiting room or in public areas in which evaluators and evaluees may encounter one another.

NOTE 11.4: It is not intended that evaluators will assign numerical values to different sources and types of information as a means by which to communicate the weight assigned to them.
Guidelines for Child Custody Evaluations in Family Law Proceedings

American Psychological Association

Introduction

Family law proceedings encompass a broad range of issues, including custody, maintenance, support, valuation, visitation, relocation, and termination of parental rights. The following guidelines address what are commonly termed child custody evaluations, involving disputes over decision making, caretaking, and access in the wake of marital or other relationship dissolution. The goal of these guidelines is to promote proficiency in the conduct of these particular evaluations. This narrowed focus means that evaluations occurring in other contexts (e.g., child protection matters) are not covered by these guidelines. In addition, the guidelines acknowledge a clear distinction between the forensic evaluations described in this document and the advice and support that psychologists provide to families, children, and adults in the normal course of psychotherapy and counseling.

Although some states have begun to favor such terms as parenting plan, parenting time, or parental rights and responsibilities over the term custody (American Law Institute, 2000, pp. 131–132), the substantial majority of legal authorities and scientific treatises still refer to custody when addressing the resolution of decision-making, caretaking, and access disputes. In order to avoid confusion and to ensure that these guidelines are utilized as widely as possible, these guidelines apply the term custody to these issues generically, unless otherwise specified. It is no longer the default assumption that child custody proceedings will produce the classic paradigm of sole custodian versus visiting parent. Many states recognize some form of joint or shared custody that affirms the decision-making and caretaking status of more than one adult. The legal system also recognizes that the disputes in question are not exclusively marital and therefore may not involve divorce per se. Some parents may never have been married and perhaps may never even have lived together. In addition, child custody disputes may arise after years of successful co-parenting when one parent seeks to relocate for work-related or other reasons. These guidelines apply the term parents generically when referring to persons who seek legal recognition as sole or shared custodians.

Parents may have numerous resources at their disposal, including psychotherapy, counseling, consultation, mediation, and other forms of conflict resolution. When parents agree to a child custody arrangement on their own—as they do in the overwhelming majority (90%) of cases (Melton, Petrila, Poythress, & Slobogin, 2007)—there may be no dispute for the court to decide. However, if parties are unable to reach such an agreement, the court must intervene in order to allocate decision making, caretaking, and access, typically applying a “best interests of the child” standard in determining this restructuring of rights and responsibilities (Artis, 2004; Elrod, 2006; Kelly, 1997).

Psychologists render a valuable service when they provide competent and impartial opinions with direct relevance to the “psychological best interests” of the child (Miller, 2002). The specific nature of psychologists’ involvement and the potential for misuse of their influence have been the subject of ongoing debate (Grisso, 1990, 2005; Krauss & Sales, 1999, 2000; Melton et al., 2007). The acceptance and thus the overall utility of psychologists’ child custody evaluations are augmented by demonstrably competent forensic practice and by consistent adherence to codified ethical standards.

These guidelines are informed by the American Psychological Association’s (APA’s) “Ethical Principles of Psychologists and Code of Conduct” (hereinafter referred to as the Ethics Code; APA, 2002). The term guidelines refers to statements that suggest or recommend specific professional behavior, endeavors, or conduct for psychologists.

This revision of the 1994 “Guidelines for Child Custody Evaluations in Divorce Proceedings” (American Psychological Association, 1994) was completed by the Committee on Professional Practice and Standards (COPPS) and approved as APA policy by the APA Council of Representatives on February 21, 2009. Members of COPPS during the development of this document were Lisa Drago Piechowski (chair, 2009), Eric Y. Drogin (chair, 2007–2008), Mary A. Connell (chair, 2006), Nabil El-Ghoroury (Board of Professional Affairs [BPA] liaison, 2007–2008), Michele Galietta, Terry S. W. Gock, Larry C. James (BPA liaison, 2004–2006), Robert Kinscherff, Stephen J. Lally, Gary D. Lovejoy, Mary Ann McCabe, Bonnie J. Spring, and Carolyn M. West. COPPS is grateful for the support and guidance of the BPA and particularly to BPA Chairs Cynthia A. Sturm (2009), Jaquelyn Liss Resnick (2008), Jennifer F. Kelly (2007), and Kristin Hancock (2006). COPPS also acknowledges the consultation of APA Practice Directorate staff Shirley A. Higuchi and Alan Nessman. COPPS extends its appreciation to the APA Practice Directorate staff who facilitated both the work of COPPS and the revision efforts: Lynn F. Bufka, Mary G. Hardiman, Omar Rehman, Geoffrey M. Reed, Laura Kay-Roth, Ernestine Penniman, and Ayobodun Bello.

Expiration: These guidelines are scheduled to expire 10 years from February 21, 2009 (the date of their adoption by the APA Council of Representatives). After this date, users are encouraged to contact the APA Practice Directorate to determine whether this document remains in effect.

Correspondence concerning this article should be addressed to the Practice Directorate, American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242.
ogists. Guidelines differ from standards in that standards are mandatory and may be accompanied by an enforcement mechanism. Guidelines are aspirational in intent. They are intended to facilitate the continued systematic development of the profession and to help facilitate a high level of practice by psychologists. Guidelines are not intended to be mandatory or exhaustive and may not be applicable to every professional situation. They are not definitive, and they are not intended to take precedence over the judgment of psychologists.

I. Orienting Guidelines: Purpose of the Child Custody Evaluation

1. The purpose of the evaluation is to assist in determining the psychological best interests of the child.

   Rationale. The extensive clinical training of psychologists equips them to investigate a substantial array of conditions, statuses, and capacities. When conducting child custody evaluations, psychologists are expected to focus on factors that pertain specifically to the psychological best interests of the child, because the court will draw upon these considerations in order to reach its own conclusions and render a decision.

   Application. Psychologists strive to identify the psychological best interests of the child. To this end, they are encouraged to weigh and incorporate such overlapping factors as family dynamics and interactions; cultural and environmental variables; relevant challenges and aptitudes for all examined parties; and the child’s educational, physical, and psychological needs.

2. The child’s welfare is paramount.

   Rationale. Psychologists seek to maintain an appropriate degree of respect for and understanding of parents’ practical and personal concerns; however, psychologists are mindful that such considerations are ultimately secondary to the welfare of the child.

   Application. Parents and other parties are likely to advance their concerns in a forceful and contentious manner. A primary focus on the child’s needs is enhanced by identifying and stating appropriate boundaries and priorities at the outset of the evaluation. Psychologists may wish to reflect upon their own attitudes and functioning at various points during the course of the evaluation to ensure that they are continuing to maintain an optimal focus on the child’s welfare.

3. The evaluation focuses upon parenting attributes, the child’s psychological needs, and the resulting fit.

   Rationale. From the court’s perspective, the most valuable contributions of psychologists are those that reflect a clinically astute and scientifically sound approach to legally relevant issues. Issues that are central to the court’s ultimate decision-making obligations include parenting attributes, the child’s psychological needs, and the resulting fit. The training of psychologists provides them with unique skills and qualifications to address these issues.

   Application. Psychologists attempt to provide the court with information specifically germane to its role in apportioning decision making, caretaking, and access. The most useful and influential evaluations focus upon skills, deficits, values, and tendencies relevant to parenting attributes and a child’s psychological needs. Comparatively little weight is afforded to evaluations that offer a general personality assessment without attempting to place results in the appropriate context. Useful contextual considerations may include the availability and use of effective treatment, the augmentation of parenting attributes through the efforts of supplemental caregivers, and other factors that could affect the potential impact of a clinical condition upon parenting.

II. General Guidelines: Preparing for the Custody Evaluation

4. Psychologists strive to gain and maintain specialized competence.

   Rationale. Laws change, existing methods are refined, and new techniques are identified. In child custody evaluations, general competence in the clinical assessment of children, adults, and families is necessary but is insufficient in and of itself. The court will expect psychologists to demonstrate a level of expertise that reflects contextual insight and forensic integration as well as testing and interview skills.

   Application. Psychologists continuously strive to augment their existing skills and abilities, consistent with a career-long dedication to professional development. Although psychologists take care to acquire sufficient knowledge, skill, experience, training, and education prior to conducting a child custody evaluation, this acquisition is never complete. An evolving and up-to-date understanding of child and family development, child and family psychopathology, the impact of relationship dissolution on children, and the specialized child custody literature is critical to sustaining competent practice in this area. Psychologists also strive to remain familiar with applicable legal and regulatory standards, including laws governing child custody adjudication in the relevant state or other jurisdiction. Should complex issues arise that are outside psychologists’ scope of expertise, they seek to obtain the consultation and supervision necessary to address such concerns.

5. Psychologists strive to function as impartial evaluators.

   Rationale. Family law cases involve complex and emotionally charged disputes over highly personal matters, and the parties are often deeply invested in a specific outcome. The volatility of this situation is often exacerbated by a growing realization that there may be no resolution that will completely satisfy every person involved. In this contentious atmosphere, it is crucial that evaluators remain as free as possible of unwarranted bias or partiality.
Application. Psychologists are encouraged to monitor their own values, perceptions, and reactions actively and to seek peer consultation in the face of a potential loss of impartiality. Vigilant maintenance of professional boundaries and adherence to standard assessment procedures, throughout the evaluation process, will place psychologists in the best position to identify variations that may signal impaired neutrality.

6. Psychologists strive to engage in culturally informed, nondiscriminatory evaluation practices.

Rationale. Professional standards and guidelines articulate the need for psychologists to remain aware of their own biases, and those of others, regarding age, gender, gender identity, race, ethnicity, national origin, religion, sexual orientation, disability, language, culture, and socioeconomic status. Biases and an attendant lack of culturally competent insight are likely to interfere with data collection and interpretation and thus with the development of valid opinions and recommendations.

Application. Psychologists strive to recognize their own biases and, if these cannot be overcome, will presumably conclude that they must withdraw from the evaluation. When an examinee possesses a cultural, racial, or other background with which psychologists are unfamiliar, psychologists prepare for and conduct the evaluation with the appropriate degree of informed peer consultation and focal literature review. If psychologists find their unfamiliarity to be insurmountable, the court will appreciate being informed of this fact sooner rather than later.

7. Psychologists strive to avoid conflicts of interest and multiple relationships in conducting evaluations.

Rationale. The inherent complexity, potential for harm, and adversarial context of child custody evaluations make the avoidance of conflicts of interest particularly important. The presence of such conflicts will undermine the court’s confidence in psychologists’ opinions and recommendations and in some jurisdictions may result in professional board discipline and legal liability.

Application. Psychologists refrain from taking on a professional role, such as that of a child custody evaluator, when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to result in (a) impaired impartiality, competence, or effectiveness or (b) exposure of the person or organization with whom the professional relationship exists to harm or exploitation (Ethics Code, Standard 3.06). Subject to the same analysis are multiple relationships, which occur when psychologists in a professional role with a person are simultaneously in another role with that person, when psychologists are in a relationship with another individual closely associated with or related to that person, or when psychologists promise to enter into another future relationship with that person or with another individual closely associated with or related to that person (Ethics Code, Standard 3.05). Psychologists conducting a child custody evaluation with their current or prior psychotherapy clients and psychologists conducting psychotherapy with their current or prior child custody examinees are both examples of multiple relationships. Psychologists’ ethical obligations regarding conflicts of interest and multiple relationships provide an explainable and understandable basis for declining court appointments and private referrals.

III. Procedural Guidelines: Conducting the Child Custody Evaluation

8. Psychologists strive to establish the scope of the evaluation in a timely fashion, consistent with the nature of the referral question.

Rationale. The scope of a child custody evaluation will vary according to the needs of a particular case and the specific issues psychologists are asked to address. Referral questions may vary in the degree to which they specify the desired parameters of the evaluation. Failure to ensure in a timely fashion that an evaluation is appropriately designed impairs the utility and acceptance of the resulting opinions and recommendations.

Application. Before agreeing to conduct a child custody evaluation, psychologists seek when necessary to clarify the referral question and to determine whether they are potentially able to provide opinions or recommendations. It may be helpful to have psychologists’ understanding of the scope of the evaluation confirmed in a court order or by stipulation of all parties and their legal representatives.

9. Psychologists strive to obtain appropriately informed consent.

Rationale. Obtaining appropriately informed consent honors the legal rights and personal dignity of examinees and other individuals. This process allows persons to determine not only whether they will participate in a child custody evaluation but also whether they will make various disclosures during the course of an examination or other request for information.

Application. When performing child custody evaluations, psychologists attempt to obtain informed consent using language that is reasonably understandable to the examinee. If the examinee is legally incapable of providing informed consent, psychologists provide an appropriate explanation, seek the examinee’s assent, consider the preferences and best interests of the examinee, and obtain appropriate permission from a legally authorized person (Ethics Code, Standards 3.10 and 9.03). Psychologists are encouraged to disclose the potential uses of the data obtained and to inform parties that consent enables disclosure of the evaluation’s findings in the context of the forthcoming litigation and in any related proceedings deemed necessary by the court. Psychologists may find it helpful to extend a similar approach to persons who provide collateral information (e.g., relatives, teachers, friends, and employers) even when applicable laws do not require informed consent per se.
10. Psychologists strive to employ multiple methods of data gathering.

Rationale. Multiple methods of data gathering enhance the reliability and validity of psychologists’ eventual conclusions, opinions, and recommendations. Unique as well as overlapping aspects of various measures contribute to a fuller picture of each examinee’s abilities, challenges, and preferences.

Application. Psychologists strive to employ optimally diverse and accurate methods for addressing the questions raised in a specific child custody evaluation. Direct methods of data gathering typically include such components as psychological testing, clinical interview, and behavioral observation. Psychologists may also have access to documentation from a variety of sources (e.g., schools, health care providers, child care providers, agencies, and other institutions) and frequently make contact with members of the extended family, friends and acquaintances, and other collateral sources when the resulting information is likely to be relevant. Psychologists may seek corroboration of information gathered from third parties and are encouraged to document the bases of their eventual conclusions.

11. Psychologists strive to interpret assessment data in a manner consistent with the context of the evaluation.

Rationale. The context in which child custody evaluations occur may affect the perceptions and behavior of persons from whom data are collected, thus altering both psychological test responses and interview results. Unreliable data result in decreased validity, a circumstance that enhances the potential for erroneous conclusions, poorly founded opinions, and misleading recommendations.

Application. Psychologists are encouraged to consider and also to document the ways in which involvement in a child custody dispute may impact the behavior of persons from whom data are collected. For example, psychologists may choose to acknowledge, when reporting personality test results, how research on validity scale interpretation demonstrates that child custody litigants often display increased elevations on such scales.

12. Psychologists strive to complement the evaluation with the appropriate combination of examinations.

Rationale. Psychologists provide an opinion of an individual’s psychological characteristics only after they have conducted an examination of the individual adequate to support their statements and conclusions (Ethics Code, Standard 9.01(b)). The only exception to this rule occurs in those particular instances of record review, consultation, or supervision (as opposed, in each case, to evaluations) in which an individual examination is not warranted or necessary for the psychologist’s opinion (Ethics Code, Standard 9.01(c)). The court typically expects psychologists to examine both parents as well as the child.

Application. Psychologists may draw upon the court’s resources to encourage relevant parties to participate in the child custody evaluation process. If a desired examination cannot be arranged, psychologists document their reasonable efforts and the result of those efforts and then clarify the probable impact of this limited information on the reliability and validity of their overall opinions, limiting their forensic conclusions and any recommendations appropriately (Ethics Code, Standard 9.01(c)). While the court eventually will have no choice but to make a decision regarding persons who are unable or unwilling to be examined, psychologists have no corresponding obligation. Psychologists do have an ethical requirement to base their opinions on information and techniques sufficient to substantiate their findings (Ethics Code, Standard 9.01(a)) and may wish to emphasize this point for the court’s benefit if pressed to provide opinions or recommendations without having examined the individual in question. When psychologists are not conducting child custody evaluations per se, it may be acceptable to evaluate only one parent, or only the child, or only another professional’s assessment methodology, as long as psychologists refrain from comparing the parents or offering opinions or recommendations about the apportionment of decision making, caretaking, or access. Nonexamining psychologists also may share with the court their general expertise on issues relevant to child custody (e.g., child development, family dynamics) as long as they refrain from relating their conclusions to specific parties in the case at hand.

13. Psychologists strive to base their recommendations, if any, upon the psychological best interests of the child.

Rationale. Not every child custody evaluation will result in recommendations. Psychologists may conclude that this is an inappropriate role for a forensic evaluator or that available data are insufficient for this purpose. If a recommendation is provided, the court will expect it to be supportable on the basis of the evaluations conducted.

Application. If psychologists choose to make child custody recommendations, these are derived from sound psychological data and address the psychological best interests of the child. When making recommendations, psychologists seek to avoid relying upon personal biases or unsupported beliefs. Recommendations are based upon articulated assumptions, interpretations, and inferences that are consistent with established professional and scientific standards. Although the profession has not reached consensus about whether psychologists should make recommendations to the court about the final child custody determination (i.e., “ultimate opinion” testimony), psychologists seek to remain aware of the arguments on both sides of this issue (Bala, 2005; Erard, 2006; Grisso, 2003; Heilbrun, 2001; Tippins & Wittman, 2005) and are able to articulate the logic of their positions on this issue.
14. Psychologists create and maintain professional records in accordance with ethical and legal obligations.

**Rationale.** Legal and ethical standards describe requirements for the appropriate development, maintenance, and disposal of professional records. The court expects psychologists providing child custody evaluations to preserve the data that inform their conclusions. This enables other professionals to analyze, understand, and provide appropriate support for (or challenges to) psychologists’ forensic opinions.

**Application.** Psychologists maintain records obtained or developed in the course of child custody evaluations with appropriate sensitivity to applicable legal mandates, the “Record Keeping Guidelines” (APA, 2007), and other relevant sources of professional guidance. Test and interview data are documented with an eye toward their eventual review by other qualified professionals.

**REFERENCES**


December 2010 • American Psychologist 867
AGREEMENT TO SERVE AS IMPARTIAL CHILD CUSTODY EVALUATOR

Re: PARENT 1 AND PARENT 2
Case #:

Dear Parents:

This letter will provide additional terms to the Stipulation and Order Appointing a Private Child Custody Evaluation, which you have signed and which has been filed with the Court. The following agreement will be filed with the Court, and appended to the appointment stipulation. We agree as follows:

APPOINTMENT:

1) Robert L. Kaufman, Ph.D., A.B.P.P. (henceforth referred to as “the Evaluator”) will conduct a court-ordered psychological evaluation of the individual family members with respect to parenting and child custody. The Evaluator is appointed under Evidence Code Section 730 and Family Code 3110 and 3111.

PROCEDURES:

2) As provided under Cal Rules of the Court 1257.3, the Evaluator shall utilize data that allow the Evaluator to observe and consider each party in comparable ways and to substantiate (from multiple sources when possible) interpretations and conclusions regarding each child’s developmental needs; the quality of attachment to each parent and that parent’s social environment; and reactions to the separation, divorce, or parental conflict.

3) This will require sessions with the following individuals:
   a. Parent:
   b. Parent:
   c. Minors:
   d. Any other individual who has regular and frequent contact with the child.

4) In addition, the process will include reviewing pertinent documents related to custody, observing parent-child interaction (unless contraindicated to protect the
best interest of the children); collecting relevant corroborating information or documents as permitted by law; consulting with other experts to develop information that is beyond the Evaluator’s scope of practice or area of expertise.

5) The parties are ordered to cooperate in the evaluation as directed by the Evaluator and to participate in such testing and evaluation as the Evaluator directs, including making themselves and the children available as needed for testing and interviews. Testing may include substance abuse evaluations, psychological and vocational assessment and psychological testing deemed necessary or appropriate by the Evaluator. Failure of the parties to cooperate in the evaluation process or to supply any and all requested information shall constitute grounds for termination of the Evaluator’s services. In such event, the parties will be responsible for fees incurred for all services until that time. Interviews will involve the parties, the minor child(ren), and step family members as indicated. I will interview them for whatever length or time and in whatever configuration I determine is necessary to inform my findings and recommendations. I will also, at my discretion, conduct home visits / observations.

6) The parties are directed to execute any releases that may be required by the Evaluator to obtain otherwise confidential or privileged information from third party sources regarding the parties and/or the children. The Evaluator is expressly authorized to obtain information regarding the children from any mental health professionals with whom they have had contact, from current/previous teachers and school staff and administrators; from current/previous daycare/preschool providers; law enforcement agencies, personnel and records; Child Protective Services, or other social service agencies.

7) The Evaluator will determine the circumstances under which the children shall be interviewed. The Evaluator shall provide the children with an age appropriate explanation of the Evaluator process, and will advise the children that statements made by and to the Evaluator may not be confidential, and that it is possible that their parents will be informed of their statements.

8) The Evaluator reserves the right to withhold any information that, in his professional opinion, might be harmful to any of the adult participants or the children if it were disclosed. Each of the parties also hereby consents to the disclosure of all information obtained in the course of my investigation to any court, attorney, or public agency with responsibility for this matter or the safety of the children. Any information obtained during the evaluation may be disclosed to any other participant for corroboration.

9) The parties shall provide copies of all pleadings, orders and correspondence that relate to the issues to be brought to the Evaluator. Within thirty days of the appointment of the Evaluator by Court order, each party shall submit to the Evaluator and the other party, the name, address, and telephone number of each
person that party requests to be interviewed in connection with the evaluation, and a brief summary of the relevant information that persona possesses. The Evaluator is not bound to interview any such person, but may use his judgment in determining whom to interview, and whether to interview them in person, by telephone, or in writing. Any correspondence to the Evaluator and/or any written materials including documents, declarations, or records provided to the Evaluator, shall be mailed simultaneously or provided simultaneously to the other party and/or their attorney.

10) No attorney for a party shall initiate ex parte contact with the Evaluator, either orally or in writing to discuss the merits of the case. Nothing in this order prohibits the Evaluator from contacting either party or attorney. Any oral contact by either attorney shall be by conference call except to make arrangements for such a conference call. Any contact to counsel on substantive issues shall include opposing counsel.

11) The parties are specifically restrained and enjoined from discussing with or in the presence of the children, statements made by the children to the Evaluator.

FEES:

12) In accordance with the court order, payment for the evaluation shall come from the parents as noted in the Stipulated Order Appointing Child Custody Evaluator. Fees for services will billed on an hourly basis at the rate of $XXXX per hour and will include, but not necessarily be limited to, the following services:
   a. Clinical interviews
   b. Psychological testing (including test administration, scoring and interpretation; the cost of computer processing)
   c. Review of records and documents
   d. Telephone interviews and contacts with primary or collateral sources
   e. Report writing, correspondence, transcription fees and billing
   f. Travel to and from home visits, if necessary
   g. Any other costs incurred to complete the evaluation.

13) The parties shall pay an initial retainer of $XXXXX, against which services will be billed. Additional fees will be paid upon request and all fees shall be paid in full prior to the submission of the evaluation report. The Evaluator shall have no duty to supply a report or to perform any further services, including but not limited to responding to subpoenas, appearing at court or deposition, or testifying if he has not been paid in full for all services.

14) Appearances at depositions and/or court proceedings will be billed at the rate of $XXXX per hour, billed in half-day (4-hour) increments. Travel time and preparation time (minimum of two hours), will be billed at the rate of $XXXX per hour. Fees for such appearances will be paid in full at least five working days prior to the date of appearance. At that time, fees will be non-refundable. Fees for
appearances at depositions and/or court proceedings will be paid in full by the party who requests the Evaluator's presence at the proceeding. This includes travel and preparation. In the event that the Court orders the Evaluator to appear in any court-related proceeding, all fees will shared equally by the parties unless otherwise agreed.

15) Parties are responsible for all scheduled appointments unless canceled 48 hours in advance.

16) Should it be necessary for the Evaluator to withdraw from the investigation for any reason, including but not limited to failure of the parties to provide cooperate with the evaluation procedures as stated above, the Evaluator shall be entitled to all fees earned to the date of such termination. The balance of any retainer shall be returned to the parties. The Evaluator shall be under no obligation to disclose information, prepare any report, or testify in court unless all fees are paid. Payment of fees is not contingent on the contents of any report or any particular recommendation on the question of custody.

GRIEVANCE PROCEDURES:

17) If a party alleges that an unprofessional or inappropriate act has occurred on the part of the Evaluator during the course of the evaluation, he or she shall first discuss the complaint with the Evaluator directly. If this direct and informal process does not resolve the complaint, a party may make a formal complaint in writing to the Director of Family Court Services with copies to the Supervising Judge of the Family Law Division of the Court.

18) The Evaluator is considered the Court’s witness, and functions at the request and under the guidance of the Court. The Court will determine whether a new Evaluator is to be appointed, and may consult with other professionals in the course of evaluating the Evaluator.

19) It must be clearly understood that the Evaluator approaches this investigation with no particular result in mind. The Evaluator shall exercise independent professional judgment in all aspects of the evaluation without regard to any agreement for the payment of fees.

CONFIDENTIALITY:

20) There is no privilege for a Court Ordered Evaluation. This means that all information I gather may be disclosed in a courtroom proceeding. The Evaluator is appointed as an investigator, forensic psychological expert and custody evaluator, not a psychotherapist. Although I will attempt to observe in spirit, traditional bounds of confidentiality consistent with community standards in the therapist - patient relationship, in order to allow me to conduct the most thorough evaluation possible, there must be considerable
modification of the traditional rules of confidentiality. The parties, children, household members and witnesses to be interviewed and assessed by the Evaluator are not patients and do not acquire the rights of patients by their participation in the evaluation process.

21) Specifically, I reserve the right to share information with one parent that the other has shared with me. I will not do this without regard for the feelings and confidence of either parent or children, and I will not do this routinely with information shared with me by any party. The purpose of such disclosure will be to clarify issues and gather information. In addition, California state law requires reporting to the appropriate agencies in cases of: a) child abuse, b) elder abuse c) threat of serious harm to identifiable person or persons. I require releases of information as explained in this agreement. (See section 6).

22) All participants in this evaluation understand that there will likely be communication and exchange of information via email or other electronic means. The confidentiality of such communication cannot be completely guaranteed, though reasonable steps will be taken to ensure the privacy of these communications.

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION:

23) The parents will agree to sign any and all Authorizations for Release of Confidential Information required for the evaluation. Such releases will give permission for others to share information with me and me with them as deemed necessary by the Evaluator. There will be no conditions imposed by either parent (or any party to the evaluation) on any such release.

TRAINING AND EDUCATION:

24) I may occasionally find it helpful or necessary to discuss your case with other professionals or for the purpose of training or education. During such discussions, I make every effort to conceal the identity of my patients and individual identifiable information is not revealed. All consultants and discussants are legally bound to keep the information confidential.

EVALUATORS NEUTRALITY:

25) Following the submission of the written report, I refrain from substantive contact with either parent or any other party to the evaluation. I am willing to discuss any aspect of my report with the court appointed mediator, the attorneys with parents at the same time, either in person or by conference call. Such discussions or conferences shall be subject to joint agreement of the parties or court order. This practice enables me to continue to provide input regarding what I consider to be the child’s best interests.
INFORMED CONSENT:

26) A set of recommendations will be the culmination of this report. You may or may not be pleased with these recommendations, and the Court may or may not accept them. However, it is likely that the Court will be making determinations about custody and visitation based on the clinical opinions established in this report.

27) By signing this agreement, the parties understand that the results of the evaluation may lead to a custody and visitation schedule that may or may not be preferable or desirable to the undersigned. By signing this agreement, the parties understand that the evaluator has been appointed by the court under Evidence Code 730, and as such is immune from liability for the results or outcome of this evaluation.

28) Pursuant to the stipulation of the parties, the Evaluator will be engaged in a quasi-judicial function and is entitled to absolute common law and statutory immunity. In addition, the parties agree to indemnify and hold the evaluator harmless from any civil liability resulting from services performed under the appointment order.

29) The evaluator will maintain a complete file of all information and data obtained during the custody evaluation in accordance with APA guidelines and court rules for retention of records.

If the above correctly states our agreement, please so indicate by signing in the appropriate spaces below.

________________________________________  ____________________________
Robert L. Kaufman, Ph.D., A.B.P.P.  Date

________________________________________  ____________________________
Parent 1  Date

________________________________________  ____________________________
Parent 2  Date
Journal of Child Custody

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The Child Custody Evaluation Report: Toward an Integrated Model of Practice

Daniel B. Pickar a & Robert L. Kaufman b

a Independent Practice and Department of Child and Family Psychiatry, Kaiser Permanente Medical Center, Santa Rosa, California
b Independent Practice, Oakland and San Rafael, California


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The Child Custody Evaluation Report: Toward an Integrated Model of Practice

DANIEL B. PICKAR

Independent Practice and Department of Child and Family Psychiatry,
Kaiser Permanente Medical Center, Santa Rosa, California

ROBERT L. KAUFMAN

Independent Practice, Oakland and San Rafael, California

Though child custody evaluations (CCEs) are one of the most important services that guide and inform decision making in many of the most difficult family law cases, the absence of a practical and theoretical framework for report writing is a glaring omission in the field. Current professional practice standards for CCEs emphasize the importance of a scientifically based methodology but offer few guidelines or aspirational principles regarding how a report should be constructed. This article presents a framework for report writing that integrates forensic and clinical perspectives while addressing the multiple client systems served by the report. Emphasis is given to creating a “usefulness” standard that not only serves the court but also enhances settlement possibilities and assists the family to move forward after the completed evaluation.

KEYWORDS divorce, child custody, forensic psychology, child custody evaluations, family court

Child custody evaluation (CCE) practices have evolved greatly over the last 10 to 15 years. The development and articulation of a scientifically informed forensic model for conducting CCEs (Gould, 2006; Gould & Martindale, 2007; Martindale & Gould, 2004), along with recent revisions of professional practice standards for custody evaluators (American Psychological Association [APA], 2010; Association of Family and Conciliation Courts [AFCC], 2007), have led to improved methodology and emphasis on empirically grounded
recommendations in evaluator’s reports. Another important development has been an increased focus on attempting to improve the quality of evaluators’ reports through the emerging practice of work product review and case analysis (AFCC, 2011; Austin, Kirkpatrick, & Flens, 2011; Kaufman & Lee, 2011).

In spite of these important developments, scant attention has been paid to how a report should actually be written. In the AFCC (2007) model standards for child custody evaluators, less than one page is dedicated to the “presentation and interpretation of data,” with no specific guidelines regarding how a report should be written or constructed. The APA (2010) standards for CCEs offer no guidelines or aspirational principles regarding the construction of a report or the presentation of information. While both Gould (2006) and Stahl (2011) do have brief chapters on report writing in their texts on conducting CCEs, there are virtually no published articles specifically focused on custody evaluation report writing in any depth.

The preparation of a CCE report is the culmination of a lengthy, often intense, stressful, and intrusive process for parents and children. The CCE report is the evaluator’s work product that presents not only a summary of the information collected, but also the scrutiny and synthesis of all of this data into a cogent analysis of the case. Opinions and recommendations are offered to address the legal questions at hand, namely, a parenting plan to serve the best interests of the children. Unless there is a trial in which the evaluator testifies, the CCE report may be the only means by which the parents, the judge, and the attorneys understand the evaluator’s thinking. Though CCEs are one of the most important services that guide and inform decision making in many of the most difficult family law cases, the absence of a practical and theoretical framework for report writing is a glaring omission in the field.

Many in the field of family law view the court as the primary client or consumer of the evaluation report. This view makes sense given that child custody evaluators are appointed by court order (sometimes stipulated and sometimes by direct order from the bench), and evaluations are considered advisory reports to the court. The forensic evaluator’s role is to examine the parents and children, to gain collateral information, and to review records for the specific purpose of assisting the court in determining custodial placement of the children (Gould & Martindale, 2007). However, it is estimated that between 80% to 90% of cases in which a CCE has been conducted settle either outside of court or without a trial (Austin, 2009; Bow, Gottlieb, Gould-Saltman, & Hendershot, 2011; Melton et al., 2007). Thus, in the day-to-day world of family law, custody reports most frequently serve a settlement function.

Because there has been no empirical research on the effectiveness of custody evaluations, we have little idea what impact the report has had on parents, or what factors within the report itself may have contributed to
settlement or to better outcomes for families. R. F. Kelly and Ramsey (2009) have recently highlighted the need to systematically study CCEs as a human service system. These authors propose a research agenda to analyze several outcomes regarding CCEs, such as the factors which lead to settlement, to reduction in parenting conflict following an evaluation, to child well-being following an evaluation, and whether court efficiency and effectiveness is improved as a result of a CCE. One of the independent variables identified by the authors is the “quality of the custody evaluation,” and specifically, whether the evaluation was “high quality” versus “low quality.”

However, R. F. Kelly and Ramsey (2009) propose no operational definition of what might actually constitute a “high quality” versus “low quality” CCE report. Along with R. F. Kelly and Ramsey, Austin (2009), and Bow (2006) have also described the need for outcome research in the CCE field, but these authors note the tremendous complexity involved in conducting such research, including using control groups and human subjects concerns, and they point out the need for financial and institutional resources. Bow (2006) in particular stated, “There is a need for outcome research in the CCE field. Only a few studies have examined report quality. While this is a difficult area to assess, it is one of the best means for examining practice issues” (p. 47).

Despite the absence of such research, custody evaluators should consider far more closely and critically how we communicate our observations, analysis, findings, and recommendations to those who can benefit from this information. This article focuses in particular on those features and qualities of CCE reports that not only address the needs of the court but also address other consumers of the evaluation, while enhancing the possibility of settlement. While we understand that a CCE report is a forensic endeavor in which the evaluator is providing information to assist the “trier of fact” in rendering decisions, we challenge the idea that reports should be written only with judges in mind. If 80% to 90% of custody disputes settle following the submission of a report but prior to trial, then far more often than not, it is parents, and if represented by counsel, their attorneys, who are also the primary consumers of the CCE report. In other words, custody evaluators should write reports anticipating multiple clients.

Even within the family court system, there is growing emphasis on facilitating settlement while obviating the need for lengthy and costly hearings and trials. Parents most often still have decision-making power between the time an evaluation report is issued and prior to court action. For example, in some jurisdictions in California, there is actually a judicial settlement conference scheduled following the submission of a report, with an attempt made to settle the case prior to a hearing or trial (Lee & Kaufman, 2010). Therefore, while custody evaluators are court appointees producing a forensic work product geared towards providing information and recommendations in service of the family law court, advisory reports also need to be to
written and constructed in a way that enhances the possibility of settlement, while attempting to leave parents’ dignity intact, and that aspires to the Hippocratic Oath of “do no harm.”

This article addresses how to craft a high-quality written CCE report that is useful and helpful to the multiclent system served by the report. Among the issues that we cover are: a) the similarities and differences of writing for judicial officers, attorneys, and parents; b) how a CCE report can be executed as an evidence-driven forensic report while enhancing the possibility of parents settling their cases, obviating the need to go to court; c) the ways of responsibly and effectively integrating evidence-driven conclusions with informed clinical inference; and d) how to write reports that may minimize complaints about bias. The approach taken here may re-create the tension previously discussed by Gould and Stahl (2000) regarding whether CCE reports should be seen as strictly a forensic, scientifically based work product, or whether the report should also be constructed in part as a settlement tool. Ultimately, we offer an integrated model for report writing that underscores the importance of a scientifically based methodology and of empirical underpinnings to an analysis and recommendations, with a clinically based sensitivity to constructing reports in a manner that focuses on parental strengths as well as problem areas. This clinical model emphasizes writing the report in such a way so as to preserve the humanity of the parents and children, promoting both settlement and hope for the future co-parenting relationship.

**CCEs IN THE CONTEXT OF FORENSIC MENTAL HEALTH ASSESSMENTS**

CCEs fall squarely under the heading of Forensic Mental Health Assessments (FMHAs). As such, they are considered assessments that are conducted to provide clinical and functional information to a legal decision maker about issues that relate to specific psycholegal questions (Heilbrun, Marcyk, DeMatteo, & Mack-Allen, 2007). This would be in contrast to evaluations performed in clinical contexts that are specifically intended to provide diagnostic information and to inform treatment planning. Thus, FMHA reports memorialize findings and offer a consulting and educational function for the courts (DeMier, 2012).

In several articles and books, Heilbrun and colleagues developed principles to guide FMHAs that encompass four broad areas: *preparation, data collection, data interpretation,* and *communication* (Heilbrun, 2001; Heilbrun, Marcyk, & DeMatteo, 2002; Helibrun, Grisso, & Goldstein, 2008). These principles can be applied to the range of legal issues and populations that occur in forensic assessment. Communication and analysis of findings in forensic cases has long been an anticipated result of the FMHA, and this was
noted in the initial Specialty Guidelines for Forensic Psychologists (APA, 1991). This expectation has been maintained and expanded upon in the most recent revision of the forensic guidelines (APA, 2012). While communication of findings may be written or oral, it is assumed that the child custody evaluator will provide a written report of his/her findings and recommendations.

Of the 29 specific guiding principles that fall into the four broad categories noted above, Heilbrun suggests that 22 of them apply to forensic report construction. In his 2007 article, Heilbrun highlights what he considers to be standards that most directly apply to report construction and writing:

- **Identify relevant forensic issues:** The forensic mental health professional (FMHP) should report on what capacities are to be assessed and what psycholegal questions should be answered.
- **Obtain proper authorization:** Under what agreement or request was the assessment performed? Was it court ordered or was it conducted at the request of an attorney?
- **Use multiple sources of information for each area being assessed:** This might include self-report, psychological testing, review of records, reports from collateral sources, and direct observation.
- **Obtain relevant historical information:** This includes not only providing historical context in the report, but also specifically focusing on historical information that is relevant to the legal issue at hand.
- **Use third-party information in assessing response style:** The FMHP should report on the extent to which third-party information is consistent with the self-report of the individual being evaluated.
- **Do not answer the ultimate legal question:** Heilbrun acknowledges that there is ongoing debate on this issue.
- **Attribute information to sources:** FMHPs should report the source of all data relied on in the assessment. This makes the process more transparent and shows how conclusions flow from the data gathered.
- **Use plain language; avoid technical jargon:** This principle acknowledges that most individuals who read FMHA reports are not trained in mental health and are frequently laypersons.
- **Write the report in sections, according to model and procedures:** An organized structure to the report allows the reader to understand the questions at hand, the nature of the data obtained, the history, the observations, and the assessment of functional abilities.

These standards have laid the groundwork for others, such as Gould and Martindale (2007), who have outlined their views of the principles inherent in a forensic and scientifically informed model of child custody report production:

- **Identification of psycholegal questions to guide investigative process**
- **Multiple interviews with relevant parties and their children**
• Use of valid and reliable tests and measures
• Direct behavioral observations, including parent–child interactions
• Review of relevant historical and current records
• Interviews with collateral sources
• Inclusion of references to the empirical literature to justify and ground recommendations as having some empirical validity; application of reliable and relevant research

Among the kinds of FMHAs performed by qualified professionals, CCEs hold a unique position. In virtually every area of forensic psychology, professionals are evaluating individual competencies and functional capacities (Grisso, 2002, 2010). For example, this is so in the range of criminal cases where forensic psychologists are engaged (e.g., competence to stand trial, Miranda rights waiver, criminal sentencing, juvenile commitment, and mental state at the time of the offense), as well as in civil matters (e.g., civil psychological injury, guardianship, worker’s compensation, risk assessment, malpractice, and termination of parental rights). CCEs are unique in that multiple individuals are assessed. In addition, multiple interpersonal relationships and the family system are also subjects of examination. Evaluations invariably include at least two parents and one child. It is incumbent on the custody evaluator to report on the parenting competencies of each parent and on the functioning of each child. In addition, each parent–child relationship must be understood and discussed along with the co-parenting relationship with respect to how any parental conflict impacts the child. Typically, step-parents also are interviewed, and their relationship to the child is also considered by the evaluator. Needless to say, many families arrive in our offices with more than one child and more than two parents, making a complex task only more demanding.

The standard of practice in forensic psychology is to employ data gathering methodology and data interpretation techniques that are as soundly grounded as possible in current science and research. This practice is central to meeting standards of admissibility in the courtroom. In matters where one individual is to be evaluated, and the scope of the assessment is more narrowly defined, specific instruments and protocols that directly assess those competencies can more easily and validly be relied upon than in a CCE. An example of this is when a forensic psychologist is asked to evaluate an individual with regard to their competence to stand trial. Guidelines for determining competency are well documented in relevant literature and case law, and there are several well-regarded and well-validated procedures available to the evaluator, such as the MacArthur Competence Assessment Tool–Criminal Adjudication (Poythress et al., 1999) or the Evaluation of Competence to Stand Trial–Revised (Rogers, Tillbrook, & Sewell, 2004). These instruments can guide assessment and inform recommendations. Even in these kinds of assessments, the forensic psychologist must employ clinical judgment and
other sources of data to determine the utility of test data and to integrate it with clinical impressions and collateral data.

In child custody work, there have been several attempts to develop valid and reliable measures of parenting abilities (Ackerman & Schoendorf, 2000; Bricklin, 1989; Bricklin & Hlabert, 2004). However, these instruments have either not gained acceptance in the forensic evaluation community or have been deemed by multiple critics to be of questionable validity (Medoff, 2003; Otto, Edens, & Barcus, 2000). Regardless, the task of the custody evaluator is so complex that no instrument or set of psychological tests is able to answer the multiple questions that arise in custody evaluations. Thus, evaluators must always exercise considerable clinical judgment when sorting through and integrating data obtained from manifold sources and multiple assessment modalities. For these reasons, we suggest that the need for thoughtful application of clinical skills is greater in CCEs than in most other areas of forensic assessment.

It is also our position that the use of sound and experienced clinical judgment, coupled with a scientifically informed methodology and reliance on the empirical literature, are consistent with high-quality FMHAs. If anything, report writing grounded not only in science, but also in sophisticated and well-reasoned clinical judgment, plays an essential role in helping the court to understand complex and seemingly contradictory reports from parents, complicated histories, and the needs of children who often are too young to articulate feelings and needs at a sufficient level of emotional maturity. As such, the child custody report should be viewed as a FMHA report and should adhere to guidelines that have been evolving over the last 20 years or more.

CREATING A HIGH-QUALITY CCE REPORT GEARED TOWARDS MULTIPLE CLIENT SYSTEMS

The CCE report is a forensic work product that addresses the legal questions posed by the court. Child custody evaluators are court appointed, so they are the court’s experts. Therefore, because there is not a “client” as in clinical work, the court is typically considered to be the primary consumer or client served by the report. In reality, however, the CCE report serves multiple clients who will not only read the report, but hopefully who also will benefit from its analysis and recommendations. Such clients include not only the court, but also the attorneys representing the parents or the child and the parents and children who are evaluated. In addition, therapists, mediators, and parenting coordinators may also be an integral part of a parenting plan and may rely upon specific recommendations or guidelines to assist them in providing follow-up services to the family following the completion of a CCE. Next, we provide an analysis of the different client systems served by
the report, while specifying a complex array of elements of report writing that are geared toward creating a useful and helpful report to those who will potentially benefit from it.

The Court as Client

From the point at which a mental health professional accepts the assignment to conduct a CCE, he/she has entered into the legal arena. As the literature on forensic psychology is replete with descriptions and definitions of the differences between clinical and forensic roles (S. A. Greenberg & Shuman, 1997; Shuman & Greenberg, 2003), it may seem obvious to state that the court is the primary consumer of a child custody report. While evaluators work under the guidance of models of practice (APA, 2010; AFCC, 2007) as well as of state laws and local rules, the specific demands on the custody evaluator in terms of addressing the court's needs are worth enumerating.

Though custody evaluators are frequently appointed via stipulation of the parents, and though it is the parties who are most often paying the evaluator's fees, the evaluator's primary purpose is to assist the court, the legal decision maker. Every day, family court judges and commissioners make decisions that affect the lives of families, and they often must do this with relatively limited information and limited resources. Though many, if not most, decisions can be made under these circumstances, there are times when the court requires information that cannot be obtained by presentation of evidence in the courtroom. Melton et al. (2007) note that the court needs mental health professionals to be investigators who can report data that will assist judges to determine children's best interests. Custody evaluators can provide the court with the breadth and depth of information that the court either does not have the time to gather or does not have the expertise to obtain in a reliable fashion. As such, it would appear that the court is not only one of the evaluator's clients in this multiclient system, but also it is the primary client or consumer. Shear (noted in Gould & Martindale, 2007) even suggests that a better way to describe the relationship is that the custody evaluator is an extension of the court. Custody evaluators most often describe themselves as consultants to the court.

Custody evaluators can be helpful to the court well beyond the specific timeshare recommendations that the court values. Judges and attorneys expect and rely on custody evaluators to provide specific recommendations regarding custody matters and timeshare plans (Quinnell & Bow, 2001 and Bow & Quinnell, 2004). Additionally, the court needs information regarding key psychological and relational issues that weigh in decision making including:

- social and emotional functioning of each of the parents,
- social and emotional functioning of the minor(s),
- the specific developmental needs of the minor(s),
• the nature of the specific parent–child relationships, and
• the nature of the parents’ relationship with each other, especially as it pertains to the ability to co-parent.

Among the things that the court wants to know are the relative strengths and weaknesses of various parenting plans as they apply to children of different ages and developmental stages. This is input that a custody evaluator, who is well versed in current research, can offer a judge, significantly adding to the data upon which decisions are rendered. An example of this would be a discussion of the potential merits and risks of approaches to overnight visitation with infants and toddlers.

Relatively few custody matters are referred for an evaluation; however, the vast majority of the cases that do go through comprehensive assessment involve issues associated with high conflict or challenging circumstances. These cases may include issues such as serious parental psychiatric disturbance or substance abuse, families with special needs children, allegations of abuse and domestic violence, or issues regarding alienation and children who resist contact with a parent. Some cases referred to evaluation may not include high conflict or even significant differences between parents about the care of the child but require third party decision making due to problematic circumstances. An example is when parents are functioning well with an undisputed custody arrangement, but one parent seeks to relocate with the child, necessitating a substantive change in the custodial timeshare. In all of these instances, custody evaluators can bring valuable information to the court on the state of knowledge in specific content areas (such as relocation or domestic violence) and its applicability to the specific family involved in the evaluation.

All of these are examples of the incremental or additive knowledge and understanding that custody evaluators bring to the court. Further, this information is often critical, as the trier of fact must exercise considerable judgment when applying the Best Interests of the Child standard. The model standard of the Uniform Marriage and Divorce Act offers judicial officers guidance on what to consider when determining the child’s best interests, but it leaves the relative importance of the various factors to a specific case up to the discretion of the court (Melton et al., 2007). It is in these areas that judicial officers turn to custody evaluators to provide data and acumen.

Knowing what might be helpful to the court is not the same as understanding how to be helpful to the court, given that a poorly crafted or poorly written custody evaluation report can become an unwelcomed distraction at best and the focal point of controversy and litigation at worst. Custody evaluators should not only understand the foundations of forensic evaluations and how they differ from purely clinical assessments, but also they should demonstrate that understanding in their reports. Specifically in terms of report
writing, we believe that courts can make use of evaluations that adhere to some basic guidelines:

- **Define the specific questions upon which the court seeks input in the particular case.** While broad or generic issues may pertain to almost any custody case (i.e., what timeshare plan will address the children’s best interests, how the health and safety of the children are being addressed by each parent), the court must typically address specific allegations and assertions (i.e., Is alienation present? Is supervised visitation between a parent and child needed?). Before even accepting a case, we believe that evaluators, in consultation with the attorneys or upon the input of the court, should delineate the specific questions about which the court seeks input. Those questions should help frame the evaluation report and should be noted specifically when reporting the reasons why the family was referred for evaluation. Those same questions should then be addressed clearly in the case analysis of the family in the context of the evaluation findings.

- **Understand and address the underlying psycholegal issues:** Though custody evaluators are not expected to be attorneys or to have the depth of legal knowledge of a bench officer, they are expected to be educated in the workings of the legal system in the areas in which they practice. This is spelled out in the most recent revision of the *Specialty Guidelines for Forensic Psychology:*

> Forensic practitioners recognize the importance of obtaining a fundamental and reasonable level of knowledge and understanding of the legal and professional standards, laws, rules, and precedents that govern their participation in legal proceedings and that guide the impact of their services on service recipients. (APA, 2013, p. 9)

Furthermore, custody evaluators should be well versed in the legal standards, case law, and clinical issues that apply to the specific cases on which they are asked to work. Examples of this include current standards for weighing factors in relocation cases or assumptions under the law pertaining to findings of domestic violence. Referencing these standards in case discussions lends support for the conclusions and recommendations of the evaluation and demonstrates to the court a depth of knowledge commensurate with the gravity of the issues at hand. Ultimately the court may or may not agree with an evaluator's conclusions or even with his or her analysis. However, the court will know that the evaluator has weighed evidence and data in its proper context.

- **Apply sound methodology and seek out multiple sources of data:** Particularly in the past 10 to 15 years, much has been written about the scientific approach to conducting custody evaluations (Gould & Martindale, 2007). A scientifically informed approach is necessary while making room for experienced and well-reasoned clinical judgment and unavoidable lack of
precision inherent in our field. The custody report should demonstrate and detail methodology grounded in sound professional practice and up-to-date relevant research. To the extent that evaluation reports outline sound methodology, they will be seen by the court as meeting forensic standards and considered seriously.

- **Use of valid and reliable psychological tests that meet admissibility standards:** Cautions abound regarding the use and potential misuse of psychological testing in custody matters. Both the APA Guidelines for Child Custody Evaluations in Family Law Proceedings (2010) and the AFCC Model Standards of Practice for Child Custody Evaluation (2007) note that psychological testing is a potentially informative component of CCEs. However, these guidelines stress that evaluators should be adequately trained in administering and interpreting the instruments and that they should exercise considerable caution in applying test findings to custody-related matters. Still, it is common practice among custody evaluators to administer psychological tests and report on findings in their written reports (Flens, 2005; Gould, 2006). Evaluators should keep in mind that while judges may have limited exposure to or appreciation for the nuances of psychological test construction and the data that may be derived from the tests, judges remain gatekeepers of evidence that can be considered in custody matters before the court. Hence, evaluators are well advised to select tests that meet admissibility standards based on their established validity and reliability. This should be noted in the custody report. It is imperative that evaluators report the specific validity of the individual test protocols obtained as well as the limitations of the test data. Additionally, it is essential that evaluators who use psychological testing clearly explain the relevance of test data to custody-related issues beyond the presence or absence of psychopathology or the details of individuals’ psychological functioning.

- **Outline in detail an analysis and synthesis of the data and provide empirical support for recommendations:** In our experience, custody reports are becoming longer and longer. At least in the jurisdictions in which we practice, this trend is perhaps a response to more detailed standards of practice now published and widely accepted and due to increased scrutiny of reports by forensic mental health consultants who are hired to review and critique evaluation reports. Interestingly, reports that we have reviewed primarily include far more detailed history, accounting of allegations by one parent with the other parent’s response to the claims, and direct observations and reports from collateral sources. Ironically, what has not grown proportionally is the analysis and synthesis of the data acquired. Far too many reports may contain scores of pages of “what was said” and “what was seen,” but with remarkably brief critical synthesis and rationales for recommendations. The court has many ways of obtaining background information and details of allegations and assertions, as litigants and/or their attorneys typically file declarations and briefs to support custody
motions. What the court cannot obtain on its own is a three-dimensional view of the family. Thus, to address the needs of the court, evaluators should focus their attention on reporting how they are distilling and synthesizing the considerable data that they typically obtain. The evaluator's thinking process should be apparent to all, and especially to a judicial officer. It should not be an argument but, rather, a road map of how evaluation data leads to accepting some hypotheses while rejecting others, and how recommendations flow directly from the evidence obtained. To the extent that recommendations are well grounded in evaluation data, they may seriously be considered as viable solutions for families.

- **Document the source of hypotheses, analysis, and conclusions:** Custody evaluators draw on multiple sources of data, some of which are derived from direct observation or documented reports by third parties. Skilled evaluators also employ clinically based analysis and inference. In the CCE report, it is helpful to the court to identify the source of hypotheses and conclusions, denoting whether ideas and/or analysis come from specific data points or via an amalgam distilled by the evaluator. We find no fault in an evaluator generating hypotheses or offering opinions based largely on clinical inference, so long as this is clearly noted in the CCE report. For example, evaluators are asked to assess and describe specific parent–child relationships, yet there are no established specific “tests” or protocols for doing so. Assessment of these relationships comes from direct observation, history, reports from the parties and the children, and third party reports, and it also may be informed by psychological testing. The evaluator, in part, exercises clinical judgment to determine the relative value of the data obtained and to draw conclusions about the relationships. When the evaluator outlines in the CCE report the sources and relative value of the data, the court is able to draw its own conclusions as to the reliability of those conclusions.

- **Detail limitations of the evaluation; show that you know what you don’t know:** Not all data is created equal. Not all parenting plans can be recommended with equal assurance. Judges must be aware of the confidence that the evaluator has in the recommendations submitted to the court. This information is conveyed when evaluators write about the limits of their family assessments. The limitations may be procedural (e.g., an individual was not available for a visit or interview), or there may have been gaps in data that the evaluator was able to obtain (e.g., records of a psychiatric hospitalization or a report from Child Protective Services). Parties are not always optimally cooperative; children are sometimes wary to speak their minds or too young to verbalize experiences. In our experience, judges appreciate knowing the quality of the information they are reviewing and respect evaluators for their honest perspective taking, not to mention their humility.

It is imperative that evaluators recognize their close relationship to the court and their responsibility to write comprehensive yet concise and
incisive custody reports. Though most custody cases settle, often without the judge ever reading the written report, the custody evaluator must always write with the judicial officer considered the primary consumer.

The Attorney as Client

While family law attorneys are not the custody evaluator’s direct clients, they are important consumers of the report and further play multiple important roles in the family law system. Hence, providing the attorneys with a thoughtful, clear, and carefully constructed evaluation report can make an important difference between cases that settle versus those that proceed with protracted litigation. A well-crafted custody report can be educational for an attorney and can help him or her explain evaluation findings and recommendations to the parent—even findings that are not experienced by the parent to be especially favorable to their point of view. Quality work is not only respected by attorneys but is experienced as helpful to the work that attorneys perform for their clients.

In many ways, attorneys’ roles in the family law system go far beyond that of being a strong advocate for their client. Attorneys are liaisons or intermediaries between the parent/client and other facets of the system. In their role as educators, family law attorneys are the link between their client and the law. They are charged with explaining the specifics of a particular branch of the legal system to individuals who oftentimes have never required legal representation before. Often parents are surprised to hear about legal guidelines for how the court views various custody matters. At the same time, the attorney is the functional link between the client and the court itself. This, of course, may include drafting and filing motions, interacting with court personnel, and providing in-person representation in court. Perhaps more germane to mental health professionals, family law attorneys are typically a connection between the parent and the custody evaluator. Most often, attorneys will be part of the vetting and selection process whereby the custody evaluator is appointed, and they may have some further involvement during the evaluation process.

Finally, the family law attorney is a link between the client/parent and the evaluation report itself. Attorneys assist their clients to understand and absorb the custody recommendations and the reasoning behind them. Particularly given the nature of the cases that eventuate in custody evaluations, it can be expected that parents will have strong reactions to the custody report, whether those reactions are positive, negative, or mixed. Attorneys must manage the parent’s responses to the report and work with their clients to look towards the future after the submission of the report. While a well-written evaluation report cannot ensure that a parent will accept the recommendations submitted, it can go a long way towards a parent experiencing that he or she has been evaluated fairly and thoughtfully and
that any expressed concerns regarding the children were taken seriously. Furthermore, a well-written report can enhance a parent’s ability to keep their children’s needs as the primary focus (as opposed to angrily focusing on the other parent) and entertaining the possibility of settling a case.

Over the past decade, several authors have solicited attorney views on what makes for a quality CCE report (Bow, Gottlieb, & Gould-Saltman, 2011; Bow & Quinnell, 2004). In their initial survey, Bow and Quinnell (2004) noted that although attorneys were most concerned about the length of time it took evaluators to complete assessments, the second most frequent complaint was that evaluators lacked objectivity and were prone to biased attitudes, which were apparent in their reports. In Bow, Gottlieb’s, and Gould-Saltman’s follow-up survey (2011), the authors reported that the most frequent complaints focused on evaluators’ indecisiveness and coming to illogical conclusions. Attorneys were further troubled by what they considered to be evaluators’ lack of understanding of the Best Interest of the Child standard and by problems with recommendations. Additional concerns included:

- the use of unscientific methods;
- failure to cross-check data;
- failure to perform appropriate parent–child observations including home visits;
- overreliance on psychological testing;
- failure to obtain adequate collateral information; and
- failure to report on information obtained from the children;
- offer logical and reasonably considered custody recommendations, and
- pay attention to the best interests of the children.

From a more positive point of view, attorneys expressed the opinion that high-quality evaluations:

- are fair, unbiased, and objective,
- are sound in terms of methodology and adherence to standards of practice,
- describe both parenting strengths and weaknesses,
- report on information obtained from the children,
- offer logical and reasonably considered custody recommendations, and
- pay attention to the best interests of the children.

The legal professionals in these surveys also offered recommendations for improving CCEs and the most frequently cited suggestions were for evaluators to:

- pay attention to CCE guidelines, with particular emphasis on use of collateral source information;
- offer recommendations that are “understandable, logical, and pragmatic”; and
- improve the quality of report writing.
A very compelling finding of the last survey was that “the attorneys in this study almost universally agreed that detailed reports facilitated settlement of cases” (Bow, Gottlieb, & Gould-Saltman, 2011, p. 308) and that “an overwhelming majority felt that recommendations should be made regarding parenting time” (Bow, Gottlieb, & Gould-Saltman, 2011, p. 309). The finding that most attorneys look to custody evaluators to provide specific recommendations with regard to custody and access is particularly interesting in light of recent debate and controversy as to whether enough empirical support exists in the child custody field for evaluators to make “ultimate issue” recommendations (Grisso, 2005; J. B. Kelly & Johnston, 2005; Tippins & Wittmann 2005).

With specific regard to report writing, attorneys emphasized that reports should not employ professional “jargon” but should use “plain English,” making the report more readable and understandable. In addition, the attorneys asked for more detailed information to bolster reasoning and recommendations. Lastly, they suggested that custody reports be organized into sections according to discrete topics, again improving readability. Examples of such topic areas included: parenting skills, the nature of the parent conflict, parent–child attachment, and environmental stability.

A high-quality evaluation and report can assist an attorney in several key ways. The well-written report can educate the attorney and help him or her understand the case better, as the attorney now has access to information that he or she would not have been able to obtain on his or her own. This includes a more textured understanding of the assets and liabilities of the attorney’s client and the other parent as well as a professional’s assessment of the best interests of the children. In turn, this puts the attorney in a far better position to educate the parent/client and also to keep controversial topics and questions in better perspective.

It is clear that evaluation reports with ample detailed analysis and cogent weighing of data also assist attorneys with their efforts to settle cases. In the event that settlement is not possible, the well-executed report will also be useful for trial preparation. At worst, an inadequately prepared custody report draws attention to itself in negative ways, as it invites criticism, which can then be the basis of litigation. A quality custody evaluation report will support attorneys’ attempts to keep their clients focused on solving the problems and conflicts in the family.

The Parent as Client

It is important for evaluators to keep in mind that parents will read and react to custody reports. Given that custody evaluations take place in the midst of contentious litigation, it is natural for parents to fixate on an evaluator’s recommendations when the CCE report is generated. Still, there are many parents who express genuine interest in learning more about their children
from a professional's point of view and who seek information about how to parent more effectively. Especially given the fact that custody evaluators often must assess very serious allegations about parents' shortcomings, a major challenge in writing effective and useful CCE reports is to identify and address weaknesses of each parent while still being cognizant that the family must move on, hopefully in a healthier direction. To support these efforts, emphasizing individual strengths can facilitate the parents' openness to professional input and support optimism and good will in moving forward.

In 2006, the *Journal of Clinical Psychology* (Groth-Marnat, 2006b) dedicated an entire issue to the writing of psychological test reports. The field of forensic psychology practice in the child custody arena has much to gain by incorporating some of the recent advances that have been made in the area of psychological test report writing. Harvey (2006) and Groth-Marnat and Horvath (2006) highlight the need to improve the readability of reports. Most reports are difficult for nonpsychologists to understand. Many psychological reports lack clarity because their reading level is too advanced for the “typical” reader. Harvey notes that reports need to be written using shorter sentences while minimizing words that average readers would find difficult to comprehend. Reports with more subheadings and less jargon, acronyms, and passive verbs tend to be more effective. Overuse of psychological jargon was the most frequent complaint found in past research on consumer satisfaction with psychological test reports (Brenner, 2003). Harvey suggests that practicing psychologists should obtain feedback about the readability of their own writing through supervision or peer review. In addition, Harvey recommends obtaining consumer feedback. Custody evaluators would do well to follow these suggestions. While this may seem like an awkward task in a custody dispute, evaluators can certainly obtain feedback from attorneys and even bench officers after litigation is over.

In his discussion of psychological assessment report writing, Groth-Marnat (2006a) cautioned that reports that focus primarily on client pathology, without adequate discussion of individual strengths, are often not well received by clients. This same critique is frequently levied against custody evaluators when reports are seen as focusing exclusively on the negative, dysfunctional aspects of parents. This is especially so when evaluators describe psychological test results. When a client reads such a negative report, it can be demoralizing, often causing the parent to feel alienated and angry with the psychologist. In the process, the client may not hear important information gleaned in the evaluation. Groth-Marnat (2009) and others (Snyder, Ritschel, Rand, & Berg, 2006) argue for a more balanced approach, actively incorporating the strengths in a client's psychological make-up and functioning in reports, in addition to their weaknesses.

Recent contributions from positive psychology can also be instructive. In writing about the efficacy of psychotherapy, Seligman and colleagues (Seligman, 2002; Seligman, Steen, Park, & Peterson, 2005) are shifting the
paradigm away from pathology and mental illness to cultivating the qualities that benefit health, relationships, parenting, and careers. Research in therapeutic approaches utilizing positive psychology have found that emphasizing a person's strengths may provide as many therapeutic benefits as trying to fix what is wrong with them, and this approach is now being applied to psychological assessment (Lopez & Snyder, 2003). Furthermore, Snyder et al. (2006) have described the benefits of utilizing hope theory as a framework for report writing. Snyder’s (1994) theory posits that hope is a cognitive variable that consists of three components: goals, agency, and pathways. The theory emphasizes that humans are predominantly goal-directed beings, and that reports can be effective when they generate distinct strategies and clear pathways to assist clients in achieving their goals.

So how does positive psychology relate to the crafting of a CCE report? First, when evaluators write reports, it is helpful to assume that most parents want to do what is best for their children and improve upon their parenting skills. Parents may just not know how to do it, particularly in the high-conflict climate of custody litigation. Parenting strengths should be clearly denoted in reports. When discussing weaknesses, evaluators should do so in a way that utilizes what Appelbaum (2010) described as “forensic empathy.” Emphasizing parents’ concerns, suffering, and needs humanizes their experience and perspective, helps parents to feel that they were heard and understood, and supports openness to hearing about how to orient better to the best interests of their children. Most parents have developed problematic approaches to their children as a by-product of how they were parented early in their lives or because they truly believe that these methods are effective and best for the children. When highlighting ill-advised or ineffective parental approaches, it should be done from a non-judgmental stance. Suggestions and strategies for improvement should be specified, thereby increasing hope and emphasizing the parent's own desire to enhance his or her skills.

Secondly, when describing psychological test findings, evaluators should be careful not to fall prey to the common tendency to point out only psychological weaknesses and deficiencies. This is especially so when evaluators rely primarily on computer-generated testing reports, as they fail to exercise the necessary clinical judgment regarding what to include and what not include from such reports. Interpretive statements should be framed in a useful and beneficial way while attempting to maintain the integrity and humanity of the parent being described. Test findings should also capture the parent’s psychological dilemma or struggle in a humane way.

Even with tests like the MMPI–2, which was specifically designed to identify psychopathology, results do not have to be exclusively negative. Levak, Siegel, Nichols, and Stolberg (2011) provide wonderful examples of descriptive statements that are related to specific clinical scale elevations and two-point codes, which highlight not only the psychological difficulties inherent in
the test findings, but also emphasize the strengths and positive traits and behaviors of the individual. Though the presence of social and emotional problems should not be ignored, it can also be described in conjunction with the more adaptive aspects of the parent's personality functioning.

For example, individuals who have a clinically significant elevation on the Paranoia (Scale 6) scale of the MMPI–2 are most frequently described as suspicious, hostile, and unwilling to accept responsibility and projecting blame, with possible paranoid ideation. However, such individuals may also be very rational, fair-minded and loyal, while having very high personal standards and working hard to be above criticism or judgment. Such individuals, because they are their own worst critics, work hard to “do the right thing.” Similarly, individuals who have a significant elevation on the Depression scale (Scale 2) may struggle with depressed mood, poor concentration, dissatisfaction with life, and possibly sleep disturbance. It can also be useful to point out that such individuals are often quite thoughtful, responsible, cautious, conscientious, and dutiful. Lastly, while individuals with a significant clinical elevation on Psychasthenia (Scale 7) may be anxious, obsessive, self-critical, ruminative, and perfectionistic, on the positive side, these individuals are frequently conscientious, methodical, organized, thoughtful, soft-hearted, and analytical.

Lastly, evaluators should avoid writing reports that can readily be perceived as being “black and white.” These are reports that describe parents in dichotomous terms, where one parent is seen as exceptional and the other as exclusively deficient. While parenting liabilities must always be described and discussed, when the approach to characterizing the parents is so disparate, parents are far less likely to absorb the content of the report and will shift focus onto complaints about the report or the evaluator. Maintaining the mindset that the report can be a “settlement tool,” and not just a “litigation tool” helps the evaluator avoid extreme portrayals of the parents, thereby mitigating risk of further parental polarization, litigation, or even a licensing board complaint against the evaluator.

The Child as Client

In most respects, children are the most important consumers served by the CCE report, even though they will not read it. Ultimately, children must accept and adapt to specific parenting plans that are adopted by the court or agreed to by the parents. As such, custody evaluators must not lose sight of the fact that children are not only bona fide clients in the family law system, but perhaps the most critical ones. Increasingly, children have a right to play an active role in decisions about their future. Thus, children’s perceptions of parents, as well as their input and wishes about parenting plans, are relevant pieces of data and important to custody recommendations and determinations. Kuehnle, Greenberg, and Gottlieb (2004) noted that many evaluators
undervalue the rich and important information that children can provide. These authors further point out that most often, the “best interests” of a child cannot be fully understood unless information and perceptions are directly obtained from the child. Furthermore, the Model Standards of Practice for Child Custody Evaluation (AFCC, 2007) specify that “evaluators shall consider the stated wishes and concerns of each child as they relate to the allocation of parental rights and responsibilities if the child is of sufficient developmental age to independently express informed views” (Standard 5.8a). When children experience that the information they provide to an evaluator is valued and they feel social support, the quantity and quality of the communicated information may be improved (Bottoms, Quas, & Davis, 2007). Of course, the quality of the information may be related to a child’s developmental age and to the extent to which it is free of suggestion, bias, and pressure (Saywitz, Comparo, & Romanoff, 2010). Children must also not feel pressured to choose between parents and must be given the freedom to not have to respond to questions regarding living preferences.

By legal and ethical standards, the needs and interests of the children should take center stage in a CCE. The custody evaluator, by way of his or her report, can serve as an effective voice of the child. Research in the child custody arena (J. B. Kelly, 2008) indicates that a large majority of school-age children and adolescents in separated and divorced families want their voices to be heard and their needs and opinions to be considered. Indeed, in many states, recent legislation has been enacted to ensure that children’s preferences are taken into consideration in custody decisions. In California for example, as a result of the Supreme Court decision in Elkins v. Superior Court (2007), the California Family Code (2011) was revised, specifying that “if a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody or visitation, the court shall consider, and give due weight, to the wishes of the child in making an order granting or modifying custody of a child” (California Family Code, section 3042, 2011). Further, the code specifies that if a child is 14 years of age or older and wishes to address the court regarding custody or visitation, the child shall be permitted to do so (unless the court determines that it is not in the child’s best interests). There is also provision in the code for children under 14 to address the court directly regarding custody or visitation. When a CCE has been ordered, the California rules of court specify that evaluators need to allow (but not require) children to state a custody preference, irrespective of age. Gould and Martindale (2007) make a useful suggestion regarding organizing the custody report around children’s voices. Children’s voices can best be represented in a report by quoting their actual words regarding their views of parents and custody preferences.

Of course, making known the child’s voice regarding a custody preference does not necessarily mean that a custody recommendation to the court is always consistent with a child’s preferences. Warshak (2003) aptly noted...
that children do not always know what is best for them and may be subject to loyalty conflicts, an extreme form of which exists in cases where alienation dynamics are at play. Warshak further underscores that representing a child’s voice also entails using the collective voice of children, as revealed in developmental research on children’s adjustment to various custody arrangements. Clinical judgment is crucially important in report writing when making decisions regarding what statements from a child to include in a report. Evaluators must carefully weigh the evidentiary value of some direct information or statements made by the child against the potential impact revealing such material might have on the child’s future relationship with each parent. When sound clinical judgment is combined with knowledge from currently available research, CCE reports can best serve the interests of children and can assist them in progressing and thriving in the most optimal living situation, in spite of parental divorce. Applying “forensic empathy” for the child is a critical means for capturing and describing what is best for children. By “putting himself or herself in the shoes of a child” and using this approach as a benchmark in the crafting of the CCE report, the evaluator is in a better position to have the child’s need acknowledged and understood by the parents.

Other Clients Served by the Report

Other consumers of CCE reports, albeit indirect consumers, are the therapists, parenting coordinators, guardians ad litem, and other professionals who will offer services to the family following the evaluation. The involvement of such professionals is not uncommon in the high-conflict cases that are most typically referred for custody evaluations. They are often critical for effective implementation of a parenting plan that is ultimately adopted by the family. The CCE report assists these professionals by identifying problematic parenting approaches and destructive communication and functional patterns between divorced or separated parents. In instances when particularly complex dynamic patterns are present, such as in cases with alienation or domestic violence, the well-crafted CCE report is needed to formulate specific treatment approaches and interventions. Especially in such challenging cases, the CCE report can outline and emphasize the strengths of each parent that professionals can draw on to forge healthier patterns of interaction. In general, these professionals can better assist families when salient dynamics are clearly elucidated in the report. In addition, for the evaluator to be helpful to professionals, specific treatment goals and modalities for each individual should be detailed in the recommendations. Too often, a generic recommendation for individual or family therapy inadequately prepares professionals for working with the family.

Evaluators sometimes do not carefully specify the type of professional qualifications that are needed to provide postevaluation services to the
particular family that has been evaluated. The child’s therapist can become part of the problem when a treatment provider neither fully understands the forensic context in which they are working nor has specialized training and experience in issues such as high-conflict divorce, alienation dynamics, domestic violence, or sexual abuse (L. R. Greenberg, Gould, Gould-Saltman, & Stahl, 2003). Among other issues, the CCE recommendations should denote how and whether information in treatment will be shared or communicated with others. Thus, the recommendations should state whether treatment will be conducted in traditional therapeutic confidence or whether there will need to be some exception to confidentiality so that progress in treatment can be reported to the court or to someone who will be managing the case, such as a parenting coordinator. Given many mental health professionals’ reluctance to interact with the court system, issues of privilege and confidentiality should be spelled out in the report recommendations.

CREATING A “USEFULNESS” STANDARD FOR CCE REPORTS

The crafting of a CCE report is one of the most complex, arduous, and time-consuming challenges encountered within the forensic mental health field. The writing of a custody report is not simply the production of an impersonal, objective, and scientific document. Evaluators are contending with multiple voices seeking to be heard and complex family and postdivorce issues in which there may often not be clear research support for a specific custody timeshare arrangement or even a “best direction” that a parenting plan should take. Bow and Quinnell (2002) have cogently noted that “it is essential that the evaluation process minimize the probability of iatrogenic harm, that is, evaluator’s precipitating or aggravating injury to the parties because of their attitudes, actions, or comments” (page 164). These authors suggest that this can best be attained if the report data is handled in a sensitive manner. Whereas an important goal of a report is to provide the necessary information to the court to assist the “trier of fact” in decision making, a secondary but equally important goal must be to assist families to move forward in a way that best addresses their children’s needs after the evaluation is complete.

What does it mean to create a “high-quality” CCE report? In part, this is an empirical question not yet researched. Both Gould (2006) and Stahl (2011) offer some practical guidelines regarding this question. Both suggest that reports should be clearly written and well reasoned, employing little jargon, and be thorough enough to explain the data in a logical manner. Reports must also be fair. That is, the advisory report should reflect and communicate balance and neutrality. Recommendations should be child focused and flow from the data gathered in the evaluation.
We propose, however, that any operational definition of a “high-quality” custody report should also include helpfulness and utility to the multiple client systems served by the report. The well-executed and thoughtfully prepared report not only answers the legal questions at hand and provides empirically based supporting data and recommendations, but it is also written in a way that assists all consumers of the report to work towards addressing children’s interests in a progressive direction. We suggest that this is most likely to be achieved when the evaluator writes reports with a strong voice that keeps the prospect of settlement in mind. A high-quality report should integrate scientific knowledge and methodology (i.e., especially documenting the use of valid and reliable forensic methods that are consistent with current professional standards and guidelines) with the use of sound clinical judgment.

THE PLACE OF CLINICAL JUDGMENT

In our opinion, clinical judgment should not be viewed as something to be avoided or minimized. Nor is it something that is necessarily in conflict with data derived from more formal forensic inquiry. Not only is there a place for clinical inference in CCE reports, but we further contend that there has always been such a place in forensic evaluations. The FMHPs are always exercising clinical skills and judgment. Clinical skills are critical to establishing a sound working relationship with the client. In turn, this enhances the scope of and reliability of the data reported from evaluation participants. While there are important differences between clinical and forensic roles, and these roles should not be confused, clinical skills are needed in both arenas. Indeed, clinically based decision making is necessary during the evaluation process and in crafting the CCE report. During the assessment process, the evaluator routinely makes decisions, such as what information requires corroboration, how best to schedule meetings and sessions, and how to interpret the expressed wishes of children. Similarly, evaluators must exercise clinical judgment related to what is essential to include in the custody report and how to craft a narrative that, in addition to addressing the referral questions, attempts to preserve the dignity of the parties, creates a sense of hope, and provides a roadmap for improving parenting skills and the co-parenting system. As an example, clinical judgment is essential when an evaluator decides what intimate or highly sensitive information to include in the written report to justify conclusions and recommendations. Cases referred for evaluation typically include such high levels of conflict and serious allegations that the risk of causing “iatrogenic harm” is high. Including nonessential detail that causes parents to experience embarrassment or shame can escalate conflict and polarize parents further.
Thus, we believe that the apparent dichotomy between the “empirically driven” and “clinically informed” report is a false one. At the same time, it is critical that all consumers of the CCE report understand when, and to what degree, the evaluator has drawn on clinical inference. In the CCE report, it is helpful to the court for the evaluator to identify the source of hypotheses and conclusions, denoting whether ideas and/or analysis come directly from specific data points or via an amalgam distilled by the evaluator. Especially given limitations in the evolving science of child custody work, it is inevitable that issues such as the description of family dynamics and parent–child relationships will rely on a range of data collected, some more “verifiable” than others. We find no fault in an evaluator generating hypotheses or offering opinions based in part on clinical inference, so long as such inferences are clearly noted in the CCE report. In doing so, the court is then able to draw its own impressions as to the reliability and utility of those conclusions and recommendations.

BIAS AND THE PERCEPTION OF BIAS

The perception that CCEs are a high-risk area of practice for psychologists has been borne out over time. Two surveys (Bow & Martindale, 2009) revealed that half of the custody evaluator respondents had experienced a licensing board complaint. Additionally, in a more recent survey, Bow, Gottlieb, Siegel, and Noble (2010) reported that almost two thirds of respondents had had at least one such complaint. These authors also found that the most frequent type of complaint filed against custody evaluators was that of “bias,” an allegation that was lodged 49% of the time. While complainants prevailed in only a small percentage of cases, the emotional distress that was experienced by the evaluators having to defend against the allegations was considerable. Bow et al. (2010) underscore that court-appointed evaluators must be aware of the various types of personal and cognitive biases that can impact their work, such as countertransference bias (Pickar, 2007) and confirmatory bias (Martindale, 2005). It is true that “bias” is a common charge levied against evaluators by parents who feel that the report did not support their position. Additionally, no practitioner can completely insulate himself or herself from such complaints. Nonetheless, complaints will likely be less common when parents read a report that they feel was completed in an objective manner and experience that they were treated fairly and honestly, in as a compassionate manner as possible.

It may appear to be a given that conducting a methodologically sound evaluation is at the heart of avoiding allegations of bias, whether they come from parents, attorneys, or colleagues who are hired to conduct work product review. However, even employing sound and balanced procedures can be undermined by a report that does not reflect such an even-handed approach.
Perhaps in an effort to not appear to be weak or wishy-washy, evaluators can be reluctant to discuss the relative merits of competing hypotheses and the potential shortcomings of the parenting plans recommended. We believe that revealing the process of weighing data and evidence, which then leads to ultimate conclusions, communicates to all clients that the evaluator considered carefully what was presented to him or her. This should include reporting data that does not support the evaluator’s ultimate recommendations.

UTILIZING RESEARCH IN THE CCE REPORT

With the evolution of scientifically informed methodologies has also come an emphasis on custody evaluators keeping current with the growing body of research in the field. Concurrently, several authors suggest that relevant research literature should be referenced and cited in custody reports (Kuehnle & Drozd, 2012; Gould & Martindale, 2008). Reasons for citing research studies are compelling. They provide an educational or instructional service to the court by highlighting the state of knowledge in the custody field in general, as well as in areas related to specific issues discussed in the evaluation. Such practices can also affirm that the analysis of data was linked to such scientifically grounded research. In turn, this supports the notion that forensic practices were employed.

The aforementioned authors also caution against amorphous reference to “the research” to substantiate opinions and recommendations. Rather, they suggest that citing specific studies and articles from the peer-reviewed literature is needed to comply with Federal Rules of Evidence with regard to relevance and reliability. Most recently, researchers in child custody and related fields are reminding practitioners that not all research is “created equally.” That is to say, not all research is high quality, so evaluators must become educated on how to read the research literature to identify studies that have been well designed, executed, and are truly pertinent to the case they are evaluating (Drozd, Olesen, & Saini, 2012).

We add several cautions and suggestions. Almost by definition, quantitative research involves group normed or “nomothetic” data. Findings from such research describe probabilities in groups with respect to behaviors and/or outcomes. Even when probabilities are high, the evaluator must keep in mind that a relationship must be drawn between the nomothetic data of any given study and the “ideographic” nature of a single case study—namely the subject of his or her specific custody evaluation. Thus, findings from research studies may be extremely valuable and shed considerable light on issues in the evaluation. However, they are never sufficient to justify a finding in a specific case.

Citations for specific studies and articles in CCE reports should be included, but it is imperative that the evaluator discusses the relevance of the
research findings to the psycholegal issues and to the specific analysis of the family. It is also helpful to the court for evaluators to identify areas in which relatively little research exists or in which controversies are acknowledged. One need only look at two areas that commonly arise in custody evaluations to see the variability with which the evaluator can (or cannot) rely on current research to guide custody recommendations. Relocation cases are often referred for evaluation. In states like California, case law defines specific areas that should be considered when the court makes determinations as to whether children will move with a relocating parent (LaMusga, 2004). There has been a well-received model for assessing risk in relocation cases that is grounded in multiple research studies and that can guide an evaluator’s data analysis (Austin, 2008). At another end of the spectrum, however, there is much controversy regarding at what point infants and very young children can benefit from overnight visitation with the noncustodial parent without experiencing undue distress. In fact, sharp disagreements regarding the appropriate application of attachment research to child custody samples were recently presented in multiple volumes of the *Family Court Review* (McIntosh, 2011; Schepard & Emery, 2012). These are also cases that frequently are referred for evaluation. Despite the best efforts of the most renowned researchers in the field of attachment, it remains difficult to identify clear trends in the literature. Thus, the evaluator should always state the relative confidence with which he or she is able to rely on the existing state of research in areas related to the questions being examined by the extant custody evaluation.

**AN INTEGRATED MODEL FOR CCE REPORTS**

The intention of this article is to add to the development of a model of practice for CCE reports. While a substantial literature on CCEs does exist, it largely addresses methodological issues regarding how a responsible practitioner should conduct a CCE. Current model standards of practice (APA, 2010; AFCC, 2007) almost entirely address training and competency issues, methodology, procedural and data gathering considerations, interpretation of data, avoidance of role conflicts, and other ethical issues. The APA guidelines offer no specific guidelines regarding report writing, with the exception of Guideline 13, which notes that report recommendations “should be derived from sound psychological data and address the best interests of the child” (p. 866). The AFCC standards of practice offer minimal—at best—guidance regarding report writing and presentation, mainly noting that evaluators, in their reports, “shall explain the relationship between information gathered, their data interpretation, and opinions expressed concerning the issues in dispute” (Standard 12.2). Also, the AFCC standards specify that evaluators should articulate limitations to the evaluation with respect to methodology, procedures, data collection, and data interpretation (e.g., Standard 12.4).
As noted earlier, the paucity of conceptual and practical guidelines for report writing has been a problem in the larger arena of FMHA. It is only very recently that efforts have been made to address this issue, as the link between competent forensic practices and production of high-quality forensic reports is “undeniable” (DeMier, 2012, p. 117). Perhaps the closest attempts to articulate standards for the actual CCE report can be found in recent articles addressing the emerging forensic role of “work product review,” whereby a forensic mental health consultant is retained by an attorney to critique a colleague’s child custody report (Austin, Dale, Kirkpatrick, & Flens, 2011; Austin, Kirkpatrick, & Flens, 2011; Kaufman & Lee, 2011). AFCC recently formed a task force, which attempted to develop some best practices and ethical standards regarding mental health consultant roles in child custody cases. While no standards have been developed as yet, the task force published a white paper (AFCC, 2011) describing some implied practice standards for custody reports. They include that the report is expected to contain evidence that the evaluator adhered to generally accepted guidelines, practice parameters, and standards regarding forensic assessment and CCEs. In addition, the custody report should reflect that generally accepted methods were utilized and that opinions offered by the evaluator were congruent with relevant research findings and logically consistent with the data gathered in the assessment. Gould and Martindale (2008) had previously emphasized this last point by recommending that in establishing the scientific basis for expert opinions, CCE reports should contain citations to the literature that provide a scientific foundation for opinions expressed in the report.

Austin et al. (2011), also writing on the topic of forensic work product review in the child custody arena, noted that an overriding principal for both evaluators and reviewers is to be helpful to the court. These authors suggest that “getting it right for the court” entails accurately assessing the issues and the data and arriving at conclusions that reasonably predict a parenting plan that will meet the child’s psychological best interests. Austin et al. offered several questions for forensic mental health consultants to consider when reviewing a colleague’s CCE report. Inherent in some of the questions posed by these authors are ideas that could possibly serve as standards or guidelines for report writing, which we have framed as the following:

1. CCE reports should address the psycholegal questions asked by the court.
2. A transparent methodology, generally accepted by the field, should be obvious from reading the report. This would include that psychological tests used by the evaluator meet current evidentiary standards (i.e., Daubert and Frye tests).
3. Reports should provide evidence of relying on current social science research, and opinions offered in the report should be consistent with the research literature.
4. For comprehensive CCEs, the report should demonstrate that a breadth of data was gathered (i.e., collateral informants and documents; test data and observations, in addition to parent and child interviews), and convergent validity exists in the data that underlie opinions and best interests recommendations.

5. The report should make it clear that alternative hypotheses were considered.

6. The report should address any limitations to the evaluation that need to be understood by the court, the attorneys, and the parents.

7. Reports should demonstrate that a thorough analysis of special issues is addressed (i.e., relocation, alienation, domestic violence). Utilizing a conceptual framework for addressing special issues will enable the report to provide and enhanced educational function to the court.

8. The report should make it apparent that the evaluator has appropriate knowledge of applicable laws, rules, and applied case law relevant to the case.

These suggested guidelines, however, are primarily aimed at meeting the needs of the court, and do not specifically address what would make a report most useful and valuable to parents, children, and the other professionals who will seek guidance in assisting families following completion of the evaluation. We have addressed this question to some extent by noting that reports will be useful to parents when they are more readable and accessible to laypeople. Writing at a level that an average reader can comprehend and that is relatively free of jargon goes a long way towards parents experiencing that the evaluator is including them in the discussion and not talking above them.

We are particularly troubled by many evaluators’ tendencies to write reports that focus almost exclusively on parental weaknesses or negative, dysfunctional aspects of parenting without highlighting parental strengths. Evaluators are sometimes prone to confusing the desire to state a strong case for their analysis with an overemphasis on psychopathology. This is especially prevalent when evaluators report findings from psychological tests. Evaluators would do well to heed some of the recommendations from positive psychology, which notes that test results can also highlight the strengths in a parent’s psychological make-up, which exist even in the midst of noted problems.

Both authors have had experience as reviewers of colleagues’ reports, where the evaluator does seem to “get it right” by providing best interest recommendations that flow logically from the data, but where the written reports were so overwhelmingly negative or presented parents in dichotomous portrayals, that parents were unable to see the wisdom in the recommendations. While it is true that a custody report is not constructed to appease parents, it will not meet a helpfulness or usefulness standard from a parent’s perspective unless he or she feels that they have been treated fairly.
and respectfully. Again, this can be achieved when parenting strengths are appreciated and noted, even though weaknesses must be delineated. In some of our reviews of colleagues’ reports and from conversations with the attorneys who retained each of us, it was clear that the “unfavored parent” might have accepted recommendations that they did not like, and perhaps even agreed to a settlement, had the report been written in a way that had not been so exclusively critical of them.

With these considerations in mind, we offer the following guidelines for crafting reports that not only will be useful for the court, but also will address the “voice of the child” and will be helpful to parents and the professionals striving to assist divorced families after the evaluation is completed. While empirical research is needed to further understand exactly what about a CCE report leads to settlement, we contend as a testable hypothesis that following the following guidelines helps to produce reports that enhance settlement of custody disputes without trial, once the evaluation is completed.

1. **Readability of the report:** CCE reports should be written at a reading level that the average reader can understand. Jargon should be avoided, and multiple subheadings should be utilized to improve organization and readability.

2. **Presentation of psychological test results:** Evaluators should not rely heavily on computer-generated test report interpretive statements, which, among other things, often emphasize pathology. Clinical judgment and skill are necessary when deciding what to include and what not to include from such computer-based reports. Evaluators who utilize psychological tests should be trained in independent interpretation of scores. Attempts should be made to frame interpretive statements of test findings in a useful and beneficial manner, attempting to maintain the humanity and integrity of the parent being described. In addition to highlighting problematic aspects of psychological functioning that could negatively impact parenting, reports should also describe the strengths in a parent’s psychological make-up and functioning that positively impact parenting.

3. **Denote parental strengths as well as weaknesses:** Reports should not only attempt to specify areas of parental weakness needing improvement, but parental strengths also should be clearly highlighted for both parents. When describing parental weaknesses, evaluators should use appropriate clinical judgment (i.e., forensic empathy) by carefully attending to the manner in which such weakness are described, seeking to present such concerns in a nonjudgmental manner. Sensitive feedback should be written in such a way as to enhance a parent’s ability to receive the information in a nondefensive manner.

4. **Avoiding bias in reports:** Evaluators should carefully review their reports prior to final submission, to self-screen for various kinds of bias (i.e., confirmatory, countertransference bias). Such biases may be evident when parents are presented in a polarized fashion (one parent is “all good”
while the other is “all bad”). However, other forms of bias are more subtle. Evaluators should seek consultation, if necessary, to control for biases.

5. **Maintain a “settlement” mindset:** Report writing should be approached with a mindset and awareness that a CCE report most often serves as a “settlement tool” rather than as a “litigation tool.” Though the custody report is an advisory report to the court and must meet the standards of forensic evaluations, it is most helpful when it includes information and recommendations that can be applied pragmatically by the family.

6. **Presentation of recommendations for parents:** Recognize that most parents want to do what is best for their children, even if it means needing to take steps to improve upon their parenting skills. Provide report recommendations for enhancement of parenting or co-parenting skills in a manner that increases hope. This can be accomplished by generating specific strategies and pathways for improvement and by noting the advantages, not only to the child but also to the parent, of improving ineffective parenting and co-parenting approaches.

7. **Incorporate the “voice of the child” into reports:** CCE reports should present information regarding children’s stated or inferred custody preferences. If child custody plan recommendations drastically differ from a child’s stated preferences (especially for a teenager), clearly articulated reasoning should be contained in a report noting that a child’s input and preferences were carefully considered, but the evaluator deemed that their stated wishes were not in their best interests. Where appropriate, include children’s actual words in a report. Clinical judgment is crucial, however, in making decisions regarding what to include and not include about a child’s concerns about a parent. Therefore, evaluators must be attentive to how such child-generated information is described in the report due to the impact such sensitive information might have upon the child’s future relationship with each parent.

8. **Demonstrate careful, fair-minded weighing of the data:** Evaluators should pay particular attention to how their analysis of the case is presented. It is important to discuss various hypotheses and parenting plans that were under consideration. Not only should evaluators discuss limitations of their assessments, but they also should reveal data that did not support their conclusions and the present reasoning for rejecting some hypotheses but adopting others. Among other things, this demonstrates fair-mindedness.

9. **Presentation of recommendations regarding postevaluation services by divorce professionals:** CCE reports need to be useful not only to the courts and to parents, but also to professionals (i.e., child’s or parent’s therapist, co-parenting therapist, parenting coordinators, guardians ad litem) providing services to the family as parent of a comprehensive parenting plan. Thus, reports should clearly articulate the purpose of each recommended intervention, while enumerating the stepwise goals for the manner in which these various services should be provided to the family.
SUMMARY AND FUTURE DIRECTIONS

This article presents a framework for CCE report writing that integrates forensic and clinical perspectives, while addressing the multiple client systems served by the report. Table 1 summarizes the key recommendations that are described in the body of this article for gearing the CCE report towards the multiple client systems served by the evaluator's work product. The CCE report is first and foremost a forensic document requested by and intended to serve the court. However, the CCE report will be the most useful and beneficial communication tool if it is constructed in a manner that not only answers the legal questions at hand, but also assists all consumers of the report to work towards addressing the children's needs and best interests in the future. The best reports should be easy for all consumers (except the child) to read, understand, and absorb.

Our hope is that this article begins to fill a significant gap in the field of CCEs, as so little has been written regarding a practical and theoretical approach to CCE report writing. The CCE report not only provides the scientific evidence base of our analysis and recommendations, but also the report is typically the only medium (unless there is a trial) by which the court, the parents, the attorneys, and the postdivorce professionals receive guidance and education stemming from the evaluator's intensive study of the family. While always being cognizant of assisting the trier of fact, evaluators must always strive to support the best interests of the children and to help the family move forward in a positive direction. The vast majority of cases referred for a CCE settle outside of court. Keeping the prospect of settlement in mind when crafting a custody report helps maintain a respectful tone, helps preserve the humanity of parents and children, and conveys a sense of humility in an enormously demanding endeavor. It also enhances the prospect that parents will either adopt report recommendations or will work constructively to adopt some version of the recommendations and obviate the need for protracted and potentially polarizing litigation. The use of sound clinical judgment in the forensic context, or perhaps more appropriately termed “forensic judgment,” is an integral part of FMHAs in CCE report writing. It does not compromise scientific methodology, but rather it enhances it. There are few areas where it is needed more than in family law.

The model we propose integrates forensic and clinical approaches to the crafting of CCE reports. The use of sophisticated and well-reasoned clinical judgment plays an essential role in helping the court understand contradictory reports from parents, complicated histories, and the needs of children who may be too young to articulate their feelings and needs at a sufficient level of emotional maturity.

There continues to be a need for ongoing empirical research in the child custody field, especially with respect to the impact of the CCE report on settlement rates and the reduction of parenting conflict and child
TABLE 1  Gearing the Child Custody Evaluation Report Toward Multiple Client Systems

A. The Court as Client
1. Define the specific psycholegal questions that the court wants addressed.
2. A transparent methodology, generally accepted by the field, should be obvious from reading the report.
3. Note in the report that valid and reliable psychological tests that meet admissibility standards were utilized. Note limitations of other instruments not meeting admissibility standards.
4. Outline in detail an analysis and synthesis of the data and provide empirical support for recommendations by referencing appropriate research.
5. The report should make it clear that alternative hypotheses were considered.
6. Reports should demonstrate that a thorough analysis of special issues was addressed (i.e., relocation, domestic violence, alienation dynamics). Utilizing a conceptual framework for addressing special issues enables the report to provide an enhanced educational function to the court.
7. Address any limitations to the evaluation that need to be understood by the court.
8. The report should demonstrate that the evaluator has appropriate knowledge of applicable laws, rules, and applied case law relevant to the case.

B. The Attorney as Client
1. Reports must be fair, unbiased, and objective.
2. Provide sufficient detail in a report, which is preferred by attorneys in survey research.
3. Use sound methodology consistent with current professional guidelines for CCEs (i.e., parent–child and in-home observations, valid and reliable psychological tests, collateral source information).
4. Describe the strengths and weaknesses of each parent.
5. Attorneys want logical and thoughtfully considered recommendations.
6. Address legal standards and psycholegal questions.
7. Use plain English; avoid jargon.
8. Organize the CCE report into sections according to topics (psychological stability of parents, environmental stability, parenting skills, attachment issues; special topics such as domestic violence, alienation dynamics, move away issues).

C. The Parent as Client
1. Specify psychological strengths as well as weaknesses.
2. Caution should be taken to not overpathologize parents when reporting psychological test findings.
3. CCE reports should be written at a reading level that the average reader can understand.
4. Avoid jargon; use multiple subheadings to improve organization and readability.
5. Use sound clinical judgment when deciding what to include and what not to include from computer-based reports.
6. Use sound clinical judgment when deciding what intimate or potentially harmful information to include in a report, if it is not relevant to the recommendations.
7. Attempt to maintain the humanity and the integrity of the parent being described by using “forensic empathy.”
8. Avoid bias by carefully reviewing a report in draft form; seek consultation, if necessary, in controlling for biases; avoid the “black and white” report.
9. Maintain a “settlement mindset” with the recognition that the CCE report most often serves as a “settlement tool” rather than a “litigation tool.”
10. Provide report recommendations for enhancement of parenting or co-parenting skills by generating specific strategies and pathways for improvement.

D. The Child as Client
1. Where appropriate, include children’s actual words in a report.
2. Clinical judgment is crucial when making decisions regarding what to include and what not to include about a child’s expressed concerns about a parent.

(Continued)
well-being following an evaluation. These topics for future research have been proposed by R. F. Kelly and Ramsey (2009) and still remain salient. Such research may also shed further light on what makes for a “high-quality” and effective CCE report.

The CCE field might also benefit from survey research with parents who have undergone CCEs. This would be a complex undertaking, as parental responses may be dependent, to some extent, on whether the outcome favored their position. Nonetheless, there may be much to gain from such an empirical inquiry.

Lastly, current standards for CCE (APA, 2010; AFCC, 2007) offer little in the way of specific guidelines or aspirational principles regarding the construction of a report or the most beneficial way to present information to the multiple client system served by the report. Thus, we recommend that future revisions to professional standards for CCEs incorporate more principles and guidelines regarding report writing.

REFERENCES


Case Name:  
Case Number:  

**APPOINTMENT**  
1. is appointed the court's expert, pursuant to Evidence Code Section 730 and California Rule of Court 5.220 for the purpose of conducting a custody evaluation in this proceeding. The address and telephone number of the evaluator is:

**SCOPE OF EVALUATION**  
2. The evaluator will investigate and advise the Court as to the health, safety, welfare and best interests of the parties' child(ren) in connection with the disputed custody and visitation issues in this matter.

- This will be a full evaluation, investigation and assessment, intended to provide the Court with a comprehensive examination of the health, safety, welfare and best interests of the child(ren). The major issues to be addressed in the evaluation are:

- Or,

- This will be a Brief Focused Assessment (BFA), investigation and assessment. See Attachment A for specific issues to be addressed by BFA.

3. The evaluator will make recommendations based on what he or she perceives to be in the best interests of the child(ren); what is necessary to promote the development, emotional adjustment and psychological well being of the child(ren).

4. The evaluator has quasi-judicial immunity.

**EVALUATOR'S OBLIGATIONS**  
5. Except as limited by the court's order for a Brief Focused Assessment, the evaluator will use data and information that will allow the evaluator to observe and consider each party in comparable ways and to substantiate (from multiple sources when possible) interpretations and conclusions regarding:
   a. each child's developmental needs;
   b. the quality of attachment to each parent and that parent's social environment;
   c. the child's reactions to the separation, divorce or parental conflict.

6. This process may include, but is not limited to:
   a. reviewing pertinent documents related to custody, including local police records;
   b. observing parent-child interaction unless contraindicated to protect the best
PARTIES’ COOPERATION WITH EVALUATOR

7. The court orders the parties to follow all requests made of them by the evaluator so that the evaluator can conduct the evaluation, as required by law. Each party is required to complete any tasks required of him or her by the evaluator in a timely manner, as the evaluator may indicate. Specifically, each party shall:

a. contact the evaluator named above within ten (10) court days of this order being filed with the court, to set an initial appointment time, to pay the evaluator's fees, and to sign any papers required of the evaluator to begin the custody evaluation process. Both parties will make the scheduling of appointments with the evaluator a priority and will set appointments with the evaluator on a time schedule requested by the evaluator.

b. participate in such testing and interviews as directed by the evaluator;

c. participate in psychological testing with whomever the evaluator recommends;

d. participate in an assessment by an independent specialist such as a substance abuse specialist, a neuropsychologist or other specialist as recommended by the evaluator;

e. allow the evaluator the ability to interview members of the immediate and/or interest of the child;

c. interviewing parents together, individually or both together and individually unless it is contraindicated, to assess each parent's:
   (i) capacity for setting age-appropriate limits and for understanding and responding to the child's needs;
   (ii) history of involvement in caring for the child;
   (iii) methods for working toward resolution of the child custody conflict;
   (iv) history of child abuse, domestic violence, substance abuse, and psychiatric illness; and
   (v) psychological and social functioning

d. conducting age-appropriate interviews;

e. observing the child(ren) with each parent, stepparent, siblings, and step and half siblings together, separately or in whatever way the evaluator thinks best to accomplish the goal of the evaluation;

f. collecting relevant corroborating information or documents as permitted by law;

g. consulting with other experts for the purposes of obtaining feedback, case review or to obtain access to specific expertise. Any consultant used by the evaluator is bound to maintain confidentiality regarding the information learned;

h. providing the child(ren) with an age appropriate explanation of the evaluation process, and advising them that statements made by them to the evaluator may not be confidential: that it is possible that their parents may be informed of their statements.
extended family of both parents at the evaluator's sole discretion;
f. allow the evaluator the ability to interview any and all other persons whom the
evaluator deems to have information relevant to the scope of the evaluation;
g. allow the evaluator the ability to interview any service providers who have
worked, or had a relationship with, either of the parents or the child;
h. determine the protocol of all interviews and sessions to be conducted by the
evaluator;
i. sign any and all releases for records and information requested by the evaluator
so that the evaluator has access to all information relevant to the scope of the
evaluation, such as documents and information from outside sources, including,
but not limited to: psychiatrists, mediators, psychologists, social workers,
teachers and school personnel, physicians, police departments, hospitals and
child protection workers. This includes past records as well as reports from
professionals who may be involved with any of the parties at the time of litigation,
and includes records and information regarding both parties, as well as their
child(ren).

8. The parties are ordered to provide the evaluator copies of all pleadings, orders and
 correspondence that relate to the issues being evaluated, including any document
 requested by the evaluator. The parties may submit a list of people that they believe
 should be interviewed by the evaluator. The evaluator may, or may not, interview
 any of the people suggested by the parties, at his or her sole discretion. Any
 communications or documents provided to the evaluator must also be provided
 simultaneously to the opposing party.

PARTIES' RESPONSIBILITY FOR EVALUATOR FEES
9. The court orders the parties to pay the evaluator's fees and costs as follows, unless
 there is a subsequent explicit order to the contrary:

☐ □ will pay % of the evaluator's fees and
deposit. The deposit will be paid by the parties prior to the onset of the
的比赛。
The opinions formed by the evaluator during the evaluation are not confidential. If the evaluator determines that sharing information discovered during the evaluation process is in the best interests of the child(ren), the evaluator may share the information with the court, either or both attorneys, either or both parents, any therapists involved with the parties and/or child(ren), or any other party at the sole discretion of the evaluator, as may be appropriate to protect the best interests of the minor(s).

The evaluator will take such steps as are necessary to protect the child(ren)'s therapeutic privilege, including to decline to provide any party or counsel with information disclosed by the child(ren) or the child(ren)'s therapist, which would otherwise be privileged. The evaluator will advise the court whether a minor child's therapeutic privilege should be waived by the court for purposes of obtaining the testimony of any mental health professional treating a minor child of the parties.

Or,

☐ The court shall pay the fees and costs associated with this custody evaluation in an amount not to exceed $ . The parties are ordered to reimburse the court, as follows:

will pay $ on the 1st day of each month until a total of $ has been paid.

will pay $ on the 1st day of each month until a total of $ has been paid.

Payments must be made payable to the San Francisco Superior Court and mailed to 400 McAllister Street, Suite 402, San Francisco, CA 94102 ATTN: Custody evaluation fees. The check or money order must have the case name and number and the words "custody evaluation fees" written on the check or money order.

10. Each parent must sign any fee agreement required by the evaluator.

11. The San Francisco Superior Court reserves jurisdiction to allocate the costs of testimony and post-evaluation services provided by the evaluator.

12. Any party requiring the evaluator to testify at a deposition, trial or hearing must first pay the evaluator an additional retainer to cover his or her time in preparing for, and appearing at, the deposition and / or the court hearing.

CUSTODY EVALUATION REPORT

13. The opinions formed by the evaluator during the evaluation are not confidential. If the evaluator determines that sharing information discovered during the evaluation process is in the best interests of the child(ren), the evaluator may share the information with the court, either or both attorneys, either or both parents, any therapists involved with the parties and/or child(ren), or any other party at the sole discretion of the evaluator, as may be appropriate to protect the best interests of the minor(s).

14. The evaluator will take such steps as are necessary to protect the child(ren)'s therapeutic privilege, including to decline to provide any party or counsel with information disclosed by the child(ren) or the child(ren)'s therapist, which would otherwise be privileged. The evaluator will advise the court whether a minor child's therapeutic privilege should be waived by the court for purposes of obtaining the testimony of any mental health professional treating a minor child of the parties.
In the event that any privileged information or testimony is required by the court, such information or testimony shall be provided in camera outside the presence of the parties. Counsel for the parties are prohibited from disclosing the details of such information or testimony. The evaluator will not release any raw test data and notes from psychological testing except to a qualified psychologist named by the party requesting the information.

15. The evaluator will prepare a confidential written report in compliance with California Rule of Court 5.220. The report must:
   
a. Summarize the data gathering procedures, information sources, and time spent, and present all relevant information, including information that does not support the conclusions reached;
   
b. Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews;
   
c. Only make a custody or visitation recommendation for a party who has been evaluated. This requirement does not preclude the evaluator from making an interim recommendation that is in the best interests of the child;
   
d. Provide clear, detailed recommendations that are consistent with the health, safety, welfare, and best interests of the child if making any recommendation to the court regarding a parenting plan;
   
e. The recommendation portion of the evaluation will be set forth in a separate attachment or section of the report.
   
f. The evaluator may also include a recommendation to the court for the appointment of counsel for the child(ren).

16. In those cases where a significant amount of time has passed between the completion of the evaluator's report and the trial date, the evaluator may conduct a brief re-evaluation. A re-evaluation allows the evaluator to present the parties and the court with any developments that may have taken place since the original report by conducting appropriate interviews and reviewing documents. The re-evaluation ensures that everyone has the most recent information related to the issues. A brief evaluation may take place when at least one parent agrees to participate, or as the court may order. The parties must pre-pay the costs estimated by the evaluator for any re-evaluation.

17. The court will assume that the original evaluator should be appointed to provide the court with any needed follow-up evaluations if the evaluator is available and willing to perform such updates. If a party believes that the evaluator is unqualified to conduct the re-evaluation for any reason, including being biased, that issue should be raised and determined either during the hearing following the initial evaluation, or, if there was no hearing after the original evaluation, through a noticed motion to resolve the
COMMUNICATION WITH THE EVALUATOR

18. Absent a stipulation or a specific authorization of the court to the contrary, attorneys may not communicate directly with the evaluator on an ex parte basis except to schedule an appointment or as is allowed pursuant to Family Code Section 216.

19. If one attorney refuses an invitation to participate in a joint conference, that attorney's refusal will be an implied waiver of the ex parte communication prohibition and the evaluator may meet with the other attorney(s).

20. By signing their names immediately below this paragraph, the parties agree that the evaluator may, at his or her sole discretion, communicate with any attorney on an ex parte basis. By signing below, each party understands that he or she is waiving rights under Family Code Section 216.

_________________________________________  _________________________________
Moving Party                                               Responding Party

_________________________________________  _________________________________
Attorney for Moving Party                                  Attorney for Responding Party

_________________________________________
Attorney for Minor(s)

POST EVALUATION PROCEDURES

21. The evaluator may meet with either or both of the parties, or with all attorneys to discuss the results of the evaluation.

22. No person who has access to, or receives a copy of, the evaluation or any part of that report, may distribute it without prior court order. Nothing in the report can be disclosed to any other person without prior court approval. Use of the report is limited to the pending litigation. The report shall not be filed with the court as an independent document or as an attachment to any other document filed with the court. In no event shall any of the information contained in the report, or access to the report, be given to any child who is the subject of the report.

SUBSTANTIAL SANCTIONS MAY BE IMPOSED BY THE COURT FOR INAPPROPRIATE USE OF THE EVALUATION REPORT OR ANY INFORMATION CONTAINED IN IT.
23. The attorneys and parties are ordered to meet and confer within fifteen (15) court days of having received, or had the opportunity to read, the evaluation.

24. If, after having met and conferred, the parties are unable to resolve all of the outstanding issues, the coordinating mediator will, in conjunction with the evaluator and the court, schedule either a mediation, settlement conference, status conference and/or a trial. Unless otherwise ordered by the court, the parties will attend any post evaluation procedure scheduled by the court or the coordinating mediator. The attorneys, parties, coordinating mediator and the evaluator may each be included in these procedures, as the court and/or the coordinating mediator may decide.

25. Fees for the evaluator’s participation in any post evaluation processes must be paid by the parties prior to the evaluator’s scheduled appearance as set forth in this Custody Order and/or the evaluator’s fee agreement.

EVALUATOR TESTIMONY
26. The evaluator serves under the court's appointment and, if required to testify by either party, will testify as the court's witness with the understanding that the evaluator will make recommendations that address the best interests of the child(ren).

27. Court appointed evaluators may not be deposed without a prior court order.

MISCELLANEOUS
28. The parties are ordered not to discuss their respective positions on child custody issues, or the contents of the evaluator's written report, with the minor child(ren).

29. Each party is ordered to immediately carry out the terms of this order. To ensure timely compliance, either party may make an ex parte application to the court to compel compliance with the terms of this Order. The Court has the authority to impose monetary sanctions on any party who fails to follow any part of this court order.

30. In the event that enforcement proceedings become necessary to enforce any provision of this order, the non-prevailing party shall pay attorney's fees and costs as may be incurred.

31. The San Francisco Superior Court reserves jurisdiction regarding any dispute regarding fees or any other provision of this order. Jurisdiction is also reserved to San Francisco Superior Court to determine the allocation and characterization of any funds advanced/paid by either parent and the merits of any dispute over such fees.
32. This matter shall be set for a review hearing on [ ] at [ ] in [ ] Dept. to ensure that each party is complying with the terms of this Order and a status review hearing on [ ] at [ ] in [ ] Dept.

☐ We stipulate to the appointment of a custody evaluator.

Dated: ________________________ Moving Party

Dated: ________________________ Attorney for Moving Party

Dated: ________________________ Responding Party

Dated: ________________________ Attorney for Responding Party

Dated: ________________________ Attorney for Minor(s)
Acceptance of Appointment

I accept this appointment under the terms set forth above. I hereby certify, under penalty of perjury, that I am familiar with the requirements of California Rules of Court 5.220 and 5.225 and Family Code Section 3110.5 and that I meet the education, experience and training requirements required by them. I further certify that I have a current license in good standing as required by the Rules of Court and family law statute referenced above.

Dated: __________________________, Evaluator

Based on the foregoing and good cause appearing

IT IS SO ORDERED.

Dated: __________________________

JUDGE OF THE SUPERIOR COURT

☐ Brief Focused Assessment Attachment A is incorporated into this order by reference.
ORDER ALLOWING EVALUATOR TO HAVE EX PARTE COMMUNICATION
WITH MINOR’S COUNSEL

Minor's counsel has been appointed in this matter pursuant to Family Code
Section 3150. Pursuant to Family Code Section 3151, minor's counsel has been
charged with representing the child(ren)'s best interest. In order for the child custody
evaluator to formulate his or her recommendations as to what is in the child(ren)'s best
interest, he or she requires access to any facts and information gathered by minor's
counsel that may bear on the best interest of the child(ren). The court finds that it is in
the child(ren)'s best interest that the evaluator be permitted to have ex parte
communication with minor's counsel.

Though not required by Family Code Section 216, the parties, by signing below,
intend to indicate their agreement to allowing ex parte communication between the
evaluator and minor's counsel at any time during, and subsequent to, the evaluation.

Dated: ___________________________
Moving Party

Dated: ___________________________
Attorney for Moving Party

Dated: ___________________________
Responding Party

Dated: ___________________________
Attorney for Responding Party

GOOD CAUSE APPEARING, THE COURT AUTHORIZES EX PARTE
COMMUNICATION BETWEEN THE EVALUATOR AND MINOR’S COUNSEL

Dated: ___________________________
JUDGE OF THE SUPERIOR COURT
Referral Form for Brief Focused Assessment (BFA)

Part 1: Issues to be investigated and assessed

(Check **ONLY ONE** issue below to be addressed and identify the parent(s) and/or child(ren) being assessed regarding that issue.)

- Drug and/or alcohol abuse assessment of
- School assignment
- Modification to parenting plan, e.g. change in time share
- Modification to parenting plan to accommodate adolescent needs
- Psychological testing of
- Assessment of attachment or bonding of
- Evaluation of Special Needs Child
- Health status and needs of the child being met
- Education status and needs of the child being met
- Limitations on joint legal custody
- Physical health of
- Other: **Must** be reviewed and approved by the Court.

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1 The following issues are NOT appropriate for a Brief Focused Assessment:
Cases involving sexual abuse, physical abuse of a child, reunification of parent and child, high conflict couples, parent relocation (Move Aways), and alienation allegations. BFAs are generally inappropriate when there are allegations of domestic violence or when the involved children were once court dependents through the juvenile dependency system.
Part 2: The elements of this Brief Focused Assessment may include, but are not limited to, the following:

- Individual and/or conjoint parent interviews
- Individual child interviews, where developmentally appropriate
- Parent-child observations
- Telephone interviews with relevant neutral collateral parties (e.g. pediatricians, teachers, therapists, religious practitioners, etc.)
- Review of orders and relevant records
- Other investigation, as may be determined by the appointed evaluator.

Part 3: Evaluator's obligations pursuant to this Brief Assessment Order:

The evaluator's obligations to carry out specific investigations and other duties, otherwise required, per numbers 5 and 6 of this 730 Order, are modified pursuant to this Court's order for a Brief Focused Assessment, as indicated in Part 2 above.