

AFCC  
**MODEL STANDARDS OF PRACTICE FOR CHILD CUSTODY EVALUATION**

## **INTRODUCTION**

The following Standards of Practice for Child Custody Evaluation have been formulated for members of the AFCC who conduct evaluations in custody/access matters. These members include both court-connected and private practice evaluators in many areas of the world with significant variations in practice and philosophy. It is recognized that local jurisdictional requirements influence the conduct of the custody evaluation; however, the goal of these standards is to highlight common concerns and set standards of practice that are applicable regardless of local circumstances.

## **PREAMBLE**

Child custody evaluation is a process through which recommendations for the custody of, parenting of, and access to children can be made to the court in those cases in which the parents are unable to work out their own parenting plans. Evaluation may be requested by the parents or their attorneys or ordered by the court. Evaluations may be performed by qualified mental health professionals who are part of a family court system or carried out privately by qualified individuals or teams. Evaluators always serve impartially, never as an advocate for one parent or the other.

The primary purpose of a child custody evaluation is to assess the family and provide the courts, the parents, and the attorneys with objective information and recommendations. The assessment goals of a child custody evaluation shall be to (a) identify the developmental needs of the child(ren); (b) identify the strengths, vulnerabilities, and needs of all other members of the family; (c) identify the positive and negative family interactions; (d) develop a plan for custody and access utilizing the strengths of each individual that will serve the best interests of the child(ren) and within those parameters, the wishes and interests of the parents, and in most situations provide them with an opportunity to share in the upbringing of their child(ren); and (e) through a written report, provide the court, parents, and attorneys with these recommendations and supporting data.

These standards are intended to assist and guide public and private evaluators. The manner of implementation and evaluator adherence to these standards will be influenced by local law and court rule.

## **I. INITIATING THE PROCESS**

### **A. Appointing or choosing an evaluator**

If there is a court-connected office of evaluation and conciliation, the evaluation shall be referred to that office for assignment to a qualified evaluator. If there is no such related

office or if the evaluation is to be handled privately, the court shall appoint an evaluator or one must be agreed to by both parties and approved by the court.

Informed written consent of all parties must be obtained. Parties shall have the right to suspend or terminate an evaluation pending the consultation of an attorney regarding the advisability of continued participation if the evaluation is not court ordered.

## **B. Arrangements with the parties**

- 1a. The evaluator shall clarify with all parties, perhaps at a joint meeting, the evaluation procedures, license and credentials of the evaluator or team, the costs (if the evaluation is private or if there is an agency fee), the mutual responsibilities of the evaluator and the parties, and the limits of confidentiality. The evaluator shall assure the parties and their attorneys that no prior relationship existed or exists between the evaluator and any of the parties.
- 1b. If some previous relationship exists, however insignificant, it should be raised at this point and discussed in order to assure each party that objectivity will not be compromised by any prior contact. A decision whether to proceed or not will be made at the conclusion of this discussion or following discussion between the parties and their attorneys.
2. During the orientation process, if preevaluation informational meetings are held, similar meetings shall be offered to all of the parents and potential caretakers and to all of their attorneys. Parties and/or their attorneys shall be free to ask questions. The evaluator shall provide information on any inherent bias(es) (e.g., joint custody, shared physical custody, mediation, lifestyle, and/or religion, etc.) that he or she holds, prior to the commencement of any evaluation.
3. Communication between the evaluator and the attorneys shall be conducted so as to avoid any question or ex parte communication. Communication of significant matters between evaluator and attorneys may be best accomplished by conference call or in writing with copies to both attorneys.

## **II. EVALUATOR STANDARDS**

### **A. Education and training**

Custody evaluators shall have a minimum of a master's degree 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 training or work experience, the evaluator should have a working understanding of the complexities of the divorce process, awareness of the legal issues in divorce in the evaluator's jurisdiction of practice, and an understanding of the many issues, legal, social, familial, and cultural involved in custody and visitation.

## **B. Supervision and consultation for the evaluator**

In addition, for evaluators in either public or private settings who have less than 2 years of experience conducting custody evaluations, it is recommended that ongoing supervision and consultation be available and utilized while the evaluator strengthens his or her skills.

## **C. Knowledge of statutes**

The evaluator shall be familiar with the statutes and case law governing child custody. These will vary from jurisdiction to jurisdiction, and the evaluator must be completely knowledgeable concerning the criteria for original determination of custody, criteria for change of custody, the use of custody evaluation, qualifications for custody evaluators, and the legal requirements of the custody evaluation process of the jurisdiction in which the evaluation is to be conducted.

## **D. Psychological testing**

If the evaluator is not licensed or certified to perform and interpret psychological testing, any psychological testing that is to be included as part of the custody evaluation must be referred to a licensed/certified psychologist who has the training and experience to understand the issues in custody evaluations.

# **III. EVALUATION PROCEDURES**

## **A. Evaluation elements**

The evaluator shall determine the scope of each evaluation, including who is to be included other than the litigants. In general, as diverse a number of procedures for data collection as possible and feasible to the specific evaluation is encouraged. These may include interviewing, observation, testing, use of collaterals, and home visits. It is important that the evaluator maintain a constant sense of balance, that is, obtaining similar types of information about each parent (when applicable) and spending similar amounts of time with each parent under similar circumstances.

## **B. Procedures during an evaluation**

Each evaluator or team may use different procedures relative to joint and/or individual interviews, the necessity of a home visit, and the circumstances in which the children are interviewed. It is desirable that all parties to a dispute, as well as any other significant caretakers, be evaluated by the same evaluator or team. In cases where domestic violence is an issue, joint interviews may not be advisable.

## **C. Evaluation in two separate jurisdictions**

In those cases in which the parents or caretakers reside in geographically separated jurisdictions, different evaluators may be necessary for the evaluations of each parent or

caretaker. When such is the case, it is the responsibility of the requesting evaluator to be as specific as possible with the details and information requested from the courtesy evaluator, in order that the returning information is as near as possible to the quality and type of information that the requesting evaluator would have elicited. It is also the responsibility of the originating evaluator to help with the interpretation of the courtesy evaluation for the court. Where feasible, however, it is preferable for all parties to be interviewed by the same evaluator.

#### **D. Interviewing and testing**

Each adult shall be evaluated individually, and comparable evaluation techniques shall be used with all of the significant adults. If special procedures, such as psychological testing, are used for general evaluative purposes of one parent or potential caretaker, that procedure or those procedures shall be used for all significant adults involved in the evaluation. However, if a special technique is used to address a specific issue raised about one of the significant adults, it may not be necessary to use that same technique on all other significant adults.

#### **E. Procedures with child(ren)**

Each child shall be evaluated individually with procedures appropriate to the developmental level of the child. These procedures may include observation, verbal or play interview, and formal testing. It is not appropriate to ask children to choose between their parents because, in most families, children need good access to both parents following the divorce and should not be placed in the position of having to choose. Information about the child(ren)'s feelings, thoughts, and wishes about each parent can be obtained through techniques that will not be harmful and guilt inducing. The children shall be observed with each parent or potential caretaker in the office or home setting.

#### **F. Psychological testing**

1. Any psychological testing is to be conducted by a licensed/certified psychologist who adheres to the ethical standards of the jurisdiction in which he or she is licensed.
2. If testing is conducted with adults or children, it shall be done with knowledge of the limits of the testing and should be viewed only within the context of the information gained from clinical interviews and other available data. Conclusions should take into account the stresses associated with the divorce and the custody dispute.
3. If psychological test data are used as a significant factor in the final recommendations, the limitations of psychological testing in this regard should be outlined in the report.
4. The results of psychological testing shall be discussed with the significant adult participants in the evaluation, especially if the results indicate the need for psychological treatment or counseling. Whatever the outcome of the testing, of primary concern to the evaluator should be the parenting skills and abilities of the

individual parents. Diagnostic considerations shall be considered secondary to parenting and treatment considerations.

#### **G. Collaterals**

1. Information from appropriate outside sources, such as pediatricians, therapists, teachers, health care providers, and day-care personnel, shall be obtained where such information is deemed necessary and related to the issues at hand. Prior to the seeking or gathering of such information releases signed by the parents shall be obtained; these releases shall specifically indicate the areas in which the information is sought and limit the use of this information to use by the evaluator in the preparation of the evaluation report.
2. Interviewing of family and/or friends shall be handled with great care given its potential for increasing divisiveness and resulting in harm to the children. It is possible, however, that family friends and neighbors may be able to present valuable information and/or leads to the evaluator. The use of such information shall be related to the circumstances of a particular evaluation, used only when the evaluator is convinced of its usefulness, and obtained in a manner that discourages conflict.

#### **H. Home visits**

When home visits are made, they shall be made in similar ways to each parent's or potential caretaker's home. Care shall be exercised so that temporary inequality in housing conditions does not lead to bias on the part of the evaluator. Economic circumstance alone shall not be a determining factor in a custody evaluation.

#### **I. Interpretive conferences**

The evaluator may hold an interpretive conference with each of the parties, either separately or conjointly. This is not a conference that attorneys need attend. The purpose of this conference is to discuss with each party the recommendations that are to be made and the rationale for each of these recommendations. It should be made clear to each party that these are the recommendations that are to be presented to the court in the evaluation report; acceptance and use by the court cannot be guaranteed.

### **IV. AREAS OF EVALUATION**

#### **A. Quality of relationship between parent or caretaker and the child**

This shall include assessment of the strength and quality of the relationship, emotional closeness, perceptions of each other, and the ability of the parent or potential caretaker to support appropriate development in the child(ren) and to understand and respond to the child(ren)'s needs. The evaluator shall consider ethnic, cultural, lifestyle, and/or religious factors where relevant.

**B. Quality of relationship between the contesting parents or potential caretakers**

This shall include assessment of each parent's or potential caretaker's ability to support the child(ren)'s relationship with the other parent and to communicate and cooperate with the other parent regarding the child(ren). The evaluator shall consider the relevancy of ethnic, cultural, lifestyle, and/or religious factors in assessing these relationships. Also, some consideration of the contribution of each parent to the marital and subsequent discord might be helpful in this regard.

**C. Ability of each parent or caretaker to parent the child**

This shall include assessment of the parent's or potential caretaker's knowledge of the child(ren), knowledge of parenting techniques, awareness of what is normal development in children, ability to distinguish his or her own needs from the needs of the child(ren), and ability to respond empathically to the child(ren). The evaluator shall consider the relevancy of ethnic, cultural, lifestyle, and/or religious factors in assessing these relationships.

Also to be taken into account is the ability and/or willingness of the parent, who perhaps has not had the opportunity to learn these skills, to learn them, to demonstrate an interest in learning them, and to try to use them in whatever time he or she has with the child.

**D. Psychological health of each parent or potential caretaker**

This shall include assessment of the parent's adaptation to the divorce, ability to develop relationships, ability to provide a stable home for the child(ren), ability to encourage development in the child(ren), and ability to support the child(ren)'s relationship with the other parent or caretaker. Assessment should also be made of factors that might affect parenting, such as alcohol or drug use, domestic violence, or a history of becoming involved in brief or harmful relationships.

**E. Psychological health of each child**

This shall include assessment of special needs of each child, for example, health or developmental problems. It shall also include assessment of the child(ren)'s adjustment to school, friends, community, and extended family. Children shall not be asked to choose between parents. Their overt and covert wishes and fears about their relationships with their parents shall be considered but shall not be the sole basis for making a recommendation.

**F. Patterns of domestic violence**

In cases in which domestic violence is alleged or a pattern of domestic violence exists and the evaluator, or evaluation team, does not possess expertise in this area, outside personnel with specialized training and experience in this area shall be consulted. In such cases the recommendation made by the evaluator, after consultation, shall take into consideration both the danger to the other parent or caretaker and the potential danger to and effect on the children.

## **V. THE EVALUATION REPORT**

### **A. Style**

The evaluation report shall be written clearly and without jargon so that it can be understood by the court, attorneys, and clients. It shall convey an attitude of understanding and empathy for all of the individuals involved, adults and children, and shall be written in a way that conveys respect for each individual.

### **B. Contents**

In preparing reports, evaluators shall be aware that their own professional observations, opinions, recommendations, and conclusions must be distinguished from legal facts, opinions, and conclusions. The report shall include identifying information, reasons for the evaluation, procedures used, family history, evaluation of each child and each parent and caretaker, and evaluation of the relationships among parents and children and among the adults. Conclusions about the individuals and the relationships shall lead logically to the recommendations for custody, access, and visitation. It is helpful, and in some jurisdictions required, to spell out clearly how the data, the conclusions, and the recommendations are related to the statutory requirements.

### **C. Distribution**

1. The evaluation report shall be distributed according to the rules established by each jurisdiction.
2. After the report has been distributed and considered, the court may order or it may be deemed wise for either or both parties to participate in therapy and/or counseling. The professional counselor/therapist may be an appropriate recipient of the report or that portion of the report relating to his or her client with approval of the court.

## **VI. ETHICAL PRINCIPLES**

### **A. Ethical principles of professions**

Evaluators are to adhere to the ethical principles of their own professions above the needs of the parties, the attorneys, or the courts. When there is a conflict between these ethical principles and others' needs, the evaluator shall try to explain the conflict to the parties and the attorneys and shall try to find ways of continuing the evaluation that will minimize or remove the conflict. If that is not possible, the evaluator shall withdraw from the process, with notice to all parties and their attorneys in writing.

### **B. Prior relationships**

An evaluator must disclose any prior relationship between the evaluator and any member of the family and, in most cases, should not perform a custody evaluation if there is a prior relationship of any kind. In addition, a person who has been a mediator or a therapist for any or all members of the family should not perform a custody evaluation because the previous knowledge and relationship may render him or her incapable of being completely neutral and incapable of having unbiased objectivity.

### **C. Post-relationships**

After the completion of an evaluation, the evaluator should similarly be cautious about switching roles to that of either mediator or therapist. Such a change of roles would render future testimony and/or reevaluations invalid by virtue of the change in objectivity and neutrality. If all parties, including the evaluator, wish the evaluator to change roles following an evaluation, it is important for the evaluator to inform the parties of the impact that such a change will have in the areas of possible testimony and/or reevaluation.

### **D. Issues beyond the evaluator's expertise**

In cases where issues arise that are beyond the scope of the evaluator's expertise, the evaluator shall seek consultation with a professional in the area of concern.

### **E. Limitation on evaluator's recommendations**

Evaluators shall make every effort to include all parties involved in the custody dispute in the evaluation process itself. Evaluators shall not make statements of fact or inference about parties whom they have not seen. On occasion, evaluators will be unable to see all parties in a custody evaluation dispute, either because of refusal of one party to participate or because of logistical factors such as geography. In these cases the evaluator may perform a limited evaluation, but must limit his or her observations and conclusions. For example, if only one parent is seen, the evaluator must not make statements about the other parent and must not make a recommendation for custody because the other parent has not been seen. The evaluator may report on those individuals who have been seen and on their interactions with each other and may draw conclusions regarding the nature of those relationships, such as whether they should continue, not continue, or be modified in some way. The evaluator may also make comments or state opinions about the need for a more expanded evaluation. Prior to undertaking such an evaluation the evaluator may want to inform the court of the circumstances of the evaluation as well as determine that the party who brings the child for a limited evaluation has the legal right to provide consent for the evaluation.

## **CONCLUSION**

Responsibility and authority for final decisions regarding custody and access rest with the court. As the conclusions of the evaluator are but one piece of the evidence before the court, these conclusions are to be framed as recommendations.