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## Custody Evaluations and Educators

Adapted from the work of Steven E. 'Jake' Jacobson by  
Aaron Robb

School counselors and teachers can be very helpful in child custody evaluations. Yet, misunderstandings or fears about what will happen in the process can cause an educator to decline to participate. While your participation in a custody evaluation is entirely voluntary, the goal of this article is to increase your understanding of the process so that your decision to participate will be made based on the best interest of your students.



### Who is the Evaluator?

Courts appoint Child Custody Evaluators to assess the family, children and situation, and provide recommendations regarding the child's "best interest" in designing a parenting plan and schedule. The evaluator doesn't work for either side. The evaluator is neutral! Of course, in most cases, the evaluator will try to include some information on the child's current school progress.

### Information Requested

- 1. Professional Opinions** - Teachers and school counselors often spend more time with the child than anyone else. The evaluator will want to know their professional assessment of the child's academic, intellectual and social development. Are they performing on grade level and/or to their ability? Do they have friends? Are their social interactions age-appropriate?
- 2. Parent Participation** - Evaluators also want to know about the parent's involvement with the school. That usually boils down to three questions. Have you met both parents? Do they participate in their child's education (e.g. attend conferences, open house, etc.)? What other interactions have you had (e.g. emails about assignments)?
- 3. Direct Experience** - Evaluators may also ask teachers and school counselors to report their observations about specific events that may be in dispute. For example, Parent A says that the child always wears a red hat on Fridays. Parent B

says that the hat is blue. Educators may be asked if either of these are true and, more importantly, what did they observe about hats worn on Friday and the impact on the child. The difference in "witness" questions is we are relying on dynamic observations rather than educational assessments.

### **Common Concerns**

Generally, a decision not to participate in a custody evaluation is based on concerns about the process. In this section we identify and address some of those concerns:

**A. Fear of "Gotcha"** - Teachers and school counselors may be concerned that the evaluator will attribute something to them that is inaccurate. For this reason, evaluators request written responses. In the rare circumstances that there is a follow-up interview, a written summary of the interview is sent to the educator for their final approval before it is submitted to the court.

**B. "I don't want to get involved"** - It is understandable that teachers and school counselors want to stay neutral in custody disputes. Whether or not they participate in the evaluation, the court is going to rule on the dispute. That ruling will impact that child's future. If the people who know the most about this child's academic and educational experience don't participate, the decision of the court just won't be as good.

**C. "I don't want to end up in court"** - When the evaluator's report includes input from the child's teacher or school counselor, they rarely get subpoenaed. The risk of being subpoenaed, deposed or called to testify is greater when an educator refuses to participate in the social study because the litigants' attorneys start wondering if the educator has some information on this family that will help their case.

**D. "I don't want to pick a side"** - Evaluators never ask a teacher or school counselor to pick a side. You are asked just to report your observations; you are neutral. The evaluator makes a recommendation to the court. The court makes the decision. Educators don't get a vote.

**E. Confidentiality** - Speaking with the evaluator is not a violation of confidentiality. The Federal Education Rights and Privacy Act. FERPA (34 CFR § 99.31) says that schools must have written permission from the parent or eligible student in order to release any information from a student's education record. A teacher or school counselor will only be contacted if the parents have authorized the release of their child's information to the evaluator.

Providing objective information and observations to a Child Custody Evaluator can reap great benefit for your students and keep you out of court! The Child Custody Evaluator's goal is to have the best comprehensive information regarding the children involved in our cases. We appreciate your assistance in helping these children through this difficult time.

Aaron Robb, PhD is a TCA member and owner of Forensic Counseling Services.

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