Comprehensive Custody Evaluations

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Custody Evaluations

• Backdrop
  – Over one million children per year experience divorce
  – With divorce decisions and judgments must be made regarding the custody of the children
  – Awesome task to protect children and make judgments regarding the children’s living arrangements
Custody Evaluations

- **Historical perspective**
  - Children considered chattel of the fathers until 20th century
  - State had limited ability to intervene with parents
  - Parents patriae gives the state the right to protect children
  - Children no longer treated as property of the fathers
  - In 20th century children seen as economic liabilities and women gain rights leading to tender years doctrine
  - Tender years dominated until 1960’s
Custody Evaluations

• Historical Perspective
  • Tender years challenged as sexist and lacking logic.
  • Best interest of children then adopted by every state
  • Mothers still granted custody the majority of time
    – Mothers are primary in most families
    – Court remains biased
    – Fathers reluctant to sue for custody
    – Combination of above
Custody Evaluations

- **Historical Perspective**
  - Best interests standard leads to greater discretion by judges in determining custody
  - Idiosyncratic and inconsistent decisions
  - Leads to judges looking for help from mental health professionals
  - Looking for expertise in evaluating children’s needs, parents’ care taking qualities and the fit between the two
Custody Evaluations

• Historical Perspective
  • Other standards include:
    – “Least detrimental alternative”
    – Goldstein et.al., finding the “psychological parent” to give unilateral decision making power.
    – Primary Caretaker Standard, custody given to the parent who has primarily held that position,
    – Approximation Rule, post divorce custody arrangements should mirror pre-separation arrangements.
Custody Evaluation

• Historical Perspective
  • Best Interests Standard provides little guidance with respect to factors considered. Not empirically defined
  • Operationalized by legislative process
    – Uniform Marriage and Divorce Act (1971)
      • wishes of child’s parent as to custody
      • wishes of child
      • interrelationship interactions
      • Child’s adjustment to home, school and community
      • mental and physical health of individuals
Custody Evaluations

• Rules regarding expert testimony
  – Frye Standard: (1923): Testimony is admissible when the data or technique has gained acceptance in the scientific community
  – Daubert Standard (1993): The judge determines admissibility based on the data and technique being compliant with the underlying theory of science and scientifically based methods of assessment being exercised. Thus, there is reliability, validity, a rate of error, standardization and published for peer review.
Custody Evaluations

- Forensic Evaluator
  - Need to know ethics
  - Be up-to-date with research
  - Utilize an attitude of “healthy skepticism”
  - Show competence in evaluation process
  - Utilize hypothesis generation within the context of psycho-legal questions to be answered
Custody Evaluations

• Forensic Evaluator
  – Provides structure to the evaluation process
  – Relationship with participants is only to gather facts, make judgments, confront discrepancies
  – Goal is to discover facts and form opinions about the psycho-legal questions to benefit the trier of fact
  – At all times is utilizing critical judgment
  – Uses “substantive evidence” to prove or support issues of concern
Custody Evaluations

• Forensic Evaluator, possible dilemmas
  – Provide advocacy for one side, creating bias
  – Place undue weight on personal opinions and believes and present as science
  – Being qualified in an area without the expertise
  – Tension between scientific and judicial methods
    • Science is about discovery and probability
    • Law is about discovery and “truth”
Custody Evaluations

• **Model of Evaluation**
  
  – Ultimately measure parenting competencies

  • Examine parents’ functional abilities, i.e. strengths and weaknesses

  • Determines causes of deficits

  • Explains how deficits affect behaviors related to psycho-legal questions

  • Functional assessment of child’s needs

  • Analyzes the goodness of fit

  • Addresses remediation and dispositional options
Custody Evaluations

• Utilizing a standardized methodology
  – Everyone is evaluated using the same methods
  – Increases the reliability of the data
  – Allows other evaluators to collect the same data in the same manner
  – Reduces individual examiner differences
  – Produces a consistent set of behavioral observations
Custody Evaluations

• Multi-trait, Multi-method Paradigm
  – Validity is questioned if limited avenues of inquiry
  – Therefore, utilization of varied methods of data collection related to the same issue
    • Increases reliability
    • Increases validity
    • Decreases error rates
Custody Evaluations

- Best Interests of the Child
  - Not a unitary variable
  - Multidimensional concept without a specific definition
  - Needs to be defined in order to determine the scope of the evaluation
  - Definition through the psycho-legal questions contained within the evaluation referral
Custody Evaluations

- Referral Questions:
  - Psycho-legal areas of inquiry
  - Who defines these areas
    - Judges
    - Lawyers
    - Evaluators
Custody Evaluations

- Forensic Examiners must make a connection between what they evaluate and its impact on the child within the context of the psycho-legal questions at hand
  - The evaluation is based in logic and in scientific theory
Custody Evaluations

• Factors of importance in custody decisions
  – Child or spousal abuse
  – Age and sex of the child
  – Child adjustment, pre and post separation
  – Length of time in present environment
  – Special needs of the child
  – Economic positions of the parents
  – Child’s preferences
Custody Evaluations

- Parents’ desire for custody
- Educational needs of the children
- Agreement between the parties
- Separation of siblings
- Mental and Physical health of the parents
- Prior custody determinations
- Level of hostility and conflict
Custody Evaluations

- Parental flexibility
- Parenting Skills
- Substance abuse
- Religious issues
- Prior caretaking arrangements
- Likelihood of relocation or alienation
- Criminal history
Custody Evaluation

• What is good parenting (little empirical evidence)
  – Active, engaging, participatory, caring
  – Two-way communication, parent to child, parent to parent; direct, open cooperative
  – Clear, but flexible boundaries that balance closeness and distance
  – Recognize and respond to children’s developmental needs
Custody Evaluation

• Good Parenting (cont.)
  – Supervise children as developmentally appropriate
  – Nurture independence, social responsibility, self-confidence, individuality by setting standards of behavior
  – Know children’s strengths and weaknesses
  – Provide a positive role model for the behaviors, values and beliefs that are being stressed
Custody Evaluation

• Good Parenting (cont.)
  – Good disciplinarian through appropriate sanctioning: setting and enforcing consequences consistently and empathically while providing guidance in more appropriate behavior
  – Healthy family functioning through encouragement of contact with other spouse and extended family
  – Provide moral reasoning through teaching socially appropriate behaviors, social rules and norms
Custody Evaluation

- Shienvold’s Model
  - 5 components
    - Orientation
    - Parent/adult interviews
    - Child interviews
    - Psychological testing
    - Parent-child observations: office and/or home visits
    - Collateral Information
      - Record reviews, collateral interviews, parenting references
Custody Evaluations

• Shienvold Model
  – Orientation
    • Ethical obligation under the guidelines
    • Set the scope of the evaluation
    • Allows for informed consent to the evaluation
    • Starts the process of transparency
    • Reassures neutrality
    • Reduces anxiety by sharing all expectations, rules, procedures
    • De-mystifies the process
    • Reinforces written agreement
Custody Evaluations

- Parent/Adult Interview Structure
  - Background of case, concerns and positions
  - History of the relationship
  - View of the children based on developmental continuum
  - Parenting beliefs, values, style, goals, behaviors, skills, deficits and application to children’s needs
  - Family of origin
  - Stability issues, including, physical, emotional, social, vocational, economic, cognitive, personality
Custody Evaluations

• Child Interview Structure
  – Rapport building
  – Assessment of language skills, cognitive skills
  – Maturity level, susceptibility to influence
  – Understanding of evaluation situation
  – Observations, opinions, preferences
    • View of each parent
    • Child’s expressed wishes
    • Child, parental and family behavior and functioning
Custody Evaluation

- Clinical vs. Forensic Interviewing
  - Clinical
    - Client or patient controlled
    - Subjective in nature without any confrontation of presentation of the patient
    - Goal is diagnosis and treatment of client’s presented problems
Custody Evaluation

• Clinical vs. Forensic Interviews
  – Forensic
    • Evaluator directed
    • Standard with an organizing framework
    • Built to answer the psycho-legal questions being asked
      – Individual behavior and functioning
      – Parental feedback
      – Relationship to others
      – Family functions, routines, schedules, etc.
      – Goodness of Fit with the child(ren)
Custody Evaluations

- Parent-Child Observations
  - Necessary component of every evaluation
  - Opportunity to see the relationship between parent and children
  - May or may not give information about attachment
  - Will provide information about parenting style, parent-child comfort, parenting behavior, limit setting, peer interactions
  - In office observations vs. home observations
Custody Evaluations

• **Collateral Information**
  – Record reviews
    • School records
    • Medical records
    • Counseling records
    • CPS reports, hospital records, police records,
    • Client provided documents: emails, journals, letters, texts, voice mails, videos, etc.
Custody Evaluations

• Collateral Information
  – Fact Witnesses
    • Individuals who can provide information regarding a specific event, issue, action
      – Coaches
      – Teachers
      – Neighbors
      – Police
      – Etc.
Custody Evaluations

• Collateral Information
  – Parenting References
    • Individuals who can provide information regarding the parenting skills and behaviors of the parents
    • The use of good interviewing skill and structured format
    • The use of reference forms vs. interviews
    • Who provides “good” information
Custody Evaluations

- **Psychological Testing**
  - Purpose of using psychological testing
  - Types of tests:
    - Objective tests, such as Minnesota Multiphasic Personality Inventory-2, Millon Clinical Multiaxial Inventory-III, Intelligence Tests (Weschler Scales), State-Trait Anger Expression Inventory-2 (STAXI-2), Parenting Stress Index (PSI), etc.
    - Projective Tests, such as the Rorschach Inkblot Test, Figure Drawing Tests, TAT, etc.
    - Cautions: Validation and hypothesis production
Model Standards of Practice for Child Custody Evaluation

Approved by the AFCC Board of Directors
May 2006
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.
I N T R O D U C T I O N

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.
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 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 relates 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;
> continued on next page.
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.

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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.

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Guidelines for Child Custody Evaluations in Family Law Proceedings

Approved as APA Policy by the APA Council of Representatives February 2009

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Guidelines for Child Custody Evaluations in Family Law Proceedings

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. Our goal 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, we 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.

1 This revision of the 1994 Guidelines for Child Custody Evaluations in Divorce Proceedings was completed by the Committee on Professional Practice and Standards (COPPS). 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 (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 Board of Professional Affairs (BPA), and particularly to BPA Chairs Cynthia Sturm (2009), Jaquie 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 revision efforts: Lynn F. Bufka, Mary G. Hardiman, Omar Rehman, Geoffrey M. Reed, Laura Kay-Roth, Ernestine Penniman, and Ayobodun Bello.
Although some states have begun to favor such terms as “parenting plan or time” or “parental rights and responsibilities” over “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, we have continued to 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 never lived together at all. 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. In these guidelines, we 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 has been the subject of ongoing debate (Grisso, 1990, 2005; Krauss & Sales, 1999, 2000; Melton, Petrila, Poythress, & Slobogin, 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) Ethical Principles of Psychologists and Code of Conduct (“Ethics Code,” APA, 2002). The term guidelines refers to statements that suggest or recommend specific professional behavior, endeavors, or conduct for psychologists. 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.

**Expiration**

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

**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 parent’s 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 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 (1) impaired impartiality, competence, or effectiveness; or (2) exposure of the person or organization with whom the professional relationships exists to harm or exploitation (Ethics Code 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
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 understandble 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 3.10, 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 litigations often display increased elevations.
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 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 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 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 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. Non-examining psychologists also may be asked to 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, 2006; Erard, 2006; Grisso, 2003; Heilbrun, 2001; Tippins and Wittman, 2006) 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


