

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF DU PAGE        )

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

IN THE MATTER OF MODIFICATIONS AND        )        Administrative Order No. 05-11  
ADDITIONS TO THE CIRCUIT COURT RULES     )

WHEREAS, the Circuit Judges of the 18th Judicial Circuit adopted local Circuit Court Rules on January 16, 2002; and

WHEREAS, from time to time the Circuit Judges find it necessary to ratify and codify certain revisions, amendments and additions to said local Circuit Court Rules; and

WHEREAS, on March 15, 2005, the Circuit Judges amended Rule 15.18 II.

IT IS THEREFORE ORDERED that these changes, shown as adopted in Exhibit A attached hereto, were adopted into the local Circuit Court Rules to be effective as indicated.

ENTER:

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ROBERT K. KILANDER  
Chief Judge

Dated: March 17, 2005  
Wheaton, Illinois

## II. EVALUATION PROGRAM

### A. SUBJECT MATTER OF EVALUATION

Court Ordered Evaluation shall include any pre or post-judgment contested issue of parental responsibility, custody, visitation, ~~removal~~, access to the children or other non-economic issues in relation to child(ren), and the evaluator appointed by the Court shall make a recommendation to the Court with respect to those issues in dispute. Unless otherwise provided in these rules, the Court shall order the parties to participate in evaluation at the mediation status date, upon motion of a party or upon the Court's own motion.

### B. PRE-REQUISITE TO EVALUATION

(1) The parties ordered to evaluation by the Court shall have completed mediation prior to the commencement of an evaluation, unless waived by the Court.

(2) The evaluation may be omitted, if the Court so orders, for good cause shown.

### C. QUALIFICATIONS OF EVALUATORS

(1) The 18th Judicial Circuit shall promulgate a list of evaluators who have been approved by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division to act as evaluators for the Court Ordered Evaluation Program, each of whom shall serve at the discretion of the Presiding Judge. Applicants for the program must file the required application with supporting documentation and meet the following criteria:

(a) Shall satisfactorily complete a training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time;

(b) Shall be a Ph.D. in psychology, Psy.D., Licensed Clinical Psychologist or Psychiatrist;

(c) Shall maintain Illinois Licensure in full force and good standing; and carry current malpractice insurance in an amount as approved by the Presiding Judge;

(d) Maintain an office in DuPage County and be available to conduct evaluations in DuPage County;

(e) Shall have at least five (5) years of experience in practice post-licensure; education, training and experience with children and families; plus training and/or experience specifically relevant to the evaluation process.

(2) Periodically the Presiding Judge shall prepare a list of Court approved evaluators.

(3) An evaluator shall agree to handle three (3) reduced fee or pro bono cases per year as identified by the Court. All requests for pro bono or reduced fee evaluations shall be made to and approved by the Presiding Judge of the Domestic Relations Division.

#### **D. REFERRAL ASSIGNMENT PROCEDURE**

(1) Upon the Court's order for the parties to participate in evaluation, an evaluator shall be selected by agreement of the parties from the list of qualified evaluators. Absent an agreement, the trial judge shall assign the evaluator and a forty-five (45) day interim report date and a ninety (90) day status date shall be set for the final evaluation report.

(2) The Court shall designate in its order of evaluation:

(a) The percentage of the evaluation fee that shall be paid by each party and/or whether the case should be considered a reduced fee or pro bono case;

(b) Who shall receive a copy of the evaluation report; and

(c) What issues are to be evaluated.

(3) On or before the status date, the evaluator shall submit a report to those parties listed in Section D(2) of these rules.

(4) The time for evaluation shall be tolled during any periods in which a motion to disqualify is pending.

(5) The parties shall contact the evaluator within two (2) business days after the assignment for the purpose of scheduling an initial session.

#### **E. CONFLICT OF INTEREST**

(1) If the evaluator appointed has or has had any possible conflict of interest, including but not limited to a current or previous therapeutic, personal or economic relationship with either party, any child, step-parent, other relative, counsel or anyone else involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another evaluator.

(2) The evaluator may not function as a therapist to the parties, the children or step-parents before, during or after the evaluation.

(3) *Imputed Disqualification*: No one will be eligible to serve as an evaluator if listed as a court appointed mediator under these rules or a member of a practice, agency or business entity whose members are on the Court's list of appointed mediators.

## F. REPORTING RISK OF BODILY HARM AND ABUSE

All evaluators will conduct themselves in accord with the Abuse and Neglected Child Reporting Act standards (325 ILCS 5/1 *et seq.*).

## G. DISCLOSURE OF INFORMATION

The information exchanged during the evaluation process does not constitute “mental health services” or “services” within the meaning of the Mental Health and Developmental Disabilities Confidentiality Act and is, therefore, not confidential. The records of an evaluator are not subject to discovery without leave of court after proper notice to the other parties and the evaluator.

## H. EVALUATION PROCESS

(1) The parties shall attend the evaluation sessions which shall consist of up to fifteen ~~fourteen (14)~~ (15) hours in length including testing, unless extended by agreement of the parties and the evaluator or order of Court. Attendance at evaluation shall be limited to the parties, the children and those specifically requested by the evaluator.

(2) The evaluator may have up to five (5) hours after the evaluation sessions to prepare the final report.

~~(3) (2)~~ Attorneys for the parties shall not contact the evaluator either during or after the evaluation, without leave of Court, except concerning those matters in the Referral form or in regard to scheduling.

~~(4) (3)~~ The evaluation may be terminated or suspended at the option of the Court, the evaluator or upon settlement of the issues which caused the case to be referred to evaluation.

~~(5) (4)~~ The evaluator shall immediately advise the Court and counsel for the parties in writing if the report will not be completed by the status date and state the reason for the delay and the expected date of completion.

~~(6) (5)~~ In the event a party fails to promptly attend and participate in the evaluation without good cause shown, the Court upon motion may impose sanctions.

~~(7) (6)~~ The evaluation must take place in DuPage County unless the parties agree otherwise.

## I. PAYMENT OF FEES

(1) The evaluator’s hourly fee and the amount of the advance deposit shall be set from time to time by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division. The evaluation fee shall include up to fifteen ~~twelve (12)~~ (15) hours for sessions and costs of testing, plus five (5) ~~two (2)~~ hours for preparation of the report.

The limitation on charges contained in these rules shall not include time expended for preparation or attendance at a court proceeding or deposition. Those charges shall be paid by the party calling the evaluator as a witness.

(2) The parties shall be required to pay for individual sessions at the time of each evaluation session. In the event payments are not made as ordered by the Court, the evaluator may not suspend the process but shall promptly report failure to pay to the attorneys and the Court.

(3) The evaluator's report shall include reference to the fee charged and itemize the charges, whether that fee has been paid in full, and if not, the outstanding amount owed. The Court may direct the parties to pay any sum that remains due and owing to the evaluator and may enter judgment accordingly.

## **J. STATISTICS**

The Presiding Judge shall maintain data on the evaluation program and consult on a regular basis with the other judges in the Domestic Relations Division about the operation of the program.

## **III. OVERSIGHT COMMITTEE**

(a) The Chief Judge, Presiding Judge of the Domestic Relations Division, and Acting Presiding Judge of the Domestic Relations Division may appoint such committees as may be necessary to monitor and oversee the Mediation and Evaluation programs. The committees may be comprised of attorneys practicing in the area of family law, Domestic Relations judges, psychologists, psychiatrists and members of the general public. The purpose of such committee shall include:

- (1) To review and make recommendations to the Presiding Judge regarding any substantial complaint against a court appointed mediator or evaluator;
- (2) To make recommendations for modification to the mediation and/or evaluation rules or procedures established pursuant thereto;
- (3) To make recommendations for procedures and practices to implement the rules;
- (4) To assist in the review of statistical data relative to the efficacy of the program;
- (5) To review any complaints or concerns about the mediation and evaluation programs; and
- (6) To perform any other tasks assigned by the Presiding Judge.

(b) In screening and making recommendations regarding a complaint against a mediator or evaluator, the committee shall consider the ethical standards and laws which apply to the

profession(s) of that mediator or evaluator.