

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 36 BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 09 Child Custody Evaluations in Family Law Proceedings

Authority: Health Occupations Article, §18-206, Annotated Code of Maryland

.01 Scope.

- A. This chapter governs the professional conduct of licensed psychologists who are performing child custody evaluations or who otherwise render an opinion on legal or physical custody.
- B. This chapter is not intended to negate the psychologist's obligations to comply with other provisions of this subtitle.
- C. This chapter does not apply to the following types of proceedings:
- (1) Child in need of assistance (CINA) proceedings in accordance with Courts and Judicial Proceedings Article, Title 3, Subtitle 8, Annotated Code of Maryland;
 - (2) Department of Juvenile Services proceedings in accordance with Courts and Judicial Proceedings Article, Title 3, Subtitle 8A, Annotated Code of Maryland; or
 - (3) Termination of parental rights (TPR) proceedings in accordance with Family Law Article, Title 5, Subtitle 3, Annotated Code of Maryland.

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
- (1) "Child" means an individual younger than 18 years old.
 - (2) "Child custody evaluation" means an assessment performed by a psychologist in order to render findings and recommendations regarding custody or visitation that are in the best interest of a child.
 - (3) "Child Custody Proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue.

.03 Preparing for a Child Custody Evaluation.

Before performing a child custody evaluation, a psychologist shall:

A. Obtain a copy of:

- (1) The court order; or
- (2) An agreement signed by the parties;

B. Review the scope of the evaluation as defined by the court's order or the signed agreement and insure that the order or agreement is consistent with the provisions of this chapter; and

C. Obtain the necessary signed informed consent from the parties, which shall include:

- (1) The scope of the custody evaluation;
- (2) The process for conducting the child custody evaluation;
- (3) Limits to confidentiality;
- (4) The basis and rate of fees and expenses for which the client will be responsible; and
- (5) The timeline on which payments are due to the psychologist.

.04 Competence Necessary to Conduct Child Custody Evaluations.

A. To be considered competent to conduct child custody evaluations, a psychologist shall have education, training, experience, or supervision in the following areas:

- (1) Child and adult development and psychopathology;
- (2) Family dynamics and psychopathology, including the impact of divorce;
- (3) Maryland law governing:
 - (a) Divorce;
 - (b) Child custody proceedings;
 - (c) Child abuse and neglect; and
 - (d) Family violence; and
- (4) Performing psychological assessments of:
 - (a) Children;
 - (b) Adults; and
 - (c) Families.

B. A psychologist conducting a child custody evaluation shall have competence to effectively address common issues that may arise in conducting child custody evaluations such as:

- (1) Age;
- (2) Disability;
- (3) Ethnicity;
- (4) Gender;
- (5) Gender identity;
- (6) Language;
- (7) National origin;
- (8) Race;
- (9) Religion;
- (10) Culture;
- (11) Sexual orientation; and
- (12) Socioeconomic status.

C. A psychologist shall have an awareness of the literature relevant to conducting child custody evaluations.

.05 Standards of Practice in Conducting a Child Custody Evaluation.

A. In order to determine legal and physical custody arrangements that serve the child's best interests, a psychologist conducting a child custody evaluation shall:

(1) Assess the following:

(a) Parenting skills and capacities of the adults; and

(b) The child's psychological functioning and developmental needs;

(2) Use multiple methods of data gathering, including, but not limited to:

(a) Individually interviewing and assessing each party and each child, if age appropriate;

(b) Observing the interactions of the child with each parental figure, in the respective households, whenever possible; and

(c) Requesting and assessing additional relevant information whenever possible, such as:

(i) Third-party interviews;

(ii) Medical records;

(iii) School records; and

(iv) Legal documents;

(3) Remain impartial and objective;

(4) Interpret assessment data and clinical information in a manner consistent with current standards of practice;

(5) Base recommendations on the needs and best interests of the child, as supported by the:

(a) Evaluation data; and

(b) Applicable law;

(6) Create and maintain professional records in accordance with COMAR 10.36.05;

(7) Include appropriate disclaimers regarding the limitations of the recommendations, such as:

(a) Unavailability of information;

(b) Lack of cooperation of the parties;

(c) Lack of compliance with court orders; or

(d) Inconclusive assessment data; and

(8) Decline to conduct the evaluation as set forth in COMAR 10.36.05 if the psychologist feels that the psychologist's objectivity would be impaired.

B. In the event a psychologist determines sufficient information is not available, the psychologist may decline to make recommendations.

C. A psychologist performing a child custody evaluation may not:

(1) Engage in multiple relationships with any of the parties to the pending child custody proceeding, including serving as a:

- (a) Mediator;
- (b) Therapist;
- (c) Life coach;
- (d) Parenting coordinator; or
- (e) Litigation consultant; or

(2) Render an opinion concerning the psychological functioning or custodial fitness of a individual involved in the custody proceeding who has not been personally evaluated by the psychologist during the current child custody evaluation.

Administrative History

Effective date: August 22, 2011 (38:17 Md. R. 1013)