



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



eNEWS

**AFCC 51st Annual Conference  
Navigating the Waters of Shared Parenting:  
Guidance from the Harbour  
May 28-31, 2014, at the Westin Harbour Castle Toronto**

**Register before March 7 to Save**

Now is the time to make your plans to attend this year's annual conference. Register and make sure your payment is received by March 7 to take advantage of early registration discounts. AFCC members can save up to \$165 by registering early. Not yet an AFCC member? Join with your registration—save \$10 on your first year's membership AND register at the discounted member rate!

[Register online](#)

[More information](#)

**Apply for a Conference Scholarship by March 1**

Conference scholarships are available to assist recipients with the cost of conference attendance. Scholarships include registration for a pre-conference institute, the conference, attendee meals, networking functions, and a certificate of attendance. A limited number of

MONTHLY E-NEWSLETTER  
VOL. 9 NO. 2  
FEBRUARY 2014

**Upcoming AFCC Conferences**



**AFCC 51st Annual Conference**  
May 28-31, 2014

stipends to help recipients offset the cost of travel and lodging will be awarded. The deadline to apply is March 1, 2014.

[Apply for a scholarship](#)

### **Book Your Room at the Westin Harbour Castle**

Don't miss out on the fun—stay at the conference hotel! Network and socialize a little longer with your colleagues in the hospitality suite. When it's time to go, you'll be glad your room is just an elevator ride away. The Westin Harbour Castle is located on the waterfront of Lake Ontario. Special rates for AFCC conference registrants are \$185 CAD/night single and \$206 CAD/night double. All rooms are subject to availability and early reservations are encouraged to ensure a room at these rates—the AFCC hotel block has sold out in recent years. On May 1, 2014, any non-reserved rooms in the block will be released for general sale and the AFCC rate cannot be guaranteed. Call 800-937-8461 or [book online](#).

### **Travel Tips and Things to Do in Toronto**

If you are looking for affordable airfare to Toronto, check out [Porter Airlines](#), a regional Canadian airline, which also has flights from US cities: Boston, Burlington, Chicago, Myrtle Beach, New York and Washington DC. Seasoned travelers also recommend checking flight prices for Buffalo, New York—the two hour drive to Toronto can yield big savings. Start planning your visit to Canada's largest and most diverse city—[www.seetorontonow.com](http://www.seetorontonow.com) offers a free smartphone app, links to other helpful apps, suggestions of things to do and see, and a calendar of events. The [Blue Jays](#) host a series with the Kansas City Royals over the conference dates. Don't wait to check your passport! Routine applications and renewals take 4-6 weeks for US residents.

### **Support AFCC by Donating to the Silent Auction**

Held each year as part of the annual conference, the AFCC Silent Auction is a fun opportunity to support the organization's special projects and initiatives like the Shared Parenting Think Tank and the Domestic Violence in Child Custody Evaluations Task Force. Donate an item or attend the auction and bid! Past auction items include vacations, jewelry, sports memorabilia, fashion accessories, electronics, collectibles, books and much more. It's a fun time to relax and socialize before the annual banquet.

[Silent Auction Donation Form](#)

### **Ask the Experts**

#### **Ten Serious Errors Made by Custody Evaluators**

*By David A. Martindale, PhD, ABPP (forensic), St. Petersburg,*

The Westin Harbour Castle  
Toronto, Ontario, Canada  
[More information](#)

#### **Conference Diamond Sponsor**



#### **Conference Platinum Sponsor**



#### **AFCC 11th Symposium on Child Custody Evaluations**

November 6-8, 2014

La Cantera Hill Country Resort  
San Antonio, Texas

[Call for proposals](#)

#### **AFCC 52nd Annual Conference**

May 27-30, 2015

Hilton New Orleans Riverside  
New Orleans, Louisiana

#### **AFCC Regional Training Conference**

November 5-7, 2015

Hyatt Regency Columbus  
Columbus, Ohio

#### **AFCC 53rd Annual Conference**

June 1-4, 2016

Sheraton Seattle Hotel  
Seattle, Washington

#### **AFCC 54th Annual Conference**

May 31-June 3, 2017

Sheraton Boston Hotel  
Boston, Massachusetts

Florida, and Jeffrey P. Wittmann, PhD, Albany, New York  
David Martindale and Jeffrey Wittmann, along with Timothy Tippins, will present a workshop entitled *Deadly Sins: Learning from Our Mistakes as Evaluators*, at the AFCC 51st Annual Conference, to be held at the Westin Harbour Castle, in Toronto, May 28–31, 2014. In this month's Ask the Experts column they address some of the serious errors made by custody evaluators and how to avoid them.

[Read more](#)

### **Parenting Coordination Trainings in Chicago**

Time is running out to register for the parenting coordination training programs held by AFCC, in collaboration with Loyola University Chicago School of Law's Civitas ChildLaw Center. Joan B. Kelly, PhD, will present *The Essentials of Parenting Coordination: Helping High Conflict Parents Resolve Post-Separation Disputes*, March 10-11 and Robin M. Deutsch, PhD, will present *Pitfalls, Process and Prescriptions: Advanced Strategies for Managing Parenting Coordination Cases*, March 12-13. Each training program is eligible for 12 hours of continuing education.

[Register now and more information](#)

### **Emergent Compilation of Jurisdictions Offering Child Protection Mediation**

*By Laura Bassein, JD, Albuquerque, New Mexico*

The Child Welfare Collaborative Decision Making Network seeks information from all CPM programs worldwide in order to enhance networking and information and knowledge sharing among existing programs and for the benefit of new programs. Learning about the characteristics of each jurisdiction and each CPM program helps new programs get started and helps existing programs to more fully develop.

[Read more](#)

### **AFCC Scholarship Fund**

Our Annual Appeal to AFCC members to support the scholarship program is coming along. We thank the members who have already donated to this appeal for their generosity and urge those who have not given to contribute. We are presently just over \$6,000 short of our fundraising goal—which translates to nearly ten scholarships to the annual conference. With your help this goal can be met and ten more scholarship recipients will be able to attend the annual conference!

[Donate today](#)

[Thank you to 2013-2014 contributors](#)

### **AFCC Chapter Annual Conferences**

#### **Washington Chapter Annual Conference**

*Frontiers of Family Practice*  
March 15, 2014  
Washington Athletic Club  
Seattle, Washington

[More information](#)

#### **New Jersey Chapter Annual Meeting**

*Dueling Experts in Custody Litigation*  
March 19, 2014, 6:00–9:00 pm  
Maggiano's Restaurant  
Bridgewater, New Jersey

[More information](#)

#### **Louisiana Chapter Annual Conference**

*Restructuring the Family: Incorporating Different Needs and Perspectives into Your Practice*

March 27-28, 2014  
Hampton Inn & Suites  
New Orleans, Louisiana

[More information](#)

#### **Massachusetts Chapter Annual Conference**

March 28, 2014  
Regis College  
Weston, Massachusetts

[More information](#)

#### **Missouri Chapter Annual Conference**

with M.A.R.C.H. Mediation  
*Differentiating Intimate Partner Violence*

April 3-4, 2014  
Sheraton St. Louis City Center  
Hotel  
St. Louis, Missouri

[More information](#)

#### **Join AFCC**

Are you a member?

[Join](#) or [Renew](#)

## Standards for Parenting Coordination in Ohio

*By Jacqueline Hagerott, JD, LLM, Columbus, Ohio*

The Ohio Supreme Court has adopted new rules governing local courts' use of parenting coordination that take effect on April 1, 2014. The following piece by Jacqueline Hagerott, Manager of the Dispute Resolution Section of the Supreme Court of Ohio, gives an overview of parenting coordination in Ohio, the authority, qualifications and responsibilities of parenting coordinators and the requirements and responsibilities of the court or division using parenting coordination.

[Read more](#)

## Submit a Proposal to Present a Workshop in San Antonio

AFCC is accepting proposals for 90 minute workshop sessions to be presented at the 11th Symposium on Child Custody Evaluations, *Examining Unintended Consequences*, November 6-8, 2014, at the La Cantera Hill Country Resort in San Antonio, Texas. The Symposium is designed for custody evaluators, judges, lawyers, mediators and any professional who works with separating and divorcing families. The deadline to submit a proposal is May 12, 2014.

[Submit a proposal](#)

[Suggested topics and guidelines](#)

## Awards Nomination Deadline Approaching

The deadline to nominate a colleague or program for an AFCC award is March 15, 2014. AFCC awards are presented in conjunction with the Annual Conference. The [John E. VanDuzer Distinguished Service Award](#) recognizes outstanding contributions and/or achievements by AFCC members; the [Stanley Cohen Research Award](#), sponsored by the Oregon Family Institute, recognizes outstanding research and/or achievements in the field of family and divorce. AFCC membership is not a requirement for this award; and the [Irwin Cantor Innovative Program Award](#) recognizes innovation in court-connected or court-related programs created by AFCC members. Nomination instructions are available on the individual award's page.

## Member News

**Dianna Gould-Saltman**, Los Angeles, California, was honored with the Don Mike Anthony Distinguished Jurist Award given by the Southern California Chapter of the American Academy of Matrimonial Lawyers. The award is given in recognition of judicial excellence in the field of family law.

AFCC offers member benefits that promote excellence in practice.

[View member benefits](#)

### AFCC Chapters

Network and share your interdisciplinary view of family court matters on a local level. There are currently chapters in the following states and provinces:

**Australia**

**Alberta**

**Arizona**

**California**

**Colorado**

**Connecticut**

**Florida**

**Illinois**

**Indiana**

**Louisiana**

**Massachusetts**

**Minnesota**

**Missouri**

**New Jersey**

**New York**

**Ontario**

**Oregon**

**Texas**

**Washington**

**Wisconsin**

[Add an AFCC Chapter to your membership](#)

### AFCC Networks

New Zealand

### Ask the Experts

Is there a topic you would like to see covered by an AFCC Ask the Experts piece?

[Email your suggestion](#)

### About AFCC eNEWS

Readers are welcomed and encouraged to forward this e-newsletter to interested colleagues.

The opinions expressed in articles published or linked to in

**Leslie Ellen Shear**, Encino, California, was honored with the Joseph Drown Award for outstanding services to children. The award was presented by the California Chapter of AFCC at the Chapter's annual conference, earlier this month in San Francisco.

**Philip Stahl**, Queen Creek, Arizona, received an award for the 2014 Outstanding Contribution to the Arizona Chapter of AFCC, at the Chapter's annual conference earlier this month in Sedona. Dr. Stahl has served two three-year terms on the Arizona Chapter Board of Directors and remains active with both the Chapter and parent organization.

AFCC members **Debra K. Carter**, **Linda Delaney**, **Robin M. Deutsch**, **Giselle A. Hass**, **Joan B. Kelly**, **Margaret J. McKinney** and **Matthew J. Sullivan**, are contributors to a new book [Parenting Coordination in Postseparation Disputes: A Comprehensive Guide for Practitioners](#), edited by **Shirley Ann Higuchi** and Stephen J. Lally.

### Chapter News

The coordinating committee for the **Ohio Chapter** has filed a Letter of Intent to form a local chapter. Its launch event, will be held in conjunction with the Domestic Relations Summit on April 23, 2014, at the Polaris Hilton in Columbus from 1:00pm-4:00pm. The presentation will feature Arnold T. Shienvold, PhD, discussing custody evaluations in the face of domestic violence allegations. The education session will be followed by a reception from 4:00pm-5:00pm. Provisional Chapter Status will be applied for after the launch event. Contact Stephanie Graubner Nelson, [stephanie.nelson@sc.ohio.gov](mailto:stephanie.nelson@sc.ohio.gov), for more information.

The **Ontario Chapter** of AFCC presented the [Nicholas Bala Award for Excellence in Children and Family Law](#) to Joanna Hunt, a third year JD student at Queens University for her paper, *Education Programs for Separating and Divorcing Spouses: A Proposed Evaluation of the Mandatory Information Program in Kingston, Ontario*.

### ABA Section of Dispute Resolution 16th Annual Spring Conference

Join the ABA Section of Dispute Resolution April 2-5, 2014, in Miami, for programs presented by leading ADR professionals, practitioners, and academic faculty addressing core topics and cutting-edge issues in ADR. Hear keynote plenary speeches from Judge Rosemary

the AFCC eNEWS are those of the authors and do not necessarily reflect the positions of the Association of Family and Conciliation Courts.

#### Editor:

Erin Sommerfeld  
[editor@afccnet.org](mailto:editor@afccnet.org)



[Like on Facebook](#)



[Follow on Twitter](#)



[Connect on LinkedIn](#)

[Unsubscribe](#)

AFCC  
6525 Grand Teton Plaza  
Madison, WI 53719  
Phone: 608-664-3750  
Fax: 608-664-3751  
[afcc@afccnet.org](mailto:afcc@afccnet.org)

Barkett and Governor Bill Richardson. In addition to the plenaries, there will be more than 80 concurrent CLE programs to choose from. Earn up to one years' worth of CLE credit.

[More information](#)

## **Family Law in the News**

### **Divorces Rise as Economy Recovers, Study Finds**

*By Emily Alpert Reyes, courtesy of The Los Angeles Times*

Fewer couples split during the recession, but researchers say some may have been waiting until they could afford a costly legal step.

[Read more](#)

### **IVF's Hidden Heartbreak:**

#### **Failed Fertility Treatment Triples the Risk of Divorce**

*By Emma Innes, courtesy of The Daily Mail*

All parents know that having a baby can put a strain on the strongest of marriages. But now, new research suggests struggling to have a baby can make divorce or separation even more likely. Danish researchers found couples who have a rocky patch because of failed IVF treatment are three times more likely to end up separating than those who do become parents.

[Read more](#)



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



eNEWS

VOL. 9 NO. 2  
FEBRUARY 2014

## Emergent Compilation of Jurisdictions Offering Child Protection Mediation

By Laura Bassein, JD, Albuquerque, New Mexico

---

---

### Be part of a Child Protection Mediation Program Directory

Provide the following  
information:

- Program Name
- Jurisdiction  
(state/province, country,  
county, court)
- Contact Person  
(name, email, phone,  
address)
- Program Start Year  
(and stop year if no longer  
operating)
- Brief Program Description
- Program Research and  
Evaluations (if any)

To Laura Bassein at  
[bassein@law.unm.edu](mailto:bassein@law.unm.edu) by  
March 13, 2014.

---

---

Does your jurisdiction offer child protection mediation (CPM)? Do you know what it is? According to the *Guidelines for Child Protection Mediation*:<sup>1</sup>

“Child protection mediation (CPM) is a collaborative problem solving process involving an impartial and neutral person who facilitates constructive negotiation and communication among parents, lawyers, child protection professionals, and possibly others, in an effort to reach a consensus regarding how to resolve issues of concern when children are alleged to be abused, neglected or abandoned. The child’s voice in the decision making process is essential and is typically presented either directly by the child or by other means, such as by an advocate for the child.”

“CPM encourages constructive communication and information sharing and fosters an environment where genuine engagement and agreement is possible. As a consensual decision making process, no agreement can be reached unless all the involved parties agree. In addition to reaching important decisions regarding children and families, CPM can lead to a greater sense of teamwork and a greater understanding and ownership of resulting agreements by all involved.”

Child protection mediation is also sometimes called dependency mediation, child abuse or neglect mediation, child welfare mediation or permanency planning mediation.

If you are not immersed in CPM yourself, you may be surprised to learn that mediation of child abuse or neglect issues has been ongoing since at least the 1980s. Two articles, published in *Family Court Review*, *Child Protection Mediation: A 25-Year Perspective* by the Honorable Leonard Edwards<sup>ii</sup> and *A Guide to Effective Child Protection Mediation: Lessons from 25 Years of Practice* by Marilou Giovannucci and Karen Largent<sup>iii</sup> reveal the evolution of CPM from pilot project to best practice. At least twice (in 1997 and again in 2009), *Family Court Review* (formerly *Family and Conciliation Courts Review*) devoted an entire issue to child protection mediation.<sup>iv</sup> Reading all articles in both issues provides a wealth of information to those curious about this successful use of mediation.

The January 2014 *AFCC eNEWS* treated us to an informative and encouraging discussion of one long standing CPM program—the Cook County Illinois Child Protection Mediation and Facilitation Program.<sup>v</sup> Many other CPM programs exist across the United States and Canada, and CPM programs also operate on other continents. Efforts have been made over the years to catalog these CPM programs.<sup>vi</sup> However, we seem to have not yet identified the full array of CPM programs across the globe.

Today, efforts are again underway to increase and enhance networking and sharing of knowledge and experience among all CPM programs. Networking among CPM programs already occurs via the Child Welfare Collaborative Decision Making Network—informally known as the “Think Tank.” The Network operates throughout the year and generally holds an in-person meeting at the AFCC Annual Conference.<sup>vii</sup> The Network is open to anyone involved in child protection mediation. Increasing the number of CPM programs involved in the Network will enhance the capacity of all programs to operate successfully into the future.

Learning about the characteristics of each jurisdiction and each CPM program helps new programs get started and helps existing programs to more fully develop. Such characteristics include: points in the child abuse or neglect process at which mediation takes place, range of mediation participants, duration of mediation sessions, length of program operation, entity that operates the program, etc. Finding out who currently champions the existing programs will help new programs identify their own champions and will help existing programs to find new champions as some of the leaders in this field find new endeavors.

If your jurisdiction offers child protection mediation, has the program been evaluated? A number of CPM programs have conducted evaluations over the years. Early evaluation efforts stem from places like California where CPM programs took hold initially.<sup>viii</sup> Evaluation efforts continue to this day.<sup>ix</sup> *What We Know Now: Findings from Dependency Mediation Research*<sup>x</sup> provides a survey of CPM research. Evaluation and other research results tend to support the effectiveness of child protection mediation. Yet, more questions remain to be studied.

We seek information from all CPM programs worldwide in order to enhance networking and information and knowledge sharing among existing programs and for the benefit of new programs. Successful networking includes sharing the successes and the challenges associated with CPM. With more connections, more successes are sure to abound. The goals of this current effort to catalog CPM programs include: 1) developing



a widely accessible means for sharing contact and program information about as many CPM programs worldwide as possible; and 2) sharing CPM program research and evaluation results to continue and to increase the effectiveness of all CPM work.

To become part of this enhanced networking effort, provide the CPM program information requested in the sidebar to Laura Bassein at [bassein@law.unm.edu](mailto:bassein@law.unm.edu) by March 13, 2014. Please join the effort to network among CPM programs. We all learn and grow when we collaborate and share experience and knowledge. Be on the lookout for an upcoming compilation of CPM programs resulting from this networking effort.

---

*Laura Bassein formerly served as statewide program coordinator for both the Michigan Permanency Planning Mediation Program and the New Mexico Children's Court Mediation Program. She currently works as Senior Attorney for the University of New Mexico School of Law's Institute of Public Law where the New Mexico Judicial Education Center and Children's Law Center are housed. Laura obtained both her undergraduate and law degrees from the University of Colorado. She frequently speaks on mediation related topics locally and nationally.*

---

<sup>i</sup> Following decades of experience with child protection mediation programs, a group of experts developed a set of Child Protection Mediation Guidelines. The Guidelines were adopted and approved by the AFCC Board of Directors in 2012 and can be found at:

<http://www.afccnet.org/ResourceCenter/PracticeGuidelinesandStandards>. The National Council of Juvenile and Family Court Judges Board of Directors and the Association for Conflict Resolution Board of Directors have also endorsed the Guidelines.

<sup>ii</sup> *Child Protection Mediation: A 25-Year Perspective*, by Hon. Leonard Edwards, 47 Fam. Ct. Rev. 69 (2009).

<sup>iii</sup> *A Guide to Effective Child Protection Mediation: Lessons from 25 Years of Practice*, by Marilou Giovannucci and Karen Largent, 47 Fam. Ct. Rev. 38 (2009).

<sup>iv</sup> Family Court Review, Vol. 47, Issue 1, January 2009, *Special Issue: Mediation and Conferencing in Child Protection Disputes*, and Family and Conciliation Courts Review, Vol. 35, Issue 2, April 1997.

<sup>v</sup> *The History and Development of the Cook County Child Protection Mediation and Facilitation Program*, by Susan M. Storcel, AFCC eNEWS, Vol. 9, No. 1, January 2014.

<sup>vi</sup> *Trends in Child Protection Mediation: Results of the Think Tank Survey and Interviews*, by Joan Kathol, 47 Fam. Ct. Rev. 116 (2009).

<sup>vii</sup> *The Child Welfare Collaborative Decision Making Network—Think Tank VII*, by Marilou Giovannucci, AFCC eNEWS, Vol. 8, No. 12, December 2013.

<sup>viii</sup> *An Evaluation of Child Protection Mediation in Five California Courts*, by Nancy Thoennes, 35 Family and Conciliation Courts Review 184 (1997).

<sup>ix</sup> *Research Report: Assessing Mediation in Washoe County, Nevada*, NCJFCJ (2013). Retrieved from: [http://www.ncjfcj.org/sites/default/files/Assessing%20Mediation%20in%20Nevada\\_Washoe.pdf](http://www.ncjfcj.org/sites/default/files/Assessing%20Mediation%20in%20Nevada_Washoe.pdf);

*New York City Child Permanency Mediation Program Evaluation*, Center for Policy Research, Nancy Thoennes, et al. (2011). Retrieved from: <http://nycourts.gov/ip/cwcp/Publications/permMediation.pdf>;

*Assessing Efficiency and Workload Implications of the King County Mediation Pilot*, NCJFCJ, Alicia Summers, et al. (2011). Retrieved from:

<http://www.ncjfcj.org/sites/default/files/King%20County%20Mediation%20Pilot%20Article.pdf>;

*Child Protection Mediation: An Evaluation of Services Provided by Cook County Juvenile Court.*

Resolution Systems Institute (2010). Retrieved from: [http://www.aboutrsi.org/pfimages/RSI\\_CPDstudy.pdf](http://www.aboutrsi.org/pfimages/RSI_CPDstudy.pdf)

<sup>x</sup> *What We Know Now: Findings from Dependency Mediation Research*, by Nancy Thoennes, 47 Fam. Ct. Rev. 21 (2009).



## Ask the Experts

### Ten Serious Errors Made by Custody Evaluators

*David A. Martindale, PhD, ABPP (forensic), St. Petersburg, Florida*

*Jeffrey P. Wittmann, PhD, Albany, New York*

*[David Martindale and Jeffrey Wittmann, along with Timothy Tippins, will present a workshop entitled “Deadly Sins: Learning from Our Mistakes as Evaluators,” at the AFCC 51st Annual Conference, to be held at the Westin Harbour Castle, in Toronto, May 28–31, 2014.]*

David Martindale served as the reporter on the [AFCC Task Force on Model Standards of Practice for Child Custody Evaluation](#). The [AFCC Model Standards of Practice for Child Custody Evaluation](#) were adopted by a unanimous vote of the AFCC Board of Directors in May 2006.

Regular readers of the *AFCC eNEWS* are aware that the title of this column ordinarily begins with the words “Top Ten.” Neither Jeff nor I, nor our co-presenter, Tim Tippins, *really* knows which of the errors made by evaluators might legitimately be classified as the top ten, nor do we know whether, in this context, “top” relates to frequency or to severity. We therefore sought, and obtained, a dispensation, allowing us to tweak the title.

**1, 2. Insufficient professional preparation** manifests itself in many ways, two of which are failure by evaluators to develop forensic interviewing skills and failure by evaluators to familiarize themselves with applicable statutes and precedents.

**Interviewing.** Treatment providers learn that effective listening often requires resisting the impulse to interrupt. In a treatment context, permitting patients to discuss what *they* believe to be important facilitates the development of the therapeutic alliance. Forensic practitioners conducting child custody evaluations must, in their interviews, gather information that will shed light on the disputed issues enumerated in a court order and must gather information that bears upon the parenting strengths and deficiencies of the litigating parties. They must pose follow-up questions and ask how certain assertions might be verified.

**Statutes and Precedents.** In the United States, forty states have statutes in which the factors to be considered in examining the best interests standard are identified. In six states, legal precedents serve as a guide to the factors that should be the focus of attention. In four states, the factors to be considered are determined by the evaluator.

In a New York case, a judge pointedly criticized the evaluator whom she had appointed for failing to consider “the current state of New York law” in formulating her recommendations.

### **3. Provision by evaluators of insufficient information to those being evaluated.**

Model Standard 4.1 of the *AFCC Model Standards of Practice for Child Custody Evaluation* addresses “written information to litigants,” and urges evaluators to provide detailed written information concerning their policies, procedures, and fees. Many evaluators provide information orally, leaving litigants with no written document to which they can refer. Often, litigants are not provided with complete information concerning those to whom the information gathered will be made available.

### **4. Failure to create, maintain and furnish appropriate records.**

Model Standard 3.2(b) of the *AFCC Model Standards of Practice for Child Custody Evaluation* (2007) states that records “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.” Some evaluators fail to create adequate records, some cannot read their records, some cannot locate their records, and some destroy their records.

**5, 6. Deficient knowledge of the basics of assessment** manifests itself in the selection of inappropriate methods or instruments and reliance on computer-generated narrative reports.

**Selection of methods and instruments.** Model Standard 5.6 addresses the use of reliable and valid methods and states, in part, that “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.”

An example: An evaluator who conceptualizes children’s drawings as a useful assessment technique, asks children to produce drawings, but does not discuss the drawings with the children. She explains that she has not inquired concerning a conspicuous circle appearing in a child’s drawing because “you don’t ask children those kinds of questions. It doesn’t matter what the child says. Certain signs mean certain things, despite what the child says it means.” The evaluator relies upon her interpretations of children’s drawings to formulate opinions concerning the children’s emotional needs.

**Reliance on computer-generated reports.** Narrative reports that provide computer-generated statements about test-takers, based upon their test responses, are referred to by those who have developed them as computer-based test interpretations (CBTIs). The algorithms (the computer’s decision rules) that trigger the printing of various descriptive statements are well protected proprietary information. Evaluators who rely upon CBTIs are usually unable to state what responses, scores, or patterns of scores prompt the production of the various descriptive statements that appear on the CBTIs.

Most, if not all, CBTIs produced by reputable organizations include cautionary messages reminding users that the computer-generated statements should be

conceptualized as hypotheses to be explored through the use of other sources of information. Evaluators who rely upon CBIs are revealing their lack of familiarity with the limitations of actuarial data.

### **7. Failure to secure verification of information relied upon.**

Mental health professionals performing evaluations in litigated disputes concerning parenting plans can reasonably be expected to be familiar with the vast body of published literature that documents quite well the inability of mental health professionals to function as human lie detectors. Though our inability to discern deception has been established, far too many evaluators display baseless confidence in their ability to distinguish between the forthright and the deceitful.

Standards 11.1 and 11.2 of the *AFCC Model Standards* address the importance of corroborating information that one intends to rely upon, and using collateral sources of information as one means by which to accomplish this. In Standard 11.1(a), reference is made to the importance of securing information from those whose input is likely to be salient. Far too often, evaluators fail to distinguish between endorsements (often communicated by individuals who are allied with one parent or the other) and information being provided by disinterested individuals.

### **8. Failure to maintain role boundaries.**

Treatment providers treat; evaluators evaluate. Mental health professionals who accept court assignments to evaluate families in which custody of or access to children is being litigated are accepting tasks that are investigative in nature. Evaluators must resist the temptation to try and rehabilitate damaged relationships.

In the course of an evaluation, a father reported to the evaluator that during his parenting time with his children, they were "nonresponsive [and] not showing up in good faith and being respectful." In the course of a deposition, the evaluator acknowledged having engaged in an "effort in a therapeutic-type basis to try to get these kids [to be] courteous, respectful and appreciative [of their time with their father], to behave and be lovely children [while] they are with their father."

### **9. Failure to focus on the best interests of the child.**

It is not uncommon to encounter, in the reports of evaluators, inordinate emphasis on marital issues that have minimal, if any, bearing on the parenting strengths and deficiencies of the litigating parties.

### **10. Expression of personal opinions in the guise of expert opinions.**

Not all opinions expressed by experts are expert opinions; some are nothing more than personal opinions being expressed by individuals with credentials. The defining characteristics of expert opinions relate to the procedures that were employed in formulating the opinions and the body of knowledge that forms the foundation upon which those procedures were developed.

An evaluator directed to provide opinions relating to issues of custody and access, gratuitously offers this: "The financial arrangement to which Mr. and Mrs. Smith have agreed requires reexamination. In my view it is unfair to Mrs. Smith." The evaluator has exceeded to scope of the court's order, and has opined on a matter that is noticeably beyond the sphere of her expertise. It is a personal opinion, not an expert opinion.



ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



An interdisciplinary and international association of professionals dedicated to improving the lives of children and families through the resolution of family conflict.

### Scholarship Fund Contributors 2013-2014

#### **Diamond (\$1,000–\$4,999)**

Doneldon Dennis  
Mary Ferriter  
Peter Salem and Iris Shasha

#### **Platinum (\$500–\$999)**

AFCC Arizona Chapter  
AFCC Colorado Chapter  
AFCC Massachusetts Chapter  
AFCC Ontario Chapter  
Annette Burns  
Barbara Fidler  
Emile and Josie Kruzick  
Kathleen McNamara  
Mindy Mitnick  
Arnold Shienvold  
Robert Smith  
Philip and Ruth Stahl  
Hugh Starnes

#### **Gold (\$250–\$499)**

AFCC Minnesota Chapter  
AFCC New York Chapter  
Karen Adam  
Richard Altman  
Nicholas Bala  
Andrea Clark  
Dianna Gould-Saltman  
R. John Harper  
Beth Painter Harrington  
Arline Rotman  
Andrew and Debra Schepard  
Mary Ann Stokes  
Matthew Sullivan and Sherry Cassedy

#### **Silver (\$100–\$249)**

Joanne Baitup  
Liz Baker  
Aza Butler  
Beth Crawford  
George Czutrin  
Peter Douglas  
William Eddy  
Donna Feinberg

#### **Silver, continued**

Linda Fieldstone  
Garry Foster  
Susan Gallagher  
Lesley Goldsmith  
Donald Gordon  
Burton Hochberg  
Pamela Holmes  
William Howe  
Leslye Hunter  
Jason Kemp  
Phyllis Kenney  
William and Chouteau Levine  
Shan-Hwa Liang  
Harold Mayerson  
Eileen McCarten  
Martha McCarthy  
Denise McColley  
Douglas McNish  
Linda Norris  
Gail Perlman  
Tracye Polson  
Marsha Pruett  
Ian Russ  
Allen Ryen  
Nancy Satenberg  
John Scialli  
Karen Shields  
Arnold Swartz  
Robin Timme  
Mary Anne Trause  
Nancy Ver Steegh  
Jeffrey Wittmann

#### **Bronze (\$50–\$99)**

Christopher Babbitt  
Ida Bianchi  
Richard Callahan  
Stephen Carter  
Louis Cohen  
Gary Direnfeld  
Gregory Firestone  
Lydia Gross Kamerlink  
Joan B. Kelly  
Pamela Ludolph  
James McLaren



An interdisciplinary and international association of professionals dedicated to improving the lives of children and families through the resolution of family conflict.

***Bronze, continued***

Jennifer Neoh  
JD Nichols  
C. Eileen Pruett  
Isolina Ricci  
Janice Rosa  
Ian Russ  
Edward Silverman  
Cheryl Simes  
Erin Sommerfeld

**Contributor**

Robert Ackley  
Ronnie Beach  
Judith Bowman  
Michael Bradshaw  
Margaret Brinig  
Martin Brown  
Elizabeth Buie  
Andrea Caster  
Ana Gabriela Costa  
David DeGarmo  
Dante Dionne  
Dawn Doray  
Alice Doyle  
Talia Eisenstein  
Samuel Ferrara  
Shannon Fitzpatrick  
Karen Fraiberg  
Lynn Gaffigan  
Rory Hardy  
Bea Hayes  
Mary Kae Heller  
Lori Helling  
Roy Jahchan  
Enrique Koenig  
Ann Leppanen  
Bernard Mayer  
Terrance McNicholas  
Sharon Melloy  
Debbie Montes  
Marsha Pruett  
Barbara Rath  
Heather Rehil-crest  
Margaret Rosenbaum  
Lynn Rosenfield

***Contributor, continued***

Mary Ann Rowe  
Christina Sadowski  
Steven Shaver  
Janice Tempey-Wolf  
Carmina Tessitore  
Nick Tessler  
Michele Tipple

# *Standards for Parenting Coordination in Ohio*

*By: Jacqueline C. Hagerott\**

## *Introduction*

Dispute resolution processes are becoming integral tools used for case management throughout all of the courts of Ohio, including the Supreme Court of Ohio (hereinafter Supreme Court). Ohio courts have been using mediation since the late 1970s<sup>1</sup> but are now recognizing that mediation may not always be the most appropriate dispute resolution process for a case.

As a result, courts are increasingly offering a child-focused dispute resolution process called “parenting coordination.” Qualified impartial professionals, known as “parenting coordinators,” assist parties with the implementation of parental rights and responsibilities or companionship time orders. As a result, parties minimize court involvement with parenting issues, allowing for more timely resolution of disputes. Parties also learn communication and negotiation skills necessary to prevent and resolve future disputes without court intervention. This article provides an overview of parenting coordination in Ohio; authority, qualifications, and responsibilities of parenting coordinators; requirements and responsibilities of the court using parenting coordination; and Supreme Court Resources.

## *Overview of Parenting Coordination in Ohio*

A number of Ohio courts are currently using parenting coordination. However, since no state-wide rules or standards currently govern parenting coordination, its use can differ from court-to-court. As a result of the lack of uniform standards, the Supreme Court’s Dispute Resolution Section and its former Advisory Committee on Dispute Resolution have developed the new Parenting Coordination Rules of Superintendence for the Courts of Ohio,<sup>2</sup> effective

---

<sup>1</sup> “Night Prosecutor” Programs for the resolution of minor criminal complaints began in Cleveland and Columbus as early as 1978. The Franklin County Municipal Court offered telephone and in-person conciliation in the early 1980s; the Pre-filing Mediation Program starting in 1988; all of the mediators in this program are volunteers. Programs supported by the Supreme Court of Ohio began in 1991–1992 with the “Circuit Rider” Project that offered technical assistance to three Municipal Courts to replicate the success of the Franklin County Municipal Court Program. Parenting mediation began in the mid-1980s. Interview with C. Eileen Pruett, Supreme Court Commission on Dispute Resolution Member, Former Association of Family and Conciliation Courts (AFCC) Board Member, and Manager, Small Claims Division and Dispute Resolution Department, Franklin County Municipal Court, Columbus, Ohio (February 14, 2014) (notes on file with author).

<sup>2</sup> Art. IV, Sec. 5(A)(1) of the Ohio Constitution grants the Supreme Court general superintendence over all courts in the state. The superintendence power grants the Supreme Court administrative authority over local courts. The Supreme Court adopts Rules of Superintendence for the Courts of Ohio to serve the public interest that mandates prompt disposition of all causes, at all times, in all courts of this state. The fair, impartial, and speedy resolution of cases without unnecessary delay maintains this confidence, safeguards the rights of litigants to the just processing of their causes, and earns the trust of the public. Using dispute resolution processes such as mediation and parenting coordination accomplish this goal. Ohio is a home rule state with 88 counties creating local rules that meet the needs of their communities within the parameters of the Rules of Superintendence. In 1992, the Supreme Court created the Dispute Resolution Section with the purpose of promoting effective and efficient operations of the judicial system through the facilitation of dispute resolution services throughout all Ohio courts.

April 1, 2014.<sup>3</sup> These rules will ensure that parties are best served by courts developing high-quality programs; appointing qualified professionals; and complying with nationally recognized guidelines published by the Association of Family and Conciliation Courts (AFCC).<sup>4</sup>

The rules apply to all courts that choose to use parenting coordination either by a court sua sponte or upon request of one or both parties. The rules set forth definitions, the responsibilities of the court to adopt local rules governing the use of parenting coordination, reasons for ordering and requirements of an appointment order, the responsibilities and qualifications of a parenting coordinator, confidentiality, privilege and public access. The rules also address factors necessary for ordering parenting coordination, including required conditions when domestic abuse or domestic violence is alleged, suspected or present. They also address inappropriate uses of parenting coordination and compliance with the AFCC national guidelines.<sup>5</sup>

Sup. R. 90(C) defines parenting coordination as “a child-focused dispute resolution process...to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making.”

The term “high-conflict” is not included in the definition for three reasons: 1) there is no uniform definition for “high-conflict” so judges do not want to have to find that parties are “high-conflict” prior to ordering parenting coordination; 2) courts do not want parties to have a less than favorable label attached to them; and 3) not including a requirement of “high-conflict” gives judges broader discretion to order parties into parenting coordination. The term “parties” is also used in lieu of “parents” to include other individuals, such as grandparents.

#### *Authority, Qualifications, and Responsibilities of Parenting Coordinators*

The rules provide parenting coordinators with standards regarding authority, qualifications, and responsibilities. There are also provisions for the confidentiality, privilege, and public access to parenting coordinator files. Courts may create by local rule requirements above and beyond those prescribed in the Rules of Superintendence.<sup>6</sup>

Although parenting coordinators are required to have extensive mediation training, apply mediation skills and have decision-making authority, they are not mediators or arbitrators under the rules. Therefore, mediation and arbitration rules and statutes do not apply. A parenting coordinator’s decision-making authority is prescribed in the appointment order. Mediators may serve as the parenting coordinator for the same case, provided there is written consent by the

---

<sup>3</sup> In May of 2011, the Court published the advisory committee’s proposed rules for public comment. Following the public comment period, the advisory committee continued to revise the proposed rules, with the work completed by the Commission on Dispute Resolution. (In March of 2012, the Advisory Committee on Dispute Resolution was reestablished as the Commission on Dispute Resolution). In August of 2013, the Court published the revised proposed rules for a second public comment period. The final Parenting Coordination Rules of Superintendence were adopted on January 9, 2014, with an effective date of April 1, 2014. The adopted rules can be found at: [http://www.supremecourt.ohio.gov/JCS/disputeResolution/resources/rules\\_legislation.asp](http://www.supremecourt.ohio.gov/JCS/disputeResolution/resources/rules_legislation.asp)

<sup>4</sup> See *Guidelines for Parenting Coordination* published by the Association of Family and Conciliation Court (2005).

<sup>5</sup> See *id.*

<sup>6</sup> See Sup. R. 90.01.



parties and approval by the court to ensure the parties understand the role change. This deviation from the AFCC national guidelines<sup>7</sup> meets the needs of rural counties that may have limited qualified dispute resolution professionals.

Due to the nature of cases appropriate for parenting coordination, it is imperative for parenting coordinators to have specific education, experience, and training to effectively assist parties. The training requirements mirror those of a family court mediator with an additional twelve hours of specialized training in parenting coordination. These requirements are set forth in Sup. R. 90.05, which mandate that individuals have all of the following qualifications in order to be appointed as a parenting coordinator:

- A master's degree or higher, law degree, or education and experience satisfactory to the court or division;
- At least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other experience satisfactory to the court or division; and
- Completed at least:
  - twelve hours of basic mediation training;
  - forty hours of specialized family or divorce mediation training;
  - fourteen hours of specialized training in domestic abuse and mediation; and
  - twelve hours of specialized training in parenting coordination.<sup>8</sup>

Sup. R. 90.06 states that a court may appoint a parenting coordinator in an abuse, neglect, or dependency case if the parenting coordinator has both of the following additional qualifications:

- Significant experience working with family disputes; and
- At least thirty-two hours of specialized child-protection mediation training approved by the Supreme Court.

Sup. R. 90.07 requires that parenting coordinators complete at least three hours per calendar year of continuing education relating to children and also outlines the reporting requirements necessary to be eligible to continue to serve as a parenting coordinator.

The rules also outline the responsibilities of a parenting coordinator including compliance with the appointment order which includes powers and duties (scope of authority), term of appointment, scope of confidentiality, and parties' responsibility for fees and expenses; independence, objectivity, and impartiality; conflicts of interest; ex parte communications; legal advice; report of activity affecting ability to perform; and the disclosure of abuse, neglect, and harm.<sup>9</sup>

---

<sup>7</sup> See supra note 3.

<sup>8</sup> Pursuant to Sup. R. 90.05(C) the individual must have completed the training in the order listed and the training must have been approved by the Dispute Resolution Section of the Supreme Court and that meets standards established by the Supreme Court Commission on Dispute Resolution.

<sup>9</sup> See Sup. R. 90.08 and Sup. R. 90.10.

Communications made as part of the parenting coordination process are neither confidential nor privileged. The files maintained by a parenting coordinator but not filed with the clerk of court are not available for public access.<sup>10</sup>

### *Requirements and Responsibilities of the Court or Division Using Parenting Coordination*

The rules include requirements and responsibilities of the court using parenting coordination. Sup. R. 90.01 requires courts that order parenting coordination to have a local rule that addresses all of the following:

- Selection and referral
- Domestic abuse and domestic violence screening
- Referrals to legal counsel and other support services
- Participation
- Prohibiting dual roles that cause a conflict of interest, with an exception for mediators with written consent of the parties and court approval
- Issuance of parenting coordination agreements and reports or decisions
- Terms and conditions for fees (including waiver for indigent parties)
- Effect of and objections to a parenting coordinator's decision (some judges may require approval prior to the decision being effective)
- Appointment and termination of a parenting coordinator
- Periodic evaluation of parenting coordinators
- Submission, investigation, and hearing of complaints

Sup. R. 90.02 provides a list of factors to consider when ordering parenting coordination, while Sup. R. 90.03 outlines circumstances in which parenting coordination would be inappropriate. Courts are encouraged to order parenting coordination where the county determines the process would benefit the parties by resolving case and developing skills to prevent future conflict.

Responsibilities of a court using parenting coordination are contained in Sup. R. 90.09, which include maintaining a roster of parenting coordinators; a current resume documenting compliance with parenting coordinator qualifications under Sup. R. 90.05 and, if applicable, Sup. R. 90.06 and a list of all continuing education completed by the parenting coordinator. On or before February 1 of each year, the court must file a copy of the local rule, roster, resume(s), and continuing education of parenting coordinators listed on the roster with the Supreme Court.

Finally, where no conflict exists, the courts using parenting coordination must comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination.

### *Supreme Court Resources*

The Supreme Court is committed to providing resources to the courts for the implementation of high-quality dispute resolution services through the Supreme Court's Dispute

---

<sup>10</sup> See Sup. R. 90.12.

Resolution Section. To promote quality services there are currently rules of superintendence governing arbitration, mediation, and now parenting coordination. The Dispute Resolution Section is currently developing resources for parenting coordination including a model local rule, parenting coordination agreement, appointment order, processes and procedures for the evaluation of parenting coordinators, a complaint process, and other resources necessary for the implementation of parenting coordination in a court.<sup>11</sup>

### *Conclusion*

The multi-door courthouse concept has evolved in Ohio with courts recognizing that dispute resolution begins with negotiation and includes litigation, with the judges and magistrates serving as the third party neutral to assist the parties in resolving disputes. Dispute resolution processes such as negotiation, collaborative law, conciliation, early neutral evaluation, facilitation, mediation, parenting coordination, and arbitration are all integral tools within the judicial system.

---

\* Copyright © 2014, Jacqueline C. Hagerott. Manager, Dispute Resolution Section, Supreme Court of Ohio. J.D./LL.M., Capital University Law School; B.S., The Ohio State University; A.A.S., Bismarck State College. Association of Family and Conciliation Courts Board Member. The author is grateful for the contributions of Nicole DiCuccio, Mediation Counsel, Dispute Resolution Section, Supreme Court of Ohio and William M. Nuzum, III, Director, Judicial Services Division, Supreme Court of Ohio.

---

<sup>11</sup> Courts needing training, assistance with their current programs, and/or want assistance building a new program consistent with the new rules, should contact Jacqueline Hagerott at [jacqueline.hagerott@sc.ohio.gov](mailto:jacqueline.hagerott@sc.ohio.gov).