Child Custody Evaluation Guidelines

Louisiana State Board of Social Work Examiners

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*Disclaimer: This is a practice tool not to be mistaken as Statutes or Rules.*

**Preface**

In 1998, LABSWE appointed a committee to develop guidelines for performing child custody evaluations. Those guidelines were amended in 2004 and 2014.

The Association of Family and Conciliation Courts (AFCC) defines child custody evaluation: ***“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 the litigants’ attorneys.”*** See AFCC’s Model Standards for Practice at [www.afccnet.org](http://www.afccnet.org).

**Purpose of Child Custody Evaluation**

The purpose and focus of the evaluation is to determine what is in the **best interest of the child** as stated in LA Civil Code Article 134. The court-ordered evaluation is written for the Judge, to help him or her determine the custody and visitation schedule for each child.

The “Best Interest” principle is generally recognized as:

* Children have the right to love both of their parents and to have access to each of them without interference. All children benefit from an absence of conflict between their parents.
* Children need to be safe and secure and protected from abuse, neglect and exploitation.
* Children of difference ages have different needs.
* Children need continuity of care in order to promote stability in their lives.
* Children do best when parents/guardians can be supportive of each other.

**Role of Evaluator:**

The evaluator assists the court by collecting data and writing an impartial report regarding the best interest of the child according to pertinent Louisiana statutes and the legal preference for joint custody. The evaluator may be called to testify regarding his or her recommendations by deposition or in court.

**Guidelines for Evaluator Competence:**

Child custody evaluation is a specialty area of practice involving an advanced level of education, training and supervision. Competence may be obtained through academic coursework, continuing education workshops, and supervised practice. Social workers should be knowledgeable regarding both clinical and legal aspects of child custody evaluation. **See Addendum 2 for pertinent Louisiana statutes and Addendum 3 for recommended clinical skills.**

**Ethical Concerns for Social Workers:**

**1. Impartiality:** It is extremely important that the custody evaluator maintain impartiality as evidenced by affording equal time to each party, refraining from aligning with any party, and being consistent regarding policies and procedures with all parties.

**2.** **Sufficient Data Collection:** Multiple data sources, such as individual interviews, parent-child interviews, and collateral sources such as medical, educational and legal records, be considered in making recommendations.

**3. Dual Relationships:** The social worker should not conduct a child custody evaluation in a case in which he or she previously served in a therapeutic role for any involved party. Conversely, once a social

Worker has served as an evaluator, he or she shall not take a therapeutic role with any of the parties involved in that child custody evaluation. Child custody evaluators shall disclose any and all professional and social relationships with any subject of the evaluation, attorneys, or judge in the proceedings. They shall provide in a timely manner a detailed written disclosure of current, prior or anticipated relationships with others involved in the ligation.

**Scope**

Comprehensive child custody evaluations generally require assessment of all of the parents/guardians and children involved. No conclusions may be offered about parties who have not been interviewed. Allegations concerning parental competence, such as domestic violence, substance, or child abuse in any form, must be addressed. **See Addendum 1 regarding Model Standards of Practice for Child Custody Evaluation.**

**Financial Arrangements:** Prior to commencing a child custody evaluation, financial arrangements must be clarified and agreed upon in writing. A fee schedule should be included which covers depositions, court appearances, consultations with other professionals, etc.

**Informed Consent:** The social worker should ensure that each adult and child participant (as age-appropriate) is aware of: 1) the purpose, nature, and method of the evaluation; 2) who has requested the evaluation; 3) who will be paying the fees; 4) the possible disposition of the data collected, and 5) the limited confidentiality afforded in this evaluation.

**Mandatory Reporting:**

The social worker must inform participants that he or she is a mandated reporter regarding child abuse, neglect or suspected abuse. This mandate is contained in the Louisiana Children’s Code, Article 603 (15) (b) and in the NASW Code of Ethics, 1.07 Privacy and Confidentiality; La. R.S. 37:2718(C) (Louisiana Social Work Practice Act.)

**Data Collection:**

Multiple methods must be used to gather data. These may include, but are not limited to:

--clinical interviews

--observation

--social histories

--psychological and/or psychosocial assessment tools

--collateral documentation, such as school and health reports, drug screens, extended family members and significant others. Social workers should corroborate information with at least one other source whenever possible. See **Addendum 4 regarding areas of assessment.**

**Report Structure:**

The document should be concise but detailed enough to provide necessary information to support the evaluator’s conclusions and recommendations.

The report should begin with:

1) identification of litigants, their children, court officers, and case number.

2) summary of the referral question

3 dates of interviews

4) Body of collected data: information regarding each party’s concerns, history, current functioning, and relationships, as well as the children’s developmental histories and current functioning.

5) Summary: The overall dynamics, children’s needs, and parental competencies as derived from the collected data.

6) Conclusions: The evaluator’s opinions should be soundly based on the collected data.

7) Recommendations: These should derived from clinical data and the best interest of the child.

The recommendations should be reasonable regarding financial resources, geographic accessibility,

etc.

**Record Maintenance:**

The social worker should maintain the following records until at least when the youngest child in the custody dispute is seven years over majority age.

1. a telephone log of all contacts with litigants and relevant professionals;

2. all notes and interview information

3. copies of informed consent

4. correspondence relative to the evaluation

5. collateral information submitted by the parties or other professionals

6. billing records

7. any other relevant records

**Court Testimony**

Child custody evaluators should be aware that they may be called to testify in deposition or in Court at any time after the report has been issued.

**Addendum 1: Model Standards of Practice for Child Custody Evaluation**, David A. Martindale, Report. Family Court Review, Vol. 45, Issue 1, Jan. 2007, 70-91.

**Addendum 2: Legal Considerations:**

Social workers should study the following Louisiana Civil Code Articles that the Court uses to determine custody:

* Louisiana Civil Code Article 131, Court to determine custody;
* Article 132, Award of custody to parents;
* Article 133, Award of custody to person other than parent; order of preference;
* Article 134, Factors in determining child’s best interest;
* Article 135, Closed custody hearing;
* Article 136, Award of visitation rights;
* Article 137, Denial of visitation; felony rape; death of a parent; and
* Revised Statute Article 9, part III, Child Custody Subpart A. Evaluation and Mediation and Subpart B. Joint Custody.

The court specifically considers 12 factors in Civil Code Article 134 below:

1. The love, affection, and other emotional ties between each party and the child.
2. The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child.
3. The capacity and disposition of each party to provide the child with food, clothing, medical care, shelter, and other material needs.
4. The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining the continuity of that environment.
5. The permanence, as a family unit, of the existing or proposed custodial home or homes.
6. The moral fitness of each party, insofar as it affects the welfare of the child.
7. The mental, emotional, and physical health of each party.
8. The home, school, and community history of the child.
9. The reasonable preference of the child, if the court deems the child to be of sufficient age and maturity to express a preference.
10. The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party.
11. The distance between the respective residences of the parties.
12. The responsibility of care and rearing of the child previously exercised by each party.

**Addendum 3: Clinical Competency**

The social worker should enhance his or her competency through specialized continuing education, training, experience, and/or supervision in the following areas:

1. Child and Family Development
2. Child and Family Psychopathology
3. Family System Analysis
4. Impact of Divorce and/or Re-Marriage on Children
5. Family Law
6. Legal Standards and Procedures as represented in the Louisiana Children’s Code
7. Ethical Standards and defined by the Louisiana Social Work Practice Act, National Association of Social Work, and other related professional organizations
8. Formal and Informal Community Resources that may be available to the family
9. Child Abuse/Neglect
10. Family/Domestic Violence
11. Substance Abuse
12. Cultural Diversity
13. Criminal History

**Addendum 4: Areas of Assessment in Child Custody Evaluations** (AACAP, 1997)

American Academy of Child and Adolescent Psychiatry <https://www.aacap.org/>