

**JUDICIAL COUNCIL OF CALIFORNIA**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs  
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DATE: September 11, 2006

SUBJECT: Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*) (Action Required)<sup>1</sup>

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Issue Statement

As required under Family Code section 3110.5, rule 5.225 of the California Rules of Court was adopted on January 1, 2000, to establish the education, experience, and training requirements for child custody evaluators. The rule was amended effective January 1, 2005, to further clarify the education, training, experience requirements, and certification procedures for court-appointed child custody evaluators. In addition, forms FL-325 and FL-326 were adopted to implement the rule. Based on additional concerns raised, the Family and Juvenile Law Advisory Committee recommends amending the rule and revising forms FL-325 and FL-326 to better assist the courts and evaluators in understanding and complying with all the appointment requirements for child custody evaluators.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2007, amend rule 5.225 of the California Rules of Court to:

1. Clarify how to comply with the experience requirements for appointment as a child custody evaluator in terms of the number of required child custody evaluations, the

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<sup>1</sup> At the June 30, 2006, meeting, the Judicial Council approved reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, rule 5.225 has been reformatted and minor stylistic changes were made, which will become effective January 1, 2007.

methods of obtaining the required number of evaluations, and the time frame for completing the evaluations;

2. Clarify all the appointment requirements for child custody evaluators by including the following in rule 5.225: details of the required training in the subject of child sexual abuse and the licensing or certification requirements of Family Code section 3110.5, and a statement that basic and advanced training in the subject of domestic is required under Family Code 1816 and rule 5.230;
3. Add provisions that allow evaluators to use interns to assist with child custody evaluations after full disclosure and consent of the parties and attorneys, and that specify interns' education and training requirements;
4. Clarify definitions in subdivision (b), including "child custody evaluation," "full evaluation," "partial evaluation," and "court-connected child custody evaluator";
5. Make changes to avoid redundancy and improve the rule's organization.

In addition, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2007, adopt revised forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications* and FL-326, which track the substantive changes in the rule.

The text of the amended rule and the forms are attached at pages 7–21. A chart summarizing the comments is attached at pages 22–66. The proposed amended rule that was circulated for comment is included as Attachment A, at pages 67–73. A chart illustrating the proposed amendments is included as Attachment B, at pages 74–77.

### Rationale for Recommendation

#### *Experience requirements*

The committee recommends significant amendments to rule 5.225(g) (circulated as 5.225(f)) relating to the experience requirements for child custody evaluators. Courts and evaluators have often characterized the experience requirements of rule 5.225 as inconsistent and confusing. The committee believes it is inconsistent because some evaluators must have completed three (3) evaluations between January 1, 2000, and July 1, 2003, under current subdivision (f)(1) while others must complete six evaluations in consultation with a qualified evaluator under subdivision (f)(2). Further, subdivision (f)(1) provides a time frame for completing the three evaluations, while subdivision (f)(2) does not. Lacking clear direction from the rule, courts have established different procedures for meeting the experience requirements under the rule.

The amended rule would require all evaluators to have participated in completing four court-appointed evaluations in the preceding three years. This would provide a baseline for both the number of evaluations and the recent experience requirements in the rule. Further, as specified below in the comments section of this report, the rule would specify how evaluators, including those who supervise court-connected evaluators, may participate in completing the evaluations. In addition, the rule would specify when the court may appoint an evaluator who has not met the experience requirements of the rule. These amendments will promote consistency in the requirements for all evaluators seeking appointment and provide better guidance to courts and evaluators for determining compliance with the rule. Further, the amendments will promote the appointment of well-qualified persons to conduct child custody evaluations in family court.

#### *Consolidate appointment requirements*

The committee also recommends clarifying all the appointment requirements for child custody investigators and evaluators in rule 5.225. Currently, courts and evaluators must refer to various sources to find all the appointment requirements. For example, (1) rule 5.225 provides the training, education, experience, and continuing education requirements; (2) Family Code section 3110.5 specifies the licensing or certification requirements for evaluators, as well as the requirements for training in the subject of child sexual abuse; (3) Family Code section 1816 states the basic domestic violence training requirements; and (4) rule 5.230 lists the required advanced training in the subject of domestic violence. Integrating the requirements from these different sources will facilitate a greater understanding of the appointment requirements, and will also promote the appointment of well-qualified child custody evaluators.

#### *Use of interns*

The committee believes that amending the rule to allow evaluators to use interns to assist with child custody evaluations would promote opportunities for training new child custody evaluators. The amendment would also be consistent with rule 1405.5(h),<sup>2</sup> which allows interns, volunteers, and paraprofessionals to assist dependency mediators. The rule would provide specific disclosure, education and training, and supervision requirements relating to the use of interns.

#### *Other changes*

Finally, the amendments to the definitions in subdivision 5.225(b), organizational changes, and changes to the forms would also help courts and evaluators better understand and comply with the appointment requirements of this rule.

#### Alternative Actions Considered

The committee considered not amending the rule. However, the committee considered the courts' and the public's concerns that the rule led to inconsistencies and lacked clear

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<sup>2</sup> Effective January 1, 2007, under the reorganization, rule 1405.5 has been renumbered to rule 5.518 and new format conventions have been adopted.

guidance as to the appointment requirements for child custody evaluators. Therefore, the committee concluded that it is preferable to modify the rule. The resulting new version of the rule will make the appointment requirements clearer for courts and evaluators, promote best practices in the appointment of child custody evaluations, and increase the quality of services to litigants in child custody proceedings.

#### Comments From Interested Parties

An invitation to comment was circulated from April 24, through June 23, 2006, to the standard mailing list for family and juvenile law proposals, as well as to the regular rules and forms mailing list. Included on the lists were judges, court administrators, attorneys, mediators, social workers, and other family professionals, such as family court services directors, managers, supervisors, and staff. An invitation to comment was also sent to the California Association of Marriage and Family Therapists, the California Psychological Association, and the National Association of Social Workers, California Chapter, and to the legislative committee of the Association of Family Court Services Directors.

The committee received a total of 29 comments. Of that total, 10 commentators agreed with the proposal, 16 agreed with the proposal if modified and suggested both substantive and technical changes, and 3 disagreed with the proposal. A chart summarizing the comments is attached at pages 22–66.

#### *Experience requirements*

Seven persons commented on the experience requirements. One commentator recommended that the rule be amended to exclude partial evaluations and require that child custody evaluators only conduct full evaluations. Three commentators stated that the experience requirements are still unclear because the rule does not address how an evaluator can conduct four evaluations in the preceding three years without an appointment, nor does it specify the level of involvement that an evaluator must have to qualify for appointment if he or she assisted in completing the evaluations. Another commentator stated that the rule would make experienced evaluators ineligible for appointment if they were prevented from completing four evaluations every three years, and that the rule does not provide a way for evaluators to become eligible if they fail to complete four evaluations in three years. Similarly, two persons stated a concern that court-connected supervisors and managers would fall out of compliance under the amended rule because they may no longer perform evaluations but instead only supervise court-connected evaluators.

To address these comments, the committee modified the rule to:

- Require that evaluators conduct or materially assist in completing four court-appointed child custody evaluations in the preceding three years;
- Allow parties to stipulate to an evaluator who has not complied with the experience requirements of the rule, subject to the court's approval;

- Specify the experience requirements for those who supervise court-connected child custody evaluators; and
- Add provisions to permit certain evaluators additional time to meet the experience requirements of the rule.

### *Use of interns*

Five of the six persons who commented on this issue agreed with the use of interns and the degree requirements for interns proposed in the rule. Only one commentator disagreed with the degree requirements, and proposed that only doctoral candidates with master's degrees qualify to intern with an evaluator. These commentators shared the view that evaluators must disclose the use of interns to the parties and attorneys before being appointed, and must obtain their consent before the intern materially participates in the evaluation (i.e., assist with interviewing, conducting tests, or writing reports). However, one commentator stated that interns should not be allowed to interview parties or children or to write reports at all.

The commentators varied in their responses as to the education and training requirements for interns. As circulated, the rule proposed that interns be “[e]nrolled in or have completed coursework or training in domestic violence and child sexual abuse issues.” Two commentators proposed specifying the course hours in these subject areas. One stated that interns should be required to complete the same training hours as court-appointed child custody evaluators. The other suggested that interns complete the same training as court-connected child custody evaluators. The committee recognizes that students who are pursuing studies in marriage and family therapy, psychology, and clinical social work must meet statutorily mandated courses to qualify for licensure. Further, these students are seeking not court appointment but rather an opportunity to gain professional experience under the supervision of a qualified evaluator. The requirements in the rule should reflect these points.

To address these comments, the committee modified the rule to require that:

- Evaluators disclose the use of interns and obtain the written consent of the parties and attorneys before appointment;
- Evaluators ensure that the extent, kind, and quality of work performed by the intern being supervised is consistent with the intern's training and experience;
- Interns complete or be completing the coursework necessary to qualify for their degrees in the subjects of child abuse assessment and spousal or partner abuse assessment.

### *Education and training requirements*

All the commentators agreed that the rule should include references to the domestic violence training requirements and specify the nature of the training in the subject of child sexual abuse. As to the domestic violence training requirements, the comments included amending the rule to increase the required training hours, include basic domestic

training requirements, and specify the hours of basic training. The comments were similar for the subdivision relating to child sexual abuse training in that they proposed specifying the number of hours required for appointment. One commentator proposed that the Judicial Council expand the required areas of training in the subject of child sexual abuse and that the rule include a specific curriculum. Another commentator proposed reorganizing the education and training subdivision to prioritize training in child abuse and specify the number of hours required in each subject.

The committee believes that the hours of training in the rule are equivalent to or greater than those required for other similar professionals, and does not recommend increasing the training hours required for appointment. Further, the committee believes that generally stating the number of hours of training in the subjects listed in the rule allows evaluators the flexibility of choosing the level of training in any one area that best suits their needs, while still mandating that they acquire a broad base of knowledge before appointment. Therefore, the committee does not recommend amending the rule to set specific hours of training in any one of the twenty-one subject areas described in subdivision (d) of the rule.

#### *Licensing requirements*

Four commentators addressed the amendments in the rule that incorporated the licensing requirements of Family Code section 3110.5. One commentator agreed with the amendment. Three commentators from the same county disagreed with the licensing requirements because the rule would establish the need for parties to stipulate to an unlicensed evaluator to conduct their investigation if no licensed evaluators are willing and available, within a reasonable period of time, to conduct the investigation. The commentators proposed that the rule be amended to give the court discretion to appoint an evaluator without requiring the parties to stipulate. While the committee is sympathetic to the problems encountered by small counties, the section requiring the parties' stipulation is mandated by Family Code section 3110.5. Therefore, any change to the stipulation requirement would have to be made by the Legislature.

For more detailed information concerning the comments to the proposed amendments, see the comment chart attached at pages 22–66.

#### Implementation Requirements and Costs

Courts will be required to sign revised form FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* to implement the certification requirements of Family Code section 3110.5(c)(5). In addition, standard reproduction costs will be incurred in distributing the revised forms.

Attachment

Rule 5.225 of the California Rules of Court is amended, effective January 1, 2007, to read:<sup>1</sup>

1 **Rule 5.225. ~~Education, training, and experience standards for court-~~**  
2 **~~appointed child custody investigators and evaluators~~ Appointment**  
3 **requirements for child custody evaluators**  
4

5 **(a) Authority**  
6

7 This rule is adopted under Family Code sections 211 and 3110.5.  
8

9 **~~(b)~~(a) Purpose**  
10

11 ~~As required by Family Code section 3110.5, this rule establishes education,~~  
12 ~~experience, and training~~ This rule provides the licensing, education and  
13 training, and experience requirements for child custody evaluators who are  
14 appointed ~~only~~ to conduct full or partial child custody evaluations under  
15 Family Code sections 3111 and 3118, Evidence Code section 730, or chapter  
16 15 (commencing with section 2032.010) of title 4 of part 4 of the Code of  
17 Civil Procedure section 2032. Additional training requirements for these  
18 ~~child custody evaluators are contained in rule 5.230.~~ This rule is adopted as  
19 mandated by Family Code section 3110.5.  
20

21 **~~(e)~~(b) Definitions**  
22

23 For purposes of this rule:  
24

- 25 (1) A “child custody evaluator” is a court-appointed investigator as defined  
26 in Family Code section 3110.  
27
- 28 (2) A “child custody evaluation” is ~~an expert~~ an investigation and analysis  
29 of the health, safety, welfare, and best interest of a child with regard to  
30 disputed custody and visitation issues; conducted under Family Code  
31 sections 3111 and 3118, Evidence Code section 730, or Code of Civil  
32 Procedure section 2032.010 et seq.  
33
- 34 (3) A “full evaluation, investigation, or assessment” is a child custody  
35 evaluation that is a comprehensive examination of the health, safety,  
36 welfare, and best interest of the child.

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<sup>1</sup> At the June 30, 2006, meeting, the Judicial Council approved reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, rule 5.225 has been reformatted and minor stylistic changes were made, which will become effective January 1, 2007. This version includes the new formatting and minor stylistic changes.

1 (4) A “partial evaluation, investigation, or assessment” is ~~an examination of~~  
2 ~~the health, safety, welfare, and best interest of the child~~ a child custody  
3 evaluation that is limited by the court order in ~~either~~ terms of its time or  
4 scope.

5  
6 (5)–(6) \*\*\*

7  
8 (7) A “court-connected evaluator” is a superior court employee or a person  
9 under contract with a superior court who conducts child custody  
10 evaluations.

11  
12 **(d) Requirements for evaluators’ qualifications: education, training, and**  
13 **experience**

14  
15 ~~Persons appointed as child custody evaluators must:~~

16  
17 ~~(1) Complete a total of 40 hours of initial education and training as~~  
18 ~~described in (e);~~

19  
20 ~~(2) Comply with the training requirements described in rule 5.230;~~

21  
22 ~~(3) Fulfill the experience requirements described in (f); and~~

23  
24 ~~(4) Meet the continuing education, training, and experience requirements~~  
25 ~~described in (h).~~

26  
27 **(c) Licensing requirements**

28  
29 A person appointed as a child custody evaluator meets the licensing criteria  
30 established by Family Code section 3110.5(c)(1)–(5), if:

31  
32 (1) The person is licensed as a:

33  
34 (A) Physician and is either a board certified psychiatrist or has  
35 completed a residency in psychiatry;

36  
37 (B) Psychologist;

38  
39 (C) Marriage and family therapist; or

40  
41 (D) Clinical social worker.

1           (2) A person may be appointed as an evaluator even if he or she does not  
2           have a license as described in (c)(1) if:

3  
4           (A) The court certifies that the person is a court-connected evaluator  
5           who meets all the qualifications specified in (i); or

6  
7           (B) The court finds that all the following criteria have been met:

8  
9                   (i) There are no licensed or certified evaluators who are willing  
10                   and available, within a reasonable period of time, to perform  
11                   child custody evaluations;

12  
13                   (ii) The parties stipulate to the person; and

14  
15                   (iii) The court approves the person.

16  
17 **(e)(d) Education and training requirements**

18  
19           ~~Only education and training acquired after January 1, 2000, from providers~~  
20           ~~described in (m) meets the requirements of this rule. Serving as the instructor~~  
21           ~~in a course meeting the requirements described in (m) in one or more of the~~  
22           ~~subjects listed in paragraphs (1) through (21) below can be substituted for~~  
23           ~~completion of the requisite number of hours specified in (d) on an hour per~~  
24           ~~hour basis, but each subject taught may be counted only once. The hours~~  
25           ~~required by this rule must include, but are not limited to, all of the following~~  
26           ~~subjects: Before appointment, a child custody evaluator must complete 40~~  
27           ~~hours of education and training, which must include all the following topics:~~  
28

29           (1)–(3) \*\*\*

30  
31           (4) The assessment of child sexual abuse issues required by ~~Family Code~~  
32           ~~section 3110.5(b)(2)(A)–(F) and Family Code section 3118; local~~  
33           ~~procedures for handling child sexual abuse cases; and the effect that~~  
34           ~~court procedures may have on the evaluation process when there are~~  
35           ~~allegations of child sexual abuse; and the areas of training required by~~  
36           ~~Family Code section 3110.5(b)(2)(A)–(F), as listed below:~~

37  
38           (A) Children’s patterns of hiding and disclosing sexual abuse in a  
39           family setting;

40  
41           (B) The effects of sexual abuse on children;

42  
43           (C) The nature and extent of sexual abuse;

1           (D) The social and family dynamics of child sexual abuse;

2  
3           (E) Techniques for identifying and assisting families affected by child  
4           sexual abuse; and

5  
6           (F) Legal rights, protections, and remedies available to victims of  
7           child sexual abuse;

8  
9           (5)–(21)       \*\*\*

10  
11       **(e) Additional training requirements**

12  
13           In addition to the requirements described in this rule, before appointment,  
14           child custody evaluators must comply with the basic and advanced domestic  
15           violence training requirements described in rule 5.230.

16  
17       **(f) Authorized education and training**

18  
19           The education and training described in (d) must be completed:

20  
21           (1) After January 1, 2000;

22  
23           (2) Through an eligible provider under this rule; and

24  
25           (3) By either:

26  
27           (A) Attending and participating in an approved course; or

28  
29           (B) Serving as an instructor in an approved course. Each course taught  
30           may be counted only once. Instructors may claim and receive  
31           credit for only actual classroom time.

32  
33       **(f)(g) Experience requirements**

34  
35           ~~Persons appointed as child custody evaluators must satisfy initial experience~~  
36           ~~requirements by:~~ To satisfy the experience requirements of this rule, persons  
37           appointed as child custody evaluators must have participated in the  
38           completion of at least four partial or full court-appointed child custody  
39           evaluations within the preceding three years, as described below. Each of the  
40           four child custody evaluations must have resulted in a written or an oral  
41           report.

1 (1) ~~Completing or supervising three court appointed partial or full child~~  
2 ~~custody evaluations including a written or an oral report between~~  
3 ~~January 1, 2000, and July 1, 2003; or~~ The child custody evaluator  
4 participates in the completion of the child custody evaluations if the  
5 evaluator:

6  
7 (A) Independently conducted and completed the child custody  
8 evaluation; or

9  
10 (B) Materially assisted another child custody evaluator who meets all  
11 the following criteria:

12 (i) Licensing or certification requirements in (c);

13 (ii) Education and training requirements in (d);

14 (iii) Basic and advanced domestic violence training in (e);

15 (iv) Experience requirements in (g)(1)(A) or (g)(2); and

16 (v) Continuing education and training requirements in (h).

17  
18  
19 (2) ~~Conducting six child custody evaluations in consultation with another~~  
20 ~~professional who meets the education, experience, and training~~  
21 ~~requirements of this rule. For purposes of appointment:~~

22  
23 (A) An evaluator is deemed to be in compliance with the experience  
24 requirements of this rule until December 31, 2009, if he or she:

25 (i) Completed or supervised three court-appointed partial or full  
26 child custody evaluations, including a written or an oral  
27 report between January 1, 2000, and July 1, 2003; or

28 (ii) Conducted six child custody evaluations in consultation with  
29 another professional who met the experience requirements  
30 of the rule.

31  
32 (B) Effective January 1, 2010, an evaluator who is deemed to be in  
33 compliance with the experience requirements described in (A)  
34 must participate in the completion of at least four partial or full  
35 court-appointed child custody evaluations in the preceding three  
36 years as described in (g)(1) to remain in compliance with the  
37 experience requirements of this rule.

1           (3) The court may appoint an individual to conduct the child custody  
2           evaluation who does not meet the experience requirements described in  
3           (1), if the court finds that all the following criteria have been met:

4  
5           (A) There are no evaluators who meet the experience requirements of  
6           this rule who are willing and available, within a reasonable period  
7           of time, to perform child custody evaluations;

8  
9           (B) The parties stipulate to the person; and

10  
11          (C) The court approves the person.

12  
13          (4) Those who supervise court-connected evaluators:

14  
15          (A) Meet the experience requirements of this rule by conducting or  
16          materially assisting in the completion of at least four partial or full  
17          court-connected child custody evaluations in the preceding three  
18          years; or

19  
20          (B) If employed as of January 1, 2007, are deemed to comply with the  
21          experience requirements of this rule until December 31, 2009.  
22          Effective January 1, 2010, these persons meet the experience  
23          requirements by conducting or materially assisting in the  
24          completion of at least four partial or full court-connected child  
25          custody evaluations in the preceding three years.

26  
27          ~~(g) Court-connected evaluators~~

28  
29          ~~A court-connected evaluator who does not meet the education and training~~  
30          ~~requirements in (d) and (e) may conduct child custody evaluations:~~

31  
32          ~~(1) If he or she has completed 20 of the 40 hours of initial education and~~  
33          ~~training required by (d);~~

34  
35          ~~(2) If he or she completes the additional 20 hours of education and training~~  
36          ~~required by (d) within 12 months of beginning practice as a child~~  
37          ~~custody evaluator;~~

38  
39          ~~(3) If he or she complies with the experience requirements in (f); and~~

40  
41          ~~(4) If, during the period in which the evaluator does not meet the~~  
42          ~~requirements of the rule, he or she is supervised by a court-connected~~

1 evaluator who has complied with the education, training, and experience  
2 requirements of this rule.

3  
4 **(h) Continuing education and training requirements**

5  
6 After completing the initial 40 hours of training, persons appointed as child  
7 custody evaluators must annually complete 8 hours of update training  
8 covering subjects described in (e). This requirement is in addition to the  
9 annual 4 hours of domestic violence update training described in rule 5.230.  
10 education and training requirements described in (d) and (e), persons  
11 appointed as child custody evaluators must annually complete the:

- 12  
13 (1) Domestic violence update training described in rule 5.230; and  
14  
15 (2) Eight hours of update training covering the subjects described in (d).

16  
17 **(i) ~~Ongoing clinical consultation~~ Court-connected evaluators**

18  
19 ~~When conducting evaluations, persons appointed as child custody evaluators~~  
20 ~~should, where appropriate, seek guidance from professionals who meet the~~  
21 ~~requirements of this rule. A court-connected evaluator who does not meet the~~  
22 ~~education and training requirements in (d) may conduct child custody~~  
23 ~~evaluations if, before appointment, he or she:~~

- 24  
25 (1) Completed at least 20 of the 40 hours of education and training  
26 required by (d);  
27  
28 (2) Completes the remaining hours of education and training required by  
29 (d) within 12 months of conducting his or her first evaluation as a  
30 court-connected child custody evaluator;  
31  
32 (3) Complied with the basic and advanced domestic violence training  
33 requirements under Family Code sections 1816 and 3110.5 and rule  
34 5.230;  
35  
36 (4) Complies with the experience requirements in (g); and  
37  
38 (5) Is supervised by a court-connected child custody evaluator who meets  
39 the requirements of this rule.

1 ~~(j)~~ **Appointment criteria**

2  
3 (1) ~~On or after January 1, 2005, persons appointed as child custody~~  
4 ~~evaluators must meet the criteria stated in Family Code section~~  
5 ~~3110.5(e)(1)–(5).~~

6  
7 (2) ~~If there are no child custody evaluators available locally who meet the~~  
8 ~~criteria of Family Code section 3110.5(e)(1)–(5), the parties may, under~~  
9 ~~Family Code section 3110.5(d), stipulate to an individual who does not~~  
10 ~~meet the criteria described in Family Code section 3110.5(e)(1)–(5),~~  
11 ~~subject to approval by the court. Any evaluator chosen must, at a~~  
12 ~~minimum, have complied with the education, training, and experience~~  
13 ~~requirements in (d), (e), and (f).~~

14  
15 ~~(k)~~(j) **Responsibility of the courts**

16  
17 Each court:

18  
19 (1) Must develop local court rules that:

20  
21 (A) Provide for acceptance of and response to complaints about an  
22 evaluator’s performance; and

23  
24 (B) Establish a process for informing the public about how to find  
25 qualified evaluators in that jurisdiction;

26  
27 (2) Must use ~~the Judicial Council form~~ an *Order Appointing Child Custody*  
28 *Evaluator* (form FL-327) to appoint a private child custody evaluator or  
29 a court-connected evaluation service. Form FL-327 may be  
30 supplemented with local court forms;

31  
32 (3) Must provide the Judicial Council with a copy of any local court forms  
33 used to implement this rule; ~~and,~~

34  
35 (4) As feasible and appropriate, may confer with education and training  
36 providers to develop and deliver curricula of comparable quality and  
37 relevance to child custody evaluations for both court-connected and  
38 private child custody evaluators; and

39  
40 (5) Must use form *Declaration of Court-Connected Child Custody*  
41 *Evaluator Regarding Qualifications* (form FL-325) to certify that  
42 court-connected evaluators have met all the qualifications for court-

1 connected evaluators under this rule for a given year. Form FL-325  
2 may be supplemented with local court rules or forms.

3  
4 **(k) Child custody evaluator**

5  
6 A person appointed as a child custody evaluator must:

7  
8 (1) Submit to the court a declaration indicating compliance with all  
9 applicable education, training, and experience requirements:

10  
11 (A) Court-connected child custody evaluators practicing as of January  
12 1 of ~~the~~ a given year must submit ~~Judicial Council form a~~  
13 *Declaration of Court-Connected Child Custody Evaluator*  
14 *Regarding Qualifications* (form FL-325) to the ~~local family court~~  
15 ~~services office or administrator~~ court executive officer or his or  
16 her designee by January 30 of that year. Court-connected  
17 evaluators beginning practice after January 1 must file form FL-  
18 325 before any work on the first child custody evaluation has  
19 begun and by January 30 of every year thereafter; and

20  
21 (B) Private child custody evaluators must complete ~~a Judicial Council~~  
22 ~~form~~ *Declaration of Private Child Custody Evaluator Regarding*  
23 *Qualifications* (form FL-326) and file it with the clerk's office no  
24 later than 10 days after notification of each appointment and  
25 before any work on each child custody evaluation has begun;

26  
27 (2)–(3) \*\*\*

28  
29 (4) Have a license in good standing if licensed at the time of appointment,  
30 except as described in (c)(2) and Family Code section 3110.5(d);

31  
32 (5)–(6) \*\*\*

33  
34 **(l) Use of interns**

35  
36 Court-connected and court-appointed child custody evaluators may use  
37 interns to assist with the child custody evaluation, if:

38  
39 (1) The evaluator:

- 1 (A) Before or at the time of appointment, fully discloses to the parties  
2 and attorneys the nature and extent of the intern's participation in  
3 the evaluation;  
4  
5 (B) Obtains the written agreement of the parties and attorneys as to  
6 the nature and extent of the intern's participation in the evaluation  
7 after disclosure;  
8  
9 (C) Ensures that the extent, kind, and quality of work performed by  
10 the intern being supervised is consistent with the intern's training  
11 and experience;  
12  
13 (D) Is physically present when the intern interacts with the parties,  
14 children, or other collateral persons in the evaluation; and  
15  
16 (E) Ensures compliance with all laws and regulations governing the  
17 professional practice of the supervising evaluator and the intern.  
18

19 (2) The interns:  
20

- 21 (A) Are enrolled in a master's or doctorate program or have obtained  
22 a graduate degree qualifying for licensure or certification as a  
23 clinical social worker, marriage and family therapist, psychiatrist,  
24 or psychologist;  
25  
26 (B) Are currently completing or have completed the coursework  
27 necessary to qualify for their degree in the subjects of child abuse  
28 assessment and spousal or partner abuse assessment; and  
29  
30 (C) Comply with the applicable laws related to the practice of their  
31 profession in California when interns are:  
32  
33 (i) Accruing supervised professional experience as defined in  
34 the California Code of Regulations; and  
35  
36 (ii) Providing professional services for a child custody evaluator  
37 that fall within the lawful scope of practice as a licensed  
38 professional.

39 (m) \*\*\*

1 (n) **Eligible training Program approval required**

2

3 ~~Effective July 1, 2003,~~ All eligible education and training programs must be  
4 approved by the Administrative Office of the Courts. Education and training  
5 courses that were taken between January 1, 2000, and July 1, 2003, may be  
6 applied toward the requirements of this rule if they addressed the subjects  
7 listed in ~~(e)~~ (d) and ~~were~~ either were certified or approved for continuing  
8 education credit by a professional provider group or were offered as part of a  
9 related postgraduate degree or licensing program.

EVALUATOR (Name and address):  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p>E-MAIL ADDRESS (Optional): _____</p>	<b>FOR COURT USE ONLY</b>  <b>Draft 1</b> <b>09/11/06 gds</b> <b>Not approved</b> <b>by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>DECLARATION OF COURT-CONNECTED CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS</b>	

1. I, (*name*): \_\_\_\_\_, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. As of (*date*): \_\_\_\_\_, I am a court-connected child custody evaluator or a person who supervises court-connected child custody evaluators for the above court.
3. I submit this form to indicate compliance with all applicable requirements for a court-connected child custody evaluator under rule 5.225 of the California Rules of Court for (*specify year*): \_\_\_\_\_.

**LICENSING REQUIREMENTS**

4. a.  I am licensed as a psychologist, marriage and family therapist, or clinical social worker;
- b.  I am licensed as a physician and I am a board-certified psychiatrist or I have completed a residency in psychiatry; or
5. a.  I am not licensed, but I am eligible to be certified by the court to perform court-connected child custody evaluations under Family Code section 3110.5(c)(5) and rule 5.225(c)(2)(A) because:
  - (1) I meet the requirements for a court-connected child custody evaluator under rule 5.225(i); and
  - (2) I am being supervised by a court-connected child custody evaluator who has complied with all the requirements for court-connected child custody evaluators under rule 5.225; and
- b.  I request that the court certify that I meet all the requirements for a court-connected evaluator under rule 5.225.
6.  I am not licensed or eligible for certification as indicated in 4 or 5.  
**NOTICE: If item 6 is checked, the court may not appoint the person to perform a child custody evaluation in this case unless, under Family Code section 3110.5(d) and rule 5.225(c)(2)(B), all the following criteria have been met:**
  - (1) The court determined that there are no licensed or certified evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;
  - (2) The parties have stipulated that the person may conduct the child custody evaluation; and
  - (3) The court approves the person's appointment.

**EDUCATION AND TRAINING REQUIREMENTS**

7. I have completed:
  - a.  The basic and advanced domestic violence training requirements for a court-connected child custody evaluator under rule 5.225(e); and
  - b.  The 40 hours of education and training requirements for a court-connected evaluator under rule 5.225(d); or
  - c.  At least 20 of the 40 hours of the education and training requirements for a court-connected evaluator, and I will complete the remaining hours of education and training required by rule 5.225(d) within 12 months of conducting my first evaluation as a court-connected child custody evaluator.
8. I have completed:
  - a.  The annual 8 hours of update training requirements for a court-connected child custody evaluator under rule 5.225(h); and
  - b.  The annual 4 hours of domestic violence update training requirements for a court-connected child custody evaluator under rules 5.225 and 5.230.

EVALUATOR'S NAME:  _____	
--------------------------------	--

**EXPERIENCE REQUIREMENTS**

9.  I have complied with the experience requirements for a court-connected child custody evaluator in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years. I (specify):
- a.  Independently conducted and completed the child custody evaluations as stated in rule 5.225(g)(1)(A);
  - b.  Materially assisted another evaluator as stated in rule 5.225(g)(1)(B); or
  - c.  Complied with the requirements stated in rule 5.225(g)(2), and I am deemed to meet the experience requirements of rule 5.225(g) until December 31, 2009.
10.  I have complied with the experience requirements for those who supervise court-connected child custody evaluators because:
- a.  I conducted or materially assisted in the completion of four court-connected child custody evaluations in the preceding three years under rule 5.225(g)(4)(A); or
  - b.  I have been employed as of January 1, 2007, as a person who supervises court-connected evaluators, and I am deemed to comply with the experience requirements of this rule until December 31, 2009, under rule 5.225(g)(4)(B).
11.  I have not complied with the experience requirements for child custody evaluators in rule 5.225(g)(1).  
**NOTICE: If item 11 is checked, the court may not appoint a court-connected evaluator to perform a child custody evaluation unless, under rule 5.225(g)(3), all the following criteria have been met:**
- a. **The court determined that there are no child custody evaluators who meet the experience requirements for child custody evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;**
  - b. **The parties have stipulated that the person may conduct the evaluation; and**
  - c. **The court approves the person's appointment.**

**USE OF INTERNS**

12.  I intend to use interns to assist with the child custody evaluation in the manner disclosed and agreed to by the parties and attorneys in the case. Each intern will have complied with the criteria of rule 5.225(l), and will work under my supervision at all times.

**NOTICE**

**Court-connected child custody evaluators practicing as of January 1 of a given year must submit this form to the court executive officer or his or her designee by January 30 of that year. Court-connected evaluators beginning practice after January 1 must file this form before beginning any work on the first child custody evaluation and by January 30 of every year thereafter. (Cal. Rules of Court, rule 5.225(k)(1)(A))**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)



\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)

**CERTIFICATION**

**BASED ON THE FOREGOING, THE COURT CERTIFIES THAT THE ABOVE PERSON IS A COURT-CONNECTED CHILD CUSTODY EVALUATOR WHO MEETS ALL THE QUALIFICATIONS FOR COURT-CONNECTED EVALUATORS AS SPECIFIED BY THE JUDICIAL COUNCIL IN RULE 5.225 OF THE CALIFORNIA RULES OF COURT.**

Date:

\_\_\_\_\_  
 JUDGE     COMMISSIONER

EVALUATOR (Name and address):  <hr/> <p style="text-align: center;">TELEPHONE NO.: <span style="margin-left: 150px;">FAX NO. (Optional):</span></p> <p>E-MAIL ADDRESS (Optional):</p>	<b>FOR COURT USE ONLY</b>  <b>Draft 1 09/11/06 gds Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>DECLARATION OF PRIVATE CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS</b>	CASE NUMBER:

1. I, (name): \_\_\_\_\_, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. On (date): \_\_\_\_\_, I was appointed by the court to perform a child custody evaluation in this case.

**LICENSING REQUIREMENTS**

3. a.  I am licensed as a psychologist, marriage and family therapist, or clinical social worker;
- b.  I am licensed as a physician and I am a board-certified psychiatrist or I have completed a residency in psychiatry; or
- c.  I am not licensed as indicated in 3a or 3b.
- NOTICE: If item 3c is checked, the court may not appoint the person to perform a child custody evaluation in this case unless, under Family Code section 3110.5(d) and rule 5.225(c)(2)(B) of the California Rules of Court, all the following criteria have been met:**
- (1) The court determined that there are no evaluators who meet the licensing requirements who are willing and available, within a reasonable period of time, to perform child custody evaluations;
  - (2) The parties have stipulated that the person may conduct the evaluation; and
  - (3) The court approves the person's appointment.

**EDUCATION AND TRAINING REQUIREMENTS**

4. I have completed:
- a.  The basic and advanced domestic violence training requirements for a private child custody evaluator under rule 5.225(e); and
  - b.  The 40 hours of education and training requirements for a private child custody evaluator under rule 5.225(d).
5. I have completed:
- a.  The annual 8 hours of update training requirements for a private child custody evaluator under rule 5.225(h); and
  - b.  The annual 4 hours of domestic violence update training requirements for a private child custody evaluator under rules 5.225 and 5.230.

**EXPERIENCE REQUIREMENTS**

6.  I have complied with the experience requirements for a private child custody evaluator in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years. I (specify):
- a.  Independently conducted and completed the child custody evaluations as stated in rule 5.225(g)(1)(A);
  - b.  Materially assisted another evaluator as stated in rule 5.225(g)(1)(B); or
  - c.  Complied with the requirements stated in rule 5.225(g)(2), and I am deemed to meet the experience requirements of rule 5.225(g) until December 31, 2009.

EVALUATOR'S NAME: PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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**EXPERIENCE REQUIREMENTS (continued)**

7.  I have not complied with the experience requirements for child custody evaluators in rule 5.225(g)(1).  
**NOTICE: If item 7 is checked, the court may not appoint a court-connected evaluator to perform a child custody evaluation unless, under rule 5.225(g)(3), all the following criteria have been met:**
- a. The court determined that there are no child custody evaluators who meet the experience requirements for child custody evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;
  - b. The parties have stipulated that the person may conduct the evaluation; and
  - c. The court approves the person's appointment.

**USE OF INTERNS**

8.  I intend to use interns to assist with the child custody evaluation in the manner disclosed and agreed to by the parties and attorneys in the case. Each intern will have complied with the criteria of rule 5.225(l) and will work under my supervision at all times.

**NOTICE**

Private child custody evaluators must complete this form and file it with the clerk's office no later than 10 days after notification of each appointment and before beginning any work on the child custody evaluation.  
 (Cal. Rules of Court, rule 5.225(k)(1)(B))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_ (TYPE OR PRINT NAME)

 \_\_\_\_\_ (SIGNATURE OF DECLARANT)

**SPR06-30**

**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications, and FL-326, Declaration of Private Child Custody Evaluator Regarding Qualifications)**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Ms. Grace Andres Project Manager Superior Court of Solano County	A	Y	I agree that clarification is necessary. These changes should prove to be helpful.	<i>No response required</i>
2.	Ms. Jodi Christ Client Advocate Manager Shasta County Women’s Refuge Redding	A	Y	As a domestic violence and crisis outreach agency, we support any and all changes that strengthen the qualifications and ongoing training requirements of child custody evaluators in handling family violence and child abuse cases. In order to mediate in the best interest of the most vulnerable children, the civil justice system must ensure that power imbalances are made visible and that family systems where abuse is present are not only recognized but not tolerated.	<i>No response required.</i>
3.	Mr. Roger Diefendorf, Director Plumas Family Court Services and Mediation, L.L.C Quincy	AM	N	We would like to express our concerns with proposed rule 5.225(c) (circulated as (g)). Small counties have very different problems than medium and large sized counties. In particular, there is always a difficulty in obtaining persons who meet all of the technical requirements for various court-connected services. In addition, these small counties face particular fiscal constraints that other counties may not.  While the proposed rule does create an exception for court-connected evaluators who do not meet the licensing requirements of that subsection, it creates a process requiring parties to stipulate to what may sound to those parties as an evaluation by an otherwise unqualified	Subdivision (c) incorporates the language in Family Code section 3110.5 relating to the licensing or certification requirements for child custody evaluators. These requirements have been effective since section 3110.5 was added to the Family Code in 1999.  The committee believes that any change to the requirement that the parties stipulate to an unlicensed or non court-certified evaluator would have to be made legislatively.

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications, and FL-326, Declaration of Private Child Custody Evaluator Regarding Qualifications)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>evaluator. It then follows that if the parties will not enter into such a stipulation, the court will be left with the task of attempting to provide a “qualified” evaluator who either may not be available in a small and remote county, or if available, may charge more than twice the amount that court funding provides for such evaluators. This could devastate the evaluation budgets of small counties and potentially fall under the category of unfunded state mandates.</p> <p>We would propose that the language of rule 5.225(c)(2)(B) (circulated as (g)(2)) be amended even further to provide ‘either-or’ language for subsection (2)(A) and (B). Either the parties stipulate to the evaluator who does not meet the criteria of section 3110.5(c) or the court approves the individual as an evaluator. This would require the court to make a determination as to the qualifications of the evaluator and thereby create an exception to the requirements.</p>	
4.	Ms. Meera Fox Executive Director Child Abuse Solutions, Inc. Berkeley	AM	Y	As one of the organizations providing training under the curriculum of 5.225(d) (circulated as (e)), we get a lot of questions by evaluators about all of the subject areas you have proposed clarifying. And your clarifications will make our job explaining the requirements, as well as the evaluator’s job fulfilling the requirements, much easier.	<i>No response required.</i>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p><i>Re: Specifying the course requirements relating to the nature of child sexual abuse.</i></p> <p>We have been concerned about the wildly divergent approaches of training providers as to how this subject is covered. It is a huge step ahead to include the areas of child sexual abuse training specified in Family Code 3110.5. But simply listing these areas does not achieve much if the Judicial Council does not specify the priority to be given to this information over all other items of the curriculum. Moreover, the Judicial Council should standardize this part of the curriculum to ensure quality and eliminate misinformation.</p> <p>We propose that the rule be amended to include some indication of the priority of the subjects, or a time allotment for the main areas to be covered, such as at least ten hours of a forty-hour course, or a quarter of any qualifying course, being dedicated to the nature of child sexual abuse and the thorough investigation of child sexual abuse allegations.</p> <p>We further request that the sexual abuse aspect of the curriculum be standardized by requiring it to follow an already existing peer reviewed curriculum created by the ABA in consultation with many experts in child sexual abuse.</p>	<p>The subject of child sexual abuse training is one of many important areas for child custody evaluators. The AOC will continue to work and partner with others to develop curricula that reflect best practices relative to training in the subject of child sexual abuse.</p> <p>Given that the issues that must be addressed in the child custody evaluation vary from case to case, the committee recommends not prioritizing any one area of training in rule 5.225, or adopting a specific curriculum relating to training in the subject of child sexual abuse.</p> <p>The committee believes that generally stating the number of hours of training in the subjects listed in the rule allows evaluators the flexibility of choosing the level of training in any one area that best</p>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Please review the curriculum we have included in this comment and either adopt it as the required curriculum for training on the nature of child sexual abuse issues, or use it as a guide in designing something similar.</p> <p><i>Re: Adopting an evaluator report template as a Judicial Council form to fulfill the legislative intent of 3110.5 to ensure standardization of evaluation and analysis</i> We request that the attached “Child Custody Investigator/Evaluator Report” template, or some form thereof, be adopted as a Judicial Council form for mandatory use by family court evaluators, in order to ensure standardization of procedures and reports.</p> <p><i>Re: Specifying the domestic violence educational requirements.</i> Rule 5.230 requires more than just 16 hours of advanced domestic violence training. It will be confusing to evaluators if you only reference the advanced part of the 5.230 requirements and not all of the requirements. We suggest that subdivision (e) (circulated as (c)) be amended to include the basic domestic violence training requirements in Family Code 1816, and specify</p>	<p>suits their needs, while still requiring that they acquire a broad base of knowledge before appointment. Therefore, the committee does not recommend including a standard curriculum for training in the subject of child sexual abuse.</p> <p>Adopting an evaluator report would require further review by the committee and circulation for comment.</p> <p>The committee agrees to clarify that child custody evaluators must comply with the basic and advanced domestic violence training requirements described in rule 5.230, and recommends making this change.</p>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>that the 16 hours of advanced domestic violence training in rule 5.230 includes 12 hours of instruction and 4 hours of community resource networking.</p> <p>We like your wording in proposed (h) clarifying the continuing education requirements for both domestic violence and 5.225 topics.</p> <p><i>Re: Amending the experience requirements for evaluators.</i></p> <p>We agree with the changes to (g)(1) and (g)(2) (circulated as (f)(1) and (f)(2)) and think that this will eliminate confusion and require more recent experience. However, we think it would improve the quality of service to families overall if the four completed evaluations were required to be full evaluations, or at least three full evaluations and one partial evaluation.</p> <p>We also recommend not deleting the language specifying that these evaluations be court appointed evaluations since privately done evaluations for one party will now count under the proposed new language, and those evaluations are not the same as court-appointed evaluations. When a party hires his or her own evaluator, that evaluator does not get to meet with the other parent, has no access to the other parent’s documents or side of the story, cannot</p>	<p><i>No response required.</i></p> <p>The committee did not seek comment as to the type of evaluations (partial or full) that are needed to satisfy the experience requirements of the rule. The committee does not recommend amending the rule as proposed in this comment.</p> <p>The committee agrees that the experience requirements should specify that the child custody evaluators complete “court-appointed” child custody evaluations, and recommends not striking the term “court-appointed” in (g).</p>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>by law make recommendations regarding the custody of the child, etc. Please keep the term “court-appointed” in (g)(1) (circulated as (f)(1)).</p> <p>We oppose the proposed deletion of the experience requirement for the supervising evaluator in (g)(1)(B). This may have been an oversight, but by deleting the word “experience” from that part of the rule, you will be allowing inexperienced evaluators to be supervised by other inexperienced evaluators.</p> <p>We also believe that (g)(1)(B) should be amended to state that the evaluator must have “materially” assisted in the completion of the child custody evaluations.</p> <p><i>Re: Use of interns</i> We agree with the idea of allowing interns to observe custody evaluations so long as all of the family members stipulate, including the children. However, we oppose the proposed use of interns to assist in conducting child custody evaluations unless they have completed the training required by rules 5.225 and 5.230. Having the interns complete the training would ensure that they had a broad base of knowledge</p>	<p>The committee agrees to amend subdivision (g) to specify the requirements for those who supervise child custody evaluators.</p> <p>The committee agrees to modify (g) to provide that the evaluator must have materially assisted in the completion of the child custody evaluations, as proposed in this comment.</p> <p>Interns (LCSWs, MFTs, and psychologists) who are accruing supervised professional experience are subject to the rules of their professions. For example, they must abide by the specific provisions in the Business and Professions Code (BPC) and the California Code of Regulations.</p>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>from which to assist supervising evaluators.</p> <p>Further, we strongly feel that interns should be allowed to gather documents and compile time lines, organize documentary information and research CPS and criminal records, but should not be allowed to interview parties or children, to observe parent-child interactions in lieu of the evaluator doing so, to write evaluation reports, or to make recommendations to the court. Interns' involvement must be regulated more than the proposed rule allows, or clients will not be getting the quality of service they deserve.</p>	<p>The BPC lists the courses that these students must complete to qualify for licensure, which represents a broad base of knowledge. Among those courses, they are currently required to complete at least 7 hours in child abuse assessment and 15 hours of partner abuse.</p> <p>To require that interns also complete all of the training in rule 5.225 and 5.230 would not encourage, but create an obstacle to, training new evaluators.</p> <p>Therefore, the committee recommends against requiring interns to comply with the training in rules 5.225 and 5.230. However, the committee recommends further amendments to the subdivision relating to interns that would: (1) require interns to abide by the laws and regulations governing their respective professions, (2) require that they be completing or have completed training in the subjects of child and partner abuse assessment that pertain to their</p>

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
					professions, and (3) be used only upon full disclosure and written consent of the parties and their attorneys.
5.	Ms. Joan Francis, Ph.D. San Bernardino	AM	N	The rule should be amended to specify that ongoing continuing education may be accrued by classroom or distance learning.	The rule at (f) is drafted broadly enough to allow evaluators to seek credit for attending and participating in an approved course from an eligible provider under (m) that includes distance learning.  Eligible providers can seek approval for conferences as well as distance learning courses, online courses, broadcast, and video courses.
6.	Ms. Janet Garcia, Court Manager Planning and Research Unit Superior Court of Los Angeles County	A	Y	<i>No specific comment.</i>	<i>No response required.</i>
7.	Ms. Lilly Grenz Director of Family Court Services Superior Court of Santa Clara County	AM	Y	I propose expanding the definition of “court-connected evaluator” to include the phrase “...and who makes recommendations to the court.” After (7), under definitions.  It is my view that staff that makes	Rule 5.225 pertains only to investigators and evaluators who conduct child custody evaluations under Family Code sections 3111 and 3118, Evidence Code section 730, or Code of Civil Procedure section 2032.010 et seq.  Mediators who make

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**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>recommendations are taking on the same function as an evaluator regardless of what that function is called. These recommendations should be based on all the same base of knowledge, ethics, procedures as evaluators.</p> <p>The role of making recommendations about children carries awesome responsibilities. The public cannot be well served if recommendations are made on the basis of less time spent, quality of information received, number of people seen in varying configurations in a comparable fashion, etc.</p> <p>The Family Court will have less credibility in general if the quality of the work and the education of the staff performing it are less for one group (recommending mediators) than for another (evaluators) as both are charged with making recommendations that guide the court. Small counties argue that they cannot afford that. I believe it is a separate issue and should not inform this rule.</p> <p>The AOC might think of ways to offer long-distance consultation and learning so that the training of FCS staff is uniformly high across</p>	<p>recommendations to the court regarding child custody are not appointed under these code sections. Child custody mediation requirements are addressed in rule 5.210.</p> <p>Therefore, the committee does not recommend amending the rule as proposed in this comment.</p> <p>Training by distance learning, including online, broadcast, and video courses, is a category of acceptable education and training that is supported by the AOC.</p> <p>The committee will review the feasibility of providing long distance consultations to courts.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				the state and consultation is available regardless of the size of the county, its service model or the budget of its particular court.	
8.	Mr. David Gutknecht Principal Management Analyst Superior Court of Riverside County	A	Y	Riverside County Superior Court believes that the suggested changes add greater clarity to CRC 5.225 and form FL-325. Although the requirements are similar for both private evaluators and court connected evaluators (court staff), there is sufficient provision in the amendment to allow courts to make exceptions to this rule when they either do not have court staff who are evaluators and/or must rely on a very small pool of professionals in the community to fulfill this function.	<i>No response required.</i>
9.	Mr. Barry T. Hirsch, Ph.D. Los Angeles	AM	N	The section setting forth the educational requirements for the assessment of child sexual abuse does not address many areas of training/learning that in my opinion are fundamental and essential for such assessment.  Since many evaluators are not even familiar	The subdivision relating to the education and training requirements currently states that the training required before appointment includes any of the subject areas that are specifically listed in the rule.  Evaluators are not precluded from obtaining training in the subject of child sexual abuse in addition to the statutorily mandated subjects that are listed in Family Code 3110.5 and incorporated into this rule.  The committee will review the issue

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				<p>with some or all of the areas for the evaluation of child sexual abuse in child custody cases, many bench officers who review these types of cases are not exposed to what evaluators should have in their reports when they perform these types of evaluations.</p> <p>There is a need for the judiciary to have a general understanding of what an evaluator should address in their report in a case involving allegations of child sexual abuse and the more in-depth knowledge that an evaluator should have in performing these evaluations.</p> <p>In many ways, the evaluation of child sexual abuse in a child custody evaluation is a sub-specialization of expertise. It is clear how few evaluators really have the breadth and depth of knowledge necessary to do these evaluations.</p>	<p>of standardizing child custody evaluation reports.</p> <p><i>No response required.</i></p> <p>As previously indicated, the rule does not limit evaluators as to the amount of education and training they receive in the subject of child sexual abuse. The rule reflects the minimum requirements that are mandated by Family Code section 3110.5.</p>
10.	Mr. Dennis B. Jones Court Executive Officer Superior Court of Sacramento County	AM	Y	It is suggested that the words “investigation or assessment” be deleted from the proposed sections (b)(3) and (b)(4) for clarity and consistency.	The terms <i>evaluation</i> , <i>assessment</i> , and <i>investigation</i> are used synonymously in the rule. This is consistent with Family Code, section 3118, which is titled “Child sex abuse allegations; child custody evaluation, investigation or

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				<p>The word “duration” in section (b)(4) should also be deleted. It should be sufficient to define partial evaluation as evaluations that are limited in scope without addressing time or duration. There is no requirement of time or duration spent in full evaluations in the California Rules of Court, and there should be no need to address time or duration for partial evaluations.</p> <p>Finally, it would be helpful to have some additional clarification as to what the process requirements are for a court to certify evaluators who do not meet the licensing requirements under section (c) (circulated as (g)).</p>	<p>assessment.”</p> <p>The committee agrees to amend subdivision (b)(4) as proposed.</p> <p>Before appointing unlicensed evaluators, Family Code section 3110.5 specifies that the court must make certain findings, the parties must stipulate to an unlicensed evaluator, and then the court may order that an unlicensed evaluator perform the evaluation. This process is specified in the rule at subdivision (c).</p> <p>Family Code section 3110.5 also permits the courts to appoint court-connected evaluators who are unlicensed if the court certifies that they meet the qualifications for court-connected child custody evaluators. Because the certification process is not stated in Family Code</p>

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					section 3110.5, the committee recommends adopting the procedure specified in proposed subdivision (j)(5) to implement the statutory mandate. This proposed subdivision would specify that courts must use form FL-325 to certify that court-connected evaluators have met all the qualification for court-connected evaluators under rule 5.225 for a given year. The proposed (j)(5) would also permit the court to supplement form FL-325 with local court rules or forms. In addition, form FL-325 would be amended to include a certification clause which would require the signature of a judicial officer.
11.	Mr. Scott Jones, Manager Family Court Services Superior Court of Ventura County	AM	Y	I recommend inserting terms in the rule allowing managers and supervisors who meet the requirements of Family Code sections 1814 and 3110.5 to qualify even if they are no longer performing actual child custody evaluations themselves.	The committee agrees to modify the rule to address the requirements for those who supervise court-connected evaluators.  The committee recognizes that court-connected managers and supervisors are differently situated than private child custody evaluators. Court-connected

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				<p>At (c)(2)(A) (circulated as (g)(1)), I recommend replacing “the court” with “the individual child evaluator declares”</p>	<p>managers or supervisors oversee the evaluations performed by court-connected evaluators, review the resulting reports, and may or may not actually conduct evaluations themselves.</p> <p>Family Code section 3110.5(c)(5) requires that the court certify that court-connected evaluators who do not have a license meet the qualifications specified for court-connected evaluators.</p> <p>The committee recommends modifying subdivision (j) to establish the court’s certification process. Specifically, proposed subdivision (j)(5) would require courts to use <i>Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications</i> (form FL-325) to certify that court-connected evaluators meet all the qualification for court-connected evaluators under rule 5.225. Courts would also be permitted to supplement the form with local rules or forms. In addition, form FL-325 would be amended to include a certification</p>

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					clause for judicial officers to sign.  The rule would
12.	Hon. Ira R. Kaufman, Presiding Judge Superior Court of Plumas County	N	Y	<p>We have concerns about subdivision (c) (circulated as (g)). Our court-connected evaluators do not possess the requirements for licensing, and the proposed rule change would establish the need for parties to stipulate to an unlicensed evaluator conducting their investigation. Our local attorneys support our evaluators; however, we have a substantial number of self-represented clients. These parties may not agree to a person completing their investigation if they are perceived as “unqualified.” The self-represented clients also account for the greater proportion of fee waivers for investigations.</p> <p>As our county is small and rural, we have a very limited number of licensed professionals available. If the parties from whom an investigation has been ordered do not stipulate to the use of one of our court-connected evaluators, the Court would need to locate a “qualified” evaluator. This could result in considerable increases in cost for investigations, which would create a severe strain on our evaluation budget. We estimate evaluation costs could more than double under this scenario. We</p>	<p>The proposed subdivision referenced by the commentator incorporates the language in Family Code section 3110.5. The rule itself does not create any new language relating to the licensing requirements for child custody evaluators, or any new process regarding appointments.</p> <p>The requirement that the parties stipulate to an unlicensed or noncourt-certified evaluator has been in effect since section 3110.5 was added to the Family Code in 1999. Any change to this requirement would have to be made by the Legislature.</p>

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				are, therefore, suggesting an amendment to the proposed language in this subdivision that would allow the court to determine the qualifications of the evaluator absent the requirement of the stipulation of the parties.	
13.	Ms. S. Margaret Lee Psychologist Private Evaluator (City not specified)	Unknown	Unknown	My comments are general regarding the issue of 5.225, and are not directed at the modifications. In general, I think there is a problem for most of us who do a lot of evaluations. The 8 hours per year and the domestic violence training are most easily done by taking the same course year after year that does little for real professional growth. I think that it is important for there to be an easy way to submit more in-depth courses for approval and that evaluators are aware of how to do this. The way the requirements have been set up remind me of the CE in psychology some years back when one only got credits for California Psychological Association approved courses. A cottage industry grew up to accommodate that requirement. Instead of getting credit for in-depth, national presentations, one had to take local, often less sophisticated coursework. I recently had a good experience getting AOC approval for some coursework but I know many of my colleagues are nervous about that route. Lawyers are beginning to request all your certificates– an onerous task. For example, I assume I have all the 40 hours as I attend endless conferences in	The AOC will continue to work and partner with others to develop curricula that reflect best practices regarding the domestic violence update training.  The AOC has a simple process for course approval and encourages education providers to submit their courses for approval.

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				<p>this area and without a formal AOC approval on those, I can be made to go through all the documents when on the stand.</p> <p>Also, it remains unclear to me exactly what the child abuse requirement is and the modification does not spell it out.</p>	<p>The child sexual abuse training subjects are incorporated into the rule at subdivision (d)(4). The subjects are also found in Family Code section 3110.5.</p>
14.	<p>Ms. Amanda Levy Deputy Director of Governmental Affairs Forensic Psychology Committee of Division 1 of the California Psychological Association Sacramento</p>	AM	Y	<p>The experience requirements of (g)(1)(B) (circulated as f)(1)(B)), for those not conducting the evaluations are unclear about the degree of involvement of the potential child custody evaluator. Under the proposed language, the potential child custody evaluator may have had a minor role in the four evaluations over three years, yet still qualify with respect to experience. The language should clearly state who is responsible for the evaluation, and whether a “lesser” role of a consultant or assistant should qualify for purposes of the experience requirement.</p> <p>Under section (c) (circulated as (g)), the Judicial Council may want to examine the use of evaluators licensed in professions that does not allow for psychological testing. In such cases, there should be a recommendation that licensed psychologists are consulted in those cases about</p>	<p>The committee agrees that this subdivision requires further clarification, and recommends amending this subdivision to state that the evaluator must have materially assisted an evaluator who meets the requirements of this rule.</p> <p>The licensing requirements for evaluators are established by the Legislature in Family Code section 3110.5. Any changes in this area must be made legislatively.</p>

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				<p>the propriety of psychological testing in the evaluation.</p> <p>The number of required evaluations over the preceding three year period does not appear to be too onerous of a burden, and the suggested language appears to be appropriate as to the number.</p> <p>The additional training required under section (d) appears appropriate</p> <p>The continuing education requirement of section (h)(2) should perhaps be changed to seven hours, as most day-long training workshops include just seven hours of actual training. Otherwise, the evaluator will need to take two separate workshops that will likely total more than the required eight hours.</p> <p>We believe the supervised use of interns is appropriate, provided there is full disclosure of their use beforehand. If this requires additional disclosures for each case, they should be made. In addition, parties/litigants should have the opportunity to opt out of the use of an evaluator who will be using interns to make substantial contributions to the evaluation.</p>	<p><i>No response required.</i></p> <p><i>No response required.</i></p> <p>Amending the number of hours of continuing education for evaluators is not an issue that the committee is considering in this cycle.</p> <p>The committee agrees and recommends modifying the rule as proposed in subdivision (l) to require full-disclosure and the consent of parties and attorneys before evaluators may use interns.</p>
15.	Hon. Judge Laura J. Masunaga Superior Court of Siskiyou County	A	N	<i>No specific comment.</i>	<i>No response required.</i>

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16.	Ms. Joan McCoy Court Appointed Special Advocate CASA of Fresno and Madera Counties	A	N	<i>No specific comment.</i>	<i>No response required.</i>
17.	Ms. Debra Matheny Supervisor of Family Court Services Superior Court of Kern County	AM	N	<p>Partial and full evaluations need to be defined. In my county, a full evaluation will include recommendations for the parenting plan and other ideas to remediate the problems as uncovered in the investigation. Partial evaluations involve fact finding without any recommendations. For example, the court wants a criminal background check and a home visit. We would do those items and write a report of the findings.</p> <p>How can any evaluator “complete 4 evaluations” before an appointment to evaluate? All evaluations are conducted only by the court’s order/appointment. Was the intent after the enactment of this new rule you would have to have completed four evaluations before the rule was enacted?</p>	<p>The rule currently already defines “full evaluation” and “partial evaluation.” The committee does not recommend further changes to these definitions.</p> <p>The committee recommends amending the experience as proposed in subdivision (g) to provide that a child custody evaluator may satisfy the experience requirements for appointment if the four court-appointed evaluations are completed in any combination of these two ways: (1) if the evaluator has already conducted four evaluations (whether or not in another jurisdiction); or (2) if the</p>

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				<p>I cannot imagine an oral child custody report. I question the ethics of allowing this as well as the due process issues. How can I as a client/attorney cross-examine an oral report? Also, shouldn't there be a written report in the court's file for future reference? Sadly, the investigations do not always resolve the issues and the court needs a complete record of a case in order to make future decisions.</p>	<p>evaluator materially assisted an evaluator(s) who complied with the requirements of the rule. These evaluations may have been completed prior to the effective date of the amended rule.</p> <p>In addition, the committee recommends that the rule be modified to include that parties may stipulate to an evaluator who does not meet the experience requirements of the rule, subject to the court's approval.</p> <p>The committee does not recommend changing the rule as it relates to requiring a written or an oral child custody evaluation report to satisfy the experience requirements of the rule.</p> <p>The rule is drafted broadly to permit compliance with the experience requirement in various situations, one of which may be that the underlying case settles after a child custody evaluation is completed but before a report on the evaluation is written. In this situation, the child</p>

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				<p>Regarding (g)(1)(B) (circulated as (f)(1)(B)), I would hope that the court connected evaluators have this on every case they do, whether licensed or not. I think the process of supervision and peer support helps all evaluators to remain balanced. Avoid bias, etc. in the process and a concern I have always had about private practitioners is that their independence (and who pays the bill) can lead to unintended bias.</p> <p>I agree with the intent to have licensed providers as well as the court's ability to certify outside this. I have an intern who has had all of the required training who does child custody cases because she speaks Spanish and the need to communicate with the clients in their language outweighs the requirement of a license in this court's opinion.</p> <p>In section (l), do you really want students working on child custody evaluations? I can see a doctoral candidate with a master's degree, but I cannot see someone who is pursuing a</p>	<p>custody evaluator would not be able to receive credit for his or her work if the rule only permitted written reports.</p> <p><i>No response required.</i></p> <p><i>No response required.</i></p> <p>The committee believes that permitting qualified student interns to assist in the child custody evaluations is important. First, it promotes opportunities for training</p>

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				<p>master's degree allowed given the emphasis on license, education and experience, which lie at the center of the rule. Sounds contradictory to me.</p> <p>Given the controversies around child custody evaluations and the trust placed in the hands of evaluators by the court and the parents, I agree wholeheartedly with the emphasis on standards and the inclusion of specific training and experience requirements</p>	<p>new child custody evaluators. Second, it would be consistent with other California Rules of Court, specifically rule 5.518 (formerly rule 1405.5(h)), which allows interns, volunteers, and paraprofessionals to assist dependency mediators.</p> <p>The rule would provide specific education and training requirements for interns and mandate supervision by the appointed evaluator.</p> <p><i>No response required.</i></p>
18.	Ms. Erica Meyers, Ph.D. Oakland	N	N	<p>5.225(g) (circulated as (f)) makes no sense. The proposed rule is ill-conceived, unreasonable, and not based on any evidence or sound logic. Moreover, it is unfair to mental health professionals, it is bad for the Court, and worst of all, it is bad for the public.</p> <p>There is no evidence to suggest that a professional who has completed four recent</p>	<p>The Judicial Council adopted rule 5.225 effective January 1, 2000. Subdivision (f) has been in effect for about 7 years. This subdivision currently requires some evaluators to complete 3 evaluations between January 1, 2000, and July 1, 2003. It also allows evaluators to comply with the experience requirements by</p>

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				<p>custody evaluations, and perhaps only four in his entire career, is any more qualified or competent than a professional who has completed hundreds of evaluations over the life of a career, but only one or two or three in the past three years. Without that evidence, you are intending to pass a law that will make that experienced professional ineligible to serve the public as a custody evaluator.</p> <p>This requirement could be overly burdensome to a highly experienced professional, who has completed hundreds of custody evaluations, but who (1) falls ill or has to care for a dying relative for a few years; (2) experiences burn-out and decides to take a break from custody evaluations for a few years (but still fulfills the continuing education requirements); (3) stops doing custody evaluations for a few years to teach, do consulting work, or do research); (4) does his best to settle cases and stops before completing the evaluation and the report.</p> <p>Is there any reason to believe that it would be in the public’s best interest to make this professional ineligible to do custody evaluations in the future? This rule could deny him his right to continue to earn his living.</p>	<p>consulting with another evaluator on 6 evaluations, without regard to any time frame.</p> <p>The requirements in this one subdivision raised numerous concerns among the courts and evaluators over the past years. The amendments circulated for comment are an attempt to make the rule more consistent for all evaluators without compromising the quality of persons appointed by the court to conduct custody evaluations. For example, instead of requiring either 3 or 6 evaluations, the committee proposed that all evaluators complete 4 evaluations.</p> <p>The committee believes that it is important that child custody evaluators demonstrate recent experience before being appointed to conduct an evaluation independent of supervision on a case. Evaluators who met the requirements under the current rule would be given three years’ time to comply with the amended rule.</p>

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				<p>Subdivision (g) (circulated as (f)) offers an evaluator no way to become eligible if he fails to meet the four-in-three rule. With this particular omission, you may be denying the public the services of some of our best, most qualified, most competent evaluators.</p> <p>Subdivision (g)(4) (circulated as (f)(2)) is not really a grandfather clause at all. This gives the “grandfathered” professionals just three years to complete four evaluations if they are to be considered eligible for appointment after 2010.</p>	<p>The rule provides a way for child custody evaluator to come into compliance with the rule, if, for whatever reason, he or she is not able to meet the “4 evaluations in 3 years” requirement. Under the amended rule, the evaluator could materially assist another child custody evaluator in the completion of the child custody evaluations, and then seek appointment independent of supervision.</p> <p>The term “phase-in clause” is a more appropriate description of this subdivision.</p>
19.	Ms. Adele Myers Supervising Family Court Investigator Family Court Services Superior Court of Plumas County	AM	N	I do not approve of the licensing requirements. Our county does not have any individuals who meet the licensing requirements. If parties (particularly those in pro per) do not stipulate to an unlicensed evaluator, we would have to obtain services from an out of county evaluator at increased costs to our courts. Our local attorneys have expressed confidence in our	Rule 5.225 incorporates the licensing requirements for child custody evaluator that were established by the Legislature in Family Code section 3110.5.  The rule does not create any new requirement or process for the

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				contracted evaluators, thus I do not anticipate difficulty with them stipulating to one of the contract evaluators. However, pro-per clients may arbitrarily refuse to stipulate. I would suggest that the stipulation requirement be deleted from the proposed changes.	appointment of unlicensed child custody evaluators. These requirements have been effective since section 3110.5 was added to the Family Code in 1999. Any change to this requirement would have to be made legislatively.
20.	Ms. Mary O'Connor Executive Director Family Assessment Counseling & Educational Services Fullerton	A	Y	I would be willing to train interns for low cost. I have done custody evaluations from 1987-2003. I haven't done them recently. Would I still qualify as a trainer to interns for low-cost evaluations? We would like to do that.	This comment does not address the issues raised in the invitation to comment. The committee has asked that the commentator be contacted directly.
21.	Ms. Olga Paredes, Ph.D. Child Custody Mediator Superior Court of Alameda County Oakland	A	N	The proposed changes to clarify the appointment requirements for child custody evaluators are an improvement over what is presently in place.	<i>No response required.</i>
22.	Ms. Mary Riemersma Executive Director California Association of Marriage and Family Therapists San Diego	AM	Y	Generally, we believe the proposed changes streamline and better organize the rule. We have the following questions and concerns, and offer the following recommendations:  At subdivision (b)(3), shouldn't "...or best interest of the child" be "...and best interest of the child" to be consistent with (2)?	<i>No response required.</i>  The committee agrees that this change conforms the rule to the published version. Drafting the rule in a way that implies that the examination of the best interest of the child is optional was an inadvertent error.

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				<p>At (b)(4), it is unclear what is meant by “duration.” Either a clearer term or an explanation would be helpful for clarity.</p> <p>At (e) (circulated as (d)), does this section mean that one would have to complete a total of 56 hours of education and training before becoming a child custody evaluator?</p> <p>At (e) (circulated as (d)), we would suggest the following: “In addition to the 16 hours of <u>advanced</u> domestic violence training, a child custody evaluator must complete 40 hours of education <u>or</u> training <u>before appointment</u>, which must include the following topics:”</p> <p>Regarding subdivision (f) (circulated as (e)), while the same date of January 1, 2000, was in the prior rule, we are unsure of the rationale for limiting acceptable education or coursework to</p>	<p>The committee agrees and recommends deleting the term “duration” from (b)(4), so that the rule states that a partial evaluation is a child custody evaluation that is limited by the court in terms of its scope.</p> <p>Yes. The committee recommends amending the rule to clarify that child custody evaluators must complete more than just the 40 hours of training. Additional hours are needed in basic and advanced training in the subject of domestic violence.</p> <p>The committee recommends amending the rule to provide that court-appointed evaluators must comply with the basic and advanced domestic violence training requirements of rule 5.230 in addition to the 40 hours.</p> <p>The date of January 1, 2000, is linked to the effective date of rule 5.225. Only relevant coursework acquired after January 1, 2000,</p>

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				<p>that which has been gained after this date. That date seems arbitrary. Had one taken relevant coursework in 1999 or even 1990, would it not be equally relevant?</p> <p>At (f)(3)(ii) (circulated as (e)(2)), we would suggest the following: “Serving as an instructor in an approved course. Each course taught may be counted only once. Instructors may claim <u>and get credit</u> for only actual classroom time.</p> <p>Regarding both (f)(3)(i) and (ii), should “course” be “ course(s)” or coursework, permitting the requirement to be satisfied by more than one course?</p> <p>At (g)(1)(A) (circulated as (f)(1)(A)), we suggest the following: “Conducted <u>and completed</u> the evaluations; or”</p> <p>At (g)(4) (circulated as (f)(2)), we propose the following rewording: “<del>Those</del> Evaluators who fulfilled the experience requirements under former subdivision (f) of this rule by December 31, 2006, and who must complete <u>by January 1, 2007</u> (the effective date of this rule), additional child custody evaluations to comply <del>with this rule effective January 1, 2007</del>, are deemed to be in compliance with the requirements of this rule for purposes of appointment until January 1,</p>	<p>meets the education requirements of this rule to ensure that course work in this evolving area is recent.</p> <p>The committee agrees and has included this language in the attached rule.</p> <p>The proposed amendments do not conform to the standard style guidelines adopted by the AOC.</p> <p>The committee agrees and has included this language in the attached rule.</p> <p>The committee agrees that this provision should be clarified, and has modified (g)(4) to clarify the requirements that evaluators would have to meet to qualify for additional time to complete the experience requirements of this rule.</p>

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				<p>2010, so long as the evaluator completes a total of <del>at least</del> four evaluations by January 1, 2010. Thereafter, those evaluators must comply with the experience requirements of (f)(1). Thereafter....”</p> <p>At (c)(2)(B) (circulated as (g)(2)(A)), we suggest the following: “<del>In those cases,</del> The parties stipulate to an...”</p> <p>Regarding (h), given that child custody evaluators have already completed a significant number of hours of coursework and training, and given that they are already doing a number of evaluations on a regular basis, to have to accrue an additional 12 hours of coursework or training each year seems excessive. Further, it is our belief that qualifying courses would not change dramatically from year to year, or even over many years. Therefore, we would recommend that this requirement should be modified to a lesser frequency, such as every other year, similar to license renewals and mandatory continuing education.</p> <p>At (i)(1) and (2), we suggest the following: “Completed <u>at least 20</u> of the 40 required hours of education and training required by (d).”</p>	<p>The committee agrees that this subdivision requires clarification, and recommends the changes in the rule submitted with this report.</p> <p>The committee believes that the annual update requirements are not excessive, and recommends not reducing the number of hours of instruction for continuing education needed to comply with the rule.</p> <p>The committee agrees that these changes would help clarify the rule. This suggested language is included in the rule submitted with the</p>

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				<p>“Completes the <u>remaining additional</u> 20 hours of education and training required by (d) within 12 months of <u>beginning practice conducting his or her first evaluation</u> as a child custody evaluator.</p> <p>At (i)(5), this section does not read well with the words “he or she” stricken.</p> <p>At (k)(1)(A), we suggest the following; “Court-connected child custody evaluators practicing as of January 1 of <del>the</del> a given year must submit... (form FL-325) to the local family court services office or administrator...”</p>	<p>Judicial Council report. The committee agrees with including this language in the rule. In addition, the committee recommends striking the number “20” from the subdivision to reflect that the actual number of hours remaining to be completed would differ for each court-connected evaluator.</p> <p>The committee recommends changing the language in this subdivision for greater clarity</p> <p>The committee agrees and recommends including the suggested change in the rule to provide greater clarity.</p> <p>In addition, the committee recommends deleting the phrase “local family court services office or administrator” as these terms may not be used in all counties. The committee recommends that the rule and form be amended to require that evaluators submit their completed form FL-325 to the “court executive officer or his or</p>

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				<p>At (k)(7), we suggest the following: “<del>Where</del> If appropriate, seek...”</p> <p>At (l)(2)(A), we suggest the following: “Enrolled in a graduate-level master’s or doctorate program or have obtained a graduate degree <u>qualifying for licensure as a clinical social worker, marriage and family therapist, or psychologist</u> <del>social work, marriage and family therapy, psychiatry, or psychology</del>; and...”</p> <p>Further, it is our belief that psychiatrists or persons in pursuit of qualifying as psychiatrists would need to be treated differently.</p> <p>At (l)(2)(A), and (B), these sections are unclear—when is one enrolled in coursework or training? Such person might be enrolled but may not have taken his or her first class. Possibly, this would provide clarity: “<u>Currently completing</u> or have completed coursework or training...” A similar change would be made do</p>	<p>her designee.”</p> <p>The committee recommends deleting (k)(7) to avoid redundancy with similar provisions in rule 5.220.</p> <p>The committee agrees and recommends amending this subdivision as proposed by this commentator.</p> <p>For purposes of this rule, the committee believes that it is not necessary to treat interns who are students of psychiatry differently from students of social work, marriage and family therapy, or psychology.</p> <p>The committee agrees and has included the proposed change in the rule to better clarify the training requirements for interns.</p>

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				<p>(C).</p> <p>Further as to (l), is it the intent that any domestic violence and child sexual abuse coursework or training would count? For example, would the required coursework and training for licensure satisfy this requirement if the requisite number of hours was completed?</p> <p>At (n), the term “professional provider group” is used. This is inconsistent with (m) that refers to “eligible providers.” Additionally, it is unclear what is meant by “eligible” education and “certified.” We suggest the following: “All <del>eligible</del> education and training programs <u>sponsored by eligible providers</u> must be approved by the Administrative Office of the Courts. Education and training courses that were taken... and were either <del>certified</del> <u>approved</u> for continuing education credit...”</p> <p>Form FL-325 should be changed to be consistent with the changes adopted in the rule. Specifically, 4b.3 should be: “I will complete the additional hours of education...the date of beginning practice...” And the notice at the bottom of the page should read: “Court-connected child custody evaluators practicing as of January 1 of a (instead</p>	<p>Yes. The committee recommends clarifying that training on the subjects of domestic violence and child sexual abuse training offered as part of a postgraduate degree or licensing program meets the requirements of this rule for interns.</p> <p>The committee agrees and recommends clarifying this subdivision to state that “All education and training programs must be approved by the Administrative Office of the Courts.”</p> <p>The committee agrees and recommends revising forms FL-325 and FL-326 to be consistent with the proposed changes to the text of the rule.</p>

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				of “the”) given year.  Form FL-326 should be changed. Specifically, 5.b should be: “The parties have stipulated that I may conduct the evaluation even though I do not meet the (instead of “satisfy” the criteria...”).	The committee agrees and recommends revising forms FL-325 and FL-326 to be consistent with the proposed changes to the rule.
23.	Mr. Michael Roddy Executive Officer Superior Court of San Diego County San Diego	A	Y	<i>No specific comment.</i>	<i>No response required.</i>
24.	Ms. Martha Rosenberg Director of Family and Investigative Court Services Superior Court of Contra Costa County Bakersfield	AM	N	The experience requirements are still unclear and confusing in that the rule does not address how you can conduct four evaluations in the preceding years without an appointment. That is also an issue with the current rule. How does the evaluator get those four cases? They must be obtained via court appointment as an Evidence Code 730 expert.  “I suggest rewording the first part of subsection (g) ( <i>this should be (f)</i> ) as follows: Before appointment as a child custody evaluator qualified to conduct child custody evaluations independent of supervision or consultation with another, the evaluator must have completed, in consultation with or under the supervision of a qualified child custody evaluator, or assisted another qualified evaluator in completion of at least four partial or full child custody	In order to clarify <i>how</i> the evaluator can meet the experience requirements of this rule, the committee recommends that the rule specify that a person can gain experience by materially assisting a court-appointed evaluator who meets the requirements of this rule.

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				evaluations in the preceding three years.”	
25.	Ms. Maria Schapp Member of the Bar Association of San Francisco Family Law Section	A	N	<i>No specific comment.</i>	<i>No response required.</i>
26.	Ms. Monica Slone Marriage and Family Therapist Palmdale	N	N	The changes are not stringent enough. Domestic abuse training should be increased to 24 hours each year. Sexual abuse /physical abuse training as to children should be 48 hours each year.	This rule establishes the appointment requirements for child custody evaluators under rule 5.225.  Training in the subjects of domestic violence and sexual/physical abuse of children are two of many important subjects required for appointment as a child custody evaluator. However, the committee believes that the number of hours of training required for child custody evaluators in the subject of domestic violence are already equivalent to or greater than the requirements for similar professionals, and does not recommend amending the rule as proposed in this comment. Further, the committee believes that generally stating the number of hours of training in the subjects listed in the rule allows evaluators the flexibility of choosing the level

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				<p>Further, there should be a way for people to report their experience with an evaluator. If the evaluator has 3 or more complaints a year, there should be an investigation made regarding the capability of the evaluator. Too many evaluators are incompetent and are ruining the lives of children by the droves. People are afraid to complain because they feel that they will lose the relationship with their children in retaliation.</p>	<p>of training in any one area that best suits their needs while still requiring that they acquire a broad base of knowledge before appointment.</p> <p>Therefore, the committee does not recommend amending the rule to set specific hours of training in any one of the 21 subject areas described in the rule.</p> <p>Proposed subdivision (j) (circulated as (k) provides that each court must have a complaint procedure.</p> <p>In addition, statutes already provide how persons may report their experiences with an evaluator. Family Code section 3110.5(e) provides that a child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences is subject to the disciplinary action by that board for unprofessional conduct as defined in the licensing law applicable to that licensee. Persons may report complaints regarding</p>

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					their experience to these boards.
27.	Mr. Leo Terbieten Legislative Committee Association of Family Court Services Directors Marin	AM	Y	<p>First, regarding the proposed amended experience requirements in subdivision (g) (circulated as (f)), there is a strong concern on the part of Family Court Service Directors, Supervisors and Managers that that they may not meet the requirement to supervise other staff in completing the evaluations if they have not performed 4 child custody evaluations in the last three years. These supervisory staff may have completed 20 evaluations in the last 6 years, but currently do not perform the evaluations.</p> <p>We are concerned that FCS staff and private practitioners may no longer be willing to perform evaluations due to the challenges of staying in compliance with the proposed amended requirements of completing four evaluations in the preceding three years.</p> <p>Second, we feel that the suggestions outlined below will clarify some confusing language.</p> <p>1. Combine items (c) and (d) under the heading <b>( C ) Education and Training Requirements</b>. Subsections under this heading should be</p> <p>1. The statement regarding the necessary</p>	<p>The committee recommends adding a new subdivision to specify that those who supervise court-connected evaluators would meet the experience requirements of the rule by conducting or materially assisting the completion of four court-connected partial or full child custody evaluations in the preceding three years. Those who supervise court-connected evaluators would have until 2010 to comply.</p> <p>The committee recommends maintaining the domestic violence training requirements in a separate subdivision; not combining it with</p>

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				<p>40 hours</p> <ol style="list-style-type: none"> <li>2. The statement regarding Domestic Violence</li> <li>3. The statements regarding assessment sexual abuse on children.</li> <li>4. The current §(h) regarding continuing education and training requirements</li> </ol> <p>2. The next items would come under the heading <b>(D) Authorized Education and Training</b>. Subsections under this heading should include</p> <ol style="list-style-type: none"> <li>1. The current § (m) &amp; (n)</li> </ol> <p>3 The next items would come under the heading <b>(F) Licensing Requirements</b>. We suggest that the phrase “<i>declares pursuant to FL 326 and FL 326</i>” be substituted for “certifies” in this section.</p>	<p>the education and training requirements, as suggested in this comment.</p> <p>The committee recommends not changing the rule as proposed in item 4. The committee believes that it is important to highlight that the requirements for education and training are different from the domestic violence and the continuing education and training requirements.</p> <p>The committee recommends not changing the rule as proposed in this comment. The committee believes that subdivision (d) should focus on issues relating to the persons seeking appointment. Subdivisions (m) and (n) pertain to education and training providers.</p> <p>The language referred to in this comment is incorporated from Family Code section 3110.5(c)(5). The court certification requirement is statutorily mandated and cannot be replaced, as requested.</p>

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					However, the committee recommends supplementing subdivision (j) (circulated as (k)) to specify that the court must use form FL-325 to certify that court-connected evaluators meet the appointments requirements under the rule. In addition, form FL-325 would be amended to include a certification clause which would be signed by a judicial officer.
28.	Ms. Connie Valentine, President California Protective Parents Association Sacramento	AM	Y	<p><i>Re: Investigators</i> The terms “investigator” and investigation” are used frequently in Family Code section 3118. Because rule 5.220 was amended in 2005 to require that all investigations meet the data collection and protocols of Family Code 3118, we believe the word “investigator” more aptly describes the activities performed by child custody professionals. We strongly recommend using the term “investigator” instead of “evaluator.”</p> <p><i>Re: Cost of investigations</i> The court should exercise more control over the cost of investigations. Our organization has received, and continues to receive, numerous</p>	<p>Rule 5.225 was mandated by Family Code section 3110.5, which relates to child custody evaluators. The term “investigator” is an equivalent term under Family Code 3110. However, the committee recommends not using the term “investigator” instead of “evaluator” as proposed in this comment so that the rule closely reflects the language of Family Code section 3110.5.</p> <p>The parties and their attorneys may request that the court appoint an investigator under Family Code section 3011.</p>

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				<p>complaints about price-gouging by investigators who charge whatever the market will bear. The investigations cost from \$6000 up to an incredible \$50,000 depending upon the area and the wealth of the clientele. However, when a custody investigator is appointed under Family Code 3111, the court pays the costs and recuperates the fee from the parents, as appropriate. We strongly recommend amending subdivision (a) of the rule to include that “If issues related to the best interest of the child as defined in Family Code section 3011 are brought to the court’s attention, child custody investigators are appointed under 3111.”</p> <p><i>Re: Definition of partial investigation.</i> When allegations of child abuse, domestic violence or substance abuse arise in disputed child custody or visitation issue, a full investigation must be required so that the investigator has the time to meet the requirements of Family Code 3118. If partial investigations are to be used at all in such cases, they should be limited to situations in which an emergency custodial arrangement is being investigated to ensure the safety of a child while a full investigation is completed.</p> <p>We recommend amending (b)(4) to include the following language: “If child abuse, domestic</p>	<p>The committee recommends not amending the definition of partial investigation as described in this comment. Subdivision (b) is intended to provide guidance as to the terms used in the rule. The commentator proposes to expand (b) to include procedures limiting partial evaluations. The committee believes that procedures limiting partial evaluations would have to be circulated for public comment.</p>

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				<p>violence or substance abuse are alleged, a partial investigation may only be conducted to determine the safety needs of the child pending the outcome of the investigation.</p> <p><i>Re: Recommending mediators</i>            AB 2853, which will codify rule of court 5.230 as law, defines recommending mediators as evaluators. We recommend that the term court-connected evaluator include a mediator or attorney who makes recommendations to the court.</p>	<p>AB 2583 does not equate recommending mediators with child custody evaluator for purposes of appointment under rule 5.225.</p> <p>AB 2583 defines recommending mediators as evaluators only for purposes of the proposed statute, which relates to required training in basic and advanced domestic violence assessment. This is a different purpose than rule 5.225.</p> <p>Rule 5.225 pertains to investigators and evaluators who conduct child custody evaluations under Family Code section 3111, Evidence Code section 730, or Code of Civil Procedure section 2032.010. Mediators who make recommendations to the court regarding child custody are not appointed under these code sections. Therefore, the committee does not recommend amending the</p>

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				<p><i>Re: Definition of “preponderance of the evidence”</i>            Because the professional conducting a child custody evaluation must determine by a preponderance of the evidence (i.e. that it is more likely than not that domestic violence or child abuse has occurred), we strongly recommend that a definition of “standard of proof” be included in section (b).</p> <p><i>Re: Hourly requirement for basic domestic violence training</i>            There is no minimum hourly requirement for basic domestic violence training described in Family Code 1816, nor rule 5.230(d). We recommend an 8 hour minimum for the basic domestic violence training.</p> <p><i>Re: Specify minimum hours for certain training</i>            We strongly recommend that at least one-fourth (ten hours) of the required 40 hour training be on the topics of child sexual abuse described in Family Code section 3110.5(b)(2)(A)-(F) and take place in the initial 20 hours of training. We propose 10 hours of training on the psychological and developmental needs of children and 10 hours of training on the parent-child relationship.</p>	<p>rule as proposed in this comment.</p> <p>This request is beyond the scope of the issues on which the committee sought comment in this cycle. The committee recommends not adopting the changes to rule 5.225 as proposed in this comment.</p> <p>The committee does not recommend the changes proposed in this comment. Establishing a minimum hourly requirement for basic domestic violence training would require amending rule 5.230.</p> <p>The committee believes that generally stating the number of hours of training in the subjects listed in the rule allows evaluators the flexibility of choosing the level of training in any one area that best suits their needs, while still requiring that they acquire a broad base of knowledge before appointment. Therefore, the</p>

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				<p>We recommend reconfiguring and renumbering the education and training courses listed in (d) so that the most important issues affecting children’s lives are addressed in detail, whereas other issues like those that relate to issues on how to conduct investigations and report writing are also addressed with an appropriate number of training hours.</p> <p>We believe that a custody investigator needs to have personally completed four full investigations culminating in written reports and two partial investigations culminating in written or oral reports within the past three years in order to have sufficient experience to be appointed by the court.</p> <p><i>Re: Including 5.220 requirements</i>            Certain information must be provided about the investigation process in writing to adult parties and an explanation must be provided to the child in an age-appropriate manner about the investigation under rule 5.220. We believe it would be important to reiterate this process in rule 5.225 for clarity.</p>	<p>committee does not recommend amending the rule to set specific hours of training as proposed.</p> <p>The committee does not recommend reconfiguring and renumbering the courses listed in (d) as proposed in this comment.</p> <p>The committee does not recommend requiring a specified number of partial or full investigations as proposed in this comment.</p> <p>This request is beyond the scope of the issues which the committee sought comment in this cycle. The committee recommends not adopting the changes to rule 5.225 as proposed in this comment.</p>

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				<p><i>Re: Adopting form to standardize reports</i>            We urge the Judicial Council to adopt a form to standardize child custody reports. Our organization has assisted in the development of a standardized, comprehensive template, which is being used for training in California and other states. We received feedback from investigators who use the forms and judges who receive reports on the template. They are pleased to receive information in a standardized, complete, clear, and comprehensive format. The Judicial Council could require this or another comparable, comprehensive template.</p> <p><i>Re: Customer satisfaction survey</i>            We strongly urge the Judicial Council to develop a brief customer satisfaction survey that would be provided by the custody investigator to all parties involved in a custody investigation and return to the Judicial Council directly. In addition, we recommend that the rule include language about the customer satisfaction form in (k)(11).</p> <p><i>Re: Use of interns</i>            We agree with the use of child custody investigations interns as assistants, to begin to broaden the pool of well-qualified child custody investigators. However, we strongly recommend that the parties have informed choice over</p>	<p>Adopting a template for an evaluator report would require further review by the committee and circulation for comment.</p> <p>This request is beyond the scope of the issues on which the committee sought comment in this cycle. The committee recommends not adopting the changes to rule 5.225 as proposed in this comment.</p> <p>The committee agrees and recommends modifying the subdivision relating to interns to require the informed consent of the parties.</p>

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				<p>having another person observe them during this difficult time in their lives. The intern must not be allowed to interview the parties, children or collateral sources, nor write investigation reports.</p> <p>Finally, the intern should have completed the domestic violence basic and advanced training and first 20 hours of the custody investigator training prior to working as an intern.</p>	<p>The committee recommends that interns comply with the statutorily mandated course hours in the subject of domestic violence assessment for their profession, which is different from the suggested number of hours in this comment.</p>
29.	Ms. Diane Wasznicky Liaison to the Family and Juvenile Advisory Committee from the Executive Committee of the State Bar Family Law Section Sacramento	AM	Y	<p>We believe that evaluators must disclose the use of interns before they are appointed. Such disclosure will provide the parties who either stipulate to a particular evaluator/are subject to a Court's choice of an evaluator, to consider if the specific form of assistance by an intern is a cause of concern in the particular case, allowing sufficient time to select an alternative evaluator/timely make objections to the Court appointment</p> <p>We also feel strongly that parties, most particularly unrepresented parties, are entitled to</p>	<p>The committee agrees and recommends that the rule be amended to require evaluators to disclose the use of interns to the parties and attorneys, and obtain their consent regarding the nature and the extent of the activities of interns in the evaluations. The committee also suggests additional amendments to clarify the responsibilities of the evaluator and the interns.</p> <p><i>No response required.</i></p>

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				<p>have the job done by the person qualified to do the job. As much as we support the effort to increase the number of mediators and evaluators, prudence and caution are necessary to avoid the damage to families by allowing interns to do a job they are not qualified for, as well as the on-going negative perception of the family law court system in the area of evaluations of custody issues.</p> <p>Based on the foregoing, we recommend that that subdivision relating to interns be modified to include the following language:</p> <ul style="list-style-type: none"> <li>a. Evaluators must disclose in each case in what manner the intern will assist (e.g. only observe, supervise the taking of psychometric tests, scoring of tests, conducting interviews, drafting/writing reports, etc.) in that case.</li> <li>b. Without the informed consent of the parties and attorneys, if represented, the intern shall not: (a) conduct interviews of the parties/clients without the appointed evaluator observing and supervising personally, or (b) conduct testing without being observed and supervised by the appointed evaluator.</li> <li>c. Interns shall not be used to do the evaluation (or recommending mediation) without the</li> </ul>	<p>The committee agrees and recommends that the subdivision relating to interns be amended to address these issues (a–c).</p>

**SPR06-30**

**Family Law: Appointment Requirements for Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				physical observation and supervision of the qualified mediator/evaluator unless the parties are provided the opportunity to decline having the intern do the mediator's/evaluator's job (in much the same way parties can decline to stipulate to having a commissioner hear a matter in place of a judge).	

Rule 5.225 of the California Rules of Court would be amended, effective January 1, 2007, to read:

1 **Rule 5.225. ~~Education, training, and experience standards for court-appointed~~**  
2 **~~child custody investigators and evaluators~~ Appointment requirements for**  
3 **child custody evaluators**  
4

5 (a) ~~[Authority] This rule is adopted under article VI, section 6 of the California~~  
6 ~~Constitution and Family Code sections 211 and 3110.5.~~

7  
8 (b) (a) ~~[Purpose] As required by Family Code section 3110.5, this rule establishes~~  
9 ~~the education, experience, and training the~~ This rule provides the education,  
10 training, experience, and licensing requirements for child custody evaluators  
11 who are appointed only under to conduct full or partial child custody  
12 evaluations under Family Code section 3111, Evidence Code section 730, or  
13 Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the  
14 Code of Civil Procedure, section 2032. Additional training requirements for  
15 ~~these child custody evaluators are contained in rule 5.230.~~

16  
17 (e) (b) ~~[Definitions]~~ For purposes of this rule:

18  
19 (1) \*\*\*

20  
21 (2) A “child custody evaluation” is ~~an expert~~ a child custody evaluator’s  
22 investigation and analysis of the health, safety, welfare, and best interest  
23 of a child with regard to disputed custody and visitation issues.

24  
25 (3) A “full evaluation, investigation, or assessment” is a child custody  
26 evaluation that is a comprehensive examination of the health, safety,  
27 welfare, or best interest of the child.

28  
29 (4) A “partial evaluation, investigation, or assessment” is ~~an examination of~~  
30 ~~the health, safety, welfare and best interest of the child~~ a child custody  
31 evaluation that is limited by the court order in ~~either~~ terms of its time or  
32 scope or duration.

33  
34 (5)–(6) \*\*\*

35  
36 (7) A “court-connected evaluator” is a superior court employee or a person  
37 under contract with a superior court who conducts child custody  
38 evaluations.  
39

1 (d) ~~[Requirements for evaluators' qualifications: education, training, and~~  
2 ~~experience]~~ Persons appointed as child custody evaluators must:

3  
4 (1) ~~Complete a total of 40 hours of initial education and training as described in~~  
5 ~~(e)~~

6 (2) ~~Comply with the training requirements described in rule 5.230;~~

7  
8 (3) ~~Fulfill the experience requirements described in (f); and~~

9  
10 (4) ~~Meet the continuing education, training, and experience requirements~~  
11 ~~described in (h);~~

12  
13 (e) (c) [Domestic violence training requirements] Before appointment, a court-  
14 connected or a private child custody evaluator must complete 16 hours of  
15 advanced domestic violence training as described in rule 5.230.

16  
17 (e) (d) [Education and training requirements] Only education and training  
18 acquired after January 1, 2000, from providers described in (m) meets the  
19 requirements of this rule. Serving as the instructor in a course meeting the  
20 requirements described in (m) in one or more of the subjects listed in paragraphs (1)  
21 through (21) below can be substituted for completion of the requisite number of  
22 hours specified in (d), on an hour per hour basis, but each subject taught may be  
23 counted only once. The hours required by this rule must include, but are not  
24 limited to, all of the following: In addition to the 16 hours of domestic violence  
25 training, before appointment, a child custody evaluator must complete 40  
26 hours of education and training, which must include the following topics:

27  
28 (1)-(3) \*\*\*

29  
30 (4) The assessment of child sexual abuse issues required by ~~Family Code~~  
31 ~~section 3110.5(b)(2)(A)-(F) and Family Code section 3118; local~~  
32 ~~procedures for handling child sexual abuse cases; and the effect that court~~  
33 ~~procedures may have on the evaluation process when there are allegations~~  
34 ~~of child sexual abuse; and the following areas of training required by~~  
35 Family Code section 3110.5(b)(2)(A)-(F):

36  
37 (A) Children's patterns of hiding and disclosing sexual abuse in a family  
38 setting;

39  
40 (B) The effects of sexual abuse on children;

41  
42 (C) The nature and extent of sexual abuse;

43  
44 (D) The social and family dynamics of child sexual abuse;

1                   (E) Techniques for identifying and assisting families affected by child  
2                   sexual abuse; and

3  
4                   (F) Legal rights, protections, and remedies available to victims of child  
5                   sexual abuse;

6  
7                   (5)–(21) \*\*\*

8  
9                   (e) **[Authorized education and training]** Only the education and training described  
10                   in (c) and (d) acquired after January 1, 2000, from approved providers meets  
11                   the requirements of this rule. The education and training requirements in (c) and  
12                   (d) may be satisfied by:

13  
14                   (1) Attending and participating in an approved course; or

15  
16                   (2) Serving as an instructor in an approved course. Each course taught may be  
17                   counted only once. Instructors may claim only actual classroom time.

18  
19                   (f) **[Experience requirements]** ~~Persons appointed as child custody evaluators~~  
20                   ~~must satisfy initial experience requirements by~~ Before appointment, a child  
21                   custody evaluator must have completed or assisted in the completion of at least  
22                   four partial or full child custody evaluations within the preceding three years.  
23                   Each child custody evaluation must result in a written or an oral report.

24  
25                   (1) ~~Completing or supervising three court appointed partial or full child~~  
26                   ~~custody evaluations including a written or an oral report between January~~  
27                   ~~1, 2000, and July 1, 2003; or~~ To comply with these requirements, a child  
28                   custody evaluator must have either:

29  
30                   (A) Conducted the evaluations; or

31  
32                   (B) Assisted in the completion of the evaluations by conferring,  
33                   consulting, deliberating with, or receiving professional advice,  
34                   mentoring, assistance, or supervision from a child custody evaluator  
35                   who meets the licensing, education and training, and continuing  
36                   education requirements of this rule.

37  
38                   (2) ~~Conducting six child custody evaluations in consultation with another~~  
39                   ~~professional who meets the education, experience, and training requirements~~  
40                   ~~of this rule. Those evaluators who fulfilled the experience requirements~~  
41                   ~~under former subdivision (f) of this rule by December 31, 2006, and who~~  
42                   must complete additional child custody evaluations to comply with this  
43                   rule effective January 1, 2007, are deemed to be in compliance with the  
44                   requirements of this rule for purposes of appointment until January 1,

1                    2010, so long as the evaluator completes a total of four evaluations by  
2                    January 1, 2010. Thereafter, those evaluators must comply with the  
3                    experience requirements of (f)(1).  
4

5                    **(g) [Licensing requirements]** Before appointment under Family Code section  
6                    3110.5(c)(1)–(5), a child custody evaluator must be licensed as a psychologist,  
7                    marriage and family therapist, clinical social worker, or physician who is a  
8                    board-certified psychiatrist or who has completed a residency in psychiatry,  
9                    unless:

10  
11                    (1) The court certifies that the individual is a court-connected evaluator who  
12                    has completed the minimum requirements in (i); or

13  
14                    (2) Under Family Code section 3110.5(d), the court determines that Family  
15                    Code section 3110.5(c) does not apply because there are no evaluators  
16                    who meet the criteria of 3110.5(c) who are willing and available, within a  
17                    reasonable period of time, to perform child custody evaluations; and:

18  
19                    (A) In those cases, the parties stipulate to an individual who does not  
20                    meet the criteria of Family Code section 3110.5(c); and

21  
22                    (B) The court approves the individual as the evaluator.  
23

24                    ~~**(h) [Continuing education and training]** After completing the initial 40 hours of~~  
25                    ~~training, persons appointed as child custody evaluators must annually complete~~  
26                    ~~8 hours of update training covering subjects described in (e). This requirement~~  
27                    ~~is in addition to the annual 4 hours of domestic violence update training~~  
28                    ~~described in rule 5.230.~~  
29

30                    ~~**(g) (h) [Continuing education and training requirements]** After completing the~~  
31                    ~~education and training requirements described in (c) and (d), persons appointed~~  
32                    ~~as child custody evaluators must annually complete:~~  
33

34                    (1) Four hours of domestic violence update training as described in rule  
35                    5.230; and

36  
37                    (2) Eight hours of update training covering subjects as described in (d).  
38

39                    ~~**(i) [Ongoing clinical consultation]** When conducting evaluations, persons~~  
40                    ~~appointed as child custody evaluators should, where appropriate, seek~~  
41                    ~~guidance from professionals who meet the requirements of this rule.~~  
42

1 ~~(h)~~ **(i) [Court-connected evaluators]** A court-connected evaluator who does not  
2 meet the education and training requirements in ~~(d) and (e)~~ (d) may conduct  
3 child custody evaluations if, before appointment, he or she:  
4

5 (1) ~~If he or she has~~ Completed 20 of the 40 hours of education and training  
6 required by (d);

7  
8 (2) ~~If he or she~~ Completes the additional 20 hours of education and training  
9 required by (d) within 12 months of beginning practice as a child custody  
10 evaluator;

11  
12 (3) Complied with the domestic violence training requirements for a court-  
13 connected child custody evaluator under Family Code sections 1816 and  
14 3110.5 and rule 5.230 of the California Rules of Court;

15  
16 ~~(3)~~ (4) ~~If he or she~~ Complied with the experience requirements in (f); and

17  
18 ~~(4)~~ (5) ~~If,~~ During the period in which the evaluator does not meet the  
19 requirements of the rule, ~~he or she~~ is supervised by a court-connected  
20 evaluator who has complied with the ~~education, training, and experience~~  
21 requirements of this rule.  
22

23 ~~(j)~~ **[Appointment criteria]**

24  
25 ~~(1)~~ ~~On or after January 1, 2005, persons appointed as child custody evaluators~~  
26 ~~must meet the criteria set forth in Family Code section 3110.5(e)(1)-(5).~~

27  
28 ~~(2)~~ ~~If there are no child custody evaluators available locally who meet the criteria~~  
29 ~~of Family Code section 3110.5(e)(1)-(5), the parties may, under Family Code~~  
30 ~~section 3110.5(d), stipulate to an individual who does not meet the criteria~~  
31 ~~described in Family Code section 3110.5(e)(1)-(5), subject to approval by the~~  
32 ~~court. Any evaluator chosen must, at a minimum, have complied with the~~  
33 ~~education, training, and experience requirements in (d), (e), and (f).~~  
34

35 ~~(k)~~ **(j)** \*\*\*

36  
37 ~~(h)~~ **(k) [Child custody evaluator]** A person appointed as a child custody evaluator  
38 must:

39  
40 (1) Submit to the court a declaration indicating compliance with all  
41 applicable education, training, and experience requirements:

42  
43 (A) Court-connected child custody evaluators practicing as of January 1  
44 of the given year must submit ~~Judicial Council form~~ a Declaration

1 of Court-Connected Child Custody Evaluator Regarding  
2 Qualifications (form FL-325) to the local family court services  
3 office or administrator by January 30 of that year. Court-connected  
4 evaluators beginning practice after January 1 must file form FL-325  
5 before any work on the first child custody evaluation has begun and  
6 by January 30 of every year thereafter; and  
7

8 (B) Private child custody evaluators must complete a ~~Judicial Council~~  
9 ~~form~~ Declaration of Private Child Custody Evaluator Regarding  
10 Qualifications (form FL-326) and file it with the clerk's office no  
11 later than 10 days after notification of each appointment and before  
12 any work on each child custody evaluation has begun;  
13

14 (2)–(3) \*\*\*

15  
16 (4) Have a license in good standing if licensed at the time of appointment,  
17 except as described in (g) and Family Code section 3110.5(d).  
18

19 (5)–(6) \*\*\*

20  
21 (7) Where appropriate, seek guidance from professionals who meet the  
22 requirements of this rule when conducting evaluations.  
23

24 **(l) [Use of interns]** Court-appointed child custody evaluators may use interns to  
25 assist with child custody evaluations. Evaluators must disclose in their  
26 compliance declarations under (k) that they intend to use interns. Interns who  
27 are supervised by court-appointed child custody evaluators may:  
28

29 (1) Observe child custody evaluations; or  
30

31 (2) Assist in conducting child custody evaluations. To assist in conducting  
32 child custody evaluations, interns must be:  
33

34 (A) Enrolled in a graduate-level master's or doctorate program or have  
35 obtained a graduate degree in social work, marriage and family  
36 therapy, psychiatry, or psychology; and  
37

38 (B) Enrolled in or have completed coursework or training in domestic  
39 violence and child sexual abuse issues.  
40

41 **(m) [Education and training providers]** “Eligible providers” includes the  
42 Administrative Office of the Courts and may include educational institutions,  
43 professional associations, professional continuing education groups, public or

1 private for-profit or not-for-profit groups, and court-connected groups. Eligible  
2 providers must:

3  
4 (1)–(5) \*\*\*

5  
6 ~~(5)~~ (6) Meet the approval requirements described in (n).

7  
8 (n) ~~[Eligible training]~~ **[Program approval required]** ~~As of July 1, 2003, All~~  
9 eligible education and training programs must be approved by the  
10 Administrative Office of the Courts. Education and training courses that were  
11 taken between January 1, 2000, and July 1, 2003, may be applied toward the  
12 requirements of this rule if they addressed the subjects listed in ~~(e)~~ (d) and were  
13 either certified for continuing education credit by a professional provider group or  
14 offered as part of a related postgraduate degree or licensing program.

**Appointment Requirements for Child Custody Evaluators  
Comparison of Current Rule 5.225 and  
Proposed Changes Effective January 1, 2007**

Appointment Requirements	Private Evaluators		Court-Connected Evaluators		Other
	Current <sup>1</sup>	Proposed <sup>2</sup>	Current	Proposed	
<b>Licensing</b>	Not specified in rule. Referral to Fam. Code, § 3110.5	No substantive change in the law.  The rule would specify the licenses that a person must have to be appointed as a child custody evaluator.  A private child custody evaluator must be licensed as a psychiatrist, psychologist, MFT, or LCSW.	Not specified in rule. Referral to Fam. Code, § 3110.5	No substantive change in the law. The rule would specify the licenses or certification that a person must have to be appointed as a court-connected child custody evaluator.  A court-connected evaluator must be:  1. Licensed as a psychiatrist, psychologist, MFT, or LCSW;  Or  2. Certified by the court as meeting the qualifications for court-connected evaluators.	The rule would more specifically reflect current law that allows courts to appoint an unlicensed person to perform a child custody evaluation (if the person is not court connected). To do so, the court must find that all the following criteria have been met:  1. There are no licensed or certified evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;  2. The parties must stipulate to the person; and  3. The court must approve the person.
<b>Source:</b>	Rule 5.225(j) refers to Fam. Code, § 3110.5(c)(1)–(5)	Rule 5.225(c)(1)	Rule 5.225(j) refers to Fam. Code, § 3110.5(c)(1)–(5)	Rule 5.225(c)(2)(A)	Fam. Code § 3110.5(c); Rule 5.225(c)(2)(B)

<sup>1</sup> The information under “Current” reflects how rule 5.225 of the California Rules of Court addresses the “Appointment Requirement” identified in the chart.

<sup>2</sup> The information under “Proposed” reflects how the rule would be modified effective January 1, 2007, if approved by the Judicial Council.

## Appointment Requirements for Child Custody Evaluators (continued)

Appointment Requirements	Private Evaluators		Court-Connected Evaluators		Other
	Current	Proposed	Current	Proposed	
<b>Basic and Advanced Domestic Violence (DV) Training</b>	Basic DV training is included by reference to fulfilling the requirements under rule 5.230	No substantive change in current law. These requirements would be specified in the rule in a separate subdivision.	Basic DV training is included by reference to fulfilling the requirements under rule 5.230.	No substantive change in current law. These requirements would be specified in a separate subdivision.	None.
<i>Source:</i>	Rule 5.230	Rule 5.225(e)	Rule 5.230	Rule 5.225(e)	N/A
<b>Education and Training</b>	Requires 40 hours total in 21 subjects	Same education and training requirements.  The rule would spell out the areas of child sexual abuse training required by Fam. Code, § 3110.5 (currently the rule contains only a reference to these areas).	Must complete:  1. 40 hours total in 21 subjects; or  2. a. At least 20 of the 40 hours of education and training before being appointed; and  b. The remaining hours of education and training within 12 months of conducting the first court-connected evaluation.	Same education and training requirements.  The rule would be expanded to include areas of child sexual abuse training required by Fam. Code, § 3110.5	None.
<i>Source:</i>	Rule 5.225(e)	Rule 5.225(d)	Rule 5.225(e); 5.225(g)	Rule 5.225(d); 5.225(i)	N/A
<b>Annual Continuing Education Requirements</b>	8 hours of update training in subjects listed in rule 5.225 and  4 hours of DV update training	Reformatted.	Same as for private evaluators.	Reformatted.	None.
<i>Source:</i>	Rule 5.225(h)	Rule 5.225(h)	N/A	Rule 5.225(h)	N/A

## Appointment Requirements for Child Custody Evaluators (continued)

Appointment Requirements	Private Evaluators		Court-Connected Evaluators		Other
	Current	Proposed	Current	Proposed	
<b>Experience</b>	<p>Persons appointed as child custody evaluators must satisfy initial experience requirements by:</p> <ol style="list-style-type: none"> <li>1. Completing or supervising 3 court-appointed partial or full child custody evaluations, including a written or an oral report, between January 1, 2000, and July 1, 2003; or</li> <li>2. Conducting 6 child custody evaluations with another professional who meets the education, experience, and training requirements of this rule.</li> </ol>	<p>To satisfy the initial experience requirements of this rule, persons appointed as child custody evaluators must have participated in the completion of at least 4 partial or full court-appointed child custody evaluations within the preceding 3 years. Each of the evaluations must have resulted in a written or an oral report.</p> <p>The child custody evaluator participates in the completion of court-appointed child custody evaluations if the evaluator:</p> <ol style="list-style-type: none"> <li>1. Independently conducted and completed the evaluation; or</li> <li>2. Materially assisted another evaluator with specified qualifications..</li> </ol>	<p>Same as private evaluators</p>	<p>Same requirements for private evaluators.</p> <p>The rule would specify the experience requirements for those who supervise court-connected evaluators.</p> <p>Those who supervise court-connected evaluators must conduct or materially assist in the completion of at least 4 court-connected child custody evaluations in the preceding 3 years.</p>	<p>The rule would provide that the court may appoint an individual to conduct the child custody evaluation who does not meet the experience requirements, if the court finds that all the following criteria have been met:</p> <ol style="list-style-type: none"> <li>1. There are no evaluators who meet the experience requirements of this rule who are willing and available, within a reasonable period of time, to perform child custody evaluations;</li> <li>2. The parties stipulate to the person; and</li> <li>3. The court approves the person.</li> </ol>
<b>Source:</b>	Rule 5.225(f)	Rule 5.225(g)(1)	Rule 5.225(f)	Rule 5.225(g)(4)(A)	Rule 5.225(g)(3)

## Appointment Requirements for Child Custody Evaluators (continued)

Appointment Requirements	Private Evaluators		Court-Connected Evaluators		Other
	Current	Proposed	Current	Proposed	
<b>Experience (Phase-in Provision)</b>	None.	<p>An evaluator is deemed to be in compliance with the experience requirements of this rule until December 31, 2009, if he or she:</p> <ol style="list-style-type: none"> <li>1. Completed or supervised 3 court-appointed partial or full child custody evaluations, including a written or an oral report, between January 1, 2000, and July 1, 2003; or</li> <li>2. Conducted 6 child custody evaluations in consultation with another professional who met the experience requirements of the rule.</li> </ol> <p>Effective January 1, 2010, to be eligible for appointment, the professional will need to have conducted or materially assisted in the completion of at least 4 partial or full evaluations in the preceding 3 years.</p>	None.	<ol style="list-style-type: none"> <li>1. Same requirements for private evaluators.</li> <li>2. Those who supervise court-connected evaluators, if employed as of January 1, 2007:               <ol style="list-style-type: none"> <li>a. Are deemed to comply with the experience requirements of this rule until December 1, 2009;</li> <li>b. Effective January 1, 2010, must conduct or materially assist in the completion of at least 4 partial or full child custody evaluations in the preceding 3 years.</li> </ol> </li> </ol>	None.
<b>Source:</b>	N/A	Rule 5.225(g)(2)	N/A	Rules 5.225(g)(2) and 5.225(g)(4)(B)	N/A