Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

Title
Family Law: Child Custody Evaluators

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rule 5.225
and revise forms FL-325 and FL-326

Recommended by
Family and Juvenile Law Advisory Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Susan D. Huguenor, Cochair

Agenda Item Type
Action Required

Effective Date
January 1, 2011

Date of Report
August 8, 2010

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the council amend rule 5.225 of the California Rules of Court and revise forms FL-325 and FL-326 to delete outdated experience requirements and clarify the time frame for completing initial and continuing education and training requirements for evaluators appointed to conduct child custody evaluations in family court.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2011:

- Amend rule 5.225 to: (1) delete the experience requirements in the rule that were effective until December 31, 2009, (2) clarify the requirements for a child custody evaluator's appointment, and (3) clarify when court evaluators must complete the continuing education and training requirements of the rule to remain eligible for appointment;

- Revise *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to reflect the amendments to the rule regarding experience and continuing education and training requirements; and

- Revise *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL-326) to also reflect the amendments to the rule regarding experience and continuing education and training requirements.

The text of the amended rule is attached at pages 6–9; copies of forms FL-325 and FL-326 are attached at pages 10–13.

Previous Council Action

- Effective January 1, 2007, the Judicial Council reorganized and amended rule 5.225 and revised forms FL-325 and FL-326 to update the experience requirements of the rule and assist the courts and evaluators in understanding and complying with the appointment requirements for child custody evaluators.

- Effective January 1, 2005, the Judicial Council amended rule 5.225, adopted form FL-325, and revised form FL-326, to clarify the education, training, and experience requirements and certification procedures for court-appointed child custody evaluators.

- As required under Family Code section 3110.5, the Judicial Council adopted rule 5.225 on January 1, 2000, to establish the education, experience, and training requirements for child custody evaluators.

Rationale for Recommendation

Deleting outdated provisions

The Judicial Council amended rule 5.225, effective January 1, 2007, to further clarify the education and training and experience requirements and certification procedures for court-appointed child custody evaluators. Amended provisions under 5.225(g) gave evaluators (who met the experience requirements of the 2005 version of the rule) until December 31, 2009, to meet the new experience requirements. As of January 1, 2010, all child custody evaluators must meet the same experience requirements to qualify for appointment—they must have conducted or materially assisted in the completion of at least four partial or full court-appointed child custody evaluations in the preceding three years. This proposal would delete (g)(2) and (g)(4)(B), which reference the experience requirements that were in effect before January 1, 2007.

Requirements for appointment

Rule 5.225(h) provides that after they complete the initial education and training requirements of the rule, all evaluators must annually complete four hours of domestic violence update training

described in rule 5.230 and eight hours of update training covering the subject areas identified in 5.225(d).

The phrase "annually complete" has caused confusion for some courts, evaluators, and parties in trying to determine whether an evaluator is eligible for appointment. The specific concerns are that (1) the rule does not clearly state whether the evaluator has to complete both the initial education and training and continuing education and training before being appointed; (2) the rule does not provide a date by which the evaluator has to first complete the continuing education and training once the *initial* education and training are completed; and (3) the rule does not clearly state whether all evaluators must complete ongoing continuing education and training by the end of each year or by the date the evaluator is appointed to a case.

To address the first concern, rule 5.225(h) would be amended to clarify that an evaluator does not have to complete both the initial and continuing education and training requirements of the rule to be eligible for appointment. The title of (h) would be amended to read: "Appointment eligibility" and would provide the following: After completing the licensing requirements in (c), the initial education and training requirements described in (d) and (e), and the experience requirements in (g), a person is eligible for appointment as a child custody evaluator.

Continuing education and training requirements

Amended rule 5.225(i) would contain the rule's continuing education requirements. The rule would still require that child custody evaluators complete the domestic violence update training described in rule 5.230 and eight hours of update training covering the subjects described in (d). Rule 5.225(i) would be amended to include the time frame for completing the update training. The proposed amended language in rule 5.225 supports the original intent of the rule that child custody evaluators comply with continuing education and training requirements before being appointed to a case.

Comments, Alternatives Considered, and Policy Implications

The invitation to comment on the proposal was circulated from April 19, 2010, through June 18, 2010, 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, family dispute resolution directors, social workers, and other family law professionals, such as family court services directors, managers, supervisors, and staff.

Of a total of 14 commentators, 5 agreed with the original proposal, 5 agreed if modifications were made, 2 did not agree, and 2 did not indicate a specific position. The text of the comments and the committee's responses is attached at pages 14–24.

The following issues received the most significant comments:

- Continuing education and training requirements; and

- Difficulty complying with the rule's newly amended experience requirements.

Continuing education and training requirements

The Family and Juvenile Law Advisory Committee sought comment on revised language proposed to clarify the continuing education and training requirements. As circulated for comment, the rule provided that:

- A child custody evaluator must complete the continuing education and training requirements of the rule within 18 months after he or she completes the initial education and training described in (d) and (e);

- Subsequently, to remain eligible for appointment, a child custody evaluator must complete the continuing education and training requirements in the preceding 12 months before the date he or she is appointed; and

- Compliance with the continuing education and training requirements of the rule is determined at the time of appointment on a case.

While most commentators agreed with the proposed language, three commentators stated that the proposed language was still confusing. One commentator suggested that the provision should be written in "plain language." Two others suggested that "calendar year" be used to measure the time frame for completing the continuing education and training.

Based on the above comments, the committee recommended additional formatting and substantive changes to (i)(2) to specify, in a more understandable manner, the time frame for completing the continuing education and training requirements of the rule. However, instead of using the term "calendar year," the proposed new language takes into consideration that court-connected evaluators and private evaluators have different requirements for declaring their eligibility for appointment and links the time frame for completing continuing education and training to the requirements for submitting or filing the declarations regarding qualifications for appointment.

For example, court-connected child custody evaluators must submit form FL-325 in January of each year and declare that they meet the appointment requirements of rule 5.225. In light of this requirement, under the reworded (i)(2)(B)(i), court-connected child custody evaluators would have to complete the continuing education and training requirements within the 12-month period immediately preceding the date he or she signs *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325.)

In addition, because private child custody evaluators must file form FL-326 in a case file each time they are appointed as an evaluator, amended rule (i)(2)(B)(ii) would require private child custody evaluators to complete continuing education and training within the 12-month period immediately preceding his or her appointment to a case.

Difficulty complying with the rule's newly amended experience requirements
Three commentators did not comment on the specific issues presented in the invitation to comment. Instead, they expressed their difficulty in meeting the experience requirements as first-time evaluators under rule 5.225 as modified effective January 1, 2007. One person stated that "[t]his process appears to be very closed," and that current child custody evaluators are not open to "materially assist[ing]" clinicians interested in becoming evaluators in order to help them meet the experience qualifications. Another person stated that the experience requirements of the rule are "not based in the practice or language that reflects the actual relationships of licensed mental health professionals to one another." Another commentator suggested that the experience requirements be changed to require that new child custody evaluators be required to consult with another licensed professional for the first three evaluations.

While the comments relating to the experience requirements of the rule were beyond the scope of this proposal, the committee acknowledges the concerns raised by the commentators who seek opportunities to materially assist an evaluator appointed to perform a child custody evaluation under the rule amended effective January 1, 2007. In response, the committee recommends that staff from the Administrative Office of the Courts inquire further into the challenges for professionals trying to meet the experience requirements of the rule and investigate methods to improve access to opportunities for newly trained professionals to gain experience under the rule.

Implementation Requirements, Costs, and Operational Impacts

The implementation requirements, costs, and operational impacts of the proposal should be minimal. Standard reproduction costs will be incurred in distributing the revised forms. Child custody evaluators may also find these forms on the court's website and in public libraries, thus reducing the need for courts to maintain a large number of copies onsite.

Relevant Strategic Plan Goals and Operational Plan Objectives

The amended rule and revised forms support the policies underlying strategic Goal IV, "Quality of Justice and Service to the Public." Rules requiring the continuing education and training of court-appointed child custody evaluators help deliver high quality of justice and service to the public by ensuring that evaluators are well trained before they receive appointment. Clarifying rules in this area is an example of effecting programs and strategies to ensure that court procedures and processes are fair and understandable.

Attachments

1. Cal. Rules of court, rule 5.225, at pages 6–9
2. Form FL-325, at pages 10–11
3. Form FL-326, at pages 12–13
4. Chart of comments, at pages 14–24

Rule 5.225 of the California Rules of Court is amended effective January 1, 2011, to read:

Rule 5.225. Appointment requirements for child custody evaluators

(a)–(f) ***

(g) **Experience requirements**

To satisfy the experience requirements of this rule, persons appointed as child custody evaluators must have participated in the completion of at least four partial or full court-appointed child custody evaluations within the preceding three years, as described below. Each of the four child custody evaluations must have resulted in a written or an oral report.

(1) ***

~~(2) For purposes of appointment:~~

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

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

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

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

~~(3)~~ (2) ***

~~(4)~~ (3) Those who supervise court-connected evaluators~~:~~ meet the requirements of this rule by conducting or materially assisting in the completion of at least four partial or full court-connected child custody evaluations in the preceding three years.

~~(A) Meet the experience requirements of this rule by conducting or materially assisting in the completion of at least four partial or full~~

~~court-connected child custody evaluations in the preceding three years; or~~

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

(h) ~~Continuing education and training requirements~~Appointment eligibility

After completing the licensing requirements in (c), the initial education and training requirements described in (d) and (e), and the experience requirements in (g), ~~persons appointed as child custody evaluators must annually complete the:~~ a person is eligible for appointment as a child custody evaluator.

~~(1) Domestic violence update training described in rule 5.230; and~~

~~(2) Eight hours of update training covering the subjects described in (d).~~

(i) Continuing education and training requirements

(1) After a child custody evaluator completes the initial education and training requirements described in (d) and (e), the evaluator must complete these continuing education and training requirements to remain eligible for appointment:

(A) Domestic violence update training described in rule 5.230; and

(B) Eight hours of update training covering the subjects described in (d).

(2) The time frame for completing continuing education and training in (1) is as follows:

(A) A newly trained court-connected or private child custody evaluator who recently completed the education and training in (d) and (e) must:

(i) Complete the continuing education and training requirements of this rule within 18 months from the date he or she completed the initial education and training; and

(ii) Specify on form FL-325 or FL-326 the date by which he or she must complete the continuing education and training requirements of this rule.

(B) All other court-connected or private child custody evaluators must complete the continuing education and training requirements in (1) as follows:

(i) Court-connected child custody evaluators must complete the continuing education and training requirements within the 12-month period immediately preceding the date he or she signs the *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325), which must be submitted as provided by (*l*) of this rule.

(ii) Private child custody evaluators must complete the continuing education and training requirements within the 12-month period immediately preceding his or her appointment to a case.

(3) Compliance with the continuing education and training requirements of this rule is determined at the time of appointment to a case.

~~(i)~~ **(j)** ***

~~(j)~~ **(k)** ***

~~(k)~~ ***(l)*** **Child custody evaluator**

A person appointed as a child custody evaluator must:

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

(A) Court-connected child custody evaluators must submit a *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to the court executive

officer or his or her designee. Court-connected child custody evaluators practicing as of January 1 of a given year must submit ~~a *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to the court executive officer or his or her designee~~ the form by January 30 of that year. Court-connected evaluators beginning practice after January 1 must ~~file~~ submit the form ~~FL-325~~ before any work on the first child custody evaluation has begun and by January 30 of every year thereafter; and

(B) ***

(2)–(6) ***

~~(l)~~ (m) ***

~~(m)~~ (n) Education and training providers

"Eligible providers" includes the Administrative Office of the Courts and may include educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups. Eligible providers must:

(1)–(5) ***

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

~~(n)~~ (o) ***

EVALUATOR (*Name and address):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* E-MAIL ADDRESS *(Optional):*	Draft 11 07/29/10 gds Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
DECLARATION OF COURT-CONNECTED CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS	

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(j); 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 item 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. 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.

CONTINUING EDUCATION AND TRAINING REQUIREMENTS

8. a. ☐ I have recently completed the initial education and training in item 7. I must complete the continuing education and training requirements of rule 5.225(i) by *(specify date):* (within 18 months after completing the initial education and training described in items 7a and 7b).

Form Adopted for Mandatory Use
Judicial Council of California
FL-325 [Rev. January 1, 2011]

Family Code, §§ 1816, 3110.5;
Cal. Rules of Court, rules 5.225, 5.230
www.courts.ca.gov

EVALUATOR'S NAME:	

8.b. ☐ I have completed the continuing education and training requirements within the 12-month period immediately preceding the date I signed this declaration:

(1) ☐ 8 hours of update training requirements covering the subjects described in rule 5.225(d)

(2) ☐ 4 hours of domestic violence update training under rule 5.230

9. ☐ I have complied with the experience requirements for a court-connected child custody evaluator specified in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years.

a. ☐ I independently conducted and completed the child custody evaluations as stated in rule 5.225(g)(1)(A); or

b. ☐ I materially assisted another evaluator as stated in rule 5.225(g)(1)(B).

10. ☐ I have complied with the experience requirements for those who supervise court-connected child custody evaluators because I conducted or materially assisted in the completion of four court-connected child custody evaluations in the preceding three years as stated in rule 5.225(g)(3).

11. ☐ I have not complied with the experience requirements for child custody evaluators stated 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)(2), all the following criteria have been met:

1. **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;**
2. **The parties have stipulated that the person may conduct the evaluation; and**
3. **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(m) and will work under my supervision at all times.

NOTICE

All court-connected child custody evaluators must submit this form to the court executive officer or his or her designee. Court-connected child custody evaluators appointed as of January 1 of a given year must submit this form by January 30 of that year. Court-connected evaluators beginning practice after January 1 must submit 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(*l*)(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):* TELEPHONE NO.: FAX NO. *(Optional):* E-MAIL ADDRESS *(Optional):*	*FOR COURT USE ONLY*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	Draft 11 07/29/2010 gds Not approved by the Judicial Council
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
DECLARATION OF PRIVATE CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS	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.
3. I submit this form to indicate compliance with all applicable requirements for a private child custody evaluator under rule 5.225 of the California Rules of Court at the time of my appointment to this case. .

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

   c. ☐ I am not licensed as indicated in 4a or 4b.

   NOTICE: If item 4c 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 child custody evaluation; and

   (3) The court approves the person's appointment.

EDUCATION AND TRAINING REQUIREMENTS

5. I have completed:

   a. ☐ The basic and advanced domestic violence training requirements under rule 5.225(e); and

   b. ☐ The 40 hours of education and training requirements under rule 5.225(d).

CONTINUING EDUCATION AND TRAINING REQUIREMENTS

6. a. ☐ I have recently completed the initial education and training in item 5. I am required to complete the continuing education requirements of rule 5.225(i) by *(specify):* (within 18 months after completing the initial education and training described in item 5); or

   b. ☐ I have completed the continuing education and training requirements under rule 5.225(i) within the 12-month period immediately preceding my appointment to this case:

   (1) ☐ 8 hours of update training requirements covering the subjects described in rule 5.225(d)

   (2) ☐ 4 hours of domestic violence update training under rule 5.230

Form Adopted for Mandatory Use
Judicial Council of California
FL-326 [Rev. January 1, 2011]

Family Code, §§ 1816, 3110.5;
Cal. Rules of Court, rules 5.225, 5.230
www.courts.ca.gov

EVALUATOR'S NAME: PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:

7. ☐ I have complied with the experience requirements for a private child custody evaluator specified in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years.
   a. ☐ I independently conducted and completed the child custody evaluations as required in rule 5.225(g)(1)(A); or
   b. ☐ I materially assisted another evaluator as stated in rule 5.225(g)(1)(B).

8. ☐ I have not complied with the experience requirements for child custody evaluators stated in rule 5.225(g)(1).
   NOTICE: If item 8 is checked, the court may not appoint an evaluator to perform a child custody evaluation unless, under rule 5.225(g)(2), all the following criteria have been met:
   1. **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;**
   2. **The parties have stipulated that the person may conduct the evaluation; and**
   3. **The court approves the person's appointment.**

USE OF INTERNS

9. ☐ 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(m) 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(*l*)(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)

SPR10-32

Family Law: Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325 and FL-326)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Anonymous	AM	Included in this proposal should be language that evaluators cannot not have any criminal records or history.	The committee does not recommend the proposed change. Child custody evaluators are regulated by the Medical Board, Board of Psychiatry, or the Board of Behavioral Sciences. It is a function of these Boards to address the ability of an evaluator to obtain or maintain a license based on any criminal records or history. For example, the unprofessional conduct statutes of California's Board licensing law (Business and Professions Code (BPC) sections 4982(a), 4989.54(a) and 4992.3(a)) allow Boards to deny a license or a registration, or suspend or revoke a license of registration for unprofessional conduct, including the conviction of a crime substantially related to the qualifications, functions or duties of a licensee or registrant. Further, under BPC section 4996.6, upon renewal, a licensee is required to notify the Board whether he or she has been convicted, as defined in BPC Section 490, of a misdemeanor or a felony. The committee does not believe that regulations such as the above need to be repeated in rule 5.225 or forms FL-325 and FL-326.
2.	Fb's California Family Law Cheryle Perez Joshua Tree	AM	*Commentator believes that family law evaluators need to have "a lot more training."	Rule 5.225 requires child custody evaluators to receive 40 hours of initial education and training in 21 subject areas. In addition, the rule requires basic training and 16 hours of advanced training in the subject of domestic violence under rule 5.230. Further, all child custody evaluators must complete update training each year—8 hours of training in any of the 21 subject areas specified

	Commentator	Position	Comment	Committee Response
				in the rule and 4 hours of training covering issues in domestic violence. The committee does not have the authority to expand on the education and training requirements that are mandated by statute under Family Code section 1816.
3.	Hon. Louise Bayles-Fightmaster Commissioner Superior Court of Sonoma County (not on behalf of the court) Santa Rosa	A	Agree with proposed changes.	No response required.
4.	FLW Living Well Services Ricka L. White Sosso, LCSW Oakland	N	I do not agree with the language of 9 a on the FL-325 form and 6 a on the FL-326 form under Experience Requirements. Since 2007, I have been working on ensuring that I meet requirements to hopefully become a Private Child Custody Evaluator (CCE). I am now licensed. I have had the initial 40 hours of education and training plus maintained annually the 8-hour update and 4- hour Domestic Violence update. In addition, I have both a Domestic Violence Counselor and Sexual Assault Advocate Certification. To date, I have successfully met all requirements except for the experience requirement to meet the qualifications to become a CCE. This process appears to be very closed. Current CCEs are not very forthcoming or open to allowing clinicians who are interested in becoming CCEs to "materially	Although the comments relating to the experience requirements of the rule were beyond the scope of this proposal, the committee acknowledges the concerns raised by the commentators who seek opportunities to materially assist an evaluator appointed to perform a child custody evaluation under the rule amended effective January 1, 2007. In response, the committee recommends that staff from the Administrative Office of the Courts inquire further into the challenges for professionals trying to meet the experience requirements of the rule and investigate methods to improve access to opportunities for newly trained professionals to gain experience under the rule.

	Commentator	Position	Comment	Committee Response
			assist" them on Child Custody Evaluations in order to meet the experience qualification.	
			Proposed language for 9 a (FL-325) & 6 a (FL-326): "With the supervision and/or consultation of a CCE who is in incompliance with all qualifications and listed on a court provided list of CCEs, conducted and completed the child custody evaluations as stated in rule 5.225 (g)(1)(A)".	The proposed suggestions relate to an issue that is beyond the scope of the proposal. For reasons specified in the Judicial Council report dated September 11, 2006, the committee deleted the language in the rule relating to the appointment of child custody evaluators with no experience who work in consultation with an experienced evaluator.
			However, even this language as well as the proposed language listed for SPR10-32 leaves room for confusion allowing for continued issues with getting experience. For instance, I have identified someone who is willing to be available to consult with me on 4 Child Custody Evaluations but based on the rules, I can not be place on a CCE List in order to be assigned a court-appointed child custody evaluation until I meet the experience requirement. So how would I be able to "independently conduct and complete" or "conduct and complete" a child custody evaluation with supervision and/or consultation (as defined in a clinicians terms) if I'm not on the list to be selected?	See above response to FLW Living Well Services.
			The experience requirement has been impossible for me and other interested clinicians to obtain. This appears to ring true in Northern and Southern California. (Note: I	See above response to FLW Living Well Services.

	Commentator	Position	Comment	Committee Response
			know of at least 4 or 5 clinicians who have shared their frustration with trying to obtain the experience.) Do you have any suggestions on how best to get the assistance to meet the experience qualification? Are there any strategies being developed to help interested clinicians become CCEs? Will there be any direction for current CCEs to mentor a potential CCE? Some of the current CCEs were grandfathered into be approved to conduct Child Custody Evaluations. Others secured a mentor in order to get the experience. Once persons get on the lists is appears that there is little interest to assist someone else. In order to diversify the counties lists of CCEs, there must be some efforts to bring on new clinicians. Please work to develop language that will maintain the integrity of the experience requirement while at the same time allow for flexibility about how to obtain the experience to ensure inclusivity.	See above response to FLW Living Well Services. See above response to FLW Living Well Services.
5.	Susan Hanks, Ph.D., LCSW Bureau Chief Families & Children's Services Bureau Superior Court of Alameda County	AM	The clarification of the education requirements remains confusing. Is the intent that 1) an evaluator completes 40 hours of initial training, plus the domestic violence requirement prior to the first evaluation; then 2) he/she has another 18 months to complete the initial continuing education requirements and another 18 months after that to complete the on-going requirements (and another 18 months into perpetuity)? If so, it is confusing	The committee recommended additional formatting and substantive changes to the continuing education and training section of rule 5.225 to help clarify the requirements of subdivision (i). Specifically, (i)(2) was reformatted and now reads as follows: (2) The time frame for completing continuing

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			about the training needed "12 months before the date he or she is appointed" to remain eligible. Seems like this really means that training must be up-to-date every 12 months in order to remain eligible. Plain language please!	education and training in (1) is as follows: (A) A newly trained court-connected or private child custody evaluator who recently completed the education and training in (d) and (e) must: (i) Complete the continuing education and training requirements of this rule within 18 months from the date he or she completed the initial education and training; and (ii) Specify on form FL-325 or FL-326 the date by which he or she must complete the continuing education and training requirements of this rule. (B) All other court-connected or private child custody evaluators must complete the continuing education and training requirements in (1) as follows: (i) Court-connected child custody evaluators must complete the continuing education and training requirements within the 12 month period immediately preceding the date he or she signs the *Declaration of Court-Connected Evaluator Regarding Qualifications* (form FL-325), which must be submitted as provided by (*l*) of this rule.

	Commentator	Position	Comment	Committee Response
				(ii) Private child custody evaluators must complete the continuing education and training requirements within the 12 month period immediately preceding his or her appointment to a case.
			The experience requirements as applied to a first time private (i.e., non-court-connected) court-appointed child custody evaluator remain confusing and appear to be impossible to fulfill. It is not clear what the intent of the rule is. It is not based in the practice or language that reflects the actual relationships of licensed mental health professionals to one another. For instance, in order to be appointed, a licensed professional must have "independently conducted and completed at least four child custody evaluations within the preceding three years". However, this would be impossible for a private practitioner to accomplish if they could not have been appointed by the court in the first place. Or, a private practitioner can "materially assist another child custody evaluator…" who is assumedly a licensed mental health professional who has already become court appointed. There is no practice in the mental health professions relating to a licensed practitioner "materially assisting" another	The experience requirements of the rule were not issues raised in the invitation to comment. However, the changes suggested by the commentator are important issues that the committee may consider in a future cycle. See above response to FLW Living Well Services.

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			practitioner. Does this mean to act under the supervision of another licensed professional, or in consultation with another licensed professional? "Supervision" and "consultation" are quite different activities and entail different levels of oversight, liability, etc. In practice, one licensed professional does not supervise another licensed professional -- but does consult with another licensed professional. I propose that the language be modified to state that a licensed practitioner who meets the education requirements be required to consult with another qualified court-appointed practitioner for the first three evaluations -- and that they may become court-appointed whilethey are receiving consultation (otherwise they could not get any referrals from the court in the first place). I would also propose dropping the four year limit as this is arbitrary and may not reflect actual ebb and flow of these types of private referrals. Again, plain language please!	The proposed changes to rule 5.225 are beyond the scope of the proposal.
6.	James Livingston, Ph.D. San Jose	AM	First, reduce frequency of 4 annual hours dv training to biannual; annual trainers struggle to find anything not familiar to experienced custody evaluators.	The committee does not recommend reducing the frequency of the annual hours of domestic violence training in the rule. The number of required hours for training in the subject of domestic violence is mandated by Family Code section 1816. Further, Family Code section 3110.5(a) states: “No person my be a court-connected or private child custody evaluator under this chapter unless the person

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			Second, if annual requirement retained, should be for calendar year, rather than referring to date of last training.	has completed the domestic violence training program described in Section 1816 and has complied with Rules 5.220 and 5.225 of the California Rules of Court. Thus, any change in the frequency of the domestic violence training would require statutory amendments. The committee did not agree to measure the update training in terms of a "calendar year." Instead, the committee agreed to a completion date that is linked to the 12-month period immediately preceding a private evaluator's appointment to a case or the date the court-connected evaluator signs his or her declaration regarding qualifications. See response to commentator Susan Hanks, Ph.D, LCSW for the proposed text of the rule.
7.	Nancy Williams Olesen, Ph.D. Licensed Psychologist San Rafael	A	I am a child custody evaluator and think this will be a helpful clarification of the requirements.	No response required.
8.	Orange County Bar Association by Lei Lei Wang Ekvall President Newport Beach	A	No specific comment provided.	No response required.
9.	Gary R. Rick, Ph.D. Ventura	NI	*I understand the intent of the proposed change which is to resolve the ambiguity of when each yearly set of courses is to be taken. However, I consider the recommended procedure to be unrealistic. Courses are decreasingly available as the pool of evaluators appears to be tightening. Scheduling courses in your geographical area cannot always be done as easily as the changes imply. An	See above response to commentator Susan Hanks, Ph.D., LCSW.

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			evaluator will be essentially "yoked" to a date at which they took the last class just before the proposed change takes place. As an example, assume I take both courses on April 27 and 28, 2010. In 2011 an excellent course is offered in June of 2011 near my home area and a lesser desired course is available in March 2011, but out of my geographical driving distance.. Not only do I have to forgo a desired class, but have to put out several hundred dollars in plane and lodging fees. Also, I am now yoked to the March date. Pretty soon we will al be welcoming in the New Year at a custody class! My suggestion is to require the courses within each calendar year PERIOD. This assures that we keep up with training in a reasonable fashion with some flexibility in scheduling our lives. If a person takes courses in January of year one and December of year 2, they will have elapsed almost two years between trainings. However, this unlikely scenario can occur only once. In the third year, the courses will be taken no more than a year later and probably much less.	
10.	Jacqueline Singer Psychologist Sonoma	N	The Judicial Council must approve courses to be taken. This is a slow process. Sometimes courses you want to take aren't offered timely. Thus you are limited by WHAT is offered when not WHAT you NEED. Also 4 hrs of DV is too much – it should just be included in 12 hrs of continuing ed total to be	The committee did not request comment on the number of hours required for continuing education and training; rather, it sought comments about how best to define the time requirement to complete the continuing education and training. The number of required hours for training in the subject of domestic violence are mandated by

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			completed with in calendar year.	Family Code sections 1816 and 3110.5. Any change to this training would require a change in the statutes.
11.	Superior Court of Los Angeles County	A	The authors appear to have met their goal to clarify the requirements for appointment of a child custody evaluator and to clarify when evaluators must complete the continuing education and training requirements to remain eligible for appointment. The language in revised section (i)(2) which specifies that "continuing education and training requirements must be completed within the preceding 12 months before the date he/she is appointed" will be particularly helpful. The proposed revisions to forms FL 325 and FL 326 are most welcome. The language is very clear, concise and straightforward.	No response required. No response required.
12.	Superior Court of San Diego County By Michael M. Roddy Court Executive Officer	A	No specific comments.	No response required.
13.	Superior Court of Yolo County By James Perry Court Executive Officer	A	Yolo Superior Court agrees with the proposed changes. They clarify the training and experience requirements and make the forms consistent with the rule.	No response required.
14.	Edward L. Williams, LCSW Axiom Wellness Group, Inc.	AM	While the proposed changes brings clarity for training and experience time frames and subsequent training-updates, it does not address the fundamental need to modify the requirement for conducting four (4) evaluations on materially assisting (4) evaluations. Four evals is excessive and should be reduced to two (2)	The commentator indicates disagreement with the experience requirement provisions in the rule, which were not open to comment during this cycle. However, because the comments include important substantive issues regarding the ability of child custody evauators to comply with the amended experience requirements, the

SPR10-32

Family Law: Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325 and FL-326)

All comments are verbatim unless indicated by an asterisk (*).

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			evaluations as a requirement. In addition, there should be a requirement for current evaluations to assist in the process.	committtee may consider this issue in a future cycle.