

Anatomy of a Child Custody Evaluation

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If you and your ex-spouse find that you cannot agree on a custody and visitation plan, even after mediation and other settlement efforts, you might be ordered to participate in a child custody evaluation. Briefly, a child custody evaluation is a process in which a mental health expert, usually a psychologist, evaluates your family and makes a recommendation to the court for a custody / visitation or parenting plan that is in your child's best interests. This article will explain what you can expect when you have such an evaluation and how you can prepare yourself and your family for the evaluation.

What is a Child Custody Evaluation?

Unlike mediation or other settlement techniques, in which you and your ex-spouse are encouraged to reach your own agreement about custody and visitation and develop a parenting plan for your children, when you have a child custody evaluation, your evaluator will be recommending a particular plan to you and the court. It is not a settlement process like mediation. Rather, it is a process in which the evaluator gathers information about your family and makes a recommendation based on that information. In an ideal situation, you and your ex-spouse can use that recommendation to reach a settlement, but if not, the judge can use the evaluation, along with all other testimony, to make an order for your family.

Choosing an Evaluator

Many parents worry about the cost of a child custody evaluation. Depending on the jurisdiction, the size of your family, and the types of issues causing your disagreement, the evaluation might cost from \$2000 - \$6000. In your particular locale, there might be only a few available evaluators, but in larger metropolitan communities, there are usually a number of evaluators from which to choose. While it is tempting to choose the least expensive available evaluator, I would always recommend that you choose someone with experience and training specific to your needs.

Typically, your attorney or the judge will pick your evaluator, but you may be given some options. If so, you will want to ask the potential evaluator about his/her experience as a child custody evaluator, if he/she has taken any specific training about your issues of concern, and how he/she conducts the evaluation. This is especially true when there are special problems such as domestic violence, substance abuse problems, alienation of children, or relocation. While experienced evaluators might cost a bit more, you should recognize that your children will benefit from that experience.

The Evaluation Process

While not all evaluators utilize the same process, there are certain things that you should expect in all evaluations. These include:

- At least two, and perhaps three, individual interviews with each parent.
- At least two individual interviews with each child.
- Observations of your children with each parent.
- Review of court documents and other appropriate written information.
- Contact with some collateral sources (e.g. therapists, teachers, day-care personnel, pediatricians)
- A written report with specific recommendations about custody / visitation, and which addresses all of the major concerns raised by you and your ex-spouse.

In addition, your evaluator might do psychological testing or use questionnaires that help provide additional information about your emotional functioning or parenting style. These additional techniques are commonly used by psychologists, especially in more complicated evaluations, and they are designed to provide further information that will help in his/her recommendations. Your evaluator might also include a home visit at each parent's home. This is designed to give the evaluator an observation of your family in a more natural setting. Home visits are particularly useful with very young children, especially those under age 6.

Is The Evaluation Confidential?

The simple answer is no. Normally, when you see a psychologist, the information you share with the psychologist is confidential, and you can decide who has access to that information. However, in a court-ordered child custody evaluation, you do not have a "therapist-patient" relationship. Instead, in a child custody evaluation, the court is the client and holds the privilege. All material gathered by the evaluator is potentially discoverable by attorneys and the evaluator is subject to examination and cross-examination if the case goes to trial. Effective January 1, 1999, the Judicial Council of California has mandated that court-appointed evaluators must explain the limits of confidentiality to all participants, including children and collateral sources. If you are not certain about this, you will want to discuss it with your attorney and evaluator.

How to Approach Your Evaluation

Discuss the evaluation with your attorney and be prepared. Your evaluator will want to understand as much about your family as possible. Most parents are nervous when seeing the evaluator and will want to present themselves favorably. While this is normal, it is important to be open with the evaluator about your strengths and weaknesses as a parent. Most parents want to present the other parent negatively. While this is normal, it is

important to be open about your ex-spouses weaknesses and strengths as a parent. Try and stay more focused on the needs of your child than your differences with your ex-spouse. Try to be open to various custody / visitation plans, even though you favor a particular one. Try not to appear vindictive or overly critical. Consider the benefits to your child of maintaining a healthy relationship with his/her other parent and let the evaluator know that you understand this.

It is not uncommon for parents to want their evaluator to solve problems during the course of the evaluation. Quite simply, your evaluator cannot give advice. He/she has a job, and that job is evaluating you and your family. If your evaluator gives advice about some conflict in the middle of the evaluation, it may affect the outcome of the evaluation. I would suggest that you use your attorneys or a mediator to solve necessary conflicts during the evaluation, and let the evaluator assess the impact of that solution on your family and integrate it into his/her findings.

What to Tell Your Children

One of the more common questions I get at the start of a custody evaluation is, "how do I tell my child about this?" The first thing I do is ask parents how aware the child is of the conflicts. I ask parents what they have thought of to tell their child. In these ways, I am beginning my assessment of the parents' empathy and ability to put themselves into the place of their child. However, because I feel strongly that evaluators should take precautions to avoid harm to children, I will then answer this question of parents. Especially when children are aware of the conflicts, my answer is typically something like the following:

"When I meet with children, I always tell them that my job is to help their mother and father find ways to agree and cooperate about how to raise them. It would probably make sense to tell your child that I am a psychologist who is trying to understand as much about your family as possible, so that I can help the two of you learn to agree on parenting. Tell them that I will be wanting to learn as much as I can about them and their feelings, not just about the divorce and the two of you. Encourage your child to be open and talk about how he/she feels."

I then ask parents how they think their child will respond to the above, again trying to assess their awareness of their child's feelings.

What Can You Expect from the Recommendations?

As mentioned above, one of the main differences between an evaluation and settlement techniques like mediation is that the evaluator will be making recommendations about your family. Typically, recommendations will fall in several categories, including but not limited to:

- Custody / visitation recommendations
 - This will typically include both legal and physical custody.
 - For those families who always argue about these issues, the recommendations should be extremely precise and provide direction to the parents on how to modify visitation agreements when necessary.
- A parenting plan that outlines the time-share between the parents and how parents might deal with future conflict-resolution
 - Since conflict-resolution is difficult for many families who need a custody evaluation, the evaluator should make recommendations about how you can work together to solve future problems. In some jurisdictions, he/she might suggest a Special Master or Parenting Coordinator, someone who is like a binding arbitrator, to work with you on an ongoing basis to learn to resolve future problems.
- Therapy recommendations for either the parents and/or the children
 - A thorough evaluation will provide specific treatment recommendations rather than a vague statement about the need for therapy.
- When special problems exist, such as domestic violence, substance abuse problems, alienation of children, and others, there will likely be special recommendations focusing on those special issues. In some of those cases, there might be a recommendation for an updated evaluation after treatment or some period of time.
- Parenting classes when they are needed to help parents improve their understanding of their child's needs.
- With very young children, evaluators might recommend a re-evaluation as the child gets older and his/her needs significantly change.

I believe it is best for evaluators to give their observations and recommendations directly to parents, when feasible. Typically, when parents hear about evaluation results from their attorneys, there is a tendency to focus on the win-lose aspect of the case. Instead, when the evaluator meets with parents at the end of an evaluation, the evaluator can help parents stay focused on the child and his/her needs. I believe it is important to help parents remain focused on the children and their needs at all stages of the divorce process and this is the best way to guide parents to accomplish this after an evaluation.

Conclusion

In conclusion, your child custody evaluation, if approached correctly, can be a process which results in an opportunity for you and your ex-spouse to learn about how the two of you can work together on behalf of your children. Rather than a nerve-wracking activity in the win-lose approach to your divorce, a child custody evaluation should guide you toward a healthier resolution.

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