



Riegler, Shienvold & Associates

Mental Health Quick Notes

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Volume 1, Issue 8

May 2006

Custody Evaluations

Q My husband and I are going through a divorce. We are in conflict about many things, but the most important is the physical custody arrangement of the children. We are to go to a custody conciliation meeting and my attorney is recommending we seek a custody evaluation. I am not sure what that means?

First of all, when you file for a divorce and you have children, you will go with your attorneys to meet with a custody conciliator to discuss the parenting arrangements for the children on a temporary and/or permanent basis. The conciliator is an attorney who tries to help you, with the assistance of your attorneys, reach an agreement regarding the most appropriate parenting plan so that you do not have to go to the judge for a hearing about that issue. The best option for your children is for you and your husband to reach a mutually acceptable agreement regarding custody. However, if you cannot do that, then ultimately a judge will make the decision.

It is sometimes helpful in the process to have a custody evaluation to assist in the decision-making process. A custody evaluation consists of an extensive process of assessing your family so as to make recommendations regarding what type of parenting arrangement would be in the best interests of your children.

What can I expect about the process?

A custody evaluation is conducted by a neutral mental health professional who has special expertise in understanding and assessing parenting competency. Custody evaluations are typically very com-

prehensive. You can expect that you and the children's father will be individually interviewed on multiple occasions. Additionally, if either of you is involved in a new significant relationship, you can expect that those individuals will also undergo individual evaluations. Depending upon the ages of your children, they will be individually interviewed and you will be observed interacting with them either at the evaluator's office or in your home. If a psychologist is conducting the evaluation, you also will be asked to take certain psychological tests that can help the evaluator in the overall assessment. The evaluator is likely to request information such as school records, mental health records, medical records and other reports that provide insight into the situation. Once the evaluator has collected all of the needed information, they will write a report which then is typically forwarded to your attorneys who, in turn, will review it with you. At that point, you and your attorney will discuss how to utilize the recommendations in the report for future decision-making. The report may result in you and your husband settling your differences, or you may still disagree and need a judge to make the decision. If you are unable to reach a settlement, the report from the evaluator will probably be used at the court hearing to help the judge in her decision-making process.

Sometimes, the evaluator is called as a witness by one of the attorneys to provide testimony at the custody trial. The job of the evaluator is to serve as a consulting expert to the judge. The evaluator remains neutral in that they explain their findings from their evaluation, without bias towards either party.

Will the evaluator provide me with parenting advice?

While serving as a custody evalua-

tor, the evaluator is unlikely to offer any advice regarding your parenting situation. The custody evaluator's goal is to determine how a parent is currently handling situations. If they were offering advice they would be changing their role and thus undermining their neutral position.

Are custody evaluations confidential?

Whereas therapy is a confidential process, custody evaluations have limited confidentiality. The custody evaluator needs the freedom to ask each side involved in the dispute questions related to what they have heard from the other side. Thus, there is a considerable amount of sharing of information. Additionally, in most situations, the attorneys involved in the case will be allowed by the Court to have access to the records of the evaluator. Finally, if the case goes to a trial, when the evaluator testifies it will occur in open court. Therefore, anyone sitting in the courtroom will hear the testimony. You are safe to assume that what you and the evaluator discuss will not remain confidential.

How can I best prepare for a custody evaluation?

You have been preparing for a custody evaluation for the entire time you have been a parent. That is, if you believe you have been a good parent, just be honest with the evaluator about what you have been doing for all of these years. It would be a good idea to review with your attorney what factors are to be considered by judges when they are making custody determinations. Some of the factors that the evaluator will be examining are: Which party is more likely to encourage contact with the other party; Which parent creates the greatest stability for the children; How available are extended family or outside supports; Are there any issues of

abuse; What is the preference of the children; What are the tasks that each parent performs with the children; What is the level of conflict between the parents; Are there issues of drug and/or alcohol use; Are there individual mental health issues; etc? Most evaluators use the same factors as guides in their evaluations. Additionally, custody evaluations are anxiety producing. It is frightening to think that people other than yourself, individuals who are strangers to your family, will be making recommendations and decisions about the future of your relationship with your children. Therefore, anxiety over the situation is normal and most experienced custody evaluators are aware of your feelings and sensitive to the situation. Try to relax as best you can and be yourself in your presentation of the facts and concerns you have.

Is there an alternative to having the court decide the custodial fate of my children when my husband and I are having trouble agreeing on what is in their best interests?

Custody mediation is an alternative to the adversarial process of litigating a custody dispute. Mediation is a process by which a neutral third party serves as a facilitator between two parties in conflict. The mediator has no decision-making authority and does not have a stake in the outcome of the dispute. Their job is to help the parties communicate more effectively and work together to find a solution that meets the needs of all involved. Mediation is a voluntary process that allows you to maintain the control over the outcome of your dispute.

Does the mediator have to be an attorney?

No, many mediators, especially custody mediators, are mental health professionals who have obtained specialized training in mediation skills.

Mediation is not the practice of law. In mediation, conflicts are usually resolved based on the needs and interests of the participants. Legal cases are generally decided based on "rights" that the parties have under the law. Research has shown that when cases can be resolved on the basis of interests and needs, the parties are more satisfied with the results and thus less likely to engage in the same conflict in the future.

Is a mediation agreement legal?

When through the process of mediation you reach an agreement, the mediator will write a "Memorandum of Understanding" which you may then change into a legal agreement, either by yourselves or with the assistance of an attorney. Either you or an attorney who you choose can present the agreement to the court and it will become your custody order. It is usually best to have an attorney review these agreements so as to insure that they are properly done, but you have the option of finishing the process without an attorney's involvement.

How do I find a custody mediator?

The best way to locate a competent mediator is through a trusted referral source, such as an attorney, doctor, clergy or mental health professional. You can look in the Yellow Pages for mediators, but it is recommended that when you find one, you assess their credentials to insure that they have received specialized training in mediation. You may also contact the Association for Conflict Resolution in Washington, D.C. They maintain a referral list of mediators by state. Additionally, the local bar associations may have referral lists, although those are likely to contain only attorney-mediators. The Pennsylvania Council of Mediators also can provide a list of mediators.

At Riegler, Shienvold and Associates, Dr. Kasey Shienvold and Dr. Arnold Shienvold are trained mediators.

Contributed by Arnold Shienvold, Ph.D.

Custody and Mediation Resources

Muklewicz, C. & Graziano, D. (1999) *Kids First Parenting Plan: A child care planning guide for separating & divorcing parents.* Dunmore, PA: Kids First.

Muklewicz, C. (2005) *Kids First: Coping with divorce and family conflict.* Dunmore, PA: Kids First.

Muklewicz, C. (2004) *Take Conflict Out of Child Custody.* Dunmore, PA. Kids First

Ricci, I. (2006) *Mom's House, Dad's House for Kids.* New York. Simon & Shuster.

Ross, J.A. & Corcoran J. (1996) *Joint Custody with a Jerk: Raising a child...* New York. St. Martin's Press.

Association for Conflict Resolution:
www.acmet.org (202) 464-9700

Pennsylvania Council of Mediators:
www.pamediation.org (610) 526-1802

**Problems cannot be solved from
the same level of awareness
that created them.**

-Albert Einstein

Parenting Resources

**** All of Chet Muklewicz's books are available for purchase by clients at RSA or by calling (570) 341-2007.**

**** A wealth of parenting information on mental health information pertaining to children can be found at www.tourettesyndrome.net.**

**** The RSA newsletter will conclude for this year but will pick up in September with the Back to School issue.**

Staff of the Month



Bobbi Wagner

Bobbi is the newest staff person at RSA starting in February. She is the Authorization Coordinator. When not working hard, she is spending time with her two daughters.



Arnold Shienvold, Ph.D.

Dr. Shienvold is the founding partner of RSA. He has specialized in dealing with high conflict families since he began practice. He is recognized locally and nationally as an expert in the areas of custody evaluations and family mediation. Dr. Shienvold also does general forensic work.

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