

1 **Rule 4-903. Uniform custody evaluations.**

2 **Intent:**

3 To establish uniform guidelines for the performance of custody evaluations.

4 **Applicability:**

5 This rule shall apply to the district and juvenile courts.

6 **Statement of the Rule:**

7 ~~(1) Custody evaluations shall be performed by professionals who have specific training in~~
8 ~~child development, and who are licensed by the Utah Department of Occupational and~~
9 ~~Professional Licensing as either a:~~

10 ~~(1)(A) Licensed Clinical Social Worker;~~

11 ~~(1)(B) Licensed Psychologist;~~

12 ~~(1)(C) Licensed Physician who is board certified in psychiatry;~~

13 ~~(1)(D) Licensed Marriage and Family Therapist; or~~

14 ~~(1)(E) Licensed Clinical Mental Health Counselor.~~

15 (14) The purpose of the custody evaluation will be to provide the court with information it
16 can use to make decisions regarding custody and parenting time arrangements that are in
17 the child's best interest. Unless otherwise specified in the order, evaluators must
18 consider and respond to the custody factors set forth in Utah Code sections 30-3-10 and
19 30-3-10.2.

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21 (2) Custody evaluations shall be ordered only when a party requests it or when the court
22 makes specific findings that extraordinary circumstances exist that warrant an evaluation.
23 In either case, before appointing a custody evaluator, the court must find that the parties
24 have a present ability to pay for the evaluation.

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26 (32) Every motion or stipulation for the performance of a custody evaluation shall include:

27 (32)(A) the name, address, and telephone number of each evaluator nominated, or the
28 evaluator agreed upon;

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30 (32)(B) the anticipated dates of commencement and completion of the evaluation and
31 the estimated cost of the evaluation;

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33 (32)(C) specific factors, if any, to be addressed in the evaluation; and-

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35 | (3)(D) a copy of each proposed evaluator's recent curriculum vitae attached as exhibits
36 | The curriculum vitae must demonstrate compliance with the training
37 | requirements in paragraph (7).

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39 | (43) Every order requiring the performance of a custody evaluation shall:

40 | (43)(A) require the parties to cooperate as requested by the evaluator;

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42 | (43)(B) restrict disclosure of the evaluation's findings or recommendations and
43 | privileged information obtained except in the context of the subject litigation or
44 | other proceedings as deemed necessary by the court;

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46 | (43)(C) assign responsibility for payment from the beginning of the evaluation through
47 | the custody evaluation conference, ~~as well as the costs of the written report if~~
48 | ~~requested~~subject to reallocation at the time of trial;

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50 | (43)(D) specify dates for commencement and completion of the evaluation;

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52 | (43)(E) specify any additional factors to be addressed in the evaluation;

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54 | (43)(F) require the evaluator to provide written notice to the court, counsel and parties
55 | within five business days of completion (of information-gathering) or termination
56 | of the evaluation and, if terminated, the reason;

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58 | (43)(G) require counsel and parties to complete a custody evaluation conference with
59 | the court and the evaluator within 45 days of notice of completion (of information
60 | gathering) or termination unless otherwise directed by the court so that evaluator
61 | may issue a verbal report; and

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63 | (43)(H) require that any party wanting a written custody evaluation report give written
64 | notice to the evaluator within 45 days after the custody evaluation conference.
65 | The party requesting the written report shall pay for the costs of the same,
66 | subject to reallocation at the time of trial.

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68 | ~~(4) The purpose of the custody evaluation will be to provide the court with information it can~~
69 | ~~use to make decisions regarding custody and parenting time arrangements that are in the~~
70 | ~~child's best interest. Unless otherwise specified in the order, evaluators must consider and~~
71 | ~~respond to the custody factors set forth in Utah Code sections 30-3-10 and 30-3-10.2.~~

72 | (54) Custody evaluations shall be performed by mental health professionals who have
73 | specific training in child development, and who are licensed by the Utah Department of
74 | Occupational and Professional Licensing as either a:

75 | (54)(A) Licensed Clinical Social Worker;

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77 | (54)(B) Licensed Psychologist;

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79 | (54)(C) Licensed Physician who is board certified in psychiatry;

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81 | (54)(D) Licensed Marriage and Family Therapist; or

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83 | (54)(E) Licensed Clinical Mental Health Counselor.

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85 | (6) Child custody evaluators shall gain and maintain specialized knowledge and training in a
86 | wide range of topics specifically related to child custody work. Evaluators shall gain broad
87 | knowledge of family dynamics. Since research and laws pertaining to the field of divorce
88 | or separation and child custody are continually changing and advancing, child custody
89 | evaluators shall secure ongoing specialized training and education.

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91 | (7) Before accepting appointment, a child custody evaluator shall have completed 18 hours of
92 | education and training within the past two years, coinciding with the professional's
93 | licensure reporting deadlines, which must include all the following topics:

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95 | (7)(A) The psychological and developmental needs of children, especially as those needs
96 | relate to decisions about child custody and parent-time;

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98 | (7)(B) Family dynamics, including, but not limited to, parent-child relationships, blended
99 | families, and extended family relationships; and

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101 | (7)(C) The effects of separation, divorce, domestic violence, child sexual abuse, child
102 | physical or emotional abuse or neglect, substance abuse, and interparental conflict on the
103 | psychological and developmental needs of children and adults.

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105 | (85) In cases in which specific areas of concern exist such as domestic violence, sexual
106 | abuse, substance abuse, mental illness, and the evaluator does not possess specialized
107 | training or experience in the area(s) of concern, the evaluator shall consult with those
108 | having specialized training or experience. The assessment shall take into consideration
109 | the potential danger posed to the child's custodian and the child(ren).

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(9) Evaluators having conducted fewer than three (3) evaluations shall consult with another professional who meets the education, experience, and training requirements of this rule, sufficient to review, instruct, and comment on the entire evaluation process.

~~(106)~~ In cases in which psychological testing is employed as a component of the evaluation, it shall be conducted by a licensed psychologist who is trained in the use of the tests administered, and adheres to the ethical standards for the use and interpretation of psychological tests in the jurisdiction in which he or she is licensed to practice. ~~If psychological testing is conducted with adults and/or children, it shall be done with knowledge of the limits of the testing and should be viewed within the context of information gained from clinical interviews and other available data. Conclusions drawn from psychological testing should take into account the inherent stresses associated with divorce and custody disputes.~~ The evaluator shall consider the psychological testing results with the understanding that they are hypotheses that need to be supported by and integrated with all other data gathered.

Effective May/November 1, 20__19