

**APPENDIX 24.13: COURT-SPECIFIC RULES CONCERNING MENTAL HEALTH EVALUATIONS IN FAMILY LAW PROCEEDINGS**

COURT	PARISHES	COURT-SPECIFIC RULES CONCERNING MENTAL HEALTH EVALUATIONS IN FAMILY LAW PROCEEDINGS
4 <sup>th</sup> J.D.C.	Morehouse and Ouachita Parishes	<p>In the event the Hearing Officer believes the matter is appropriate for an evaluation by a mental health professional, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the time within which to comply with any order implementing the recommendation and the manner in which the costs of said evaluation should be advanced by the parties. The parties shall either agree to a particular professional, or the Hearing Officer shall select one from a rotating list of competent mental health professionals. The Hearing Officer shall also prepare an Order for Custody Evaluation at the time of the Hearing Officer Conference, in substantial compliance with 4<sup>th</sup> JDC Family Docket Form 7.0 for the review and consideration of the assigned civil Judge. Form 7.0 may be found on the court website at <a href="http://www.4jdc.com/familycourt.htm">www.4jdc.com/familycourt.htm</a>. The Hearing Officer shall also instruct that a certified copy of the order be sent to the mental health professional by the Clerk of Court.</p>
14 <sup>th</sup> J.D.C.	Calcasieu Parish	<p>A. If mental health assistance is ordered, an <i>Order for Mental Health Assistance</i> shall be executed and delivered to the mental health professional, all parties, and all counsel of record by hand delivery, mail, or facsimile.</p> <p>B. Unless otherwise agreed by the parties, when a custody evaluation is ordered, the “mental health professional” shall be a person who is a psychiatrist or a person who possesses a doctorate degree in counseling, social work, psychology, public health or marriage and family counseling and is licensed by the appropriate State Board.</p> <p>C. Unless otherwise agreed by the parties, when any other type of mental health assistance is ordered, the “mental health professional” shall be a person who possesses at least a master’s degree in counseling, social work, psychology, or marriage and family counseling and is licensed by the appropriate State Board.</p> <p>D. Unless otherwise agreed by the parties, when mental health assistance is ordered, there shall have been no prior communications between the attorneys or the parties and the mental health professional concerning the issues in the pending matter, other than communications for the sole purpose of determining the availability of the mental health professional or to identify any conflicts of interest the mental health professional may have with the parties or the children.</p>

		<p>E. When mental health assistance is ordered and the mental health professional has been appointed, the attorneys and the mental health professional shall proceed as follows:</p> <ol style="list-style-type: none"> <li>(1) There shall be no contact between the attorneys and the mental health professional other than in writing, with copies of all correspondence and attachments copied to opposing party with the attorney's certification. Any oral contacts shall be by conference call or joint meeting which shall include all counsel or parties, if unrepresented. All correspondence from the mental health professional shall be directed to the Court and all attorneys of record. Any violation of this rule shall be reported by the mental health professional to the Court.</li> <li>(2) The attorneys shall not use the clients or the children to send written communications to the mental health professional.</li> <li>(3) In the event the mental health professional determines that the minor child is at risk for physical injury or may suffer serious and demonstrable psychological trauma due to the condition or circumstances of any party or any child, the mental health professional shall immediately notify the Court and all counsel of record in writing.</li> </ol>
<p>15<sup>th</sup> J.D.C.</p>	<p>Acadia, Lafayette, and Vermilion Parishes</p> <p>Amended October 30, 2015, effective October 1, 2015.</p>	<p>Section A. At the time of the Hearing Officer Conference with the hearing officer, if either party has moved for a mental health evaluation under La. R.S. 9:331, the parties or their respective counsel shall have an opportunity to provide a verbal statement and other documentary evidence of their positions to the hearing officer with regard to the custody and/or visitation issues before the Court. The hearing officer shall then recommend whether the matter is appropriate for a mental health evaluation and if so, how the costs shall be apportioned pending the hearing on the merits of the custody and/or visitation proceeding.</p> <p>B. If the hearing officer recommends referring the matter to a mental health professional for evaluation, an <i>Order for Mental Health Evaluation</i> shall issue at the time of the Hearing Officer Conference, in substantial compliance with the form on the Court's website. The Clerk of Court shall send a certified copy of the order to the mental health professional and any unrepresented party by mail to the address contained on the order, simultaneously with the mailing of the Notice to all counsel of record. A party objecting to the hearing officer's recommendation referring the matter for evaluation shall have five (5) days exclusive of holidays within which to file an objection to the order.</p> <p>Section C. If the hearing officer does not recommend referring the matter to a mental health professional for an evaluation, either party shall have five (5) court days</p>

		<p>exclusive of holidays within which to file an objection to the recommendation denying the requested order;</p> <p>Section D. In the event either party objects to the recommendation of the hearing officer regarding the issue of mental health evaluation, the issue shall proceed before the designated Division Judge (or said matter shall immediately be set for hearing before said Division Judge if a rule date has not already been scheduled) who shall hear the matter <i>de novo</i>.</p> <p>Section E. When a custody/visitation evaluation is agreed upon by the parties or is ordered by the Court pursuant to La. R.S. 9:331 after a contradictory hearing, the attorneys shall submit an order substantially in compliance with the form on the Court's website. The Clerk of Court shall send a certified copy of the order to the mental health professional and any unrepresented party, by mail—to the address contained on the order, simultaneously with the mailing of Notice to all counsel of record.</p> <p>Section F. Unless otherwise agreed by the parties, when any evaluation is ordered by the Court pursuant to La. R.S. 9:331, there shall have been no prior communications between the attorneys or the parties and the mental health professional concerning the issues in the pending matter, other than communications for the sole purpose of determining the availability of the mental health professional or to identify any conflicts of interest the mental health professional may have with the parties or the children.</p> <p>Section G. When an evaluation is ordered by the Court pursuant to La. R.S. 9:331 and the mental health professional has been appointed, by the attorneys and the mental health professional shall proceed as follows:</p> <ol style="list-style-type: none"><li>1. There shall be no ex-parte contact between the attorneys and the mental health professional. All oral contacts shall be by conference call or joint meeting. All correspondence from the mental health professional shall be directed to all attorneys of record. All correspondence to the mental health professional shall be by joint letter from all attorneys of record, or if not by joint letter, the correspondence shall be pre-approved by all attorneys of record, and shall contain the following certification by the attorney-author: "I do hereby certify that a copy of this letter and attachments, if any have been previously provided to all counsel of record and I have their express approval prior to its delivery to you."</li><li>2. In the event the attorneys of record cannot agree whether certain information or documentation should be provided to the mental health professional, the attorney of record who desires to provide the information to the mental health professional shall arrange a conference call or joint meeting between all attorneys of record and mental health</li></ol>
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		<p>professional, so that the mental health professional can decide if the information would be relevant to the evaluation. Alternatively, the attorneys of record may request a status conference from the Court.</p> <p>3. The attorneys shall not use the parties or the children to send documents, evidence or written communications to the mental health professional. The parties shall not provide documents, evidence or written communications to the mental health professional unless specifically requested by the mental health professional to do so. Copies of all such documents, evidence or written communications shall be simultaneously provided to the opposing counsel or unrepresented party.</p> <p>4. In the event the mental health professional determines that the minor child is at risk for physical injury or may suffer serious and demonstrable psychological trauma due to the condition or circumstances of any party or any child, the mental health professional shall immediately contact the Court, and all counsel of record to advise of the matter.</p> <p>5. Once the evaluation has been completed, the mental health professional shall, within a reasonable period of time, provide a short form report to the Court, all attorneys of record and any unrepresented party to include at least the following information:</p> <ul style="list-style-type: none"> <li>(a) The number of contacts with the parties and the children and the types of tests administered to the parties and/or the children, if any.</li> <li>(b) A listing of other sources of information and a listing of any relevant information that could not be obtained.</li> <li>(c) Identify any specific opinions or facts regarding the parties or the children that may impact the issues before the court.</li> <li>(d) Any specific recommendation in light of the opinions or facts set forth in (c).</li> </ul> <p>6. If any attorney of record requires additional information, this information shall be requested as set forth in Section G(1) above, or by deposition.</p> <p>7. If the Court requires additional information, this information shall be provided by whatever means the Court deems appropriate.</p>
16 <sup>th</sup> J.D.C.	St. Mary, Iberia, and St. Martin Parishes	<p>A. At the time of the Hearing Officer Conference, if either party has moved for a mental health or custody evaluation under La. R.S. 9:331, the parties or their respective counsel shall have an opportunity to provide a verbal statement and other documentary evidence of their positions to the Hearing Officer with regard to the custody and/or visitation issues before the Court. In the event the Hearing Officer believes the matter is appropriate for an evaluation by a mental health</p>

		<p>professional, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the time within which to comply with any order implementing the recommendation and the manner in which the costs of said evaluation should be advanced by the parties. The Hearing Officer may, but is not required to, include a recommendation of a specific mental health professional to perform the evaluation.</p> <p>B. If the Hearing Officer recommends that the matter be referred to a mental health professional for evaluation, the Hearing Officer shall prepare an Order for Custody Evaluation at the time of the Hearing Officer Conference, in substantial compliance with the <i>Order for Custody Evaluation</i> for the review and consideration of the presiding Judge. A party objecting to the recommendation that a matter should be referred to a mental health professional for evaluation shall file a written objection with the clerk of court as provided elsewhere in these rules. In the event the Court orders the matter referred to a mental health professional for evaluation, the Clerk of Court shall send a certified copy of the order to the mental health professional and any unrepresented party, by certified mail, return receipt requested, to the address contained on the order, simultaneously with the mailing of Notice to all counsel of record.</p> <p>C. In the event the parties agree to the recommendation of the Hearing Officer that the matter should be referred to a mental health professional for an evaluation, the Hearing Officer shall prepare the appropriate consent Order for Custody Evaluation for the review and approval of the parties and, if they are represented by legal counsel, their respective counsel of record, which shall then be submitted to the Court for approval and execution.</p> <p style="text-align: center;"><u>Comment</u> Custody Evaluations, former Sixteenth Judicial District Court Rule 5A.7.</p>
18 <sup>th</sup> J.D.C.	Iberville, Pointe Coupee, and West Baton Rouge Parishes	<p style="text-align: center;">MENTAL HEALTH EVALUATIONS IN CUSTODY/VISITATION PROCEEDINGS</p> <p>Section A.</p> <p>At the time of the Intake Conference with the hearing officer, if either party has moved for a mental health evaluation under La. R.S. 9:331, the parties or their respective counsel shall have an opportunity to provide a verbal statement and other documentary evidence of their positions to the hearing officer with regard to the custody and/or visitation issues before the Court. The hearing officer shall then determine whether the matter is appropriate for a mental health evaluation and if so, how the costs shall be apportioned pending the hearing on the merits of the custody and/or visitation proceeding.</p>

		<p>Section B.</p> <p>If the hearing officer refers or the parties agree the matter to a mental health professional for evaluation, an Order for Custody Evaluation shall issue at the time of the Intake Conference, in substantial compliance with Form S (Order For Custody Evaluation). The Attorneys or parties shall send a certified copy of the order to the mental health professional and any unrepresented party, by certified mail, return receipt requested, to the address contained on the order, simultaneously with the mailing of Notice to all counsel of record.</p> <p>Parties shall exchange information with 15 days from mediation.</p> <p>Section C.</p> <p>An evaluation shall be pursuant to La. R.S. 9:331.</p> <p>Section D.</p> <p>At the conclusion of the mediation between the parties, the parties and /or their attorney shall report to the Court that the parties have reached a mediated agreement, and shall provide a memorandum of understanding to the parties and their respective legal counsel, summarizing the nature and substance of the parties' agreement. In the event no settlement was reached, the mediator shall report to the Court, the parties, and their respective legal counsel that the parties were unable to reach a mediated agreement.</p>
<p>22<sup>nd</sup> J.D.C.</p>	<p>St. Tammany and Washington Parishes</p>	<p>A. Motions for Evaluations shall be set on an expedited basis, as the Court's schedule permits.</p> <p>B. At the time of the Hearing Officer Conference, if either party has moved for an evaluation pursuant to La. R.S. 9:331, the parties or their counsel shall have an opportunity to provide a verbal statement and/or documentary evidence of their positions. The Hearing Officer shall then recommend whether an evaluation is appropriate, and if so, how the costs shall be apportioned. This will remain a recommendation only until the date assigned for hearing on the Court's docket, unless no objection is filed, in which case the recommendation becomes a final order of the Court.</p> <p>C. Unless otherwise agreed by the parties, when an evaluation is ordered by the Court pursuant to La. R.S. 9:331, the "mental health professional" shall be a person who possesses at least a Master's degree in counseling, social work, psychology, or marriage and family counseling, or be a licensed psychiatrist.</p> <p>D. When a mental health evaluator has been appointed by</p>

		<p>the Court, there shall be no ex parte communication by the litigants or their attorneys with the mental health evaluator unless authorized by law or court order, or requested by the mental health evaluator. Unless otherwise agreed by the parties or authorized by the mental health evaluator, all verbal communications with the mental health evaluator shall be by teleconference or meeting in which each party to the proceeding participates either through their attorney or as a self-represented litigant. All written communication or correspondence to the mental health evaluator, along with any attachments thereto, shall be provided promptly to all parties to the litigation or their attorneys of record.</p>
27 <sup>th</sup> J.D.C.	St. Landry Parish	<p>A. At the time of the Intake Conference with the hearing officer, if either party has moved for a mental health evaluation under La. R.S. 9:331, the parties or their respective counsel shall have the opportunity to provide a verbal statement and other documentary evidence of their positions to the hearing officer with regard to the custody and/or visitation issues before the Court. The hearing officer shall then determine whether the matter is appropriate for a mental health evaluation and, if so, how the costs shall be apportioned pending the hearing on the merits of the custody and/or visitation proceedings.</p> <p>B. If the hearing officer refers the matter to a mental health professional for evaluation, an Order for Mental Health Evaluation shall issue at the time of the Intake Conference. A party objecting to the referral of the matter for evaluation by the hearing officer shall have three (3) court days within which to file an objection to the order. The Clerk of Court shall send a certified copy of the order to the mental health professional and any unrepresented party, by certified mail, return receipt requested, to the address contained on the order, simultaneously with the mailing of the Notice to all counsel of record.</p> <p>C. If the hearing officer does not refer the matter to a mental health professional for an evaluation, either party shall have three (3) court days within which to file an objection to the recommendation denying the requested order, and the matter shall be fixed on the rule docket for contradictory hearing.</p> <p>D. Unless otherwise agreed by the parties, when any evaluation is ordered by the Court pursuant to La. R.S. 9:331, there shall have been no prior communications between the attorneys or the parties and the mental health professional concerning the issues in the pending matter, other than communications for the sole purpose of determining the availability of the mental health professional or to identify any conflicts of interest the mental health professional may have with the parties or the children.</p>
Civil District Court	Orleans Parish	<p>A. Unless otherwise agreed by the parties, when any evaluation is ordered by the Court pursuant to La. R.S. 9:331,</p>

		<p>there shall have been no prior communications between the attorneys or the parties and the mental health professional concerning the issues in the pending matter, other than communications for the sole purpose of determining the availability of the mental health professional or to identify any conflicts of interest the mental health professional may have with the parties or the children.</p> <p>B. In the event the mental health professional determines that the minor child is at risk for physical injury or may suffer serious and demonstrable psychological trauma due to the condition or circumstances of any party or any child, the mental health professional shall immediately contact the Court, and all counsel of record to advise of the risk; if either party is not represented by counsel, then the mental health professional shall contact the Court ex parte to advise of the risk.</p> <p>C. Once the evaluation has been completed, the mental health professional shall, no later than 48 hours prior to the time the case is assigned for trial/hearing, provide a written report to the Court and the parties.</p>
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