

**AMENDMENTS TO THE RULES OF SUPERINTENDENCE
FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until January 6, 2022, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Marya Kolman, Manager of the Dispute Resolution Section, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215, or neutralevaluation@sc.ohio.gov not later than January 6, 2022. Please include your full name and mailing address in any comments submitted by email.

Key to Adopted Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been added appears in underline. Example: text

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

1 **RULE 16.14. Definitions**

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3 As used in Sup.R. 16.14 through ~~16.43~~ 16.55:

4 5 **(A) Civil stalking protection order case**

6
7 “Civil stalking protection order case” means a proceeding under R.C. 2903.214.

8 9 **(B) Domestic abuse**

10
11 “Domestic abuse” means aggressive behaviors directed toward a current or former intimate
12 partner that are physical, sexual, economic, spiritual, or coercively controlling. “Domestic
13 abuse” may occur as a single aggressive behavior or a combination of aggressive behaviors
14 and may vary from family to family in terms of frequency, recency, severity, intention,
15 circumstance, and consequence.

16 17 **(C) Domestic violence**

18
19 “Domestic violence” has the same meaning as in R.C. 3113.31(A)(1).

20 21 **(D) Evaluator**

22
23 “Evaluator” means an individual who conducts a neutral evaluation.

24 25 **(E) Facilitation**

26
27 “Facilitation” means a process in which a neutral party moderates discussions by ensuring
28 the fluid and orderly exchange of information and ideas from all participants and that is
29 primarily concerned with assisting individuals in refining their communication and
30 organizational skills so that they may learn to work more efficiently with one another in a
31 group setting.

32 33 **~~(C)~~(F) Mediation**

34
35 “Mediation” means a process in which a neutral third party helps the parties communicate
36 and negotiate with each other to help them reach a voluntary agreement regarding their
37 dispute by helping the parties clarify their positions and interests, identifying underlying
38 concerns, and creating practical solutions for resolving their dispute.

39 40 **~~(D)~~(G) Mediator**

41
42 “Mediator” means an individual who conducts a mediation.

43
44

45 ~~(E)~~**(H) Neutral evaluation**

46
47 “Neutral evaluation” means a process in which the parties to a dispute present their claims
48 or defenses and describe the principal evidence on which their claims or defenses are based
49 to a neutral third party who then shares impressions about the strengths and weaknesses of
50 each matter.

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53 **RULES 16.44 through 16.49 are reserved for future use**

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56 **RULE 16.50. Application.**

57
58 Sup.R.16.50 through 16.55 shall apply to a court that elects to use neutral evaluation and to an
59 evaluator conducting neutral evaluation.

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62 **RULE 16.51. Local Neutral Evaluation Rule.**

63
64 A court shall adopt a local rule governing neutral evaluation. The local rule shall do all of the
65 following:

66
67 (A) Identify the case types eligible for neutral evaluation and those that are precluded
68 from neutral evaluation, if any;

69
70 (B) Address confidentiality;

71
72 (C) Prohibit the use of neutral evaluation in domestic violence cases under R.C.
73 2919.25, 2919.26, 2919.27, and 3113.31. Nothing in this division shall prohibit the use of
74 neutral evaluation in either of the following cases:

75
76 (1) A subsequent divorce or custody case, even though the case may result in
77 the termination of the provisions of a protection order under R.C. 3113.31;

78
79 (2) A juvenile delinquency case.

80
81 (D) Establish procedures for and encourage appropriate referrals to legal counsel and
82 other support services for all parties, including victims and suspected victims of domestic
83 violence;

84
85 (E) Address other issues as the court considers necessary and appropriate.
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91 **RULE 16.52. Responsibilities of Evaluator.**

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93 **(A) Conflicts of interest**

94
95 (1) An evaluator shall avoid any actual or apparent conflicts of interest arising from
96 any relationship or activity, including but not limited to those of employment or business
97 or from professional or personal contacts with parties or others involved in the case. An
98 evaluator shall avoid self-dealing or association from which the evaluator might directly or
99 indirectly benefit, except from compensation for services as an evaluator.

100
101 (2) Upon becoming aware of any actual or apparent conflict of interest, an evaluator
102 shall notify the appointing court and the parties of the action taken to resolve the conflict
103 and, if unable to do so, seek the direction of the court.

104
105 **(B) Legal advice**

106
107 An evaluator shall not offer legal advice.

108
109 **(C) Satisfaction of training requirements**

110
111 (1) An evaluator shall meet the qualifications and comply with all training
112 requirements of Sup.R. 16.53 and local court rules governing evaluators and neutral
113 evaluation adopted under Sup.R. 16.51.

114
115 (2) An evaluator shall meet the qualifications for neutral evaluators for each court in
116 which the evaluator serves and promptly notify the court of any grounds for disqualification
117 or any issues affecting the ability to serve.

118
119 (3) Upon request, an evaluator shall provide a court from which the evaluator receives
120 referrals documentation indicating compliance with all training and education
121 requirements so that the court may meet the requirements of Sup.R.16.54(A)(4). The
122 documentation shall include information detailing the date, location, contents, credit hours,
123 and sponsor of any relevant training.

124
125 **(D) Disclosure of qualifications**

126
127 At the request of a party, an individual serving as an evaluator shall disclose the evaluator's
128 qualifications to evaluate the subject matter in dispute.

129
130 **(E) Neutral evaluator future disqualification**

131
132 An evaluator shall not serve as a witness, consultant, attorney, or expert in any pending or
133 future action relating to a dispute for which the evaluator conducted an evaluation or
134 commenced the evaluation process.

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136

137 **RULE 16.53. Neutral Evaluator Education and Training.**

138
139 **(A) Civil or probate cases**

140
141 Prior to accepting appointment in a civil or probate case of a court, an evaluator or team of
142 evaluators shall individually possess or, where applicable, in combination possess the
143 following qualifications:

144
145 (1) Be licensed to practice law in Ohio, with at least five years of experience
146 working in the area of civil or probate litigation as applicable based upon the nature
147 of the case before the evaluator. The evaluator, if one evaluator is conducting the
148 neutral evaluation, or at least one member of the evaluation team, if a team of
149 evaluators is conducting the neutral evaluation, shall have participated in civil trials
150 or probate proceedings, as applicable, to the satisfaction of the court.

151
152 (2) At least one evaluator conducting the neutral evaluation shall have
153 completed “Fundamentals of Mediation Training” approved by the Supreme Court
154 Dispute Resolution Section in accordance with standards established by the
155 Commission on Dispute Resolution under Sup.R. 16.23(A)(1) or be otherwise
156 qualified under Sup.R. 16.23 as a civil mediator in Ohio.

157
158 **(B) Domestic relations and juvenile cases**

159
160 Prior to accepting appointment in a domestic relations or juvenile case, a team of evaluators
161 shall possess the following qualifications:

162
163 (1) At least one evaluator conducting the neutral evaluation shall be licensed to
164 practice law in Ohio, with at least five years of experience working in the area of
165 domestic relations or juvenile law. The second evaluator may also be licensed to
166 practice law in Ohio, with at least five years of experience working in the area of
167 domestic relations or juvenile law, or possess a master’s degree in the fields of
168 psychology, social work, sociology, counseling, or related field acceptable to the
169 court, with at least five years of experience working with children and families;

170
171 (2) Comply with the requirements of division (A)(2) of this rule;

172
173 (3) At least one evaluator shall have completed “Specialized Family or Divorce
174 Mediation Training” approved by the Supreme Court Dispute Resolution Section
175 in accordance with standards established by the Commission on Dispute Resolution
176 under Sup.R. 16.23(B)(1)(c);

177
178 (4) At least one evaluator shall have completed “Specialized Domestic Abuse
179 Issues and Mediation Training” approved by the Supreme Court Dispute Resolution
180 Section in accordance with standards established by the Commission on Dispute
181 Resolution under Sup.R. 16.23(B)(1)(d).

182

183 **(C) Continuing education**

184
185 (1) An evaluator shall complete at least three hours per calendar year of
186 continuing education relating to neutral evaluation, negotiation, mediation, or the
187 area of law in which the evaluator evaluates.

188
189 (2) If a neutral evaluator fails to comply with the continuing education
190 requirement of division (C)(1) of this rule, the neutral evaluator shall not be eligible
191 to serve as a neutral evaluator until the requirement is satisfied.

192
193
194 **RULE 16.54. Responsibilities of Court.**

195
196 **(A) General**

197
198 In order to ensure only qualified individuals perform the duties of an evaluator and the
199 requirements of Sup. R. 16.50 through 16.56 are met, a court shall do all of the following:

200
201 (1) Establish screening procedures for the capacity of parties to participate in
202 neutral evaluation;

203
204 (2) Establish procedures for monitoring and evaluating neutral evaluation to
205 ensure the quality of the evaluators and programs to which cases are referred;

206
207 (3) Develop a process and designate a person for accepting and considering
208 written comments and complaints regarding the performance of evaluators
209 appointed by the court. A copy of comments and complaints submitted to the court
210 shall be provided to the evaluator who is the subject of the complaint or comment
211 and may be forwarded to the administrative judge of the court for consideration and
212 appropriate action. Dispositions by the court shall be made promptly. The court
213 shall maintain a written record in the evaluator's file regarding the nature and the
214 disposition of any comment or complaint and shall notify the person making the
215 comment or complaint and the evaluator of the disposition.

216
217 (4) Allow neutral evaluation to proceed only if the evaluator meets the
218 qualifications, education, and training requirements of Sup.R. 16.53;

219
220 (5) Prohibit neutral evaluation when domestic abuse or domestic violence is
221 alleged, suspected, or present, unless all of the following conditions are satisfied:

222
223 (a) Screening is conducted, both before and during neutral evaluation,
224 for domestic abuse and domestic violence and for the capacity of the parties
225 to engage in neutral evaluation;

226
227 (b) The person who is or may be the victim of domestic abuse or
228 domestic violence is fully informed about the neutral evaluation process,

229 the right to decline participation in the neutral evaluation process, and of the
230 option to have a support person, in addition to an attorney, present at the
231 neutral evaluation sessions;

232
233 (c) The parties have the capacity to participate in neutral evaluation
234 without fear of coercion or control;

235
236 (d) The court has taken reasonable precautions to create a safe neutral
237 evaluation environment for the parties and all other persons involved in the
238 neutral evaluation process;

239
240 (e) Procedures are in place for the evaluator to terminate a neutral
241 evaluation session if there is a threat of domestic abuse, domestic violence,
242 or coercion between the parties;

243
244 **(B) Number of evaluators**

245
246 In a civil or probate case, a court may appoint one evaluator or a team of two evaluators to
247 conduct the neutral evaluation. In a domestic relations or juvenile case, a court shall
248 appoint a team of two evaluators, who may not be of the same gender, to conduct the neutral
249 evaluation.

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251
252 **RULE 16.55. Public Access.**

253
254 The files maintained by an evaluator but not filed with a clerk or submitted to a court shall not be
255 available for public access under Sup.R. 44 through 47.