

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

The following amendments to the Rules of Superintendence for the Courts of Ohio (Sup.R. 16.14 and 16.50 through 16.55) were adopted by the Supreme Court of Ohio. The history of these amendments is as follows:

November 22, 2021	Initial publication for public comment
September 6, 2022	Final adoption by conference
January 1, 2023	Effective date of amendments

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

RULE 16.14. Definitions.

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

(A) Civil stalking protection order case

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

(B) Domestic abuse

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

(C) Domestic violence

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

(D) Evaluator

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

(E) Facilitation

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

~~(C)~~(F) Mediation

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

~~(D)~~(G) Mediator

“Mediator” means an individual who conducts a mediation.

~~(E)~~(H) Neutral evaluation

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

RULES 16.44 through 16.49 are reserved for future use

RULE 16.50. Application.

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

RULE 16.51. Local Neutral Evaluation Rule.

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

- (A) Identify the case types eligible for neutral evaluation and those that are precluded from neutral evaluation, if any;
- (B) Address confidentiality;
- (C) Prohibit the use of neutral evaluation in domestic violence cases under R.C. 2919.25, 2919.26, 2919.27, and 3113.31. Nothing in this division shall prohibit the use of neutral evaluation in either of the following cases:
 - (1) A subsequent divorce or custody case, even though the case may result in the termination of the provisions of a protection order under R.C. 3113.31;
 - (2) A juvenile delinquency case.
- (D) Establish procedures for and encourage appropriate referrals to legal counsel and other support services for all parties, including victims and suspected victims of domestic violence;
- (E) Address other issues as the court considers necessary and appropriate.

RULE 16.52. Responsibilities of Evaluator.

(A) Conflicts of interest

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

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

(B) Legal advice

An evaluator shall not offer legal advice.

(C) Satisfaction of training requirements

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

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

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

(D) Disclosure of qualifications

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

(E) Neutral evaluator future disqualification

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

RULE 16.53. Neutral Evaluator Education and Training.

(A) Civil or probate cases

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

- (1) Be licensed to practice law in Ohio, with at least five years of experience working in the area of civil or probate litigation as applicable based upon the nature of the case before the evaluator. The evaluator, if one evaluator is conducting the neutral evaluation, or at least one member of the evaluation team, if a team of evaluators is conducting the neutral evaluation, shall have participated in civil trials or probate proceedings, as applicable, to the satisfaction of the court.
- (2) At least one evaluator conducting the neutral evaluation shall have completed “Fundamentals of Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution under Sup.R. 16.23(A)(1) or be otherwise qualified under Sup.R. 16.23 as a civil mediator in Ohio.

(B) Domestic relations and juvenile cases

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

- (1) At least one evaluator conducting the neutral evaluation shall be licensed to practice law in Ohio, with at least five years of experience working in the area of domestic relations or juvenile law. The second evaluator may also be licensed to practice law in Ohio, with at least five years of experience working in the area of domestic relations or juvenile law, or possess a master’s degree in the fields of psychology, social work, sociology, counseling, or related field acceptable to the court, with at least five years of experience working with children and families;
- (2) Comply with the requirements of division (A)(2) of this rule;
- (3) At least one evaluator shall have completed “Specialized Family or Divorce Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution under Sup.R. 16.23(B)(1)(c);
- (4) At least one evaluator shall have completed “Specialized Domestic Abuse Issues and Mediation Training” approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution under Sup.R. 16.23(B)(1)(d).

(C) Continuing education

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

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

RULE 16.54. Responsibilities of Court.

(A) General

In order to ensure only qualified individuals perform the duties of an evaluator and the requirements of Sup. R. 16.50 through 16.55 are met, a court shall do all of the following:

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

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

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

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

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

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

(b) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the neutral evaluation process, the right to decline participation in the neutral evaluation process, and of the option to have a support person, in addition to an attorney, present at the neutral evaluation sessions;

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

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

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

(B) Number of evaluators

In a civil or probate case, a court may appoint one evaluator or a team of two evaluators to conduct the neutral evaluation. In a domestic relations or juvenile case, a court shall appoint a team of two evaluators to conduct the neutral evaluation.

RULE 16.55. Public Access.

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

RULE 99. Effective Date.

[Existing language unaffected by the amendments is omitted to conserve space]

([Insert division letter]) The amendments to Sup.R. 16.14 and new Sup.R. 16.50 through 16.55, adopted by the Supreme Court of Ohio on September 6, 2022, shall take effect on January 1, 2023.