

Working Through Family Issues with Alternative Dispute Resolution, Part II – Custody Evaluations and Parenting Conferences

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In **Part I**, we covered Arizona's *Motion for Mediation* and *Motion for ADR Settlement Conference*. In this **Part II**, we'll introduce two additional ADR services used in family law cases with children: the *Motion for Parenting Conference* and the *Motion for Custody Evaluation*.

MOTION FOR CUSTODY EVALUATION

One of the primary differences between mediation and a custody evaluation is confidentiality. Mediation, which is confidential, involves a neutral mediator who hears each parent's case and assists the parties in reaching a voluntary agreement -- sometimes the parents reach agreement, and sometimes they don't. In contrast, custody evaluations are not confidential -- the evaluator reports his or her recommendations to the judge in the family law case.

Custody Evaluation.

By filing a *Motion for Custody Evaluation*, a party requests that the court appoint a child custody evaluator to interview the parties, evaluate each parent's abilities, and make recommendations. The court is likely to grant this motion whenever there are custody and parenting time disputes in the case. When the motion is granted, a private child custody evaluator, usually a child psychologist, is selected and appointed from an approved list of mental health professionals.

Report and Recommendations.

Custody evaluations can be quite in depth with both parties meeting with the evaluator on two or three occasions, sometimes with the child. The evaluator interviews each party, and observes how each party interacts with their child. Depending on the circumstances of the particular case, the evaluator may also interview other family members, review records, and more, resulting in a detailed written report submitted to the court.

A custody evaluation can take three to five months to complete and may cost between \$3,000 and \$7,500, depending upon the psychologist nominated by the parties. The court may order one party to bear the entire evaluation fee, or the court may order the parties to share the expense between them.

MOTION FOR PARENTING CONFERENCE

Although the parties' attorneys are not permitted to attend the parenting conference, matters raised in the conference may be addressed by the court. In that regard, the conference is not confidential, which sets it apart from mediation.

Arizona's Program.

When the parties are unable to reach agreements over child custody and parenting time through mediation, either party may request a parenting conference. The purpose of the conference is to assist the court in determining what is in the best interests of the child.

To make use of the family court's parenting conference program, a party files a *Motion for Parenting Conference*. This requests that the court schedule a parenting conference with a court-appointed conciliator. The conciliator makes recommendations on the child's living arrangements, parenting time, and parental decision-making responsibility.

Best Interests.

When the parties do reach agreement on some or all of the parenting issues in the *best interests of the child*, then the conciliator may recommend the parents' agreement to the court. Any areas that concern the conciliator are addressed, along with recommendations intended to resolve the remaining issues.

The conciliator submits a written report to the court with findings and conclusions. The report's information helps the court determine orders over custody and parenting time. Typically, the conciliator's report includes the following content:

- A. Referral.
- B. Background.
- C. Areas of agreement.
- D. Issues in dispute.
- E. Summary of parent concerns.
- F. Impressions and assessments.
- G. Conclusions and recommendations.

Once the *Motion for Parenting Conference* is filed, it takes about two months to schedule with family court conciliation services. As with mediation, the other court-ordered custody program option, there is only a nominal charge for the service.