



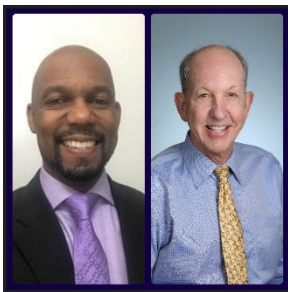
# AFCC-CA INSIGHTS

*The newsletter of AFCC's California Chapter*

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## Are Child Custody Evaluators a Dying Breed in California – Concerns and Action Plan

**by Kenneth Perlmutter, Ph.D. and Frank Davis, Ph.D.**



The Mentorship Outreach Committee ("MOC") of AFCC-CA, formed in 2020, is a committee of the California Chapter of the AFCC, and includes members from varying geographic areas of California. We are working to develop outreach methods to

recruit of a new generation of well-trained mental health professionals ("MHPs") to work with the various family law communities and family courts, in every county in California. We are setting up local MOCs throughout California, and also sponsoring trainings and seminars to educate MHPs about the need for their skills in the family law community, and the benefits and rewards that come from such work.

Many seasoned MHPs have developed their careers based on work in the family law field. We find the work both challenging and rewarding, in many ways. When we do our work well, we provide true value to the families we serve. Each individual who learns the unique complexities and develops both competence and expertise comes to experience their own forms of gratification. As the long-

standing practitioners are pulling back and retiring, there is an opportunity for early and mid-career people to develop a lucrative and mentally stimulating addition to their practices.

As the MOC has developed over the past three years we have realized there is a marked concern about the rapidly declining numbers of child custody evaluators ("CCEs") in California. The decline appears to be due to multiple factors, including that:

1. Many seasoned evaluators have moved into consultation-focused work.
2. Many of the most experienced evaluators have retired or are working less than full-time.
3. There is not a clear pathway for new mental health professionals to gain the necessary experience to become qualified CCEs.
4. Until recently, through the MOC, there has not been a systematic mechanism in place to identify and/or recruit MHPs into the field.
5. Many newer MHPs who could serve as evaluators are fearful of interfacing with the legal system, as the dangers of such work may be over exaggerated and dramatized.

Presently, in many counties in California, children and families do not have the opportunity to participate in a child custody evaluation because there are simply not enough qualified CCEs available. This means that family law judges do not have the critically important data that is provided by a custody evaluation when making life-altering child custody orders.

Our MOC has recently reached out to CCEs to create a state-wide, centralized list of CCEs available for evaluations and brief focused assessments. This list, soon to be published, will include all qualified CCEs that we've been able to locate, as well as the counties in which they practice.

Our MOC also realizes that the requirements to becoming a CCE are not clear or easy to find. A common query from MHPs is "how do I become a custody evaluator?" We have thus been working for the past year to clarify and add transparency to the requirements for a MHP to qualify to work as a CCE. The balance of this article lays out these requirements.

All current qualifications for CCEs are presently set forth in [Rule 5.225\(g\)](#) of the California Rules of Court, and [Sections 3110-3118](#) of the Family Code.

We start with Rule 5.225, "Appointment Requirements for Child Custody Evaluators." This rule provides the essential requirements for licensing, education and training, and experience for CCEs appointed to conduct child custody evaluations in family court.

Note that at the start of every evaluation appointment, the CCE must execute a Declaration of Private Child Custody Evaluator Regarding Qualifications ([form FL-326](#)) which attests that the evaluator has completed all the requirements of Rule 5.225. This Declaration must be filed with the court, and included with the final evaluation report.

Here are details for each of the three areas of requirements:

1. Licensing: The MHP must have a valid license to practice in California as a:

- A. Physician (and be either is a board-certified psychiatrist or have completed a residency in psychiatry)
- B. Psychologist
- C. Marriage and family therapist
- D. Clinical social worker, or
- E. Professional clinical counselor qualified to assess couples and families

An MHP who does not meet the Requirements below may be appointed if the court certifies that the person is a court-connected evaluator who meets all the qualifications specified in subdivision (j) of the rule, which basically

require that the person is well along the path of meeting all of the requirements and is supervised by a qualified CCE.

In the alternative, courts can appoint non-qualified MHPs if they find that there are *no* licensed or certified evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations; the parties stipulate to the person; and the court approves the person. This rule opens the door to many newer, less experienced MHPs conducting evaluations, but of course also creates a risk of poor quality evaluations based on the lack of training and experience. Ideally in this scenario the evaluator will have an experienced mentor, which is where the MOC can potentially help.

2. Education and Training:

Subject to the above-described exceptions, before appointment, a CCE must complete 40 hours of education and training (or teaching), which must include all of 21 topics which are laid out in Rule 5.225(d), and include such areas as the psychological and developmental needs of children; the effects of divorce on children and adults; interviewing parties and children; etc. There is no time limit as to when the training must be completed, except that it must be after January 1, 2000. All providers must be approved by the California Judicial Council.

In addition, before appointment all CCEs must comply with basic and advanced domestic violence ("DV") training requirements. The basic DV training is as set forth in [Family Code section 1816](#), and requires participation more generally to learn about DV issues in family law. The advanced DV training is described in [Rule 5.230](#) and includes a total of 12 hours of approved DV instruction, which is fairly straightforward.

Rule 5.230(B) also requires "Four hours of community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the families being evaluated may reside." The term "community resource networking" is not defined. The consensus among CCEs and family law attorneys with whom we spoke is that it could include volunteering at a local DV shelter; auditing a local, in-person course for abusers; volunteering at a restraining order clinic; or observing a DV calendar at your local court.

After the initial training, all CCEs must annually complete at least 8 hours of further general evaluation training, and 4 hours of further DV education. There are several ways

to obtain the required annual updates, including:

- AFCC International and AFCC-CA offer training programs.
- Programs of private organizations such as The Steve Frankel Group ([www.sfrankelgroup.com](http://www.sfrankelgroup.com)) and Concept Professional Training ([www.concept-ce.com](http://www.concept-ce.com)).

### 3. Experience:

To satisfy the experience requirements, CCEs must have participated in at least four limited scope or full evaluations. These must be court-ordered evaluations, and result in written or oral reports. This work must be within the preceding three years. To participate in an evaluation is defined as having conducted it independently, or “materially assisted” another qualified CCE. What is “materially assist”? This is not defined in Rule 5.225, but presumably includes assisting with review of the case file, participating in interviews and home visits, and assisting to write up a report. It would ultimately be work that would ensure that a MHP knows how to complete a custody evaluation. To help guide new MHPs here, over the past year the MOC has developed and published the “Materially Assist Checklist.” This Checklist provides a complete operational definition of all that may compromise the materially assist process. It offers guidance to the mentor and mentee as regards the possible steps to take to be sure that assistance is “material.” Download the checklist here:

#### [Materially Assist Checklist](#)

By creating a state-wide, centralized List of CCEs, AFCC-CA hopes to facilitate new MHPs seeking mentoring and facilitate their ability to “materially assist” with evaluations.

If you have any questions, please contact the MOC through the AFCC-California Chapter at <https://www.afcc-ca.org/contact/>.

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**Kenneth Perlmutter, Ph.D.** is a licensed psychologist in private practice in Palo Alto, CA for over 40 years. His work focuses on various aspects of forensic child custody matters and specializes in working with families in unique, complex, high conflicts cases. His primary work involves Parenting Plan Evaluations and Brief Focused Assessments. He has extensive experiencing serving in the roles of custody mediator, parenting coordinator and co-parent

counselor. He enjoys consulting with attorneys as a reviewing expert, both disclosed and non-disclosed, and as a confidential consultant to attorneys and their clients. He is a Board Member of AFCC-CA and member of the Mentoring Outreach Committee. This committee focuses on the recruitment and monitorship of mental health professionals to serve as child custody evaluators. Additionally the committee is developing new language and guidelines regarding the requirements (specifically to define “materially assist”) for child custody evaluators as stated in Rule of Court 5.225. His website is: <https://drkenperlmutter.com>.

**Frank Davis, Ph.D.** is a licensed psychologist specializing in providing forensic evaluations and clinical treatment for adults, children, and families involved in family court cases. He has been practicing since 2012 primarily throughout northern California. Also, since 2015, Dr. Davis has worked at Transitioning Families, a specialized family focused mental health program located in Sonoma County, California wherein he works with a team of mental health professionals who serve adults, children, and families involved in high conflict, complex family law cases. Lastly, Dr. Davis served as a member of the task force for the 2022 AFCC International Guidelines for Parenting Plan Evaluations in Family Law Cases.

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