



Neutral Evaluation Toolkit

A Resource for Courts





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December 2024

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The Rules of Superintendence for the Courts of Ohio governing neutral evaluation, effective January 1, 2023, state that Sup.R. 16.50 to 16.55 “shall apply to a court that elects to use neutral evaluation and to an evaluator conducting neutral evaluation.” Sup.R. 16.51 states: “[a] court shall adopt a local rule governing neutral evaluation.” Therefore, prior to referring cases to neutral evaluation, local courts that choose to use neutral evaluation must first adopt a local rule that includes the requirements outlined in the Rules of Superintendence governing neutral evaluation.

This toolkit provides the necessary resources to create a local rule and to implement a neutral evaluation program.

The Supreme Court of Ohio Dispute Resolution Section gratefully acknowledges the assistance of the Supreme Court of Ohio Commission on Dispute Resolution members and other individuals who helped develop, review, and refine these resources by dedicating their collective effort, experience, and expertise. We wish to extend special recognition and tremendous gratitude to:

Magistrate (Retired) Rosalind C. Florez
Hamilton County Court of Common Pleas, Domestic Relations Division

Hon. Larry N. Heiser
Marion County Family Court
Member, Supreme Court of Ohio Commission on Dispute Resolution

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Delaware County Court of Common Pleas, Domestic Relations Division

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CONTRACT

ARTICLE I. DEFINITION OF WORK
1.1. The work to be maintained shall be as follows:
1.2. The work shall be maintained in accordance with the following schedule:
ARTICLE II. PAYMENT SCHEDULE
2.1. The price for the work shall be as follows:
2.2. Payment shall be made in accordance with the following schedule:
ARTICLE III. GENERAL CONDITIONS
3.1. This contract shall be governed by the law of the State of New York.
3.2. The parties agree to hold each other harmless from and against all claims, damages, losses and expenses, including reasonable attorneys' fees, that may be asserted against or incurred by the other party in connection with this contract.



WITNESSETH THAT

1. DESCRIPTION OF WORK: Lorem ipsum dolor sit amet, consectetur adipiscing elit. Sed do eiusmod tempor incididunt ut labore et dolore magna aliqua.

2. PRICE AND PAYMENT SCHEDULE: Invoicing to be made monthly in advance. Payment terms: Net 30 days.

3. DATE OF DELIVERY: The work shall be completed and delivered within the agreed time frame.

WORK TRANSFER: The contractor shall be responsible for the transfer of all work to the client.



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Introduction

Sup.R. 16.14(H) defines “neutral evaluation” as “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.”

Neutral evaluation is an outcome-oriented process, intended for people who are unable to agree on a resolution. It can begin with a court order or an agreement and is a structured process. Neutral evaluation is not mediation where parties agree to participate in negotiations and to craft an agreement to settle their dispute.

The neutral evaluation process allows the parties to hear from a neutral third party, a seasoned legal professional or magistrate, regarding the likelihood of success of individual positions in litigation. The evaluator(s) will listen and later discuss the weaknesses and the strengths along with the probable outcome of the matter.

Neutral evaluation can be utilized for general civil, domestic relations, probate, or juvenile matters, or in any dispute where a trial is a likely outcome.

Once the parties have received their evaluations, they may decide to adopt the evaluation, to mediate additional terms of the agreement, or to proceed to litigation.

This toolkit will assist courts in implementing the requirements of Sup.R. 16.50 et seq. and provide an explanation of what neutral evaluation is and is not.

Rules of Superintendence for the Courts of Ohio for Neutral Evaluation [Sup.R. 16.50 – 16.55]

Please consult the Rules of Superintendence for the Supreme Court of Ohio for the current version of these [rules](#). The version of these rules as of the date of publication may be found in the Appendix.



Neutral Evaluation Process

Preliminary

Once neutral evaluation has been ordered or agreed to, the attorneys with their clients should schedule the session. Sessions are three to four hours, generally, depending on the complexity and the number of issues.

After completion of scheduling and payment, the parties should prepare a brief for the evaluators. The brief presents a snapshot of where the parties currently believe the dispute lies and what the parties believe will settle the dispute. The brief is a series of guided questions to prompt attorneys and parties to provide information necessary for the neutral evaluation process. Samples of specific types of briefs or other documents for each case are included in the Appendix.

One to two weeks before the scheduled session, the briefs are exchanged with the opposing side and are delivered to the evaluators. The briefs are not filed for court record and will be shredded at the close of the neutral evaluation session.

If the neutral evaluation is held in person, details about the date, time, address, and room number for the session should be sent to the participants ahead of the scheduled neutral evaluation. If the neutral evaluation is held via videoconference, the appropriate links should be emailed to the parties ahead of the scheduled neutral evaluation. Resending the same link/information an hour before the neutral evaluation is a helpful and convenient reminder to all participants. Be prepared to use breakout rooms to caucus with each side of the case separately when conducting remote sessions.

Evaluators review any necessary case law, the briefs, the case file, and any other resources which may be helpful to the evaluators.

Prior to the neutral evaluation sessions, evaluators may contact counsel for additional information pertinent to the neutral evaluation including, but not limited to, domestic violence and to clarify any last-minute issues. Evaluators should use the attorney contact to determine if an expert will be attending a financial or civil neutral evaluation.

On the Day of the Neutral Evaluation

If the neutral evaluation will be held in person, on the day of the neutral evaluation session, prepare the room with paper and pens for the parties. Some programs include ice water and cups.

When the parties and the attorneys arrive, greet the group and escort them to the neutral evaluation room.

Evaluators should seat everyone in the appropriate places. Many evaluators place the parties directly in front and the attorneys to the outside of the clients. Seating will depend upon evaluator preference and whether there is a history of domestic violence.



In virtual neutral evaluation sessions, make sure that the participants all have working cameras and microphones, and explain how breakout rooms work.

Evaluators will greet the group and begin with opening statements. (See Appendix E for sample opening statements.)

Evaluators' opening statements should include the timetables, the ground rules, the expectations, and additional information. Evaluators should explain their responsibilities to the process as well as the responsibilities of the attorneys and of the parties. Opening statements should re-introduce the neutral evaluation process, the goal, and time keeping. Evaluators should reinforce that the process is outcome-oriented, based on the parties' presentations.

Confidentiality and privilege are discussed during the opening statements and that Rules of Evidence are not applied during the session. The evaluators should explain that this is not like a typical judicial proceeding: there is no recording, no oath taken, no cross-examination, no interrupting the other party, and no formal presentation of evidence. Attorneys are advised that information gleaned from the session, which is sought to be used at trial, must be obtained through means other than the neutral evaluation process to be admissible in court.

Evaluators will oversee the discussion allowing each party and attorney the opportunity to be heard. Generally, the person who filed the motion or the complaint begins. After approximately 15 minutes, the other party has about 15 minutes to explain that party's issues. The attorneys are generally given approximately five minutes to supplement if the client forgot a piece of information. Guardians ad Litem and any experts are generally

allowed approximately 10 minutes to present pertinent information. Evaluators may ask questions throughout the presentation to clarify their understanding of the positions, the dispute, and the briefs. Expert witnesses may also provide input for the parties.

After the parties and the attorneys have spoken, the evaluators should invite the parties to take a break or to go to a private space to caucus. The evaluators will leave the room to discuss their impressions, the likelihood of success in court, and potential resources. The evaluators may visit the parties individually for any clarifications.

When the evaluators have their evaluation completed, the parties with their attorneys return to the room to discuss the evaluators' outcomes and resources. The evaluators explain their view of the outcome of the parties' positions as well as any additional resources or aides.

The feedback evaluation should be provided in a calm matter-of-fact manner, normalizing the intensity of the emotions. Evaluators should compliment the parties and acknowledge the strengths of their arguments and any appropriate steps to take. Feedback evaluations should not be a take it or leave it proposition.

Each side is excused to discuss the evaluation and to determine whether a settlement/agreement is possible, or any next steps.

When all parties return together, a determination is made as to whether the matter is settled, whether new terms are needed for settlement, whether the parties want another session to include an expert or to present additional documents, or whether the parties want to proceed to another option such as litigation or continued investigation.

Some courts provide parties the opportunity to shift into a mediation where the parties can generate an agreement. The evaluators will serve as mediators to facilitate the mediation.

What happens next?

Some courts require the attorneys and/or parties to provide a status report to the judicial officer following the neutral evaluation session. Due to the confidential nature of the process ([Sup.R. 16.51\(B\)](#)), this status report is intended only to provide information that allows the judicial officer to schedule next steps in the case.



Comparing Neutral Evaluation to Facilitative Mediation

This chart compares the similarities and differences between facilitative mediation and neutral evaluation.

Facilitative Mediation	Neutral Evaluation
Searching for future communication and terms	Evaluation of outcome/merits
Confidentiality with exceptions	Confidentiality with exceptions
Notes not discoverable	Notes are destroyed
Prepare case before session	Prepare case before session
Can be scheduled anytime in life of case	Can be scheduled anytime in life of case
Flexible in form, rules, procedure	Not flexible in form, rules, procedure
Weak case can be hidden, without legal basis	Must be prepared to present the merits of the case with basis in law
No limit to range of legal issues	Evidence/law
Informal	More formal
No rules of evidence	No rules of evidence
Interpreters permitted	Interpreters permitted
Decreases cost of case	Decreases cost of case
Screening for domestic violence is required	Screening for domestic violence is required
Static roles of mediators	Pivotal roles of neutral evaluation from neutral evaluation process to potential mediation
Opportunity to be heard	Opportunity to be heard
Settlement memorandum must be presented to judicial officer	Settlement memorandum must be presented to judicial officer
Qualifications	Qualifications
Process-oriented	Outcome-oriented
Subject matter expertise not essential	Subject matter expertise essential
Format: joint sessions, caucus	Joint session until evaluation, potential for caucus before evaluation or during subsequent negotiation

Facilitative Mediation	Neutral Evaluation
<p>Challenges</p> <ul style="list-style-type: none">• No show/No call• Determination in screening that mediation is inappropriate• Who writes agreement with self-represented litigant• Unwillingness to negotiate• Unwillingness to agree	<p>Challenges</p> <ul style="list-style-type: none">• No show/No call• Determination in screening that neutral evaluation is inappropriate• Who writes agreement with self-represented litigant• Unwillingness to negotiate• No negotiation unless parties agree to mediation



The Court's Responsibilities

The responsibilities of a court in terms of establishing a neutral evaluation program are set forth in [Sup.R. 16.51](#), [16.54](#) and [16.55](#).

Local Rule

Before referring cases to neutral evaluation, the court must adopt a local rule governing neutral evaluation, which must specifically do the following:

- Identify case types that are appropriate and not appropriate for neutral evaluation.
- Address confidentiality.
- Prohibit neutral evaluation in domestic violence cases, with exceptions as provided:

- Specifically, Sup.R. 16.51(C) provides in pertinent part:

“(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.”

- » For example, neutral evaluation may be considered in a divorce case where a represented party, who is an alleged victim under a civil protection order (CPO), has made a request for neutral evaluation.
- » For example, neutral evaluation may be considered in a divorce case where time has elapsed since the CPO was entered and the parties agree to neutral evaluation.
- In any instances where a protection order has been issued but neutral evaluation is deemed appropriate, all safety precautions should be followed. For example:
 - » Staggering arrival and departure times.
 - » Using separate courthouse spaces for the parties.
 - » Holding the neutral evaluation virtually.
 - » The court may consider requiring an agreed order modifying any CPOs or TPOs to allow the parties to have contact for purposes of the neutral evaluation.
- Establish referral procedures for all parties, including victims and suspected victims of domestic violence.
- Address other issues that are important and necessary to the court.

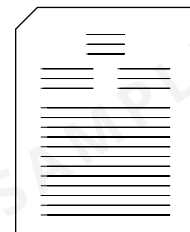
(See Appendix D for a sample local rule.)

A Note Regarding Privilege:

Mediation communications, with exceptions, are considered privileged in Ohio under the Uniform Mediation Act (UMA). While the UMA does not directly apply to neutral evaluation, courts are encouraged to include provisions regarding privilege in their neutral evaluation local rule stating that neutral evaluation communications are privileged, unless otherwise admissible, to protect the evaluators and encourage the parties to participate fully in the dispute resolution process.

Standardized Forms

The court should develop standardized forms to be used in the neutral evaluation process. Samples of forms are included in the Appendix at the end of this toolkit. These are samples, not required forms, and can be modified to meet the court's needs.



Case Screening Process

The court should develop a process to screen cases for:

- a. Parties' capacity to participate in neutral evaluation; and
- b. Domestic abuse or domestic violence as required by [Sup.R. 16.54\(A\)](#).

The court should designate an employee to screen cases for capacity to participate, as well as for domestic abuse and domestic violence, as required, before referring cases to neutral evaluation. Evaluators should continue to screen throughout the neutral evaluation process, both for domestic abuse and domestic violence, as well as the parties' capacity to participate. (See, "Assessing Capacity to Participate," for further information.)

A sample screening questionnaire the court and evaluators (for ongoing screening) can use is provided in the Appendix. (See Appendix U.)

In cases where domestic abuse or domestic violence is alleged, suspected, or present, the court must prohibit neutral evaluation unless certain requirements are met:

- The court and its evaluators must screen (before and during the process) for capacity, domestic violence and domestic abuse;
- The court must inform the party who is the victim, or may be the victim of domestic abuse or domestic violence, about the neutral evaluation process, the right to decline participation, and the option to have a support person (in addition to an attorney) at the session;
- The court must ensure that the parties have capacity to participate, without fear of coercion or control;
- The court provides a safe, neutral environment for all participants; and
- The court establishes a procedure for the evaluators to terminate the session if a threat of domestic abuse, domestic violence, or coercion between the parties occurs.

Number of Evaluators

The court may appoint a single evaluator, or a team of two, in civil or probate cases. In domestic relations or juvenile cases, the court is required to appoint a team of two evaluators. In custody cases, it is a best practice to appoint a magistrate evaluator and an evaluator who has a social work or similar background to the team. In financial neutral evaluations, the court should appoint an evaluator who is a subject matter expert in finance/accounting.

Evaluator Qualification and Monitoring

It is important to establish procedures for qualifying, monitoring, evaluating, and maintaining the list of evaluators. If possible, the court should designate an employee to follow this procedure and to maintain the list. The qualification, education and training requirements for evaluators are found in [Sup.R. 16.53](#).



Best Practice Tip

Courts should consider an annual review of this list to ensure that the best service is provided and maintain confidence in the process. Courts should consider including a requirement in their local rule requiring the evaluators to inform the court of any lapses in their qualifications.

The court is required to establish a process for accepting and considering written comments and complaints about the evaluators. The court should consider designating a staff member for this task. The process must provide that a copy of the comment or the complaint is forwarded to the evaluator, who has an opportunity to respond in writing. The complaint or comment and the response are then forwarded to the administrative judge for consideration and prompt disposition. The evaluator and the person who made the complaint or the comment are notified of the disposition. Information regarding the nature and disposition of the complaint or comment is kept in the evaluator's file. See, [Sup.R. 16.54](#).



Screening by the Court

The court is required to establish a screening process pursuant to [Sup.R. 16.54](#). This process should include requirements for initial screening by the judge or magistrate before neutral evaluation is ordered and screening by the evaluator(s) prior to the session. The evaluator(s) should continue to screen during the neutral evaluation session.

Screening for domestic abuse, coercive control, and other factors that may impact a party's ability to participate in the neutral evaluation process is necessary in every case. Screening can identify in advance cases that require specific protocols and other safeguards, and cases in which neutral evaluation is not appropriate. Initial screening by the court can help avoid situations in which inappropriate cases are referred to neutral evaluation.

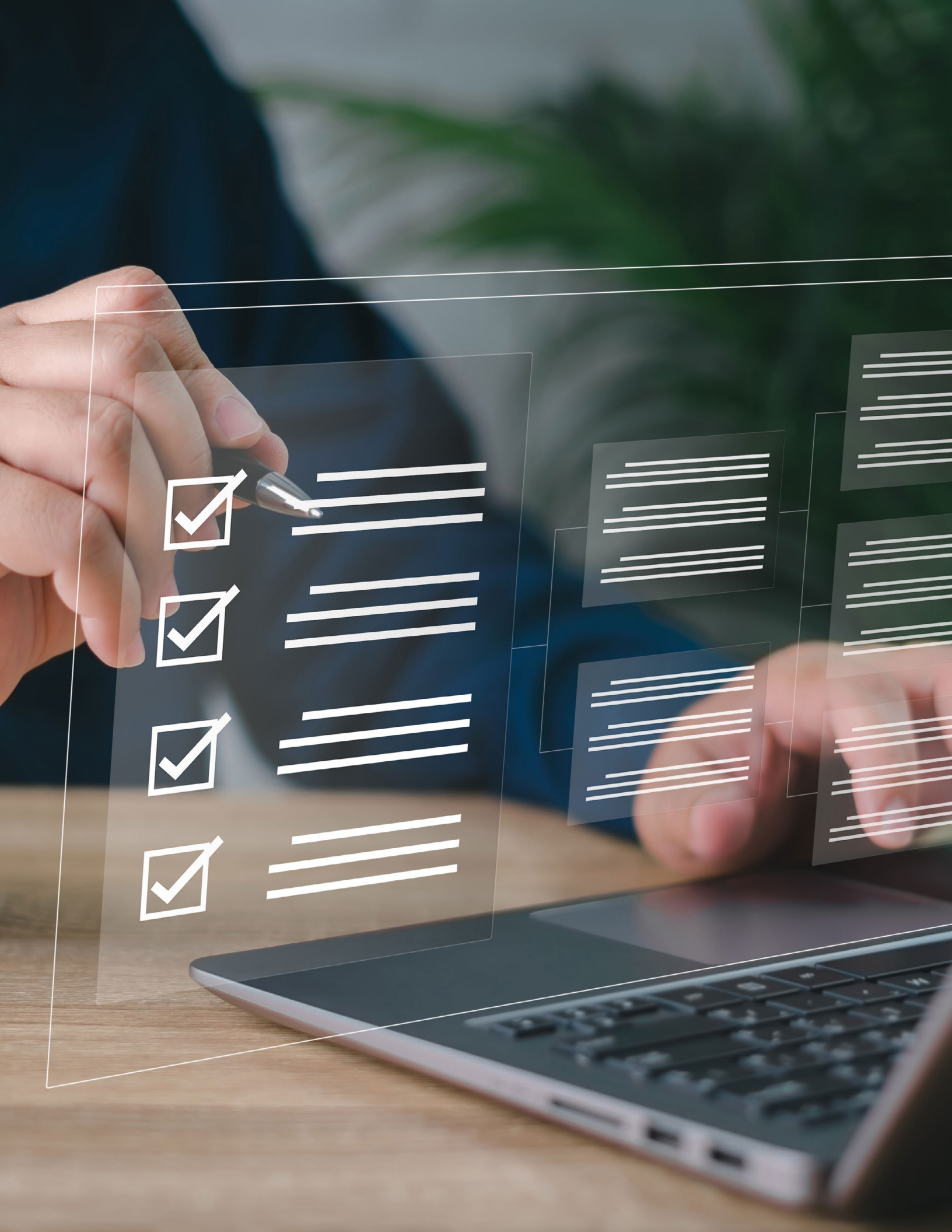
The court screening process should at a minimum include:

- An explanation about neutral evaluation to the parties, either from the bench or in a written document (see Appendix B for sample brochure).
- A preliminary evaluation if there is domestic abuse, coercive control or other factors that may impact the party's capacity to participate in neutral evaluation.
- Consideration of any concerns or fears expressed by the parties.

Courts should establish a process for an evaluator to decline a case if the evaluator determines after the screening that neutral evaluation is not appropriate, or that the assigned evaluator is not able to accept the case.

Courts should include a description of their screening process in their local rule.

(See Appendix U for sample screening questions.)



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Horizontal lines representing text for the second item on the checklist.

Horizontal lines representing text for the third item on the checklist.

Horizontal lines representing text for the fourth item on the checklist.

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Assessing Capacity to Participate

Are the parties able to participate in the neutral evaluation process? Do all parties have the capacity to negotiate? Use the information obtained in the screening to assess the appropriateness of neutral evaluation based on the parties' capacity to enter into neutral evaluation voluntarily and to participate fairly and safely with one another.

Preconditions for parties in neutral evaluation – each party must be able to do the following:

- Make the decision to enter neutral evaluation freely and without coercion.
- Enter neutral evaluation with informed consent.
- Provide full disclosure without being afraid or endangered.
- Understand either party may withdraw from neutral evaluation at any time without retribution.
- Recognize that the other party has rights and needs separated from their own rights and needs.
- Recognize that a mediated outcome must be agreed upon voluntarily by both parties.
- The evaluator must ensure that the party is not cognitively or emotionally impaired in a way that affects that party's capacity to participate, even with special conditions.
- The evaluator must ensure that the party does not lack capacity to participate due to alcohol or drug use.

Deciding if the case should be in neutral evaluation:

- Cases found to be inappropriate for neutral evaluation should be screened out. When there has been an ongoing "culture of abuse," neutral evaluation may not be appropriate.
- A domestic abuse survivor's wishes regarding neutral evaluation should be respected whenever possible. Survivors who do not want to participate should not be required to participate in neutral evaluation. Survivors who wish to participate should not be barred from participating if they can be provided with a physically and psychologically safe neutral evaluation environment. Denying survivors the opportunity to participate may be a form of "re-victimization" and should be avoided if neutral evaluation can be done safely.
- If the existence of domestic abuse was disclosed only by the survivor, the screener should never advise the parties that the reason the case was determined to be inappropriate was because of domestic abuse. Doing so could put the survivor at risk.
- Safety precautions and specialized neutral evaluation protocols should be used when cases with a history of domestic abuse are in neutral evaluation.



Bringing Neutral Evaluation to Your Court

Evaluate if a program is right for your court

- Review the Supreme Court of Ohio's [training schedule](#) to take the neutral evaluation course.
- Watch a full [neutral evaluation demonstration](#) to understand how the process works.
- Meet as a court to discuss the feasibility of bringing neutral evaluation as a dispute resolution process to the court.
 - Discuss education requirements, personnel additions, courtroom space availability, and evaluators' qualifications.
 - Consider cross-county collaboration to pool resources.
 - Determine what case types can be ordered to neutral evaluation.
 - Prepare local rules and court forms. (See Appendix D for samples.)
 - Establish deadlines for scheduling, briefs, and reports to judicial officers.
- Develop a process to onboard attorneys as evaluators if court personnel are not available.
- Provide training to judicial officers who may order neutral evaluation.
- Review the sample documents included in this toolkit. Courts should consider using an entry for neutral evaluation (Appendices H, J, and L), an agreed entry for neutral evaluation (Appendices G, I, and K), briefs (Appendices N, O, and P), and evaluations at the conclusion of the sessions (Appendix T), and modify the forms as needed.
- Develop an information packet with Testimonials from evaluations, a brochure (Appendix B), FAQs for attorneys (Appendix C), and a checklist of documents by case type to provide to parties and attorneys (Appendix A).

A Note Regarding Self-Represented Parties:

Many courts are experiencing a growing number of self-represented litigants in civil, probate, and domestic relations dockets. Mediation and neutral evaluation are dispute resolution processes with different procedures, outcomes, and expectations. The courts should consider how neutral evaluation will be managed as a process with self-represented parties. Significantly, evaluators will need more time to explain the process, the benefits, and the procedures for a successful neutral evaluation.



Best Practice Tip

When a program is in its early stages, cases with self-represented parties may be difficult and/or time-consuming. Consider implementing a pilot program to evaluate the best possible use of neutral evaluation in the court.

Develop the program

- Contact the local bar association to explain neutral evaluation and how it can help resolve disputes in civil, probate, domestic relations, and juvenile courts. Some bar associations have dispute resolution committees that can learn and assist in the presentation.
- Offer free CLE to attract lawyers to see a neutral evaluation demonstration.
- Remind local attorneys that they will still be involved in their cases, and this is an opportunity to expand their client base.
- Offer a pilot project where parties are not charged for neutral evaluation during a period of six months.
- Advise attorneys their roles are to prepare their clients and to assist with the brief due prior to the neutral evaluation session.
- Determine whether the court will collect any fees from the parties for neutral evaluation. Some courts do the following:
 - Charge a fee prior to neutral evaluation.
 - Charge a fee at the conclusion of the case, as court costs.
 - Collaborate in terms of costs and availability of evaluators for the cases.
 - Use grant funding to support their neutral evaluation program.
 - Determine fees on a flat or sliding scale.
- It is a best practice to provide the attorneys and parties the opportunity to complete evaluation forms at the conclusion of the neutral evaluation. This valuable feedback will serve to enhance and improve the program.

Questions About Using Interpreters?

Please visit the Supreme Court of Ohio website to review information about [language access compliance](#) and [Sup.R. 80 – 88](#). If the parties both require the same type of interpretation and they agree to sharing an interpreter, one interpreter may be used in the neutral evaluation process. Courts must consider the interpreter’s qualifications, the equipment used, and the time allotted for the neutral evaluation session. If the neutral evaluation process moves to mediation, the evaluators should re-affirm that the process remains confidential and privileged.

An Overview of the Neutral Evaluator's Responsibilities

Neutral evaluators appointed to a matter are required to complete all responsibilities as outlined in [Sup.R. 16.52](#) for each evaluation performed for a court. Evaluators must:

- Ensure that they have the specific legal knowledge and expertise to be effective for the matter to which they are appointed.
- Ensure that they have completed the educational and training requirements set forth in [Sup.R. 16.53\(A\) and \(B\)](#), and that they comply with all continuing education as required by [Sup.R. 16.53\(C\)](#) and the appointing court.
- Perform a conflict-of-interest search and advise the court and parties of any potential conflict. A conflict in this instance would be of the same nature as a conflict that would affect an attorney's ability to represent a client.
- Disclose, to any party who requests, their qualifications related to their ability to evaluate the matter to which they have been appointed.
- Make sure that every party is aware of the responsibility to complete court required information forms, prior to the evaluation session. Further, if the evaluator is requiring a pre-evaluation brief, ensure that all parties are aware of the requirement, including any specific information that must be set out in the brief.
- Conduct a screening process, before and during the neutral evaluation for domestic abuse, domestic violence and for the capacity of the parties to engage in the process as set forth in [Sup.R. 16.54\(A\)\(1\)-\(5\)](#).
- Conduct a pre-session conference with counsel and parties not represented by counsel, so that all involved will be aware of the evaluation session process.
- Conduct the session in a neutral and professional manner, giving all parties the opportunity to fully participate and in a safe manner.
- Upon the conclusion of the evaluation session or sessions, report to the court that the evaluation has been completed and what parties participated or failed to participate. No information as to the testimony or exhibits received from the parties or the evaluator's recommendations shall be provided to the court. The evaluators will not be permitted to participate any further in the case, unless the neutral evaluation is reconvened for additional reasons, and will not be available to testify during litigation.
- Maintain all information from the session as required by the referring court. The information, however, is not public information as per [Sup.R. 16.55](#).
- Maintain complete confidentiality of the evaluation from the subsequent trier of fact or other non-party.



Education and Training Requirements

Evaluators have mandatory experience and training requirements that are set forth in [Sup.R. 16.53](#), which must be fulfilled prior to accepting an appointment from the court. Continuing education requirements are set forth in [Sup.R. 16.53\(C\)](#). Failure to comply with the continuing education requirements renders the evaluator ineligible from service as an evaluator until the requirements are satisfied. Evaluators are responsible for keeping the court informed should they become ineligible.

Evaluators for financial neutral evaluations should be subject matter experts in accounting and/or finance.

The court is responsible for overseeing the quality of the evaluators and ensuring that the requirements of [Sup.R. 16.50](#) through 16.55 are met. This includes, but is not limited to, developing a process for evaluating written comments and complaints about evaluators appointed by the court. The court's responsibilities are outlined in further detail in [Sup.R. 16.54](#).

(See Appendix T.)

Best Practices for Evaluators

Courts in Ohio have successfully established neutral evaluation programs for use in their domestic relations, juvenile, and civil case dockets. Here are some best practices for evaluators to consider applying before and during the neutral evaluation session:

- Research the law and the case in advance.
- Perform a conflict check, including involvement as a former or future magistrate.
- Screen for domestic violence, ahead of and during the neutral evaluation session.
- Be moderate in your timing and be specific about your timing instructions so that everyone is clear with regard to the limits.
- Explain definitions (e.g., shared parenting).
- Take a few minutes before the time the case is scheduled to call the attorneys on the case and explain the process. Many attorneys have not been through a neutral evaluation, and some think they have to make a presentation, or to apply the rules of evidence. Refer attorneys to the local rule or send it to them as a courtesy.
- Take a few minutes at the beginning of the neutral evaluation session to re-explain the ground rules for neutral evaluation (e.g., time allotments for each party, each attorney, GAL, etc.; confidentiality; next steps after parties/attorneys are heard; panel deliberation/discussion; time for parties to meet with counsel; determine if the parties want to move forward with mediation approach; meetings with one side/caucusing; what happens if the case settles in whole or in part; memo of agreement; acknowledgment). This helps educate the parties and attorneys and sets the tone for neutral evaluation.
- Let the parties be heard. The panel can ask questions, but it is important not to derail the litigant's presentation unless it is belligerent, inappropriate, etc.
- Accept each party's version of the story. Evaluators are not there to judge or to make a final decision but to provide feedback: help the parties help themselves whenever possible.
- Be mindful that sensitive topics may be discussed, such as substance use disorder, mental health, or emotions.
- Positive phrases and encouraging words are usually very helpful (e.g., "We hope to help you gain a better understanding of your case and perhaps we can move forward together toward resolution.")
- Know that more than one session may be necessary, depending on the initial amount of time allotted. Some courts schedule three-hour blocks of time.
- Be familiar with the court's expectation for presentation of an agreement where the parties are self-represented.



The Skills Necessary to Be an Effective Evaluator

- Create a welcoming environment that helps parties speak freely and truthfully.
- Establish and maintain ground rules.
- Draw out positions and supporting evidence.
- Help parties explore needs and interests.
- Be empathic, listening carefully and with eye contact.
- Assess body language.
- Create brainstorming opportunities for compromises.
- Use clarifying questions so parties are able to tell their stories.
- Be positive about potential settlement.
- Ask questions to understand the story which is crucial for the evaluation.
- Explain the dispute resolution spectrum where the parties are able to craft and to define settlement in neutral evaluation before a decision is made in a courtroom.
- Give difficult feedback in a positive manner.
- Locate common ground.
- Understand the legal analysis – what does the statute require?
- Identify issues or subject areas that the parties do not dispute.
- Identify, clarify, and rank the importance of legal or factual issues.
- Assess the strength of evidence and the likelihood that key factual findings will be made.
- Relate the competing evidence, narrative and lines of legal reasoning.
- Encourage self-determination and settlement in the broadest possible perspectives.
- Help parties identify information, efficiency, flexibility, and balance.
- Provide recommendations, suggestions, and resources.
- The evaluation is more than “the judge will likely order . . .”
 - Give an example where “the law requires . . .” or “the evidence suggests . . .”
 - Use language such as “I/We noticed . . .”
- Be an active listener: respectful, interested in helping the parties, engaged, careful, and calm.



Screening by the Evaluator

The court is required to establish a screening process pursuant to [Sup.R. 16.54](#). This process should include requirements for initial screening by the judge or magistrate before neutral evaluation is ordered and screening by the evaluator(s) prior to the session. The evaluators should continue to screen during the neutral evaluation session.

Screening for domestic abuse, coercive control and other factors that may impact a party's ability to participate in the neutral evaluation process is necessary in every case. Screening can identify in advance, cases that require specific protocols and other safeguards and cases in which neutral evaluation is not appropriate. Initial screening by the court can help avoid situations in which inappropriate cases are referred to neutral evaluation.

The screening process required of evaluators should at minimum include:

Before:

- A separate interview, in-person, by videoconference or by telephone, with each party prior to the session. During this interview, the evaluator(s) should inquire about domestic abuse, coercive control and other factors that may impact the party's capacity to participate in neutral evaluation.
- Consideration of any concerns or fears expressed by the parties.
- Assessment of each party's capacity to participate in the neutral evaluation process.
- Development of a safe, appropriate, and effective neutral evaluation process for the parties.

During:

- Ongoing screening throughout the neutral evaluation process, for example:
 - Watching body language;
 - Outbursts; or
 - Parties are not following the ground rules.
- At any time, an evaluator may determine that the case is not appropriate for neutral evaluation and inform the court.

(See Appendix U.)



Self-Represented Parties

Many courts are experiencing a growing number of self-represented litigants in civil, probate, and domestic relations dockets.

Mediation, neutral evaluation, and litigation are dispute resolution processes with different procedures, outcomes, and expectations. The courts should consider how neutral evaluation will be managed as a process with self-represented parties. Significantly, evaluators will need more time to explain the process, the benefits, and the procedures for a successful neutral evaluation.

When judicial officers order neutral evaluation, it may be helpful to have a checklist or packet to explain the step-by-step process of what is needed for a successful neutral evaluation. Evaluators must impress upon neutral evaluation self-represented parties that the process is outcome-oriented and will clarify whether a party's position comports with the legal standards to be successful. Self-represented parties are responsible for ensuring the conclusion of the neutral evaluation is reported to the court as well as any agreements the parties make.

Parties should understand that they will be gaining the opinion of an experienced neutral. They will have the opportunity to understand whether a party's position will succeed in a courtroom.

The process will likely take longer because the parties do not know the neutral evaluation process and will not have a lawyer preparing and/or assisting them. The parties may not understand how to fill out the brief, why it is important, and how to distribute it.

At the outset of a neutral evaluation, evaluators should avoid jargon, legalese, and acronyms. Evaluators should be diligent about domestic violence screening and explaining the need for screening to the parties. Evaluators set the tone and the ground rules, especially about interrupting. It is important to set clear boundaries about timelines.

Evaluators will need to be more directive and concrete when asking questions to ensure facts relevant to legal standards at issue are fully understood. For example, if a party admits a mistake was made but it was not all his/her fault, the party should understand there are comparative negligence standards.

Evaluators should:

- Be mindful that the parties' personality may impact the ability to participate.
- Address any perceived imbalances if one party has an attorney.
- Allow time for a self-represented party to contact a support person to discuss any proposed agreement.

If parties want an attorney, the court could suggest parties contact their local bar association or research limited scope representation attorneys for the process.



Best Practices for Attorneys Representing Parties in Neutral Evaluation

Courts in Ohio have successfully established neutral evaluation programs for use in their domestic relations, juvenile, and civil case dockets. Here are some best practices for attorneys to consider applying before and during the neutral evaluation session:

- Attorneys educate themselves on the neutral evaluation process by previewing an evaluation with the panel.
- Attorneys educate the parties on the neutral evaluation process.
- Attorneys educate the experts on the neutral evaluation process.
- Attorneys should know and understand all neutral evaluation local rules of the county.
- Be prepared.
- Perform a conflict check, including involvement as a former or future magistrate.
- Discuss with your client what the client wants out of the neutral evaluation process. What is a successful outcome to the party?
- Have expert reports ready and exchanged before the neutral evaluation.
- Assist your client with all neutral evaluation briefs.
- Generally, do not address personal property issues in a divorce neutral evaluation, unless the assets are valuable or meaningful.
- Give an explanation to your client about definitions of terms that may be used in the neutral evaluation.
- Practice/role play with your client with your client's presentation to the panel.
- Make any local rules regarding neutral evaluation available to the client, or send it to them as a courtesy.
- If parental rights are at issue, encourage your client to focus on the major issues.
- Let the parties be heard. It is important not to derail the litigant's presentation unless it is belligerent, inappropriate, etc.
- Consider using demonstrative exhibits, especially with finances such as balance sheets, child support worksheets, and/or spousal support calculations.
- As an attorney, focus on being a problem solver and a collaborator in the neutral evaluation process.
- Be positive and optimistic with your client about the potential outcome and the process in general.
- Be respectful and deferential to the panel.





Public Access

[Rule 16.55](#) of the Rules of Superintendence sets forth the public access rules for neutral evaluation. This rule states that “[t]he 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.”

Certain documents that would typically be removed from public view on the docket, such as financial documents, are similarly not subject to public access when submitted for use in neutral evaluation.

Briefs and other documents submitted in the neutral evaluation are not subject to public access under the rule and should be destroyed at the conclusion of the neutral evaluation.



Best Practice Tip

Once a neutral evaluation has been completed, the evaluators’ notes should be destroyed.



Appendix: Neutral Evaluation Documents and Forms

If the following links are not functioning properly, please [contact the Dispute Resolution Section at DisputeResolution@sc.ohio.gov](mailto:DisputeResolution@sc.ohio.gov) for assistance.

- A. Checklist – Documents by Case Type
- B. Brochure
- C. FAQs (for Attorneys)
- D. Sample Local Rule
- E. Opening Statements
- F. Agreement for Neutral Evaluation
- G. Agreed Entry Neutral Evaluation Parenting
- H. Entry for Neutral Evaluation Parenting
- I. Agreed Entry Neutral Evaluation Financial
- J. Entry for Financial Neutral Evaluation
- K. Agreed Entry Neutral Evaluation Civil
- L. Entry for Neutral Evaluation Civil
- M. Motion for Neutral Evaluation
- N. Civil Case Statement (Brief)
- O. Financial Perspective Brief
- P. Parenting Perspective Brief
- Q. Information Sheet (for Parties)
- R. Intake Sheet
- S. Order for Payment of Additional Neutral Evaluation Fees
- T. Participation Surveys – Party and Attorney
- U. Sample Screening Questionnaire
- V. Sup.R. 16.50 - 16.55 as of Publication Date
- W. [Sup.R. 16.50 – 16.55](#)

Mediation screening resources may be helpful in developing a screening protocol. Some of the most widely used resources are listed below:

- [Michigan Domestic Violence Screening Protocol](#)
- [Mediator's Assessment of Safety Issues and Concerns \(MASIC- S\)](#)
- [SAFeR Practice Guides for Family Court Decision Making](#)
- Appendix V: Sup.R. 16.50-16.55 as of publication date
- Appendix W: [Sup.R. 16.50-16.55](#)

Documents included in this toolkit have been adapted with permission from: Delaware County Court of Common Pleas, Domestic Relations Division; Hamilton County Court of Common Pleas, Domestic Relations Division; Marion County Family Court; Rosalind C. Florez, Magistrate (Retired); Richard L. Altman, Magistrate (Retired); and Scott Friedman, Esq. These forms are samples that may be used as references in developing your court's forms and are not considered to be Supreme Court of Ohio standardized forms.

Appendix A: Checklist – Documents by Case Type

Below is a checklist of documents by case type to provide to attorneys and parties.

For All Case Types	For Use in Parenting or Custody Case Types	For Use in Domestic Relations Financial Case Types	For Use in Civil Case Types
Brochure	Brochure	Brochure	Brochure
Opening Statement	Opening Statement	Opening Statement	Opening Statement
Agreement for Neutral Evaluation	Agreement for Neutral Evaluation	Agreement for Neutral Evaluation	Agreement for Neutral Evaluation
Agreed Entry or Entry for Neutral Evaluation	Agreed Entry or Entry for Neutral Evaluation Parenting	Agreed Entry or Entry for Neutral Evaluation Financial	Agreed Entry or Entry for Neutral Evaluation Civil
Motion for Neutral Evaluation	Motion for Neutral Evaluation	Motion for Neutral Evaluation	Motion for Neutral Evaluation
Specific for Case Type	Parenting Perspective Brief	Financial Perspective Brief; Financial Statement Worksheet	Civil Case Statement (Brief)
Information Sheet	Information Sheet	Information Sheet	Information Sheet
Intake Sheet	Intake Sheet	Intake Sheet	Intake Sheet
Order for Payment of Additional Fees	Order for Payment of Additional Fees	Order for Payment of Additional Fees	Order for Payment of Additional Fees
Participation Surveys	Participation Surveys	Participation Surveys	Participation Surveys
Screening Questionnaire	Screening Questionnaire	Screening Questionnaire	Screening Questionnaire



Appendix B: (Sample Brochure Content)

Neutral Evaluation

Your case has been referred to neutral evaluation, a dispute resolution process designed to promote satisfaction through improved efficiency, reduced cost, and earlier resolution of civil, juvenile, probate, and domestic relations cases. Neutral evaluation provides a neutral forum for parties to discuss their cases.

What exactly is neutral evaluation?

Neutral evaluation is a short-term, confidential process that requires the parties and their attorneys, if applicable, to attend a session at the court. After brief case presentations and information gathering, the evaluators, who are experienced professionals, share their evaluative impressions of the case with the likelihood of success and assist the parties in exploring possible solutions to the current dispute. The process is not mediation but is less formal than litigation. Sessions generally last 3 – 4 hours.

What opportunities does the use of neutral evaluation present?

Parties will explore prospects for settlement, and thereby potentially reduce costs and expedite disposition. Parents and their children may also avoid the stress associated with litigation, which is time-consuming.

Who are the evaluators?

Depending on the case, the team may consist of a magistrate, an attorney, and a social worker or counselor. Guardians ad Litem and financial experts may participate as appropriate. Evaluators have extensive experience managing disputes and have been trained as mediators appropriate for the case type.

How does the process begin?

The assigned judge or magistrate will approve an agreed entry or create an entry ordering neutral evaluation or magistrate's order for neutral evaluation, and the parties with their attorneys will proceed immediately to schedule the neutral evaluation session. The parties will be given a scheduling notice with the date, time, and location of the neutral evaluation session. A post-neutral evaluation hearing with the assigned judge or magistrate will also be scheduled at this time. Within 14 days of the agreed entry, entry ordering neutral evaluation, or magistrate's order for neutral evaluation, payment of the neutral evaluation fee is required.

What happens next?

Each party or attorney will submit the appropriate brief to the court and to the other party or attorney a minimum of 14 days before the scheduled neutral evaluation session. The brief answers a series of questions to give the evaluators a snapshot of the case. Fines may be assessed for late submissions or failure to submit. The brief will not be filed with the clerk of court or placed in the court's case file. It will be shredded upon completion of the neutral

evaluation process. The brief is designed to give the evaluators an overview of the case. The format for the brief is available on the court's website.

The parties and their attorneys will report to the court on the scheduled date and prior to the time for the neutral evaluation session. No other person should attend unless written approval is obtained in advance. Sessions cannot be rescheduled unless a motion is filed with the court and good cause is shown.

What happens during the session?

The evaluators will oversee the discussion to allow each party and attorney the opportunity to be heard in an atmosphere of cooperation and respect. First, the evaluators will fully explain the neutral evaluation process and the ground rules. Then, each party will have an opportunity to explain what disputes are at issue. The attorneys will be available to remind their clients of important information and to help them maintain focus. The attorneys will also be afforded a brief opportunity to supplement their clients' presentations. The evaluators will ask questions of each party in an effort to solicit sufficient relevant information and will then meet privately to discuss the strengths and weaknesses of each party's position. Subsequently, they will provide an evaluation of the probable outcome of the case if the matter was presented during trial. Settlement possibilities will be discussed and areas needing further inquiry may be identified. Parties may meet privately with their attorneys to discuss options. The evaluators may schedule another neutral evaluation session if additional information or collateral data is needed.

What happens after the session?

If a full or a partial settlement is reached, the evaluators will require that the agreement is reduced to written form and submitted to the assigned judge or magistrate on a future date. The matter may be referred to mediation if certain details need to be resolved to reach a full settlement.

If no settlement is reached, the evaluators will notify the assigned judge or magistrate. The evaluators will not be permitted to participate any further in the case and they will not be available to testify during litigation.

Appendix C: Frequently Asked Questions (for Attorneys)

What is neutral evaluation?

Neutral evaluation is a dispute resolution process where one or more evaluator(s) gives the probable outcome of a dispute based on the information presented by the parties and their counsel.

Why use neutral evaluation?

Neutral evaluation minimizes court costs and provides parties with some self-determination in the outcome of the matter, as well as an opportunity to see if their positions may be successful in court.

When is neutral evaluation appropriate?

Neutral evaluation can be ordered at any time during the case. Some parties prefer starting with the process early, and some other parties defer to this process after the litigation process has commenced.

Who should attend?

Parties, attorneys, subject matter experts and Guardians ad Litem could attend the neutral evaluation session.

Are support people allowed to attend?

No, unlike mediation, no support people are allowed in the room, unless otherwise authorized by the court or the evaluators.

What should the parties expect?

At the neutral evaluation session, the evaluators will oversee the discussion to allow each party and attorney the opportunity to be heard in an atmosphere of cooperation and respect. The parties should expect to provide information and be actively engaged in the neutral evaluation process. The evaluators will seek additional information from the parties, if necessary. Once the information is gathered, the evaluators will meet privately to discuss the strengths and the weaknesses of each party's position and to discuss probable outcomes for the parties. The evaluators will then orally present this feedback, resources, and options to all parties. The parties will be given an opportunity to consult privately with their attorneys to review and discuss the evaluators' feedback. The parties will reconvene and discuss results. If the parties come to a full or partial agreement, they must put the agreement in writing and submit it to the assigned judge/magistrate at a future date. The parties could agree to proceed to mediation if they have unresolved issues.

Could the neutral evaluation session be remote?

Neutral evaluation may be held in person or via video conference.

How long does the neutral evaluation usually last?

The matter is usually discussed and concluded in a three-to-four-hour session. Additional sessions may be scheduled after the first neutral evaluation session.

What is the fee for neutral evaluation?

The fee for neutral evaluation varies by county.

When is the process initiated?

Once the parties agree to proceed to neutral evaluation, the process is initiated by an agreed entry or by an order from the judicial officer. At that time, the neutral evaluation session will be scheduled, approximately a month from the filing of the entry/order.

What is required after the agreed entry or order to participate in neutral evaluation is filed?

The parties need to submit their briefs at least two weeks before the date of the neutral evaluation session, or as otherwise set forth in the court's order, and the payment, for counties that require payment, needs to be received minimally two weeks before the date of the neutral evaluation session, or as otherwise set forth in the court's Order.

Who should write the briefs?

Generally, the courts prefer the parties write the briefs and then review with their counsel before submitting them to the evaluators. This will assist the evaluators in understanding the parties' perspectives.

Are the briefs filed with the court?

No, the briefs are not filed with the court. The briefs are exchanged between the parties and counsel.

How much time are the parties and their counsel given to speak?

Generally, the parties are given 15 minutes to make their presentation, and their counsel are given five minutes to clarify.

Do the rules of evidence apply?

No, the rules of evidence do not control the neutral evaluation process, and the parties are allowed to share information with the evaluators during the neutral evaluation session that is otherwise not admissible in court. However, communications made during the neutral evaluation process may be determined to be privileged pursuant to Ohio R. Evid. 408 to prevent disclosure in subsequent proceedings.

Is the evaluation binding?

No, the parties are provided with the probable outcome of a dispute based on the law if the issue is to be litigated.

Is the session confidential?

Neutral evaluation communications are confidential. Exceptions to confidentiality include the following:

- Parties may share all neutral evaluation communications with their attorneys;
- Allegations of abuse or neglect of a child;
- Certain threats of harm to other people or oneself;
- Statements made during the neutral evaluation process to plan or to hide an ongoing crime;
- Statements made during the neutral evaluation process that reveal a felony.

Is the session privileged?

Most courts have a provision in their local rule that communications in neutral evaluation are privileged and not subject to discovery or admissible as evidence in a judicial proceeding unless the communication is otherwise discoverable, relates to an imminent threat, or abuse of a child or protected adult, or is used to plan or conceal a crime. Neutral evaluation communications may also be determined to be privileged under Ohio R. Evid. 408.

Can parties file for continuance?

Yes, but a motion seeking a continuance of a scheduled neutral evaluation will be required, with proper notice provided and pursuant to the court's local rule. A continuance of a scheduled neutral evaluation session shall be granted only for good cause shown.

Are parties or attorneys who violate these rules subject to sanctions?

Any party or attorney who violates these rules may be subject to appropriate sanctions, including but not limited to, additional fees, forfeiture of paid neutral evaluation fee, contempt of court, attorney fees, or costs.

What happens after the session?

Most courts require that the parties provide a report to the court approximately two weeks after the conclusion of the neutral evaluation. Due to the confidential nature of the process (Sup.R. 16.51(B)), this status report is intended only to provide information that allows the judicial officer to schedule next steps in the case.



Appendix D: Sample Local Rule

Rule 39 Neutral Evaluation

39.01 Introduction.

Through Rule 39, the County Domestic Relations Division incorporates by reference Rules 16.50 – 16.55 of the Rules of Superintendence for the Courts of Ohio.

39.02 Definitions.

- A. “Neutral Evaluation” is 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 and probable outcome of each matter.
- B. “Neutral Evaluator” (“evaluator”) means a court-appointed individual who conducts the neutral evaluation session.
- C. “Neutral Evaluation Communication” means a statement, whether oral, in a record, verbal or nonverbal that occurs during a neutral evaluation session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a neutral evaluation session.

39.03 Purpose.

It is the policy of this Court to utilize neutral evaluation to promote greater public satisfaction through the facilitation of a fair and efficient resolution for County Domestic Relations cases.

39.04 Scope.

Neutral evaluation may be chosen as an appropriate method of resolution for a case. A case may be referred to neutral evaluation for the resolution of either parenting or financial issues. Should a case be referred and accepted for both parenting neutral evaluation and financial neutral evaluation, the issues may not be combined without prior approval of the Court. Instead, two separate neutral evaluation sessions and procedures shall typically be conducted.

39.05 Case Selection and Referral.

- A. The Court, upon its own motion or upon the motion of a party, may refer a case to neutral evaluation.
- B. If a case is deemed appropriate for neutral evaluation, a neutral evaluation session may be scheduled, and two neutral evaluators will be assigned by the Court.
- C. Unless otherwise ordered by the Court:
 - 1. For parenting neutral evaluation sessions, the evaluators will consist of one magistrate and a mental health professional.

2. For financial neutral evaluation sessions, the evaluators will consist of one magistrate and either a second magistrate or a financial professional and/or attorney.
3. Specific appointments may be made by the Court taking into consideration the qualifications, skills, expertise, and caseload of the evaluators in addition to the type, complexity, requirements of the case, and other relevant factors.

39.06 Participation.

The neutral evaluation session requires the participation of each party, his or her respective attorney, if represented, and the guardian *ad litem*. No other person shall be permitted to participate without prior approval of the Court.

39.07 Pre-Session Procedure.

A. Briefs.

1. Unless otherwise ordered by the Court, at least 14 days prior to the neutral evaluation session, each party is required to submit a Parenting Perspective Brief and/or a Financial Perspective Brief. The guardian *ad litem*, if appointed, is not required to submit a brief.
 - a. One copy of the brief shall be submitted to the Domestic Relations Court Staff Attorney, and one copy shall be served upon the other party and the guardian *ad litem*, if appointed, in accordance with these rules.
 - b. The brief shall not be filed with the Clerk of Courts, nor shall the brief be placed in the Family File.
2. The evaluators will review the briefs to gain a preliminary understanding of the concerns, interests, and issues currently present between the parties.
3. If either party fails to timely submit the brief, the neutral evaluation session may be canceled.
4. The Court's copies of the briefs and supporting documents will be destroyed upon completion of the neutral evaluation process.
5. The files maintained by an evaluator, but not filed with the Clerk of Court or submitted to the Court shall not be available for public access under Sup.R. 44 through 47.

B. Fees.

1. The fee for parenting neutral evaluation is \$300.00. The fee for financial neutral evaluation is \$600.00. Unless otherwise ordered by the Court, the neutral evaluation fees shall be shared equally between the parties. Fees may be waived or reduced for those participants who are found to be indigent.

2. In the event the case requires more than one neutral evaluation session, the Court may order the parties to pay an additional \$300.00 for parenting neutral evaluation and \$600.00 for financial neutral evaluation. The Court shall take into consideration the parties' financial circumstances when ordering additional fees.
3. Fees shall be paid a minimum of 14 days before the scheduled neutral evaluation session. Failure to submit the fee 14 days in advance may result in cancellation of the neutral evaluation session.
4. Should the parties resolve the contested issues prior to the neutral evaluation session, the parties may submit a signed agreement to the judge or assigned magistrate. If the agreement is acceptable to the Court and if the agreement is submitted to the judge or assigned magistrate at least 14 days prior to the scheduled neutral evaluation session, the neutral evaluation fees may be refunded.

39.08 Neutral Evaluation Session Procedure.

- A. A team of two evaluators shall be appointed to conduct the neutral evaluation session. The magistrate assigned to the underlying case shall not be an evaluator in the neutral evaluation process.
- B. At the neutral evaluation session, the evaluators will oversee the discussion to allow each party and/or attorney the opportunity to be heard in an atmosphere of cooperation and respect.
- C. Unless otherwise permitted by the evaluators:
 1. When a party is represented by an attorney, the party shall have 15 minutes to present his or her case/issues to the evaluators. The party's attorney is then allowed five minutes to present.
 2. A self-represented party and the guardian *ad litem*, if appointed, shall each be allotted the entire 20 minutes to present.
 3. The evaluators may ask each party questions to clarify the issues, if necessary.
- D. After the parties' presentations, the evaluators will consult privately to discuss the strengths and weaknesses of each party's position and to discuss probable outcomes for the parties. The evaluators will then present their feedback and recommendation to the parties and their attorneys, if represented.
- E. The parties will be given an opportunity to consult privately with their attorneys to review and discuss the evaluators' feedback. The parties will then reconvene to discuss the results and attempt resolution.
- F. If the parties come to a full or partial agreement, the evaluators may require the agreement to be reduced to written form and submitted to the judge or assigned magistrate. The matter may be referred to other dispute resolution programs if some issues still need resolved.

- G. Evaluators are prohibited from offering legal advice. However, evaluators may encourage referrals to legal counsel and other support services for all parties.
- H. A party or counsel who has a comment or complaint regarding the performance of an evaluator shall call the Court Staff Attorney to discuss the matter.

39.09 Domestic Abuse and Domestic Violence.

- A. All cases shall be screened for domestic abuse and domestic violence by the evaluators before the commencement of the neutral evaluation session and during the neutral evaluation session.
- B. When violence or fear of violence is alleged, suspected, or present, neutral evaluation may proceed only if one of the evaluators has specialized training as set forth in “Specialized Domestic Abuse Issues and Mediation Training” (including “Fundamentals of Mediation Training”) of this Rule and the evaluators have done all of the following:
 - 1. Informed the person who is or may be the victim of domestic abuse or domestic violence about the neutral evaluation process, the right to decline participation in the neutral evaluation process, and the option to have a support person, in addition to an attorney, present at the neutral evaluation session.
 - 2. Assessed and determined that the parties have the capacity to participate in the neutral evaluation session without fear of coercion or control.
 - 3. Implemented procedures to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons present at the neutral evaluation session.
 - 4. Implemented procedures for the evaluators to terminate the neutral evaluation session if there is a threat of domestic abuse, domestic violence, or coercion between the parties.
- C. Evaluators may encourage referrals to legal counsel and other support services for victims of and suspected victims of domestic abuse or domestic violence.
- D. Neutral evaluation shall not be used in any of the following:
 - 1. As an alternative to the prosecution or adjudication of domestic violence;
 - 2. In determining whether to grant, modify or terminate a protection order;
 - 3. In determining the terms and conditions of a protection order; and
 - 4. In determining the penalty for violation of a protection order.
- E. Nothing in this division of this Rule shall prohibit the use of neutral evaluation in 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.

39.10 Qualifications and Continuing Education.

A team of evaluators, whether employed by the Court, or with whom the Court is contracted, or to whom the Court makes referrals, shall have the following minimum qualifications:

- A. At least one evaluator shall be licensed to practice law in Ohio and have a minimum of five years of experience in domestic relations law. “Experience in domestic relations law” includes mediation, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
- B. The second evaluator may also be licensed to practice law in Ohio and have a minimum of five years of experience in domestic relations law. Alternatively, the second evaluator must possess a master’s degree in the fields of psychology, social work, sociology, counseling, finance, or a related field acceptable to the Court and have a minimum of five years of experience working with children and families. Experience “working with children and families” includes mediation, counseling, casework, legal representation in family law matters, or equivalent experience that is satisfactory to the Court.
- C. At least one evaluator shall have completed the following courses approved by the Supreme Court Dispute Resolution Section in accordance with the standards established by the Commission on Dispute Resolution:
 1. Fundamentals of Mediation Training or be a qualified Mediator in accordance with Rule 31.09;
 2. Specialized Family or Divorce Mediation Training; and
 3. Specialized Domestic Abuse Issues and Mediation Training.
- D. Additionally, 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, i.e., counseling, or financial analysis.

If an evaluator fails to comply with the continuing education requirement, the evaluator shall not be eligible to serve as an evaluator until the continuing education requirement is met.
- E. The Domestic Relations Court Staff Attorney will maintain a list of qualified evaluators. All individuals interested in being on the list of qualified evaluators shall submit on or before January 1st of each year to the Court Staff Attorney an updated curriculum vitae (including a list of training related to the field of dispute resolution and profession or association memberships) and continuing education certificates. The Court will review applications of persons seeking to be added to the list of qualified evaluators in accordance with the procedures adopted by the judge of the Domestic Relations Court.
- F. At the request of a party to the neutral evaluation, the evaluator shall disclose his or her qualifications to evaluate the subject matter in dispute.

39.11 Neutrality of Evaluators.

- A. If at any time during the neutral evaluation process an evaluator or a party becomes aware of a conflict of interest or an issue with respect to the neutrality of the evaluator(s), the evaluator, the party, or the party's counsel, when applicable, shall disclose the facts of the purported conflict. A party may agree to waive the conflict after a full disclosure of the facts. If a party requests that the evaluator withdraw, or if the evaluator believes it necessary that he or she withdraw from the case, the Court may appoint another evaluator.
- B. 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 a neutral evaluation session.

39.12 Confidentiality.

- A. Neutral evaluation communications are confidential.
- B. Exceptions to confidentiality include, but are not limited to, the following:
 - 1. Parties may share neutral evaluation communications with their attorneys;
 - 2. Allegations of abuse or neglect of a child;
 - 3. Certain threats of harm to other people or oneself;
 - 4. Statements made during the neutral evaluation process to plan or to hide an ongoing crime; and
 - 5. Statements made during the neutral evaluation process that reveal a felony.
- C. The foregoing confidentiality requirements shall not preclude evaluators and participants in a neutral evaluation session from testifying as to a crime committed in their presence, nor shall they be construed to exempt any person from the statutory duty to report child abuse pursuant to R.C. 2151.421 or to limit any exceptions contained in R.C. 2710.05.
- D. Neutral evaluation sessions shall NOT be recorded.

39.13 Privileged Communications.

- A. A neutral evaluation communication is privileged and not subject to discovery or admissible as evidence in a judicial proceeding. An evaluator shall not be deposed or subpoenaed to testify about any neutral evaluation communication unless an exception applies.
- B. Exceptions to privilege include the following:
 - 1. The neutral evaluation communication is otherwise discoverable;
 - 2. The neutral evaluation communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence;

3. The neutral evaluation communication is intentionally used to plan, to attempt to commit or to commit a crime, or to conceal an ongoing crime or ongoing criminal activity; and
4. The neutral evaluation communication is required to be disclosed pursuant to R.C. 2921.22.

39.14 Sanctions.

The Court may impose sanctions for any violations of this Rule which may include, but are not limited to, attorney fees and other costs, contempt, and any other appropriate sanctions at the discretion of the Court.

SAMPLE



Appendix E: Neutral Evaluation Opening Statements

Sample Version 1

(To be explained, paraphrased, or expounded at your discretion. It is not necessary to read it exactly as written.)

Good morning, my name is _____ and I will be one of your evaluators today. This is _____ who is also one of your evaluators. How may I address you during the neutral evaluation session?

We have each had a minimum of 12 hours of basic mediation training, a minimum of 40 hours of specialized family or divorce mediation training and 14 hours of specialized training in domestic abuse. My experience as an evaluator includes _____. (Each evaluator takes an opportunity to explain qualifications.)

Before we begin, let me explain the process of neutral evaluation and its purpose. Neutral evaluation is a court-ordered dispute resolution process in which the neutral evaluation team provides an evaluation of the probable outcome of the parenting dispute. Neutral evaluation is NOT mediation. Neutral evaluation is a bit more like litigation. Your attorneys have submitted briefs to assist the evaluators with background information. As evaluators, the court appoints us to conduct the session and to provide feedback to you based on the limited information we receive. At the close of the session, we will provide this assessment about what we believe is likely to happen in your case. We hope this will assist you in resolving your dispute about parenting arrangements for your children. You may adopt the evaluation as we give it or use the evaluation to begin settlement discussions. Your attorneys will memorialize any agreements you make. For unresolved issues, you may be referred to mediation or to a full custody investigation.

The neutral evaluation process works like this: each of you will have an opportunity to briefly explain your perspective on the best parenting arrangements for the child(ren); each attorney will have the opportunity to add anything he or she feels should be added and to end with a summation. The presentations will be an informal narration with no direct examination or cross-examination. We ask for truthful, accurate information. After we have heard from everyone, we may ask questions to make sure we understand what you are telling us. In the neutral evaluation session, your role is to listen to what the other side has to say. You may hear some things about which you do not agree, so we ask you to write your thoughts on the provided pads of paper to share with us or your attorney later. This will help us keep the session moving and avoid interruptions. The Ohio Rules of Evidence are relaxed in neutral evaluation, and we will not swear in the parties. This is not a recorded proceeding, and no recording devices of any sort are allowed in the session. If it comes to our attention that you are recording, we will sanction the offending party.

We are not here to make binding decisions. We are not here to determine who is right and who is wrong. We are not here to evaluate the admissibility of the evidence. We cannot order any of you to do anything. Even though neutral evaluation team members have extensive experience in the Court, we cannot guarantee what the judges would ultimately decide. We are here to help you with an outcome in hopes you reach a settlement. We are impartial evaluators, and we will not have any involvement with your matter after this session. The matter will be assigned to another magistrate or dispute resolution staff member. Further, we do not believe we have any prior knowledge of you (the parties) that would affect our ability to be impartial.

Neutral evaluation is confidential. We as evaluators will not be discussing this session with the assigned magistrate, judge, or dispute resolution employee. The only exceptions to confidentiality are that you as parties may discuss neutral evaluation with your attorneys; or if there are allegations of abuse or neglect of a child, threats of harm to others, or statements about an ongoing crime or about a felony.

All neutral evaluation communication is privileged and not subject to discovery or admissibility as evidence in a judicial proceeding. That means the neutral evaluation evaluators may not be deposed or subpoenaed to testify about any neutral evaluation communication unless a communication is otherwise discoverable, relates to imminent threat, or is intended to be used as a plan to commit a crime.

To make this neutral evaluation session run smoothly, we ask that you follow these ground rules: direct all comments to the evaluators, not to each other; do not interrupt when someone is speaking; and write down any questions or comments you may have to share with us or your attorney, so you will not forget your point. Likewise, all persons should please turn off their cell phones. We will be taking notes throughout the session to assist us in our evaluation. Our notes are not discoverable and will be shredded after the session. Do you understand the ground rules?

Other housekeeping matters include the taking of breaks. Should you need a moment, please feel free to request it. The restrooms are in the hallway.

Now is the time to share your photo(s) of the child(ren) with us. Recall that the child(ren) is/are the focus of our session. (*talk of the kids*)

Any questions? If not, would the moving party please begin?

Sample Version 2

Welcome to Judge _____'s (or X county's) Neutral Evaluation Program. We are excited to get started and hopefully move your case forward together. My name is _____ and I will be serving as one of your neutral panel members for today. I am a magistrate here at the court but obviously not the magistrate on your case.

Your other panel member for today is _____ and please introduce yourself to the parties and counsel. We are only here for purposes of the neutral evaluation, and you will not see us on your case in any other capacity and we will not be making decisions on your case.

Neutral evaluation is a non-binding process unless you want to make it binding through an order. It is your opportunity to tell the panel what is important to you and gain feedback about the strengths and weaknesses of your case and possible outcomes which could help you determine next steps moving forward.

This process is driven primarily by you as a party to the case. The panel wants to hear from you about what is going on with your case. We would also like to know what you want and what success looks like in your view. We will hear from each of you and then from your attorneys. You will have up to 15 minutes each to present. Your attorneys will have five minutes each. The Guardian ad Litem will have 15 minutes and if you are self-represented, you may have up to 20 minutes to present. You may speak freely and respectfully. The rules of evidence do not apply in the neutral evaluation setting, so this is a less restrictive setting than a courtroom and you are not cross-examined, although the panel will likely have questions.

After the panel hears from you and your attorney, we will discuss your case privately and allow you to relax. We will then return with feedback about your case for you to consider. At that point, you will meet with your attorneys privately and determine whether or not you would like to proceed to the next phase of mediation. Many people choose to move forward to attempt resolution through mediation to save the time, effort, and expense of trial.

Neutral evaluation sessions are not recorded. The information shared here is confidential and privileged unless an exception would apply, such as you share that you are planning to commit a felony, threaten someone with harm, or disclose that you are harming a child, etc. However, simply because information discussed here is confidential and privileged does not mean that it could not be discoverable through other means. Your panelists will not be discussing the information with others and neither will you, except for your attorney, and the panelists will not be called into court to testify. Likewise, you will not be examined in court about what was said in this neutral evaluation, again, unless an exception would apply.

Should you be able to come to an agreement, it will need to be reduced to writing and then we can have Judge _____ or a magistrate do an acknowledgment of your signed memorandum of agreement.

You are the Plaintiff in the case, or you filed the first motion. We will begin with hearing from you. Please go ahead and tell us about your case.



Appendix F: Agreement for Neutral Evaluation

COURT OF _____

_____ DIVISION

AGREEMENT FOR NEUTRAL EVALUATION

Date: _____

Case

Number: _____

Neutral Evaluators: _____

We understand and agree to the following:

Neutral evaluation is an outcome-oriented process where the evaluators determine the likelihood of success in litigation.

The evaluators are not acting as a judge or magistrate and have no authority to force the parties to reach an agreement. An agreement shall be reached only if the parties believe the agreement is fair and in their best interests. The evaluators are not authorized to give the parties legal advice at any time.

The evaluators are not advocates for any party. The evaluators and the parties agree that there are no potential conflicts of interest that may prevent or interfere with the neutral evaluation process. The evaluators and each participant have the right to withdraw from neutral evaluation at any time. Parties understand that withdrawing may/may not result in further action of the court.

Parties agree that by signing this agreement, nothing said in the neutral evaluation or any written communications (except for written agreements all parties sign and wish to be made an Order of the court and/or information parties mutually agree to be discussed outside of the neutral evaluation) may be used against any participant in any court proceeding.

However, the evaluators may inform the court or report to proper authorities certain information including 1) allegations of abuse or neglect of a child, 2) certain threats of harm to other people or yourself, 3) things said during the neutral evaluation process to plan or hide an ongoing crime, and 4) things said during the neutral evaluation process that reveal a felony crime. Other than these exceptions and absent a specific agreement between and among the parties, the only information that the evaluators provide to the court is party attendance and the outcome of the neutral evaluation.

Any agreements that may be reached by the parties in this neutral evaluation do not modify or replace any court orders. If the parties wish to have this agreement made an order of the court in formal cases, as indicated above it must be presented to the court by the parties in the form of an agreed entry.

Appendix G: Agreed Entry Neutral Evaluation Parenting

COURT OF _____

Plaintiff/Petitioner

Date: _____

Case No.: _____

File No.: _____

Defendant/Petitioner/Respondent

AGREED ENTRY
NEUTRAL EVALUATION
PARENTING

JUDGE: _____

MAGISTRATE: _____

Upon review of the remaining parenting issues in the above-captioned case, and for other good cause shown, the court hereby approves and refers this case for neutral evaluation. With the knowledge and consent of the court, both parties, with their attorneys, if applicable, hereby agree to attend neutral evaluation.

___ Plaintiff shall advance the sum of \$ ___

___ Defendant shall advance the sum of \$ ___

___ Both, ½ each, shall advance the sum of \$ ___ (\$ ___ each).

___ Neither shall advance any funds, fee waived by poverty affidavit.

To initiate the neutral evaluation process, the parties with their attorneys, if applicable, shall:

- 1) Schedule the neutral evaluation session with _____ immediately following the filing of this Agreed Entry;
- 2) Deposit the fee with _____ a minimum ___ days before the scheduled neutral evaluation session (additional fee applies for using a credit card). Failure to submit the fee ___ days in advance will result in cancellation of the neutral evaluation session; and

- 3) Submit the Parenting Perspective Brief to _____ and to the other party or attorney a minimum of ___ days before the scheduled neutral evaluation session. The template for the Parenting Perspective Brief is available on the court’s website.

Questions regarding the neutral evaluation process may be directed to _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, or costs, per Local Rule ____.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process, subject to the Supreme Court of Ohio’s reporting guidelines. The parties or their attorneys shall timely notify this court of the termination of the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

By signature on this Agreed Entry, both parties expressly, knowingly, and voluntarily waive their right, if any, to the court’s issuance of separate findings of fact and conclusions of law.

Judge/Magistrate

Plaintiff/Petitioner

Defendant/Respondent/Petitioner

Attorney

Attorney

Appendix H: Entry for Neutral Evaluation Parenting

IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO

_____ ,	:	
	:	
Plaintiff,	:	Case No. _____
	:	
vs.	:	JUDGE: _____
	:	
_____ ,	:	Magistrate _____
	:	
Defendant.	:	

**ENTRY FOR
NEUTRAL EVALUATION
PARENTING**

Upon review of the issues in the above captioned case, and for other good cause shown, the court hereby approves and refers this case for neutral evaluation. The parties, with their attorneys, if represented, are hereby Ordered to attend neutral evaluation.

- ___ Plaintiff shall advance the sum of \$ _____
- ___ Defendant shall advance the sum of \$ _____
- ___ Both, ½ each, shall advance the sum of \$ _____ (\$ _____ each)
- ___ Neither shall advance any funds, fee waived by poverty affidavit.

The neutral evaluation sessions are scheduled for [date and time]. The sessions will be conducted via Zoom video conference. An email with the Zoom meeting invitation will be sent to the email address on file.

To initiate the neutral evaluation process, the parties, with their attorneys, if represented, shall:

- 1) Deposit the fee as follows: ___ Failure to submit the fee 14 days in advance will result in cancellation of the neutral evaluation session; and

2) Submit the Parenting Perspective Brief (brief) to _____ and to the other parties or attorneys a minimum of 14 days before the scheduled neutral evaluation session(s). The template for the brief is available on the court's website.

The brief shall NOT be filed with the clerk of courts. Failure to submit the brief 14 days in advance may result in cancellation of the neutral evaluation session.

Questions regarding the neutral evaluation process may be directed to: _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, and/or costs.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process. The parties or their attorneys shall timely notify this court of the termination of the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

MAGISTRATE

JUDGE

The Clerk of this Court is hereby Ordered to serve a copy of this Entry upon the following by: <input type="checkbox"/> Regular Mail <input type="checkbox"/> Mailbox at _____ <input type="checkbox"/> Electronic Notification
--

Appendix I: Agreed Entry Neutral Evaluation Financial

COURT OF _____

Plaintiff/Petitioner

Date: _____

Case No.: _____

File No.: _____

Defendant/Petitioner/Respondent

AGREED ENTRY

NEUTRAL EVALUATION

FINANCIAL

JUDGE: _____

MAGISTRATE: _____

Upon review of the remaining financial issues in the above-captioned case, and for other good cause shown, the Court hereby approves and refers this case for neutral evaluation. With the knowledge and consent of the court, both parties, with their attorneys, if applicable, hereby agree to attend neutral evaluation.

___ Plaintiff shall advance the sum of \$ ___

___ Defendant shall advance the sum of \$ ___

___ Both, ½ each, shall advance the sum of \$ ___ (\$ ___ each).

___ Neither shall advance any funds, fee waived by poverty affidavit.

To initiate the neutral evaluation process, the parties with their attorneys, if applicable, shall:

- 1) Schedule the neutral evaluation session with _____ immediately following the filing of this Agreed Entry;
- 2) Deposit the fee with _____ a minimum ___ days before the scheduled neutral evaluation session (additional fee applies for using a credit card). Failure to submit the fee ___ days in advance will result in cancellation of the neutral evaluation

session; and

- 3) Submit the Financial Perspective Brief and Financial Statement Worksheet to _____ and to the other party or attorney a minimum of ___ days before the scheduled neutral evaluation session. The templates for the Financial Perspective Brief and Financial Statement Worksheet are available on the court’s website.

Questions regarding the neutral evaluation process may be directed to _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, or costs, per Local Rule ____.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process, subject to the Supreme Court of Ohio’s reporting guidelines. The parties or their attorneys shall timely notify this court of the termination of the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

By signature on this Agreed Entry, both parties expressly, knowingly, and voluntarily waive their right, if any, to the court’s issuance of separate findings of fact and conclusions of law.

Plaintiff/Petitioner

Attorney

Judge/Magistrate

Defendant/Respondent/Petitioner

Attorney

Appendix J: Entry for Financial Neutral Evaluation

IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO

_____ ,	:	
	:	
Plaintiff,	:	Case No. _____
	:	
vs.	:	JUDGE: _____
	:	
_____ ,	:	Magistrate _____
	:	
Defendant.	:	

ENTRY FOR FINANCIAL NEUTRAL EVALUATION

Upon review of the remaining issues in the above captioned case, and for other good cause shown, the court hereby approves and refers this case for neutral evaluation. The parties, with their attorneys, if represented, are hereby Ordered to attend neutral evaluation.

- ___ Plaintiff shall advance the sum of \$ _____
- ___ Defendant shall advance the sum of \$ _____
- ___ Both, ½ each, shall advance the sum of \$ _____ (\$ _____ each)
- ___ Neither shall advance any funds, fee waived by poverty affidavit.

The neutral evaluation sessions are scheduled for [date and time]. The sessions will be conducted via Zoom video conference. An email with the Zoom meeting invitation will be sent to the email address on file.

To initiate the neutral evaluation process, the parties, with their attorneys, if represented, shall:

- 1) Deposit the fee as follows: ___ Failure to submit the fee 14 days in advance will result in cancellation of the neutral evaluation session; and
- 2) Submit the Financial Perspective Brief as follows: _____ and to the other parties or attorneys a minimum of 14 days before the scheduled neutral evaluation session(s). The Financial Perspective Brief form will be emailed to you.

The Financial Perspective Brief shall NOT be filed with the clerk of courts. Failure to

submit the brief 14 days in advance may result in cancellation of the neutral evaluation session.

Questions regarding the neutral evaluation process may be directed to: _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, and/or costs.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

MAGISTRATE

JUDGE

The Clerk of this Court is hereby Ordered to serve a copy of this Entry upon the following by: <input type="checkbox"/> Regular Mail <input type="checkbox"/> Mailbox at _____ <input type="checkbox"/> Electronic Notification
--

Appendix K: Agreed Entry Neutral Evaluation Civil

COURT OF _____

Plaintiff/Petitioner

Date: _____

Case No.: _____

File No.: _____

Defendant/Petitioner/Respondent

AGREED ENTRY

NEUTRAL EVALUATION

CIVIL

JUDGE: _____

MAGISTRATE: _____

Upon review of the issues in the above-captioned case, and for other good cause shown, the court hereby approves and refers this case for neutral evaluation. With the knowledge and consent of the court, both parties, with their attorneys, if applicable, hereby agree to attend neutral evaluation.

___ Plaintiff shall advance the sum of \$ ___

___ Defendant shall advance the sum of \$ ___

___ Both, ½ each, shall advance the sum of \$ ___ (\$ ___ each).

___ Neither shall advance any funds, fee waived by poverty affidavit.

To initiate the neutral evaluation process, the parties with their attorneys, if applicable, shall:

- 1) Schedule the neutral evaluation session with _____ immediately following the filing of this Agreed Entry;
- 2) Deposit the fee with _____ a minimum ___ days before the scheduled neutral evaluation session (additional fee applies for using a credit card). Failure to submit the fee ___ days in

advance will result in cancellation of the neutral evaluation session; and

- 3) Submit the Civil Case Statement Brief (brief) to _____ and to the other party or attorney a minimum of ___ days before the scheduled neutral evaluation session.

The template for the brief is available on the court's website.

Questions regarding the neutral evaluation process may be directed to _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, or costs, per Local Rule ____.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process, subject to the Supreme Court of Ohio's reporting guidelines. The parties or their attorneys shall timely notify this court of the termination of the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

By signature on this Agreed Entry, both parties expressly, knowingly, and voluntarily waive their right, if any, to the court's issuance of separate findings of fact and conclusions of law.

Plaintiff/Petitioner

Attorney

Judge/Magistrate

Defendant/Respondent/Petitioner

Attorney

Appendix L: Entry for Neutral Evaluation Civil

IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO

_____ ,	:	
	:	
Plaintiff,	:	Case No. _____
	:	
vs.	:	JUDGE: _____
	:	
_____ ,	:	Magistrate _____
	:	
Defendant.	:	

**ENTRY FOR
NEUTRAL EVALUATION
CIVIL**

Upon review of the issues in the above captioned case, and for other good cause shown, the court hereby approves and refers this case for neutral evaluation. The parties, with their attorneys, if represented, are hereby Ordered to attend neutral evaluation.

- ___ Plaintiff shall advance the sum of \$ _____
- ___ Defendant shall advance the sum of \$ _____
- ___ Both, ½ each, shall advance the sum of \$ _____ (\$ _____ each)
- ___ Neither shall advance any funds, fee waived by poverty affidavit.

The neutral evaluation sessions are scheduled for [date and time]. The sessions will be conducted via Zoom video conference. An email with the Zoom meeting invitation will be sent to the email address on file.

To initiate the neutral evaluation process, the parties, with their attorneys, if represented, shall:

- 1) Deposit the fee as follows: _____ Failure to submit the fee 14 days in advance will result in cancellation of the neutral evaluation session; and

- 2) Submit the Civil Case Statement Brief (brief) to _____ and to the other parties or attorneys a minimum of 14 days before the scheduled neutral evaluation session(s). The template for the brief is available on the court's website.

The brief shall NOT be filed with the clerk of courts. Failure to submit the brief 14 days in advance may result in cancellation of the neutral evaluation session.

Questions regarding the neutral evaluation process may be directed to: _____.

Failure to comply with the neutral evaluation process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, and/or costs.

Based on this Order to neutral evaluation, this action is temporarily stayed for purposes of statistical reporting to the Supreme Court of Ohio for as long as the parties are involved in the neutral evaluation process. The parties or their attorneys shall timely notify this court of the termination of the neutral evaluation process.

All orders of this court shall remain in full force and effect until further order of this court.

MAGISTRATE

JUDGE

<p>The Clerk of this Court is hereby Ordered to serve a copy of this Entry upon the following by: <input type="checkbox"/> Regular Mail <input type="checkbox"/> Mailbox at _____ <input type="checkbox"/> Electronic Notification</p>
--

Appendix M: Motion for Neutral Evaluation

COURT OF _____

Plaintiff/Petitioner

Date: _____

Case No.: _____

File No.: _____

Defendant/Petitioner/Respondent

MOTION FOR
NEUTRAL EVALUATION

JUDGE: _____

MAGISTRATE: _____

Now comes _____, and respectfully requests that this court refer this case for neutral evaluation for the following reasons:

Movant believes that neutral evaluation will benefit this matter due to the above reasons and hereby requests that this court set this matter accordingly.

WHEREFORE, for the above-noted reasons, Movant respectfully requests that this court set this matter for a hearing with Judge/Magistrate _____ to determine if this matter should be referred for neutral evaluation.

Party/Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has this ___ day of _____, 20__ been served by _____ upon _____.

SAMPLE

Appendix N: Civil Case Statement (Brief)

CONFIDENTIAL – DO NOT FILE

Neutral Evaluation Civil Case (non-domestic) Statement (Brief)

(Case Caption)

Case No.

Statement of Claim (provide a concise statement of each claim identified in the complaint or counterclaim filed/or a concise statement of each defense outlined in the answer)

Statement of Legal Authority (please provide a concise statement of the legal authority supporting your claims/defenses, both statutory and case law)

Damages (please provide a concise statement concerning damages claimed- if physical injury is claimed provide a statement as to the nature of the injury, the medical treatment received and the prognosis for the injury/please provide a concise statement as to defenses to the claimed damages)

Medical Expenses Incurred (please list dates of treatment, name of provider, nature of the treatment, associated expense of the treatment and expected future medical expenses)

Witnesses to be Used at the Neutral Evaluation (please list all witnesses to be called at the neutral evaluation and provide a concise summary of their expected testimony)

List of Individuals Expected to Present Information at Evaluation Session Other than Parties

Statement as to Current State of Negotiations (please provide a concise statement as to the current state of negotiations, including date of last demand and offer)

Appendix O: Financial Perspective Brief

CONFIDENTIAL – DO NOT FILE

Court use only:

Submission Date:

COURT OF _____

_____/_____/____

Plaintiff

Case No. _____

Judge _____

v.

Magistrate _____

Defendant

NEUTRAL EVALUATION
FINANCIAL PERSPECTIVE BRIEF

Submitting Party: Plaintiff Defendant

Date of Neutral Evaluation Session: _____

Date of Filing: _____

Date of Marriage: _____

Date of Separation: _____

Outstanding Financial Issues (please check all those applicable)

- Real Estate
- Household Goods
- Automobiles
- Funds on Deposit
- Stocks and Bonds
- Retirement Plans
- Tax Refunds and Deductions
- Life Insurance
- Expectancies and Inheritances
- Liabilities/Debt
- Attorney Fees
- Court Costs
- Child Support
- Spousal Support
- Tuition
- Other

Plaintiff's Employer, Address, and Position:

Defendant's Employer, Address, and Position:

Plaintiff's Gross Annual Income and Source (include bonus amounts):

Defendant's Gross Annual Income and Source (include bonus amounts):

Summary of monthly budget expenses (for the party preparing this form):

Mortgage/Rent	
Equity Line	
Food	
Telephone	
Heat/AC	
Sewer/Water/Garbage	
Electricity	
Cable TV/Streaming	
Medical Expenses	
Health/Life Insurance	
Home Insurance	
Car Insurance	
Car Payment	
Car Repair/Fuel	
Child Care	
School Expenses	
Donations	
Other	

Who in your home is responsible for managing the daily finances?

Summary of Debts:

Loans	
Credit Card Bills (itemize)	
Other (itemize)	

Marital Residence:

(name on mortgage, name on deed, and address)

Marital Residence Equity:

Value	
Date of Purchase	
Last Appraisal Date and Amount	
Amount of Outstanding Property Taxes	

Checking Accounts and Balances:

Savings Accounts and Balances:

Health, Vision and Dental Insurance:

(specify what insurance coverage is available to you and the cost of the coverage)

Pensions and Retirement Plans:

(account name, approximate value, how it is owned and by whom)

Investment Accounts:

(type, company name, and approximate value)

Automobiles:

(make, model, year, approximate mileage, approximate value, and titled owner)

Recreational Equipment:

(boats, guns, motorcycles, etc. with make, model, year, and approximate value)

Other Assets of Value:

(do not include normal household goods and furnishings)

Are there non-marital claims? If yes, itemize:

Do you believe that spousal support should be paid? If so, why? Please refer to the factors in R.C. 3105.18 (C)(1). What amount are you requesting? Please provide a range.

Is there a need for a business appraisal or valuation? If yes, please explain.

What are your goals for the neutral evaluation session?

Who might you call as witnesses should this case proceed to trial, what is your relationship to them, and to what will they testify? (if known at this time)

Bring the following documents to the neutral evaluation session:

- 1) Pay stubs for the last three months of employment. If self-employed, please attach a statement of receipts and expenses for the past six months.
- 2) Federal Tax Returns with all attachments including W-2s and 1099s for the last three years.
- 3) Any unemployment compensation statements or worker's compensation statements, and all other income received during the last three months, including any public financial assistance in money or in-kind services (grants, heating assistance, medical assistance, etc.).
- 4) Proof of assets acquired during the marriage, assets acquired before the marriage, assets acquired by gifts or inheritance during the marriage, liabilities acquired during the marriage, and liabilities acquired before the marriage.
- 5) Proposed balance sheets complete with asset valuation, debt, and proposed division of assets and debts.

Signature of Party/Attorney

Typed Name

Date



Appendix P: Parenting Perspective Brief

CONFIDENTIAL – DO NOT FILE

Court use only:

Submission Date:

____/____/____

COURT OF _____

Plaintiff

Case No. _____

Judge _____

v.

Magistrate _____

Defendant

PARENTING PERSPECTIVE BRIEF

*Limit responses to 10 pages total, including this document, and the questions asked.

DO NOT attach documentation.

Submitting Party: Plaintiff Defendant Third Party Defendant

Date of Neutral Evaluation Session: _____

Date of Filing: _____

Pre-Decree Post-Decree (decree date: _____) Never Married

Date of Marriage (if applicable): _____ Date of Separation: _____

Attended Parenting Education Class Yes (date: _____) No

PLAINTIFF

Name _____

Age _____

Gender _____

DEFENDANT

Name _____

Age _____

Gender _____

THIRD PARTY

Name _____

Age _____

Gender _____

CHILDREN OF THIS RELATIONSHIP

Name	Age	Gender	Grade	Name of School
		M F		
		M F		
		M F		
		M F		
		M F		
		M F		

Additional children in the home: Please list their name(s) and relationship(s)

Name	Age	Gender	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

Additional adults living in the home or regularly spending time there:

Please list their name(s) and relationship(s)

Name	Age	Gender	Relationship
		M F	
		M F	
		M F	
		M F	
		M F	
		M F	

Describe your current living environment:

(housing type: apartment, house, etc.; size of the home and number of bedrooms; neighborhood; distance to school/other parent)

Describe your current work situation:

(employer, location, position, schedule)

What is the other parent's/party's work schedule?

Describe any changes expected in your or the other parent's/party's housing/work situation:

Concerns regarding your child(ren):

(physical health, behavioral or mental health issues, developmental concerns, etc.)

Concerns regarding your child(ren)'s education:

(grades, attendance, homework, peers, etc.)

Extracurricular activities of the child(ren):

Describe your support system:
(family, community, friends, etc.)

What are your strengths as a parent?

Describe your parenting role:
(doctor visits, church attendance, discipline, etc.)

Describe your relationship with the children:

What are the strengths of the other parent/party?

Describe the other parent's/party's parenting role:
(doctor visits, church attendance, discipline, etc.)

Describe the other parent's /party's relationship with the child(ren):

What are your concerns about the other parent/party?

(safety issues, discipline issues, drugs, alcohol, mental health, criminal record, etc.)

How have major parenting decisions been made in the past?

(regarding education, religion, medical attention, etc.)

How are those major parenting decisions made now?

How do you want those major parenting decisions made in the future?

Describe your current parenting time/companionship schedule:

What is your proposed parenting time/companionship schedule?

If pre-decree, do you and the other parent/party agree to a parenting/companionship arrangement? If so, what is it? If not, what are you seeking?

If post-decree, what change has occurred?

What are your goals for parenting and the neutral evaluation session?

Who might you call as witnesses should this case proceed to trial, what is your relationship to them, and to what will they testify? (if known at this time)

What discovery do you anticipate submitting at trial? (if known at this time)

Have you already reached an agreement on any issues/sub-issues? (if so, what issues)

Outstanding parenting issues *(please check all that apply)*

- Custody
- Parenting Time
- Holidays/Extended Periods
- Transportation/Exchanges
- Extracurricular Activities
- Healthcare
- Child Support
- Education
- Religion
- Discipline/Routines
- Communication
- Dispute Resolution/Counseling
- Relocation
- Other

Signature of Party

Typed/Printed Name

Date

Signature of Attorney

Typed/Printed Name

Date



Appendix Q: Information Sheet (for Parties)

COURT OF
NEUTRAL EVALUATION
INFORMATION SHEET (for Parties)

Your case has been referred to neutral evaluation, a dispute resolution process designed to promote improved efficiency, reduced cost, and earlier resolution of disputes. Neutral evaluation provides a neutral forum for parties to discuss their concerns.

What exactly is neutral evaluation?

Neutral evaluation is a short-term, confidential process that requires both parties and their attorneys, if applicable, to attend a session at the court led by a magistrate and a court-employed social worker or counselor. After brief case presentations and information gathering, these experienced professionals share their evaluative impressions of the case and assist the parties in exploring possible solutions to the current dispute. The process is not mediation, but is less formal than litigation. Sessions generally last 3 – 4 hours.

What opportunities are presented by the use of neutral evaluation?

Parties will explore prospects for settlement, and thereby potentially reduce costs and expedite disposition. Parties and their children may also avoid the stress associated with parenting investigations and litigation, which are time-consuming and have a long-standing negative impact on families experiencing divorce.

Who are the Evaluators?

The team consists of a magistrate and a master's level social worker or counselor. Both evaluators have extensive experience managing disputes and have been trained as mediators.

How does the process begin?

The assigned judge or magistrate will approve an Agreed Entry or create an Entry Ordering neutral evaluation or Magistrate's Order for neutral evaluation, and the parties with their attorneys will proceed immediately to: _____. The parties will be given a Scheduling Notice with the date, time and location of the neutral evaluation session. A post-neutral evaluation hearing with the assigned judge or magistrate will also be scheduled at this time. Within fourteen days of the Agreed Entry, Entry Ordering neutral evaluation, or Magistrate's Order for neutral evaluation, payment of the neutral evaluation fee is required. Payment is to be made as follows: _____, unless an Affidavit of Indigency has been properly submitted and approved.

What happens next?

Each party or attorney will submit the appropriate neutral evaluation brief as follows: _____ and to the other party or attorney a minimum of 14 days before the scheduled neutral evaluation session. Fines may be assessed for late submissions or failure to submit. The brief will not be filed with the clerk of court or placed in the court's file. It will be shredded upon completion of the neutral evaluation process. The brief is designed to give the evaluators an overview of the case. The format for the brief is available on the court's website.

The parties and their attorneys will report to: _____ on the scheduled date and prior to the time for the neutral evaluation session. No other person should attend unless written approval is obtained in advance. Sessions cannot be rescheduled unless a motion is filed with the court and good cause is shown.

What happens during the session?

The evaluators will oversee the discussion to allow each parent and attorney the opportunity to be heard in an atmosphere of cooperation and respect. First, the evaluators will fully explain the neutral evaluation process and the ground rules. Then, each party will have an opportunity to explain what disputes are at issue. The attorneys will be available to remind their clients of important information and to help them maintain focus. The attorneys will also be afforded a brief opportunity to supplement the presentations. The evaluators will ask questions of each party in an effort to solicit sufficient relevant information, and will then meet privately to discuss the strengths and weaknesses of each parent's position. Subsequently, they will provide an evaluation of the probable outcome of the case if the matter was presented during trial. Settlement possibilities will be discussed and areas needing further inquiry may be identified. Parties may meet privately with their attorneys to discuss options. The evaluators may schedule another neutral evaluation session if additional information or collateral data is needed.

What happens after the session?

If a full or partial settlement is reached, the evaluators will require that the agreement be reduced to written form and submitted to the assigned judge or magistrate on a future date. The matter may be referred to mediation if certain details need to be resolved to reach a full settlement.

If no settlement is reached, the evaluators will notify the assigned judge or magistrate and recommend the next step. Most likely, the case will be ordered to an investigation and any additional assessments. The evaluators will not be permitted to participate any further in the case and they will not be available to testify during litigation.

Appendix R: Intake Sheet

COURT OF _____
_____ DIVISION

Neutral Evaluation Intake Information Sheet

Date: _____

Case Number(s): _____

Party Information (please use other side of page if needed)

Name: _____

D.O.B: _____

Address: _____

Phone: _____

Name: _____

D.O.B: _____

Address: _____

Phone: _____

Name: _____

D.O.B: _____

Address: _____

Phone: _____

Name: _____

D.O.B: _____

Address: _____

Phone: _____

Attorney: _____

Attorney: _____

We ask for you to please complete the following series of questions as accurately and honestly as possible. We understand these questions are personal in nature and appreciate your cooperation. Your answers will be kept confidential. Thank you!

Are you able to communicate comfortably with others, including the other party (s) to your case?

Yes No

Are you able to be in the same room with the other party(s) to your case?

Yes No

Do you have any fear, physical or otherwise, of the other party(s) to your case?

Yes No

Comments (please use this section to respond or elaborate, to the best of your knowledge, more in depth to your above answers or to provide any other relevant information you wish to share):



Appendix S: Order for Payment of Additional Neutral Evaluation Fees

IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO

_____	:	
	:	Case No. _____
Plaintiff,	:	
	:	JUDGE: _____
vs.	:	
	:	Magistrate: _____
_____	:	
	:	
Defendant.	:	

ORDER FOR PAYMENT OF ADDITIONAL NEUTRAL EVALUATION FEES

This cause came before the Court due to the parties' and/or attorneys' failure to comply with the requirements of the neutral evaluation process in violation of Local Rule ____.

IT IS HEREBY ORDERED THAT: A supplemental cost has been incurred and the following additional fees are assessed:

- ___ \$50.00 for late submission of the brief, or
- ___ \$100.00 for failure to submit the brief, and/or
- ___ \$100.00 for failure to appear.

Those responsible for payment are:

- ___ Plaintiff ___ Plaintiff's Attorney
- ___ Defendant ___ Defendant's Attorney

Costs are to be paid to _____ within _____ days of this Order.

This Order is effective immediately.

MAGISTRATE

JUDGE

The Clerk of this Court is hereby Ordered to serve a copy of this Entry upon the following by:
 Regular Mail Mailbox at _____ Electronic Notification



Appendix T: Participation Surveys – Party and Attorney

COURT OF _____
 DIVISION OF _____
 _____, OHIO

PARTY

Neutral Evaluation Participation Survey for Parties

To monitor and improve the quality of the neutral evaluation program, the court would appreciate you taking a few minutes to complete this questionnaire regarding your experience. All information will remain strictly confidential.

Neutral evaluation was requested by: me the other party both of us the court
 I am: represented by an attorney not represented by an attorney
 (If this is a divorce case) My case is: pre-decree post-decree

- 1) Did you understand the explanation of neutral evaluation that you were given?
 yes yes, somewhat no not explained to me
- 2) What were the results of your session?
 complete agreement agreement on some issues, not all no agreement
- 3) Would you say that you had:
 enough time to speak not enough time to speak
- 4) Did the evaluators listen to you when you had your time to talk?
 yes yes, somewhat no
- 5) Did the evaluators understand the details of your family situation?
 yes, very much yes, somewhat no not sure
- 6) Would you say that the evaluators:
 were neutral or fair to both sides favored the other side favored me
- 7) Were the recommendations of the evaluators appropriate?
 yes, very yes, somewhat no not sure
- 8) Did you have any concerns about the evaluators? If yes, please indicate the nature of your concern:

- 9) Did you better understand the other party, or the other party's attorney, as a result of the session?
 yes, a lot yes, somewhat no not sure
- 10) How do you feel about the session?
 very satisfied somewhat satisfied not satisfied not sure
- 11) How much time did you spend preparing the brief?

12) Could the court have handled your case better during the neutral evaluation process? If yes, please give suggestions for improvement:

Additional comments:

Thank you

SAMPLE

COURT OF _____
 DIVISION OF _____
 _____, OHIO

ATTORNEY

Neutral Evaluation Participation Survey for Attorneys

To monitor and improve the quality of the neutral evaluation program, the court would appreciate you taking a few minutes to complete this questionnaire regarding your experience. All information will remain strictly confidential.

Neutral evaluation was requested by: my client the other party both parties the court
 The case is: pre-decree post-decree

- 1) To what extent, if any, did neutral evaluation increase the prospects for settlement? (check only one)
 - The case settled (or will settle) as a direct consequence of neutral evaluation.
 - Neutral evaluation improved the prospects for settlement.
 - Neutral evaluation had no impact on the prospects for settlement.
 - Neutral evaluation worsened the prospects for settlement.
 - This case was never a candidate for settlement.

- 2) For each item below, place a checkmark at the point on the scale that best reflects your views about the evaluators.
 - a. With respect to helping the parties feel heard, the evaluators were:

Very effective (5) (4) (3) (2) (1) Very ineffective
 - b. With respect to providing appropriate feedback and recommendations, the evaluators were:

Very effective (5) (4) (3) (2) (1) Very ineffective
 - c. With respect to getting the sides to engage in meaningful discussion of the issues, the evaluators were:

Very effective (5) (4) (3) (2) (1) Very ineffective
 - d. Overall the evaluators were:

Very effective (5) (4) (3) (2) (1) Very ineffective

- 3) Do you have any concerns about the evaluators? If yes, please indicate the nature of your concerns:

4) Overall, were you satisfied with the neutral evaluation session?

yes no

5) What could the court have done to increase the value of neutral evaluation in this case?

Additional comments:

Thank you

Appendix U: Sample Screening Questionnaire

Sample Screening Questions

- Yes No Is there a restraining order or Civil Protection Order currently in effect?
If yes, when was it issued and by which court? _____
- Yes No Do you fear being in the same room with the other party?
- Yes No Are you psychologically intimidated by the other party?
- Yes No Are you afraid the other party will physically harm you?
- Yes No Are you afraid of the other party for any other reason?
- Yes No Has alcohol or drugs ever caused difficulties for you or the other party?
- Yes No Has the other party ever threatened to hurt you in any way?
- Yes No Has the other party ever hit, shoved, restrained, or kicked you or used other physical force toward you?
- Yes No Has the other party ever put that party's hands around your neck, put something in your mouth or done anything else that made you feel choked, strangled, suffocated, or like you couldn't breathe?
- Yes No Has the other party ever hit or hurt you in the head, neck, or face?
- Yes No Has the other party damaged or destroyed your property or harmed or threatened to harm your pets?
- Yes No Has the other party ever threatened to deny you access to your children?
- Yes No Have you denied the other party access to your children?
- Yes No Do you have serious concerns about your child's emotional or physical safety?
- Yes No Are you able to express your opinions and concerns in front of the other party with a professional present?
- Yes No Are you afraid that what you say in the neutral evaluation session could cause problems later?
- Yes No Did the other party ever require that you log mileage when you used the car, require you to ask for the car keys before you could leave or require you to provide receipts whenever you spent money?
- Yes No Did the other party interfere with your relationships with your family, friends, or children?
- Yes No Do you feel you were an equal partner in your relationship with the other party?

Yes No Do you or the other party have guns or other weapons?

Yes No Have you experienced any of the following types of abuse from the other party?

___ verbal abuse ___ emotional abuse ___ physical abuse ___ sexual abuse

In which of the following time frames did the abuse occur?

___ dating ___ living together ___ separated

How safe do you feel being a room with the other party and a professional?

___ I feel very safe ___ I feel mostly safe ___ I am concerned ___ I do not feel safe

How are decisions made between you and the other party? _____

What type of behaviors are typical when you and the other parent have a disagreement?

Is there anything else you think I should know? _____

How will you let me know if you need a break? _____

Mediation screening resources may be helpful in developing a screening protocol. Some of the most widely used resources are listed below:

[Michigan Domestic Violence Screening Protocol](#)

[Mediator's Assessment of Safety Issues and Concerns \(MASIC- S\)](#)

[SAFeR Practice Guides for Family Court Decision Making](#)

Appendix V: Sup.R. 16.50 - 16.55 as of Publication Date

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.

Appendix W: [Sup.R. 16.50 – 16.55](#)





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