

Title	Family Law: Child Custody Evaluators (amend California Rules of Court, rule 5.225; revise forms FL-325 and FL-326)
Summary	The proposed amendment would promote compliance with the appointment requirements for court-appointed child custody evaluators under rule 5.225 by providing clarity to the rule’s ongoing continuing education requirements.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Gabrielle D. Selden, 415-865-8085, gabrielle.selden@jud.ca.gov

California Rules of Court, rule 5.225 provides the requirements for licensing, education and training, and experience for child custody evaluators who are appointed to conduct child custody evaluations in family court. The proposed amendments to the rule and revisions to *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) and *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL-326) would (1) delete the experience requirements in the rule that were effective until December 31, 2009, (2) clarify the requirements for a child custody evaluator’s appointment, and (3) clarify when court evaluators must complete the continuing education and training requirements of the rule to remain eligible for appointment.

Delete outdated provisions

The Judicial Council amended rule 5.225, effective January 1, 2007, to further clarify the education and training and experience requirements, and certification procedures for court-appointed child custody evaluators. New provisions of the rule under subdivision (g) gave evaluators (who met the experience requirements of the 2005 version of the rule) until December 31, 2009, to meet the new experience requirements. As of January 1, 2010, all child custody evaluators must meet the same experience requirements to qualify for appointment—they must have conducted or materially assisted in the completion of at least four partial or full court-appointed child custody evaluations in the preceding three years. This proposal would delete subdivisions (g)(2) and (g)(4)(B), which reference the experience requirements that were in effect before January 1, 2007.

Requirements for appointment

Rule 5.225(h) provides that after completing the initial education and training requirements of the rule, all evaluators must annually complete four hours of domestic violence update training described in rule 5.230 and eight hours of update training covering the subject areas identified in subdivision (d) of that rule.

The phrase “annually complete” has caused confusion for some courts, evaluators, and parties in trying to determine if an evaluator is eligible for appointment. The specific concerns are that (1) it is not clear in the rule if the evaluator has to complete both the initial education and training and continuing education and training before being appointed, (2) the rule does not provide a date by which the evaluator has to first complete the continuing education and training once the *initial* education and training is completed, and (3) it is not clear if all evaluators must complete ongoing continuing education and training by the end of each year or by the date the evaluator is appointed on a case.

To address the first concern, rule 5.225(h) would be amended to clarify that an evaluator does not have to complete both the initial and continuing education and training requirements of the rule before being eligible for appointment. The title of this subdivision (h) would be amended to state: “Appointment eligibility,” and would provide the following: After completing the licensing requirements in (c), the initial education and training requirements described in (d) and (e), and the experience requirements in (g), a person is eligible for appointment as a child custody evaluator.

Continuing education and training requirements

Amended subdivision (i) would contain the rule’s continuing education requirements. The rule would still require that child custody evaluators complete domestic violence update training described in rule 5.230 and eight hours of update training covering the subjects described in (d). This subdivision would be amended to include the time frame for completing the update training. Specifically, the rule would state:

- A child custody evaluator must complete the continuing education and training requirements of the rule within 18 months after he or she completes the initial education and training described in (d) and (e);
- Subsequently, to remain eligible for appointment, a child custody evaluator must complete the continuing education and training requirements in the preceding 12 months before the date he or she is appointed; and
- Compliance with the continuing education and training requirements of the rule is determined at the time of appointment on a case.

The above amendments support the original intent of the rule that child custody evaluators comply with continuing education and training requirements before being appointed on a case.

This hypothetical illustrates some of the above amendments:

Assuming throughout this hypothetical that the licensing and experience requirements are met, an evaluator who completed the initial education and training requirements under rule 5.225(d) and (e) on February 2, 2011, would be eligible for appointment on the same day under proposed amended rule 5.225(h).

Under proposed subdivision (i), if the court appointed the same evaluator on July 15, 2012, (and he or she had completed only the four hours of domestic violence update training by that date), the evaluator would be still be eligible for appointment because the evaluator would have 18 months—until August 2, 2012—to complete the other eight hours of update training.

If the evaluator completed all the continuing education and training requirements on July 30, 2012, and the court proposed his or her appointment to a new case on March 12, 2013, the evaluator would have to determine if he or she had complied with the continuing education and training requirements. The evaluator would do this by reviewing training records to verify that he or she had completed four hours of domestic violence update training and eight hours of update training in the preceding 12 months before the appointment. So, the evaluator would need to have completed the continuing education and training sometime between March 11, 2012, and March 11, 2013. In this case, the evaluator completed the continuing education and training requirements within this time; specifically, on July 15, 2012. Therefore, he or she would be eligible for appointment on the new case in March 2013.

Revise forms FL-325 and FL-326

Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications (form FL-325) and *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL-326) would be revised to reflect the above proposed amendments to rule 5.225. The experience requirements section of both forms would be revised to delete provisions of the rule that terminated on December 31, 2009. In addition, each form would include a new heading titled “Continuing education and training requirements,” which would include check boxes for evaluators to indicate their compliance with this part of the rule.

The Family and Juvenile Law Advisory Committee recommends that the forms in this proposal be effective on January 1, 2011, to allow court-connected and private evaluators to comply with the revised requirements of the rule that affect the filing of their declarations regarding qualifications.

The proposed amended rule and revised forms are attached at pages 4–10.

Rule 5.225 of the California Rules of Court would be amended effective January 1, 2011, to read:

1 Rule 5.225. Appointment requirements for child custody evaluators

2
3 (a)–(f) ***

4
5 (g) **Experience requirements**

6
7 (1) ***

8
9 (2) For purposes of appointment:

10
11 (A) ~~An evaluator is deemed to be in compliance with the experience~~
12 ~~requirements of this rule until December 31, 2009, if he or she:~~

13
14 (i) ~~Completed or supervised three court-appointed partial or full~~
15 ~~child custody evaluations, including a written or an oral~~
16 ~~report between January 1, 2000, and July 1, 2003; or~~

17
18 (ii) ~~Conducted six child custody evaluations in consultation with~~
19 ~~another professional who met the experience requirements~~
20 ~~of the rule.~~

21
22 (B) ~~Effective January 1, 2010, an evaluator who is deemed to be in~~
23 ~~compliance with the experience requirements described in (A)~~
24 ~~must participate in the completion of at least four partial or full~~
25 ~~court-appointed child custody evaluations in the preceding three~~
26 ~~years as described in (g)(1) to remain in compliance with the~~
27 ~~experience requirements of this rule.~~

28
29 (3) (2) ****

30
31 (4) (3) Those who supervise court-connected evaluators: meet the
32 requirements of this rule by conducting or materially assisting in the
33 completion of at least four partial or full court-connected child custody
34 evaluations in the preceding three years.

35
36 (A) ~~Meet the experience requirements of this rule by conducting or~~
37 ~~materially assisting in the completion of at least four partial or full~~
38 ~~court-connected child custody evaluations in the preceding three~~
39 ~~years; or~~

40
41 (B) ~~If employed as of January 1, 2007, are deemed to comply with the~~
42 ~~experience requirements of this rule until December 31, 2009.~~

1 ~~Effective January 1, 2010, these persons meet the experience~~
2 ~~requirements by conducting or materially assisting in the~~
3 ~~completion of at least four partial or full court connected child~~
4 ~~custody evaluations in the preceding three years.~~

5
6 (h) ~~Continuing education and training requirements~~ Appointment eligibility

7
8 After completing the licensing requirements in (c), the initial education and
9 training requirements described in (d) and (e), and the experience
10 requirements in (g), ~~persons appointed as child custody evaluators must~~
11 ~~annually complete;~~ a person is eligible for appointment as a child custody
12 evaluator.

13
14 ~~(1) Domestic violence update training described in rule 5.230; and~~

15
16 ~~(2) Eight hours of update training covering the subjects described in (d).~~

17
18 (i) Continuing education and training requirements

19
20 (1) A child custody evaluator must complete these continuing education
21 and training requirements:

22
23 (A) Domestic violence update training described in rule 5.230; and

24
25 (B) Eight hours of update training covering the subjects described in
26 (d).

27
28 (2) A child custody evaluator must complete the continuing education and
29 training requirements within 18 months after he or she completes the
30 initial education and training described in (d) and (e). Subsequently, to
31 remain eligible for appointment, a child custody evaluator must
32 complete the continuing education and training requirements within the
33 preceding 12 months before the date he or she is appointed.

34
35 (3) Compliance with the continuing education and training requirements of
36 this rule is determined at the time of appointment to a case.

37
38 ~~(j)~~ (j) ***

39
40 ~~(k)~~ (k)

1 ~~(k)~~ (l) Child custody evaluator

2
3 A person appointed as a child custody evaluator must:

4
5 (1) Submit to the court a declaration indicating compliance with all
6 applicable education, training, and experience requirements:

7
8 (A) Court-connected child custody evaluators must submit a
9 *Declaration of Court-Connected Child Custody Evaluator*
10 *Regarding Qualifications* (form FL-325) to the court executive
11 officer or his or her designee. Court-connected child custody
12 evaluators practicing as of January 1 of a given year must submit
13 a ~~*Declaration of Court-Connected Child Custody Evaluator*~~
14 ~~*Regarding Qualifications* (form FL-325) to the court executive~~
15 ~~officer or his or her designee~~ the form by January 30 of that year.
16 Court-connected evaluators beginning practice after January 1
17 must ~~file~~ submit the form ~~FL-325~~ before any work on the first
18 child custody evaluation has begun and by January 30 of every
19 year thereafter; and

20
21 (B) ***

22
23 (2)-(6) ***

24
25 ~~(l)~~ (m)***

26
27 ~~(m)~~ (n)***

28
29 ~~(n)~~ (o)***

30
31

EVALUATOR (Name and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY Draft 8 02/02/2010 gds Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
DECLARATION OF COURT-CONNECTED CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS	

1. I, (name): _____, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. As of (date): _____, I am a court-connected child custody evaluator or a person who supervises court-connected child custody evaluators for the above court.
3. I submit this form to indicate compliance with all applicable requirements for a court-connected child custody evaluator under rule 5.225 of the California Rules of Court for (specify year): _____.

LICENSING REQUIREMENTS

4. a. I am licensed as a psychologist, marriage and family therapist, or clinical social worker;
- b. I am licensed as a physician and I am a board-certified psychiatrist or I have completed a residency in psychiatry; or
5. a. I am not licensed, but I am eligible to be certified by the court to perform court-connected child custody evaluations under Family Code section 3110.5(c)(5) and rule 5.225(c)(2)(A) because:
 - (1) I meet the requirements for a court-connected child custody evaluator under rule 5.225(j); and
 - (2) I am being supervised by a court-connected child custody evaluator who has complied with all the requirements for court-connected child custody evaluators under rule 5.225; and
- b. I request that the court certify that I meet all the requirements for a court-connected evaluator under rule 5.225.
6. I am not licensed or eligible for certification as indicated in 4 or 5.
NOTICE: If item 6 is checked, the court may not appoint the person to perform a child custody evaluation in this case unless, under Family Code section 3110.5(d) and rule 5.225(c)(2)(B), all the following criteria have been met:
 - (1) The court determined that there are no licensed or certified evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;
 - (2) The parties have stipulated that the person may conduct the child custody evaluation; and
 - (3) The court approves the person's appointment.

EDUCATION AND TRAINING REQUIREMENTS

7. I have completed:
 - a. The basic and advanced domestic violence training requirements for a court-connected child custody evaluator under rule 5.225(e); and
 - b. The 40 hours of education and training requirements for a court-connected evaluator under rule 5.225(d); or
 - c. At least 20 of the 40 hours of the education and training requirements for a court-connected evaluator, and I will complete the remaining hours of education and training required by rule 5.225(d) within 12 months of conducting my first evaluation as a court-connected child custody evaluator.

CONTINUING EDUCATION AND TRAINING REQUIREMENTS

8. a. I am required to complete the continuing education and training requirements of rule 5.225(i) by (specify date): _____ (within 18 months after completing the initial education and training described in item 7a. and 7b.)

EVALUATOR'S NAME: _____	
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CONTINUING EDUCATION AND TRAINING REQUIREMENTS (continued)

- b. I have completed the continuing education and training requirements under rule 5.225(i):
- (1) 8 hours of update training requirements covering the subjects described in rule 5.225(d).
 - (2) 4 hours of domestic violence update training under rule 5.230.

EXPERIENCE REQUIREMENTS [Note: Options in items 9 and 10 that terminated in December 2009 have been deleted.]

9. I have complied with the experience requirements for a court-connected child custody evaluator in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years. I (specify):
- a. Independently conducted and completed the child custody evaluations as stated in rule 5.225(g)(1)(A); or
 - b. Materially assisted another evaluator as stated in rule 5.225(g)(1)(B).
10. I have complied with the experience requirements for those who supervise court-connected child custody evaluators because I conducted or materially assisted in the completion of four court-connected child custody evaluations in the preceding three years under rule 5.225(g)(4)(A).
11. I have not complied with the experience requirements for child custody evaluators in rule 5.225(g)(1).
NOTICE: If item 11 is checked, the court may not appoint a court-connected evaluator to perform a child custody evaluation unless, under rule 5.225(g)(3), all the following criteria have been met:
- a. The court determined that there are no child custody evaluators who meet the experience requirements for child custody evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;
 - b. The parties have stipulated that the person may conduct the evaluation; and
 - c. The court approves the person's appointment.

USE OF INTERNS

12. I intend to use interns to assist with the child custody evaluation in the manner disclosed and agreed to by the parties and attorneys in the case. Each intern will have complied with the criteria of rule 5.225(m), and will work under my supervision at all times.

NOTICE

All court-connected child custody evaluators must submit this form to the court executive officer or his or her designee. Court-connected child custody evaluators appointed as of January 1 of a given year must submit this form by January 30 of that year. Court-connected evaluators beginning practice after January 1 must submit this form before beginning any work on the first child custody evaluation and by January 30 of every year thereafter. (Cal. Rules of Court, rule 5.225(l)(1)(A))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

CERTIFICATION

BASED ON THE FOREGOING, THE COURT CERTIFIES THAT THE ABOVE PERSON IS A COURT-CONNECTED CHILD CUSTODY EVALUATOR WHO MEETS ALL THE QUALIFICATIONS FOR COURT-CONNECTED EVALUATORS AS SPECIFIED BY THE JUDICIAL COUNCIL IN RULE 5.225 OF THE CALIFORNIA RULES OF COURT.

Date: _____

JUDGE
 COMMISSIONER

EVALUATOR (Name and address): _____ TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY Draft 8 02/23/2010 gds Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
DECLARATION OF PRIVATE CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS	CASE NUMBER:

1. I, (name): _____, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. On (date): _____, I was appointed by the court to perform a child custody evaluation in this case.
3. I submit this form to indicate compliance with all applicable requirements for a private child custody evaluator under rule 5.225 of the California Rules of Court at the time of my appointment to this case.

LICENSING REQUIREMENTS

3. a. I am licensed as a psychologist, marriage and family therapist, or clinical social worker;
 - b. I am licensed as a physician and I am a board-certified psychiatrist or I have completed a residency in psychiatry; or
 - c. I am not licensed as indicated in 3a or 3b.
- NOTICE: If item 3c is checked, the court may not appoint the person to perform a child custody evaluation in this case unless, under Family Code section 3110.5(d) and rule 5.225(c)(2)(B) of the California Rules of Court, all the following criteria have been met:**
- (1) The court determined that there are no evaluators who meet the licensing requirements who are willing and available, within a reasonable period of time, to perform child custody evaluations;
 - (2) The parties have stipulated that the person may conduct the evaluation; and
 - (3) The court approves the person's appointment.

EDUCATION AND TRAINING REQUIREMENTS

4. I have completed:
 - a. The basic and advanced domestic violence training requirements under rule 5.225(e); and
 - b. The 40 hours of education and training requirements under rule 5.225(d).

CONTINUING EDUCATION AND TRAINING REQUIREMENTS

5. a. I am required to complete the continuing education and training requirements of rule 5.225(i) by (specify date): _____ (within 18 months after completing the initial education and training described in item 4).
- b. I have completed the continuing education and training requirements under rule 5.225(i):
 - (1) 8 hours of update training requirements covering the subjects described in rule 5.225(d).
 - (2) 4 hours of domestic violence update training under rule 5.230.

EVALUATOR'S NAME: PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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EXPERIENCE REQUIREMENTS [*Note: Options that terminated in December 2009 have been deleted.*]

6. I have complied with the experience requirements for a private child custody evaluator in rule 5.225(g) because I participated in the completion of four court-appointed child custody evaluations in the preceding three years. I (*specify*):
- a. Independently conducted and completed the child custody evaluations as required in rule 5.225(g)(1)(A); or
 - b. Materially assisted another evaluator as stated in rule 5.225(g)(1)(B).
7. I have not complied with the experience requirements for child custody evaluators in rule 5.225(g)(1).
NOTICE: If item 7 is checked, the court may not appoint an evaluator to perform a child custody evaluation unless, under rule 5.225(g)(3), all the following criteria have been met:
- a. **The court determined that there are no child custody evaluators who meet the experience requirements for child custody evaluators who are willing and available, within a reasonable period of time, to perform child custody evaluations;**
 - b. **The parties have stipulated that the person may conduct the evaluation; and**
 - c. **The court approves the person's appointment.**

USE OF INTERNS

8. I intend to use interns to assist with the child custody evaluation in the manner disclosed and agreed to by the parties and attorneys in the case. Each intern will have complied with the criteria of rule 5.225(m) and will work under my supervision at all times.

NOTICE

**Private child custody evaluators must complete this form and file it with the clerk's office no later than 10 days after notification of each appointment and before beginning any work on the child custody evaluation.
 (Cal. Rules of Court, rule 5.225(l)(1)(B))**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME)



 (SIGNATURE OF DECLARANT)

Item SPR10-32 Response Form

Title: Family Law: Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225; revise forms FL-325 and FL-326)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.