

2.10 NEUTRAL EVALUATION **(REVISED 06/01/2020)**

Definitions

“Neutral Evaluation” (NE) is a court-ordered dispute resolution process in which the Early Neutral Evaluators provide an evaluation of the probable outcome of any dispute. NE is not mediation.

“Neutral Evaluator” (Evaluator) means a court-appointed individual who conducts the NE session and who meets all of the following qualifications:

- A. Has basic mediation training with the online course the Supreme Court of Ohio approves;
- B. Has specialized family or divorce mediation training with the online course the Supreme Court of Ohio approves;
- C. Has specialized training in domestic abuse issues with the online course the Supreme Court of Ohio approves; and
- D. Will not later be assigned to decide the pending action if the NE process does not result in its resolution.

“NE Communication” means a statement, whether oral, in a record, verbal or nonverbal, that occurs during an NE session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening an NE session.

"Confidentiality" means Neutral Evaluation communications are confidential. Any notes taken at the session shall be shredded upon completion of the session.

Exceptions to confidentiality include the following:

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

"Privilege" means a NE communication is not subject to discovery or admissible as evidence in a judicial proceeding. A Neutral Evaluator shall not be deposed or subpoenaed to testify about any NE communication unless an exception applies.

Exceptions to privilege include the following:

- A. The NE communication is otherwise discoverable;
- B. The NE communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence;

- C. The NE 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;
- D. The NE communication is required to be disclosed pursuant to Ohio Revised Code §2921.22.

Purpose

NE promotes greater efficiency through the facilitation of resolutions for cases. NE increases self-determination, improves communication and promotes the best interests of the children. Each party presents what his or her position is for the final outcome of parenting or financial matters. The Neutral Evaluators are able to give advice on the strength and the weakness of the case and assist with unrealistic positions.

Case Selection and Referral

The parties can request NE through a motion to the Court. Also, the Court, on its own motion, may order disputes to NE in whole or in part, by completing an Entry Ordering NE or Magistrate's Order for NE. Once a case is referred for NE, the Court will randomly assign two Evaluators and select a date, time, and location for the NE session.

For Parenting NE sessions, the Evaluators will consist of a Domestic Relations Social Worker/Counselor and a Magistrate.

For Financial NE sessions, the Evaluators will consist of two Magistrates.

Participation

The NE session shall require the participation of each party and their respective attorneys, if applicable. Child(ren) may be interviewed at the discretion of the Evaluators. No other person will be permitted to participate without prior approval of the Court.

Scheduling Procedure

Upon approval of an Agreed Entry or issuance of an Entry Ordering NE or Magistrate's Order for Parenting NE, all parties shall proceed directly to the Docket office to schedule the NE session.

Upon approval of an Agreed Entry or issuance of an Entry Ordering NE or Magistrate's Order for Financial NE, all parties shall proceed directly to the Dispute Resolution Department to schedule the NE session.

NE sessions will be scheduled Monday through Friday, during court hours. The sessions will be scheduled for 3 - 4 hours. If additional sessions are necessary, they will be scheduled after the first NE session.

Pre-Session Procedure

Two weeks prior to the NE session, each attorney or self-represented party is required to submit a Parenting Perspective Brief (DR 2.32) or Financial Perspective Brief (DR 2.42). One copy of the Brief is to be submitted to the Dispute Resolution Department (Room 3-001; cdrENE@cms.hamilton-co.org; or fax 513-946-9077), and one copy of the Brief is to be submitted to the other attorney or self-represented party. The Brief must arrive at the Court and at the office of the opposing counsel (if applicable) or at the residence of the other party (if self-represented), no later than the 14th day before the NE session. The Brief may be submitted through ordinary mail, hand-delivery, facsimile or e-mail.

The Evaluators will review the Briefs to gain a preliminary understanding of the concerns, interests and issues currently present within the family.

The Briefs will not be filed at the Clerk's office nor placed in the Court's family file. The Court's copies of the Briefs will be shredded upon completion of the NE process.

If an attorney or self-represented party fails to timely submit the Brief, the NE session may be canceled or parties/attorneys may be sanctioned.

Session Procedure

At the NE 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 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 weaknesses of each party's position and to discuss probable outcomes for the parties. The Evaluators will then present this feedback and options to all parties present at the session.

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, the Evaluators will require the agreement be reduced to written form and submitted to the assigned Judge/Magistrate at a future date.

A follow-up report or phone conference with the Judicial Officer is scheduled for two weeks after the NE.

Continuances

It is the policy of this Court to determine matters in a timely manner. A motion seeking a continuance of a scheduled NE will be required, with proper notice provided and pursuant to Local Rule 1.2. A continuance of a scheduled NE session shall be granted only for good cause shown. Oral requests are not acceptable.

Fees and Costs

The fee for Parenting NE is \$200.00.

The fee for Financial NE is \$600.00.

Fees shall be paid a minimum of 14 days before a scheduled NE session. Failure to submit the fee 14 days in advance may result in cancellation of the NE session or sanctions.

Refunds

A refund of the NE fee shall be issued only when a signed agreement of the issues is submitted to the assigned Judge/Magistrate fourteen (14) days prior to the NE session.

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 NE fee, contempt of court, attorney fees, or costs.