

# **GUIDELINES FOR PARENTING COORDINATION**

## Overview and Definitions

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parents and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor and ensure compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships. Parenting coordination is a quasi-legal, mental health, alternative dispute resolution (ADR) process that combines assessment, education, case management, conflict management and sometimes decision-making functions.

The Parenting Coordinator (hereinafter referred to as "PC") role is most frequently reserved for those high conflict parents who have demonstrated their long term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict. Because the PC makes recommendations and/or decisions for the parents and possibly reports to the court, the PC should be appointed by and be responsible to the court. This delegation of judicial authority is a serious issue and the court should only appoint qualified professionals. The power and authority inherent in the role of the PC are substantial; therefore, it is important in implementing a parenting coordination program to adhere to guidelines for PC practice and programs.

The alternative dispute resolution process is central to the parenting coordinator's role. However it may be inappropriate and potentially exploited by perpetrators of domestic violence who have exhibited patterns of violence, threat, intimidation and coercive control over their co-parent. In those cases of domestic violence where one parent seeks to obtain and maintain power and control over the other, the role of the PC changes to an almost purely enforcement function. Here, the PC should be dealing with a court order, the more detailed the better, rather than a mutually agreed upon parenting plan; the role is to ensure compliance with the details of the order and to test each request for variance from its terms with an eye to protecting a parent's autonomy to make decisions based on the children's best interests and guarding against manipulation by the abusing parent. Care must be taken that PC's interventions do not have the effect of maintaining the imbalance of power and the risk of harm to either party or the children.

The purpose of these Guidelines for Parenting Coordination (“Guidelines”) is to provide:

1. detailed guidelines of practice for PCs;
2. guidelines for PCs regarding their ethical obligations and conduct;
3. qualifications for PCs, including relevant education, training and experience;

These Guidelines offer guidance in best practices, qualifications, training and ethical obligations for PCs. Although they are not intended to create legal rules or standards of liability, they do provide very specific and detailed recommendations for training and best practices because of the expressed need for guidelines for program development and training. It is understood that each Court/Division may vary in its practices; certain minimum guidelines of conduct and best practices must be articulated and followed.

The Guidelines for Parenting Coordination include different levels of guidance:

- Use of the term “may” in a Guideline is the lowest strength of guidance and indicates a practice that the PC should consider adopting, but, from which the PC can deviate in the exercise of good professional judgment.
- Most of the Guidelines use the term “should” which indicates that the practice described in the Guideline is highly desirable and should be departed from only with very strong reason.
- The rarer use of the term “shall” in a Guideline is a higher level of guidance to the PC, indicating that the PC does not have discretion to depart from the practice described.

### **Guideline I - Qualifications**

*A PC shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in the role.*

A. The PC shall be required to have training and experience in family mediation. The PC should become a certified/qualified mediator under the local court rules, if such certification is available.

B. The PC shall be a licensed mental health or legal professional in an area relating to families, or a certified/qualified family mediator under local court rules with a master’s degree in a mental health field.

C. A PC should have extensive practical experience in his/her profession with high conflict or litigating parents.

D. The PC shall have training in the parenting coordination process, family dynamics in separation and divorce, parenting coordination techniques, domestic violence and child maltreatment, and court specific parenting coordination procedures.

E. A PC shall acquire and maintain professional competence in the parenting coordination process. A PC shall regularly participate in educational activities promoting professional growth. It is recommended that a PC participate in peer consultation or mentoring to receive feedback and support on cases. PC orders and/or private agreements should specify that such professional consultation is permitted.

F. A PC shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.

G. The court may grandfather existing professionals with appropriate experience.

### **Guideline II - Impartiality**

*A PC shall maintain impartiality in the process of parenting coordination, although a PC is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parents, as opposed to any one individual.*

A. A PC shall withdraw if the PC determines he or she cannot act in an impartial or objective manner.

B. A PC shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the parenting coordination process. During the parenting coordination process, a PC shall not solicit or otherwise attempt to procure future professional services or positions from which the PC may profit.

C. A PC shall not coerce or improperly influence any party to make a decision.

D. A PC shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.

E. A PC shall not accept any engagement, provide any service or perform any act outside the role of PC that would compromise the PC's integrity or impartiality in the parenting coordination process.

### **Guideline III – Conflict of Interest**

*A PC shall not serve in a matter that presents a clear conflict of interest.*

A. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to

compromise a PC's impartiality.

B. A PC shall disclose potential conflicts of interest as soon as practical after a PC becomes aware of the interest or relationship giving rise to the potential conflict.

C. After appropriate disclosure, the PC may serve with the written agreement of all parents. However, if a conflict of interest clearly impairs a PC's impartiality, the PC shall withdraw regardless of the express agreement of the parents.

D. During the parenting coordination process, a PC shall not create a conflict of interest by providing any services to interested parents that are not directly related to the parenting coordination process.

E. A PC may make referrals to other professionals to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, referral fees, or other remuneration shall be given or received by a PC for parenting coordination or other professional referrals.

#### **Guideline IV – Role of the PC**

*A PC shall not serve in dual or sequential roles.*

A. A PC shall not serve in multiple roles in a case that creates a professional conflict.

1. A child's attorney, child advocate, or guardian ad litem shall not become a PC in the same case, even with the consent of the parents, because of the differences in the role and potential impact of the role change.

2. A mediator shall be cautious about becoming a PC in the same case, even with the consent of the parents, because of the differences in the role and potential impact of the role change.

3. A custody evaluator shall not become a PC in the same case, even with the consent of the parents, because of the differences in the role and potential impact of the role change.

4. A PC shall not become a custody evaluator either during or after the term of a PC's involvement with the family.

5. A PC shall not be appointed after serving as a therapist, consultant, or coach, or serve in another mental health role to any family member.

6. A PC shall not become a therapist, consultant, or coach, or serve in any other mental health role to any family member, either during or after the term of the PC's involvement.

7. A PC shall not become one client's lawyer, either during or after the term of the PC's involvement, nor shall one client's lawyer become the PC in that client's case.

B. A PC should attempt to facilitate resolution of issues by agreement of the parents; however, the PC is not acting in a formal mediation role. An effort towards resolving an issue (which may include therapeutic, mediation, educational, and negotiation skills) does not disqualify a PC from deciding an issue that remains unresolved after efforts of facilitation.

### **Guideline V - Confidentiality**

*A PC shall inform the parents of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A PC shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process which is obtained during the parenting coordination process, except as provided by court order or by written agreement of the parents.*

A. Parenting coordination is not a confidential process, either for communications between the parents and their children and the PC, or for communications between the PC and other relevant individuals to the parenting coordination process, or for communications with the court.<sup>1</sup>

B. A PC shall inform the parents of the following limitations of confidentiality:

1. The PC shall report suspected child abuse or neglect to child protective services whether or not the PC is a mandatory or voluntary reporter under city, state, or federal law.

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<sup>1</sup> Parenting coordination is an intervention that does not fit within the existing framework of rules and laws dealing with the subjects of "statutory privileges," "rules of evidence," and "professional codes of ethics" related to the subject of "confidentiality" and statements made by parents or people involved in any disputed parenting case. In cases not involving a PC, the statements of parents may be protected from use as evidence in the dispute resolution process, for any of those reasons.

The essence of the PC concept is that all such confidentiality protections need to be stripped away, so the PC is free to make quick decisions based upon all knowledge the PC has obtained from the parents and other sources. Consequently, in order for the PC to be empowered to operate freely and effectively in the role of expeditious dispute resolver, appropriate provisions need to be included in the written agreement and/or court order of appointment for the effective waiver of all privileges and rules of evidence or professional conduct regarding confidentiality which may be waived. In addition, a clear statement should be included to provide that the PC will not provide either party with legal advice or representation or psychotherapy, and the parents are advised to seek any such advice from independent providers of their own choice. The parents are entitled to a very clear and unambiguous description of the privileges and rules they are being asked to waive in order to empower the PC to perform the rather unique services contemplated in the parenting coordination process. Likewise, the PC has a significant concern with establishing a barrier from complaints of unprofessional conduct from disgruntled parents who are not happy about PC decisions.

2. The PC shall report to law enforcement or other authorities if the PC has reason to believe that any family member appears to be at serious risk to harm himself or herself, another family member, or a third party.

### **Guideline VI – Function of PC**

*A PC shall assist the parents in reducing harmful conflict and in promoting the best interests of the children consistent with the roles and functions of a PC.*

A. A PC serves an assessment function. The PC should review the custody evaluation, other relevant records, interim or final court orders, information from interviews with parents and children and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parents.

B. A PC serves an educational function. The PC should educate the parents about child development, divorce research, the impact of their behavior on the children, parenting skills, and communication and conflict resolution skills. The PC may coach the parents about these issues.

C. A PC serves a coordination/case management function. The PC should work with the professionals and systems involved with the family (e.g. mental health, health care, social services, education, legal) as well as with extended family, stepparents, and significant others.

D. A PC serves a conflict management function. The PC's primary role is to assist the parents to work out disagreements regarding the children to minimize conflict. The PC may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parents in reducing conflict, the PC may monitor the faxed, emailed, or written exchanges of parent communications and suggest more productive forms of communication that limit conflict between the parents. In order to protect the parents and children in domestic violence cases involving power, control and coercion, a PC should tailor the techniques used so as to avoid offering the opportunity for further coercion.

E. A PC serves a decision-making function. When parents are not able to decide or resolve disputes on their own, the PC shall be empowered to make decisions to the extent described in the court order. PCs should communicate their decisions in a timely manner in person or by fax, e-mail or telephone. In the event decisions are provided orally, a written version shall follow in a timely manner. To the extent provided by statute, local rule or court order, the PC may make reports or recommendations to the court for further consideration.

F. A PC shall not offer legal advice.

### **Guideline VII – Source of Authority**

*A PC shall serve by parent stipulation and/or a formal order of the court, which shall clearly and specifically define the PC's scope of authority and responsibilities.*

- A. A court order is necessary to provide the PC authority to work with the parents outside of the adversarial process, to obtain information, and to make recommendations and decisions as specified in the order.
- B. In addition to the court order for the PC, a written agreement between the parents and the PC may be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers.
- C. The court order, consent order, or the PC agreement should specify a term of service for the PC, including starting and ending dates.<sup>2</sup> Parents can request that a PC continue for additional terms of service following the expiration of each term or can decline to renew the PC's services. Similarly the PC can give notice prior to the end of the term of service that the PC will not continue to serve as PC.
- D. A PC should not initiate providing services until the PC has received the fully executed and filed court order appointing the PC, or until the parents, their counsel (if any) and the PC have signed a consent agreement, if any.

### **Guideline VIII – Informed Consent**

*A PC shall facilitate the participants' understanding of the parenting coordination process so that they can give informed consent to the process.*

- A. The position of the PC is one of considerable authority and power. It is important that parents fully understand the extent of the parental rights and power they are assigning to the PC in the form of decision-making, the limited nature of the confidentiality of the process, the professional persons with whom the PC will be authorized to consult or obtain information, and what the parents' rights are in seeking redress with the court.
- B. In the first session, a PC should carefully review the nature of the PC's role with the parents, to ensure that they understand what the parenting coordination process involves.

### **Guideline IX - Fees**

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<sup>2</sup> Many experienced PC's have found a period of 18 months to 2 years to be optimal in terms of becoming familiar with the family and developing a working relationship with the parents.

*A PC shall fully disclose and explain the basis of any fees and charges to the participants.*

A. All charges for parenting coordination services shall be based upon the actual time expended by the PC. All fees and costs shall be appropriately divided between the parents as directed by the parents' stipulation and/or court order or as agreed upon in the PC's written fee agreement with the parents with the approval of the court.<sup>3</sup>

B. Prior to beginning the parenting coordination process, and in writing, a PC shall explain to the parents the basis of fees and costs and the method of payment and any fees associated with postponement, cancellation and/or nonappearance, as well as any other items and the parents' pro rata share of the fees and costs as determined by the court order or agreed to by the parents with approval of the court. In cases of domestic violence involving power, control and coercion, the PC shall consider holding individual sessions with the parents to convey this information.

C. Activities for which a PC may charge typically include time spent in meetings/ interviews with parents, children and collateral sources of information; preparation of agreements; correspondence, decisions and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

D. The PC should comply with any local rule, state statute, constitutional ruling, or practice rule regarding fees. A PC may request a retainer or advance deposit prior to starting a case. The parents should be billed on a regular basis and notified when the retainer or advance deposit, if any, is to be replenished.

E. A PC shall maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parents on a regular basis, and to the court, if requested to do so.

### **Guideline X - Communication**

*A PC will communicate with all parents, counsel, children, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parents and children. The PC will have access to persons involved with family members and to all documents needed to fulfill the responsibilities of the PC.*

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<sup>3</sup> Typically the fees are split equally between the parents, although if their assets and income differ substantially, fees may be apportioned accordingly. Sometimes responsibility for PC costs may be set in the same percentages as child support is apportioned. The court, rather than the PC, should make a determination of the appropriate ratio of payment based on the available financial data. The order may also include a provision for the parent coordinator to alter the usual ratio of payment if one parent abuses the process. In the event that a party requests judicial review of the parenting coordinator decision and does not prevail, the court may order full payment of fees by that party.

A. Parenting coordination is a non-adversarial process designed to reduce acrimony and settle disputes efficiently. The PC may engage in ex parte (individual) communications with each of the parents and/or their attorneys. The PC may initiate or receive ex parte oral or written communications with the parents and their attorneys, legal representatives of the children, the children, and other people relevant to understanding the issues. The PC should engage in such communication in an objective, balanced manner that takes into consideration the possibility or perception of bias.

B. The PC should communicate agreements, recommendations, or decisions to all parents and counsel (if appropriate) at the same time.

C. If reports are written, the PC should follow the court's rules or instructions regarding whether the court should receive a copy. The PC shall not communicate ex parte with the judge.

D. PC communications may involve any persons involved with family members including, but not limited to, the custody evaluator, lawyers, school officials, and physical and mental health care providers. The PC shall have the authority to meet with the children, any stepparent or person acting in that role, or anyone else the PC determines to have a significant role in contributing to or resolving the conflict. The PC shall notify collateral sources that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.

E. The PC should have access to all orders and pleadings filed in the case, as well as the custody evaluation report, school and medical records of the children, and reports of psychological tests that were generated prior to, during or after the pendency of the case. The court order should require that the parents execute releases and consents to permit access to the relevant information.

F. The PC should have initial individual and/or joint interviews with the parents. The PC may interview the children if appropriate. The communication with the parents may be in joint face-to-face meetings, telephone conference calls, individual face-to-face or telephone meetings, e-mail, or fax. The PC should determine whether separate or joint sessions are most appropriate at any particular time. In cases of domestic violence involving power, control and coercion, the PC should normally use separate interviews and sessions with the parents, except when the PC is confident, after screening, that issues of intimidation or control will not affect the process.

G. The PC should have a process to screen and/or develop protocols and procedures in DV cases. Likewise, PCs should routinely screen prospective cases for DV and decline to accept such cases if they do not have specialized expertise and procedures to effectively manage the imbalance of power, control and coercion found in DV cases. The PC shall be alert to the reasonable suspicion of any acts of domestic violence directed at the other parent, a current partner, or the children. The PC should adhere to any protection orders,

and take whatever measures may be necessary to ensure the safety of the parents, their children and the PC.

H. The PC should be alert to the possibility of substance abuse by any parent or child, as well as any psychological or psychiatric impairment of any parent or child.

I. The PC should keep notes regarding communications with the parents, the children and other persons with whom the PC speaks about the case.

J. The PC shall maintain records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support decisions and recommendations by the PC.

K. The PC shall document in writing all resolutions agreed upon by the parents or determined by arbitration, noting the process by which the agreement or decision was made.

#### **Guideline XI – Scope of Authority**

*The PC should attempt to facilitate agreement between the parents in a timely manner on all disputes regarding their children as they arise. The court order shall authorize the PC to decide the disputed issues upon which the parents are unable to agree.*

A. A PC shall not make decisions that would change legal custody and/or physical custody from one parent to the other or substantially change the parenting plan. Such major decisions are solely within the scope of judicial authority. PCs may need to make temporary changes in the parenting plan if a parent is impaired in his or her functioning and incapable of fulfilling his or her court-ordered parenting functions until further information and assessment is obtained and the court has assumed decision-making responsibility.

B. A PC has the authority that is delegated in the court order or in the parents' agreement. If so written in the order or consent agreement, a PC has the authority to clarify and interpret the parenting plan. When circumstances dictate, the PC may decide on variations and/or minor adjustments to the plan. The issues that may be addressed include the following:

1. The parenting plan schedules. (e.g., vacation, holidays, weekend rotation, travel, make up time);
2. Transitions/exchanges of the children including date, time, place, means of transportation and transporter;

3. Health care management including medical, dental, orthodontic, and vision care;
4. Psychotherapy, counseling, psychological testing, or other mental health care, (including substance abuse assessment or counseling) for the children;
5. Psychological testing or other assessment of the parents;
6. Substance abuse assessment or testing for either or both parents , including access to results;
7. Education or daycare including school choice, tutoring, summer school, participation in special education testing and programs or other major educational decisions;
8. Enrichment and extracurricular activities including sports, camps and jobs;
9. Religious observances and education;
10. Children's travel and passport arrangements;
11. Clothing, equipment, and personal possessions of the children;
12. Communication between the parents about the children including the means, (e.g. telephone, fax, e-mail, notes in backpacks) the frequency and duration.
13. Communication by a parent with the children including telephone, cell phone, pager, fax, instant messaging, video conferencing and e-mail when they are not in that parent's care;
14. Alteration of appearance of the children including haircuts, tattoos, ear and body piercing;
15. Role of and contact with significant others and extended families;
16. Parenting classes for either or both parents; and
17. Other child-rearing issues.

C. The PC should use or gather written or verbal statements of the dispute from each party, as well as other relevant sources of information. The methodology used by the PC

shall be fair to both parents, and be transparent to both the court and the parents. Each party shall be given an opportunity to be heard in the process. Notice shall be given as to what is expected from the participation of the parents and the consequences of nonparticipation. If one party refuses to cooperate after notice, then the PC may continue to resolve the dispute.

D. The PC shall issue a written resolution of the dispute or a verbal decision in time sensitive matters to be followed by a written decision.<sup>7</sup>

E. Every PC agreement and/or order shall include a process to address parents' objections to the PC's recommendations and decisions and grievances regarding the performance of the PC.

### **Guideline XII – Marketing Practices**

*A PC shall not engage in marketing practices that contain false or misleading information. A PC shall ensure that any advertisements regarding qualifications, services to be rendered, or the parenting coordination process are accurate and honest. A PC shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.*

### **Guideline XIII - Training**

*A PC should have training in each of the following subject areas, which are described in detail in the attached Appendix A.*

- A. The Parenting Coordination process.
- B. Family dynamics in separation and divorce.
- C. Parenting Coordination techniques and issues.
- D. Court specific Parenting Coordination procedures.
- E. Domestic violence training.

## APPENDIX A

### **COMPREHENSIVE TRAINING OF PARENTING COORDINATORS**

A Parenting Coordinator (“PC”) should have training in each of the following subject areas as reflected in the modules below. It is anticipated that mental health and legal professionals will have acquired some of the knowledge and experience in the competency areas listed, particularly in Section II, and in mediation training.

#### **Module 1: The Parenting Coordination Process**

A. The various functions of the PC

B. Limitations of the parenting coordination process, including the difference between parenting coordination and parent education, therapy, custody evaluation and dispute resolution processes

C. Professional guidelines of practice for PCs

1. The interplay between other professional guidelines, professional practice guideline, and local/state guidelines for court-appointed PCs
2. The potential for conflict of interest of the PC and the people to whom parenting coordination services are offered

D. Issues that are appropriate and not appropriate for parenting coordination

E. Characteristics of individuals who are appropriate and not appropriate to participate in the parenting coordination process

1. Appropriate courses of action when confronted with substance abuse during the parenting coordination process
2. Screening for domestic violence and appropriate courses of action when confronted with domestic violence during the parenting coordination process
3. The effect of domestic violence on parents involved in the parenting coordination process
4. Situations in which the PC should suggest that the parents contact the supervising judicial officer, independent legal counsel, postpone or cancel the parenting coordination session, suspend the parenting coordination process, or refer the parents to other resources

F. When to refer parents to services for child protection or elder abuse, and the issue of confidentiality as it applies to each

G. Special needs of the pro se party

## **Module 2: Family Dynamics in Separation and Divorce**

A. Psychological Issues in Separation and Divorce and Family Dynamics

1. The impact divorce has on individuals and on family dynamics and the implications for the parenting coordination process
2. Useful psychological research and theories applicable to the intervention for high conflict families
3. How emotions impact on divorce issues and on a party's ability to participate effectively in the parenting coordination process.
4. Sources of divorce/separation impasses, including parental behaviors associated with personality disorders, and the related implications
5. How to promote awareness by the parents of the interests of persons affected by actual or potential agreements, who are not represented during the parenting coordination process
  - a. The impact of grandparents, stepparents and significant others on family systems and the parenting coordination process
  - b. Situations in which participation of non-parents (e.g., grandparents, children, new spouses) may be necessary in the parenting coordination process

B. Issues concerning the needs of children in the context of divorce

1. The needs and adjustment of children and the effect of divorce on their relationships with their mother, father, stepfamilies, siblings and others in the family relationship
2. Child(ren)'s developmental stages and how they relate to divorce and parenting arrangements
3. The impact the parenting coordination process can have on the children's well-being and behavior

4. When and how to involve children in the parenting coordination process
5. Indicators of child abuse and/or neglect and the process and duty to report allegations of child abuse and/or neglect

#### C. Dealing with high conflict parents

1. The impact of parental conflict and appropriate parenting on children's well-being
2. The dynamics of child alignments, estrangements and alienation
3. Various parenting arrangements that consider the needs of the child(ren) and each parent's capacity to parent, including modifications for high conflict situations

#### D. Dealing with domestic violence issues

1. The different research-based types of domestic violence, including conflict-instigated violence, violence involving power, control, and coercion (often referred to as male battering), female violence, and separation engendered violence
2. The unique problems and inherent dangers presented by domestic violence of all types in terms of parental contacts, and the need for safe PC procedures and child exchanges
3. The importance of monitoring compliance with the parenting plan and reporting to a judicial officer any infractions of the court order, including the parenting plan
4. The psychological impact of domestic violence on child and adolescent development

#### E. The different co-parenting relationships of cooperative, parallel, and conflicted parenting

### **Module 3: Parenting Coordination Techniques and Issues**

#### A. Structuring the parenting coordination process

1. The initial session and preparing the parents for the process

2. Scheduling the time and location, and establishing the format of each conference and focusing discussion
  3. Structuring and managing the discussion, maintaining control of the sessions, and utilizing appropriate case management skills
  4. Managing separate sessions, telephonic and e-mail communication
  5. Maintaining appropriate records and documentation as a PC
- B. The PC's informed consent, including limits on confidentiality
- C. The PC's service contract and fee allocation
- D. The role of the parenting plan in the parenting coordination process, including how to develop, monitor and modify a parenting plan
- E. The characteristics that enhance or undermine the effectiveness of the PC including, but not limited to: demonstrating empathy, building rapport, establishing trust, setting a cooperative tone, sympathetic listening and questioning, empowering the parents, remaining non-judgmental, language use, and non-verbal communication skills
- F. Awareness of personal biases, prejudices and styles that are the product of one's background and personal experiences that may affect the parenting coordination process
- G. Socio-economic, cultural, racial, ethnic, language, age, gender, religious, sexual orientation and disability issues, which may arise and/or affect the parents' negotiation styles, ability or willingness to engage in the parenting coordination process
- H. Building on partial agreements including when and how to switch between dispute resolution processes
- I. Arbitration procedures, appropriate arbitration decisions, and writing and filing arbitration decisions/awards
- J. Appropriate techniques for handling difficult situations
- K. Appropriate boundaries of a PC
1. Safety procedures for those participating in the parenting coordination process
  2. Office safety policies and working with clients having current

restraining and protective orders

3. Establishing appropriate limits for client demands

L. When and how to use outside experts effectively

1. How to assist the parents in deciding on appropriate community resources

2. Developing a list of social service resources, including those for domestic violence situations

M. The impact of high conflict client behavior on the parenting coordination process and the PC and avoiding professional burn-out

N. Reasons for a PC to decline an appointment, withdraw or request appropriate assistance including, but not limited to, when the facts and circumstances of the case are beyond the PC's skill or experience

O. The Americans with Disabilities Act (ADA) requirements and strategies for handling situations when faced with disability issues or special needs

#### **Module 4: Court Specific Parenting Coordination Procedures**

A. The PC's responsibility to the court

B. Knowledge of and adherence to jurisdiction-specific qualifications for a PC

C. Mentorship and certification requirements, if applicable

D. Local/state/province family law as it may pertain to the parenting coordination process

1. The state statute and/or rule governing family parenting coordination

2. The difference between neutrality and impartiality as it applies to parenting coordination and the ability to demonstrate each appropriately

3. Legal concepts as they relate to the parenting coordination process including, but not limited to: geographic relocation, equitable distribution, child support, law of modification, parenting time adjustment, law of relocation, law of due process law of ex parte communication and law of privilege

4. The statutory constraints of parenting coordination where domestic violence exists and/or protective orders are in place

E. How and when the PC should interface with the court system

1. The appointment and discharge processes of the PC

2. The importance of a court designation to the parenting coordination process

3. The ethical constraints on confidentiality and both in relation to the entire parenting coordination process and separate sessions within the process

F. Forms utilized in local courts pertaining to parenting coordination and local court procedures

G. How to work with legal, mental health and other professional disciplines, and promote cooperation among those dealing with the family H. When and how to utilize a qualified expert and/or a team approach to best serve the parents in the parenting coordination process

H. The grievance procedure contained in the local/state rules for PCs, if any

I. Possible ethical dilemmas that may confront a PC and how to avoid them

**Domestic Violence Training:** The need for additional and/or separate training on domestic violence should continue to be considered in setting up a PC training program.

## **APPENDIX B**

### **BEST JUDICIAL AND PROGRAM PRACTICES**

A parenting coordination program operates most efficiently and effectively when judges understand, support and are involved in the formation of the program. Judicial monitoring of the program, the PCs and their work is essential to protect parents, children and PCs. The process is most effective at weaning the parents from litigation when judges encourage them to rely on the PC to resolve their disagreements and discourage ongoing court proceedings. To these ends, the following best practices for the judiciary and for program development are recommended.

#### **1. Scope of Authority**

In some jurisdictions, the role or scope of authority of the PC may be limited by the provisions of state constitutions, statutes, court rules or case law on public policy considerations regarding the delegation of a court's authority to protect the best interests of children in contested custody and parenting time cases. Some jurisdictions permit those disputes to be resolved in private arbitration, while other jurisdictions prohibit arbitration as against public policy (*parens patriae* doctrine). Consequently, local law should be researched carefully before a new parenting coordination program is designed.

#### **2. Qualifications of PCs**

In jurisdictions establishing or revising a parenting coordination program, it is recommended that judges appoint qualified professionals to undertake this difficult work as the best means for achieving the goals of the court. Judges in each jurisdiction are encouraged to establish a means for confirming the qualifications and training of mental health and legal professionals seeking to be appointed as PCs. This information should be available for review by parents and lawyers considering a PC.

#### **3. Standard Order**

It is recommended that each jurisdiction initiate an interdisciplinary effort, appointed by the judiciary, to develop and adopt a standard order describing the legal authority, duties, and responsibilities of the PC, issues to be decided, fees, grievance process, and term of service. This will minimize confusing variations in practice for professionals and parents. The order should be signed by the lawyers, parents, and a judge prior to the PC's beginning service.

#### **4. Submission and Objection to PC Recommendations and Reports to Court**

There is variation in the destination of the PC's recommendations and decisions. In most, but not all jurisdictions, where PCs are appointed by court order, the PC is expected to send all recommendations, reports, and orders of decision to the court, as well as to each parent and any attorney. Where there is no court-appointed authority, PCs

should prepare recommendations, reports, and decisions in such a manner that the court can access the information if requested.

## 5. Parent Grievances Regarding the PC and Objections to Recommendations and Decisions

When PCs are appointed by the court or by consent agreement, it is important that the order contain clear language and procedures to handle parent grievances regarding the PC and to handle parent objections to the PC's recommendations and decisions, including wishes that the PC be removed. Some orders include language that indicates that the PC can be removed or disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator. It has been found to be helpful to articulate a series of steps for managing such grievances, which may stem from PC's acting in an unprofessional manner or may arise from anger about the PC's recommendations or decisions which were not favorable to the complaining party. These procedures have been developed to protect PCs from unfounded complaints to the professionals' licensing boards and also to provide parents with sanctioned avenues for seeking redress.

One grievance model requires that the complaining parent first set up and attend an appointment with the PC to discuss the grievance, prior to initiating any court proceedings for removal or complaining to the licensing board, in an attempt to resolve the grievance. If no resolution is reached, both parents and the PC then attend a judicially supervised settlement conference prior to any action being taken. The court reserves jurisdiction to determine if the PC's time and expenses should be reimbursed in part or totally, including any attorney's fees incurred by the PC. If either the complaining party or the PC believes that the complaint cannot be resolved, either party can file a motion to the court to terminate the PC's services. The judge is the final gatekeeper on the grievance process unless there is a PC certification body.

As an arm of the court with judicially delegated authority, PCs should be afforded quasi-judicial authority and immunity to protect them from lawsuits.

## 6. Standard Procedures and Literature

Parenting coordination programs may consider developing and adopting a standard parenting coordination information pamphlet that describes in clear and simple language what the parenting coordination model is, what the objectives of the parenting coordination process are, how the PC functions, the limitations on confidentiality, and what type of decisions the PC is typically authorized to make in the event of unresolved disputes. This educational sheet can routinely be made available to parents and lawyers who are considering the appointment of a PC. Jurisdictions should consider establishing an appointment conference with the judge soon after the decision to use a PC. At the conference which the parents, their attorneys, any children's advocates and the proposed PC must attend; the order or consent agreement is signed and distributed, the PC's role and authority are explained, fees are determined, initial appointments are scheduled, releases and contracts are signed, and responsibility for providing documents and other information is assigned, all with the goal of commencing

the pc process without delay. Each local jurisdiction should consider creating a committee to facilitate the establishment of local rules (if any), standardized procedures and orders, and needed training, and to provide PCs with peer feedback.