

# **DIRECTIVE CONCERNING COURT APPOINTMENTS OF PARENTAL RESPONSIBILITY EVALUATORS PURSUANT TO SECTION 14-10-127, C.R.S.**

## **SUPREME COURT OF COLORADO**

### **OFFICE OF THE CHIEF JUSTICE**

Chief Justice Directive 21-02  
Amended Effective August 7, 2024

## **I. INTRODUCTION**

The following policy, adopted to assist the administration of justice through the appointment of Parental Responsibility Evaluators (PREs), applies to all Parental Responsibility Evaluators appointed pursuant to §14-10-127, C.R.S. after January 1, 2022.

The statute permits the appointment of a licensed mental health professional in domestic relations cases who the court has found competent, by training and experience, in the areas of:

- (a) The effects of divorce and remarriage on children, adults, and families;
- (a.5) The effects of domestic violence on children, adults, and families, including the connection between domestic violence and trauma on children, child abuse, and child sexual abuse;
- (b). Appropriate parenting techniques;
- (c) Child development, including cognitive, personality, emotional, and psychological development;
- (d) Child and adult psychopathology;
- (e) Applicable clinical assessment techniques; and
- (f) Applicable legal and ethical requirements of parental responsibilities evaluations.

If the evaluation is needed in an area beyond the training or experience of the PRE, the PRE shall consult with a mental health professional qualified by training or expertise in that area, including domestic violence, child abuse, alcohol or substance abuse, or psychological testing.

On June 22, 2021, the Governor signed HB 21-1228, which required the courts to establish a Chief Justice Directive to regulate Parental Responsibility Evaluators.

At the direction of Chief Justice Brian Boatright, the State Court Administrator's Office formed a Task Force to devise recommendations for the creation of a Chief Justice Directive.

This Directive establishes a framework for regulating Parental Responsibilities Evaluators, consistent with the provisions of §14-10-127, C.R.S. and HB 21-1228. This Directive is not intended to duplicate or supersede regulatory authority of the Division of Regulatory Agencies (DORA) and the state boards overseeing the practice and discipline of licensed mental health professionals. Therefore, complaints addressing conduct covered by provisions of Title 12, Article 245, Parts 1 – 8, of the Colorado Revised Statutes, are beyond the scope of this Directive, including complaints regarding confidentiality, governed by §12-245-220, C.R.S., complaints regarding prohibited actions, governed by §12-245-224, C.R.S., and complaints regarding unauthorized practices, governed by §12-245-228, C.R.S. Similarly, this Directive is not intended to duplicate or supersede trial or appellate processes for litigating issues of parental responsibility, including the contents of reports and recommendations set forth in Parental Responsibility Evaluations.

Pursuant to §14-10-127, C.R.S. effective on January 1, 2022 the Office of the State Court Administrator (“SCAO”) oversees regulation of PREs.

Parental Responsibility Evaluators are appointed to perform an evaluation and file a written report concerning disputed issues pertaining to the allocation of parental responsibilities for a child or children. The purpose of the evaluation and report is to assist in determining the best interests of the child, with the child’s safety always paramount. As part of the appointment, the PRE must observe and/or interview the child(ren) in an age-appropriate manner. Parental responsibility evaluations are more comprehensive than a child and family investigation pursuant to §14-10-116.5, C.R.S., which is meant to be nonintrusive, efficient, and cost-effective.

The PRE standards and duties of the PRE and the court set forth in this Directive are based on the understanding that only licensed mental health professionals may perform a parental responsibility evaluation. Pursuant to Title 12, Article 245, the term “licensed mental health professional” refers to the following:

- (a) psychologists licensed pursuant to §12-245-301, C.R.S., *et. seq.*;
- (b) social workers licensed pursuant to §12-245-401, C.R.S., *et. seq.*;
- (c) marriage and family therapists licensed pursuant to §12-245-501, C.R.S., *et. seq.*;
- (d) licensed professional counselors, licensed pursuant to §12-245-601, C.R.S., *et. seq.*; and
- (e) licensed addiction counselors, defined by §12-245-801(10), C.R.S., with a scope of work defined by §12-245-803(4), C.R.S., and pursuant to §12-245-804(1), C.R.S.

These professionals are also bound by additional responsibilities and licensure requirements as mental health professionals as established by DORA and set forth in Article 245 of Title 12, which are not outlined here.

The following professionals are not a “licensed mental health professional” pursuant to Title 12, Article 245:

- (a) certified addiction technicians;
- (b) certified addiction specialists;
- (c) certified addiction counselors (e.g., CAC I, CAC II, and CAC III);
- (d) registered psychotherapists;
- (e) unregistered psychotherapists; or
- (f) licensure candidates.

To better serve Colorado families, these standards guide PRE conduct and provide a structure for the regulation of PREs. Violation of a standard should not, in and of itself, give rise to a cause of action, nor does it create a presumption that the PRE breached a legal duty or committed a professional ethical violation. The statutory purpose and definition of a PRE as set forth in §14-10-127, C.R.S. should guide interpretation of the PRE standards.

If a request for reasonable accommodations under the American with Disabilities Act is made, refer to Chief Justice Directive 04-07.

## II. STATUTORY AUTHORITY AND EXISTING CHIEF JUSTICE DIRECTIVES

This Directive sets forth standards for PREs appointed pursuant to §14-10-127, C.R.S., and duties of courts appointing PREs. Section 14-10-127, C.R.S., authorizes the court to appoint PREs in domestic relations cases, upon motion of either party or upon the court’s own motion. Only licensed mental health professionals who meet the standards for licensure set forth in §12-245-101, C.R.S., *et. seq.* and who have the training and experience required in §14-10-127(4), C.R.S. may be appointed. -Unlicensed employees of the appointed PRE may assist with preparation of the report and are bound by the provisions of this Directive. The role of the PRE is to perform an evaluation and file a report concerning the disputed issues relating to the allocation of parental responsibilities for the child(ren). In preparing this report, the evaluator may consult any person who may have information about the child(ren) and the child(ren)’s potential parenting arrangements including medical, mental health, educational, or other expert persons who have served the child(ren) in the past without obtaining the consent of the parent or the person allocated parental responsibilities for the child. -The child’s consent must be obtained if the child has reached the age of fifteen years unless the court finds that the child lacks mental capacity to consent. Upon order of the court, the evaluator may refer the child(ren) to other professionals for diagnosis. The order of appointment shall clearly set forth the disputed issues that require evaluation and define the scope of the PRE’s duties. See “Order for an Evaluation and Report Pursuant to §14-10-127, C.R.S.” (JDF 1332).

## III. FEES

- A. At present, there are no funds available for state paid PREs.
- B. The presiding Judicial Officer has the discretion to cap the PRE fees and allocate the costs.

## IV. GUIDELINES FOR APPOINTMENT

### A. Eligibility for appointment as a PRE requires:

1. An “Affidavit for Eligibility of Appointment as a Parental Responsibility Evaluator” (“PRE Affidavit”);

~~1.a.~~ By submitting an Affidavit for Eligibility of Appointment as a PRE, the professional is affirming their license is in good standing and that they are competent, by training and experience, pursuant to CRS 14-10-127(4) and pursuant to Standard 6 below.

2. A successful background check through processes and guidelines established by the SCAO;

~~2.3.~~ Completion of the mandatory Colorado Judicial Department training referenced in Standard 6 of this CJD.

~~3.4.~~ Completion of the mandatory PRE training referenced in §14-10-127, C.R.S., at the PRE’s own expense; and

5. Placement on the Statewide PRE Roster, from which court appointments of PREs will be made.

4. B. Policies Governing PRE Eligibility and Appointment. The SCAO shall establish and disseminate policies governing PRE appointments and eligibility.

## V. COMPLAINTS

A. The administrative complaint process set forth in this section is not intended to duplicate, supersede or review judicial decision making of PRE recommendations. The administrative complaint process does not replace proper litigation in the trial court. Concerns regarding the performance of a PRE during the PRE investigation and prior to resolution of the allocation of parental responsibilities legal issues pending before the trial court should be handled by the filing of a proper motion in the trial court, through cross examination of the PRE and/or through submission of other testimony or evidence.

~~Parties or their counsel of record shall request findings from the court if they believe the PRE failed to comply with the court’s order of appointment or violated a practice standard set forth in this CJD.~~

~~1. The Court, counsel of record, parties or anyone with knowledge regarding the PRE’s failure to make a mandatory disclosure of any malpractice suit or criminal charge brought or filed against them or notification of any grievance, formal complaint or disciplinary action that is under investigation may file a complaint with the SCAO without a judicial finding.~~

- ~~2. The Court, counsel of record, or parties to the case may file a complaint with the SCAO without a judicial finding regarding violation of Standard 6: The PRE shall establish and maintain competence through training.~~
- B. The administrative complaint process set forth in this section is not intended to duplicate or supersede regulatory authority of DORA and the state boards overseeing the practice and discipline of licensed mental health professionals. Therefore, complaints addressing conduct covered by provisions of Title 12, Article 245, Parts 1 – 8, of the Colorado Revised Statutes, are beyond the scope of this Directive, including complaints regarding confidentiality, governed by §12-245-220, C.R.S., complaints regarding prohibited actions, governed by §12-245-224, C.R.S., and complaints regarding unauthorized practices, governed by §12-245-228, C.R.S.
- C. The administrative complaint process set forth in this section is limited to sanctioning PREs for violation of this directive. Sanctions may include required additional training/education, a period of supervised probation by the SCAO, or removal from the Statewide Eligibility Roster.

~~1. The presiding judicial officer may make findings and file a complaint with the SCAO pursuant to this section at any time.~~

1. Prior to filing a complaint with the SCAO, parties or their counsel of record shall request preliminary findings to be made on the record from the judicial officer presiding over the current case that the PRE failed to comply with the court's order of appointment or has violated a practice standard set forth in this CJD. The complainant must request preliminary findings for each practice standard for which they intend to file a formal complaint. Preliminary findings must be requested within 91 days of termination of the PRE's appointment but are strongly encouraged prior to final orders being entered. Preliminary findings and/or founded complaints made after entry of final orders regarding issues the PRE investigated will not result in changes to those orders. The court must make a ruling on requested preliminary findings within 91 days.

a. The Court, counsel of record, parties or anyone with knowledge regarding the PRE's failure to make a mandatory disclosure of any malpractice suit or criminal charge brought or filed against them or notification of any grievance, formal complaint or disciplinary action that is under investigation pursuant to section VII may file a complaint with the SCAO without a judicial finding.

2. Parties or their counsel of record shall request the preliminary findings by filing a motion requesting such findings in the current case. The PRE shall be notified of the request for findings and allowed 21 days to respond. The judicial officer is not required to hold a separate hearing to either deny the motion for preliminary findings or to make such findings, so long as the court issues a written order on any properly filed motion. Unless otherwise approved by the court, neither the motion nor response shall exceed ten pages. An order which simply removes the PRE or states "So Ordered" shall be insufficient to establish preliminary findings of a violation. The trial court may consider whether the parties stipulated to some or all of the recommendations of the PRE in determining whether the PRE committed a violation. The court has the discretion to

address the issue of fees for the PRE's time spent responding to the motion for preliminary findings.

A. The presiding judicial officer may **contact** the PRE program coordinator to determine the PRE's compliance with- Standard 6.

3. Parties or their counsel of record shall file a complaint with the SCAO only after the judicial officer presiding over the case has made oral or written preliminary findings on the record that the PRE failed to comply with the court's order of appointment or has violated a practice standard set forth in this CJD. The findings must specifically enumerate with which practice standards or which provisions in the court's order the PRE has failed to comply.

4. Nothing in this CJD shall be construed to require the judicial officer to make an ultimate conclusion regarding sanctions to be imposed on the PRE at the statewide level. Violation of a standard should not, solely, give rise to a cause of action, nor should it create any presumption that the PRE breached a legal duty or committed a professional ethical violation.

5. The presiding judicial officer may make findings and file a complaint with the SCAO pursuant to this section at any time.

6. Nothing in this CJD shall be construed as superseding a Judicial Officer's authority to manage an order of appointment, including sanctions and/or removal in any current case over which they preside.

~~2. Parties or their counsel of record shall file a complaint only after the court has made prima facie findings on the record that the PRE failed to comply with the court's order of appointment or has violated a practice standard set forth in this CJD. (Black's Law Dictionary definition of prima facie: ... (18c) Sufficient to establish a fact or raise a presumption unless disproved or rebutted; based on what seems to be true on first examination, even though it may later be proved to be untrue).~~

~~3. The court is not obligated to hold a separate hearing to make the prima facie findings.~~

~~4. If parties stipulate to a PRE report, they cannot file a complaint against the PRE at a later time.~~

- D. Only parties, their counsel of record, and judicial officers may file complaints regarding PRE noncompliance with the order of appointment, or the Standards of Practice set forth in VIII Section of this CJD, except as detailed in Section V.C.1.a of this CJD. Parties, counsel, or judicial officers filing a complaint should state the specific facts and must provide the date on which the judicial findings supporting the complaint were made. **Complaints must be filed within one year of the termination of the PRE appointment.** Disagreements with the PRE's recommendations or judicial findings are not grounds for a complaint.

E. Individuals filing complaints must do so through the online "Parental Responsibility Evaluator Formal Complaint Form" ("PRE Complaint Form") on the Colorado Judicial

website, or by printing the online form and providing it by mail or in person to the State Court Administrator's Office. If an individual needs an accommodation pursuant to the Americans with Disabilities Act in order to file a complaint, the individual should contact the CFI/PRE Program Coordinator at [PREprogram@judicial.state.co.us](mailto:PREprogram@judicial.state.co.us) The complaint must state specific facts upon which the complaint is made, identify the specific standard(s) from this CJD alleged to have been violated, and provide the date on which the preliminary findings supporting each allegation in the complaint were made. -

Complaints will automatically be denied without investigation under the following circumstances:

1. Complaints made with the SCAO made more than one year following termination of the PRE appointment;
2. Complaints involving an individual not listed on the Statewide Eligibility Roster;
3. Complaints without a judicial finding from the presiding judicial officer (except for the exclusions in V.(A)(1)&(2);
- 1.4. ~~or~~ Complaints setting forth only subjective or conclusory comments of a complainant or only setting forth disagreement with the recommendations of the PRE; or
- 2.5. Complaints involving conduct or professional discipline within the scope of Title 12, Article 245, Parts 1-8.

~~FE.~~ If the judicial officer makes a prima facie finding that the PRE failed to comply with the court's order of appointment or has violated a practice standard set forth in this CJD, and a complaint is filed through the complaint process above, the SCAO will conduct -a formal investigation.

~~GF.~~ SCAO, in consultation with the Court Executive or designee in the judicial district where the case is pending, shall review the complaint and acknowledge receipt within 14 days of receiving a PRE Complaint Form.

~~HG.~~ No later than ~~630~~ days after receiving a PRE Complaint Form, the SCAO, in consultation with the Court Executive or designee, shall provide a written response to the complainant regarding the status of the investigation.

I. Regardless of the qualifications of the PRE, if there is a founded complaint, the complainant will only receive a letter informing them of the date of the finding, the standard or section of the CJD violated, and the sanction imposed.

~~JH.~~ The judicial district and the SCAO may publicly disclose only the existence of a founded complaint, the date of the finding, the standard or section of the CJD violated, and the sanction imposed. This information will be publicly available on the judicial website.

KI. For any founded complaints, the SCAO shall inform DORA and notify the complainant of the founded complaint. In providing notice to DORA, the SCAO will provide a copy of the

complaint and investigation report, redacting the names, addresses and birthdatesbirth dates of the children and collateral witnesses. The SCAO will mark these redacted documents “Confidential Pursuant to CJD 21-02” before providing them to DORA. At the request of DORA, the SCAO will provide the PRE report, redacting the names, addresses and birthdates of the children and collateral witnesses and will mark the redacted report “Confidential pursuant to CJD 21-02”. The SCAO will request that DORA inform the SCAO of the final outcome of any professional conduct investigation.

~~J. The complaint process shall be reviewed and recommendations by the SCAO, in consultation with judicial districts, made to the Chief Justice by December 30, 2022 outlining any changes or modifications that may be needed. The entirety of this CJD shall be subject to review and revision on an on-going basis and at the direction of the Supreme Court.~~

## VI. SANCTIONS AND SUITABILITY

- A. The SCAO, in consultation with the Court Executive or designee, shall determine the appropriate sanction for all founded complaints. The SCAO’s decisions as to whether a complaint is founded and as to what action to take, if any, are final, unappealable decisions. ~~that are not appealable.~~
- B. The SCAO, in consultation with the Court Executive or designee, may require the PRE undergo additional training/education, a period of supervised probation by the SCAO, or removal from the Statewide Eligibility Roster, among other sanctions. If a judicial officer makes preliminary findings, as detailed in Section V of this CJD, the SCAO retains the discretion to suspend the PRE, pending further investigation.
- C. ~~Failure of a PRE to comply with this Directive may result in the court ordering a partial or total refund of fees. Founded complaints may result in the court ordering a partial or total refund of fees. The parties are responsible for enforcing an order regarding refund of fees, and the SCAO shall play no role in this process. If a PRE is non-compliant with an order regarding fees, they may be suspended from the roster until compliant.~~
- D. Regardless of the filing of a complaint, if the SCAO determines that a PRE is no longer suitable for appointment, the SCAO may remove the PRE from the Statewide Eligibility Roster. The SCAO’s determination of suitability is a final, unappealable decision.
  - 1. If the SCAO becomes aware of public acts or statements which call into question the suitability of a PRE, the SCAO has the authority to suspend the PRE from the statewide roster pending a suitability investigation. The SCAO’s determination to suspend and investigate is a final, unappealable decision.
- E, If a PRE is determined to be no longer suitable pursuant to Sections VI. Of this CJD, the judicial district and the SCAO may publicly disclose only that the PRE is no longer suitable

and the date of the determination. This information will be publicly available on the judicial website.

F. If sanctions or suitability led to a PRE being removed from the roster, the decision as to whether they complete pending appointments is left to the discretion of the appointing court.

## **VII. MANDATORY NOTIFICATION OF GRIEVANCES**

A. Anyone who has filed a PRE Affidavit shall notify the SCAO in writing within seven days of their notification of any malpractice suit or criminal charge brought or filed against them or notification of any grievance, ~~formal~~ complaint or disciplinary action filed with any licensing agency (ex. DORA, OARC, OCR). Within seven days of the resolution of the above, the PRE must send the SCAO only the final Order or final determination letter from the licensing board. that is under investigation.

B. Notice shall be given to the SCAO regarding the following:

1. Any charges filed, including traffic or petty offenses alleged to involve alcohol or drugs, misdemeanors and felonies;
2. Any disciplinary actions, complaints, grievances, or malpractice suits (regardless of whether they are related to PRE work);
3. Any dependency and neglect, child abuse, domestic violence, or any other case where the state or country names the PRE as a respondent or defendant;
4. Any civil protection order or restraining order in any state or country naming the PRE as a defendant; or
5. Any DORA complaint submitted (regardless of whether related to PRE work).

## **VIII. STANDARDS OF PRACTICE**

### **A. General Principles**

- Standard 1. The PRE shall act professionally.
- Standard 2. The PRE shall maintain objectivity.

### **B. Role of the Parental Responsibility Evaluator**

- Standard 3. The PRE serves as an investigative arm of the court.
- Standard 4. The PRE shall not serve inconsistent dual roles.
- Standard 5. The PRE may move to the role of parenting coordinator or decision-maker.

### **C. Duties of the Parental Responsibility Evaluator**

- Standard 6. The PRE shall establish and maintain competence through training.

- Standard 7. The PRE shall acknowledge when an issue is beyond his or her competence.
- Standard 8. The PRE shall collect data and investigate sufficiently to allow the PRE to provide competent recommendations.
- Standard 9. The PRE shall prepare a clear and timely report.
- Standard 10. The PRE shall report child abuse to the proper agency and the court.

#### **D. Communications**

- Standard 11. The PRE shall develop written policies for the parties.
- Standard 12. The PRE shall develop written policies for counsel.
- Standard 13. The PRE shall review the court's order of appointment.
- Standard 14. The PRE shall have no private or *ex parte* communications with the court.
- Standard 15. The PRE shall provide copies of their file.
- Standard 16. The PRE evaluation may be conducted as a team evaluation.
- ~~Standard 14.—~~

### **STANDARDS OF PRACTICE**

#### **A. GENERAL PRINCIPLES**

##### **Standard 1. The PRE shall act professionally.**

PREs shall provide their services in a manner consistent with the highest professional standards. They shall be accurate and honest in their work and in their communications with the parties and the court. With the child(ren)'s safety always paramount when determining the best interests of the child(ren), PREs shall respect the rights, the dignity, and the welfare of the parties and the child(ren) with whom they work.

##### **Standard 2. The PRE shall maintain objectivity.**

The PRE shall maintain objectivity and independence. To avoid a conflict of interest or an appearance of impropriety, the PRE shall not seek or accept an appointment if the PRE has or has had a financial, familial, or social relationship with the parents, child(ren), counsel, or other parties involved in the case. If the PRE becomes aware of an insurmountable bias or prejudice in dealing with a case, they shall ask the court to terminate the appointment with proper notice to the parties.

#### **B. ROLE OF THE PRE**

##### **Standard 3. The PRE serves as an investigative arm of the court.**

The PRE serves as an investigative arm of the court. The PRE must gather information, formulate recommendations, and report to the court concerning the disputed issues relating to the allocation of parental responsibilities for the child and to assist in determining the best interests of

the child, as set forth in the order of appointment. The parties may conduct direct or cross-examination of the PRE if the PRE testifies.

**Standard 4. The PRE shall not serve inconsistent dual roles.**

The PRE shall not: (a) serve as a formal mediator in the case; (b) provide psychotherapy to any of the parties or children in the case; (c) accept the appointment if they had a prior personal relationship or a prior professional role with the family, other than a prior appointment as a CFI or PRE; or (d) except upon request of the court or written request of the parties, provide referrals for other professionals.

(a) Mediation. Because PREs investigate, prepare reports, and make recommendations, they cannot, by definition, promise confidentiality to the parties. In contrast, mediation is confidential, as set forth in section §13-22-307, C.R.S. The PRE's primary duty is advising the court on the child(ren)'s best interests, with the child's safety always paramount, with regard to specific issues and not resolving such issues for the parties. While the PRE may provide information to the parties for use in mediation, including a report or preliminary recommendations, the PRE should not participate in the actual mediation process.

(b) Psychotherapy. As with mediators, therapists have a duty of confidentiality to their clients that conflicts with a PRE's duties. The roles, purposes, goals, responsibilities, approaches, and professional and ethical requirements of a treating therapist conflict with those of a PRE.

(c) A PRE must avoid multiple relationships that could reasonably be expected to impair objectivity, competence, or effectiveness. For example, service as a PRE would impair objectivity and compromise prior therapeutic relationships and pre-existing alliances and loyalties between a therapist, attorney, other professional or friend.

(d) Referrals. Because a PRE is the investigative arm of the court, a PRE must not make referrals or recommendations to the parties or to the court for specific professionals for ongoing services beyond the scope of the investigation, unless the party makes a written request for referral or recommendation or unless the court requests a referral or recommendation. The PRE may make recommendations for a specific type of professional or service to the parties. Upon ~~order~~ motion and opportunity to respond, the court may ~~order of the court~~ order the PRE ~~may to refer the parties or child to a specific professional the parties or child to other professional personnel~~ for diagnosis and/or treatment. The PRE may provide one or more options to the parties to complete the service.

**Standard 5. The PRE may move to the role of parenting coordinator or decision-maker.**

In some cases, a PRE may agree to move to the role of parenting coordinator ("PC") or decision-maker ("DM") after completing all PRE duties and after termination of the PRE appointment. PREs may move to the role of PC or DM only with the written, informed consent of the parties and the PRE. The PRE who accepts an appointment as a PC or DM shall not accept a subsequent appointment as CFI or PRE in the same case.

**C. DUTIES OF THE PARENTAL RESPONSIBILITY EVALUATOR**

**Standard 6. The PRE shall establish and maintain competence through training.**

A. ~~A.~~ Individuals seeking placement on the Statewide Eligibility Roster shall submit proof of their mandatory domestic violence and child abuse training (as detailed below), proof of their valid professional mental health license, and the completed mandatory PRE Affidavit, affirming that the person is qualified as competent, by training and experience.

B. Beginning January 1, 2027, individuals seeking placement on the Statewide Eligibility Roster shall complete in person or online Colorado Judicial Department training on legal standards under Title 14 of Colorado Revised Statutes. Individuals submitting a renewal affidavit must complete the Colorado Judicial Department training on legal standards once every renewal cycle.

1. Individuals seeking placement on the Statewide Eligibility Roster shall complete the Colorado Judicial Department training no later than 35 days after being informed of their upcoming placement on the Statewide Eligibility Roster. Individuals will not be placed on the roster until their training is complete.

2. Individuals renewing their placement on the Statewide Eligibility Roster must complete the Colorado Judicial Department training on legal standards prior to submitting their renewal affidavit.

CB. Pursuant to §14-10-127 (4), C.R.S., “A person is not allowed to testify as an expert witness regarding a parental responsibilities or parenting time evaluation that the person has performed pursuant to this section unless the court finds that the person is qualified as competent, by training and experience, in the areas of:

(a) The effects of divorce and remarriage on children, adults, and families;

(a.5)(I) The effects of domestic violence on children, adults, and families, including the connection between domestic violence and trauma on children, child abuse, and child sexual abuse in accordance with section 14-10-127.5. The person's training and experience must be provided by recognized sources with expertise in domestic violence and the traumatic effects of domestic violence and coercive control in accordance with section 14-10-127.5. Initial and ongoing training must include, at a minimum:

(A) No less than twenty hours of initial training, required pursuant to section 14-10-127.5 (5)(a)(I); and

(B) No less than fifteen hours of ongoing training every five years, required pursuant to section 14-10-127.5 (5)(a)(I).

(b) Appropriate parenting techniques;

(c) Child development, including cognitive, personality, emotional, and psychological development;

(d) Child and adult psychopathology;

(e) Applicable clinical assessment techniques; and

(f) Applicable legal and ethical requirements of parental responsibilities evaluation.

DE. As referenced above, pursuant to §14-10-127.5 (5)(a), C.R.S., “parental responsibilities evaluators, as described in section 14-10-127, who are involved in parental responsibility proceedings...shall complete:

(I) No less than twenty hours of initial training; and

(II) No less than fifteen hours of ongoing training every five years.

(b) The required training set forth in subsection (5)(a) of this section must focus on domestic violence and child abuse, including:

(I) Child sexual abuse;

(II) Physical abuse;

(III) Emotional abuse;

(IV) Coercive control;

(V) Implicit and explicit bias, including biases relating to parties with disabilities;

(VI) Trauma;

(VII) Long-term and short-term impacts of domestic violence and child abuse on children;

(VIII) Victim and perpetrator behavioral patterns and relationship dynamics within the cycle of violence;

(IX) Interviewing; and

(X) Forensic Report Writing

E. The requirement for 20 hours of Domestic Violence and Child Abuse training is effective January 1, 2024, and only applies to PRE appointments made on or after January 1, 2024. A PRE will not be added to the Statewide PRE Roster until they have completed the initial 20 hours of required training on Domestic Violence and Child Abuse as outlined in §§14-10-127 and 14-10-127.5, C.R.S.

~~F. A PRE may continue work on PRE appointments made prior to January 1, 2024, irrespective of their compliance with the training requirements outlined above. Only the presiding judicial officer in a case has the authority and discretion to modify an existing order of appointment.~~

F. G. Pursuant to §§14-10-127 and 14-10-127.5, C.R.S., a PRE must submit an affidavit for renewal on the PRE Roster every five years. The Renewal Affidavit must provide proof of

the PRE's current mental health licensure and proof of the 15 subsequent hours of statutorily required training.

**Standard 7. The PRE shall acknowledge when an issue is beyond their competence.**

The PRE shall acknowledge when an issue is beyond their competence and shall consult with a mental health professional qualified by training or experience in that area. These areas include but are not limited to domestic violence, child abuse, alcohol or substance abuse, or psychological testing. A PRE has a duty to recognize and inform the parties and the court when an issue falls outside of their training or experience.

**Standard 8. The PRE shall collect data and investigate sufficiently to allow the PRE to provide competent recommendations.**

A PRE shall complete a fact-finding investigation consistent with the order of appointment, the applicable legal standard, and the complexity of the issues. The purpose of the evaluation and report is to assist in determining the best interests of the child, with the child's safety always paramount. The evaluation and subsequent report must focus on the best interests of the child and the factors set forth in sections §14-10-124, C.R.S. and §14-10-129, C.R.S. in any post-decree or relocation case. In addition, the evaluator shall assess a party's parenting attributes, as those attributes relate to the best interests of the child and consider any psychological needs of the child when making recommendations concerning decision making and parenting time.

**Standard 9. The PRE shall prepare a clear timely report.**

The PRE shall present their conclusions and recommendations in a timely manner to the parties and the court in a clear, concise, and non-technical written report, based upon information obtained in the course of the fact-finding investigation. The report is timely if filed in accordance with the order of appointment or other order of the court. If the court order does not specify the due date, the report must be mailed to the court, the parties, and counsel at least 21 days before the trial or hearing. *See* §14-10-127(3), C.R.S. If the PRE requires additional time to complete the report, they must file a status report with the court explaining the delay and requesting additional time.

The PRE is not required to release their report or supplemental report until they have been paid in full. If the court extends a deadline for payment of PRE fees beyond the current report or supplemental report due date, the court shall also extend the due date for the report or supplemental report.

**Standard 10. The PRE shall report child abuse to the proper agency and the court.**

PREs are mandatory reporters pursuant to section §19-3-304, C.R.S. If the PRE has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect, the PRE shall take the steps required under section §19-3-307, C.R.S., to notify law enforcement, the county Department of Human Services, or the child abuse reporting hotline, in addition to informing the presiding judicial officer.

## D. COMMUNICATIONS

### Standard 11. The PRE shall develop written policies for the parties.

The PRE shall develop written policies and procedures for the parties and ~~upon~~within 7 days of appointment, provide them to the parties, along with a copy of the order of appointment. Pursuant to section 14-10-127 (1.5)(a), the information must include:

- A. A description of the evaluator's specific duties, responsibilities, and limitations, which must be consistent with Title 14, Article 10 of the Colorado Revised Statutes;
- B. If the evaluator works as a team, the team shall file with the court, copying counsel and the parties, the names of the team members, and general responsibilities and duties of the team members. This disclosure shall be made within 7 days of appointment.
- C. An acknowledgment that the evaluator will comply with applicable state and federal laws in acting as an evaluator, including the laws pursuant to Title 14, Article 10 of the Colorado Revised Statutes;  
~~A.~~
- D. An acknowledgment that the evaluator is compliant with training requirements pursuant to section 14-10-127.5 (5), C.R.S.; and  
~~B.~~
- E. A comprehensive description of the evaluator's financial policies, including billing practices and rates for performance of duties, costs, fees, and disbursements, procedures for nonpayment of fees and billing for travel to court appearances and home visits; and
  - 1. The PRE must be transparent and disclose their billing practices, including procedures for initial payment and any subsequent payments, replenishment of retainer funds, their typical cost range, and collection procedures, at time of the appointment.
  - 1. \_\_\_\_\_
- F. Information on filing a complaint pursuant to section 14-10-~~127~~116.5 ~~(9)(2)(e)~~ and with the State Court Administrator regarding the parental responsibility evaluator ~~child and family court investigator~~ pursuant to section 13-3-101 (3.5), including current contact information for the State Court Administrator.
  - 2. The PRE must include this paragraph in their written policies for parties regarding the complaint process: *In order to file a complaint against a PRE, the complainant must first request preliminary findings from the judicial officer currently presiding over the case for each Standard they believe the PRE violated. Unrepresented parties may use JDF form number 1339 to request the preliminary findings. If the judicial officer makes the requested findings, the complainant may then file their complaint through the SCAO at <https://www.coloradojudicial.gov/court-services/family-law-programs/parental-responsibility-evaluators?topic=166&wrapped=true>*

The information must also include:

G. The PRE's qualifications;

~~3.~~

H. The PRE complaint process outlined above must also include contact information for other applicable regulatory or disciplinary agencies governing the PRE;

~~C.I.~~ Communication protocols;

J. Protocols for handling sensitive information;

K. The limitations of confidentiality;

L. The PRE's mandatory reporting obligations; and

M. The PRE's evaluation procedure regarding in-person or virtual meetings.

1. If a PRE only conducts virtual evaluations (including home visits/ parent child interactionals) and/or resides outside of the State of Colorado, they must disclose this to the parties and counsel in writing prior to accepting the appointment. This information must also be detailed in their policies provided to the parties.

N. If fees are paid as a retainer, the PRE must bill and deduct from said retainer as work is completed. The PRE must provide the parties with, at minimum, monthly billing statements, detailing time spent (i.e. phone call with collateral, travel to interactional, parent meeting, review materials submitted by parent) and charges incurred. Billing statements must note remaining retainer amounts. Any amounts remaining from the retainer at the time the PRE appointment terminates must be returned to the parties within 14 days of the order terminating the appointment.

O. If fees are paid as a flat rate, the PRE must disclose their normal hourly rate or provide an estimated number of hours for the evaluation. The PRE must keep a record of the hours spent on all tasks and include that accounting in the report, as detailed above.

~~(a)~~

## **Standard 12. The PRE shall develop written policies for counsel.**

The PRE shall develop written policies for counsel regarding communication and the handling of sensitive information. Upon appointment, the PRE shall provide these written policies to counsel and unrepresented parties.

Upon appointment, PREs might find it helpful to consult with counsel of record regarding timing issues and concerns that develop during the course of the PRE evaluation. A PRE may not engage in *ex parte* communication with counsel except in the usual course of their evaluation and when said communication is documented in their file. An *ex parte* communication is any

communication in which at least one-party lacks notice and an opportunity to participate. Additionally, the PRE's written policy shall include a provision requiring counsel to copy opposing counsel or the pro-se party on all documentation, recordings, pictures, video, text messages, emails, or other information or communication provided to the PRE. However, PRE, parties, and counsel may enter into a written agreement for different procedure concerning communication before the PRE begins work on the case. -

After the investigation is complete and the report has been filed, the PRE may have *ex parte* communication with counsel or an unrepresented party for the purposes of trial preparation but must inform the other party and/or their counsel.

### **Standard 13. The PRE shall review the court's order of appointment.**

Upon appointment, the PRE shall review the court's order of appointment and ask for clarification or modification of the order when necessary. When requesting clarification or modification of the court's order, the PRE must abide by Standard 14 and refrain from *ex-parte* communication. After review of the order of appointment, the PRE must inform the court if they do not have the specific expertise and decline the appointment.

### **Standard 14. The PRE shall have no private or *ex parte* communications with the court.**

An *ex parte* communication is any communication in which at least one party lacks notice and an opportunity to participate. Any written communication with the court must be sent to counsel and any *pro se* parties.

### **Standard 15. The PRE shall provide copies of their file.**

Upon written request of the parties or their counsel, the PRE shall make their file available after filing the PRE report and prior to the hearing in the case, unless otherwise ordered by the domestic relations court that appointed the PRE. The PRE shall disclose the file and/or report only to the parties and their counsel or by court order. The PRE file shall include underlying data and reports, complete texts of diagnostic reports made to the evaluator, and the names and addresses of all persons whom the evaluator has consulted, pursuant to CRS 14-10-127 and subject to the confidentiality requirements of the Address Confidentiality Program. If a PRE believes that the release of any information would endanger a person's welfare, they should inform counsel and the court of these concerns and await further order from the court before releasing the information. The PRE must provide a cost estimate for providing copies of the file and must produce those copies within 14 days of receiving payment. PREs must maintain files for seven years following the termination of appointment.

The PRE may deliver the file to a photocopy business for duplication or scanning, if the business assures confidential treatment of the file, and charge the actual cost of the service. Otherwise, the PRE may charge \$0.25 per page scanned or duplicated by the PRE, whether in paper or digital format. The fees are capped at \$250 for pages scanned or duplicated by the PRE. The PRE may not charge for time spent duplicating or scanning. The PRE may bill at their hourly rate to duplicate audio or video recordings, not to exceed one hour of time spent. The cost to produce the file shall be only charged once and can be paid by the person requesting or to be split by the parties.

This CJD shall not abridge or modify existing law. Where state or federal law governs the release of confidential records, those laws shall apply. Where state or federal law prohibits secondary disclosure, the PRE shall, if legally allowed to do so, transmit information under confidential cover. PREs may not release information protected by the Address Confidentiality Program, section 24-30-2101, C.R.S., et seq.

Notwithstanding the above, in responding to professional grievances or complaints with DORA or other regulatory boards related to performance of the PRE, a PRE may provide the regulatory agency with a copy of the PRE report, relevant parts of the file, and any investigation report regarding a PRE complaint, redacting the names, addresses and birthdates of the children and collateral witnesses. In doing so, the PRE must mark the report(s) “Confidential Pursuant to CJD 21-02.”

**Standard 16. The PRE evaluation may be conducted as a team evaluation.**

**A. Types of Teams**

1. A team is a group of mental health professionals that jointly accept an appointment and work collaboratively on that evaluation and report.
2. All members on the team must be on the PRE Eligibility Roster- All- members of the team must sign the report. All team members –will be responsible if a complaint is filed with the SCAO against the team. This provision does not preclude the SCAO from ultimately determining that only one team member receives a founded complaint.
3. Team for training purposes-
  - i. The use of any supervision or training model must be noted in the order of appointment with the supervising PRE named on the order of appointment.
  - ii. A trainee need not be on the order of appointment but must be disclosed to the parties and attorneys prior to accepting the order of appointment.
    1. A trainee is distinguished as such because they are only observing the process.
    2. If the trainee joins the PRE after the order of appointment, the trainee can only observe that PRE if all parties and counsel agree.
4. A solo PRE utilizing other professionals for testing or diagnosis does not need to label themselves as a team, but must comply with Standard 4 above and CRS 14-10-127(3).
  - i. The PRE may choose a professional to do the psychological testing. If parties disagree to the chosen professional, parties may submit their own names to the court and the court will determine which professional shall perform the testing.
  - ii. Only psychologists on the PRE Eligibility Roster can perform psychological testing.

**B. Evaluator Responsibility**

1. Prior to accepting an appointment, the PRE must disclose the Team approach they employ.
2. -All members of the -team must be listed on the Order of appointment.
3. The PRE report and billing must detail who completed each specific task for the evaluation, such as specifically naming which team member spoke with each collateral, each party and each child.
4. A PRE using support staff for purposes of creating files, scheduling appointments, copying, typing, proofreading reports, requesting and compiling documents does not need to consider themselves as working as a PRE team for purposes of this section.

**IX. THE COURT’S AUTHORITY, ROLE, AND RESPONSIBILITIES RELATED TO PRE APPOINTED PURSUANT TO SECTION §14-10-127, C.R.S.**

- |                                  |                                                                                                                   |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Standard A                       | The court shall ensure compliance with the PRE standards.                                                         |
| Standard B                       | The court shall specifically define the scope and subject matter of the PRE’s role in the order of appointment.   |
| Standard C                       | The court shall allocate the costs for PRE services and enforce its payment orders.                               |
| Standard D                       | The court shall terminate the PRE’s appointment no later than entry of permanent orders or the post-decree order. |
| Standard E                       | The court shall not appoint the PRE to inconsistent dual roles.                                                   |
| <del>Standard F</del>            | The court shall ensure the confidentiality of PRE reports.                                                        |
| <del>Standard F</del> Standard G | <u>The court shall ensure the PRE has electronic filing capability and case file access.</u>                      |

**DUTIES AND RESPONSIBILITIES OF THE COURT**

**Standard A. The court shall ensure compliance with the PRE standards.**

The court shall appoint a qualified PRE from the Statewide Roster and shall monitor any complaints concerning the PRE’s services.

**Standard B. The court shall specifically define the scope and subject matter of the PRE’s role in the order of appointment.**

The court shall define the subject matter and scope of the PRE’s role in an order of appointment that substantially complies with JDF 1332, “Order for an Evaluation and Report Pursuant to §14-10-127, C.R.S.” The Court shall ensure the order of appointment is served by the

court to the appointed PRE and shall ensure that all subsequent court orders are similarly served until the PRE appointment is terminated.

**Standard C. The court shall allocate the costs for PRE services and enforce its payment orders.**

The court shall specify in writing the initial allocation and payment of the PRE fees, subject to reallocation. The court shall enforce its orders for payment to ensure the provision of adequate and predictable compensation consistent with the provisions of this CJD. If nonpayment or partial payment issues arise, the PRE may notify the court and ask for guidance. In its discretion, the court shall determine the appropriate course of action, including but not limited to continuing court dates, finding parties in contempt, or reallocating the PRE fees among the parties. Because the PRE is the investigative arm of the court and performs valuable duties for the court, the court is responsible for overseeing and ensuring compliance with its appointment and fee order. See Standard 9 above for additional information regarding the filing of the PRE report.

**Standard D. The court shall terminate the PRE appointment no later than entry of permanent orders or the post-decree order.**

The court may terminate the PRE appointment earlier, but in no event shall the PRE appointment terminate later than entry of permanent orders or the post-decree order resolving the issue for which the court appointed the PRE.

The order of appointment shall state the termination date for the PRE appointment. If the hearing date for permanent orders or the post-decree order is unknown at the time of the order of appointment, the termination date shall be the entry of permanent orders or the entry of the post decree orders.

**Standard E. The court shall not appoint the PRE to inconsistent dual roles.**

The court shall not appoint the PRE to serve in dual roles that are inconsistent and conflictual.

**Standard F. The court shall ensure the confidentiality of PRE reports.**

Because PRE reports often contain personal information, including medical, psychological, substance abuse, or educational information, the court shall ensure their confidentiality and maintain the reports as a suppressed document.

**Standard G. The court shall ensure the PRE has electronic filing capability and case file access.**

When the system and necessary equipment are in place to permit third party electronic filing and case access, PREs may register to use the E-System to file into their current cases. Because the PRE is an investigative arm of the court, PREs shall not be charged any filing fees and shall have the ability to e-file documents at no cost into their cases with current appointments.

Unless otherwise ordered by the appointing court, PREs shall have complete access to the case file for cases in which they have a current Order of Appointment, except for sealed documents. Once an Order of Appointment is terminated, the PRE shall be removed as a third party from the case and will no longer have access to the file.

November 2021

Effective January 1, 2022

Amended, effective upon signature, April 2022.

Amended Effective December 6, 2023

Amended, Effective August 7, 2024

Done in Denver, Colorado this 25th day of July, 2024.

/s/

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Brian D. Boatright, Chief Justice