

RFQ 2020-01-FL

Request for Qualifications

**Mediation Services
for
Monterey County Superior Court
Family Law Division**

Proposal Designation: Public



**Superior Court of California,
County of Monterey**

RFQ Number **2020-01-FL**
Title **Mediation Services for Monterey County Superior Court**

RFQ Start Date **September 9, 2020 Wednesday 3:00 PM**

Q & A End Date **September 25, 2020 Friday 4:00 PM**

RFQ End Date **October 15, 2020 Thursday 4:00 PM**

Proposal Contact **dlbsprocurement@monterey.courts.ca.gov**

Proposed

Contract Duration **3 years**

Contract Renewal **4 annual renewals**

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A. Intent

It is the intent of this RFQ to solicit proposals from qualified mediators ("bidders") to support the Court process by conducting mediations of child custody and visitation disputes, and/or provide child custody recommending counselling.

B. Background

In any contested proceeding involving child custody or visitation rights, the court refers the parties to a family law mediator whenever the court determines it is in the best interests of the child(ren). The Court is seeking a contract Mediator(s) to conduct mediation pursuant to Family Code section 3160-3162, attached as Table I. The minimum qualifications for this position are found in California Family Code sections 1815 and 1816, attached as Table II and the 2020 California Rules of Court, rule 5.210 and 5.215, attached as Table III. Fluency in Spanish is highly desirable.

During the term of the contract, if awarded, or any extension thereto, the Court may modify the Superior Court of California, County of Monterey Local Rules of Court, rule 10.06, MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES. A modification may be made, but not limited to, the Tiers of Mediation as described in the local rules and the Terms and Conditions of Sections I (Nature of Services Provided) and Section III (Payments by the Court) of any contract awarded under this RFQ.

C. Workload

The number of child custody/visitations mediation which can be referred in the future cannot be accurately projected, although there are currently no modifications planned in court operations which would suggest a significant change in the number of mediations. Information as to the actual amount of time spent by mediators and the number of sessions held for each mediation is not available.

Completed reports data, as derived from the court contract mediator's monthly reporting of mediations referred and reports completed is approximate. There is no guarantee of maximum or minimum assignments. The data was derived from the reports of 3-4 mediators. No further breakdown is available.

Fiscal Year	Total Mediations Referred & Average Cases Per Mediator
Calendar Year 2019	799/200
2018	726/182
2017	832/208

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D. Scope of Services

1. Review referred court case files to prioritize conducting interventions, mediations and/or child custody recommending counselling, and complete reports.
2. Conduct confidential mediation of referred cases; conduct interviews of parties involved and facilitate and encourage negotiations between involved parties during the mediation process to construct mutually acceptable resolution of disputes; use his or her best efforts to affect a settlement of the custody or visitation dispute that is in the best interest of the child; and where needed, develop, complete and submit parent agreements in a formal court order format.
3. Conduct child custody recommending counseling of referred cases; work with various parties and agencies such as the Department of Social Services (DSS), parents, children (as directed by the hearing officer), attorneys and county counsel; conduct conferences and interviews with parties to obtain a clear understanding of the diverse views, perspectives and legal positions; examine the needs of involved children; facilitate negotiations; encourage and obtain significant input from involved parties during the process; and in the absence of a parental agreement prepare solution-focused, developmentally and psychologically appropriate recommendations to the Court that are in the best interest of the child.
4. Provide expert professional psycho-educational information and/or make appropriate referrals to community service providers depending upon the needs and circumstances in each individual case to clients, attorneys, the Court and the public; and keep abreast of current developments in family law and clinical studies, trends and requirements pertaining to child development, parenting plans, social service policies and regulations, clinical studies and other information and trends in healthy family relationships, mediation and alternative dispute resolution and mental health.

A narrative overview describing the background and experience of the bidder, including, but not limited to:

Knowledge of:

1. Principles, practices and theories of adult and child psychology.
2. Child development theory.
3. Principles, techniques and practices of crisis intervention and court mediation.
4. Legal terminology, legal documents and court procedures relevant to family court services.
5. Interviewing principles and techniques.
6. Mental health issues.
7. Domestic violence, child abuse, substance abuse, and other related issues and their effect on children and families.
8. Relevant Federal, State and local laws, codes and regulations.
9. Basic computer applications and technological processes.

Ability to:

1. Interpret, explain and apply a variety of codes, statutes, policies, rules, procedures, instruction and regulations related to mediation and recommendations in Family Court Services sessions.
2. Negotiate inclusive agreements for child custody, visitation and co-parenting plans.

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3. Analyze complex problems and evaluate alternative solutions and their potential consequences.
4. Prepare clear, concise and accurate reports, parenting plans and records.
5. Conduct interviews in a composed and neutral manner even when working with upset and hostile clients.
6. Interview children, as directed by the hearing officer, in a nonthreatening manner in order to elicit information necessary information to assist in the resolution of the case.
7. Maintain confidentiality as required by legal or ethical standards.
8. Establish and maintain effective working relationships, rapport, and relate well with individuals from varying socioeconomic and ethnic backgrounds often under difficult, emotional, and stressful circumstances.
9. Communicate clearly and effectively both orally and in writing.
10. Recognize child abuse, substance abuse and domestic violence issues and report as required by law.
11. Operate modern office equipment including copiers, computers, word processors, fax machines and printers.
12. Bilingual English/Spanish preferred.

E. Specifics of Responsive Proposal

The following information shall be included in the response:

Name, address, telephone & fax numbers, email address, if available, and social security number or tax identification number.

Submit all proposals to: dlbsprocurement@monterey.courts.ca.gov

Deadline to submit will be October 15, 2020 at 4:00 P.M.

Education, Experience, and Training:

The contract mediator must meet the education, experience, and training requirements adopted under the authority of Article VI, Section 6 of the California Constitution and California Family Code sections 1815 and 1816 and the 2020 California Rules of Court, rule 5.210 and rule 5.215 (Table II & III). In addition to listing qualifying education, experience, and training, the bidder, if requested, must be able to demonstrate to the court how he/she will meet on-going requirements during the term of the contract. The proposal should include copies of any relevant certificates and/or licenses held by the bidder.

The proposal should also include the names, addresses, and telephone numbers of clients for whom the bidder provided similar services. The Court may contact any references listed.

Responsive proposals should provide clear, concise and complete information that satisfies the requirements noted above. Emphasis should be placed on skills and experience that respond to the needs of the Court, and the requirements of this RFQ.

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F. Submission of Proposals

The Court reserves the right to reject any, and all proposals, and to issue similar RFQs in the future. All responses to this RFQ become the property of the Court. This RFQ is not an agreement, obligation, contract or offer of employment. Neither the Court, the Judicial Council of California (JC), nor the State of California is responsible for the cost of proposal preparation. Proposals must be signed by the bidder or by a duly authorized officer of the proposing organization, delivered along with all required documents, and plainly addressed to the Court as specified in the RFQ. One copy of each submitted proposal will be retained for official files as a public record.

Proposals will be accepted until the date and time specified on the RFQ. Use of U.S. Mail or other delivery service will be at the bidder's risk. Proposals received after this date will not be considered. Facsimile transmission of proposals is not acceptable. Postmarks are not accepted. The original must be completed and submitted as outlined herein. All responses, inquiries, and correspondence related to this RFQ and all reports, charts, displays, schedules, exhibits, and other documentation produced by the bidder that are submitted as part of the proposal will become the property of the Court when received by the Court and may be considered public information under applicable law. Any proprietary information in the proposal should be identified as such. The Court will not disclose propriety information to the public, unless required by law; however, the Court cannot guarantee that such information will be held confidential.

G. Errors in RFQ; Requests for Clarification and Modification.

If a bidder submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ, it shall immediately provide the Court with written notice of the problem and request that the Court clarify or modify this RFQ. Without disclosing the source of the request, the Court may modify the RFQ by posting an addendum on the Court's web site. It is the bidder's responsibility to review addendums on the website.

If a bidder submitting a proposal believes that one or more of the RFQ's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the bidder may submit a written request that the Court change the RFQ. The request must set forth the recommended change and bidder's reasons for proposing the change.

If prior to the date fixed for submission of proposals a bidder submitting a proposal knows of or should have known of an error in the RFQ, but fails to notify the Court of the error, the bidder shall respond at its own risk. If the bidder is awarded a contract, he/she shall not be entitled to additional compensation or time by reason of the error or its later correction.

H. Questions

If a bidder's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to other bidders, the bidder may submit the question in writing, conspicuously marking it as 'CONFIDENTIAL.'. With the question, the bidder must

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submit a statement explaining why the question is sensitive. If the Court concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the Court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be so notified.

If a prospective bidder has any questions relating to this Request for Qualifications, the questions, in writing, must be received by the Court representative by **4 P.M. September 25, 2020**. Questions will not be accepted by FAX, telephone or orally. All questions and responses thereto will be posted on the Court's web site by **noon September 28, 2020**. It is the bidder's responsibility to review questions and responses on the web site. The Superior Court of California, County of Monterey reserves its rights to decline to respond to any questions if, in the Court's assessment, the information cannot be obtained and shared with all potential persons in a timely manner.

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Table I - Family Code sections 3160-3162

FAM § 3160

Each superior court shall make a mediator available. The court is not required to institute a family conciliation court in order to, provide mediation services.

FAM § 3161

The purposes of a mediation proceeding are as follows:

- (a) To reduce acrimony that may exist between the parties.
- (b) To develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with [Sections 3011](#) and [3020](#) .
- (c) To effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

FAM § 3162

- (a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.
- (b) The standards of practice shall include, but not be limited to, all of the following:
 - (1) Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents, consistent with [Sections 3011](#) and [3020](#) .
 - (2) Facilitation of the transition of the family by detailing factors to be considered in decisions concerning the child's future.
 - (3) The conducting of negotiations in such a way as to equalize power relationships between the parties.
- (c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.
- (d) The Judicial Council shall offer training with respect to the standards to mediators.

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Table II – Minimum Qualifications of Contract Mediator

FAM § 1815

(a) A person employed as a supervising counselor of conciliation or as an associate counselor of conciliation shall have all of the following minimum qualifications:

- (1) A master's degree in psychology, social work, marriage, family and child counseling, or other behavioral science substantially related to marriage and family interpersonal relationships.
- (2) At least two years of experience in counseling or psychotherapy, or both, preferably in a setting related to the areas of responsibility of the family conciliation court and with the ethnic population to be served.
- (3) Knowledge of the court system of California and the procedures used in family law cases.
- (4) Knowledge of other resources in the community that clients can be referred to for assistance.
- (5) Knowledge of adult psychopathology and the psychology of families.
- (6) Knowledge of child development, child abuse, clinical issues relating to children, the effects of divorce on children, the effects of domestic violence on children, and child custody research sufficient to enable a counselor to assess the mental health needs of children.
- (7) Training in domestic violence issues as described in [Section 1816](#) .

(b) The family conciliation court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required under subdivision (a).

(c) This section does not apply to any supervising counselor of conciliation who was in office on March 27, 1980.

FAM § 1816

(a) For purposes of this section, the following definitions apply:

- (1) "Eligible provider" means the Administrative Office of the Courts or an educational institution, professional association, professional continuing education group, a group connected to the courts, or a public or private group that has been authorized by the Administrative Office of the Courts to provide domestic violence training.
- (2) "Evaluator" means a supervising or associate counselor described in [Section 1815](#) , a mediator described in [Section 3164](#) , a court-connected or private child custody evaluator described in [Section 3110.5](#) , or a court-appointed investigator or evaluator as described in [Section 3110](#) or [Section 730 of the Evidence Code](#) .

(b) An evaluator shall participate in a program of continuing instruction in domestic violence, including child abuse, as may be arranged and provided to that evaluator. This training may utilize domestic violence training programs conducted by nonprofit community organizations with an expertise in domestic violence issues.

(c) Areas of basic instruction shall include, but are not limited to, the following:

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- (1) The effects of domestic violence on children.
- (2) The nature and extent of domestic violence.
- (3) The social and family dynamics of domestic violence.
- (4) Techniques for identifying and assisting families affected by domestic violence.
- (5) Interviewing, documentation of, and appropriate recommendations for families affected by domestic violence.
- (6) The legal rights of, and remedies available to, victims.
- (7) Availability of community and legal domestic violence resources.

(d) An evaluator shall also complete 16 hours of advanced training within a 12-month period. Four hours of that advanced training shall include community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the family being evaluated may reside. Twelve hours of instruction, as approved by the Administrative Office of the Courts, shall include all of the following:

(1) The appropriate structuring of the child custody evaluation process, including, but not limited to, all of the following:

- (A) Maximizing safety for clients, evaluators, and court personnel.
- (B) Maintaining objectivity.
- (C) Providing and gathering balanced information from the parties and controlling for bias.
- (D) Providing separate sessions at separate times as described in [Section 3113](#).
- (E) Considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence.

(2) The relevant sections of local, state, and federal laws, rules, or regulations.

(3) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, all of the following:

- (A) Shelters for battered women.
- (B) Counseling, including drug and alcohol counseling.
- (C) Legal assistance.
- (D) Job training.
- (E) Parenting classes.
- (F) Resources for a victim who is an immigrant.

(4) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, all of the following:

- (A) Certified treatment programs described in [Section 1203.097 of the Penal Code](#).
- (B) Drug and alcohol counseling.
- (C) Legal assistance.
- (D) Job training.
- (E) Parenting classes.

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(5) The unique issues in a family and psychological assessment in a domestic violence case, including all of the following:

- (A) The effects of exposure to domestic violence and psychological trauma on children, the relationship between child physical abuse, child sexual abuse, and domestic violence, the differential family dynamics related to parent-child attachments in families with domestic violence, intergenerational transmission of familial violence, and manifestations of post-traumatic stress disorders in children.
- (B) The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence.
- (C) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships.
- (D) The assessment of family history based on the type, severity, and frequency of violence.
- (E) The impact on parenting abilities of being a victim or perpetrator of domestic violence.
- (F) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases.
- (G) The influence of alcohol and drug use and abuse on the incidence of domestic violence.
- (H) Understanding the dynamics of high conflict relationships and relationships between an abuser and victim.
- (I) The importance of and procedures for obtaining collateral information from a probation department, children's protective services, police incident report, a pleading regarding a restraining order, medical records, a school, and other relevant sources.
- (J) Accepted methods for structuring safe and enforceable child custody and parenting plans that ensure the health, safety, welfare, and best interest of the child, and safeguards for the parties.
- (K) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against a family member.

(e) After an evaluator has completed the advanced training described in subdivision (d), that evaluator shall complete four hours of updated training annually that shall include, but is not limited to, all of the following:

- (1) Changes in local court practices, case law, and state and federal legislation related to domestic violence.
- (2) An update of current social science research and theory, including the impact of exposure to domestic violence on children.

(f) Training described in this section shall be acquired from an eligible provider and that eligible provider shall comply with all of the following:

- (1) Ensure that a training instructor or consultant delivering the education and training programs either meets the training requirements of this section or is an expert in the subject matter.
- (2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.
- (3) Emphasize the importance of focusing child custody evaluations on the health, safety, welfare, and best interest of the child.
- (4) Develop a procedure to verify that an evaluator completes the education and training program.
- (5) Distribute a certificate of completion to each evaluator who has completed the training. That certificate shall document the number of hours of training offered, the number of hours the evaluator completed, the dates of the training, and the name of the training provider.

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(g)(1) If there is a local court rule regarding the procedure to notify the court that an evaluator has completed training as described in this section, the evaluator shall comply with that local court rule.

(2) Except as provided in paragraph (1), an evaluator shall attach copies of his or her certificates of completion of the training described in subdivision (d) and the most recent updated training described in subdivision (e).

(h) An evaluator may satisfy the requirement for 12 hours of instruction described in subdivision (d) by training from an eligible provider that was obtained on or after January 1, 1996. The advanced training of that evaluator shall not be complete until that evaluator completes the four hours of community resource networking described in subdivision (d).

(i) The Judicial Council shall develop standards for the training programs. The Judicial Council shall solicit the assistance of community organizations concerned with domestic violence and child abuse and shall seek to develop training programs that will maximize coordination between conciliation courts and local agencies concerned with domestic violence.

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Table III – 2020 California Rule of Court 5.210 & 5.215

Rule 5.210. Court-connected child custody mediation

(a) Authority

This rule of court is adopted under article VI, section 6 of the California Constitution and Family Code sections 211, 3160, and 3162(a).

(b) Purpose

This rule sets forth standards of practice and administration for court-connected child custody mediation services that are consistent with the requirements of Family Code section 3161.

(c) Definitions

- (1) "Best interest of the child" is defined in Family Code section 3011.
- (2) "Parenting plan" is a plan describing how parents or other appropriate parties will share and divide their decision making and caretaking responsibilities to protect the health, safety, welfare, and best interest of each child who is a subject of the proceedings.

(d) Responsibility for mediation services

- (1) Each court must ensure that:
 - (A) Mediators are impartial, competent, and uphold the standards of practice contained in this rule of court.
 - (B) Mediation services and case management procedures implement state law and allow sufficient time for parties to receive orientation, participate fully in mediation, and develop a comprehensive parenting plan without unduly compromising each party's right to due process and a timely resolution of the issues.
 - (C) Mediation services demonstrate accountability by:
 - (i) Providing for acceptance of and response to complaints about a mediator's performance;
 - (ii) Participating in statewide data collection efforts; and
 - (iii) Disclosing the use of interns to provide mediation services.
 - (D) The mediation program uses a detailed intake process that screens for, and informs the mediator about, any restraining orders or safety-related issues affecting any party or child named in the proceedings to allow compliance with relevant law or court rules before mediation begins.
 - (E) Whenever possible, mediation is available from bilingual mediators or other interpreter services that meet the requirements of Evidence Code sections 754(f) and 755(a) and section 18 of the California Standards of Judicial Administration.

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- (F) Mediation services protect, in accordance with existing law, party confidentiality in:
 - (i) Storage and disposal of records and any personal information accumulated during the mediation process;
 - (ii) Interagency coordination or cooperation regarding a particular family or case; and
 - (iii) Management of child abuse reports and related documents.
 - (G) Mediation services provide a written description of limitations on the confidentiality of the process.
 - (H) Within one year of the adoption of this rule, the court adopts a local court rule regarding ex parte communications.
- (2) Each court-connected mediator must:
- (A) Maintain an overriding concern to integrate the child's best interest within the family context;
 - (B) Inform the parties and any counsel for a minor child if the mediator will make a recommendation to the court as provided under Family Code section 3184; and
 - (C) Use reasonable efforts and consider safety issues to:
 - (i) Facilitate the family's transition and reduce acrimony by helping the parties improve their communication skills, focus on the child's needs and areas of stability, identify the family's strengths, and locate counseling or other services;
 - (ii) Develop a comprehensive parenting agreement that addresses each child's current and future developmental needs; and
 - (iii) Control for potential power imbalances between the parties during mediation.

(e) Mediation process

All court-connected mediation processes must be conducted in accordance with state law and include:

- (1) Review of the intake form and court file, if available, before the start of mediation;
- (2) Oral or written orientation or parent education that facilitates the parties' informed and self-determined decision making about:
 - (A) The types of disputed issues generally discussed in mediation and the range of possible outcomes from the mediation process;
 - (B) The mediation process, including the mediator's role; the circumstances that may lead the mediator to make a particular recommendation to the court; limitations on the confidentiality of the process; and access to information communicated by the parties or included in the mediation file;
 - (C) How to make best use of information drawn from current research and professional experience to facilitate the mediation process, parties' communication, and co-parenting relationship; and
 - (D) How to address each child's current and future developmental needs;

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- (3) Interviews with children at the mediator's discretion and consistent with Family Code section 3180(a). The mediator may interview the child alone or together with other interested parties, including stepparents, siblings, new or step-siblings, or other family members significant to the child. If interviewing a child, the mediator must:
 - (A) Inform the child in an age-appropriate way of the mediator's obligation to disclose suspected child abuse and neglect and the local policies concerning disclosure of the child's statements to the court; and
 - (B) With parental consent, coordinate interview and information exchange among agency or private professionals to reduce the number of interviews a child might experience;
- (4) Assistance to the parties, without undue influence or personal bias, in developing a parenting plan that protects the health, safety, welfare, and best interest of the child and that optimizes the child's relationship with each party by including, as appropriate, provisions for supervised visitation in high-risk cases; designations for legal and physical custody; a description of each party's authority to make decisions that affect the child; language that minimizes legal, mental health, or other jargon; and a detailed schedule of the time a child is to spend with each party, including vacations, holidays, and special occasions, and times when the child's contact with a party may be interrupted;
- (5) Extension of time to allow the parties to gather additional information if the mediator determines that such information will help the discussion proceed in a fair and orderly manner or facilitate an agreement;
- (6) Suspension or discontinuance of mediation if allegations of child abuse or neglect are made until a designated agency performs an investigation and reports a case determination to the mediator;
- (7) Termination of mediation if the mediator believes that he or she is unable to achieve a balanced discussion between the parties;
- (8) Conclusion of mediation with:
 - (A) A written parenting plan summarizing the parties' agreement or mediator's recommendation that is given to counsel or the parties before the recommendation is presented to the court; and
 - (B) A written or oral description of any subsequent case management or court procedures for resolving one or more outstanding custody or visitation issues, including instructions for obtaining temporary orders;
- (9) Return to mediation to resolve future custody or visitation disputes.

(f) Training, continuing education, and experience requirements for mediator, mediation supervisor, and family court services director

As specified in Family Code sections 1815 and 1816:

- (1) All mediators, mediation supervisors, and family court service directors must:
 - (A) Complete a minimum of 40 hours of custody and visitation mediation training within the first six months of initial employment as a court-connected mediator;

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(B) Annually complete 8 hours of related continuing education programs, conferences, and workshops. This requirement is in addition to the annual 4-hour domestic violence update training described in rule 5.215; and

(C) Participate in performance supervision and peer review.

(2) Each mediation supervisor and family court services director must complete at least 24 hours of additional training each calendar year. This requirement may be satisfied in part by the domestic violence training required by Family Code section 1816.

(g) Education and training providers

Only education and training acquired from eligible providers meet the requirements of this rule. "Eligible providers" includes the Judicial Council and may include educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups.

(1) Eligible providers must:

(A) Ensure that the training instructors or consultants delivering the education and training programs either meet the requirements of this rule or are experts in the subject matter;

(B) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants;

(C) Emphasize the importance of focusing child custody mediations on the health, safety, welfare, and best interest of the child;

(D) Develop a procedure to verify that participants complete the education and training program; and

(E) Distribute a certificate of completion to each person who has completed the training. The certificate must document the number of hours of training offered, the number of hours the person completed, the dates of the training, and the name of the training provider.

(2) Effective July 1, 2005, all education and training programs must be approved by Judicial Council staff in consultation with the Family and Juvenile Law Advisory Committee.

(h) Ethics

Mediation must be conducted in an atmosphere that encourages trust in the process and a perception of fairness. To that end, mediators must:

(1) Meet the practice and ethical standards of the Code of Ethics for the Court Employees of California and of related law;

(2) Maintain objectivity, provide and gather balanced information for both parties, and control for bias;

(3) Protect the confidentiality of the parties and the child in making any collateral contacts and not release information about the case to any individual except as authorized by the court or statute;

(4) Not offer any recommendations about a party unless that party has been evaluated directly or in consultation with another qualified neutral professional;

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- (5) Consider the health, safety, welfare, and best interest of the child in all phases of the process, including interviews with parents, extended family members, counsel for the child, and other interested parties or collateral contacts;
- (6) Strive to maintain the confidential relationship between the child who is the subject of an evaluation and his or her treating psychotherapist;
- (7) Operate within the limits of his or her training and experience and disclose any limitations or bias that would affect his or her ability to conduct the mediation;
- (8) Not require children to state a custodial preference;
- (9) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child before having gathered the information necessary to support the conclusion;
- (10) Disclose to the court, parties, attorneys for the parties, and attorney for the child conflicts of interest or dual relationships and not accept any appointment except by court order or the parties' stipulation;
- (11) Be sensitive to the parties' socioeconomic status, gender, race, ethnicity, cultural values, religion, family structures, and developmental characteristics; and
- (12) Disclose any actual or potential conflicts of interest. In the event of a conflict of interest, the mediator must suspend mediation and meet and confer in an effort to resolve the conflict of interest to the satisfaction of all parties or according to local court rules. The court may order mediation to continue with another mediator or offer the parties alternatives. The mediator cannot continue unless the parties agree in writing to continue mediation despite the disclosed conflict of interest.

Rule 5.215. Domestic violence protocol for Family Court Services

(a) Authority

This rule of court is adopted under Family Code sections 211, 1850(a), and 3170(b).

(b) Purpose

This rule sets forth the protocol for Family Court Services' handling of domestic violence cases consistent with the requirement of Family Code section 3170(b).

(c) Definitions

- (1) "Domestic violence" is used as defined in Family Code sections 6203 and 6211.
- (2) "Protective order" is used as defined in Family Code section 6215, "Emergency protective order"; Family Code section 6218, "Protective order"; and Penal Code section 136.2 (orders by court). "Domestic violence restraining order" is synonymous with "protective order."
- (3) "Mediation" refers to proceedings described in Family Code section 3161.
- (4) "Evaluation" and "investigation" are synonymous terms.
- (5) "Family Court Services" refers to court-connected child custody services and child custody mediation made available by superior courts under Family Code section 3160.

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- (6) "Family Court Services staff" refers to contract and employee mediators, evaluators, investigators, and counselors who provide services on behalf of Family Court Services.
- (7) "Differential domestic violence assessment" is a process used to assess the nature of any domestic violence issues in the family so that Family Court Services may provide services in such a way as to protect any victim of domestic violence from intimidation, provide services for perpetrators, and correct for power imbalances created by past and prospective violence.

(d) Family Court Services: Description and duties

(1) *Local protocols*

Family Court Services must handle domestic violence cases in accordance with pertinent state laws and all applicable rules of court and must develop local protocols in accordance with this rule.

(2) *Family Court Services duties relative to domestic violence cases*

Family Court Services is a court-connected service that must:

- (A) Identify cases in Family Court Services that involve domestic violence, and code Family Court Services files to identify such cases;
- (B) Make reasonable efforts to ensure the safety of victims, children, and other parties when they are participating in services provided by Family Court Services;
- (C) Make appropriate referrals; and
- (D) Conduct a differential domestic violence assessment in domestic violence cases and offer appropriate services as available, such as child custody evaluation, parent education, parent orientation, supervised visitation, child custody mediation, relevant education programs for children, and other services as determined by each superior court.

(3) *No negotiation of violence*

Family Court Services staff must not negotiate with the parties about using violence with each other, whether either party should or should not obtain or dismiss a restraining order, or whether either party should cooperate with criminal prosecution.

(4) *Domestic violence restraining orders*

Notwithstanding the above, to the extent permitted under Family Code section 3183(c), in appropriate cases, Family Court Services staff may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

(5) *Providing information*

Family Court Services staff must provide information to families accessing their services about the effects of domestic violence on adults and children. Family Court Services programs, including but not limited to orientation programs, must provide information and materials that describe Family Court Services policy and procedures with respect to domestic violence. Whenever possible, information delivered in video or audiovisual format should be closed-captioned.

(6) *Separate sessions*

In a Family Court Services case in which there has been a history of domestic violence between the parties or in which a protective order as defined in Family Code section 6218 is in effect, at the request of the party who is alleging domestic violence in a written declaration under penalty of

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perjury or who is protected by the order, the Family Court Services mediator, counselor, evaluator, or investigator must meet with the parties separately and at separate times. When appropriate, arrangements for separate sessions must protect the confidentiality of each party's times of arrival, departure, and meeting with Family Court Services. Family Court Services must provide information to the parties regarding their options for separate sessions under Family Code sections 3113 and 3181. If domestic violence is discovered after mediation or evaluation has begun, the Family Court Services staff member referred to the case must confer with the parties separately regarding safety-related issues and the option of continuing in separate sessions at separate times. Family Court Services staff, including support staff, must not respond to a party's request for separate sessions as though it were evidence of his or her lack of cooperation with the Family Court Services process.

(7) *Referrals*

Family Court Services staff, where applicable, must refer family members to appropriate services. Such services may include but are not limited to programs for perpetrators, counseling and education for children, parent education, services for victims, and legal resources, such as family law facilitators.

(8) *Community resources*

Family Court Services should maintain a liaison with community-based services offering domestic violence prevention assistance and support so that referrals can be made based on an understanding of available services and service providers.

(e) Intake

(1) *Court responsibility*

Each court must ensure that Family Court Services programs use a detailed intake process that screens for, and informs staff about, any restraining orders, dependency petitions under Welfare and Institutions Code section 300, and other safety-related issues affecting any party or child named in the proceedings.

(2) *Intake form*

Any intake form that an agency charged with providing family court services requires the parties to complete before the commencement of mediation or evaluation must state that, if a party alleging domestic violence in a written declaration under penalty of perjury or a party protected by a protective order so requests, the Family Court Services staff must meet with the parties separately and at separate times.

(3) *Review of intake form and case file*

All Family Court Services procedures must be conducted in accordance with state law and must include review of intake forms and court files, when available, by appropriate staff.

(f) Screening

(1) *Identification of domestic violence*

Screening for a history of domestic violence incidents must be done throughout the Family Court Services process. As early in the case as possible, Family Court Services staff should make every effort to identify cases in which incidents of domestic violence are present. The means by which Family Court Services elicits screening information may be determined by each program. Screening techniques may include but are not limited to questionnaires, telephone interviews, standardized screening devices, and face-to-face interviews.

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(2) *Procedures for identification*

Procedures for identifying domestic violence may include, but are not limited to: (a) determination of an existing emergency protective order or domestic violence restraining order concerning the parties or minor; (b) review of court papers and declarations; (c) telephone interviews; (d) use of an intake form; (e) orientation; (f) information from attorneys, shelters, hospital reports, Child Protective Services, police reports, and criminal background checks; and (g) other collateral sources. Questions specific to incidents of domestic violence should request the following information: date of the parties' separation, frequency of domestic violence, most recent as well as past incidents of domestic violence, concerns about future domestic violence, identities of children and other individuals present at domestic violence incidents or otherwise exposed to the domestic violence, and severity of domestic violence.

(3) *Context for screening*

In domestic violence cases in which neither party has requested separate sessions at separate times, Family Court Services staff must confer with the parties separately and privately to determine whether joint or separate sessions are appropriate.

(g) Safety issues

(1) *Developing a safety plan*

When domestic violence is identified or alleged in a case, Family Court Services staff must consult with the party alleging domestic violence away from the presence of the party against whom such allegations are made and discuss the existence of or need for a safety plan. Safety planning may include but is not limited to discussion of safe housing, workplace safety, safety for other family members and children, access to financial resources, and information about local domestic violence agencies.

(2) *Safety procedures*

Each Family Court Services office should develop safety procedures for handling domestic violence cases.

(3) *Confidential addresses*

Where appropriate, Family Court Services staff must make reasonable efforts to keep residential addresses, work addresses, and contact information-including but not limited to telephone numbers and e-mail addresses-confidential in all cases and on all Family Court Services documents.

(h) Support persons

(1) *Support person*

Family Court Services staff must advise the party protected by a protective order of the right to have a support person attend any mediation orientation or mediation sessions, including separate mediation sessions, under Family Code section 6303.

(2) *Excluding support person*

A Family Court Services staff person may exclude a domestic violence support person from a mediation session if the support person participates in the mediation session or acts as an advocate or the presence of a particular support person disrupts the process of mediation. The presence of the support person does not waive the confidentiality of the process, and the support person is bound by the confidentiality of the process.

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(i) Accessibility of services

To effectively address domestic violence cases, the court must make reasonable efforts to ensure the availability of safe and accessible services that include, but are not limited to:

(1) *Language accessibility*

Whenever possible, Family Court Services programs should be conducted in the languages of all participants, including those who are deaf. When the participants use only a language other than spoken English and the Family Court Services staff person does not speak their language, an interpreter-certified whenever possible-should be referred to interpret at the session. A minor child of the parties must not be used as an interpreter. An adult family member may act as an interpreter only when appropriate interpreters are not available. When a family member is acting as an interpreter, Family Court Services staff should attempt to establish, away from the presence of the potential interpreter and the other party, whether the person alleging domestic violence is comfortable with having that family member interpret for the parties.

(2) *Facilities design*

To minimize contact between the parties and promote safety in domestic violence cases, courts must give consideration to the design of facilities. Such considerations must include but are not limited to the following: separate and secure waiting areas, separate conference rooms for parent education and mediation, signs providing directions to Family Court Services, and secure parking for users of Family Court Services.

(j) Training and education

(1) *Training, continuing education, and experience requirements for Family Court Services staff*

All Family Court Services staff must participate in programs of continuing instruction in issues related to domestic violence, including child abuse, as may be arranged for and provided to them, under Family Code section 1816(a).

(2) *Advanced domestic violence training*

Family Court Services staff must complete 16 hours of advanced domestic violence training within the first 12 months of employment and 4 hours of domestic violence update training each year thereafter. The content of the 16 hours of advanced domestic violence training and 4 hours of domestic violence update training must be the same as that required for court-appointed child custody investigators and evaluators as stated in rule 5.230. Those staff members employed by Family Court Services on January 1, 2002, who have not already fulfilled the requirements of rule 5.230 must participate in the 16-hour training within one year of the rule's effective date.

(3) *Support staff*

Family Court Services programs should, where possible, enable support staff, including but not limited to clerical staff, to participate in training on domestic violence and in handling domestic violence cases appropriately.

Appendix D

Monterey Courts Contract Rates Schedule

1st Tier Compensation- The Court shall compensate Mediator at the rate of **\$194.00** for each scheduled mediation. For purposes of payment under this section a mediation consists of a session or sessions with those individuals involved in a dispute about custody or visitation which culminates in either an agreement filed with the Court, or a "no agreement" status report and where no further mediation sessions are scheduled or contemplated. It is agreed that there may be more than one session for each mediation, and that the above compensation covers all sessions, regardless of the number held.

2nd Tier Mediation with Recommendation to the Court (Non-Confidential)- The Court agrees to compensate the Mediator **\$194.00** or up to 2 hours of session time, plus \$48.00 for up to an additional 1/2 hour of session time; the maximum fee to be paid per mediation shall be **\$242.00**.

Separate 2nd Tier Mediation with Recommendation to the Court (Non-Confidential): Maximum fee of **\$291.00** when it is necessary to conduct a 2nd Tier mediation with each party separately due to legal and/or safety requirements.

No Shows. The Mediator shall be paid the agreed compensation if the Mediator is present and one or both parties fail to appear for the scheduled mediation session, or mediation is not canceled by one or both of the parties with at least 24 hours notice.

Family Law and Motion and Domestic Violence Civil calendar- The Court agrees to compensate the Mediator \$220.00 per day to help parents make temporary time-sharing plans.

Co-Parenting Orientation-The Court agrees to compensate the Mediator \$220.00 per day for each co-parenting orientation facilitated by the Mediator.

Temporary Agreements- If a temporary agreement is reached between all parties, with further mediation sessions scheduled in the future, the Mediator shall be paid the agreed compensation upon execution of the temporary agreement with the understanding that there shall be no further compensation for sessions regarding modification of the agreement held within three months from the date of the first mediation.

Re-Referrals- The Mediator shall be paid the agreed compensation if the Mediator is re-referred a party for the same issues in which no agreement was previously met.

New Issues-The Mediator shall be paid the agreed compensation if a new mediation agreement involving new issues between parties is required subsequent to a prior agreement.

Translation Fee for Written Reports- The Mediator shall be paid a translation fee for any translated written reports in the amount of \$47.00 per mediation.