

# **BENJAMIN J. ALBRITTON, PSY.D., ABPP**

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*Clinical & Forensic Psychology  
Board of Certified in Forensic Psychology  
American Board of Professional Psychology*

## **Statement of Understanding**

### **General Information**

I have been appointed by the court to conduct an impartial evaluation of comparative custodial fitness and formulate a parenting plan that addresses the best interest of your child(ren). Often this understanding is described as a custody evaluation or psychological evaluation. My evaluation includes elements which are explored in what is often called a "social study." The strengths and weaknesses of each parent will be assessed and recommendations will be made to the court, which are viewed to be in the best interest of each child. While understanding of emotional difficulties is a portion of this evaluation, the goodness of fit between each child and parent will be studied. The report will include an understanding of the child's developmental needs and each parent's unique capacities to aid in the child's development. My purpose in conducting this evaluation is to gather information that will enable me to formulate an opinion concerning a custody/visitation arrangement most likely to be in the best interest of your child(ren). Other related recommendations such as therapy, substance abuse testing, family treatment, parent coordination and parent facilitation may be included.

The manner in which my fees will be paid has been determined either by the court or through negotiations among the parties and their attorneys and, though the court does not pay my fees, the work that I will be doing is for the court. Regardless of the source from which an evaluator receives remuneration, an impartial evaluator is expected to operate as though he were employed by the court. It is particularly important that this position be understood when fees are being paid only by one of the two parties. The fee-paying party cannot simply call a halt to the evaluation. The authority to instruct an evaluator to perform no further services rests with the court, not with the party who bears the financial responsibility for payment of the evaluator's fees (nor with that party's attorney).

I do not presume that those whom I am evaluating are misrepresenting the facts of the case; however, neither do I presume that they are being truthful. Forensic psychologists are expected to secure verification of assertions made by those whom they are evaluating. Your cooperation will be expected in verification of assertions made by you. This evaluation may include clinical interviews, psychological testing, substance abuse testing, contact with collateral sources and review of pertinent records. In addition, interviews with children and observation of parent/child interactions is generally conducted as part of the process.

Before I issue the final report, I will ask you to verify certain facts and dates and discuss any concerns you have regarding the evaluation process. Shortly after this meeting, the final report will be prepared and sent to the court. Unless otherwise instructed by the court, copies will be sent to the attorneys for both litigants and to the attorney representing the child(ren). If an

individual is representing him/herself; I will follow direction from the court concerning whether or not to provide that individual with a copy of the report. Your signature on the last page of this document will authorize me to release information to the attorneys and to the court at any point in the evaluative process, to release to them my formal advisory report, and to release my file to anyone who is authorized by law to review it. With the exception of information presented to you in order to afford you an opportunity to respond, information I gather is ordinarily not disclosed prior to the completion of the evaluation. Under certain circumstances, however, disclosure of information may be deemed advisable by me or may be requested by the attorneys or by the court. If disclosure is deemed appropriate, only *information* will be shared. Interim recommendations will *not* be offered. Authority to release my advisory report and/or any of the information utilized by me in preparing the report to others (such as treating practitioners) rests with the court.

### **Privilege, Confidentiality, and Privacy**

Principles of confidentiality and privilege *do not* apply within the context of this assessment. Information provided by you, regardless of the form in which it has been provided (your statements, tape recordings, diaries, correspondence, photographs, etc.) may be shared with others involved in the evaluation (including, where necessary and appropriate, children and collateral sources). E-mails and text messages regarding your case, with the exception of scheduling, are not reviewed or saved unless they are first discussed in a session with the evaluator. Any information pertinent to the evaluation should be produced and discussed during appointment times. By presenting information to others, verification of information provided can be sought, and the other party can be afforded the opportunity to respond to allegations that may have been made. Statements made by children may have to be cited in the report, and it is therefore important that you not mislead your child(ren). Do not tell a child that what is said is confidential. It is not. Information concerning your payments (amounts, source of payments, and form of payments) is also not confidential. *Many people mistakenly believe that information shared with a psychologist is confidential; to reiterate, this is not true in this evaluation.*

Office staff must check my telephone messages, read my mail, and type my correspondence and reports. Those who work for me receive instruction in matters relating to confidentiality.

I will utilize my associates, Dr. Mary Madison Eagle and/or Dr. Victoria Harvey, and in some cases, other qualified mental health professionals for certain portions of the evaluation, primarily collateral calls and clinical and history information gathering.

The need may arise for me to consult with other professionals regarding the evaluation and/or provide a copy of the final report and pertinent supporting documents to colleagues for their review and comments. In either case, all names and identifying information will be changed.

### **Fees**

Fees are as shown on the cost sheet that has been attached. Note that I reserve the right to increase fees (with appropriate notice to you). Also note that fees for an assessment of this type are not reimbursable by health insurance.

It must be emphasized that the dollar amount shown on our cost sheet does not always represent the total cost of the evaluation. It represents only those fees that it are possible to specify in advance. A comprehensive evaluation inevitably entails additional services, for which fees cannot be specified

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in advance. If you wish to examine an account statement on which typical fees are itemized, one will be furnished upon request. Please note that my retainer is always refundable at the end of the litigation process; which is determined by a signed court order.

My services as an evaluator commence with my acceptance of the assignment to conduct an evaluation. Though I do not actively seek information prior to our first evaluative session, information may come to me in the form of statements made in telephone interactions, depositions, court records, etc. Even information I do not actively seek will be considered in the formulation of my opinions (in my view, ignoring unsought information is not a viable option). Additionally, in most cases I will have expended some time prior to your receipt of this document (for example, phone time with the court and correspondence time). For these reasons, fees are charged retroactively; that is, from the time of my engagement or notification by the court of my appointment to evaluate your family.

If, in my judgment, it is advisable that I consult with other mental health professionals, attorneys, or other professionals, I will bill for the time spent in such consultations. Any fees charged to me by those with whom I consult will not be passed along to the person(s) financially responsible for the cost of the evaluation.

The record-keeping requirements of forensic work make it necessary to log each telephone message and make a record of even the briefest telephone call. For this reason, there will be a minimum fee charged for any phone contact.

Once an evaluation has been concluded, fees paid may be reapportioned through negotiations among the parties and their attorneys or by court order; however, while the evaluation is in progress, fees cannot be apportioned based upon what was done for whom. All work relating to the assessment (obtaining and reviewing documents, contacting others for information, etc.) is done in order to obtain as much relevant information as possible and cannot be viewed as work done for one party or the other. Similarly, fees cannot be apportioned in a manner that involves assigning financial responsibility for fees associated with certain services to one party and responsibility for fees associated with other services to the other party.

There may be times when an individual being evaluated will be required to pay fees for time I expend obtaining and reviewing information that the individual would have preferred that I not obtain or review. Similarly, there may be times when the financially responsible party (parties) will be required to pay fees in connection with the evaluation of a third party that the financially responsible party (parties) would have preferred that I not evaluate.

If it should become necessary for me to report allegations of abuse/neglect to Child Protective Services (CPS), the financially responsible party (parties) will be billed for any time expended filing the report, being interviewed by CPS, etc. This may mean that a financially responsible party will have to pay for time expended reporting him/her to CPS.

There may be times when the actions of one party will make it necessary for me to make phone calls and/or write letters. In calculating fees for my services, no distinction is made between time expended in administrative matters and time expended providing psychological services. Fees for time expended in administrative matters are apportioned as are all other fees. In summary, fees are charged for time expended in any/all professional activities associated with the evaluative process or arising from the evaluative process. This includes time expended addressing fee related matters.

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It is to your advantage to organize any material that you submit for my consideration. You are paying for my time, and more time is required to review material that is poorly organized. Any items submitted to me should be clearly identified with your name. This is particularly important in the case of photographs, thumb drives, CDs, DVDs, audiotapes (including microcassettes), diary pages, and notes. *You should copy any information given to me and retain the copy.*

The performance of evaluation-related services by me does not cease with the issuance of my report. Fees for all post-evaluation services (correspondence, phone time, attendance at conferences, etc.) are the responsibility of the party requesting the services, unless other arrangements have been made in advance or the court has ordered that responsibility for these fees be apportioned in some other manner.

If one wishes an expert to make a court appearance or appear at a deposition, one must pay the expert's fees for time expended, including reasonable fees for time expended in preparation. I must, therefore, require that you agree that if my presence is requested for any reason, the fees specified on our cost sheet will be *paid in advance* by the party requesting my presence, unless other arrangements have been made in advance or the court has ordered that responsibility for these fees be apportioned in some other manner. Additionally, the scheduling of my testimony will be done in consultation with me and with an appropriate recognition of possible conflicting personal or professional commitments. In the unlikely event that an appearance by me is requested by the court or by the child's attorney, my fees will be paid by the party (parties) responsible for the other costs associated with my evaluation and in the same proportions.

### **Return of Fees**

Reports similar to this often lead to settlement. Under such circumstances, fees paid in advance will be refunded. It must be understood, however, that no refunds will be made until I have been formally notified, either by the court or by the attorneys for both parties, that it is the position of all involved that my task has been completed, that no further services will be requested, and that I am discharged. Upon receipt of such formal notice, a final statement will be prepared. The party (parties) involved may then request a refund if a balance remains. Refunds will be made to the party (parties) in accordance with the percentage paid, minus a \$500 administrative fee.

### **Limitations, Risks, and Services Not Provided**

The profession of psychology has not developed specific methods and procedures for use in assessing comparative custodial fitness. The criteria that I employ and the methods and the procedures that I utilize have been chosen by me. The evaluative procedure is outlined briefly on our webpage and in an accompanying document. Any questions that you may have will be responded to during our initial evaluative session.

Unless instructed otherwise by the court, I will, as the evaluation progresses, share information (including preliminary impressions) with the child's attorney, if one has been appointed. Subsequent to the completion of my evaluation and prior to the preparation of my report, I am willing to confer with the attorneys if such a conference is desired by all involved and not objected to by the court. Detailed information concerning my findings, however, will be communicated in writing only. Be aware that the dispute is not resolved with the issuance of my report; the final decision always rests with the court should the parties not come to a mutual agreement. Though the

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information provided and opinions expressed are intended to assist the court, the court may reject all or portions of the information provided and/or may reject the opinions offered. Also recognize that, though it has not yet occurred, the possibility exists that even after having completed a thorough examination of the issues, I may not be able to offer an opinion with a reasonable degree of professional certainty. Neither under this circumstance nor under circumstances in which completion of the evaluation becomes either impossible or unnecessary are fees for services already rendered refunded. (If an evaluation has not begun, fees for time expended in attempts to commence the evaluation, document review, etc., will be subtracted from any retainer fee paid and the balance will be refunded.)

It is not possible to guarantee that an evaluation will be concluded by a specific date. Ordinarily, judges who have requested that forensic evaluations be performed wish to have advisory reports prepared prior to the commencement of a trial. Though quite unlikely, it is possible that a judge will begin trial prior to receiving the completed report.

Reasonable steps are taken to minimize the distress associated with the evaluation process. In most instances, cases in which I have been involved have been resolved without a final trial. However, I must presume that there will be a trial and must conduct myself accordingly. This means that information you provide will be questioned and, at times, you may feel as though you are being interrogated rather than interviewed. In order to perform my court-ordered function, I must be an examiner, not a therapist.

It must be understood that I cannot provide psychological advice to individuals whom I am evaluating. If counseling or psychotherapy services are desired, I will be pleased to provide the names of appropriate professionals. Since I cannot provide emergency assistance to someone whom I am evaluating, my cell phone or paging service are not to be used either by those whom I am evaluating or by their attorneys. If an emergency situation arises, assistance should be sought through the police, the nearest hospital, or your attorney (depending, of course, on the nature of the emergency).

Unless I have been directed otherwise by the court, I will presume that all items in the case file are discoverable (that is, subject to examination) by both parties, their attorneys, the attorney for the child(ren), and any expert(s) who may have been retained by counsel for either party. In the event of a trial, unless I have been directed otherwise by the court, all items in the case file may be brought with me to court any day that I am scheduled to offer testimony. Duplicate copies of all items will be made for the attorney who wishes to request them. Since this occurs after the completion of the report, each attorney will be billed accordingly. If there is a trial and should you request that I testify, it is important that you understand my obligations as an evaluator and as a testifying expert. I am obligated to maintain my impartiality and openness to new information throughout the course of the evaluation and during the trial. It is not my obligation to defend the precision of facts replied, the accuracy of data interpretations made, or the validity of opinions offered in the face of newly introduced information that might reasonably call them into question. Though it is more likely than not that testimony I offer will explain and be supportive of the contents of my report, no assurances can be offered that this will be the case. A cross examining attorney may bring to my attention information of which I was unaware (either because it was not brought to my attention during the course of my evaluation or because it pertains to events occurring subsequent to the issuance of my report). The attorney may ask how the new information might affect my professional opinion of you and/or your spouse. I will, of course, respond honestly. You must recognize that I am not an advocate for the person who seeks my testimony and that I am

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obligated to offer any/all pertinent information that might be of assistance to the trier of fact. I must, for example, provide information concerning your parenting deficiencies and your spouse's parenting strengths. Put most simply, fees paid to me represent compensation for time expended. The person paying my fees cannot be assured that my testimony will be helpful to his/her case.

Opinions I express in my report will be formulated on the basis of information provided to me between the day on which I was initially contacted and the day on which the report is prepared.

If any questions arise concerning legal matters, you must consult with your attorney. It is inappropriate for someone not trained in the law to attempt to respond to questions concerning legal matters. ***Please note that a consultation with your attorney at any point in the evaluation is not viewed negatively nor does it affect the outcome of this report.***

### **Submission and Retention of Documents**

Ordinarily, in consultation with your attorney, it will be possible for you to anticipate what documents I am likely to require. Obtaining pertinent documents prior to the commencement of the evaluation will expedite the evaluative process. Under no circumstances are litigants or others to make unannounced visits to our office in order to deliver documents. Because I may be called upon to produce all items (documents, tapes, photographs, etc.) that I have considered in formulating my professional opinion, it is my policy to retain any items that are presented to me for my consideration. You are therefore strongly encouraged to ***make copies*** of any materials that you intend to turn over to me. If you neglect to make copies and you later require copies, you will be charged for time expended preparing copies. Documents and other items will be returned only after I have been informed, either by the court or by attorneys for both parties, that it is no longer necessary for me to retain them. If prior to trial, a lawful request is made that I copy and release items in my file for examination by an attorney or by an appropriate reviewing mental health professional, all parties involved will be notified. Unless an objection to the release of the requested items is brought before the court and honored by the court, the requested items will be released. (You are reminded that your signature on this document will constitute an authorization to release requested items to those lawfully entitled to receive them. Under most circumstances, those lawfully entitled to receive them include the court, the attorneys for both parties, and any consultants retained by the attorneys.) The attorney requesting copies will pay the costs associated with producing the copies.

### **Out-of-Session Contact**

Out of session contact (casual waiting-room conversation, telephone calls, etc.) should be avoided. It is to your disadvantage to communicate information to an evaluator in an informal manner. Phone contact should be limited to scheduling appointments and addressing other procedural matters. Information concerning matters pertinent to the evaluation itself should not be communicated by phone. Our phone is answered by machine at all times, if no one is available. If you must contact me by phone, leave a message clearly stating the reason for your call, provide a telephone number at which you can be reached, and specify the times at which you can be reached.

### **Obtaining Additional Information**

Individuals being evaluated must agree to authorize me to obtain any documents that I may wish to

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examine and to authorize communication between me and any individuals who, in my judgment, may have information bearing upon the subject of the assessment. In most cases, information needed from professionals (teachers, other mental health practitioners, etc.) will be obtained by telephone. Individuals who are likely to be advocates for one party or the other will be expected to provide information in writing (though I reserve the right to contact such individuals by phone if clarification and/or additional information is required).

Where specific instructions concerning those to be evaluated (and how extensively they are to be evaluated), information to be obtained, etc. has not been included in the order appointing me, I will make the decisions concerning these matters. There may be instances in which I will be asked to review information that I reasonably believe is likely to be more prejudicial than probative and instances in which I will be asked to contact individuals whom it would, in my judgment, be inappropriate to contact. I must be the final arbiter in such situations.

I reserve the right to consider any information regardless of the manner in which it has been obtained (unless it has been obtained illegally). If I am asked to consider information that may have been obtained illegally, I will follow instructions from the attorneys if they are in agreement. If they cannot agree, I will request direction from the court.

### **Contact with Attorneys**

Once I have received word that I will be conducting an impartial evaluation of comparative custodial fitness, I endeavor to minimize ex parte communication with the attorneys representing the litigants. If an attorney or guardian for the child(ren) has been appointed, I will speak periodically to him/her and will exchange information with him/her (unless instructed not to do so by the court). In my judgment, our roles are similar, and it is, therefore, appropriate that we share information. During the evaluation, substantive oral communication with attorneys for the parties will occur only if it is not in contravention of a court directive, only if it can be done by means of a conference or conference call, and only if unusual circumstances make such communication necessary. If correspondence becomes necessary, it must be on a copies-to-all basis. Once the evaluation has been completed and my report has been released, I will engage in oral discussions with the attorneys, if I deem it advisable to do so, if no objections to such discussions are raised, and if such discussions are not in contravention of the court's order or subsequent directives.

### **Allegations of Abuse/Neglect**

It must be understood that I am required by law to report allegations of abuse or neglect (unless it can be verified that they have been previously reported). The penalties imposed on mandated reporters who fail to report such allegations are severe. If allegations are made, they will be reported, and my action in reporting them must not be interpreted as a display of support for the individual who has made the allegations or as an indication that I disapprove of the alleged actions of the person who has been accused. Most important, it must not be inferred that my reporting of such allegations suggests that I find them credible. However, it should be noted that at times such reports may give one party the perception that I am biased to the point that it is advisable that I withdraw from the evaluation process. Please note that no refund will be made on services rendered to this point, and additional funds will be retained for possible testimony despite my withdrawal as an active evaluator.

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## **Post-Evaluation Developments**

Following the completion of the report, I will take reasonable steps to avoid contact with the litigants. No substantive response or communication with attorneys or parties will be provided by letters, faxes, e-mails, or phone messages. In most cases attorney communication will only occur in either a deposition or a conference with both attorneys present. Both attorneys will be informed of any substantive communication. If a trial has been scheduled and either party feels that I should consider new information, this will be done only if a formal request is made by both attorneys or ordered by the court and only if each party is afforded an opportunity to present his/her perspective on the additional information. Ordinarily, if the need for an updated evaluation is agreed upon or ordered by the court, psychological tests will not be re-administered. The time-related limitations to the applicability of the test data will be addressed in my testimony.

I do not participate in post-evaluation settlement discussions unless: (1) the law permits litigants to waive privilege; (2) both litigants, with written approval by counsel, have done so; and (3) this post-evaluation role has been agreed to, in writing, at the outset of the evaluation.

A litigant who believes an evaluator's findings and/or recommendations to be flawed is entitled to request that the evaluator's work be reviewed by another mental health professional. Though the favored party may not wish the evaluator's work to be critically examined, such scrutiny is entirely appropriate, and the evaluator's entire file should be made available to the consultants retained by the attorneys for the purpose of conducting such a review. It is my policy to cooperate with those seeking to review my work. An exception: mental health professionals who are related to or involved in social or professional relationships with litigants should not offer their services either as evaluators or as reviewers. Efforts by such individuals to obtain my file will be resisted, and the file will be released only in response to a court order.

## **Statement of Understanding Review**

I ask that you thoroughly review this document with your attorney. The evaluation will not proceed until both of the parties have expressed their understanding of and willingness to abide by the policies and procedures set forth in this document. Please initial each page and sign the last page in the space provided.

Your signature indicates: (1) you have received, read, and understood my policies and procedures; (2) you recognize that neither the principle of confidentiality nor the principle of privilege applies to any information in my file concerning this matter; and (3) you are authorizing me to release, either orally or in written form, any/all information in my file, including my report, to the court, the law guardian, the attorneys for both parties and qualified mental health professionals retained to review my work. You are also authorizing me to contact any collateral sources designated by either party in the case.

With specific regard to information that might ordinarily be protected from disclosure by HIPAA provisions, in signing this document, you acknowledge that pursuant to HIPAA Section 164.512(e)(1)(i) of the Code of Federal Regulations, disclosures of otherwise protected health information may be provided in the course of judicial or administrative proceedings. Your authorization for the release of my file is not qualified; it includes an authorization to release information provided to me by health service providers who may have been collateral sources of information. You also acknowledge that once I have released records to the court, to the attorneys,

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or to consultants retained by the attorneys, I no longer exercise control over who may access the information contained in those records.

By signing this document, you acknowledge that you have read it in entirety and understand the implications. ***Please initial each page in the lower left corner.*** It is not to be inferred that you agree with these policies and procedures. Further, by signing this document, you are not waiving any rights you may have to raise objections to any policies or procedures. Though this copy must be signed and returned, you are urged to make a photocopy and retain it for your reference during the course of the evaluation.

\_\_\_\_\_  
Name (Printed)

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Signature

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Date