



North Dakota Supreme Court Rules N.D.R.Ct. ▲▲

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## RULE 8.6 PARENTING INVESTIGATORS

**(a) Roster of Parenting Investigators.** The State Court Administrator shall maintain and monitor a roster of persons satisfying the qualifications under paragraph (b) to serve as parenting investigators. The roster must include the parenting investigator's name and address. The roster must be updated and published on an annual basis and be available for inspection in the clerk of district court's office. The State Court Administrator may establish a reasonable fee for placement on the roster and a reasonable yearly renewal fee. Parenting investigators appointed to provide services under this rule must be selected from the roster.

**(b) Qualifications.** To be listed on the roster and qualify as a parenting investigator under N.D.C.C. §§14-09-06.3 and 14-09.06.4, a person shall provide the State Court Administrator with written credentials indicating the person satisfies the following requirements:

(1) a minimum of an Associate Degree in an academic field related to child care, child development, or children's services; at least five years of experience in the delivery or supervision of child care or children's services, child development services, or in the education of children; or a 40 hour program of specialized parenting investigation training;

(2) completion of at least 18 hours of specialized parenting investigation training, unless the person has obtained 40 hours of specialized training in accordance with subparagraph (1);

(3) completion of 18 hours of parenting investigation-related training every three years after receiving the initial hours of specialized training;

(4) communication skills necessary to successfully conduct an interview, prepare a written report, and make an oral presentation; and

(5) no criminal conviction or substantiated instance of child abuse or neglect.

**(c) Investigatory Responsibilities.** A parenting investigator shall:

(1) become knowledgeable about the child's and family's history and present situation by reviewing the court file; reviewing records and reports, including medical, law enforcement, psychological,

psychiatric, and educational records and reports; and researching information about any related criminal or child protection proceeding, investigation, or allegation;

(2) obtain necessary authorizations for release of information;

(3) interview, as appropriate, social workers and probation officers to obtain background and current information regarding the child and family;

(4) interview, as appropriate, service providers (i.e. teachers, psychologists, psychiatrists, doctors, nurses, neighbors, and others) who are knowledgeable about the child's and family's past and present situation;

(5) interview, as appropriate, the child's parents and siblings, and the people with whom the child resides or may reside, and other people who are significant in the child's daily life;

(6) meet and observe the child in a manner consistent with the child's developmental capabilities;

(7) observe, as appropriate, parent and child interaction;

(8) prepare a written report regarding the child's best interests, including conclusions and recommendations and the facts upon which they are based;

(9) file the written report with the court and serve it on the parties at least 30 days prior to the hearing; and

(10) recommend, as appropriate, psychological evaluations, psychiatric evaluations, physical evaluations, parenting evaluations, chemical dependency evaluations, or other evaluations.

**(d) Court Proceedings.** A parenting investigator shall attend all court proceedings unless excused by the court and shall testify when requested. A parenting investigator may not call a witness, question a witness, file a motion, or act as a legal advocate.

**(e) Post Investigation Duties.** The parenting investigator, by order of the court, may assist in parenting rights and responsibilities issues after submission of the report.

**(f) Parenting Investigator Review Board.** The Parenting Investigator Review Board consists of nine members: three judges and one lawyer appointed by the Chief Justice, two lawyers appointed by the Board of Governors of the State Bar Association, and three lay parenting investigators who are or have been listed in good standing on the parenting investigator roster and who are

appointed by the Chief Justice after consultation with the President of the State Bar Association. Board members are appointed for three-year terms and may serve no more than three consecutive three-year terms. Of the members initially appointed and as determined by lot at the first meeting, one-third of the members will serve for one year, one-third will serve for two years, and one-third will serve for three years. Subject to the three term limit, each member is eligible for reappointment and serves until the member's successor is appointed. The Chief Justice appoints the board chair. Expenses incurred by members in the performance of duties are reimbursed by the appointing authority.

(1) Board Responsibilities. The board, through panels established under this rule, shall receive and review complaints concerning the performance and conduct of parenting investigators providing services under this rule.

(2) Complaints - Procedures for Review.

(A) All complaints must be submitted in writing to the chair of the board. The complaint must include facts underlying the complaint, must specify the misconduct that is the subject of the complaint, and must be signed by the complainant.

(B) Upon receipt of a written complaint, the chair of the board shall determine if the complaint is with regard to a pending case in which parenting investigator services are being provided. If the complaint involves parenting investigator conduct in a pending case, the chair shall inform the complainant that the complaint may only be addressed before the court that is hearing the pending case, either by seeking removal of the parenting investigator or by contesting the information or recommendation contained in the parenting investigator's report or testimony. In pending cases, review of the complaint and communications with the complainant must be handled by the chair of the board in a manner that assures the judge presiding in the case remains uninformed about the complaint. If the complaint concerns conduct unrelated to a pending case, the following procedures apply:

(i) The chair of the board shall review the complaint to determine whether the allegations, if true, have merit. If the allegations are determined to be without merit, the complaint will not be reviewed further and the chair shall notify the complainant of the disposition.

(ii) If the chair of the board determines the allegations in the complaint, if true, have merit, the complaint must be referred to a panel of the board appointed by the chair for further consideration. The panel must consist of three

members of the board, of which at least one panel member must be a lay parenting investigator. The panel shall provide a copy of the complaint to the parenting investigator and request a written response from the parenting investigator within 30 days of receipt of the request. The request must identify specific issues in the complaint to which the panel desires a response. The parenting investigator must provide a copy of the response to the complainant. The panel may, as circumstances warrant, request that the complainant and the parenting investigator meet with the panel to review the allegations in the complaint.

(3) In reviewing a complaint, the panel shall consider whether the allegations in the complaint indicate any of the following forms of misconduct:

(A) failure to fulfill responsibilities required under paragraph (c), (d), or (e);

(B) violation of the code of conduct for parenting investigators, which is included and incorporated in this rule as an Appendix;

(C) misrepresentation of qualifications to serve as a parenting investigator;

(D) violation of state or local laws or court rules; or

(E) taking or failing to take any other action that would reasonably place the suitability of the person to serve as a parenting investigator in question.

(4) Findings and Dispositions. In considering the complaint and the parenting investigator's written response, the panel shall make findings regarding each of the specific issues in the complaint to which the panel requested a response. The findings must indicate that either there is no merit to the issue based on the parenting investigator's response or that there is merit to the issue. The panel shall determine whether the issues found to have merit indicate any form of misconduct identified under subparagraph (3). The panel may take any of the following actions: issue a written reprimand, refer the parenting investigator to additional training, require that the parenting investigator be assigned a mentor for a specified period of time, or direct that the parenting investigator be removed from the roster. The panel shall take into consideration any prior complaints that resulted in the imposition of any of the identified actions. The complainant and the parenting investigator must be notified in writing of the panel's disposition of the complaint. If the panel directs removal from the roster, the panel may specify the manner and time frame within which the person may apply for placement at a later time on the roster.

(5) Confidentiality. A complaint and any associated records are confidential unless the panel has determined under subparagraph (4) that the complaint has merit. Confidential records may be disclosed only in response to a court order.

(6) Time frames for Disposition. Complaints must be resolved within 25 days of receipt of the complaint if the complaint involves a pending case. All other complaints must be resolved within 120 days of receipt of the complaint. These time frames may be extended by the chair of the board upon a finding by the chair that good cause exists for an extension.

**(g) Parenting Investigator Training.** The State Court Administrator shall provide for regular training programs to satisfy the qualification requirements under paragraph (b)(2) and (3). The State Court Administrator shall provide for the development and maintenance of a parenting investigator manual to serve as a resource for those providing services under this rule and as a basis for parenting investigator training programs.

#### EXPLANATORY NOTE

Rule 8.6 was adopted, effective March 1, 2000; amended effective March 1, 2007; August 1, 2009.

SOURCES: Joint Procedure Committee Minutes of May 21-22, 2009, pages 44-45; September 24-25, 1998, pages 8-15; Court Services Administration Committee Minutes of April 7, 2006 and July 14, 2006.

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