

Neutral Evaluation Nuts and Bolts: Where the Process Fits in Family Court Dispute Resolution

Magistrate Rosalind C. Florez, Hamilton County

THE SUPREME COURT *of* OHIO **2020**
Dispute Resolution
Conference

Objectives

At the end of this course, you will be able to:

- Explain the place of NE on the dispute resolution spectrum of services
- State the benefits and challenges of implementing a NE program
- Plan for a NE program in your local court
- Describe the key components of a NE session
- Understand how to conduct a NE session



<https://www.thedoylelawoffices.com/practice-areas/business-law/cary-arbitration-attorney/>

Presenter Bio

MAGISTRATE ROSALIND C. FLOREZ has served as a magistrate in Hamilton County Domestic Relations Court since November 2006. She was appointed Director of the Dispute Resolution Center of the Domestic Relations Court September 2, 2015. In March 2016, Ohio Supreme Court Chief Justice Maureen O'Connor appointed Mag. Florez to the Advisory Committee on Language Services. She serves on the Supreme Court of Ohio Commission on Dispute Resolution Subcommittee on Education, Training and Experience for Mediation. She is also a board member for the Ohio Chapter of the Association of Family and Conciliation Courts since 2015 and is the current president. Magistrate Florez began mediating in 1999 when the Ohio Supreme Court funded common pleas court projects to provide another means to resolve litigation. She trained Hamilton County area attorneys when the Uniform Mediation Act was enacted. She is a faculty member for the Ohio Supreme Court on family law mediation, Early Neutral Evaluation and parenting coordination. Mag. Florez received a bachelor of science in Journalism from Ohio University and a juris doctor from the University of Cincinnati.

**DISPUTE
RESOLUTION**



"That's your best advice? Play nice!"

Bringing NE to Your Court

- What is NE?
- How NE works
- History
- Process at Local Courts
 - Hamilton County
 - Delaware County
- Local Rules
- Forms
- Evaluators' Qualifications

2.10 Early Neutral Evaluation - Revised 01/01/2016

Definitions

“Early Neutral Evaluation” (ENE) is a court-ordered dispute resolution process in which the Early Neutral Evaluators provide an evaluation of the probable outcome of any parenting dispute. ENE is not mediation.

“Early Neutral Evaluator” (Evaluator) means a court-appointed individual who conducts the ENE session and who meets all of the following qualifications:

- a. A minimum of twelve hours of basic mediation training;
- b. A minimum of forty hours of specialized family or divorce mediation training;
- c. Fourteen hours of specialized training in domestic abuse issues provided by the Supreme Court of Ohio Dispute Resolution Section; and
- d. The Evaluators will not later be assigned to decide the pending action if the ENE process does not result in its resolution.

“ENE Communication” means a statement, whether oral, in a record, verbal or nonverbal, that occurs during an ENE session or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening an ENE session.

Case Selection and Referral

ENE is an option for parties with parenting disputes. The fee for ENE is \$ 200.00, which is to be paid at the time of referral to the ENE program or within fourteen days.

The parties can request ENE through a motion to the Court. Also, the Court, on its own motion, may order parenting disputes to ENE in whole or in part, by completing an Entry Ordering ENE or Magistrate’s Order for ENE. Once a case is referred for ENE, the Court will randomly assign two Evaluators and select a date, time, and location for the ENE session. The Evaluators will consist of a Domestic Relations Social Worker/Counselor and a Magistrate.

Participation

The ENE session will require the participation of each parent and their respective attorneys, if applicable. The chil/ren may be interviewed at the discretion of the Evaluator. No other person will be permitted to participate without prior approval of the Court.

Scheduling Procedure

Upon approval of an Agreed Entry or issuance of an Entry Ordering ENE or Magistrate’s Order for ENE, all parties shall proceed directly to the Docket office to schedule the ENE session. ENE sessions will be scheduled Monday through Friday, during court hours. The sessions will be scheduled for 3 - 4 hours. If additional sessions are necessary, they will be scheduled after the first ENE session.

Pre-Session Procedure

One week prior to the ENE session, each attorney or self-represented parent is required to submit a Parenting Perspective Brief (DR 2.32). One copy of the Brief is to be submitted to the Dispute Resolution Department, and one copy of the Brief is to be submitted to the other attorney or self-represented parent. The Brief must arrive at the Court and at the office of the opposing counsel (if applicable) or at the residence of the other parent (if self-represented), no later than the seventh day before the ENE session. The Brief may be submitted by ordinary mail, hand-delivery, facsimile or e-mail.

The Evaluators will review the Briefs to gain a preliminary understanding of the concerns, interests and issues currently present within the family. The Parenting Perspective Briefs will not be filed at the Clerk's office nor placed in the Court's family file. The Court's copies of the Briefs will be shredded upon completion of the ENE process.

If an attorney or self-represented parent fails to timely submit the Parenting Perspective Brief, an additional fee of \$ 50.00 may be assessed. Additionally, if an attorney or self-represented parent fails entirely to submit the Parenting Perspective Brief, an additional fee of \$ 100.00 may be assessed and the session will go forward as originally scheduled.

Session Procedure

At the ENE session, the Evaluators will oversee the discussion to allow each parent and attorney the opportunity to be heard in an atmosphere of cooperation and respect. The Evaluators will seek additional information from the parties, if necessary. Once the information is gathered, the Evaluators will meet privately to discuss the strengths and weaknesses of each parent's position and to discuss probable outcomes for the parents. The Evaluators will then present this feedback and options to all parties present at the session. The parents will be given an opportunity to consult privately with their attorneys to review and discuss the Evaluators' feedback. The parties will reconvene and discuss results. If the parents come to a full or partial agreement, the Evaluators will require the agreement be reduced to written form and submitted to the assigned Judge/Magistrate at a future date.

Confidentiality

Early Neutral Evaluation communications are confidential.

Exceptions to confidentiality include the following:

- a. Parties may share all ENE communications with their attorneys;
- b. Allegations of abuse or neglect of a child;
- c. Certain threats of harm to other people or oneself;
- d. Statements made during the ENE process to plan or to hide an ongoing crime;
- e. Statements made during the ENE process that reveal a felony.

Privilege

An ENE communication is privileged and not subject to discovery or admissible as evidence in a judicial proceeding. An Early Neutral Evaluator may not be deposed or subpoenaed to testify about any ENE communication unless an exception applies.

Exceptions to privilege include the following:

- a. The ENE communication is otherwise discoverable;
- b. The ENE communication is an imminent threat or statement of a plan to inflict bodily injury or commit a crime of violence;
- c. The ENE communication is intentionally used to plan, to attempt to commit, or to commit a crime or to conceal an ongoing crime or ongoing criminal activity;
- d. The ENE communication is required to be disclosed pursuant to Ohio Revised Code §2921.22.

Continuances

It is the policy of this Court to determine matters in a timely manner. A motion seeking a continuance of a scheduled ENE will be required, with proper notice provided and pursuant to Local Rule 1.2. A continuance of a scheduled ENE session shall be granted only for good cause shown.

Sanctions

Any party or attorney who violates these rules may be subject to appropriate sanctions, including but not limited to, additional fees, forfeiture of paid ENE fee, contempt of court, attorney fees, or costs.



“A mediator hasn’t worked, so I brought in everyone’s moms.”

COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
HAMILTON COUNTY, OHIO

Enter: _____

Plaintiff / Petitioner

Date: _____

Case No. _____

-vs/and-

File No. _____

Defendant / Petitioner / Respondent

**ENTRY ORDERING PARENTING
EARLY NEUTRAL EVALUATION**

Judge _____

Magistrate _____

Upon the motion of the Plaintiff / Defendant or the Order of the Court (circle one), whereas parenting issues remain unresolved in the above captioned case, and for other good cause shown, IT IS HEREBY ORDERED THAT: Both parties with their attorneys, if applicable, shall attend **Early Neutral Evaluation (ENE)**.

- Plaintiff shall advance the sum of \$200.00.
- Defendant shall advance the sum of \$200.00.
- Both, ½ each, shall advance the sum of \$200.00 (\$100.00 each).
- Neither shall advance any funds, fee waived with poverty affidavit.

To initiate the ENE process, the parties with their attorneys, if applicable, shall:

- 1) Schedule the ENE session with the Docket Office in Room 3-46 at 800 Broadway immediately following the filing of this Order;
- 2) Deposit the fee with the Clerk of Courts in Room 3-47 at 800 Broadway or via telephone at (513) 946-9150 a minimum of 14 days before the scheduled ENE session (additional fee applies for using a credit card). **Failure to submit the fee 14 days in advance will result in cancellation of the ENE session;** and
- 3) Submit the Parenting Perspective Brief to the Dispute Resolution Department (Room 3-001; cdrENE@cms.hamilton-co.org; fax (513) 946-9077) and to the other party or attorney a minimum of 14 days before the scheduled ENE session. The template for the Parenting Perspective Brief is available on the Court's website

(www.hamiltoncountyohio.gov/domestic). The Parenting Perspective Brief must NOT be filed with the Clerk of Courts). **Failure to submit the Brief 14 days in advance will result in cancellation of the ENE session**

Questions regarding the ENE process may be directed to the Dispute Resolution Department at (513) 946-9079.

Failure to comply with the Early Neutral Evaluation (ENE) process may subject the parties and attorneys to appropriate sanctions, including but not limited to, additional fees, contempt of court, attorney fees, or costs, per Local Rule 2.10 Early Neutral Evaluation, Sanctions.

Based on this Order to ENE, this action is temporarily stayed for purposes of statistical reporting to the Ohio Supreme Court for as long as the parties are involved in the ENE process. The parties or their attorneys shall timely notify this Court of the termination of the ENE process.

Copies of this Order have been personally given to/mailed to the parties or their attorneys.

This Order is effective immediately.

Judge/Magistrate

Copies sent by Clerk of Courts if receipt is not otherwise acknowledged as indicated below:

By signature below, the party/attorney acknowledges receipt of this Order and waives the requirement that the Clerk serve him/her.

Plaintiff

Defendant

Attorney for Plaintiff

Attorney for Defendant

Court use only:

Submission Date:

____/____/____

COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
HAMILTON COUNTY, OHIO

Case No. _____

Judge _____

Magistrate _____

Plaintiff / Petitioner

-vs/and-

Defendant / Petitioner / Respondent

PARENTING PERSPECTIVE BRIEF

* Limit responses to 10 pages and questions asked.
DO NOT attach documentation

Submitting Party: Plaintiff Defendant

Date of ENE Session: _____

Date of Filing: _____

Pre-Decree Post Decree (decree date: _____)

Date of Marriage: _____ Date of Separation: _____

Attended Parenting Education Class: Yes No (date: _____)

PLAINTIFF

Name _____
Age _____
Gender _____

DEFENDANT

Name _____
Age _____
Gender _____

CHILDREN OF THIS MARRIAGE

Name	Age	Gender	Grade	Name of School
		<input type="checkbox"/> M <input type="checkbox"/> F		
		<input type="checkbox"/> M <input type="checkbox"/> F		

		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	

Additional children in the home:

Please list their name(s) and relationship(s)

Name	Age	Gender	Relationship
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	
		<input type="checkbox"/> M <input type="checkbox"/> F	

Additional adults living in the home or regularly spending time there:

Please list their name(s) and relationship(s)

Name	Gender	Relationship
	<input type="checkbox"/> M <input type="checkbox"/> F	
	<input type="checkbox"/> M <input type="checkbox"/> F	
	<input type="checkbox"/> M <input type="checkbox"/> F	
	<input type="checkbox"/> M <input type="checkbox"/> F	
	<input type="checkbox"/> M <input type="checkbox"/> F	
	<input type="checkbox"/> M <input type="checkbox"/> F	

Describe your current living environment:

(Housing type: apartment, house, etc.; Size of the home and number of bedrooms; Neighborhood;
Distance to school/other parent)

Describe your current work situation:

(Employer; Location; Position; Schedule)

What is the other parent's work schedule?

Describe any changes expected in your or the other parent's housing/work situation:

Concerns regarding your child(ren):

(Physical health, behavioral or mental health issues, developmental concerns, etc.)

Concerns regarding your child(ren)'s education:

(Grades, attendance, homework, peers, etc.)

Extracurricular activities of the children:

Describe your support system:

(Family, community, friends, etc.)

What are your strengths as a parent?

Describe your parenting role:

(doctor visits, church attendance, discipline, etc.)

Describe your relationship with the child(ren):

What are the strengths of the other parent?

Describe the other parent's parenting role:

(doctor visits, church attendance, discipline, etc.)

Describe the other parent's relationship with the child(ren):

What are your concerns about the other parent?

(Safety issues, discipline issues, drugs, alcohol, mental health, criminal record, etc.)

How have major parenting decisions been made in the past?

(Regarding education, religion, medical attention, etc.)

How are those major parenting decisions made now?

How do you want those major parenting decisions made in the future?

Describe your current parenting time schedule:

What is your proposed parenting time schedule?

If pre-decree, do you and the other parent agree to a parenting arrangement? If so, what is it? If not, what are you seeking?

If post-decree, what change in circumstances has occurred?

What are your goals for parenting and the ENE session?

Who might you call as witnesses should this case proceed to trial, what is your relationship to them, and to what will they testify? (if known at this time)

Outstanding Parenting Issues *(please check all those applicable)*

- Custody
- Parenting Time
- Holidays/Extended Periods
- Transportation/Exchanges
- Extracurricular Activities
- Healthcare
- Education
- Religion
- Discipline/Routines
- Communication
- Dispute Resolution/Counseling
- Relocation
- Other

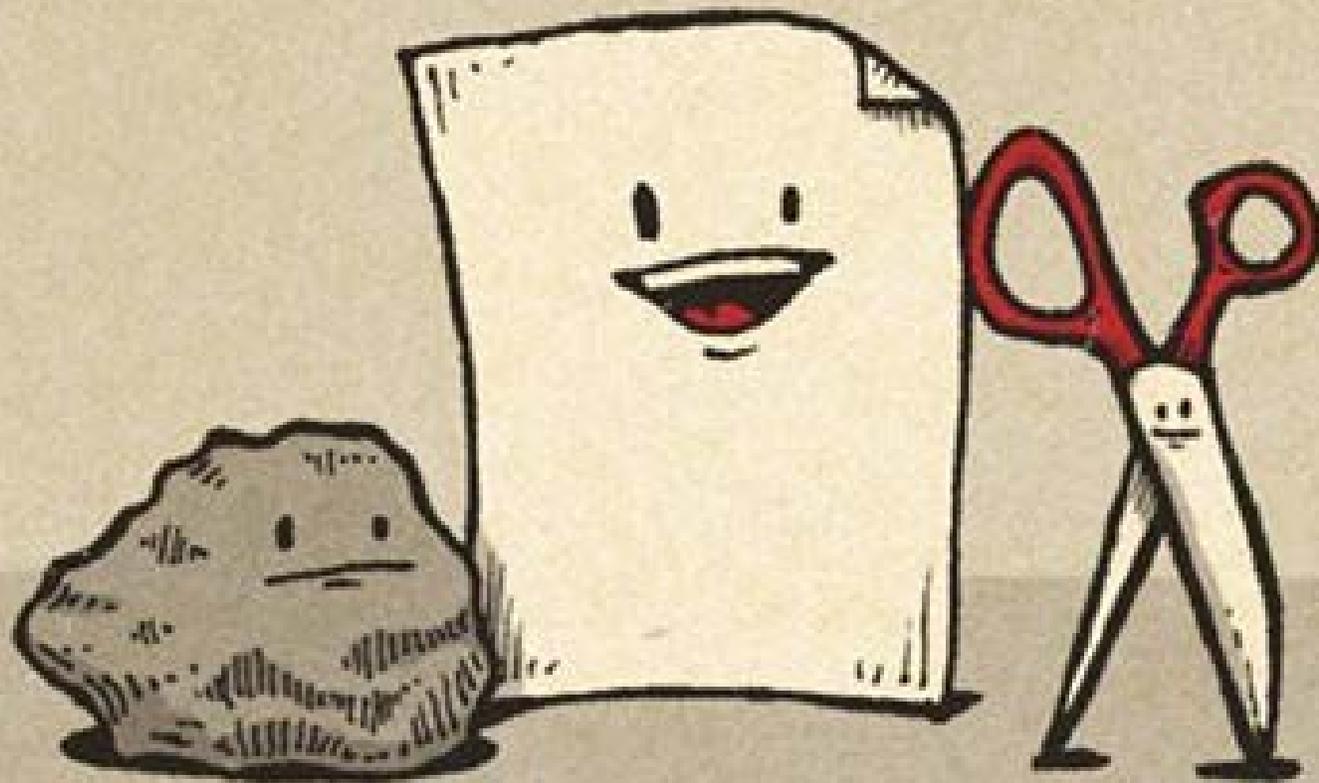
Signature of Party / Attorney

Typed Name

Date



Can't we all just get along?



BRAINLESS TALES.com

Contact Information

Rosalind C. Florez

Magistrate, Director of the Hamilton County Domestic Relations
Dispute Resolution Department

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