

BC PARENTING COORDINATORS ROSTER SOCIETY

Guidelines for Parenting Coordination

FOREWORD

These Guidelines for Parenting Coordination in British Columbia ("Guidelines") have been developed from the Guidelines originally created in 2005 by the interdisciplinary AFCC Task Force on Parenting Coordination and modified and adapted by the BC Parenting Coordinators Roster Society in 2011.

The mandate of the BC Parenting Coordinators Roster Society (the "Society") is to

- govern the practice of parenting coordination by roster members in the public interest in accordance with the *Family Law Act*, S.B.C. 2012, c. 25 ("*FLA*")
- set standards for competent and ethical practice
- promote excellence among practitioners
- impose any one or more of a series of escalating outcomes upon a roster member when standards are not met, including remedial work, suspension or removal from the Roster.

The Guidelines were further revised in 2013 to enhance compliance and consistency with the *FLA*, which governs the appointment of Parenting Coordinators to assist in the resolution of high conflict family law disputes involving children.

GUIDELINES FOR PARENTING COORDINATION

OVERVIEW AND TERMS USED

Parenting coordination is a quasi-legal, mental health, consensual dispute resolution process that combines assessment, education, case management, conflict management and decision-making functions.

The objective of the parenting coordination process is to assist parents in high conflict circumstances to protect and sustain safe, healthy and meaningful parent-child relationships by

- Educating parents about children's needs and the effect of parental conflict on them
- Implementation of parenting plans;
- Monitoring compliance with the details of the plan; and
- Resolving conflicts regarding the children and the parenting plan in a timely manner.

A Parenting Coordinator ("PC") is generally appointed by the court for those high conflict parents who have demonstrated a long-term inability or unwillingness to make parenting decisions on their own, comply with parenting agreements and orders, reduce child-related conflicts, and protect their children from the impact of that conflict.

A PC may also be appointed by agreement of the parties to make recommendations and/or determinations for the parties and further may be requested by the court to provide a written or oral report to the court. The delegation of decision-making authority is a serious issue and only qualified professionals should be appointed to the role.

The parenting coordination process is child-focused and practiced by experienced mental health or legal professionals, with specialized training and experience in conflict management, high conflict personalities, mediation and determination-making.

A PC must routinely screen prospective cases for family violence and decline to accept such cases if they do not have specialized training and expertise to effectively manage cases involving violence, power imbalance, and patterns of control and coercion.

These Guidelines provide detailed guidance for PCs concerning:

- minimum qualifications;
- ethical obligations and conduct; and
- practice and procedure.

These Guidelines refer to different levels of guidance as follows:

- the term "may" in a Guideline is the lowest strength of guidance and indicates a practice that the PC should consider adopting, but from which the PC can deviate in the exercise of good professional judgment;
- the term "should" indicates that the practice described in the Guideline is highly recommended and should only be departed from in exceptional or compelling circumstances; and
- the term "must" in a Guideline denotes the highest level of direction, indicating that the described practice is mandatory.

There are eleven best practice Guidelines, including statements of underlying principles, to assist PCs in identifying how best to conduct themselves and their practices in the discharge of their appointed duties in compliance with the governing legislation, orders of the court and PC Agreement.

All practitioners should review in detail Section 1 and Division 3 of the *FLA* concerning Parenting Coordination in the resolution of family law disputes in British Columbia. Section 14 of the *FLA* provides that a person meeting the requirements set out in the Regulations to that Act may be a PC. The current Regulation can be found at pages 7 to 9 of Order in Council 837:

In these Guidelines the following terms will have the following meaning:

“assessor” means a person appointed under s. 211 of the FLA to assess:

- (a) the needs of a child in relation to a family law dispute;*
- (b) the views of a child in relation to a family law dispute; and*
- (c) the ability and willingness of a party to a family law dispute to satisfy the needs of a child.*

“PC Agreement” means the most current form of generally accepted precedent for a parenting coordination agreement endorsed by the Society.

“parenting plan” means an agreement, order or written decision concerning parenting arrangements and contact with a child(ren).

“parties” means the persons named in a PC Agreement.

Link: <http://www.ag.gov.bc.ca/legislation/family-law/pdf/oic-837.pdf>

Lawyer practitioners must comply with the Rules set out in Division 3 of the Law Society Rules

Link: <http://www.lawsociety.bc.ca/page.cfm?cid=982&t=Law-Society-Rules-Part-3-Protection-of-the-Public#3-20-2>

Lawyer practitioners should review in detail the Law Society of British Columbia publication “Qualifications for Lawyers Acting as Arbitrators, Mediators, and/or Parenting Coordinators in Family Law Matters” (September 7, 2012), the recommendations of which have been adopted by the Benchers of the Law Society.

Link: http://www.lawsociety.bc.ca/docs/publications/reports/FamilyLawTF_2012.pdf

GUIDELINE I - QUALIFICATIONS

1.01 A PC must be qualified by education, training and experience to undertake parenting coordination with the skill and capacity required to deal appropriately and efficiently with high conflict parenting issues. Any person seeking to serve as a PC must, at a minimum,

- (a) be a member of a designated professional organization as provided in the Regulations pursuant to the *FLA* [see s. 14].

1.02 A PC must have training and experience in family mediation. The PC should endeavour to become a certified mediator with FMC or qualified for admission to the family roster of Mediate BC in accordance with the requirements of the respective professional bodies.

1.03 A PC must have specific training in the parenting coordination process and techniques, family dynamics in separation and divorce and family violence screening.

1.04 A PC should

- (a) have extensive practical experience in the profession with high conflict or litigating parents; and
- (b) participate in peer consultation and/or mentoring to receive feedback and support on cases. PC agreements should specify that such professional consultation is permitted (see Guideline V).

1.05 A PC must maintain professional competence in parenting coordination and must regularly participate in continuing educational activities promoting professional growth.

1.06 A PC must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.

1.07 A PC seeking to be accepted by the Society as a roster member must at a minimum:

- (a) be of character satisfactory to the Society; and
- (b) meet the requirements set out by the Membership Committee, from time to time.

GUIDELINE II - JURISDICTION

2.01 Section 15(2) of the *FLA* requires that a PC may only serve by parental agreement and/or court order, which provides the authority to work with the parents outside of the adversarial process, obtain information, make recommendations and make determinations as to the matters specified in the agreement or order.

2.02 A court order or written agreement of the parents must clearly and specifically define the PC's scope of authority and responsibilities. The ability of the court to change or set aside a determination made by a PC is limited to instances in which the PC either

- (a) acted outside his or her authority; or
- (b) made an error of law or of mixed fact and law.

2.03 In addition to any court order providing for the appointment of a PC, a written PC agreement between the parties and the PC must be used to detail specific issues not contained in the court order, such as fees, retainers, services and billing practices.

2.04 The court order and/or PC agreement should specify a term of appointment for the PC, including starting and ending dates, renewal terms, and termination rights.

2.05 A PC must not provide services until the PC has received a fully signed PC agreement.

2.06 A PC should not provide services until the PC has received a copy of any filed court order appointing the PC.

GUIDELINE III - INFORMED CONSENT

3.01 A PC must at the outset of the process

- (a) review with the parties the nature of the PC's role; and
- (b) be satisfied that the parties understand
 - (i) the nature of the process;
 - (ii) the extent of the authority assigned to the PC;
 - (iii) the limited nature of the confidentiality of the process;
 - (iv) the third parties with whom the PC will be authorized to consult or obtain information from; and
 - (v) their rights in seeking review by the court.

GUIDELINE IV - IMPARTIALITY

4.01 A PC must maintain impartiality in the process of parenting coordination. In this Guideline, "impartiality"

- (a) means freedom from favouritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual; and
- (b) does not mean that a PC must be neutral regarding particular conduct or the outcome of a particular determination.

4.02 A PC must withdraw if the PC determines that he or she cannot act in an impartial or objective manner.

4.03 A PC must neither give nor accept a gift, favour, loan or other item of value from any party having an interest in the parenting coordination process. During the term of the PC's appointment, a PC must not solicit or otherwise attempt to procure future benefits, services or positions from which the PC may profit.

4.04 A PC must not coerce or improperly influence any party to make a decision.

4.05 A PC must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.

4.06 A PC must not accept any engagement, provide any service, or perform any act outside the role of PC that would compromise the PC's integrity or impartiality in the parenting coordination process.

GUIDELINE V - CONFIDENTIALITY & TRANSPARENCY

5.01 Parenting coordination is not a confidential process for communications among

- (a) the parties, their children and the PC;
- (b) the PC and other relevant parties to the parenting coordination process; or
- (c) the PC and the court.

5:02 Subject to

- (a) the legal limitations on confidentiality;
- (b) permitted professional purposes; and
- (c) the express provisions of the authorizing court order or agreement,

a PC must maintain confidentiality and information obtained must not be shared outside of the parenting coordination process.

5.03 A PC must inform the parties of the limitations on confidentiality as provided in this Guideline and, in particular, that:

- (a) suspected child abuse or neglect must be reported to child protective services in accordance with s. 14 of the *Child, Family and Community Services Act*, R.S.B.C. 1996, c. 46; and

- (b) the PC must report to law enforcement or other authorities if the PC has reason to believe that any family member appears to pose a serious risk of harm to self or others.

5.04 The PC must use a methodology that is fair and transparent to both parties and the court. Each party must be given an opportunity to be heard in the process. Notice must be given as to what is expected from the participation of the parties and the consequences of non-participation. If one party refuses to cooperate after notice, the PC may continue to resolve the dispute or withdraw from the process in accordance with the governing court order and/or PC Agreement.

5.05 In the event that a PC communicates with a third party in the course of the parenting coordination process, the PC should notify any such third party that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.

GUIDELINE VI – CONFLICTS OF INTEREST

6.01 A PC must not serve or continue to serve in a matter in which there is a conflict of interest, including situations in which the impartiality of the PC is compromised or appears to be compromised, except as specifically provided in this Guideline.

6.02 During the term of a parenting coordination appointment, a PC must not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.

6.03 A PC must disclose potential conflicts of interest as soon as the PC becomes aware of any interest or relationship giving rise to the potential conflict.

6.04 After appropriate disclosure, the PC may serve, or continue to serve, with the written agreement of all parties. However, if the conflict of interest clearly impairs a PC's impartiality, the PC must withdraw regardless of the express agreement of the parties.

6.05 A PC may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, benefits or similar remuneration must be received or given by a PC for referrals.

GUIDELINE VII – SEQUENTIAL OR MULTIPLE ROLES

7.01 A PC must not serve in sequential or multiple roles in a case that creates a professional conflict, including

- (a) a party's lawyer, a child's lawyer or a child advocate must not be appointed as a PC in the same case;
- (b) a PC must not be appointed as the lawyer for one party or a child either during or after the term of the PC's appointment with the family;

- (c) a PC must not be appointed as an assessor either during or after the term of the PC's appointment with the family; and
- (d) a PC must not become a therapist, assessor, consultant, coach, or other mental health care provider to a party or a child, either during or after the term of the PC's appointment with the family.

7.02 A mediator or assessor should exercise caution about accepting an appointment as PC in the same case, even with the written consent of the parties, because of the differences in the role and potential impact of the role change.

7.03 A PC should attempt to facilitate resolution of issues by consensual agreement of the parties, although the PC is not acting in a formal mediation role. Dispute resolution efforts, which may include implementation of therapeutic, mediation, educational and negotiation skills, do not disqualify a PC from deciding an issue that remains unresolved after efforts of consensus building within the limit of authority provided in the applicable court order, the PC Agreement or FLA.

GUIDELINE VIII – ROLE & FUNCTIONS OF THE PARENTING COORDINATOR

8.01 A PC must assist the parties in promoting the best interests of the children and reducing conflict consistent with the role and functions of a PC as set out in these Guidelines.

8.02 Assessment Function: a PC

- (a) must be alert to any reasonable suspicion of family violence directed at anyone, particularly children. The PC must act in accordance with any protection order in place and take necessary measures to ensure the safety of all participants in the parenting coordination process, including the PC;
- (b) must be alert to any reasonable suspicion of substance abuse by a parent or child and to any psychological or psychiatric impairment of a parent or child;
- (c) should have initial individual and/or joint interviews with the parties and, in the professional judgment of the PC, the children if the PC has the appropriate training and skills for child interviewing;
- (d) may interview individuals who provide services to the children, as needed to assess the children's needs and wishes;
- (e) may communicate by way of joint or separate in-person meetings, telephone conferences, e-mail, or fax;
- (f) should determine whether separate or joint sessions are most appropriate at any particular time, having regard to the safety and comfort of participants if the case involves family violence and/or patterns of coercive control;

- (g) must have the authority to meet and/or consult with all relevant persons including, but not limited to,
 - (i) the lawyers for all parties;
 - (ii) any person acting in a parental role for the children;
 - (iii) the children;
 - (iv) the custody evaluator;
 - (v) school officials;
 - (vi) physical and mental health care providers;
 - (vii) extended and/or blended family members; and
 - (viii) anyone else the PC determines to have a significant role in contributing to or resolving the conflict;
- (h) must have access to and review all documentary information necessary to assess the inter-personal dynamics and issues raised by the parties and their children, including
 - (i) all parenting capacity reports;
 - (ii) relevant court documents and orders;
 - (iii) records from related proceedings, such as assault, family violence or child protection cases;
 - (iv) relevant health, psychological testing, counselling and educational records; and
 - (v) any other relevant records.

8.03 Conflict Management Function: a PC should

- (a) encourage and assist parties to resolve disagreements and minimize conflict;
- (b) employ dispute resolution skills, including negotiation, mediation and, when necessary, arbitration, to assist in resolving disputes;
- (c) monitor all forms of exchanges among family members to assist in improving communication and reducing conflict, and suggest more productive forms of communication that may limit conflict;
- (d) in cases of family violence or patterns of coercive control, employ techniques to minimize or eliminate the risk of opportunity for further violence and coercion.

8.04 Dispute Resolution Function: a PC

- (a) should facilitate agreement between the parties on all disputes regarding their children in a timely manner, having regard to the nature and urgency (if any) of the dispute;
- (b) should, in cases of family violence or patterns of control and coercion, hold individual sessions with the parties to convey the information required by Guidelines III and V;
- (c) must only address disputes that are within the authority granted to the PC by the authorizing court order, PC Agreement or FLA;

- (d) should make recommendations to the parents concerning dispute resolution;
- (e) must be knowledgeable about the governing law and procedure for determination-making by the PC.; and
- (f) must only make determinations as specifically directed in the authorizing court order, PC Agreement or FLA when the parents are unable to agree.

8.05 Determination-making Function: a PC

- (a) must be empowered to make determinations to the extent permitted by the FLA, the PC Agreement or appointing court order; and
- (b) may be requested by the court to make reports or recommendations to the court.

8.06 The governing court order and/or PC agreement must provide specific details of the determination-making authority of the PC.

8.07 A PC must not

- (a) make determinations outside the scope of the PC's authority;
- (b) make a determination that would change legal guardianship from one parent to the other or substantially change the parenting plan, except on a temporary basis to protect a child when a parent is impaired or incapable of fulfilling his or her court-ordered parenting functions pending further assessment and a decision by the court; or
- (c) offer legal advice.

8.08 Coordination / Case Management Function: a PC should

- (a) maintain a current list of child protection, social services, and allied professionals for referrals or consultation; and
- (b) consult with the relevant professionals and care providers (e.g. mental health, health care, social services, education, legal) involved with the family, as well as with extended family, step-parents and significant others.

8.09 Educational Function: a PC should inform the parties about

- (a) child development;
- (b) parenting skills;
- (c) the impact of conflict on children;
- (d) communication skills;
- (e) dispute resolution skills; and
- (f) when appropriate, divorce research.

The PC may coach the parties about the foregoing issues or make referrals to allied

professionals or services.

8.10 PC determinations must be delivered to the parties in a timely manner by email, fax, telephone or in person. In the event that a determination is provided orally, a written version, including reasons, must follow in a timely manner.

GUIDELINE IX - COMMUNICATIONS

9.01 Parenting coordination is a non-adversarial process designed to reduce conflict and help settle disputes efficiently. A PC will communicate with all parties, children, counsel, colleagues and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of all participants.

9.02 In communicating with the participants in the parenting coordination process, a PC

- (a) should communicate in an objective, balanced manner that takes into consideration any possibility of a perception of bias;
- (b) should communicate agreements, recommendations and determinations to all parties at the same time when possible;
- (c) may initiate or receive oral or written communications with the parties, their lawyers, any legal representative of the children, and all other parties relevant to understanding the issues;
- (d) may engage in individual communications with each of the parties and/or their lawyers;
- (e) should keep notes regarding all communications with all participants in the parenting coordination process;
- (f) must document in writing all agreements made by the parties or determinations made by the PC;
- (g) must follow the court's directions regarding provision to the court of a copy of any determination made by the PC;
- (h) must follow the court's directions regarding provision to the court of any report or recommendation made by the PC;
- (i) must not communicate with the court without the knowledge of all parties to the PC Agreement.

GUIDELINE X – PRACTICE

9.01 A PC must maintain reasonable practice records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting

coordination process and that support the recommendations and determinations made by the PC.

9.02 A PC must not engage in marketing activities that contain false or misleading information. A PC must ensure that all marketing material used in relation to his or her practice regarding

- (a) his or her qualifications;
- (b) the services to be rendered; and
- (c) the parenting coordination process

are accurate, verifiable and not misleading. A PC must not make claims of achieving specific outcomes, implying favouritism or creating an unjustified expectation about the parenting coordination process.

9.03 A PC who is a member of the roster of the Society must

- (a) respond promptly and completely to any communication from the Society;
- (b) cooperate with the Society in addressing concerns or complaints from the public; and
- (c) otherwise comply with the Society's policies, practice and procedure requirements.

GUIDELINE XI – BILLING

11.01 Prior to the commencement of a parenting coordination appointment, a PC must explain to the parties, the basis of all fees, disbursements, taxes, costs, retainers, deposits, payment methods and any penalties for postponement, cancellation and/or nonappearance, as well as any other financial terms applicable, all of which must be confirmed in writing. The fees charged for parenting coordination services must be based on the actual time expended by the PC.

11.02 The PC should comply with any practice rules regarding fees. Activities for which a PC may charge include, but are not limited to

- (a) time spent interviewing parents, children and collateral sources of information;
- (b) preparation of agreements; correspondence, decisions and reports;
- (c) review of records and correspondence;
- (d) telephone and electronic communication;
- (e) meetings; and
- (f) travel.

11.03 A PC must maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parties.

11.04 A PC may request a retainer and/or deposit prior to starting a case. The parties should be billed on a regular basis and notified when the retainer and/or deposit is to be replenished.

11.05 All fees and costs must be appropriately divided between the parties as directed by the court order of appointment or as agreed in the PC Agreement with the parties.