

**SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE**

**DIRECTIVE CONCERNING COURT APPOINTMENTS
OF CHILD AND FAMILY INVESTIGATORS PURSUANT TO
C.R.S. 14-10-116.5**

I. INTRODUCTION

The following policy is adopted to assist the administration of justice through the appointment and training of child and family investigators (“CFIs”) pursuant to section 14-10-116.5, C.R.S. It is intended to apply to all CFIs appointed pursuant to section 14-10-116.5, C.R.S., including those CFIs who are paid privately and those paid with state funds pursuant to either CJD 04-05 (non-attorney CFIs) or CJD 04-06 (attorney CFIs).

CFIs (formerly “Special Advocates”) were created by statute in 1997 and are authorized to investigate, report, and make independent and informed recommendations to the court, following a court appointment by order which clearly sets forth the subject matter and scope of the CFI’s duties. The statute provides that a CFI may be an attorney, a mental health professional, or any other individual whom the court believes is able to fill this role.

The Commission on Families in the Colorado Courts recommended in its August 2002 Final Report that standards be drafted to clarify the role and the accountability of CFIs. The Supreme Court’s Standing Committee on Family Issues through its Other Professionals Subcommittee solicited comments from members of the public, judges, attorneys, and CFIs from around the state, and learned that a lack of clear standards has created problems in certain key areas. These are role clarification and avoidance of multiple roles, communication issues, payment issues, establishment of clear procedures for complaints, and consistency in court procedures. In response to questions, the Other Professionals Subcommittee made several amendments in 2007 to provide clarification on access to CFI reports and to the CFI’s role before the court.

The Supreme Court Standing Committee on Family Issues recommended in its November 2010 Final Report that the order of appointment of a CFI limit the fee to be charged for all CFI appointments in order to eliminate CFI investigations that are indistinguishable from parental responsibility evaluations. In response to this recommendation, a maximum CFI fee was established within this directive for privately paid CFIs. CJD 04-05 states the maximum fee for state paid non-attorney CFIs. CJD 04-06 states the maximum fee for state paid attorney CFIs.

CFI investigations are not, by definition, parental responsibility evaluations. The purpose of a CFI investigation is to provide a brief assessment that is non-intrusive, efficient, and cost effective. In the event that a CFI finds that a more comprehensive assessment is required, s/he can provide that recommendation to the court. The court may then choose to appoint a parental responsibility evaluator other than the appointed CFI or take other action deemed necessary.

The CFI standards, duties of the courts, and the model CFI appointment order set forth in this CJD have been drafted with recognition that the CFI’s role will be filled by people from different professions and backgrounds. These standards are intended to provide guidance to CFIs and to provide a structure for regulating CFI conduct in order to better serve the families of Colorado. The standards do not, however, exhaust the ethical and professional considerations that should inform a CFI in his or her duties. Violation of a standard should not in and of itself give rise to a

cause of action nor should it create any presumption that a legal duty has been breached or that a professional ethical violation has occurred. The standards should be interpreted with reference to the purpose of a CFI as defined by the statute. The comments that accompany each standard explain and illustrate the meaning of the standard, and are intended to guide interpretation of the standard.

II. STATUTORY AUTHORITY AND EXISTING CHIEF JUSTICE DIRECTIVES

A. This CJD sets forth a comprehensive set of standards for all CFIs appointed pursuant to section 14-10-116.5, C.R.S., irrespective of whether the CFI is an attorney or a non-attorney, privately paid or state paid. This CJD also sets forth the duties of the courts when appointing a CFI. Section 14-10-116.5, C.R.S., authorizes the courts to appoint CFIs in domestic relations cases. The CFI may be an attorney, a mental health professional, or any other individual with appropriate training, qualifications, and an independent perspective acceptable to the court. The role of the CFI, as defined by statute, is to investigate, report, and make recommendations to the court on issues that affect the best interests of the minor and dependent child/ren involved in a domestic relations case. The subject matter and scope of the CFI's duties shall be clearly set forth in the court's appointment order. A model CFI appointment order can be found at the end of this CJD.

B. CJD 04-05 addresses appointment and payment procedures for non-attorney CFIs appointed pursuant to Section 14-10-116.5, C.R.S. These non-attorney CFIs are reimbursed by the State Court Administrator's Office ("SCAO") in matters where one or more of the parties have been found to be indigent. CJD 04-06 addresses court appointments of attorney CFIs through the Office of the Child's Representative ("OCR") in matters where one or more of the parties have been found to be indigent.

III. MAXIMUM FEES

A. Privately Paid CFIs.

1. Investigation and Report. The presumptive maximum fee for the investigative and reporting work of all privately paid CFIs is \$2,000 per appointment. The total investigation and report fees of a privately paid CFI shall not exceed this presumptive \$2,000 cap unless prior court approval is obtained in the form of a written order with specific findings concerning the extraordinary circumstances that justify the excess fees.

2. Testimony and Preparation Time. It is anticipated that, in some matters, the testimony of the privately paid CFI will be sought by the parties or deemed necessary by the court. In such matters, a presumptive maximum fee of \$500 per appointment shall be established concerning such testimony, including any preparation or other work performed in association with giving such testimony. The total testimony and preparation time fees of a privately paid CFI shall not exceed this presumptive \$500 cap unless prior court approval is obtained in the form of a written order with specific findings concerning the extraordinary circumstances that justify the excess fees.

3. Hourly Rate. Every order appointing a privately paid CFI shall state the CFI's hourly rate. If the CFI charges one rate for investigative and reporting work and another rate for testimony and preparation time, the CFI appointment order shall state both hourly rates.

B. State Paid CFIs.

1. State Paid Non-Attorney CFIs. The maximum hourly rate and maximum total fee amount per appointment for state paid non-attorney CFIs is established by CJD 04-05. These non-attorney CFIs are paid by the SCAO in matters where one or more of the parties have been found to be indigent. State paid non-attorney CFIs seeking fees that exceed the maximum allowable amount must comply with the procedures for approval set forth in CJD 04-05. Claims for payment by state paid non-attorney CFIs shall be submitted by the CFI in accordance with the guidelines set forth in CJD 04-05.

2. State Paid Attorney CFIs. As set forth by CJD 04-06, the maximum fee amount per appointment for state paid attorney CFIs are set by the OCR. These attorney CFIs are paid by the OCR in matters where one or more of the parties has been found to be indigent. State paid attorney CFIs seeking fees in excess of the OCR's maximum allowable amount must comply with the OCR's procedures for approval of excess fees. Claims for payment by state paid attorney CFIs shall be submitted by the CFI in accordance with the guidelines set forth in the OCR Billing Procedures.

IV. GUIDELINES FOR APPOINTMENT

A. Prior to being eligible for appointment, all CFIs are required to submit to the SCAO a completed affidavit and disclosure document, titled "Affidavit of Mandatory Consent and Disclosure: For Eligibility of Appointment as a Child and Family Investigator and Placement on Statewide Eligibility Roster."

B. Prior to being eligible for appointment, all CFIs are required to undergo and successfully pass a criminal background check with the Colorado Bureau of Investigation through processes and guidelines established by the SCAO. The CFI is wholly responsible for completing this process and for paying the fees associated with the criminal background check. The CFI shall also obtain a CFI fingerprint card from the SCAO. CFIs should allow a minimum of four weeks for criminal background checks to be completed.

C. Placement on Eligibility Rosters.

1. All CFIs: Statewide Eligibility Roster. To be eligible for appointment, all CFIs must be listed on the Statewide Eligibility Roster. Based on the information contained in a CFI's completed affidavit and disclosure document, as well as the results of the CFI's background check and fingerprinting, the SCAO will determine whether to place the CFI on the Statewide Eligibility Roster.

2. Privately Paid and State Paid Non-Attorney CFIs and the Judicial District Eligibility Rosters. To be eligible for appointment, all privately paid CFIs and all state paid non-attorney CFIs must be listed on both the Statewide Eligibility Roster and the eligibility roster of one or more judicial districts. A privately paid CFI or a state paid non-attorney CFI will not be appointed in a judicial district unless s/he is listed on that judicial district's eligibility roster. Each judicial district will compile and maintain its own eligibility roster, selecting its eligible privately paid and state paid non-attorney CFIs from the Statewide Eligibility Roster.

3. State Paid Attorney CFIs and the OCR District List. To be eligible for appointment, all state paid attorney CFIs must be listed on both the Statewide Eligibility Roster

and the District List maintained by the OCR for a particular judicial district. A state paid attorney CFI will not be appointed by a judicial district unless s/he is listed on both the Statewide Eligibility Roster and the OCR District List for that district. The OCR will compile and maintain the OCR's District List for each judicial district selecting the eligible state paid attorney CFIs from the Statewide Eligibility Roster.

D. Policies Governing Eligibility and Appointment.

The SCAO shall promulgate and disseminate policies governing the CFI appointment and eligibility process such as CFI affidavits and renewal affidavits. Policies governing appointment and eligibility requirements can be found at: <http://www.courts.state.co.us/Administration/Section.cfm?Section=jp3domprog>.

V. COMPLAINTS

A. Privately Paid CFIs and State Paid Non-Attorney CFIs.

1. Any complaint regarding the performance of a privately paid CFI or a state paid non-attorney CFI will be submitted electronically to the judicial district and to the SCAO via the "Child and Family Investigator Formal Complaint Procedures and Form" located on the SCAO website: <http://www.courts.state.co.us/Administration/Section.cfm?Section=jp3domprog>. A paper copy of the complaint form may also be printed from the SCAO's website or obtained from the judicial district, and submitted to the judicial district's District Administrator in person or by mail.

2. Within 10 days of receiving a "Child and Family Investigator Formal Complaint Procedures and Form," the judicial district's District Administrator shall forward the complaint to the judge presiding over the matter in which the CFI was appointed to determine whether any immediate preventative or corrective action needs to be taken in the matter. If the complaint concerns the conduct of the presiding judge, the District Administrator will forward the complaint to another judge in the judicial district to determine whether any immediate preventative or corrective action needs to be taken in the matter.

3. The judicial district shall then begin an investigation to determine whether the complaint is founded or unfounded, and to determine whether to take any action necessary to resolve the concerns or issues raised by a founded complaint. A judicial district's decisions as to whether a complaint is founded or unfounded and as to what, if any, action is necessary are final decisions and are not appealable.

4. If the complaint involves a privately paid attorney CFI and if it is determined after investigation that the complaint concerning the attorney CFI was founded, the District Administrator shall inform the Colorado Supreme Court Office of Attorney Regulation Counsel ("Attorney Regulation") and shall notify the complainant. The District Administrator shall also request that Attorney Regulation inform the judicial district and the SCAO of the final outcome of any professional conduct investigation.

5. If the complaint involves a mental health professional licensed by the Department of Regulatory Agencies ("DORA") acting as a CFI and if it is determined after investigation that the complaint concerning the CFI was founded, the District Administrator shall inform the DORA and

shall notify the complainant. The District Administrator shall also request that DORA inform the judicial district and the SCAO of the final outcome of any professional conduct investigation.

6. No later than 60 days after receiving a “Child and Family Investigator Complaint Procedures and Form,” the judicial district’s District Administrator shall ensure that a written response of some kind is provided to the complainant.

7. No later than 10 days after a final decision is reached by a judicial district regarding a complaint, the judicial district’s District Administrator shall forward to the SCAO a copy of the complaint file, which shall include the “Child and Family Investigator Formal Complaint Procedures and Form,” any documents or information obtained during the judicial district’s investigation, any documents or information reflecting the results of the investigation and any action taken by the judicial district, and any other relevant documents or information obtained by the judicial district.

8. If a judicial district fails to conduct an investigation pursuant to the procedures set forth in the SCAO’s “Child and Family Investigator Formal Complaint Procedures and Form” or this CJD, the SCAO may conduct its own investigation and may take any action necessary to resolve the concerns or issues raised by a founded complaint.

B. State Paid Attorney CFIs.

1. Any complaint involving a state paid attorney CFI will be made pursuant to the OCR’s complaint procedure as set forth in the “Office of the Child’s Representative Formal Complaint Procedures and Form,” available on the OCR’s website: www.coloradochildrep.org/compliments_complaints/.

2. In the event a complaint regarding a state paid attorney CFI is submitted to a judicial district’s District Administrator rather than the OCR, the District Administrator shall forward the complaint to the OCR and shall notify the complainant.

VI. SANCTIONS

A. Failure of a CFI to comply with this CJD may result in removal of the CFI from the Statewide Eligibility Roster, from one or more of the judicial district eligibility rosters, or from the OCR District List.

B. Privately Paid CFIs and State Paid Non-Attorney CFIs.

1. If a judicial district, in consultation with the judicial district’s Chief Judge, determines a privately paid or state paid non-attorney CFI is no longer suitable for appointments in that judicial district and removes the CFI from the judicial district’s eligibility roster, the judicial district’s District Administrator shall inform the SCAO and the CFI will also be removed from the Statewide Eligibility Roster.

2. If the SCAO determines a privately paid or state paid non-attorney CFI is no longer suitable for appointments in any judicial district, the SCAO may remove the CFI from the Statewide Eligibility Roster or may impose any other sanction pertaining to the Statewide Eligibility Roster. A CFI who has been removed by the SCAO from the Statewide Eligibility Roster shall also be removed from all judicial district eligibility rosters.

C. State Paid Attorney CFIs.

1. The OCR maintains sole discretion to determine sanctions as they apply to state paid attorney CFIs. Neither the SCAO nor a judicial district may sanction a state paid attorney CFI.

2. If the OCR removes a state paid attorney CFI from the OCR District List, the OCR shall inform the SCAO and the CFI will also be removed from the Statewide Eligibility Roster and shall be ineligible for placement on the Statewide Eligibility Roster as either a privately paid CFI or a state paid non-attorney CFI.

VII. LIABILITY, MALPRACTICE, AND GRIEVANCES

A. If a CFI is a professional and can obtain professional liability insurance for that profession, the CFI shall maintain professional liability insurance for all work performed as a CFI.

1. All privately paid and state paid non-attorney CFIs with professional liability insurance shall notify the SCAO, in writing within 5 days if they cease to be covered by such professional liability insurance and shall not accept court appointments until coverage is reinstated.

2. All state paid attorney CFIs shall notify the OCR in writing within 5 days if they cease to be covered by such professional liability insurance and shall not accept court appointments until coverage is reinstated.

B. All privately paid and state paid non-attorney CFIs, and anyone who has filed with the SCAO an “Affidavit of Mandatory Consent and Disclosure: For Eligibility of Appointment as a Child and Family Investigator and Placement on Statewide Eligibility Roster” shall notify the SCAO in writing within 5 days of any malpractice suit, grievance, formal complaint, disciplinary action, or criminal charge brought or filed against them.

C. All state paid attorney CFIs shall notify the OCR in writing within 5 days of any malpractice suit, grievance, formal complaint, disciplinary action, or criminal charge brought or filed against them.

VIII. STANDARDS OF PRACTICE

A. General Principles

Standard 1. The CFI shall act professionally.

Standard 2. The CFI shall maintain objectivity.

B. Role of the Child and Family Investigator

Standard 3. The CFI serves as an investigative arm of the court.

Standard 4. The CFI shall not serve inconsistent dual roles.

Standard 5. The CFI may move to the role of parenting coordinator or decision-maker arbitrator.

C. Duties of the Child and Family Investigator

- Standard 6. The CFI shall maintain competence through training.
- Standard 7. The CFI shall acknowledge when an issue is beyond his or her competence.
- Standard 8. The CFI shall collect data and conduct an investigation sufficient to allow the CFI to provide competent opinions.
- Standard 9. The CFI shall have age-appropriate communication with the child/ren involved.
- Standard 10. The CFI shall report child abuse to the proper agency and the court.
- Standard 11. The CFI shall prepare a clear and timely report.
- Standard 12. The CFI shall provide copies of his or her file.
- Standard 13. The CFI shall not conduct psychological testing. The CFI shall not routinely conduct drug and alcohol or other evaluations.
- Standard 14. The CFI shall maintain confidentiality.
- Standard 15. The CFI appointment shall terminate no later than entry of permanent orders or the post decree order.

D. Communications

- Standard 16. The CFI shall develop written policies for the parties.
- Standard 17. The CFI shall develop written policies for counsel.
- Standard 18. The CFI shall review the court's order of appointment.
- Standard 19. The CFI shall have no private or *ex parte* communications with the court.

STANDARDS OF PRACTICE

A. General Principles

Standard 1. The CFI shall act professionally.

CFIs shall provide their service in a manner consistent with the highest professional standards. They shall be accurate and honest in their work and in their communications with the parties and the court. While the best interests of the child/ren are paramount, CFIs shall respect the rights, the dignity, and the welfare of the parties and the child/ren with whom they work.

COMMENT

The CFI's primary responsibility is to assure that the "best interests" of the child/ren s/he has been appointed to serve, as defined in section 14-10-124, C.R.S., are thoroughly explored, understood, and accurately conveyed to the court. In meeting this responsibility the CFI should understand that s/he is working with families at a difficult and stressful time. S/he should attempt to establish a positive and constructive professional working relationship with family members.

The CFI should be mindful of the diverse nature of families and respect cultural, individual, and role differences, including those based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status, and should consider these factors when working with a family. S/he should be sensitive to the separate interests, rights, wishes, and concerns of the parents, child/ren, and other parties in a case. S/he must remember that s/he is in—and is viewed as being in—a position of influence over a family’s future.

During the course of his or her work, a CFI will be in communication with a variety of individuals and agencies. The means of communication may involve direct interviews, phone contact, faxes, e-mail, or written correspondence. There is no one right way to communicate, but a CFI should be aware of his or her position as an investigative arm of the court.

Standard 2. The CFI shall maintain objectivity.

The CFI shall maintain objectivity and independence. To avoid a conflict of interest or an appearance of impropriety, the CFI shall not seek or accept an appointment if the CFI has or has had a financial, familial, or social relationship with the parents, child/ren, counsel, or other parties involved in the case. If the CFI becomes aware of an insurmountable bias or prejudice in dealing with a case, s/he shall ask the court to terminate the appointment with proper notice to the parties.

COMMENT

A CFI’s opinions are to be based on his or her independent fact finding investigation and review of a case as the court’s investigative arm. If a CFI is appointed to a case and the CFI has or has had a financial, familial, or social relationship with the parents, child/ren, counsel, or other parties involved in the case, the CFI shall immediately notify the court and ask the court to terminate the appointment with proper notice to the parties. The CFI shall not accept an appointment or seek an appointment to such a case. S/he should guard against being unduly influenced by the conclusions of other professionals who are working or who have worked on the case. S/he should guard against even the appearance of being aligned with one side over the other.

There are times when objectivity is difficult to maintain and the CFI, through no fault of his or her own, simply cannot set aside a bias or feelings that occasionally develop when working with challenging parties or high conflict families. When this occurs, the CFI should notify the court and request removal from the case.

B. ROLE OF THE CHILD AND FAMILY INVESTIGATOR

Standard 3. The CFI serves as an investigative arm of the court.

A CFI is appointed to serve as an investigative arm of the court. The CFI shall be subject to direct and cross examination by both parties if called as a witness. He or she is to gather information, formulate recommendations, and report to the court concerning the child/ren’s best interests with regard to whatever issues were set forth in the court’s order of appointment.

COMMENT

The focus on investigation is not intended to prescribe a regimented set of investigative steps that a CFI must follow in his or her work, but rather to emphasize that the primary role is to provide information and make recommendations that will allow the parties, counsel, and the court to craft orders that best serve the child/ren. The issues in, or concerns about, different families will be unique. The type, scope, or extent of investigation needed in different families will be unique.

These standards are not intended to limit the flexibility available to the parties and the court when deciding that an investigation by a CFI would be helpful and when preparing the order of appointment. This flexibility means that within the scope of the order of appointment, a CFI may use the information s/he has gathered in ways that facilitate or encourage settlements if appropriate.

A CFI may participate in conferences with the parties and/or the court. When doing so, the CFI should act in ways consistent with the court's order of appointment in the case.

Standard 4. The CFI shall not serve inconsistent dual roles.

The CFI shall not: (a) serve as a formal mediator in the case; (b) provide psychotherapy to any of the parties or children in the case; (c) provide legal advice to any party or otherwise act as an attorney in the case; (d) later accept an appointment as a child's legal representative ("CLR") in the same case or in the same family; (e) accept the appointment if s/he has had a prior personal relationship or a prior professional role with the family, other than a prior appointment as a CFI; (f) serve as an arbitrator or special master in the case prior to termination of his or her role as a CFI; or (g) provide referrals for any other professionals.

COMMENT

(a) Mediation. Because CFIs investigate and make reports and recommendations they cannot, by definition, promise confidentiality to the parties involved. Mediation by contrast is confidential. Section 13-22-307, C.R.S. The CFI's primary duty is advising the court on the child/ren's best interests with regard to specific issues, and not resolving such issues for the parties.

(b) Psychotherapy. As with mediators, therapists have a duty of confidentiality to their clients that are at odds with a CFI's duties. The roles, purposes, goals, responsibilities, approaches, and professional and ethical requirements of a treating therapist are in conflict with those of a CFI.

(c) Legal Advice. A CFI is charged with investigating and reporting pursuant to a court order and cannot provide legal advice to any party. An attorney CFI cannot perform a dual role as advisor and investigator. A non-attorney CFI cannot engage in the unauthorized practice of law.

(d) Child's Legal Representative. The role requirements of the CFI and the CLR are in conflict with each other. Section 14-10-116.5 (1), C.R.S., specifically prohibits this dual role.

(e) Prior Contacts. A CFI should avoid multiple relationships which could reasonably be expected to impair objectivity, competence or effectiveness. Prior therapeutic relationships, for example, will be compromised and pre-existing alliances and loyalties that a therapist or attorney or other professional or friend has established will impair objectivity.

(f) Arbitrator or Special Master. A CFI should not serve in any role that would require him or her to arbitrate disputes between parties since this would require a CFI to take positions that would compromise his or her ability to serve as the information gathering investigative arm of the court.

(g) Referrals. A CFI is the investigative arm of the court. It is therefore inappropriate for the CFI to make referrals or recommendations to the parties or to the court for specific professionals to be involved in the case in any way, unless such referrals or recommendations are requested by the parties or the court.

Standard 5. The CFI may move to the role of parenting coordinator or decision-maker or arbitrator.

In some cases, a CFI may agree to move to the separate role of parenting coordinator (“PC”) or decision-maker (“DM”) or arbitrator after all of his or her duties as a CFI are completed and after the CFI appointment has been terminated by the court. This move should occur only with the written, informed consent of all the parties and the CFI. The CFI who accepts an appointment as a PC or DM or arbitrator shall not be appointed as a CFI in the same case in the future.

COMMENT

At the conclusion of the CFI’s investigation for the court, and upon entry of orders related to parental responsibility, the family may have ongoing needs for assistance from a third party, or may in the future require assistance related to parenting disputes. Some parties may find that the CFI’s prior investigation and familiarity with the family’s dynamics would assist them in resolving outstanding or new issues. If the parties and the CFI agree, it may be appropriate for the court to appoint the CFI to the role of PC or DM or arbitrator by a new appointment order clearly outlining the CFI’s new duties. PCs and DMs are being used with some frequency in Colorado to assist high conflict families who have ongoing disputes. The role of PC and DM is defined by statute. These CFI standards are not meant to apply to those serving as a PC or DM.

C. DUTIES OF THE CHILD AND FAMILY INVESTIGATOR

Standard 6. The CFI shall establish and maintain competence through training.

The SCAO shall promulgate policies governing the implementation of training standards and all CFIs shall comply with the policies promulgated by the SCAO. Policies governing training requirements can be found at:
http://www.courts.state.co.us/Courts/Supreme_Court/Directives/04-08%20Amended%2011-11AttachmentARevised7-2012.pdf

These policies shall be consistent with the following conditions:

- 1. The individual seeking placement on the Statewide Eligibility Roster shall complete and submit the mandatory CFI affidavit demonstrating attainment of a minimum level of competence that includes the understanding of both legal and psychological/social issues that are typical and present in dissolution or parenting cases.**
- 2. All CFIs shall complete the mandatory “Colorado Judicial Department Child and Family Investigator” curriculum established by the State Court Administrator’s Office.**
- 3. All CFIs shall complete no less than 15 hours of continuing education in relevant areas every three years.**

COMMENT

A CFI attains a level of competence through some combination of education, specialized training, and professional experience. S/he has a responsibility to develop and demonstrate the necessary understanding of the applicable law and the professional standards that govern the role of the Child and Family Investigator as set forth in 14-10-116.5, C.R.S. The mandatory CFI affidavit must contain supporting documentation that demonstrates experience, education or skills as it pertains to “relevant areas” including but not limited to:

- The effects of divorce, single parenting, and remarriage in children, adults, and families;
- Dynamics of high conflict divorce;
- Child development, including cognitive, personality, emotional, and psychological development;
- Child and adult psychopathology;
- Family dynamics and dysfunction;
- Domestic violence;
- Substance abuse;
- Child abuse;
- Parenting capacity;
- Diversity issues;
- Available services and resources for the child/ren and parties including medical, mental health, educational, and special needs;
- The legal standards applicable in each case in which the CFI is appointed; and
- Interview techniques for interviewing children and others.

A CFI should maintain current, accurate records of training and on-going education and should be able to provide those records upon request.

Standard 7. The CFI shall acknowledge when an issue is beyond his or her competence.

A CFI has a duty to recognize and inform the parties and the court when an issue falls outside of his or her training or experience.

COMMENT

When the CFI recognizes that an issue falls outside his or her training or experience, the CFI shall inform the parties and the court with proper notice and request that the order of appointment be amended. In some instance a request for termination of the appointment may be appropriate. The CFI may inform the court of the professional qualifications that may be of benefit; however, the CFI shall under no circumstances make specific referrals for professionals or providers unless such referral is requested by the parties or the court pursuant to Standard 4.

Standard 8. The CFI shall collect data and conduct an investigation sufficient to allow the CFI to provide competent opinions.

A CFI shall complete a fact finding investigation consistent with the court order of appointment, the legal standard being addressed, and the complexity of the family and the family issues being investigated.

COMMENT

A CFI must be careful to assure both fairness and the appearance of fairness, allowing the parties relatively comparable opportunities to present their perspectives. Depending on the case, the CFI may need information from collateral sources such as teachers or therapists; may need to review school, medical, or other records; may need to check criminal histories or obtain results of drug testing; or may require other case-specific information. The flexibility of the role allows the court to set forth specific areas to investigate under the order of appointment.

A CFI should use methods of data collection that are consistent with accepted professional standards. S/he should indicate any limits to the data or information and how that may impact his or her ultimate opinions. S/he should document the investigation to ensure accountability. A CFI should recognize that his or her file may be discoverable by parties and counsel in the case, and therefore, should maintain clearly documented records.

Standard 9. The CFI shall have age-appropriate communication with the child/ren involved.

The CFI shall inform the child/ren of the purpose of the CFI's involvement and the limits of confidentiality. S/he shall obtain information from the child/ren, including the wishes of the child/ren, through appropriate interview techniques.

COMMENT

The nature of the legal proceeding or issue should be explained to the child/ren in a developmentally appropriate manner. The CFI should ask non-suggestive questions. S/he should be aware that a child's stated views may vary over time or may be the result of fear, intimidation, or manipulation. While the CFI must consider the wishes of the child/ren, s/he need not adopt them unless they serve the child/ren's best interest.

Standard 10. The CFI shall report child abuse to the proper agency and the court.

Child and Family Investigators are mandatory reporters pursuant to §19-3-304, C.R.S. In cases in which the CFI suspects or knows that the child/ren are being neglected or abused, the CFI shall take the steps required under §19-3-304, C.R.S. to ensure that law enforcement and/or the department of social services is informed, and shall take whatever additional steps are believed necessary to protect the child/ren.

COMMENT

In cases in which the CFI finds that the child/ren are not being optimally cared for, or finds that the parents' conflict or interactions are harmful but not abusive or negligent, the CFI should develop plans to address the problem and should include them in any report or recommendation to the court.

Standard 11. The CFI shall prepare a clear, concise, and timely report.

The CFI's conclusions and recommendations shall be presented in a timely manner to the parties and the court in a written report that is clear, concise and non-technical and based upon information and data obtained in the course of the fact finding investigation.

COMMENT

The report should be as concise as possible, recognizing that there are limitations on the specific issues to be addressed and the fee to be paid to the CFI. The CFI should write his or her report remembering that the recipients will be the parties, the court, and, if applicable, the parties' counsel. The report should include information about the CFI's investigation and data collection process, and should address the legal standard that applies to the case. The report should set forth the CFI's conclusions and recommendations regarding the child/ren's best interests. It should also set forth the child/ren's wishes even if those wishes are not ultimately recommended. It should not include opinions and recommendations beyond the scope of the court's original order of appointment without further authorization.

A CFI's report should list all services performed by the CFI and should detail the time spent. The CFI should keep accurate, itemized records of the CFI's fees and other charges and shall make his or her records available to the parties in accordance with Standard 12.

Standard 12. The CFI shall provide copies of his or her file.

The CFI shall, if requested by the parties or their counsel in the case for which the CFI was appointed, make his or her file, including any data or information underlying the CFI's report, available prior to any scheduled hearing in the case, and only after the CFI report has been filed. This specifically includes disclosure of CFI notes, witness statements, and completed questionnaires. Such disclosure is limited pursuant to the confidentiality requirements in Standard 14.

COMMENT

A CFI has an obligation to document and be prepared to make available all data that form the basis for his or her opinions and recommendations. The data to be disclosed includes all

underlying data in the CFI's file including the names and addresses of all persons with whom the CFI has consulted.

However, if a CFI believes that the release of any particular information or test data would endanger any person's welfare, s/he should inform counsel and the court of his or her concerns and await further order from the court before releasing the information in question. A court order is required for the release of the file, underlying data, report, testing, or evaluation completed by a professional other than the CFI. This directive is not intended to abridge or modify existing law. Where state or federal law governs the release of confidential records, those laws shall apply. Where secondary disclosure is prohibited by state or federal law, the information shall be transmitted under confidential cover.

Standard 13. The CFI shall not conduct psychological testing. The CFI shall not routinely conduct drug and alcohol or other evaluations.

Psychological testing shall not be performed by the CFI. Drug and alcohol or other evaluations should only be done if specifically ordered by the court and only when such evaluation is the sole issue for which the appointment of the CFI was made. If the CFI believes other evaluations, such as psychological testing or drug and alcohol evaluations, would be a benefit to the parties or the child/ren and would assist the court, the CFI should provide this information to the court and the parties as soon as possible and shall include this information in his or her report to the court.

COMMENT

Consistent with distinguishing the role of a CFI and a parental responsibility evaluator, the CFI investigation should be limited in time and scope. Psychological testing shall not be performed in connection with CFI investigations and reports. Substance abuse or other evaluations shall not routinely be performed in connection with CFI investigations and reports. In situations where the court specifically orders a drug and alcohol or other evaluation, such evaluations shall only be conducted by a qualified individual. If the CFI is qualified to conduct drug and alcohol or other evaluations s/he may do so but only if ordered to do so by the court and only when such evaluation is the sole issue for which the appointment of the CFI was made. If psychological testing is ordered by the court, such testing shall not be done by the CFI.

Standard 14. The CFI shall maintain confidentiality.

The CFI shall maintain the confidentiality of his or her file and report, and shall disclose either only to the parties and their counsel or by court order.

COMMENT

The CFI report and underlying investigative materials shall not be disclosed in any proceeding other than the proceeding before the appointing court absent a determination by the appointing court that the need for the information requested outweighs the need for privacy. A CFI's report, and by implication a CFI's underlying case file, "shall otherwise be considered confidential and shall be sealed and shall not be open to inspection, except by consent of the court." Section 14-10-126(2), C.R.S. Standard 12 provides additional guidance. Because a CFI's report and file are court documents under seal, a CFI has no authority to produce these

sealed court documents, nor may the CFI disclose their contents absent consent and an order from the appointing court.

Standard 15. The CFI appointment shall terminate no later than entry of permanent orders or the post decree order.

The court may terminate the appointment of the CFI earlier, but in no event shall the CFI appointment terminate any later than entry of permanent orders or the post decree order resolving the issue for which the appointment was made. The judicial officer shall clearly order when the CFI appointment ends consistent with this section.

COMMENT

Judicial officers are encouraged to terminate appointments when the report is filed in order to reduce the costs of CFI investigations. In any event, once permanent orders or the order resolving the post-decree motion for which the appointment was made are entered, a CFI's appointment pursuant to section 14-10-116.5, C.R.S., terminates.

It is an abuse of the court's discretion to continue the CFI appointment beyond permanent orders, or adjudication of post-decree parental responsibility issues. The role of the CFI is to determine and recommend alternatives in the best interests of the child. The parties' inability to communicate is not a sufficient ground to continue the appointment of the CFI to act as a mediator or facilitator for the parties. *See In re Marriage of Finer*, 920 P.2d 325 (Colo. App. 1996). Additionally, the court cannot, in its order, delegate to a CFI the job of crafting or fine-tuning a parenting plan or of resolving other parenting issues. The court might consider and adopt a CFI's recommendations, but the actual rulings must come from the court. It is an abuse of discretion for the court to transfer its ultimate decision-making power and authority to a CFI. *In re the Marriage of McNamara*, 962 P.2d 330 (Colo. App. 1998).

D. COMMUNICATIONS

Standard 16. The CFI shall develop written policies for the parties.

The CFI shall develop written information about his or her policies and procedures. The information shall include the nature of the services provided, the CFI's qualifications, where complaints should be directed, fees and billing procedures, how communication will be handled, how sensitive information will be handled, and the CFI's reporting obligations.

COMMENT

When first appointed, a CFI should provide the parties with written information that clarifies, along with the court's appointment order, the nature and scope of the services to be provided and the limits of confidentiality in court-appointed work. The initial information should describe the CFI's policies, procedures, qualifications, and reporting obligations, as well as how a party can contact the professional's applicable regulatory or disciplinary agency. If no applicable regulatory body for a particular CFI exists, then information should be included about how to contact the court and the State Court Administrator's Office should a concern or complaint about the CFI arise.

It also is the responsibility of a CFI to provide specific information to the parties regarding fees, billing policies, and procedures used if there is non-payment of fees. A CFI's billing statements should list all services performed and detail the time spent and the charges incurred.

Standard 17. The CFI shall develop written policies for counsel.

The CFI shall develop written information about how communications and sensitive information from counsel or parties not represented by counsel will be handled.

COMMENT

There are many reasons a CFI, when first appointed, might find it helpful to consult with counsel. They include, discussing timing issues, or raising problems or concerns which develop during the course of a CFI's investigation.

There should be no non-disclosed conversations with one party's counsel. A CFI must remain alert to avoid bias or the appearance of bias at all times regardless of the level of parties' conflict in the case. If, however, the CFI, the parties, and counsel all agree to some different procedure concerning communication between the CFI and counsel, they should reduce the agreement to writing before the CFI begins work on the case.

Standard 18. The CFI shall review the court's order of appointment.

Upon appointment, the CFI shall review the court's order of appointment and ask for clarification or modification of the order when necessary.

COMMENT

In order to provide services, a CFI must have a specific and properly executed court order defining the role of the CFI in the court case. Such an order allows the CFI to act under the court's power and authority.

If there is a conflict between the requirements of the order and the CFI's professional ethical constraints or obligations, the CFI should take steps to ensure that the conflict is resolved. If, for example, the order requires the CFI to act beyond the scope of his or her competence, or to perform contradictory multiple roles, then the court and counsel should be informed. If the conflict cannot be resolved, then the CFI should request removal from the case.

If the order sets fees and retainer amounts that conflict with the CFI's business practices, s/he should inform the court and request an amended order or withdraw from the case. These issues should be addressed immediately upon notice of appointment and before beginning any work on the case.

Standard 19. The CFI shall have no private or *ex parte* communications with the court.

The CFI shall have no private or *ex parte* communications with the court.

COMMENT

An *ex parte* communication is any communication in which at least one party does not have notice and an opportunity to participate in the communication.

For many reasons a CFI may need to communicate with the court during the course of his or her appointment. The reasons include obtaining information from the court concerning the order of appointment or applicable legal standards, informing the court of the refusal of a party to participate or to pay, or reporting harm or the potential for harm to the child/ren.

The court can be informed of such issues in several ways. Most common would be a short written report with copies to the parties and counsel. If the CFI attends a status conference or court hearing, issues could be raised there. If time were of the essence, a CFI may be able to arrange a conference call to the court including counsel or counsel and parties. Finally, a CFI might request an opportunity to address the court and then give the parties and counsel reasonable and proper notice of the date and time set.

An attorney CFI shall not communicate with the court by way of motions because the CFI is an investigator as opposed to a party or lawyer for a party authorized to file motions.

IX. THE COURT'S AUTHORITY, ROLE, AND RESPONSIBILITIES RELATED TO CHILD AND FAMILY INVESTIGATORS APPOINTED PURSUANT TO C.R.S. 14-10-116.5

- Standard A. The court shall ensure compliance with the CFI standards.
- Standard B. The court shall specifically define the scope and subject matter of the CFI's role in the order of appointment.
- Standard C. The court shall allocate the costs for CFI services and enforce its payment orders.
- Standard D. The court shall terminate the CFI's appointment no later than entry of permanent orders or the post decree order
- Standard E. The court shall not appoint the CFI to inconsistent dual roles.
- Standard F. The court shall ensure the confidentiality of CFI reports.

DUTIES AND RESPONSIBILITIES OF THE COURT

Standard A. The court shall ensure compliance with the CFI standards.

The court shall appoint a qualified CFI and shall monitor any complaints concerning that person's services.

COMMENT

Children deserve to have parental responsibility proceedings conducted in the manner least harmful to them, and most likely to provide judges and magistrates with the facts needed to decide the case. Because the CFI is the investigative arm of the court, it is the court's responsibility to ensure that the CFI is qualified, and to monitor compliance with this Chief Justice Directive. A CFI is subject to cross and direct examination. If issues are raised

concerning competency or any other concerns, the court should inquire and provide an opportunity to remedy any unethical or inappropriate conduct.

The court should hold periodic meetings with all practicing CFIs to clarify procedures and court expectations concerning CFI investigations.

Standard B. The court shall specifically define the scope and subject matter of the CFI's role in the order of appointment.

The court shall define the subject matter and scope of the CFI's role in an order of appointment that substantially complies with the model order of appointment found in this CJD.

COMMENT

The CFI is the court's investigative arm and serves at the direction and behest of the court. Section 14-10-116.5, C.R.S., requires that the "subject matter and scope of the [CFI's] duties shall be clearly set forth in the court's order of appointment." Accordingly, the court shall provide guidance and specific expectations in the order of appointment. The court order shall set forth the scope of service and subject matter. In appointing a CFI, the court shall take into account the financial circumstances of the parties.

In setting forth the CFI's duties, the court should provide for the least intrusive means of ascertaining the child/ren's best interests. Psychological testing shall not be performed by the CFI. Drug and alcohol or other evaluations should only be done if specifically ordered by the court and only when such evaluation is the sole issue for which the appointment of the CFI was made. If the CFI believes psychological testing or drug and alcohol evaluation would be a benefit to the parties and/or the child/ren and would assist the court, the CFI should provide this information to the court and the parties as soon as possible and the CFI shall include this information in his or her report to the court.

Standard C. The court shall allocate the costs for CFI services and enforce its payment orders.

The court shall make clear to all parties in writing, how the CFI fees will be apportioned and paid. The court shall enforce its orders for payment. CFIs are entitled to receive adequate and predictable compensation consistent with the provisions of this CJD.

COMMENT

Section 14-10-116.5(3), C.R.S., requires the court to enter an order for costs, fees, and disbursements for the court-appointed CFI. Those costs shall be borne by the parties unless a party is found to be indigent in which case the state shall pay the costs. The SCAO pays non-attorney CFIs in accordance with the procedures set forth in CJD 04-05. The OCR pays attorney CFIs in accordance with the procedures set forth in CJD 04-06.

It is the responsibility of the court to enforce its order concerning payment of the CFI through its contempt power. When non-payment or partial payment issues arise, the CFI may notify the court regarding the non-payment issue and ask for guidance. The court, at its discretion, should determine what course of action is appropriate, including continuing court

dates, finding parties in contempt, or reallocating the parties' division of fees. Because the CFI is the investigative arm of the court and is performing valuable duties for the court under the court's order, the court is responsible for ultimately overseeing and ensuring compliance with its appointment and fee order.

Standard D. The court shall enter an order of appointment that indicates a specific date on which the CFI's investigative report is due and that terminates the appointment of the CFI no later than entry of permanent order or the post decree order.

The court's order shall include a specific date on which the CFI's investigative report is due. Further, it is the court's responsibility to enter an order that indicates when the appointment of the CFI terminates. It is suggested that the appointment terminate as soon as reasonable to reduce the cost to the parties and/or the state, but in any event the appointment shall not continue beyond entry of permanent orders or the post decree order resolving the issue for which the appointment was made.

COMMENT

For guidance, see the comment to Standard 15.

Standard E. The court shall not appoint the CFI to inconsistent dual roles.

The court shall not appoint the CFI to serve in dual roles which are inconsistent, and create conflicts.

COMMENT

For guidance, see the comment to Standard 4.

Standard F. The court shall ensure confidentiality of CFI reports.

Because the report of a CFI often contains otherwise private medical, psychological, substance abuse, or educational information, the court shall ensure its confidentiality and maintain it under seal.

COMMENT

CFIs are appointed to gather information for the court's use in making decisions in the child/ren's best interest. It is unlikely to be in any child's best interest to have the private lives, failures, and foibles of his or her family spread across the public record. This is recognized by statute, section 14-10-126(2), C.R.S. The court also is more likely to receive complete and candid information if confidentiality is assured. Finally, this aids CFIs when confronted by parties or lawyers outside the domestic case who attempt to subpoena the highly personal information contained in the CFIs' files and reports. The court that appointed the CFI must perform an in camera review of the requested documentation to determine what may be released and/or copied.

In subsequent actions, the report should not be relied upon by the court or the parties unless the CFI is subject to direct and cross examination. For additional guidance, see the comment to Standard 14.

Effective September 1, 2004. Amended to reflect statutory amendments and effective November 18, 2005.

Modified corrected as to statutory references only on the 23rd day of January, 2006, in Denver, Colorado.

Amended to provide clarification on issues related to the nature of the CFI's role and records access and effective January, 2008, in Denver, Colorado.

Amended to provide clarification on issues related to the nature of the CFI's role and fees and made effective April, 2011, in Denver, Colorado.

Amended to provide clarification on issues related to the nature of the CFI's role, fees, guidelines for appointment, complaints, and sanctions and made effective November, 2011, in Denver, Colorado.

Amended to include training and certification requirements, December, 2012.

Done in Denver, Colorado this 13th day of December, 2012.

/s/

Michael L. Bender, Chief Justice

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court _____ County, Colorado Court Address: <hr/> In re: <input type="checkbox"/> The Marriage of: <input type="checkbox"/> Parental Responsibilities concerning: <hr/> Petitioner: and Co-Petitioner/Respondent:	COURT USE ONLY
Case Number: Division Courtroom	ORDER APPOINTING CHILD AND FAMILY INVESTIGATOR PURSUANT TO §14-10-116.5, C.R.S.

This matter is before the Court on the Court's motion, Petitioner's motion, or Co-Petitioner/Respondent's motion for the appointment of a Child and Family Investigator pursuant to §14-10-116.5, C.R.S.

Finding in the best interests of the child(ren), the Court hereby appoints as Child and Family Investigator (CFI):

Name: _____

Mailing Address: _____

Telephone #: _____ Fax #: _____ Email: _____

Information about the child(ren):

Full Name of Child	Date of Birth

Information about the Petitioner: Date of Birth: _____

Name: _____ Attorney: _____

Mailing Address: _____

City & Zip: _____

Home Phone #: _____ Work Phone #: _____ Cell
Phone #: _____
E-mail: _____

Information about the Co-Petitioner/Respondent: Date of Birth: _____

Name: _____ Attorney: _____

Mailing Address: _____

City & Zip: _____

Home Phone #: _____ Work Phone #: _____ Cell
#: _____

E-mail: _____

Protection/Restraining Orders:

There is no place involving the parties and/or child(ren):

County of _____, State of _____, in case number
_____.

The person restrained is: _____. The protected
person(s) is/are _____.

Responsibilities of the Child and Family Investigator:

1. The CFI shall comply with the applicable provisions set forth in Chief Justice Directives 04-05, 04-06, and 04-08, as subsequently amended, and with the requirements of §14-10-116.5, C.R.S. You are required within seven days of your appointment, to disclose to each party, attorneys of record, and the court any familial, financial, or social relationship that the appointed person has or has had with the child, either party, the attorneys of record, or the Judicial Officer (JDF1338)

2. The CFI shall investigate, report and make recommendations on the following specific issues: _____

that affect, or may affect, the best interests of the minor or dependent child(ren), as that term is described in §14-10-124, C.R.S.

3. The CFI shall not conduct psychological testing. Drug or alcohol or other evaluations should only be done if specifically ordered by the Court and only when such evaluation is the sole issue for which the appointment of the CFI was made. If the CFI believes any such testing or evaluation would be a benefit to the parties and/or child(ren) and would assist the Court the CFI should provide this information to the parties and the Court as soon as possible and shall include this information in a report to the Court. The CFI may inform the Court of such information prior to the filing of the final report. In doing so the CFI shall ensure all parties have notice and an opportunity to participate in any such communications. Psychological testing may be conducted by further order of the Court by a professional other than the CFI.
4. No services of other professionals shall be provided unless agreed to by the parties or ordered by the Court; except that each party may obtain individual therapy for him/herself at any time.
5. The CFI shall file a concise, written report and shall provide copies to the parties and/or their counsel of record by _____ (date). The next event in this case is a _____ scheduled for _____ (date) at _____ (time) in Courtroom _____. The CFI _____ is s not d
person by telephone at this number: _____

Responsibilities of the Parties:

1. Each party or their counsel shall initiate contact with the CFI within 10 days from the date of this Order to arrange his/her first meeting with the CFI. Each party and counsel shall confer with the CFI when and as the CFI directs, and shall cooperate fully with the CFI. The CFI may report to the court a party's cooperation or lack of cooperation.
2. The parties shall provide the CFI with all court orders addressing matters of parenting time or parental rights and responsibilities that are issued on or after the effective date of this

Order. These orders are to be provided to the CFI and all documentation currently in the court file that will assist the CFI in his/her investigation.

3. The parties or their counsel are responsible for providing information concerning other cases which have a relationship to this case when requested to do so by the CFI.

Release of Confidential Information:

The parties shall sign any releases necessary to allow the CFI to properly conduct his/her investigations; and the CFI may request the Court to issue any other necessary order for release information.

Modification or Termination of the Child and Family Investigator's Appointment:

The Court shall maintain the discretion to modify or terminate this appointment at any time during the proceedings. This appointment shall terminate upon the following unless otherwise ordered by the Court:

- when the CFI's report has been filed with the Court.
- upon entry and the Court's signature of the Permanent Orders in this case.
- when motions have been resolved by the entry of orders in this post-decree issue.
- other: _____

Payment of Costs and Fees in Favor of the Child and Family Investigator:

The CFIs fees are in the nature of child support as the role of the CFI is to investigate, report and make recommendations to the Court on any issues that affect or may affect the best interest of the child(ren).

A. Privately Paid CFIs.

1. Investigation and Report. A presumptive maximum fee of \$2,000 per appointment shall be established for the investigative and reporting work of all privately paid CFIs. The total investigation and report fees of a privately paid CFI shall not exceed this presumptive \$2,000 cap unless prior court approval is obtained in the form of a written order with specific findings concerning the extraordinary circumstances that justify the excess fees.

2. Testimony and Preparation Time. It is anticipated that, in some matters, the testimony of the privately paid CFI will be sought by the parties or deemed necessary by the court. In such matters, a presumptive maximum fee of \$500 per appointment shall be established concerning such testimony, including any preparation or other work performed in association with giving such testimony. The total testimony and preparation time fees of a privately paid CFI shall not exceed this presumptive \$500 cap unless prior court approval is obtained in the form of a written order with specific findings concerning the extraordinary circumstances that justify the excess fees.

3. Hourly Rate. Every order appointing a privately paid CFI shall state the CFI's hourly rate. If the CFI charges one rate for investigative and reporting work and another rate for testimony and preparation time, the CFI appointment order shall state both hourly rates.

B. State Paid CFIs.

1. State Paid Non-Attorney CFIs. The maximum hourly rate and maximum total fee amount per appointment for state paid non-attorney CFIs is established by CJD 04-05. These non-attorney CFIs are paid by the SCAO in matters where one or more of the parties have been

found to be indigent. State paid non-attorney CFIs seeking fees that exceed the maximum allowable amount must comply with the procedures for approval set forth in CJD 04-05. Claims for payment by state paid non-attorney CFIs shall be submitted by the CFI in accordance with the guidelines set forth in CJD 04-05.

2. State Paid Attorney CFIs. As set forth by CJD 04-06, the maximum fee amount per appointment for state paid attorney CFIs are set by the OCR. These attorney CFIs are paid by the OCR in matters where one or more of the parties has been found to be indigent. State paid attorney CFIs seeking fees in excess of the OCR's maximum allowable amount must comply with the OCR's procedures for approval of excess fees.

After considering the financial resources and/or other equitable circumstances of the parties, the Court apportions the payment of the fee of the CFI as follows:

No party is indigent. The CFI will be paid a flat fee of \$_____.00 OR a retainer of \$_____ to be applied to an hourly rate of \$_____, no later than _____ (date). If an hourly rate is indicated, the CFI shall bill the hourly rate against the retainer, any fees and costs in excess of the retainer, up to the maximum set forth above or otherwise ordered, shall be apportioned as set forth below and shall be paid within 30 days of the date billed, unless otherwise ordered by the court or agreed in writing between the parties.

The Petitioner will pay the CFI amount of \$_____ or _____ % by that date.

The Co-Petitioner/Respondent will pay the CFI the amount of \$_____ or _____ % by that date.

The Court finds that both parties are indigent. Both the Petitioner and Co-Petitioner/Respondent have completed the required JDF 208 form, and are indigent, in accordance with the requirements of CJD 04-05 (non-attorney CFI) or CJD 04-06 (attorney CFI), and therefore orders that the fees and costs of the CFI will be borne by the State pursuant to the procedures and at the hourly rate set forth in CJD 04-05 (non-attorney CFI) or CJD 04-06 (attorney CFI). Presumptive maximum fees for state paid attorney CFIs are set by the OCR. State paid attorney CFIs must comply with the OCR's billing policies and procedures.

The Court finds that one party _____ (name of party) is indigent.

The party identified above has completed the required JDF 208 form, and is indigent, in accordance with the requirements of CJD 04-05 (non-attorney CFI) or CJD 04-06 (attorney CFI) and therefore orders that _____% of the fees and costs of the CFI will be borne by the State pursuant to the procedures and at the hourly rate set forth in CJD 04-05 (non-attorney CFI) or CJD 04-06 (attorney CFI), with the remaining amount as determined by the Court to be paid by the non-indigent party to the CFI directly. Presumptive maximum fees for state paid attorney CFIs are set by the Office of the Child Representative (OCR). State paid attorney CFIs must comply with the OCR's billing policies and procedures. The non-indigent party _____

(name of party) shall pay the CFI a flat fee of \$_____ OR a retainer of \$_____ to be applied to an hourly rate of \$_____

_____ no later than _____(date). If an hourly rate is indicated, then the CFI shall bill the hourly rate against the retainer, any fees and costs in excess of the retainer, up to _____ % of the maximum set forth above or otherwise ordered, shall be paid within 30 days of the date billed, unless otherwise ordered by the court.

The Court approves a sliding fee scale as follows: _____

The Court maintains the discretion to reallocate the apportionment of fees at permanent orders or the post-decree final hearing.

The CFI shall not commence the Court’s investigation until the flat fee or retainer is paid in full and the CFI shall apprise the Court within ten days of his/her inability to proceed with the case because of non-payment. Upon notification to the Court, the Court may set a forthwith hearing which will require the mandatory appearance of the non-paying party(ies). Failure of either party to comply with this Order may result in sanctions by the Court, up to six months in the County Jail, or a fine.

Date: _____

Judge Magistrate

CERTIFICATE OF SERVICE

I certify that on _____ (date), I mailed, faxed, e-filed, or hand-delivered a copy of this Order to the following:

- Attorney for Petitioner or Petitioner *pro se*
- Attorney for Co-Petitioner/Respondent or Co-Petitioner/Respondent *pro se*
- Child and Family Investigator
- Other: _____

Clerk