

Who Are You, and What Do You Do? Ethics and Standards in Child Custody Evaluations

Diana S. Friedman
Moderator

Robert T. Kinscherff
Larry L. Martin
John A. Zervopoulos
Panel Discussants

2013 Innovations—Breaking Boundaries in Custody Litigation
January 25, 2013 • Austin, TX

This Morning's Goals

- Understand the importance of ethics codes, standards, and guidelines.
- Distinguish APA's Ethics Code from Practice Guidelines.
- Explore legal implications from the development of APA's Ethics Code and Practice Guidelines.
- Review excerpts from APA's Ethics Code and Practice Guidelines and from AFCC's Model Standards that highlight elements of reliable evaluations.
- Discuss progress in the Texas Legislature to codify child custody evaluation standards.

Several Child Custody Guidelines and Standards by MH Discipline

- TX Licensed Professional Counselor
 - 22 Tex. Admin. Code § § 681.41–681.52
- Texas Social Worker
 - 22 Tex. Admin. Code § § 781.201–781.221
- Psychiatry
 - AACAP *Practice Parameters for Child Custody Evaluation*

Several Child Custody Guidelines and Standards by MH Discipline

- TX Psychologist
 - Lic. Board's Rules of Practice: *Forensic Services* (22 Tex. Admin. Code § 465.18)
 - *APA Ethical Principles of Psychologists and Code of Conduct*. (APA Ethics Code)
 - *APA Guidelines for Child Custody Evaluations in Family Law Proceedings*. (APA CCG)
 - *APA Specialty Guidelines for Forensic Psychology*. (SGFP)

Several Child Custody Guidelines and Standards by MH Discipline

- Multidisciplinary Standards
 - AFCC *Model Standards of Practice for Child Custody Evaluation*.
 - AAML *Child Custody Evaluation Standards*.
- Texas Statutes
 - Tex. Fam. Code §§ 107.0511–0514: *Elements of Social Study*
 - Proposed Tex. Fam. Code statute to govern all child custody evaluations.

Primary Documents of Today's Focus

- *APA Ethical Principles of Psychologists and Code of Conduct*. (APA Ethics Code)
- *APA Guidelines for Child Custody Evaluations in Family Law Proceedings*. (APA CCG)
- *AFCC Model Standards of Practice for Child Custody Evaluation*.
- *APA Specialty Guidelines for Forensic Psychology*. (SGFP)

Why Understand These Documents?

Complementary Psych- Law Principles

- Bases for Scientific and Professional Judgments: Psychologists' work is based upon established scientific and professional knowledge of the discipline. (APA *Ethics Code* 2.04).
- "An expert is permitted wide latitude to offer opinions . . . premised on an assumption that the expert's opinion will have a reliable basis in the knowledge and experience of his discipline." *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 592 (1993).

Complementary Psych- Law Principles

- Ethical rules and practice guidelines may assist courts by serving as “red flags” to raise potential problems with the reliability of expert testimony.
- Failure to comply with the ethics code or guidelines is powerful evidence that the reasoning and methodology may be invalid.

D. Shuman & S. Greenberg, *The Role of Ethical Norms in the Admissibility of Expert Testimony*, 37 ABA Judges J. 4 (1998).

Touchstone Words

Reliable Testimony = Trustworthy Testimony

“... our reference here is to evidentiary reliability—that is, trustworthiness.”

Daubert v. Merrell Dow Pharmaceuticals,
509 U.S. 579, 590 n.9 (1993).

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Who Are You, and What Do You Do? Ethics and Standards in Child Custody Evaluations

Also available as part of the eCourse

[Who Are You and What Do You Do: Custody Evaluations](#)

First appeared as part of the conference materials for the
2013 Innovations-Breaking Boundaries in Custody Litigation session
"Who Are You and What Do You Do?"