Guidelines for Parenting Coordination

Developed by

The AFCC Task Force on Parenting Coordination

May 2005
Foreword

The Guidelines for Parenting Coordination ("Guidelines") are the product of the interdisciplinary AFCC Task Force on Parenting Coordination ("Task Force"). First appointed in 2001 by Denise McColley, AFCC President 2001-02, the Task Force originally discussed creating model standards of practice. At that time, however, the Task Force agreed that the role was too new for a comprehensive set of standards. The Task Force instead investigated the issues inherent in the new role and described the manner in which jurisdictions in the United States that have used parenting coordination resolved those issues. The report of the Task Force’s (2001-2003) two-year study was published in April of 2003 as “Parenting Coordination: Implementation Issues.”

The Task Force was reconstituted in 2003 by Hon. George Czutrin, AFCC President 2003-04. President Czutrin charged the Task Force with developing model standards of practice for parenting coordination for North America and named two Canadian members to the twelve-member task force. The Task Force continued investigating the use of the role in the United States and in Canada and drafted Model Standards for Parenting Coordination after much study, discussion and review of best practices in both the United States and Canada.

AFCC posted the Model Standards on its website, afccnet.org, and the TaskForce members also widely distributed them for comments. The Task Force received many thoughtful and articulate comments which were carefully considered in making substantive and editorial changes based upon the feedback that was received. Even the name of this document was changed to “Guidelines for Parenting Coordination” to indicate the newness of the field of parenting coordination and the difficulty of coming to consensus in the United States and Canada on “standards” at this stage in the use of parenting coordination. The AFCC Board of Directors approved the Guidelines on May 21, 2005.

The members of the AFCC Task Force on Parenting Coordination (2003 – 2005) were: Christine A. Coates, M.Ed., J.D., Chairperson and Reporter; Linda Fieldstone, M.Ed., Secretary; Barbara Ann Bartlett, J.D., Robin M. Deutsch, Ph.D., Billie Lee Dunford-Jackson, J.D, Philip M. Epstein, Q.C. LSM, Barbara Fidler, Ph.D., C.Psych, Acc.FM, Jonathan Gould, Ph.D., Hon. William G. Jones, Joan Kelly, Ph.D., Matthew J. Sullivan, Ph.D., Robert N. Wistner, J.D.

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GUIDELINES FOR PARENTING COORDINATION

Overview and Definitions

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children’s needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships. Parenting coordination is a quasi-legal, mental health, alternative dispute resolution (ADR) process that combines assessment, education, case management, conflict management and sometimes decision-making functions.

The Parenting Coordinator (hereinafter referred to as “PC”) role is most frequently reserved for those high conflict parents who have demonstrated their long-term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict. Because the PC makes recommendations and/or decisions for the parties and possibly reports to the court, the PC should be appointed by and be responsible to the court. This delegation of judicial authority is a serious issue and courts should only appoint qualified professionals. The power and authority inherent in the role of the PC are substantial whether stipulated by the parties or assigned by the court. Therefore, it is important that any jurisdiction implementing a parenting coordination program adopt and adhere to guidelines for PC practice and programs.

As the parenting coordination model has been implemented in various jurisdictions, there has been variation in the manner in which the PC practices, the authority of the PC, the stage of the legal process when the PC is appointed and functions, the various roles of the PC, the qualifications and training of the PC, and the best practices for the role.

The alternative dispute resolution process described above as central to the parenting coordinator’s role may be inappropriate and potentially exploited by
perpetrators of domestic violence who have exhibited patterns of violence, threat, intimidation and coercive control over their co-parent. In those cases of domestic violence where one parent seeks to obtain and maintain power and control over the other, the role of the PC changes to an almost purely enforcement function. Here, the PC is likely to be dealing with a court order, the more detailed the better, rather than a mutually agreed upon parenting plan; the role is to ensure compliance with the details of the order and to test each request for variance from its terms with an eye to protecting the custodial parent’s autonomy to make decisions based on the children’s best interests and guarding against manipulation by the abusing parent. ADR techniques in such cases may have the effect of maintaining or increasing the imbalance of power and the victim’s risk of harm. Accordingly, each jurisdiction should have in place a process to screen out and/or develop specialized PC protocols and procedures in this type of DV case. Likewise, PCs should routinely screen prospective cases for DV and decline to accept such cases if they do not have specialized expertise and procedures to effectively manage DV cases involving an imbalance of power, control and coercion.

The purpose of these Guidelines for Parenting Coordination ("Guidelines") is to provide:

1. detailed guidelines of practice for PCs;
2. guidelines for PCs regarding their ethical obligations and conduct;
3. qualifications for PCs, including relevant education, training and experience;
4. assistance to jurisdictions that are implementing parenting coordination programs by providing guidelines of practice that they can adopt; and
5. assistance to jurisdictions, professional organizations, educational institutions and professionals in the development and implementation of parenting coordination programs.

These Guidelines are aspirational in nature and offer guidance in best practices, qualifications, training and ethical obligations for PCs. Although they are not intended to create legal rules or standards of liability, they do provide very specific and detailed recommendations for training and best practices because of the expressed need for guidelines for program development and training. It is understood that each jurisdiction may vary in its practices; however, for parenting coordination to be accepted as a credible professional role, certain minimum guidelines of conduct and best practices must be articulated and followed.

The Guidelines for Parenting Coordination include different levels of guidance:
Use of 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.

Most of the Guidelines use the term “should” which indicates that the practice described in the Guideline is highly desirable and should be departed from only with very strong reason.

The rarer use of the term “shall” in a Guideline is a higher level of guidance to the PC, indicating that the PC should not have discretion to depart from the practice described.

**Guideline I**

A PC shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in the role.

A. The PC shall be required to have training and experience in family mediation. The PC should become a certified/qualified mediator under the rules or laws of the jurisdiction in which he or she practices, if such certification is available.

B. The PC shall be a licensed mental health or legal professional in an area relating to families, or a certified family mediator under the rules or laws of the jurisdiction with a master’s degree in a mental health field.

C. The PC should have extensive practical experience in the profession with high conflict or litigating parents.

D. The PC shall have training in the parenting coordination process, family dynamics in separation and divorce, parenting coordination techniques, domestic violence and child maltreatment, and court specific parenting coordination procedures. A model training curriculum incorporating four modules is included in these Guidelines as Appendix A.

E. A PC shall acquire and maintain professional competence in the parenting coordination process. A PC shall regularly participate in educational activities promoting professional growth. It is recommended that a PC participate in peer consultation or mentoring to receive feedback and support on cases. PC orders and/or private agreements should specify that such professional consultation is permitted.
F. A PC shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC’s skill or expertise.

G. A jurisdiction should consider “grandfathering” existing professionals with appropriate experience.

Guideline II

A PC shall maintain impartiality in the process of parenting coordination, although a PC is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

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

B. A PC shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the parenting coordination process. During the parenting coordination process, a PC shall not solicit or otherwise attempt to procure future professional services or positions from which the PC may profit.

C. A PC shall not coerce or improperly influence any party to make a decision.

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

E. A PC shall 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 III

A PC shall not serve in a matter that presents a clear conflict of interest.

A. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to compromise a PC’s impartiality.

B. A PC shall disclose potential conflicts of interest as soon as practical after a PC becomes aware of the interest or relationship giving rise to the potential conflict.
C. After appropriate disclosure, the PC may serve with the written agreement of all parties. However, if a conflict of interest clearly impairs a PC’s impartiality, the PC shall withdraw regardless of the express agreement of the parties.

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

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

Guideline IV

A PC shall not serve in dual sequential roles.

A. A PC shall not serve in multiple roles in a case that create a professional conflict.

1. A child’s attorney or child advocate shall not become a PC in the same case.

2. A mediator or custody evaluator shall be cautious about becoming a PC in the same case, even with the consent of the parties, because of the differences in the role and potential impact of the role change.

3. A PC shall not become a custody evaluator either during or after the term of a PC’s involvement with the family.

4. A PC shall not be appointed after serving as a therapist, consultant, or coach, or serve in another mental health role to any family member.

5. A PC shall not become a therapist, consultant, or coach, or serve in any other mental health role to any family member, either during or after the term of the PC’s involvement.

6. A PC shall not become one client’s lawyer, either during or after the term of the PC’s involvement, nor shall one client’s lawyer become the PC in that client’s case.

B. A PC should attempt to facilitate resolution of issues by agreement of the parties; however, the PC is not acting in a formal mediation role. An effort towards resolving an
issue (which may include therapeutic, mediation, educational, and negotiation skills) does not disqualify a PC from deciding an issue that remains unresolved after efforts of facilitation.

**Guideline V**

A PC shall inform the parties of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A PC shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process, which is obtained during the parenting coordination process, except as provided by court order or by written agreement of the parties.

A. Parenting coordination is not a confidential process, either for communications between the parties and their children and the PC, or for communications between the PC and other relevant parties to the parenting coordination process, or for communications with the court.

B. A PC shall inform the parties of the following limitations of confidentiality:

1. The PC shall report suspected child abuse or neglect to child protective services whether or not a mandatory or voluntary reporter under state, provincial or federal law; and

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2 Parenting coordination is an unusual type of intervention that does not fit within the existing framework of rules and laws dealing with the subjects of "statutory privileges," "rules of evidence," and "professional codes of ethics" related to the subject of "confidentiality" and statements made by parents or people involved in any disputed parenting case. In cases not involving a PC, the statements of parties may be protected from use as evidence in the dispute resolution process, for any of those reasons. However, the essence of the PC concept is that all such confidentiality protections need to be stripped away, so the PC is free to make quick decisions based upon all knowledge the PC has obtained from the parties and other sources. Consequently, in order for the PC to be empowered to operate freely and effectively in the role of expeditious dispute resolver, appropriate provisions need to be included in the written agreement and/or court order of appointment for the effective waiver of all privileges and rules of evidence or professional conduct regarding confidentiality which may be waived. In addition, a clear statement should be included to provide that the PC will not provide either party with legal advice or representation or psychotherapy, and the parents are advised to seek any such advice from independent providers of their own choice. The parents are entitled to a very clear and unambiguous description of the privileges and rules they are being asked to waive in order to empower the PC to perform the rather unique services contemplated in the parenting coordination process. Likewise, the PC has a significant concern with establishing a barrier from complaints of unprofessional conduct from disgruntled parents who are not happy about PC decisions.
2. The PC shall report to law enforcement or other authorities if the PC has reason to believe that any family member appears to be at serious risk to harm himself or herself, another family member or a third party.

**Guideline VI**

*A PC shall assist the parties in reducing harmful conflict and in promoting the best interests of the children consistent with the roles and functions of a PC.*

A. A PC serves an assessment function. The PC should review the custody evaluation, other relevant records, interim or final court orders, information from interviews with parents and children and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parties.

B. A PC serves an educational function. The PC should educate the parties about child development, divorce research, the impact of their behavior on the children, parenting skills, and communication and conflict resolution skills. The PC may coach the parties about these issues.

C. A PC serves a coordination/case management function. The PC should work with the professionals and systems involved with the family (e.g. mental health, health care, social services, education, legal) as well as with extended family, stepparents, and significant others.

D. A PC serves a conflict management function. The PC’s primary role is to assist the parties to work out disagreements regarding the children to minimize conflict. The PC may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parents in reducing conflict, the PC may monitor the faxed, emailed, or written exchanges of parent communications and suggest more productive forms of communication that limit conflict between the parents. In order to protect the parties and children in domestic violence cases involving power, control and coercion, a PC should tailor the techniques used so as to avoid offering the opportunity for further coercion.

E. A PC serves a decision-making function. When parents are not able to decide or resolve disputes on their own, the PC shall be empowered to make decisions to the extent described in the court order, or to make reports or recommendations to the
court for further consideration. PCs should communicate their decisions in a timely manner in person or by fax, e-mail or telephone. In the event decisions are provided orally, a written version shall follow in a timely manner.

F. A PC shall not offer legal advice.

Guideline VII

A PC shall serve by parent stipulation and/or formal order of the court, which shall clearly and specifically define the PC’s scope of authority and responsibilities.

A. A court order is necessary to provide the PC authority to work with the parents outside of the adversarial process, to obtain information, and to make recommendations and decisions as specified in the order.3

B. In addition to the court order for the PC, a written agreement between the parties and the PC may be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers.

C. The court order or consent order should specify a term of service for the PC, including starting and ending dates.4 Parents can request that a PC continue for additional terms of service following the expiration of each term or can decline to renew the PC’s services. Similarly the PC can give notice prior to the end of the term of service that the PC will not continue to serve as PC.

D. A PC should not initiate providing services until the PC has received the fully executed and filed court order appointing the PC, or the parents, their counsel (if any) and the PC have signed a consent agreement, if any.

3 In some jurisdictions, a stipulation or consent decree is required for the appointment of a PC. A few jurisdictions allow the court to appoint the PC on its own authority. In Canada, the authority of the PC to make decisions is derived from arbitration statutes and a PC may function with the parents’ consent only.

4 Many experienced PC’s have found a period of 18 months to 2 years to be optimal in terms of becoming familiar with the family and developing a working relationship with the parents.
Guideline VIII

A PC shall facilitate the participants’ understanding of the parenting coordination process so that they can give informed consent to the process.

A. The position of the PC is one of considerable authority and power. It is important that parents fully understand the extent of the parental rights and power they are assigning to the PC in the form of decision-making, the limited nature of the confidentiality of the process, the professional persons with whom the PC will be authorized to consult or obtain information, and what the parents’ rights are in seeking redress with the court.

B. In the first session, a PC should carefully review the nature of the PC’s role with the parents, to ensure that they understand what the parenting coordination process involves.

Guideline IX

A PC shall fully disclose and explain the basis of any fees and charges to the participants.

A. All charges for parenting coordination services shall be based upon the actual time expended by the PC or as directed by the local jurisdiction’s parenting coordination program. All fees and costs shall be appropriately divided between the parties as directed by the court order of appointment or as agreed upon in the PC’s written fee agreement with the parties with the approval of the court.\(^5\)

B. Prior to beginning the parenting coordination process, and in writing, a PC shall explain to the parties and counsel the basis of fees and costs and the method of payment and any fees associated with postponement, cancellation and/or nonappearance, as well as any other items and the parties’ pro rata share of the fees and costs as determined by the court order or agreed to by the parties with approval of the court. In cases of domestic violence involving power, control and coercion, the PC shall hold individual sessions with the parties to convey this information.

\(^5\) Typically the fees are split equally between the parties, although if their assets and income differ substantially, fees may be apportioned accordingly. In states that have the Income Shares child support guidelines, courts sometimes apportion responsibility for PC costs in the same percentages as child support is apportioned. The court, rather than the PC, should make a determination of the appropriate ratio of payment based on the available financial data. The order may also include a provision for the parent coordinator to alter the usual ratio of payment if one parent abuses the process. In the event that a party requests judicial review of a parenting coordinator decision and does not prevail, the court may order full payment of fees by that party.
C. Activities for which a PC may charge typically include time spent interviewing parents, children and collateral sources of information; preparation of agreements; correspondence, decisions and reports; review of records and correspondence; telephone and electronic conversation; travel; court preparation; and appearances at hearings, depositions and meetings.

D. The PC should comply with any local statute, constitutional rulings, or practice rules regarding fees. A PC may request a retainer or advance deposit prior to starting a case. The parties should be billed on a regular basis and notified when the retainer or advance deposit, if any, is to be replenished.

E. A PC shall maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parties, their counsel or the court on a regular basis, if requested to do so.

**Guideline X**

A PC will communicate with all parties, counsel, children, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parents and children. The PC will have access to persons involved with family members and to documentary information necessary to fulfill the responsibilities of the PC.

A. Because parenting coordination is a non-adversarial process designed to reduce acrimony and settle disputes efficiently, a PC may engage in ex parte (individual) communications with each of the parties and/or their attorneys, if specified in writing in the order of appointment, PC agreement or stipulation. The PC may initiate or receive ex parte oral or written communications with the parties and their attorneys, legal representatives of the children, and other parties relevant to understanding the issues. The PC should do so in an objective, balanced manner that takes into consideration the possibility or perception of bias. The PC should communicate agreements, recommendations, or decisions to all parties and counsel at the same time.

B. If reports are written, the PC should follow the court's rules or instructions regarding whether the court should receive a copy. The PC shall not communicate ex parte with the judge.

C. The PC typically should have access to any persons involved with family members including, but not limited to, the custody evaluator, lawyers, school officials, and

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6 In some jurisdictions, the PC also requires a refundable deposit from each party for any fees and expenses incurred but not paid prior to ending the case.
physical and mental health care providers. The PC shall have the authority to meet with the children, any stepparent or person acting in that role, or anyone else the PC determines to have a significant role in contributing to or resolving the conflict. The PC should notify any such collateral sources 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.

D. The PC should have access to all orders and pleadings filed in the case, as well as the custody evaluation report, school and medical records of the children, and reports of psychological testings that were generated prior to, during or after the pendency of the case. The court order should require that the parties execute releases and consents to permit access to such data and other relevant information.

E. The PC should have initial individual and/or joint interviews with the parties, and may want to interview the children if the PC has the appropriate training and skills. PCs may interview any individuals who provide services to the children as needed to assess the children's needs and wishes. The communication between the parties may be in joint face-to-face meetings, telephone conference calls, individual face-to-face or telephone meetings, e-mail, or fax. The PC should determine whether separate or joint sessions are most appropriate at any particular time. In cases of domestic violence involving power, control and coercion, the PC shall conduct interviews and sessions with the parties individually.

F. The PC shall be alert to the reasonable suspicion of any acts of domestic violence directed at the other parent, a current partner, or the children. The PC should adhere to any protection orders, and take whatever measures may be necessary to ensure the safety of the parties, their children and the PC.

G. The PC should be alert to the reasonable suspicion of any substance abuse by either parent or child, as well as any psychological or psychiatric impairment of any parent or child.

H. The PC should keep notes regarding all communications with the parties, the children and other persons with whom the PC speaks about the case.

I. A PC shall document in writing all resolutions agreed upon by the parties or determined by arbitration, noting the process by which the agreement or decision was made.

J. The PC shall maintain records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support decisions and recommendations by the PC.
Guideline XI

A PC should attempt to facilitate agreement between the parties in a timely manner on all disputes regarding their children as they arise. When parents are unable to reach agreement, and if it has been ordered by the court, or authorized by consent, the PC shall decide the disputed issues.

A. A PC may be granted the authority to make decisions for the parties when they cannot agree, or the PC may be allowed only to make recommendations to the parties or the court. The scope of the PC's decision-making authority may be limited in some jurisdictions by constitutional law or statute. A PC should be knowledgeable about governing law and procedure in the PC's jurisdiction regarding decision-making or arbitration by the PC.

B. A PC shall have only the authority that is delegated in the court order or the consent provided by the parties. If so written in the order or consent agreement, a PC may have authority to resolve the following type of issues:

1. Minor changes or clarification of parenting time/access schedules or conditions including vacation, holidays, and temporary variation from the existing parenting plan;

2. Transitions/exchanges of the children including date, time, place, means of transportation and transporter;

3. Health care management including medical, dental, orthodontic, and vision care;

4. Child-rearing issues;

5. Psychotherapy or other mental health care including substance abuse assessment or counseling for the children;

6. Psychological testing or other assessment of the children and parents;

7. Education or daycare including school choice, tutoring, summer school, participation in special education testing and programs or other major educational decisions;

8. Enrichment and extracurricular activities including camps and jobs;

9. Religious observances and education;
10. Children's travel and passport arrangements;

11. Clothing, equipment, and personal possessions of the children;

12. Communication between the parents about the children including telephone, fax, e-mail, notes in backpacks, etc.;

13. Communication by a parent with the children including telephone, cell phone, pager, fax, and e-mail when they are not in that parent's care;

14. Alteration of appearance of the children including haircuts, tattoos, ear and body piercing;

15. Role of and contact with significant others and extended families;

16. Substance abuse assessment or testing for either or both parents or a child, including access to results; and

17. Parenting classes for either or both parents.

C. The PC should use or gather written or verbal statements of the dispute from each party, as well as other relevant sources of information. The methodology used by the PC shall be fair to both parties, and be transparent to both the court and the parties. Each party shall be given an opportunity to be heard in the process. Notice shall be given as to what is expected from the participation of the parties and the consequences of nonparticipation. If one party refuses to cooperate after notice, then the PC may continue to resolve the dispute.  

D. The PC shall issue a written resolution of the dispute or a verbal decision in time sensitive matters to be followed by a written decision. 

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7 In some jurisdictions, the PC must notify the parties of the intent to proceed to an arbitration phase if the parties do not reach agreement on their own or with the assistance of the PC.

8 There is variation in the destination of the PC's recommendations and decisions. In most but not all jurisdictions in which PCs are appointed by court order, the PC is expected to send all recommendations, reports, and decisions to the court, as well as to each parent and their attorneys. Where the PC has not been appointed by the court, PCs should prepare recommendations, reports and decisions in such a manner that the court can access the information if requested. In most jurisdictions, that determination becomes an order and is considered binding. Standards for appeal and judicial review vary from jurisdiction to jurisdiction.
E. A PC shall refrain from making decisions that would change legal custody and physical custody from one parent to the other or substantially change the parenting plan. Such major decisions are more properly within the scope of judicial authority. PCs may need to make temporary changes in the parenting plan if a parent is impaired in his or her functioning and incapable of fulfilling his or her court-ordered parenting functions until further information and assessment is obtained and the court has assumed decision-making responsibility.

Guideline XII

A PC shall not engage in marketing practices that contain false or misleading information. A PC shall ensure that any advertisements regarding qualifications, services to be rendered, or the parenting coordination process are accurate and honest. A PC shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.
Parent Information Sheet
AGREEING TO USE A PARENTING COORDINATOR IN CUSTODY CASES

PARENT INFORMATION SHEET

Using a Parenting Coordinator to help make decisions about your child(ren) can be a useful alternative to repeatedly going to court and having a judge make decisions.

A Parenting Coordinator is a mental health professional, mediator or family law attorney, who specializes in helping parents resolve disputes about what is best for the child(ren) and can make such decisions about child(ren) if the parents are unable to do so.

Parents may want to consider hiring a Parenting Coordinator when other avenues of problem resolution have not resulted in an ability to make decisions about their children) and there continue to be disagreements about such issues as schedules, information sharing, temporary and minor changes to the parenting time schedule, choice of schools, extracurricular activities, difficulties during custody transfers, holiday scheduling, the handling of the child(ren)'s behavior, religious training, health issues, and problematic behaviors on the party(s) of one or both parents. Most often the family has already participated in a custody evaluation and an Order is in place. When parents hire a Parenting Coordinator, they give the Parenting Coordinator the power to make binding decisions about their child(ren) when they are unable to agree.

Parents must first agree to use a Parenting Coordinator and agree to a specific person. The parents then submit a stipulation to the court that names the Parenting Coordinator, defines what issues the Parenting Coordinator has the power to make decisions about and defines how long the Parenting Coordinator will perform his/her job. This stipulation then becomes a court order.

After a Parenting Coordinator has been ordered, he/she will want to meet the parents, perhaps meet the child(ren) and review evaluations and other documents that will help them get to know the family and the types of problems that have come up in the past. With some Parenting Coordinators and with some families, there will be regular meetings; in other families or with other Parenting Coordinators, meetings will happen when a problem arises. When a dispute occurs, the Parenting Coordinator first tries to help the parents mediate the problem. The Parenting Coordinator might want to get other information such as the child(ren)'s opinion, information from doctors, therapists, schools or other caretakers. Information provided to a Parenting Coordinator by parents or from other sources will not be confidential. If the parents cannot come to an agreement, the Parenting Coordinator then makes a decision. When the decision is about a big issue, the Parenting Coordinator's written decision is filed with the court. If one parenting is opposed to the decision, they can file a motion in a timely manner, and the decision will be reviewed in a hearing by the court. The decision stands and is in effect until further
order of the court. For major decisions, such as a change in legal or physical custody, a
decision about one parenting moving away or a significant change in the visitation schedule,
the Parenting Coordinator may submit a recommendation (not a decision) if requested by
both of the parties.

Hiring a Parenting Coordinator is a serious matter, but can be very helpful. It is
especially helpful for families who continue to have frequent disagreements, families
where parents remain very angry with each other, families where there are very young
children who require changes in scheduling, and families where the parents need to share
information with each other but find it hard to do that without getting angry. Parenting
Coordinators are also useful in families where parents have concerns about drugs, alcohol,
child abuse, or the stability of the other parenting.

Once you decide to have a Parenting Coordinator, and have named that person in a
court order, you may be "stuck" with that person for the whole term that is defined in the
order. If both parents find that the Parenting Coordinator is not helpful, they can agree
to fire the parenting Coordinator. If the parenting Coordinator feels that he/she cannot
be helpful to the family, he/she can resign. However, if only one parenting is unhappy with
the Parenting Coordinator, that parenting cannot fire the Parenting Coordinator. If the
Parenting Coordinator makes a decision that seems wrong to one parenting or if the
Parenting Coordinator acts in a manner that seems unprofessional, the parenting should
first talk with the Parenting Coordinator about their complaints. If the parenting is still
unsatisfied, they should submit a written statement of their complaint to the attorneys in
the case, the Parenting Coordinator, and to the other parenting. The Parenting
Coordinator will meet with the parenting and their attorney. If the Complaint is still not
resolved after that meeting, the parenting can make a motion to the court to have the
Parenting Coordinator removed. The judge will then review the complaint and make a
decision.

Just like judges, a Parenting Coordinator is protected by "quasi-judicial immunity."
That means that a Parenting Coordinator cannot be sued, their records cannot be
subpoenaed and they cannot be made to testify about their decisions. The reason for
giving the Parenting Coordinator this protection is that they may be making decisions that
one parenting may not like. If every time they made a decision that was unpopular they
could be sued, professionals would soon stop doing this kind of work.

The Parenting Coordinator's goals are somewhat different than that of a judge. A
judge's job is to make decisions that are legally sound and in the best interest of the
child(ren). A Parenting Coordinator's job is to focus on the child(ren)'s best interests, but
also help families learn effective problem solving strategies, to learn how to communicate
well with each other, to learn more about child development, and sometimes, how to
understand their feelings about the other parenting and develop trust in each other.
Whenever possible, a major goal is to help families develop better skills so they do not
need a Parenting Coordinator and the power to make decisions about their child(ren) can be put back in their own hands.

The fees for the services of a Parenting Coordinator are paid by the parents. Most Parenting Coordinators request a retainer when they begin their work with a family. Before a Parenting Coordinator is appointed, the judge will decide what portion of the fee will be paid by each parent. However, the Parenting Coordinator may adjust this division of payment in special circumstances.
Proposed Order: Agreement, Parenting Plan and Order for Parenting Coordination
[AGREEMENT, PARENTING PLAN AND] ORDER
FOR PARENTING COORDINATION

AND NOW, [the above-captioned Parties agreeing and ] the Court finding that it is in the
best interest of the child[ren], [NAMES OF CHILDREN, DOB], that a Parenting Coordinator be
appointed to assist the parties in implementing the custodial arrangement set forth in the Custody
Agreement/Parenting Plan/Order dated ________________________ and in resolving
related parenting issues about which they do not agree, the following is [STIPULATED AND]
ORDERED:

1. APPOINTMENT AND TERM:

________________________ is appointed as the Parties' Parenting Coordinator for a term of [__]
months, or until the resignation of the Parenting Coordinator or termination of the appointment
by the Court, whichever first occurs. The Parenting Coordinator's Terms of Engagement are
attached hereto and are incorporated into this [Custody Agreement/Parenting Plan/Order]. The
Court shall have authority to impose sanctions upon a party for non-compliance with the
Parenting Coordinator's Terms of Engagement.

Legal counsel for __________________________ [or either party, if pro-se] shall
provide copies of all Orders, Pleadings and Custody Evaluations in this case to the Parenting
Coordinator within ten (10) days of the date hereof.
2. ROLE OF THE PARENTING COORDINATOR:

A. Parenting Coordination involves two components:

1) The Parenting Coordinator shall attempt to resolve issues arising out of the custody order/court approved agreement/parenting plan through facilitation, mediation, consultation, coaching and education, all of which are non-decision-making functions;

2) If it is apparent to the Parenting Coordinator that continued similar efforts are unlikely to resolve the issue(s), the Parenting Coordinator shall have the authority to resolve the dispute by providing a Decision for the parties on the issue(s).

B. The Parenting Coordinator will not function as the psychotherapist, counselor, attorney or advocate for the parties, or the parties’ child(ren), or family. However, the Parenting Coordinator is permitted and encouraged to facilitate communication and agreement between the parties whenever possible, and shall always act in a manner conducive to the best interests of the child(ren).

3. PARENTING COORDINATOR'S AUTHORITY:

The Parenting Coordinator, in order to implement the custodial arrangement set forth in the Custody Agreement/Parenting Plan/Order and resolve related parenting issues about which they do not agree, is authorized to make decisions about issues that may include, but are not limited to, the following:

A. Dates, times, places and conditions for transitions between households;

B. Temporary variation from the schedule for a special event or particular circumstance;
C. Minor adjustments to the physical custody schedule as set forth in the current Custody Order / Agreement / Parenting Plan;

D. School issues, apart from school selection;

E. Child[ren]'s participation in recreation, enrichment, and extracurricular activities, programs and travel;

F. Child-care arrangements;

G. Clothing, equipment, toys and personal possessions of the child[ren];

H. Behavioral management of the child[ren];

I. Information exchange (school, health, social, etc.) and communication with or about the child[ren];

J. Coordination of existing or court-ordered services for either of the parties or child[ren] (e.g. Psychological testing, alcohol or drug monitoring / testing, psychotherapy, anger management, parenting class, etc.);

K. Other related custody issues that the parties mutually agree, in writing, to submit to the Parenting Coordinator.

4. EXCLUSIONS FROM PARENTING COORDINATOR’S AUTHORITY:

A. The following specific issues are excluded from the Parenting Coordinator’s function and decision-making authority, except as provided in subparagraph (B) hereinbelow:

1) A change in legal custody decision-making authority set forth in the Custody Agreement / Parenting Plan / Order;

2) A change in primary physical custody (residential parenting time) set forth in the Custody Agreement / Parenting Plan / Order;
3) A change in the Court-ordered custody schedule (parenting time) that substantially reduces or expands the child[ren]'s time with one or both parties;

4) A change in the geographic residence of the child[ren]'s (relocation) that would render implementation of the current Custody Agreement/Parenting Plan/Order impossible or impracticable;

5) Determination of financial issues, other than allocation of the Parenting Coordinator's fees;

6) Other: ________________________________

B. The Parties may mutually agree in writing to submit any of the excluded issues set forth above to the Parenting Coordinator for facilitation and recommendation which recommendation shall only become binding upon written agreement of the parties.

5. NON-CONFIDENTIALITY OF COMMUNICATIONS:

No communications of the parties and / or their lawyers with the Parenting Coordinator are confidential. The Parenting Coordinator may communicate in writing with the Court regarding any matter, and shall send contemporaneous copies of any such communication to [the parties (if pro-se)] legal counsel.

6. SOURCES OF INFORMATION:

Each party shall provide the Parenting Coordinator with all information that the Parenting Coordinator requests, including signed HIPAA releases and other forms requested. The Parenting Coordinator is authorized to contact any professional or other individual as the Parenting Coordinator deems necessary (e.g. the children, therapists, physicians, childcare providers, teachers, family members, etc.).

7. COMMUNICATION WITH THE PARENTING COORDINATOR:
A. Protocol:

The Parenting Coordinator shall determine the protocol of all communications, interviews, and sessions, including who shall or may attend the sessions (including the children), and whether the sessions will be conducted in person or by other means. Where domestic violence or abuse, as defined under 23 Pa. C.S. § 6102, is alleged, the protocols should include measures addressing the safety of all participants, unless the Court deems the measures unnecessary.

B. Oral and Written Communications With The Parenting Coordinator:

The parties and their attorneys shall have the right to receive, but not to initiate, oral ex parte (one-sided) communications from the Parenting Coordinator, but the fact of such communication shall be known to the other party. Any party or legal counsel may communicate in writing with the Parenting Coordinator provided a copy is sent to the other party simultaneously. Any documents, tape recordings or other material which one party gives to the Parenting Coordinator must also be made available to the other party or his/her legal counsel for inspection and copying. In accordance with paragraph 5 hereinabove, no such communications are confidential.

C. Written Communications Between the Parenting Coordinator and Appointing Judge

(1) The Parenting Coordinator will have the ability to initiate written communication with the Appointing Judge, and shall contemporaneously send copies to both attorneys

(a) in the event of non-compliance of a party with any provision of this Appointment Order (including provisions relating to the compensation of the Parenting Coordinator); and /or
(b) detailing the Parenting Coordinator's reasons for withdrawing from service in the case.

(2) Absent an emergency affecting the child[ren]'s health or welfare, any communication from the Parenting Coordinator to the court shall be in writing, and shall be copied simultaneously to the parties (or, if represented, counsel). If the Parenting Coordinator has communicated orally with the Court on an emergency basis, the Parenting Coordinator promptly shall communicate to the parties (or, if represented, counsel) in writing the substance of the oral communication.

8. PARENTING COORDINATION DECISION-MAKING PROCESS

A. Prior to the Parenting Coordinator making a Decision, the Parenting Coordinator shall provide a notice and opportunity for each of the parties to be heard, unless exigent circumstances render contact with both parties impracticable or potentially dangerous to a party and/or the child[ren]. In the event a party is given advance written notice of a session but does not attend, the Parenting Coordinator may make a Decision despite that party's absence.

B. Decisions:

1) The Parenting Coordinator's Decisions may be communicated to the parties orally, but must be confirmed in writing a soon as practicable and filed in the Prothonotary's Office at the parties' above-captioned custody docket;

2) The Parenting Coordinator's Decisions shall be binding upon the parties unless and until revised by Court Order.

9. JUDICIAL REVIEW:

A. Review of Decisions:
Any party seeking judicial review of a Parenting Coordinator’s Decision must file a
Petition for a de novo hearing within 20 days of the filing of the Decision, specifically stating the
issue(s) and attaching a copy of the Decision. The Petition must be served on the other party(ies)
and Parenting Coordinator in accordance with the Rules of Civil Procedure. The hearing before
the Court shall be de novo. The Court shall hear the case on the record, and shall render a
decision within the time periods set forth in Rule 1915.4.

B. New Court Proceedings:

Prior to filing any new motion, petition or complaint with the Court involving non-
emergency custody or parenting of the child[ren] within the scope of the Parenting Coordinator’s
authority, the parties shall participate in no fewer than two sessions with the Parenting
Coordinator to attempt resolution of the specific disputed issue[s] (and to permit a Decision to be
made to the extent authorized by paragraph 3 hereinabove).

C. The procedures set forth in this Section 9 are mandatory, and may not be waived
by the parties.

10. QUASI-JUDICIAL IMMUNITY:

In accordance with Pa. R. Civ.P. §1915.17, the Court-appointed Parenting Coordinator is
an Officer of the Court, and has quasi-judicial immunity. As such the Parenting Coordinator
cannot be sued based on his/her actions performed within the scope of this [Custody
Agreement/Parenting Plan/Order].

11. CHILD ABUSE REPORTING:

The Parenting Coordinator is a person required to report suspected child abuse pursuant
to 23 Pa. C.S.A. §6311.

12. TESTIMONY:
The Parenting Coordinator cannot be compelled to testify in any proceeding absent a Court Order. In the event the Parenting Coordinator elects or is required to testify, he/she shall be compensated commensurate with his/her rate by one or both of the parties as the Court deems appropriate.

13. **ALLOCATION OF FEES:**

   The parties will share the obligation to pay the fees of the Parenting Coordinator: ___% Mother, ___% Father. Fees may be reallocated by the Court or the Parenting Coordinator if he / she determines that one party has disproportionately caused the need for the service. The Parenting Coordinator may, in his/her discretion charge parties for missed sessions or sessions cancelled less than twenty-four hours prior to the scheduled session.

14. **TERMINATION / WITHDRAWAL OF PARENTING COORDINATOR:**

   A. Neither party may unilaterally terminate the Parenting Coordinator’s services without Court approval, nor may the parties do so by mutual agreement without Court approval.

   B. The Parenting Coordinator may withdraw from service at any time, upon ten days’ written notice to [the parties], all counsel of record, and the Court.

   C. Dissatisfaction with the Parenting Coordinator’s Decisions is not grounds for termination. The opposing party and Parenting Coordinator shall be given notice of any petition for termination. The Court may rule on the petition(s) submitted, or may schedule argument or an evidentiary hearing.

[15. **ACCEPTANCE:**

   A. The parties acknowledge that each has reviewed this Agreement and had the opportunity to consult with legal counsel.
B. Each party agrees to the appointment of ____________________________
as Parenting Coordinator, and agrees to fully cooperate with the Parenting Coordinator in
compliance with this Custody Agreement/Parenting Plan/Order.]

16. This Custody Agreement/Parenting Plan/Order shall not be effective until accepted by the
Parenting Coordinator as evidenced by his/her signature below:

[SIGNATURES:
Mother: ____________________________  Father: ____________________________

Date: ____________________________  Date: ____________________________

Attorney for Mother: ____________________________  Attorney for Father: ____________________________

Other Party (if any):

Date: ____________________________

I agree to my appointment as the Parenting Coordinator for the parties as set forth above.
ORDER

[The above Agreement is entered as a Court Order.]

SO ORDERED.
BY THE COURT:

Date

______________________________, Judge

Distribution:
Plaintiff [Attorney For Plaintiff]:
Defendant [Attorney For Defendant]:
Parenting Coordinator:
Report of the Parenting Coordination Task Force on
Delegation and Delegation to Non-Lawyers

The Parenting Coordination Task Force is an interdisciplinary ad hoc committee that arose as an offshoot of the Commission of Justice Initiatives/Changing the Culture of Custody Committee. The task force consists of judges, family law attorneys, court administrators and psychologists from across the state.\(^1\) Its mission is to research and implement a protocol for the utilization in Pennsylvania of the process known as parenting coordination in exceptionally high conflict child custody cases.

As stated in the 2007 Report and Recommendations of the Changing the Culture of Custody Committee of the Commission for Justice Initiatives in Pennsylvania:

Another important component of this Committee’s work is recognizing that conflict does not end upon the initial resolution of the turmoil, but often times continues on a daily or weekly basis. As such, it is recommended that trained and authorized Parenting Coordinators be put in place, when necessary, to resolve the everyday disputes that are on-going between some separating parents long after the initial contact with the court has concluded. Swift resolution of these follow-up matters is in everyone’s best interest and this model recognizes this nationwide developing practice as a meaningful and appropriate tool for use throughout Pennsylvania.

At 8. The PC Task Force has been working to produce a model Order of Court and Proposed Rule of Civil Procedure on parenting coordination so that if approved, the procedures will be unified throughout the Commonwealth.

\(^1\) The members of the Parenting Coordination Task Force are: Stephen J. Anderer, J.D., Ph.D.; Rachael L. Baturin, MPH, J.D.; The Honorable Robert G. Bigham; Steven Cohen, Ph.D.; Kimberly Cox, Esquire; Mark B. Dischell, Esquire; John C. Howett, Jr., Esquire; Jane Iannuzzi, M.Ed., M.A.; Marla Isaacs, Ph.D.; Samuel Knapp, Ed.D.; The Honorable Robert J. Matthews; Eve Orlow, Ed.D., M.S.; The Honorable Katherine B.L. Platt; Arnold Shienfeld, Ph.D.; Michele Southworth, J.D., LMFT; David J. Steerman, Esquire; Cynthia K. Stoltz, Esquire; Ann Marie Termini, Ed.S., M.S., LPC; The Honorable Jeannine Turgeon; and The Honorable David N. Wecht.
Questions have been raised as to whether the Pennsylvania Supreme Court can authorize the courts of common pleas to delegate authority to parenting coordinators as envisioned by the proposed rule and order, and specifically whether that authority can be delegated to parenting coordinators who are not lawyers. The conclusions of the Task Force are that the authority can be delegated and that it can be delegated to non-lawyers. Because of the importance of these issues, the reasons why the Task Force reached its conclusions are set forth below.
Pennsylvania Law Permits the Pennsylvania Supreme Court to Authorize the Courts of Common Pleas to Appoint Mental Health Professionals as Parenting Coordinators and the Pennsylvania Supreme Court Should Issue a Rule Allowing for Such Appointments

I. The Pennsylvania Rules of Civil Procedure Provide that Judges can Delegate Certain Custody Decision Making Tasks to Masters

The Pennsylvania Domestic Relations Code provides that “[t]he court may appoint a master to hear testimony on all or some issues, except issues of custody and paternity.” 23 Pa.C.S.A. § 3321. This section of the Domestic Relations Code was suspended by Pennsylvania Rules of Civil Procedure 1920.1 to 1920.92 “insofar as it prohibits the appointment of masters in partial custody or visitation matters.” See comment to 23 Pa.C.S.A. § 3321 “Suspended by Rules of Civil Procedure.” Rule of Civil Procedure 1920.51(a)(2)(iii) states that “[n]o master may be appointed in a claim for legal, physical or shared custody or paternity,” but Rule 1920.51(a)(2)(i) specifically provides that the court may appoint a master with respect to claims of “partial custody or visitation . . . or any aspect thereof.” See also, *Van Dine v. Gyuriska*, 713 A.2d 1104 (Pa. 1998) (master maybe appointed to hear partial custody or visitation matters); *Littman v. Van Hoek*, 789 A.2d 280 (Pa. Super. 2001) (same).

Thus, the Pennsylvania Supreme Court has already determined that the Pennsylvania Courts may delegate certain tasks to masters when those tasks are something less than determinations of legal, physical or shared custody.\(^2\) In fact, the Supreme Court has said that it could have completely suspended Section 3321 of the Domestic Relations Code and permitted a master to hear and determine matters related to

\(^2\) The term “shared custody” in Rule 1920.51 presumably refers to *equally* shared physical custody, since that Rule provides that masters may hear claims regarding partial physical custody.
primary physical custody, but it has chosen not to exercise that power. *Van Dine v. Gyriska*, 713 A.2d 1104, 1105 (Pa. 1998).

The court may also delegate certain tasks to an attorney for the child who has been appointed under Pennsylvania Rule of Civil Procedure 1915.11.

II. The Pennsylvania Rules of Civil Procedure and the Pennsylvania Domestic Relations Code Currently Provide that Judges Can Delegate Certain Child Custody-Related Tasks to Non-Lawyers

Consistent with Rule 1920.51, which allows for the appointment of masters in custody cases, Pennsylvania Rule of Civil Procedure 1915.4-2 provides that in custody matters, the courts may make use of “conference officers” to conduct office conferences and “hearing officers” to conduct hearings. Hearing officers, who are to conduct record hearings, must be lawyers pursuant to Pa.R.C.P. 1915.4-2(b)(1), but there is no requirement that conference officers be lawyers. *See* Pa.R.C.P. 1915.4-2(a). Thus, under the current Pennsylvania Rules of Civil Procedure, office conferences may be conducted by non-lawyers. Conference officers “may make a recommendation to the parties relating to partial custody of visitation of the child or children.” Pa.R.C.P. 1915.4-2(a)(3).

The Pennsylvania Domestic Relations Code also authorizes the delegation of certain child custody-related tasks to non-lawyers. Specifically, the Code provides:

The court may require the parents to attend counseling sessions and may consider the recommendations of the counselors prior to awarding sole or shared custody. These counseling sessions may include, but shall not be limited to, discussions of the responsibilities and decisionmaking arrangements involved in both sole and shared custody and the suitability of each arrangement to the capabilities of each parent or both parents.
23 Pa.C.S.A. § 5305. Also, “[t]he court may temporarily award custody to either or both parents pending resolution of any counseling.” Id. Furthermore, “[t]he court may require the counselor to submit a report if the court desires and within such reasonable time as the court determines.” Id. The counselors who are appointed under 23 Pa.C.S.A. § 5305 presumably will be mental health professionals, not lawyers.

Similarly, Pennsylvania Rule of Civil Procedure 1915.8(a) provides that “[t]he court may order the child(ren) and/or any party to submit to and fully participate in an evaluation by an appropriate expert or experts.” The expert is expected to prepare a report “setting out the findings, results of all tests made, diagnosis and conclusions,” and shall generally submit the report directly to the court. Pa.R.C.P. 1915.8(b). In appointing an expert, the court is delegating certain fact-finding tasks to the expert, albeit with the court retaining ultimate oversight.

Former Pennsylvania Rule of Civil Procedure 1515 stated that in actions involving complicated accounts or requiring experts, the court may employ the necessary experts to aid in the proper disposition of the action. The Pennsylvania Civil Rules Committee rescinded Rule 1515 in December of 2003, but not because courts were no longer permitted to employ experts as necessary. Rather, the Committee stated: “[T]he court has inherent power to appoint such persons as are necessary to enable or facilitate the court in deciding cases. Rules providing for the appointment of such persons or denying that power are not required in the consolidated civil action.” Pennsylvania Civil Rules Committee, Consolidation of The Action in Equity with the Civil Action: Explanatory Comment (2004).
III. The Authority that is Being Delegated is Limited

Under the proposed rule of civil procedure for parenting coordination, the authority that is being delegated is specifically limited. It does not include the power to change legal custody, primary physical custody or the power to institute an equally shared physical custody arrangement where such an arrangement did not exist. Because the power that is being delegated is limited, there is less reason to be concerned about the court delegating that power, and there is less reason for the court to be concerned about the power being delegated to non-lawyers.

In fact, some Pennsylvania courts have held that some of the types of issues that may be decided by parenting coordinators need not be decided by courts at all. For example, in Livingston v. Lando, 32 Pa. D. & C. 4th 182 (1996), the Honorable Max Baer of the Allegheny County Court of Common Pleas (now Pennsylvania Supreme Court Justice Baer) held that decisions such as where children will participate in after-school and weekend athletic activities and where they will take CCD classes were not appropriate for adjudication by the Court of Common Pleas. Similarly, in Boatwright v. Boatwright, No. A06-00-62842-C-19 (Bucks Co. 2005), the Bucks County Court of Common Pleas held that a decision on how transportation would be shared was not appropriate for adjudication by the Court of Common Pleas.

IV. The Judge Makes the Ultimate Decision

Under the proposed rule of civil procedure for parenting coordination, the decisions that are made by the parenting coordinator are ultimately subject to review by the appointing court. Because a judge reviews the decisions of the parenting coordinator
and has the power to overturn those decisions, there is less reason to be concerned about
devolution and about delegation to non-lawyers. In fact, Pennsylvania law specifically
allows for arbitration of child custody decisions as long as the arbitrator’s decision is not
binding — that is, as long as the parties retain the ability to challenge the decision of the

V. **Courts of Common Pleas Throughout the Commonwealth Have Determined that They Have the Power to Appoint Parenting Coordinators, with Some Courts Appointing Non-Lawyers**

At least one Pennsylvania County, Erie, has adopted local rules allowing
for the appointment of a parenting coordinator. *See* Erie County Rules of Civil Procedure
1940.10 - 1940.16. Pursuant to those rules, the parenting coordinator “shall either be an
attorney licensed to practice law in Pennsylvania with significant family law experience,
or a Master’s level family therapist, counselor, or licensed social worker, with substantial
experience in family conflict cases.” Erie R.C.P. 1940.11. Franklin County is currently
drafting local rules for the appointment of parenting coordinators.

Judges in at least fifteen counties have entered orders appointing parenting
cordinators. The counties (and judges) include: Adams (the Honorable Robert G.
Bigham), Allegheny (the Honorable David N. Wecht), Bucks (the Honorables Mitchell S.
Goldberg and Alan M. Rubenstein), Chester (the Honorable Katherine B. L. Platt),
Delaware (the Honorable Michael F. X. Coll), Dauphin (The Honorables Jeanine
Turgeon, Lawrence F. Clark, Jr. and Bruce F. Bratton), Erie (the Honorables Elizabeth K.
Kelly and John J. Trucilla), Franklin (the Honorable Richard Walsh), Lackawanna (the
Honorable Chester Harhut), Lancaster (the Honorable David R. Workman), Lehigh (the
Honorable Edward D. Reibman), Luzerne, Montgomery (the Honorables Kent H.
Albright, Stephen R. Barrett and Rhonda Lee Daniele), Philadelphia (the Honorables Robert J. Matthews, Idee C. Fox and Holly J. Ford) and York (the Honorable Michael E. Bortner). In most of these counties, the judges have appointed mental health professionals as parenting coordinators; they have not only appointed lawyers.

Similarly, at least eighteen Pennsylvania Courts of Common Pleas have determined that they may delegate certain tasks to Court Appointed Special Advocates ("CASA"), who need not be lawyers. See Pennsylvania Court Appointed Special Advocates website, www.pacasa.org (indicating that Allegheny, Beaver, Berks, Cambria, Crawford, Cumberland, Delaware, Erie, Forest, Lehigh, Lycoming, Mercer, Philadelphia, Warren, Washington, Westmoreland, Venango and York Counties have CASA programs). Court Appointed Special Advocates are “well-trained volunteers who, when authorized by a judge, speak for the best interests of abused and neglected children in court.” Id.

VI. There is No Prohibition on the Delegation to Non-Lawyers

There is no explicit prohibition in Pennsylvania law on the delegation to non-lawyers of the types of partial custody-related disputes that are handled by parenting coordinators. Those seeking to prevent the delegation to mental health professionals should have the burden of producing authority for such a prohibition.

VII. Other Areas of Pennsylvania Law Provide for Delegation to Non-Lawyers

Pennsylvania’s Magisterial District Judges (formerly known as District Justices) have been given the authority to hear and render decisions in the following types of matters:
1) summary offenses, except those within the jurisdiction of an established
and open traffic court;
2) certain matters arising under the Landlord and Tenant Act;
3) certain civil claims (except those against the Commonwealth) wherein
the sum demanded does not exceed $8,000;
4) as commissioners to preside at arraignments, to fix and accept bail in
most cases, to issue warrants and other similar duties;
5) offenses related to driving under the influence of alcohol or other
controlled substances, if certain criteria are met;
6) misdemeanors of the third degree under Title 18 (crimes and offenses),
Title 30 (fish) and Title 35 (health and safety), if certain criteria are met;
7) all offenses under Title 34 (game);
8) any other matter in which jurisdiction is vested in district justices.

42 Pa.C.S. §1515(a). They also may preside over certain protection from abuse matters.

23 Pa.C.S. §§6101-6118. Despite the judicial role they occupy, Magisterial District
Judges are not required to be members of the bar. Pa.Const.art.V, §12(b); 42 Pa.C.S.
§3101. Judges of the Traffic Court in Philadelphia are not required to be members of the

Non-lawyers are appointed to, and serve in, quasi-judicial positions on
Professional Licensing Boards (e.g., the State Boards of Psychology; Social Workers,
Marriage and Family Therapists and Professional Counselors; Medicine; Accountancy;
Certified Real Estate Appraisers; etc.) (see, e.g., 63 P.S. § 1203.1 (Professional
Psychologists Practice Act)), the Pennsylvania Labor Relations Board (43 P.S. § 211.4
(2007)), the Pennsylvania Judicial Conduct Board (Pa. Const. art.V, §18(b)), the
Pennsylvania Board of Property Assessment (72 P.S. § 5452.2 (2007)), County Boards of
Elections and Township Boards of Supervisors, among other boards. Some of the
members of the boards are professionals -- e.g., accountants, psychologists, etc. -- and
some members are lay people. These boards make decisions that are legally binding if
they are not overturned through an appeal to a Pennsylvania court.
Additionally, individual actors who are not lawyers, such as property appraisers, may by agreement be given quasi-judicial abilities to make decisions with the same degree of finality as an award under common law arbitration. See, e.g., Boulevard Assoc. v. The Seltzer Partnership, 664 A.2d 983 (Pa. Super. 1995).

The Child Protective Services Law and the Juvenile Act give non-lawyers—including treating or examining physicians and directors of hospitals and medical institutions—substantial power, including the power to take children into protective custody. 23 Pa.C.S.A. § 6315(a), 42 Pa.C.S.A. § 6324; see also Adkins v. Luzerne Co. Children & Youth, 2005 WL 2129921 (U.S. Dist. Ct. M.D. Pa. September 2, 2005) ("It is well settled that in emergency circumstances which pose an immediate threat to the safety of a child, officials may temporarily deprive a parent of custody without parental consent or an order of the court") (citations omitted)).

VIII. Other States Delegate the Authority to Non-Lawyers

Numerous states—including Arizona, California, Colorado, Florida, Idaho, Kansas, Kentucky, Massachusetts, Minnesota, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Texas, Vermont and Wisconsin—have parenting coordination through a specific statute, court rules, a non-specific statute or, in five of those states, through a non-statutory program. See Pennsylvania Bar Institute, Parenting Coordinators in Pennsylvania, PBI No. 2006-4499 (2006) at 266. None of those states have mandated that parenting coordinators be attorneys.

To the contrary, several states that have specific parenting coordination statutes explicitly allow judges to delegate their authority to persons other than attorneys. North Carolina’s Parenting Coordinator statute provides that “to become eligible to be
included on the district court’s list of parenting coordinators a person must hold a masters or doctorate degree in psychology, law social work, counseling, medicine or a related subject area.” (N.C. S.L. 2005-228, House Bill 1221, § 50-93.) In addition, Oklahoma’s Parenting Coordinator Act (42 Okl. St. § 120.1 et seq (2005)), allows each judicial district to adopt local rules governing the qualifications of a parenting coordinator and states that those “parenting coordinators who are not licensed attorneys shall not be considered as engaging in the unauthorized practice of law while performing actions within the scope of his or her duties as a parenting coordinator.” (42 Okl. St. § 120.6 (2005).

Moreover, Minnesota’s statute (Minn. Stat. § 518.1751 (2005)) does not require parenting coordinators to be lawyers. Rather, it states that to qualify an individual shall complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota Supreme Court, which must include certified training in domestic abuse issues. Lastly, Texas’s Parenting Coordination statute (Texas Chapter 153, Subchapter J, §§ 601-611) allows for the appointment of a non-attorney as a parenting coordinator. Specifically, § 153.610 states “the court shall determine the required qualifications of a parenting coordinator, provided that a parenting coordinator must at least: (1) hold a bachelor’s degree in counseling, education, family studies, psychology, or social work and, unless waived by the court, complete a parenting coordinator course of at least 16 hours; or (2) hold a graduate degree in a mental health profession, with an emphasis in family and children’s issues.” Thus, all four parenting coordination statutes allow non-attorneys to be appointed as parenting coordinators.
Similarly, some states have adopted rules that explicitly allow non-attorneys to act as parenting coordinators. Idaho's parenting coordination rule (Idaho Rules of Civil Procedure, IRCP Rule 16(j)(6)(A)(1)) states that to be appointed as a Parenting Coordinator in the absence of a stipulation of the parties a person must be on the list of mediators compiled by the Supreme Court pursuant to Rule 16(j)(6)(B)(ii). According to Rule 16(j)(6)(B)(ii), "the applicant is a member of one of the following: the Idaho judiciary; licensed member of the Idaho State Bar Association; licensed psychologist; licensed counselor; licensed master social worker; certified school counselor; or certified school psychologist, who, in addition to such membership, has attended a minimum of 40 hours of mediation training, 20 of which must be in the field of child custody mediation."

New Jersey's proposed rule on parenting coordination (Proposed R. 5:8-7) also allowed non-attorneys to be parenting coordinators. Specifically, the rule stated that "the coordinator must be a social worker, a psychologist, a psychiatrist or family therapist licensed to practice in New Jersey." Thus, both rules allow non-attorneys to be appointed as parenting coordinators.

Finally, there are some specific parenting coordination statutes that have decided to leave the determination of who qualifies as a parenting coordinator to the discretion of the presiding judge. See, C.R.S. 14-10-128.1 et seq. (Colorado's Parenting Coordination statute); O.R.S. 107.425(3) (Oregon's Parenting Coordination statute).

Therefore, there is precedent from other states that judges may delegate their authority to non-attorneys. On the other hand, there is no precedent for limiting the role of parenting coordinators to just attorneys. All other states that have parenting coordination statutes or rules allow non-attorneys to be parenting coordinators.
IX. Parenting Coordination is an Established and Accepted Role for Mental Health Professionals

Parenting coordination is an established and accepted role for mental health professionals. Guidelines for parenting coordination were developed by an interdisciplinary task force of the Association of Family and Conciliation Courts, and those guidelines have been published. AFCC Task Force on Parenting Coordination, *Guidelines for Parenting Coordination*, 44 Family Court Review 164-181 (2005). In addition, the American Psychological Association has established a task force to develop guidelines on parenting coordination for psychologists.

Review 576-582 (2004). This literature clearly establishes that both mental health professionals and attorneys may serve as parenting coordinators.

X. Under the Proposed Rule, Mental Health Professionals Who Serve as Parenting Coordinators Must Receive Extensive Training

The proposed rule provides that mental health professionals who serve as parenting coordinators must be licensed and must have a master's degree (or equivalent or higher degree) and must have practiced at least 5 years. In addition, he or she must "at a minimum" have the following qualifications:

(1) Training or experience in family dynamics, childhood development, custody, separation and divorce; and

(2) Training in the parenting coordination process and family law as established by the Pennsylvania Supreme Court; and

(3) Forty hours of mediation training under Pa. R. Civ. P. §1940.4, excluding mediation supervision under Pa. R. Civ. P. §1940.4(a)(4); and

(4) Training in the dynamics of domestic violence; and

(5) Completion of at least ten continuing education credits in any topic related to Parenting Coordination in each two year period.

Given this extensive training—and specific training relating to parenting coordination and family law—the mental health professionals should be well-prepared for the responsibilities of the parenting coordination role.

XI. Mental Health Professionals Serving as Parenting Coordinators are Subject to Oversight by the Courts and to Regulation by Their Respective State Boards and the Bureau of Professional and Occupational Affairs

Parenting coordinators must answer to the courts that appoint them and may review their decisions whether they are lawyers or mental health professionals. To
the extent that they violate their professional obligations, both groups are subject to
discipline through their respective licensing bodies. Parenting coordinators who are
licensed mental health professionals are regulated by their state boards -- e.g., the State
Board of Psychology or the State Board of Social Workers, Marriage and Family
Therapists and Professional Counselors -- and the Bureau of Professional and
Occupational Affairs. They may be subject to professional disciplinary actions for
violation of their professional obligations while serving in the role of parenting
coordinator.

XII. Conclusion

As set forth above, Pennsylvania law permits the Pennsylvania Supreme
Court to authorize the Courts of Common Pleas to appoint mental health professionals as
parenting coordinators. The Pennsylvania Supreme Court not only can, but should issue
a rule allowing for the appointment of well-trained mental health professionals and
defining the duties and limits of the parenting coordination role. Doing so will enable the
Courts of Common Pleas to better serve the families of this Commonwealth by using a
tool that has been used successfully in Pennsylvania and throughout the country.

Respectfully submitted,

[Signature]

Stephan J. Anderer, J.D., Ph.D.
On behalf of the
Parenting Coordination Task Force
DAVID T. YATES, 
Appellant 

v. 

JACKIE YATES, 
Appellee 

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 696 EDA 2007

Appeal from the Order Entered February 15, 2007, in the Court of Common Pleas of Bucks County, Domestic Relations Division, at No. A06-02-63378-C.

BEFORE: BOWES and PANELLA, JJ. and McEWEN, P.J.E.

OPINION BY BOWES, J.: Filed: December 31, 2008

¶ 1 David Yates ("Father") appeals from the custody order entered on February 15, 2007, wherein the trial court granted shared legal custody of Ashley Yates to Father and Jackie Yates ("Mother"), awarded Father primary physical custody, and appointed a parenting coordinator to help the parties implement the custody order. We affirm in part, vacate in part, and remand with instructions.

¶ 2 In a prior appeal, this Court succinctly summarized the salient facts and procedural history of this contentious litigation as follows:

The battle for custody of [Ashley] began in 2002. The battle has been intense, involving many hearings in open court, as well as many settlement conferences. By late 2006, the parties had identified physical custody as a critical matter and had, to some extent at least, agreed to basic terms of physical custody and further agreed that, given the unrelentingly contentious relationship between the parents of [Ashley], a highly detailed final custody order would be required. The lower court then directed the parties to submit proposed terms for such a detailed custody order. The lower court's review of the parties' proposals revealed, perhaps predictably, certain points of agreement and certain points of disagreement. A hearing was held on
February 2, 2007 in order to allow each parent an opportunity to present the merits of their respective proposals to the court before the court entered a final custody order.

At the February 2, 2007 hearing, [Father] began by urging that the level of cooperation between the parties was insufficient to allow shared legal custody, noting that [Mother] objected to [Father's] proposed annual meetings to review the ongoing vitality of the custody arrangements as [Ashley] matures, and preferred that the court appoint a parent coordinator, and, thereafter, proceeded to articulate other, more detailed, issues of disagreement. [Mother's] presentation substantially tracked that of [Father], reinforcing the reasons for [Mother's] disagreement with various terms proposed by [Father], and familiarizing the court with the concept of appointing a parent coordinator to settle day-to-day parenting disputes.


¶ 3 On February 15, 2007, the trial court entered a custody order wherein it granted the parties joint legal custody of Ashley, awarded Father primary physical custody, awarded Mother partial physical custody, outlined the parameters of the custody schedule, and appointed Natalie L. Famous, Esquire, as a parenting coordinator to assist the parties in implementing the custodial arrangement. In a concomitant order that the trial court entered on the same date and attached to the custody order, the trial court enumerated the terms of the parenting coordinator's appointment, including the length of her appointment and the scope of her authority, and it explained the decision-making process. Father filed a timely appeal on
March 19, 2007. Father contended that the trial court erred in (1) holding that he had agreed to shared legal custody, (2) finding that he consented to the appointment of a parenting coordinator, and (3) concluding that he waived appellate review of its decision to appoint the parenting coordinator. In its opinion filed pursuant to Pa.R.A.P. 1925(a), the trial court reasoned that Father's complaints were unwarranted because Father had previously agreed to abide by the terms of the trial court's custody order.

¶ 4 On appeal, this Court rejected the trial court's reasoning and concluded that Father did not waive his right to challenge the trial court's decision simply because he previously had agreed to submit certain issues for the court's determination. Accordingly, we remanded the case with directions to the trial court to fashion "more specific factual findings and conclusions of law . . . as to the substantive custody issues involved in order to allow this Court to perform a meaningful review of the lower court's orders . . . ." Id. at 1195. On March 7, 2008, the trial court issued a thorough Rule 1925(a) opinion addressing Father's complaints and explaining its rationale.

¶ 5 The following issues are now ready for our consideration: (1) whether the trial court erred in granting shared legal custody; (2) whether the trial court erred in appointing a parenting coordinator; and (3) whether the trial

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1 Ordinarily, the thirty-day appeal period would have expired on March 17, 2007; however, since that date fell on a Saturday, the thirty-day period expired on Monday, March 19, 2007. 1 Pa.C.S. § 1908.
court's February 15, 2007 custody order is procedurally flawed. See Father's brief at 9.

¶ 6 In reviewing a custody order, our scope and standard of review are well established.

Our standard of review over a custody order is for a gross abuse of discretion. If a trial court, in reaching its conclusion, overrides or misapplies the law or exercises judgment which is manifestly unreasonable, or reaches a conclusion that is the result of partiality, prejudice, bias or ill will as shown by the evidence of record, then discretion is abused. Our scope of review over custody disputes is broad; this Court is not bound by the deductions and inferences the trial court derives from its findings of fact, nor must we accept the trial court's findings of fact when these findings are not supported by competent evidence of record. Our paramount concern in child custody matters is the best interests of the children.


¶ 7 Since the trial court relied upon the appointment of a parenting coordinator to bolster its decision to grant mother shared legal custody, we begin by addressing that issue.

¶ 8 Parenting coordination is a relatively novel concept in Pennsylvania. Its purpose is to shield children from the effects of parenting conflicts and to help parents in contentious cases comply with custody orders and implement parenting plans. The Association of Family and Conciliation Courts

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2 At least one Pennsylvania county, Erie, adopted local rules authorizing the appointment of parenting coordinators and delineating their roles in high-conflict custody disputes. See Erie County Local Rules 1940.10 – 1940.16. Likewise, the Pennsylvania Supreme Court Domestic Relations Procedural
("AFCC"), an interdisciplinary multi-jurisdictional association of professionals that appointed a task force to develop model standards of practice for parenting coordination, defined parenting coordination as

a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

Anderer, supra at 1082. See also Guidelines for Parenting Coordination, 44 Family Court Review 164-181 (2005). According to the AFCC task force, parent coordination is most appropriate in cases where, as here, "high-conflict parents have demonstrated their longer-term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict." 44 Family Court Review 164, 165.

¶ 9 Herein, the trial court concluded that its decision to appoint a parenting coordinator was a reasonable exercise of discretion and in Ashley's best interest. In reaching its decision, the trial court relied upon the

Rules Committee is considering a proposed Rule of Civil Procedure and a model Order of Court that, if adopted, would unify parenting coordination procedures across the state. See Stephen J. Anderer, Resolving High-conflict Custody Cases, Parenting Coordinators Can Offer a Way Out of Repeated Recourse to Court, 31 PLW 1074 (2008).
recommendations and assessments of Dr. Don G. Seraydarian, the custody
evaluator who has been involved in this case since 2003. The trial court
observed that Dr. Seraydarian described the parents’ relationship as “highly
destructive, inflammatory and hostile.” Trial Court Opinion, 3/7/08, at 10.
Specifically, Dr. Seraydarian noted an intense level of animosity between
parents, and he even characterized the relationship as “catastrophic.” N.T.
Hearing, 9/29/06, at 59-60.

¶ 10 Father’s scattershot argument on appeal challenges the trial court’s
appointment of the parenting coordinator on several fronts. His primary
complaint is that the trial court lacked authority to appoint a parenting
coordinator. See Father’s brief at 31. Father’s less precise assertions
include the contention that the appointment of the parenting coordinator is
tantamount to an improper delegation of judicial decision-making authority.3

¶ 11 At the outset, we observe that Father’s claim that he did not consent
to the parenting coordinator’s appointment is misleading. While Father
initially opposed the idea of appointing a parenting coordinator, during the
February 2, 2007 custody hearing, Father agreed, under oath, that he would

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3 Father’s brief also makes passing criticisms concerning: (1) the possibility
a party may be found in contempt for non-compliance with the parenting
distributor’s decisions; (2) the grant of quasi-judicial immunity to the
parenting coordinator; and (3) the manner the trial court divided the costs
and fees associated with parenting coordination. See Father’s brief at 30-31.
Although Father failed to develop these assertions fully, the underlying
contentions are subsumed within the properly presented claims we discuss
herein.
permit the court to decide, *inter alia*, whether to employ a parenting coordinator. See N.T., Custody Hearing, 2/2/07, at 39-42. If Father disapproved of a parenting coordinator's participation in this case, he simply could have objected to its inclusion with the matters the trial court would resolve. He did not do so. Instead, following an on-the-record colloquy, Father agreed to permit the trial court to determine this issue. Hence, we conclude that Father's claim is unsubstantiated.

¶ 12 We note that this Court previously rejected the trial court's use of the on-the-record colloquy to "short-circuit" Father's appellate rights. *Yates*, 936 A.2d at 1195. Significantly, however, this Court did not conclude that Father did not assent to the trial court's proposal; we found merely that Father did not waive his appellate rights by stipulating that the trial court could resolve the contested issues. *Id.* Accordingly, the claim fails.

¶ 13 Next, we address Father's assertion that the appointment of the parenting coordinator is tantamount to an improper delegation of judicial decision-making authority. Specifically, relying upon our holding in *C.W. v. K.A.W.*, 774 A.2d 745, 749 (Pa.Super. 2000), wherein we outlined the trial court's role and responsibilities during trial, Father contends that although the parenting coordinator is not a judicial officer, her decisions would have the force and effect of a court order. In *C.W.*, we held that a trial court
improperly delegated its judicial duties to the guardian ad litem it had appointed in a custody dispute. This Court reasoned that since the function of the guardian ad litem is to represent minors and protect their interests, the trial court's repeated solicitation of advice from the guardian ad litem, its routine acceptance of advice concerning evidentiary rulings, and its wholesale adoption of factual findings was tantamount to an abuse of discretion. Id. at 740-50.

¶ 14 Contrary to Father's assertion, however, the trial court herein did not unilaterally delegate its judicial decision-making authority to the parenting coordinator. First, in its February 15, 2007 custody order, the trial court resolved the primary custody issues relating to legal custody, physical custody, and visitation. Hence, as the trial court adequately observed, "[T]he majority of details surrounding physical and legal custody . . . were specifically addressed by this Court and not delegated to, or left to the discretion of the [parenting] [c]oordinator." Trial Court Opinion, 3/7/08, at 14. Indeed, the trial court empowered the parenting coordinator specifically to resolve only ancillary custody disputes, such as determining temporary variances in the custody schedule, exchanging information and communication, and coordinating Ashley's recreational and extracurricular activities. We observe that our Supreme Court permits the limited delegation of judicial authority to address ancillary custody matters under similar circumstances where the decisions do not determine core issues
regarding legal, physical, or shared custody. See Pa.R.C.P. 1920.5(a)(2) (regarding appointment of Masters), and to a lesser extent, Pa.R.C.P. 1915.4-2(b) (concerning hearing officer's report and recommended order).

¶ 15 Further, if the parties are dissatisfied with the parenting coordinator's decision, they can appeal it to the trial court. While the trial court initially envisioned a deferential standard of review, in its most recent opinion, the trial court conceded that de novo review is more appropriate. See Trial Court Opinion, 3/7/08, at 15-16. We agree that de novo review must be utilized. Accordingly, we vacate the portion of the trial court's order that precludes the court from reviewing the parenting coordinator's decisions de novo, and we remand the case with express direction to the trial court to implement de novo review.

¶ 16 Thus, unlike the facts underlying C.W., in the case at bar, the trial court did not solicit substantive legal advice or adopt the factual findings from a non-judicial officer who was engaged to represent the interest of the subject of the custody case. Instead, the trial court instituted a detailed procedure to permit the parenting coordinator to resolve minor custody issues between the two high-conflict parents. Having concluded that the trial court resolved the central custody issues and retained judicial review over the parenting coordinator's decisions concerning the ancillary issues, we reject Father's complaint that the trial court's appointment of a parenting coordinator is tantamount to an improper delegation of judicial decision-
making authority like the one this Court confronted in *C.W.* Simply stated, in the case *sub judice*, the trial court will not merely substitute the parenting coordinator's judgment for its own.

¶ 17 We also reject Father's related complaint that the trial court misinterpreted Dr. Seraydarian's recommendation to appoint a parenting coordinator. Father contends that Dr. Seraydarian envisioned appointing a mental-health professional who is experienced working with high-conflict, dysfunctional relationships. Father reasons that since the trial court appointed an attorney as the parenting coordinator, and not a mental health professional, it failed to accomplish Dr. Seraydarian's recommendation. *See* Father's brief at 33. We disagree.

¶ 18 Dr. Seraydarian's recommendation focused upon the fractured relationship between Mother and Father and the need for a third party to resolve minor parenting conflicts, implement a parenting plan, increase productive communication, and ease the effects of the conflicts upon Ashley. While Dr. Seraydarian contemplated the trial court's appointment of a mental health professional to serve as parenting coordinator, at least initially, his recommendation was not predicated upon that appointment. N.T., 9/29/06, at 95. Indeed, he noted that in certain cases, clergy and family friends have been appointed. *Id.* In fact, the crux of Dr. Seraydarian's recommendation was that the parenting coordinator have
experience with high-conflict cases and "be someone who would take a very strong approach with [parents]" because of the lack of communication. *Id.*

¶ 19 In appointing Attorney Famous, the trial court observed that Attorney Famous is "a highly respected Bucks County attorney whose practice is focused solely on Family law[.]" Trial Court Opinion, 3/7/08, at 9 n.5. The trial court presided over this custody dispute since 2006, and it clearly was comfortable appointing Attorney Famous as parenting coordinator. Nothing in the record suggests that Attorney Famous lacked the requisite skills, training, and experience to perform her duties as parenting coordinator. Thus, mindful of Dr. Seraydarian's recommendation and the AFCC's guidelines suggesting that trial courts appoint either mental health or legal professionals with adequate training and experience, we conclude the trial court did not commit an abuse of discretion in appointing Attorney Famous parenting coordinator in this case.

¶ 20 Moreover, to the extent Father now seeks to challenge Attorney Famous's qualifications, we observe that he raised this issue for the first time in his brief. Father did not assert this claim in his previous appeal or his concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b); therefore, the trial court did not address it in the Rule 1925(a) opinion it filed upon remand. As this argument was not raised in Father's Rule 1925(b) statement, it is waived. See *Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998); *Hess v. Fox Rothschild, LLP*,
925 A.2d 798, 803 (Pa.Super. 2007) ("any issue not raised in an appellant's Rule 1925(b) statement will be deemed waived for purposes of appellate review."). Accordingly, we will not address it.⁴

¶ 21 Next, we address Father's challenge to the trial court's decision to award shared legal custody of Ashley. Essentially, Father argues that under the facts of this contentious litigation, the trial court lacked sufficient reason to alter the status quo by divesting him of sole legal custody of Ashley. Again, we disagree.

¶ 22 In determining whether to award shared legal custody, the trial court must consider the following factors: (1) whether both parents are fit, capable of making reasonable child rearing decisions, and willing and able to provide love and care for their children; (2) whether both parents evidence a continuing desire for active involvement in the child's life; (3) whether the child recognizes both parents as a source of security and love; and (4) whether a minimal degree of cooperation between the parents is possible. See Wiseman v. Wall, 718 A.2d 844, 848 (Pa.Super. 1998).

¶ 23 Father's claim involves the fourth factor. Specifically, Father cites his tumultuous relationship with Mother as evidence that shared legal custody was inappropriate. Father contends the parties' inability to communicate on the most basic level precluded the trial court from finding that sufficient

⁴ Even if we addressed Father's claim, we would reject it because Father failed to proffer any facts of record to support his contention that Attorney Famous was not qualified to be appointed parenting coordinator.
cooperation existed upon which to award shared legal custody. See Father’s brief at 28-29. For the following reasons, we disagree.

¶ 24 In addressing this factor, the trial court conceded that this case is replete with conflict between the parties; however, it also found that the most contentious issue, relating to physical custody, was resolved by agreement following extensive negotiation and compromise. The trial court also concluded that the parent coordinator and co-parent counseling would alleviate some of the underlying conflicts and promote a minimal level of cooperation. Trial Court Opinion, 3/7/08, at 25. We agree with the trial court’s rationale.

¶ 25 The trial court’s reasoning is based upon our holding in Brown v. Eastburn, 506 A.2d 449, 450 (Pa.Super. 1986). In Brown, this Court confronted a similar issue concerning whether a minimal degree of cooperation existed between the parents for purposes of determining whether shared legal custody was appropriate. In reaching its conclusion that the record demonstrated a minimum level of cooperation, this Court noted that the parents previously had accommodated each other’s needs in negotiating and implementing an earlier custody arrangement, and acting jointly, they twice selected psychiatrists to help resolve their custody disputes, each of whom recommended the parties share legal custody of the child. Id. at 451. Thus, the Brown Court concluded, “[A]lthough the parties’ relationship may not be amicable, we cannot say that they have
shown an inability to cooperate to a minimal degree or to isolate their personal conflicts from their role as parents.” *Id.*

¶ 26 Herein, the trial court concluded that the facts of the case *sub judice* aligned with the considerations underlying our decision in *Brown*. Specifically, the trial court noted that Mother and Father were able to negotiate the terms of Ashley's physical custody and that Dr. Seraydarian recommended that Mother eventually be granted shared legal custody.

¶ 27 On appeal, Father counters that unlike the parents in *Brown*, he and Mother did not bargain their agreement directly, but rather, their respective attorneys actually brokered the deal. Father's claim presents a classic example of a distinction without a difference. Our focus is not whether the parties accomplished face-to-face negotiation. Instead, the salient point is that Mother and Father compromised their respective hard-line, self-serving positions in order to further Ashley’s best interest. *See Smith v. Smith*, 453 A.2d 1020, 1025 (Pa.Super. 1982) ("a successful joint custody arrangement requires only that the parents be able to isolate their personal conflicts from their roles as parents and that the children be spared whatever resentments and rancor the parents may harbor."). Thus, contrary to Father’s assertion, we find the parties’ physical custody agreement demonstrates an ability to cooperate to a sufficiently minimal degree to justify shared legal custody.
¶ 28 Likewise, we reject Father's position that the instant case aligns with our decision in *Wiseman*, wherein we concluded that a minimal degree of cooperation did not exist because the parents in that case communicated primarily through a third party. Significantly, in *Johnson v. Lewis*, 870 A.2d 368, 376 (Pa.Super. 2005), this Court distinguished the *Wiseman* Court's reasoning because the parents in *Wiseman* never were married, never had a meaningful relationship, and had virtually no history of communication except through litigation or third parties. In contrast, the parents in *Johnson* were once married in a loving relationship. *Id.* Herein, Mother and Father were once emotionally attached in a meaningful relationship that culminated in their 1999 marriage and remained intact for two years following Ashley's birth. Accordingly, we find that this case is equally distinguishable from *Wiseman*.

¶ 29 Father also points out that Dr. Seraydarian's recommendation that Mother receive shared legal custody was tempered by the expert's concomitant recommendation that Mother first carry out nine months of visitation, three of which he contemplated should be supervised, prior to receiving shared legal custody. However, as the trial court accurately observed, notwithstanding the transitional timetable, Dr. Seraydarian believed that shared legal custody was, in fact, in Ashley's best interest. The trial court reasoned:

> [D]espite his recognition of the conflict between the parties, [Dr.] Seraydarian notes the benefits of having both parents
involved in a child’s life. We placed great weight on this recommendation as [Dr.] Seraydarian has been in the best position to understand what is in [Ashley’s] best interests. Moreover, with the physical custody arrangement set up as primary/partial, shared legal custody will instill more normalcy and hopefully help to reduce the stress and conflict that has afflicted this family for the last six years. Excluding Mother from having a voice in educational, religious or other important aspects in [Ashley’s] life would only create further frustration and alienation. In this instance, we agree with the view that the need to reach agreement on major child rearing decisions where both parents are on equal footing can create “an atmosphere of détente rather than hostility.” David J. Miller, Joint Custody, 13 Fam. L.Q. 345, 364 (Fall 1979).

Trial Court Opinion, supra at 26 (citation to Dr. Seraydarian’s report omitted). As the record supports the trial court’s determination that shared legal custody is in Ashley’s best interest, we will not disturb it.

¶ 30 Finally, we address Father’s assertion that the trial court’s order is flawed procedurally because it attempts to incorporate supposed terms to which the parties agreed during the February 2, 2007 custody hearing. Essentially, Father complains that the trial court’s order failed to specify the precise terms of the parties’ agreement or adequately detail the times and location of the custody exchanges. Father posits that the omitted terms potentially subject him to contempt for non-compliance with an unspecified provision. The trial court did not address this issue in its Rule 1925(a) opinion.

¶ 31 The following facts are relevant to our determination. As previously noted, during the February 2, 2007 custody hearing, Mother and Father agreed that Father would maintain primary physical custody of Ashley, and
Mother would have partial physical custody. The parties also agreed that neither parent would employ corporal punishment to discipline Ashley. See N.T., 2/2/07, at 42. The trial court enumerated the precise terms of the physical custody schedule, including times and location of the custody exchanges, in the February 15, 2007 custody order. In addition, however, the order provided, "The additional terms agreed to at the February 2, 2007, Court proceeding, as set forth in the attached transcript, are incorporated and made a part of this Order." See Custody Order, 2/15/07, at 3.

¶ 32 Mother counters that the terms outlined during the hearing and incorporated into the custody order are so apparent and clearly defined in the notes of testimony that Father's claim is frivolous. Mother's brief at 30-31. After scouring the transcripts of the February 2, 2007 hearing for the additional agreed-upon terms, we disagree with Mother's characterizations. In fact, other than the trial court's colloquy regarding the parenting coordinator and the parties' agreements to forgo corporal punishment when disciplining Ashley, we could find no additional agreed-upon terms. While we uncovered some concessions Father offered concerning which parent would be entitled to claim Ashley's dependency exemption for federal, state, and local income tax purposes (Father conceded the tax codes should govern the determination), and what is expected of a parent who refuses to alter the custody schedule to permit Ashley to attend special events (Father suggested the refusing party provide a reasonable explanation), the record
does not indicate whether Mother accepted those concessions or continued to object to Father's proposals generally. See N.T., 2/2/07, at 17, 18. Likewise, while Mother agreed to pay ten percent of the parenting coordinator's normal fee, a term the trial court included in its order, and one hundred percent of the parenting coordinator's fees associated with an adverse determination, it is unclear whether Father agreed to the outcome-centered payment scheme. Id. at 28-29.\(^5\) If any additional agreed-upon terms were discussed during the hearing, we could not discern them from the record.\(^6\)

¶ 33 Hence, we agree with Father's contention that the trial court's incorporation of the unidentified terms purportedly agreed upon during the custody hearing creates unnecessary uncertainty. Accordingly, we vacate the portion of the custody order, wherein the trial court incorporated "[t]he additional terms agreed to at the February 2, 2007, Court proceeding . . ." and upon remand, we direct the trial court to identify the specific terms it intends to enforce upon the parties. See Custody Order, 2/15/07, at 3.

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\(^5\) In any event, the trial court did not incorporate the latter term into the order outlining the parenting coordinator's powers. Instead, the trial court empowered the parenting coordinator to re-allocate the fees based upon the parties' conduct and the frivolity of the claim that gives rise to her services.

\(^6\) The trial court also sustained Mother's objection to Father's proposal that Mother be responsible for eighty percent of the costs associated with any motion to modify the proposed custody order that she might file within four years of the date it is entered.
¶ 34 Order affirmed in part, vacated in part, and case remanded for further proceedings consistent with this opinion. Jurisdiction relinquished.