

Early Neutral Evaluation Confidentiality Agreement

ENE is a confidential service intended to provide you with a setting in which you may speak openly and not fear that your statements will be shared with the Court. It is controlled by Rule 114, which states: Statements made and documents produced in non-binding ADR processes which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial, including impeachment, except as provided in paragraph (d). Rule 114.08(b) (emphasis added). To comply with Rule 114, information you provide will be handled in the following matter:

1. Any notes taken by the ENE providers are kept in a file which only they may access.
2. Any notes taken during telephone conversations with doctors, teachers, therapist or other collateral source, are kept in the file with the ENE provider's notes. Only the providers may access them.
3. The providers may not be deposed or subpoenaed, and may not give testimony regarding any information obtained during the ENE.
4. The providers will not share information from the ENE with anyone, even if you sign a release of information for them to do so, except in the following circumstances:
 - a. If an ENE provider is a mandated reporter, information received by them involving physical or sexual abuse of a child or vulnerable adult that rises to the level of being reportable, must be reported to Child Protection or a law enforcement agency. The provider has no discretion over the release of this information. Additionally, providers will report threats or suspicion of future bodily harm toward another or threats of suicide.
 - b. The Court is notified of the outcome of the ENE in one of the following ways:
 - (1) If the provider concludes that your case is inappropriate for ENE, they will communicate such to the Court.
 - (2) If you reach full settlement: the Court will be given a summary of your agreement and will be advised which party or attorney will draft the settlement and when it will be done.
 - (3) If you reach settlement on some but not all issues: the Court will be given a summary of what agreements were reached and what issues were not resolved.
 - (4) If you do not reach agreement on any issues: the Court will be advised that no agreements were reached.
5. Following SENE and should you proceed with a custody evaluation, neither provider will conduct the evaluation and neither of them may talk to or share notes with the mediator or evaluator about your ENE.

Petitioner _____ Date _____

Petitioner's Attorney _____ Date _____

Respondent _____ Date _____

Respondent's Attorney _____ Date _____

Provider _____ Date _____

Provider (for SENE only) _____ Date _____