



Improving the lives of children and families  
through the resolution of family conflict



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*Dr. Arnold T. Shienvold*

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### **AFCC 13th Symposium on Child Custody**

*Guidelines and Standards and Rules, Oh My!*  
November 8-10, 2018

[Read more](#)

## AFCC Membership Survey

**We want your feedback on your experience as an AFCC member!**

The survey should take no more than 15-20 minutes to complete and all answers will remain anonymous. **The deadline has been extended to September 26, 2018.** Thank you to all who have already completed the survey.

[Respond to Survey](#)

## 13th Symposium on Child Custody

*Guidelines and Standards and Rules, Oh My!*

November 8-10, 2018

Embassy Suites by Hilton Denver Downtown Hotel  
Denver, Colorado

### **Register Today! Early Bird Rate Expires October 8th**

Check out the symposium [program brochure, available online](#) and register today. Save money on your registration by registering under the early bird rate. There are over 40 sessions, featuring an exciting array of topics for psychologists, mental health professionals, lawyers, mediators, counselors, social workers, and others who work with separating and divorcing families. Topics include parent-child contact problems, restorative justice, model standards of practice, and more!

[Register today!](#)

### **Book Your Hotel Room**

Rooms are available at the overflow hotel, the Fairfield Inn and Suites Denver Downtown Hotel, just 1.7 miles from the conference. [Reserve your room online](#) or call 303-455-2995. The Embassy Suites by Hilton Denver Downtown Hotel is currently sold out. Please contact AFCC Meeting Manager, [Nicole Ellickson](#), or 608-664-3750 to put added to the waitlist.

Embassy Suites by Hilton  
Denver Downtown Hotel  
Denver, Colorado

## AFCC Chapter Conferences

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### [Washington Chapter Annual Conference](#)

September 22, 2018  
Washington Athletic Club  
Seattle, Washington

### [Florida Chapter Annual Conference](#)

September 26-28, 2018  
The Florida Hotel and  
Conference Center  
Orlando, Florida

### [Wisconsin Chapter Annual Conference](#)

September 28, 2018  
Crowne Plaza  
Madison, Wisconsin

### [Indiana Chapter Annual Conference](#)

September 28, 2018  
The IndyBar Venue  
Indianapolis, Indiana

### [Illinois Chapter Annual Conference](#)

October 19, 2018  
BeerMann Pritikin Mirabelli  
Swordlove, LLP  
Chicago, Illinois

### [Ontario Chapter Annual Conference](#)

October 19, 2018  
The Toronto Reference  
Library  
Toronto, Ontario

### [New York Chapter Annual Conference](#)

November 18, 2018  
University at Buffalo School of  
Law  
Buffalo, New York

## Submit a Proposal to Present at the AFCC 56th Annual Conference in Toronto, Canada

*The Future of Family Justice: International Innovations*  
May 29-June 1, 2019  
Westin Harbour Castle  
Toronto, Ontario, Canada

AFCC is accepting proposals for 90-minute workshops through **October 4, 2018**. Numerous innovative processes have emerged to meet the needs of rapidly changing families and the family justice system. This conference will convene the best of our global partners to share pioneering efforts taking place world-wide. To view the call for proposals, [click here](#).

**For information on conference sponsorships, exhibit space, or advertising, [click here](#).** Whether your marketing budget is \$500 or \$25,000, there is a sponsorship level for you! More than 1,100 participants are expected to attend. Conference presenters include leaders in the field, authors, and researchers who conduct landmark studies, leading policymakers, trainers, and program directors, who are responsible for selecting programs and products for agencies, firms, and courts. For more information, please contact AFCC Program Coordinator, [Corinne Bennett](#).

[Arizona Chapter Annual Conference](#)  
January 25-27, 2019  
Sedona, Arizona

[California Chapter Annual Conference](#)  
February 22-24, 2019  
Westin South Coast Plaza  
Costa Mesa, California

[Texas Chapter Annual Conference](#)  
March 29-30, 2019  
Hyatt Place  
The Woodlands, Texas

[Australia Chapter Annual Conference](#)  
August 15-17, 2019  
International Convention Centre ICC Sydney  
Sydney, Australia

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## Family Court Review: Family Law Writing Competition

Hofstra Law School and AFCC are sponsoring the tenth annual Family Law Writing Competition. The competition is run in cooperation with the editorial staff of the *Family Court Review*. We strongly encourage law students to participate in this competition and hope family law professors urge their students to submit articles. If you have questions, please contact the [Managing Editor](#) of the *Family Court Review*.

[Read more](#)

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## AFCC Webinar Corner

### Unbundling Legal Services

Forrest (Woody) Mosten, JD

October 24, 2018, 1:00-2:00pm Eastern time  
USA

[Registration](#) opens September 26.

If you missed this month's webinar, **Online Dispute Resolution, AFCC members may access the recording for free, along with all other previous webinars** through the [Member Center](#) of the AFCC website. Not a member? Click here to [join today!](#)

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## December Trainings

Registration is now open for the December trainings, sponsored by AFCC and the University of Baltimore School of Law.

### Parenting Coordination: Essential Tools for Conflict Resolution

Mindy F. Mitnick, EdM, MA

December 3-4, 2018

### Advanced Issues in High Conflict Child Custody Cases

Robin M. Deutsch, PhD, ABPP

December 5-6, 2018

[View the brochure](#)

[Register today](#)

## Where in the World is AFCC?

*#AFCCHats #whereintheworldisAFCC?*



Justice Gerri Wong on Peelee Island, Canada's most southern inhabited island in Lake Erie



Matthew Sullivan in Hong Kong



Andrea Clark in Jasper, Alberta, CA

AFCC is everywhere! If you are out and about (vacation, court, wherever) with an AFCC hat, please email a photo and location to [Corinne Bennett](#) and we'll feature it on the [AFCC Facebook page](#) and social media. **An award for the best picture will be presented at the annual conference in Toronto!** When posting on social media, please tag #AFCCHats and #whereintheworldisAFCC?

## Member News

Kidside, a not-for-profit organization that raises money for Family Court Services in Miami, Florida awarded the Marlene Ortega Professionalism in Dispute Resolution Award to **Robert Merlin, PA**. Robert spent eight years working for the passage of the Uniform Collaborative Law Act by the Florida Legislature, until it passed in 2016 and adopted the rules in 2017. Robert trains family professionals to use the Collaborative Process, and has written numerous articles that have been published by The Florida Bar and other publications on the Collaborative Process. Congratulations, Robert!

**Lindsay R. Faulkenberg** is now the President and Chief Executive Officer for Kids' Voice of Indiana, a nonprofit public charity established in 1985 In Indianapolis, Indiana in response to a need to giving children an opportunity to having a voice in court. She has been an attorney with the organization for the past six years.

The Executive Committee of the Family Law Section of the California Lawyers Association will be honoring AFCC member **Judge Thomas T. Lewis** with the Family Law Judicial Officer of the Year award at its inaugural annual meeting. Judge Lewis is a former president of the AFCC California Chapter.

## Conference of Interest

**IACP 19th Annual Networking and Educational Forum: Collaborative Creativity**  
October 25-28 2018  
The Westin Seattle, WA  
[More Information](#)

## AFCC eNEWS

The AFCC eNEWS is the monthly e-newsletter of the Association of Family and Conciliation Courts. The eNEWS provides up-to-date information for professionals including practice tips, case law and research updates, international news and the latest initiatives in family law and conflict resolution. The AFCC eNEWS is free and you do not need to be a member of AFCC to subscribe. [Subscribe here](#). AFCC members are free to share eNEWS content.

### EDITOR:

[Leslye Hunter](#)

### ASSOCIATE EDITOR:

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CONCILIATION COURTS



eNEWS

VOL. 13 NO. 9  
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## Ask the Experts: Dual Roles and Hybrid Processes; Ten Things to Consider

*Arnold T. Shienvold, PhD*

If there is anything close to an absolute ethical directive within the practice of almost every mental health field, it is the admonition against serving in dual roles, or having multiple relationships with clients.

Section 3.04 of the APA Ethics Code states, in part, that “a multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.” It further states, “A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist’s objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.” And finally, “When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality...”

Section 4.02 of the Specialty Guidelines for Forensic Psychology reiterates that which is offered more generally in the EPPCC and applies it to forensic practice. In addition to that which is offered above, Standard 4.02 states, “Forensic practitioners strive to recognize the potential conflicts of interest and threats to objectivity inherent in multiple relationships.” Practitioners are encouraged to avoid involvement in such matters whenever feasible.

Standard 8 of the AFCC Model Standards of Practice for Child Custody Evaluation (2006) is entitled, “Role Conflict and Dual Role Issues.” Under section 8.1, Maintaining Objectivity, it states, “Child custody evaluators shall strive for objectivity and shall take reasonable steps to avoid multiple relationships with any and all participants of an

evaluation.” Section 8.2 notes the need for CCE’s to disclose any multiple relationships and Section 8.3 directs evaluators to affirmatively decline the appointment of more than one role.

Finally, standard 2.04 of the APA Ethics code notes that “Psychologists’ work is based upon established scientific and professional knowledge of the discipline.” With respect to dual roles, this standard suggests that a professional should base decisions regarding possible participation in such a practice on the known risks associated with the combination of the roles under consideration.

It should be noted that similar ethical standards or guidelines exist for social workers and professional counselors.

Given these strong admonitions, it is reasonable to ask what is meant by a dual role. A dual role occurs when the mental health professional is participating in two or more professional, or non-professional roles, simultaneously. Thus, a professional is performing dual roles if they are serving as the individual counselor for a given client while simultaneously performing a custody evaluation for the client’s family, or if they are personal friends with the husband of a woman they are assessing for possible substance abuse. The primary risk that exists in this type of situation is that the professional’s impartiality, objectivity, and effectiveness are likely to be impaired or compromised by differing and competing expectations in each of the roles.

A similar problem can arise when a professional decides to participate in sequential roles with the same individual or family, especially if those roles have inherent conflicts. For example, if a professional has served in the role of a mediator and then agrees to become the custody evaluator for the family, they are accepting sequential roles that have basic aspects that are incompatible. Mediation is a process that insures complete confidentiality as to the content of negotiations so as to specifically allow for the free exchange of ideas in the pursuit of a mutually beneficial resolution of conflicts. On the other hand, custody evaluators push for the open disclosure of information with no expectation of confidentiality of the information obtained. These basic tenets of each process are completely incompatible.

The various ethical guidelines and standards, as well remind us of these risks and warns us to avoid these situations if at all possible, and if not avoidable, show extreme care in how we participate.

However, what do we do when the process used actually expects and encourages professionals to engage in multiple roles with clients?

These so-called “hybrid processes” have arisen in various jurisdictions across the United States, and internationally, that are used to try to resolve disputes between parents and/or families. For the most part, hybrid processes have arisen out of a need to fill voids in the continuum of dispute resolution processes. The reasons for their use and acceptance include greater availability of resources to more individuals, less cost to



individuals and families, the hope of more amicable resolution of disputes, more timely and responsive interventions, less stress on the court system and less overall intrusiveness in families. Hybrid processes such as parenting coordination, recommending mediation, early neutral evaluation, med-arb, arb-med, and extended forensic evaluation (EFE) require the professional to engage in multiple roles with a given family.

Parenting coordination (PC) provides good example of a hybrid process that arose, first informally, and then formally within the context of family disputes. By definition and function, a parenting coordinator takes on multiple roles when dealing with a family. The PC is a facilitator of communication, a mediator of disputes, a parent educator when appropriate, an evaluator/investigator of specific problems and, in some situations, an arbitrator with decision-making authority. Talk about multiple roles!

It is not hard to imagine the multiple conflicts in ethics and responsibilities, both professional and legal, that arise in trying to function in each of these roles simultaneously. Should the PC be adhering to the Model Standards for Family and Divorce Mediation, the APA Ethics Code, the AFCC Model Standards for Child Custody Evaluation, the AFCC Guidelines for Brief Focused Evaluations, the arbitration code, or any other number of guidelines, codes, or standards? More specifically, if the negotiations and content of a mediation are by law and professional standards confidential and privileged, how can the PC first attempt to mediate a dispute and then use the information that she has obtained in the process of investigation and/or arbitration of the dispute without violating some standard? How can she do an “evaluation” of a specific focused issue in dispute that does not conform to the AFCC Guidelines, or the APA Guidelines and not be violating her professional responsibilities? (It should be noted that only the AFCC Model Standards took this inherent conflict into consideration and stated that the standards may not apply when hybrid processes are used.)

Areas of conflict are resolved somewhat for parenting coordination because it has been adopted by a variety of organizations and legislatures as a single, independent process defined with its own set of guidelines for practice and, in some instances, statutory or court regulations that help to define the professional and ethical obligations of the practitioner. However, for other current and emerging hybrid processes, such as med-arb, arb-med or Extended Forensic Evaluation, there are no specific guidelines or state regulations regarding professional obligations and responsibilities. In those types of situations, what can a professional do to mitigate the risk of harm to their clients and themselves?

Here are 10 things to consider before engaging in a dual role or a hybrid process.

With respect to dual roles:

1. As the standards clearly state, whenever possible avoid accepting a request or assignment of a dual role, whether it comes from the clients, the attorneys, or the courts.
2. If it feels wrong, it probably is wrong. Therefore, say, "No."
3. Consult with a colleague about the request before giving an answer. Hear what an objective, independent voice has to offer.
4. Carefully consider the risks and benefits to the clients, and the risks and benefits to you if engaging in dual roles. If the risks outweigh the benefits for either side, then the answer to your dilemma is clear. Say, "No."
5. Carefully review the risks and benefits with the clients of accepting a dual role in their situation. If they have attorneys, do this with the attorneys as well. Furthermore, give them all a written document reviewing the risks and benefits and have them review it prior to accepting a dual role. Remember, clients often change attorneys during the process of their disputes. New attorneys may not agree to the dual roles, so it is important to have received informed consent not only from the attorneys, but from the clients.] On the other hand, even after careful review, a client may not fully understand the implications/risks to them of dual roles. Therefore, their attorneys need to also help them give informed consent.

With respect to Hybrid Processes:

1. Carefully consider whether or not you have the requisite training in each of the individual processes that comprise the hybrid process. For example, if you are a custody evaluator, ask yourself, "Do I have the mediation skills to conduct a settlement conference or a mediation following the completion of my assessment?" The same would be true with respect to med-arb, or any other combined process. If the answer is no, say "No."
2. For those processes that are unregulated and lack a set of practice guidelines or standards, ask yourself if you are cognizant of the individual standards and laws pertaining the multiple processes to be used. You cannot do a careful analysis of any inherent conflicts without such knowledge.
3. Carefully review the potential risks and benefits for the client and yourself before using a hybrid process. If the process is unique, no matter how creative, include in your analysis whether or not you can defend the use of the process if there is a complaint against you with your professional board. Look to see if there is any body of literature to support the use, especially in light of potential risks. Remember, high conflict clients become easily angered and have a higher probability of filing a board complaint.
4. Consult with a trusted colleague about participating in such an approach. You may view it as a hybrid model, but your board may perceive it as conflicting, dual roles.

5. As noted above, review with the clients, and if available, the attorneys all of the potential risks and benefits of using the hybrid process. Do this in person with the clients, as well as in writing so that they may study the analysis and think about it prior to their committing to participate. Get their informed consent in writing.

*Dr. Arnold T. Shienvold is the principle partner of Riegler, Shienvold and Associates, a private practice in Harrisburg, Pennsylvania. He is a past president of the Association of Family and Conciliation Courts, the Academy of Family Mediators and the Association for Conflict Resolution. In his practice, Arnie specializes in working with high conflict families and families in transition by doing forensic assessments, mediations, and various forms of hybrid processes such as parenting coordination. He is the author of the chapter, Hybrid Processes, in the book Divorce And Family Mediation (2004).*

# The Maurice A. Deane School of Law at Hofstra University and the Association of Family and Conciliation Courts present the tenth annual Family Law Writing Competition



Hofstra Law and the Association of Family and Conciliation Courts (AFCC) are sponsoring the tenth annual Family Law Writing Competition. The competition is run in cooperation with the editorial staff of the *Family Court Review*, which is the academic and research journal of AFCC. The *Family Court Review* is an interdisciplinary and international journal published quarterly by Wiley and in cooperation with the Center for Children, Families, and the Law at Hofstra Law. The *Family Court Review* contributes to and facilitates discourse among the judicial, legal, mediation, mental health and social services communities.

## Topics for Submission

The subject of entries may be within any area of family law, although topics that focus on international or interdisciplinary subjects of family law are especially encouraged. Articles should concentrate on a current legal issue and must have a strong foundation in legal research. Use of interdisciplinary sources may also be appropriate for many topics.

Entries will be judged on the quality of legal analysis, originality, depth of research, timeliness, creativity and format. The *Family Court Review's* editors and a subcommittee of editorial board members will evaluate all articles.

## Authorship

Submissions must be the work of one person. No joint authorships will be accepted, except articles written jointly by a law student and mental health, social science, or other relevant graduate student. Submissions must be originally argued and researched legal papers. Hofstra Law students are ineligible to participate. Law students can be from any country. Advice and input from professors, judges, and professionals in the field is allowed, but the author must research and write the entire article. Entries cannot be more than 25 double-spaced pages in length, including footnotes. Articles must be in Times New Roman, 12-point font, with 1-inch margins. Authors from the United States must comply with *The Bluebook: A Uniform System of Citation, 20<sup>th</sup> Edition*. Authors from outside the United States must conform to the relevant legal citation format commonly used in that country and must indicate the citation format used. The submitted article cannot be published or submitted for publication elsewhere.

## AWARDS

### First Prize

- \$500 cash prize courtesy of the Center for Children, Families and the Law at Hofstra Law
- Certificate of recognition as first-place winner
- Consideration for publication of the article in the *Family Court Review*
- Letter to the dean of the student's law school
- One-year complimentary AFCC student membership, including a one-year subscription to the *Family Court Review*

OR

- Complimentary conference registration to AFCC's 56<sup>th</sup> Annual Conference, held May 29-June 1, 2019, in Toronto, Canada (Does not include hotel, transportation and food)

### Honorable Mention (Up to two)

- \$250 cash prize courtesy of the Center for Children, Families and the Law at Hofstra Law
- Certificate of recognition as the honorable-mention winner
- Consideration for publication of the article in the *Family Court Review*
- Letter to the dean of the student's law school

## SUBMISSION PROCESS

Applicants must download the Entry Form from [law.hofstra.edu/FCR](http://law.hofstra.edu/FCR) and e-mail the completed form to [fcr@hofstra.edu](mailto:fcr@hofstra.edu) for an anonymous entry

number by February 1, 2019. Applicants who do not submit an Entry Form by February 1, 2019 are ineligible. All submissions must be emailed as a Microsoft Word or PDF document to the *Family Court Review* at [fcr@hofstra.edu](mailto:fcr@hofstra.edu). Hard copies are not permissible.

## DUE DATE

Entry forms must be received by February 1, 2019. Article submissions must be received by February 15, 2019. The winner will be notified no later than March 15, 2019.

## CONTACT INFORMATION

If you have questions, please contact the Managing Editor of the *Family Court Review* at [fcr@hofstra.edu](mailto:fcr@hofstra.edu).

## RELEVANT LINKS

Association of Family and Conciliation Court (AFCC): <http://www.afccnet.org/>

Hofstra Law's Center for Children, Families and the Law: [law.hofstra.edu/CenterForChildren](http://law.hofstra.edu/CenterForChildren)

Hofstra Law's L.L.M. Program in Family Law: [law.hofstra.edu/LLMFamilyLaw](http://law.hofstra.edu/LLMFamilyLaw)

*Family Court Review*: [law.hofstra.edu/FCR](http://law.hofstra.edu/FCR)

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