



## **Idaho Rules of Family Law Procedure Rule 1005**

### **Idaho Rules of Family Law Procedure Rule 1005. Brief Focused Assessments.**

(a) **Definition of Brief Focused Assessment.** A “brief focused assessment” is an assessment of a specific, narrowly defined issue or limited set of issues identified by a judge and designated in a court order. The purpose of the assessment is to provide the judge with information generated through reliable procedures regarding focused questions that have been identified by the court as important to the resolution of a child custody dispute. A qualified assessor conducts interviews, makes observations, reviews relevant records, consults relevant collateral contacts, and conducts additional activities in connection with the assessment. The assessment is guided by focused inquiry provided by the court.

(b) **Limitations of Brief Focused Assessments.** A brief focused assessment must be limited to the issues identified in the court order and must not contain any recommendations of a custody schedule or opinions from the assessor regarding the best interests of the child. Acknowledging the narrow scope of the issues assessed and data gathering related thereto, the assessor must:

- (1) offer information and options within the available data;
- (2) respond within the scope of the referral questions;
- (3) clearly state the limitations of the response within the report;
- (4) avoid broad issues to be addressed by comprehensive custodial evaluations; and
- (5) seek clarification for specific areas of concern in broadly stated requests or orders.

(c) **Referral Procedures.** A brief focused assessment may be initiated on a motion of any party, agreement of the parties, or on the court’s motion. On receipt of a written stipulation of the parties, or on granting the motion after proper notice and a hearing, the court must issue an order that includes a well-defined referral question or set of questions, specifically naming the assessor to conduct the assessment and to whom the report must be provided on completion.



(d) **Qualifications of Assessors.** Subject to an appointment pursuant to Idaho Rule of Evidence 702, a qualified assessor is an individual who meets or exceeds the qualifications set forth in Rule 1004 D(1).

(e) **Issues Subject to a Brief Focused Assessment.** A brief focused assessment must be limited to assessing not more than three of the following issues:

(1) the wishes of the child regarding custody, including the context and bases for those wishes;

(2) the child's academic performance and functioning within a defined time period, including, but not limited to, circumstances surrounding the child's attendance at school or lack thereof;

(3) the adequacy of the residence of one or more of the child's physical custodians including, but not limited to, cleanliness and safety;

(4) the adequacy of the physical environment of any or all third-party care providers to the child including, but not limited to, cleanliness and safety;

(5) whether any or all of the parties presently consume drugs or alcohol in a manner that adversely impacts their ability to provide proper parental care to the child; in so doing, the assessor may request any party or a child of the parties to submit to random drug testing, including urine and hair follicle testing;

(6) whether or not the child is fearful of one of the parties including, but not limited to, at custody exchanges;

(7) the identification of present mental health issues in any or all parties and, how those issues are likely to impact parenting capacity, or the party's ability to provide a consistent and safe environment during custody time;

(8) in cases involving a disabled party, the identification of adaptive equipment or supportive services that are available which enable the disabled party to carry out the responsibilities of parenting the child; and

(9) any other factual issue that is narrowly-defined by the court.



**(f) Motion, Stipulation, and Order of Assessment.**

(1) Every motion or stipulation for the performance of a brief focused assessment must include specific issues to be addressed in the assessment;

(2) Every order for brief focused assessment must include:

(A) the name of the assessor;

(B) the referral question(s) for assessment;

(C) names and dates of birth of those assessed;

(D) a requirement that the parties cooperate as requested by the assessor, including that they execute and sign any and all releases of information necessary for the assessor to obtain access to documents that are relevant to the referral questions;

(E) provide for the assessor to have access to all records, public or private, identified in the court order;

(F) assign responsibility for payment; and

(G) require a written assessment to be prepared unless the court orders otherwise.

(3) Every brief focused assessment must include:

(A) a discussion of issues related to the referral question, including acknowledgment of the limitation to the data;



(B) conclusions relevant to the issues raised in the referral question, if requested by the court; and

(C) documentation that limits of confidentiality were explained.

(g) **Admissibility of Reports.** A report prepared consistent with this rule must be admissible into evidence, subject to cross-examination. The court may consider the information contained in the report in resolving the issues addressed in the assessment. The Idaho Rules of Evidence do not exclude the report from consideration by the court.

(h) **Form of the Report and Transmittal to the Court.** The written report must be submitted to the Court provided that copies are contemporaneously distributed to the parties. The parties must have an opportunity to cross-examine the assessor if the contents of the assessment are introduced into evidence in the form of expert testimony or a written report. If the report is oral, the court must not hear the contents of the report and findings unless both parties are present.

(i) **Judicial Immunity.** An assessor appointed to conduct a brief focused assessment pursuant to this Rule has qualified judicial immunity in accordance with Idaho law as to all acts undertaken pursuant to and consistent with the order of appointment.

(Adopted March 29, 2021, effective July 1, 2021.)

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