

BENJAMIN D. GARBER, PH.D.

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Statement of Understanding: Forensic Family Systems Evaluation

Today's date:		
Case caption:		
In the best interests of:		
Parties		
Attys:		
GAL:		

This document seeks to clarify the terms and limitations relevant to the conduct of a Forensic Family Systems Evaluation ("FFSE" or "Evaluation"). This Evaluation intends to advise parties and the Court regarding your child[ren]'s unique needs and those future conditions of care which may serve their best interests.

Please take the time necessary to read this document in its entirety, to consult with legal counsel as you see fit and, upon your agreement, to initial each page, sign the last, and return the entire original document to my attention via email or facsimile. Upon return receipt of both parties' agreements, the retainer as specified below, and the materials requested herein, I will contact you to schedule our first interviews.

General terms, scope, and definitions.

1. Your initials on each page of this document and your signature on the last signify your full understanding, acceptance, and agreement to these terms.
2. This agreement is intended to be consistent with the court's order of [REDACTED] calling for a "comprehensive family evaluation." That order requests that the proposed evaluation address the following:

[REDACTED]



e.

3. The Court's order additionally provides that "Dr. Garber is authorized to conduct activities as he deems necessary" This explicitly includes deference to my discretion regarding inclusion of adult psychometrics and home visits.
4. I am a New Hampshire licensed psychologist with a special interest in serving the needs of children whose caregivers are conflicted, separated, divorcing, and/or divorced. Please take the time to learn more about my practice at www.FamilyLawConsulting.org and/or to request my *curriculum vitae*, article reprints, and related materials. Please be advised that my work is constrained by state and federal laws, the ethics, guidelines, and standards promulgated by the American Psychological Association and the Association of Family and Conciliation Courts, and is subject to the oversight of the New Hampshire Board of Psychologists.
5. I am not licensed to provide services in Vermont. I am however entitled to practice in Vermont under PsyPact (VT H 282; Enacted 6/1/2023; Effective 7/1/2024) and consistent with VT law enabling a provider licensed elsewhere to provide court-ordered services in-state.¹
6. FFSE (sometimes known as "custody evaluation" or "parenting plan evaluation" or "family systems evaluation") is a process seeking to assess and integrate a great breadth of social, emotional, developmental, systemic, and otherwise psychologically-informed data in order to generate child-centered recommendations for the Court. By agreeing to participate in this process, you understand and accept that:
 - a. This is not necessarily a quantifiable, statistically reliable, or empirically valid process,
 - b. I am a child-centered mental health professional who is impartial with regard to the adults' conflict(s). I bring no intentional bias to this process including but not limited to matters of gender, race, sexual orientation, religion, or belief; and,
 - c. Although the results of this process may or may not be consistent with your hopes and expectations, they will be the result of an empirically informed, impartial, and child-centered evaluation.
7. FFSE is a process intended to collect, organize, and interpret data which, taken together, characterize each of the members of the family system, the relationships within the family system (e.g., parent-child, sibling, parent-parent), the family system as a whole, and the family system as it functions within its larger community. The data collected may include at my discretion interviews, observations, psychometric tests, third personal party references and professional resources (e.g., therapists, physicians, employers).

8. My role in the course of providing this service is evaluative. I will not provide advice, feedback, impressions, or recommendations at any time prior to completion of this evaluation and/or delivery of the final Summary Report. I will not intervene except in response to acute safety needs and consistent with my responsibility as a mandated reporter under relevant ethics and laws.
9. This agreement remains in force for six (6) months from the date that it is generated. Should the course of this evaluation be interrupted for any reason such that it cannot be concluded within this period, I reserve the right to invalidate the terms and/or the data collected to that point as outdated and/or to present new terms prerequisite to resumption or recommencement of the process.
10. Acknowledging that FFSE routinely leaves at least one party aggrieved, you agree to address any resulting concern or complaint directly to my attention in writing in the first instance and to invite my timely response before pursuing any further recourse or remedy.

Consents, communications, data access, delivery, and retention.

11. The Court order enabling this evaluation may be sufficient to allow collection of otherwise private and protected data. Nevertheless, you will be asked to provide written consent permitting me to collect confidential and private information from personal references, professional resources (e.g., your physician), and others who may have information relevant to this process. You can choose to decline to provide any such consent. Should this occur, I may need to defer to the Court for further direction.
12. I must be granted unimpeded freedom to interview and otherwise to obtain information from or to choose not to interview or obtain information from any and all possible sources at my sole discretion. This includes, but is not limited to: you, your child[ren], your past, present, and prospective intimate partners, co-parents and surrogate caregivers; neighbors, housekeepers, baby-sitters, or daycare providers; your child[ren]'s teachers, physicians, coaches, tutors, clergy, attorneys, and therapists. You will be required to provide your written consent ("release") in order to facilitate such communications.
13. I will receive data directly from you and directly from other sources. I reserve the right to accept or refuse to accept any information in any form in any medium from any source at my sole discretion. Litigants and counsel accept the responsibility to maintain copies of all such information and to proactively provide opposing counsel with copies of the same as may be required by law. Unless otherwise required by Court order, I will not proactively seek counsels' agreement before accepting data. All information accepted will become a permanent part of my (paper or digital) file, may be catalogued as part of my final summary report, and will be subject to discovery. Documents received will not be returned at any time.
14. I reserve the right to conduct any and all portions of the evaluation process via digital video media (e.g., Zoom™). The associated technology carries with it certain risks to confidentiality and privilege, procedural limitations, hardware, and infrastructure requirements. It also carries with it certain benefits, conveniences, and opportunities. By endorsing this agreement, you are acknowledging and accepting these and related conditions as necessary parts of the evaluation process.
15. Our communications throughout the course of this evaluation process will be conducted largely via email. These communications will become part of the evaluation record. Please be

advised that phone calls made to and voice mail left at the office phone number will not be received or returned in an efficient manner.

16. This evaluation process requires the exchange and review of numerous written questionnaires and voluminous written materials. Many must be completed, returned, and reviewed preliminary to our first meeting. With this understanding, you agree to:
- Endorse all documents including this agreement delivered via any medium as fully comparable to the original.
 - Assure that all third-party documents delivered to this office are unaltered and complete.
 - Make every reasonable effort to assure that all documents delivered to this office are digitally transmitted in a fully collated, searchable (i.e., optical character recognition [OCR]-enabled) .pdf format, understanding that managing paper documents, photographed (as opposed to scanned) documents, collating documents delivered one page per transmission, and correcting the format of documents not received in this format will require my time and will incur associated costs,
 - Deliver or arrange to have delivered all such documents via electronic facsimile transmission (eFax) to 603.386.6083 and/or via email to bdgarberphd@FamilyLawConsulting.org. Physical delivery of paper documents to my post office box is acceptable but very time- and cost-inefficient. Please expect that receipt of paper documents via the USPS and comparable services may take up to two (2) weeks.
 - You will maintain copies of all documents that you provide to this office. You will proactively assure and affirm that none of the data that you provide as part of this evaluation in any format at any time is subject to any legal restriction that would prohibit disclosure and review of those data. This is most often relevant to the provision of audio and video recordings.
 - I may be able to provide you with an encrypted digital portal to facilitate upload and download of documents.
17. As a Court-ordered service and as a precondition to commencing this work, you accept and allow that I will collect and may communicate otherwise private, confidential, and/or privileged information to others at my sole discretion for the purpose of completing this evaluation. In addition, you acknowledge and allow that certain legal, ethical, and administrative conditions may require that I disclose otherwise confidential, privileged, and/or private information to uninvolved third parties. These include, but are not limited to circumstances in which, in my sole discretion:
- I am required by a Court to deliver such data; and/or,
 - I am obligated to comply with the oversight processes of any relevant administrative or regulatory body.
 - I believe that a person may be in danger or present a risk of harm to another person or real property in which case I will contact the police, Child Protective Services (CPS), or a similar person or agency. Should this action result in a third party (e.g., police or CPS) investigation, I reserve the right to suspend the evaluation until the investigation is concluded or terminate the evaluation prematurely.
18. Neither this document nor the final Summary Report is to be shared with any minor child, intentionally or otherwise, in whole or in part, without the Court's explicit directive.
19. **DATA CLOSURE.** Upon completion of our final interviews/observations I will alert you to a date after which I will no longer accept new data for consideration. Understanding that the

relationships at issue will continue to change and grow, establishing this deadline allows me to finalize and deliver my report in a time efficient manner.

Your responsibilities as a participant in this service.

20. FFSE is a very verbal process. It relies in part on your ability to understand and engage in written and spoken English communications. Please alert me immediately if you have any difficulty, limitation, or challenge reading, writing, and speaking English and/or if English is not your first language. In some such cases, accommodations can be provided. In other cases, FFSE may not be appropriate.
21. You will make yourself available to participate and contribute as specified herein and consistent with my reasonable and timely requests. This includes assuring that all requisite technology (e.g., full size screen, keyboard), infrastructure (e.g., WiFi signal), and your ability to use these communication tools are adequate for our purpose in advance of the scheduled contact. The duration of this process can be minimized when you are punctual, prepared, flexible, and responsible fulfilling the terms of this agreement and in completing any subsidiary task (e.g., the provision of specific records).
22. You will participate in interview(s) and observation(s) as part of this evaluation process. This will necessarily include challenging you, asking you to disclose your thinking, decision-making process, and consideration of alternatives. You may be asked to provide means of verifying your observations, allegations, and beliefs. These pointed inquiries may be frustrating, may feel redundant, intrusive, and may be very personal. Your responsibility is to be open, honest, and forthcoming at all times.
23. In the interest of orienting you to the evaluation process, diminishing your anxiety in advance of this evaluation and thereby improving efficiency and effectiveness, you are responsible to view the advance orientation program about "Parenting Plan Evaluation" at DefuseDivorce.com (<https://www.defusedivorce.com/overview/ppe>). The program costs [REDACTED].
24. The evaluation process will yield a final Summary Report. Per the Court's order, I will deliver this Report "to the attorneys for each party via an encrypted pdf document delivered via email." Counsel will be free to disseminate the Report at their discretion and subject to the Court's direction.
25. The evaluation record will include all materials received and reviewed. Digital and/or paper records will be stored under conditions consistent with relevant guidelines and standards.
 - a. This record will NOT be available for inspection by parties or counsel during the pendency of this evaluation.
 - b. This record may be disclosed for inspection upon completion of this evaluation only by Court order and only upon advance receipt of all consents and funding necessary to produce the record and subject to my objection should I believe that exposure of some or all of the record risks doing harm to any party.
 - c. In the condition that the Court does order release of the record, the requesting party or parties will be responsible to pay for anticipated copying and delivery costs to both parties in advance of delivery.

- d. Psychometric assessment data (i.e., test responses) may be released but psychometric assessment materials (i.e., questions and protocols) cannot be released in accord with relevant ethics and due to the proprietary nature of these materials.
 - e. These same restrictions apply to both the written and digital record, noting that this office retains the right to withhold metadata in the belief that release of this information compromises the confidentiality of others unrelated to this matter.
26. I reserve the right to conduct or decline to conduct any interview, observation, document review or other, relevant process in any sequence, at any site, and under any conditions that I believe best suits the purpose of the proposed evaluation.
- a. Interviews and observations will typically be scheduled weekdays between 8:00 a.m. and 6:00 p.m. eastern time.
 - b. Special conditions may apply to the administration of adult psychometric instruments ("tests"). I may request that a colleague conduct these assessments. Paper materials may be delivered to you via the USPS or comparable service to be opened, completed, and sealed for return delivery only on camera and/or testing materials will be provided online via third party websites and proctored in accord with relevant administrative protocols.
 - c. Conducting relationship observations will require your advance cooperation managing technology and/or physical setting. This may require that I arrange to use a colleague's office or a hotel suite proximal to one or both parents' homes.
 - d. Home visits will be conducted or not conducted at my discretion depending on the nature of the matters at issue. In some instances, it may be appropriate to ask you to provide a video tour of the home and environs as a less time-consuming and less expensive alternative.
27. **Our interactions will be recorded.** I will require your written and spoken consents in order to create an audio and/or video record of the evaluation process. The resulting digital record will be stored with the evaluation file and protected from discovery and disclosure under the terms dictated by this agreement.
28. Participants in this process routinely ask what to tell the child[ren]. The Court has ordered that, "parties are ordered not to discuss this evaluation with or around the children unless and until Dr. Garber has directed that this is appropriate and advised how to do so." There is no need to tell them anything before we complete initial adult interviews at which time we can address this matter further. Pending that discussion;
- a. You may find two videos useful: <https://www.defusedivorce.com/overview/tell> and <https://defusedivorce.com/programs?program=1747675615403x742981974043131900>
 - b. When its appropriate, feel free to introduce me as "Dr. Garber" or as "Ben" as suits your family's practice.
 - c. Please refer to my job as helping parents to make important decisions.
 - d. I am not the child[ren]'s therapist and will only be involved with the family briefly.
 - e. I cannot promise privacy (confidentiality) to anyone. Part of my job is to share what I learn with other people.
 - f. The child[ren] can share anything with me that s/he/they wishes to share at any time. In general, it may be possible to arrange additional contacts if either child wishes to share something if no contact is already scheduled.
 - g. No one will tell the child[ren] what to say or not to say at any time.

- h. No one will create any contingency (e.g., threats, bribes, promises or any statement like, "if you.... then you ...") related to the child[ren]'s participation in this process. The children are welcome to share anything that they wish to share without expectation of any particular outcome or consequence.

The cost of this service.

29. Other professionals may be involved in this process:

- a. An administrative assistant may assist with data collection and communications. All communications with the administrative assistant will become part of the evaluation record.
- b. On occasion it is necessary to employ another professional to assist in the evaluation process as a specialist (e.g., conducting individual adult psychometric evaluations and/or substance abuse evaluations) and/or as a consultant. Any such professional will:
 - (i) Be bound by the terms of this agreement.
 - (ii) Generate data that will become a part of this evaluation record and subject to these terms.
 - (iii) Generate his/her/their own billing separate from the costs associated with this evaluation.

30. FFSE routinely requires in excess of forty (40) professional hours. It is my experience that charging by the hour creates unnecessary additional tensions and costs. I have therefore resolved to provide this service for a fixed fee EXCLUSIVE of specific additional costs detailed below:

- a. The fixed fee cost of this evaluation is [REDACTED] dollars (\$ [REDACTED]) U.S. This expense is due in two segments. The first segment of [REDACTED] must be received before initial interviews can be scheduled. The second segment of [REDACTED] must be received before the DATA CLOSURE date.
- b. The Court has ordered that Father is responsible for all costs.
- c. [REDACTED] of the first segment is not refundable under any circumstance. The remainder of any funds received may be reimbursed if this evaluation terminates prior to generating a summary report based on a calculation of services provided to date at a rate of [REDACTED] per hour.

Separate costs incurred will include:

- d. Any costs associated with receipt of other professionals' records (e.g., the other professional's expenses copying, mailing) will be forwarded to your attention for your direct reimbursement to that professional.
- e. Any costs incurred by another professional hired to assist with this evaluation (e.g., substance abuse evaluation, psychometric testing) will be due directly and immediately to that professional subject to any terms that that professional might establish.
- f. My administrative assistant's time at [REDACTED] per hour. In a typical evaluation this averages between eight (8) and ten (10) hours total.
- g. Any costs incurred with my travel including but not limited to transportation, food, lodging, office or hotel rental, and comfort will be promptly invoiced to your attention for immediate and full reimbursement.
- h. In the extreme circumstance in which I believe that either or both parties are needlessly and repeatedly delaying, prolonging, or obstructing the evaluation process, I reserve the right to charge that individual/those individuals for time lost at the rate of [REDACTED] per hour and/or to suspend and/or to terminate the evaluation process.

- i. All costs incurred including the full fixed fee evaluation expense and other expenses including but not limited to the exceptions noted here must be paid in full prior to release of the evaluation summary report. **The summary report will not be released while costs incurred remain unpaid** regardless of who might be responsible for such overdue payments.
31. FFSE is not a healthcare service. Thus, costs incurred will not be billed to and are not likely to be reimbursable through health insurance. The federal "No Surprises Act" (2023) is not relevant.
32. Please be advised that:
- a. No single individual will be identified as the "patient" or "client." Services will be provided in the family name(s) only.
 - b. FFSE generally does not yield individual diagnoses.
 - c. The billing procedure code will be unique to this process and distinct from federal CPT procedure codes.
 - d. Payments received may not be rescinded, withdrawn, or disputed except via the legal process associated with this evaluation.
33. The costs associated with this evaluation process can be paid by paper check and delivered via USPS to **B.D. Garber Ph.D. PO Box 101 Hollis New Hampshire 03049** acknowledging that materials delivered in this manner may not be received for as long as two weeks. In the alternative, payment can be made via PayPal using the button provided at www.FamilyLawConsulting.org or using STRIPE via Dr. Garber's encrypted digital portal understanding that **a three percent (3%) service fee will be incurred when credit card payments are received. In the case of credit card payment, you are herewith agreeing not to rescind payments retroactively under any condition.**

Future services.

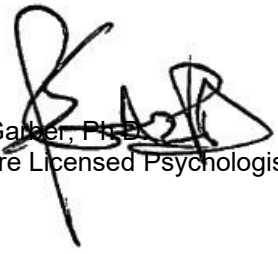
34. Upon completion of this evaluation and delivery of the Summary Report, I may be subpoenaed to be deposed and/or to testify as a fact witness about the process, my observations, conclusions, and recommendations. Any such future service will subject to the terms of this Agreement and scheduling limitations although all costs anticipated will be separate from the costs associated with the evaluation and will be the exclusive responsibility of the requesting party. All such costs must be paid in advance understanding that:
- a. All such services will be charged at [REDACTED] per hour exclusively to the requesting party. Delivery of such services is contingent upon prior receipt of all requested funds.
 - b. Post-evaluation testamentary services are charged in three (3)-hour blocks including advance preparation.
 - c. Anticipated costs will include portal-to-portal travel and any anticipated food, lodging, and comfort expenses.
 - d. All such payments are due at least seven (7) calendar days prior to the planned testimony.
 - e. Monies received will not be reimbursed if the anticipated testimony is postponed or cancelled with fewer than three full business days' notice except in cases of extreme weather, abrupt illness, or injury.

35. If, following delivery of the summary report one party's attorney subpoenas me to be deposed or to testify, I may engage in *ex parte* communications with that attorney with the understanding that none of these communications are privileged and that all can be discovered and disclosed at my discretion and/or through the legal process.
36. I will not otherwise be available to provide any other service in any other capacity to any person involved in this matter including, but not limited to psychotherapy, co-parenting facilitation, and Parenting Coordination.

In anticipation of our work together in your child[ren]'s best interests, I am,

Respectfully,

Benjamin D. Garber, Ph.D.
New Hampshire Licensed Psychologist



[REDACTED]

Please initial here

Participation agreement. I have read the foregoing and, having discussed each provision in full with legal counsel as I deem necessary, I understand and accept the conditions under which Benjamin D. Garber, Ph.D., will conduct the proposed evaluation.

Your Signature

Today's Date

Payment agreement. I agree to pay percent of all costs incurred as detailed in this agreement.

I am immediately providing \$ U.S. dollars of the total anticipated fixed cost of subject to the terms of this agreement.

Your Signature

Today's Date

Please Print Your Name in Full

Your date of birth

Preferred Phone Numbers

Please print your complete mailing address

City and State

Digital waiver and consent: By providing an e-mail address below, (1) I acknowledge that electronic transmissions may not be secure, (2) I permit Dr. Garber to contact me at this electronic address individually or jointly as part of e-mail to other parties (e.g., your child[ren]'s other parent) relevant to this evaluation, and (3) I allow that otherwise confidential and/or privileged and private media may be delivered and received via digital transmission and hereby waive concerns about electronic interference, interruption, and interception of such transmissions.

Please print your e-mail address

TO DO CHECKLIST:

- ✓ Please be certain to initial each page, complete this last page and return this entire document to Dr. Garber promptly.
- ✓ Please make certain that funding is provided fully and promptly.
- ✓ Please complete the consent form provided on the next page allowing Dr. Garber to communicate with the GAL and the children's lawyer.
- ✓ Please complete and deliver the accompanying preliminary questionnaires as scanned or faxed documents at your earliest convenience. Please do NOT return these one page at a time as individual images.
- ✓ Reach Dr. Garber at bdgarberphd@FamilyLawConsulting.org with questions at any time.

Please initial here

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Case caption:	
In the best interests of:	
Parties	

Please copy and complete this page once for each individual professional, agency, or institution.

The person(s) identified above is presently involved in a court-involved psychological evaluation or intervention. You have been identified as a valuable resource. This form, properly executed, permits you to provide this office with information relevant to the ongoing service. State and federal law limits the exchange of confidential, privileged, and/or healthcare information in the absence of fully informed consent and written acknowledgement from the individual and/or from that person's legal custodian.

Your endorsement below authorizes Benjamin D. Garber, Ph.D. and Family Law Consulting, PLLC, to obtain any and all information regarding the person(s) identified above from the professional, agency, and/or institution identified below. This consent is inclusive of all matters, even in those jurisdictions in which information pertaining to the use of drugs and/or alcohol and/or tobacco and in which information pertaining to sexual activity, reproductive health, HIV and AIDS status may be subject to specific conditions of confidentiality. This consent will remain in effect for one (1) full year from the date of signature unless and until it is rescinded in writing, or the court nullifies it.

Authorization to Exchange Confidential Information with:

Please print name of intended party:	
Please print party's physical mailing address:	
Please print party's phone/fax/e-mail contact:	
Please print purpose of communication:	Communication in support of an ongoing court-involved psychological service

Signature of Individual Providing Consent or that Person's Legal Custodian:

Please print your full name:	
Your signature (if 18 years of age or older) or legal custodian/guardian:	
Please print today's date:	

Communications are preferred via email to
bdgarberphd@FamilyLawConsulting.org or fax transmission to **603-386-6083**.
A photocopy, facsimile transmission, or scanned reproduction of this document will be accepted as an original