
Family Court Process: Early Neutral Evaluation (ENE)

After you file your papers for a divorce or paternity case you have an Initial Case Management Conference (ICMC). You will get an ICMC data form. Fill it out and file it at least 5 days before the ICMC. The ICMC is your first appearance in Family Court. It happens about 3 to 4 weeks after you file.



The ICMC is an informal meeting with the judge, you, the other person and your lawyers if you have them. The idea is for everyone to be able to speak freely and resolve as many issues as possible.

If there are issues left that are not resolved at the ICMC, the judge may ask for an Early Neutral Evaluation (ENE). There is also a chance that the judge will go ahead without an ENE, but then call for one later.

What is Early Neutral Evaluation?

Early Neutral Evaluation (ENE) is a process some courts use to try to resolve custody, parenting time or money disagreements outside of the formal court setting. It is voluntary, you and the other person have to decide if you want to do it or not.

You may not want to agree to an ENE if:

- You are scared of the other party.
- The other party has abused you.
- The other party has a lawyer and you do not.
- You feel you cannot be honest about your concerns in front of the other party.
- You feel the other party will not be honest.
- The other party has mental health or dependency issues.

There are 2 Kinds of ENEs

- Social ENE is for custody and parenting time issues
- Financial ENE is used for division of property disagreements. Property includes debts.

The ENE is run by neutral evaluators who are experienced Family Court Services staff, Family Law lawyers or accountants. Each county sets up procedures, time lines, fees and has lists of evaluators.

You and the other person, or your lawyers, will choose evaluators from a list they give you.

Social ENE:

- At any point in the legal process about custody or parenting time the court can refer you to Family Court Services for an ENE.
- You, the other party, and your lawyers if you have them, meet with 2 neutral evaluators. One male and one female to keep it fair. The ENE usually happens within 1 to 3 weeks.
- About 3 hours are scheduled for the social ENE. But it could be done faster or take longer.
- There is usually a deadline to get it done. The judge at your ICMC will order that the ENE be done within a certain period of time. It is usually 30-90 days.

Financial ENE:

- At the ICMC the court may call for a financial ENE if there are financial issues that you can't agree on.
- You, the other party, and your lawyers if you have them, meet with a neutral evaluator. The ENE usually happens within 1 to 3 weeks.
- About 6 hours are scheduled for the financial ENE. But it could be done faster or take longer.
- There is usually a deadline to get it done. The judge at your ICMC will order that the ENE be done within a certain period of time. It is usually 30-90 days.



What happens at the ENE?

1. The evaluators ask one of you to present your case. This is not a formal court presentation. It is a chance for you and the other person to talk about how you want things to work out. The evaluators may ask questions. While one person is talking, the other cannot interrupt or react in any way. It is very important to stay calm.

Then the second person has the same chance to present their case and what they think should happen. Again, evaluators may ask questions. The other person cannot interrupt or react.

2. Next the evaluators meet alone for about 15 minutes. When they come back they tell you what they think will happen if the case goes to court and a judge decides.
3. The evaluators ask both of you to start talking about the things you cannot agree on. You may come to an agreement on some or all of the things.
4. At the end of the ENE the evaluators write a report listing the agreements that you make.
 - If everything is resolved, the evaluators tell the court the parties have come to an agreement. If this happens you may not have to go to court.
 - If only some things are resolved, then the evaluators tell the court the agreements about those things. The rest has to be decided by the court.
 - If no agreements are made on custody, the court could have a custody evaluation done or set your case for a trial.
 - If no agreements are made, everything has to be decided in court.

Does the court know what happens at the ENE?

The court will only know about the agreements you and the other person made. All other information is kept private. The court will not know about conversations, opinions, or things you did not agree on during the ENE. This makes sure the court procedure is not affected by information from outside the courtroom.

But it is important to know that just because information was brought up in the ENE does not mean that evidence may not be introduced later in court proceedings. For example, if a child's report card is introduced in the ENE, it can also be introduced in court. But nobody that was at the ENE can talk about conversations they had about the report card.



What should I bring to the ENE?

- Notes to help you in your statement to the evaluators. List the details about your situation you don't want to forget. Also, make a clear list of what you want to happen.
- Your lawyer, especially if the other party has one.
- Pictures of the children for a social ENE.
- Financial records, for a financial ENE. Things like bills, pay stubs, tax returns, bank statements, information on life insurance and retirement accounts.

How much does an ENE cost?

There is a cost for an ENE. The cost varies from county to county. But, the cost of an ENE is often far less than the cost of going to court. If you have a low income there is a sliding fee scale to help. If the court has waived your filing fee some counties may waive your ENE fee.

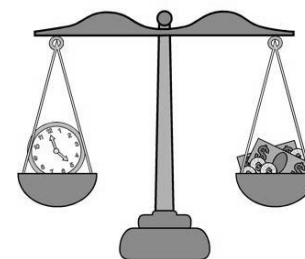
This Sounds Great. Are there downsides?

The evaluators only have the information you and the other person give them. If any information is left out or not presented clearly and truthfully the evaluator might not have a complete understanding of the situation. You could end up with an evaluation that does not seem fair to you or the other person. This is why it is so important to get ready ahead of time and present your side fully. A lawyer can help by reminding you about facts or asking you questions when you tell your side.

Remember: the worst thing that can happen is that no agreements are made. A few hours and some money were spent; but no party is worse off legally than they were before the ENE. And again, all information and discussion happening at the ENE will not be shared with the court.

What makes ENEs work?

Many times when people learn how a judge will probably rule, they are more willing to work out an agreement. If one party learns they don't have a strong case, they might be more willing to work out a compromise.



For many people, an ENE is the first time they have had a neutral setting to talk things out with each other and get input from others with experience. Because of this people are more willing to try to understand the other side and work things out. Also, because an ENE can save you time and money there is more reason to make it work.

To find other fact sheets, including any mentioned above, go to www.lawhelpmn.org/LASMfactsheets

To find your local legal aid office by county go to www.lawhelpmn.org/resource/legal-aid-offices

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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