



## Family Court Process: Early Neutral Evaluation (ENE)

### What happens after I file for divorce or custody?

After you file your papers for a divorce or custody case you have an Initial Case Management Conference (ICMC). You will get an ICMC data form. **Different counties have different rules**

**about the ICMC data form.** Check your form for details about what you need to do. Remember to get a copy to the other person, or their lawyer too. Some counties don't need you to submit an ICMC data form at all.



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 if the parties want to take part in an Early Neutral Evaluation (ENE).

### 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. ENE is voluntary. The court can't order it unless both sides agree to it.

You may not want to agree to an ENE if:

- You are scared of the other party.
- The other party has abused you.
- You feel you can't be honest about your concerns in front of the other party.

## 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 law professionals, accountants or psychologists familiar with child development. Each county sets up procedures, timelines, and fees and has lists of evaluators. Not every county provides an evaluator, so you may have to hire one from the list. There may be fees you have to pay.

You and the other person, or your lawyers, choose evaluators from a list the court gives you.

### **Social ENE (SENE):**

- In both divorce and custody cases, you have to figure out legal custody, physical custody, and parenting time. An SENE will help you deal with these 3 issues. In most cases, an SENE can only be ordered by the judge at the ICMC.
- Some counties refer you to Family Court Services for an SENE, but other counties give you a list of evaluators that you can choose from. The evaluators are usually lawyers or other professionals who work with family issues. A list of these evaluators is available online at your county's judicial website.
- 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 SENE usually happens within 1 to 3 weeks after the ICMC.
- About 3 hours are scheduled for the SENE. 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 SENE be done within a certain period of time. It is usually 45 days.



### **Financial ENE (FENE):**

- An FENE helps you figure out financial issues. In a divorce, it deals with child support, spousal maintenance, division of property (like real estate, vehicles, or retirement accounts), division of debt, and any other financial issues you have. In a custody case, an FENE only helps you deal with child support issues.
- Again, the evaluators are usually lawyers or other professionals who work with family issues. A list of these evaluators is available online at your county's judicial website.

- You, the other party, and your lawyers if you have them, meet with one neutral evaluator. The FENE usually happens within 1 to 3 weeks after the ICMC or SENE.
- Either 3 or 6 hours are scheduled for the FENE. But it could be done faster or take longer.
- The judge at your ICMC will order that the FENE be done within a certain period of time. It is usually 60 days.

## What happens at the ENE?

1. Most ENEs happen through video conference. You may be in a virtual room all together or in separate rooms. Each person gets to tell their side of the story. The person who started the divorce or custody action (the Petitioner) goes first. This is not a formal court presentation. 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 other person has the same chance to present their side. 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. Then the whole group starts talking about ways to reach an agreement. 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 made.
  - 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 again.
  - 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, there will be a trial, and everything is decided by the 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 at the ENE.



## 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.
- Some evaluators send you a letter with more instructions. It might be things like how to pay or other documents to fill out and return.

## How much does an ENE cost?

The cost of an ENE 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. Fees for your county can be found on your county's judicial website.

## Are there downsides to an ENE?

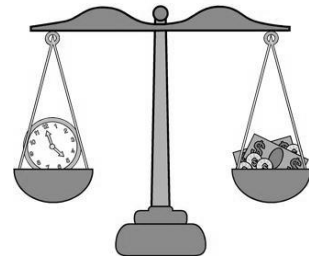
The evaluators only have the information you and the other person give them. If any information is left out, or not presented clearly and truthfully, the evaluator might not have a complete understanding of the situation. You could end up with an evaluation that does not seem fair to you or the other 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.



## Can I have an interpreter at ENE?

Yes. You must notify the evaluator that you require an interpreter. You may have to pay the cost for an interpreter if the county does not provide an interpreter for you. Please know that an ENE session with an interpreter may take several hours longer to complete.

**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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