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IRFLP 416 Physical, Mental and Vocational Evaluations of Persons

Idaho Rules of Family Law Procedure Rule 416. Physical, Mental and Vocational Evaluations of Persons.

(a) Order for Evaluation.

(1) **In General.** When the mental, physical, or vocational condition of a party or any other person is in controversy, the parties by stipulation, or the court by order, may require that person to submit to a physical, mental, or vocational evaluation by a designated expert or to produce for evaluation the person in the party's custody or legal control.

(2) **Motion and Notice; Contents of the Order.** The order:

(A) may be made only on motion for good cause and on notice to all parties and the person to be evaluated (unless the person to be evaluated is a minor child of one or both of the parties); and

(B) must specify the time, place, manner, conditions, and scope of the evaluation, including any tests or procedures to be performed, as well as the person or persons who will perform it.

(3) **Representative at Examination.** On reasonable notice, the person being evaluated must have the right to have a representative of his or her choice present during the evaluation, unless the presence of that representative may adversely affect the outcome of that evaluation.

(b) Evaluator's Report.

(1) **Request by the Party or Person Evaluated.** The party who moved for the examination must, on request, deliver to the requester a copy of the examiner's report, together with like reports of all earlier examinations of the same condition. The request may be made by the party against whom the examination order was issued or by the person examined.



(2) **Contents.** The evaluator's report must be in writing and must set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(3) **Request by the Moving Party.** After delivering the reports, the party who moved for the examination may request, and is entitled to receive, from the party against whom the examination order was issued all other writings or recordings created by the examiner or the party, including the originals of forms and test score sheets and like reports of all earlier or later examinations of the same condition. But those reports need not be delivered by the party with custody or control of the person examined if the party shows that it could not obtain them.

(4) **Waiver of Privilege.** By requesting and obtaining the examiner's report, or by deposing the examiner, the party examined waives any privilege it may have, in that action or any other action involving the same controversy, concerning testimony about all examinations of the same condition.

(5) **Failure to Deliver a Report.** The court on motion may order, on just terms, that a party deliver the report of an examination. If the report is not provided, the court may exclude the evaluator's testimony at trial.

(6) **Scope.** Subsection (b) applies also to an examination made by the parties' agreement, unless the agreement states otherwise. This subsection does not preclude obtaining an examiner's report or deposing an examiner under other rules.

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

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