

## Parenting Coordination – Standing Order 1-17

<p><b>What are mandatory PC qualifications (§ 3)?</b></p>	<p>MA LICENSED ATTY (+4 years of related professional experience (“RPE”))</p> <p>MA LICENSED PSYCHOLOGIST/PSYCHIATRIST/LICSW (+2 YRS RPE); LMFT/MENTAL HEALTH COUNSELOR (+4 YRS RPE)</p> <p>\$100K+ liability coverage</p> <p>P&amp;F Court approved and/or mandatory courses including 30 hours of mediation; 6 hours in IPA/DV; 35 hours of specialty training</p> <p>Annual minimum of 6 hours P&amp;F Court approved continuing education</p> <p>Application procedure is found in § 4</p> <p>“RPE” = direct/supportive professional work with families in custody/parenting time disputes or family/child therapy undertaken after MA licensure) (§ 2(c))</p>
<p><b>Can PC who served during pendency of action serve post-judgment?</b></p>	<p>Yes – § 6(c)</p>
<p><b>Will PC’s authority override that of the Court? (§ 5(c)(iii))</b></p>	<p>Never! Even if a PC has binding decision-making authority, either or both parties can petition for review and Court’s authority always remains predominant</p>
<p><b>To what statutes is Standing Order 1-17 applicable? (§ 1(c) and (d))</b></p>	<p>Statutes: 208, 209, 209C (not 209A), as well as others “provided that there is an order or judgment establishing a parenting plan, custody and/or parenting time.” Although a PC can’t be appointed in a case <i>filed</i> under G. L. c. 209A, the parties could have an active 209A and still have a PC. (§ 13)</p>
<p><b>What are PCs PERMITTED to do? (§ 7)</b></p>	<p>Assist the parties in coming to an agreement on:</p> <ul style="list-style-type: none"> <li>➤ Minor changes/clarifications of existing parenting plan</li> <li>➤ Transitions</li> <li>➤ Education (including school choice)/Daycare/Tutoring/Summer school/Special Education testing and programs</li> <li>➤ Enrichment and extracurricular activities</li> <li>➤ Travel/Passport arrangements</li> <li>➤ Clothing, equipment, personal possessions of child</li> <li>➤ Communication by a parent with child when not together</li> <li>➤ Role of/contact with significant others &amp; extended families</li> <li>➤ Psychotherapy/mental health care, including substance abuse or mental health assessment</li> <li>➤ Psychological testing/assessment of child</li> <li>➤ Religious observance/education</li> </ul> <p>Educate parents about making/implementing decisions in <i>best interests of the child</i></p> <p>Assist in developing communication guidelines</p> <p>Suggest resources</p> <p>Assist parties in identifying and addressing patterns of behavior/developing strategies to manage or reduce conflict and/or its impact on child</p>
<p><b>Do PCs have REQUIRED duties? (§ 8)</b></p>	<p>Yes – if parties come to an agreement that modifies an existing Order/Judgment, PC must inform parties that agreement is not enforceable unless and until it is approved and incorporated into a new Order/incorporated and merged into a Judgment</p>
<p><b>Are PCs PROHIBITED from taking certain actions? (§ 9)</b></p>	<p>Yes – Here are the express prohibitions:</p> <ul style="list-style-type: none"> <li>➤ Can’t communicate orally or in writing with court/court personnel regarding substance of action (<b>but see § 10(a), below</b>)</li> <li>➤ Can’t testify as expert witness</li> <li>➤ Can’t facilitate agreement that would change legal custody</li> <li>➤ Can’t facilitate agreement to change physical custody/parenting plan if it results in a child support change</li> <li>➤ Can’t offer legal advice/representation/therapy/counseling</li> <li>➤ Can’t delegate any portion of PC process to another</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Can't make any binding decisions without parties' express written agreement that has been previously incorporated into Order/Judgment</li> </ul>
<b>What are <u>PERMISSIBLE PC COURT</u> activities? (§ 10)</b>	<ul style="list-style-type: none"> <li>-May produce documents and testify as fact witness if subpoena issues at request of party or attorney for a child or upon action of court (§ 10(a))</li> <li>-May file motion or complaint to request immediate hearing if concerned that a party or child is in imminent physical/emotional danger</li> <li>-May file motion or complaint for guardian to assert/waive child's privilege</li> </ul>
<b>What about confidential/privileged Information? (§ 11)</b>	<ul style="list-style-type: none"> <li>-PC can access all non-impounded records</li> <li>-If record is impounded, court determines scope/conditions for PC's access</li> <li>-PC cannot require parties/counsel for child to release any confidential/privileged information that's not in case record</li> <li>-Information acquired by PC during appointment → confidential. PC can only disclose this confidential info to party, attorney for child or party, and in court pursuant to § 10</li> <li>-Party may release to PC his/her own and child's educational/medical/3<sup>rd</sup> party information BUT not child's psychotherapeutic records – need guardian to assert/waive child's privilege (party or PC can file motion or complaint for guardian to assert/waive)</li> </ul>
<b>Can a PC have an inherent conflicts of interest? (§ 12)</b>	<ul style="list-style-type: none"> <li>-If PC has served in a professional capacity, in this case or any other setting, with either or both parties or child, the court may not appoint that person as a PC</li> <li>-A PC may not thereafter serve as GAL, attorney for child, etc. for parties or child in this or any other case relating to these parties</li> </ul>
<b>What if there's Domestic Violence? (§ 13)</b>	<ul style="list-style-type: none"> <li>-If DV is credibly alleged or if there are DV findings by or against any party or child in action, court shall offer each party opportunity to consult with counsel or DV advocate before accepting parties' agreement to appoint PC</li> <li>-Court shall not appoint PC over objection of a party</li> </ul>
<b>Can a PC Appointment be Extended During Pendency of a PC Appointment? (§ 14(a))</b>	<ul style="list-style-type: none"> <li>Yes, by agreement → but only enforceable if approved by court and incorporated into Order/Judgment per § 5</li> <li>If no agreement and action is pending → by motion; per § 6(a) and § 15(b); <i>good cause</i> and in <i>best interests of the child</i>; not more than one year</li> <li>If no agreement and no action is pending → by complaint for modification; per § 6(a) and § 15(b); <i>material change in circumstances</i> and in <i>best interests of the child</i>; not more than one year</li> </ul>
<b>Can a PC Appointment be Terminated Early During Pendency of a PC Appointment? (§ 14(b))</b>	<ul style="list-style-type: none"> <li>Yes, by agreement → but only enforceable if approved by court and incorporated into Order/Judgment per § 5</li> <li>If no agreement and action is pending → by motion; <i>good cause</i> and that termination is in <i>best interests of the child</i></li> <li>If no agreement and no action is pending → by complaint for modification; <i>material change in circumstances</i> and that termination is in <i>best interests of the child</i></li> </ul>
<b>Can a PC be Replaced During Pendency of a PC Appointment? (§ 14(c))</b>	<ul style="list-style-type: none"> <li>Yes, by agreement → but only enforceable if approved by court and incorporated into Order/Judgment per § 5</li> <li>If no agreement and action is pending → by motion; <i>good cause</i> and that replacement is in <i>best interests of the child</i></li> <li>If no agreement and no action is pending → by complaint for modification; <i>material change in circumstances</i> and that replacement is in <i>best interests of the child</i></li> </ul>
<b>Can a PC Resign During Pendency of a PC Appointment? (§ 14(d))</b>	<ul style="list-style-type: none"> <li>Yes → via 15 days' written notice to parties and attorneys and copied to court; notice informs parties that they may ask for another PC</li> <li>Parties can agree to a replacement PC → but only enforceable if approved by court and incorporated into Order/Judgment per § 5</li> <li>If no agreement and action is pending → party may file motion for appointment of different PC; <i>good cause</i> and that replacement is in <i>best interests of the child</i></li> </ul>

	If no agreement and no action is pending → party may file complaint for modification for appointment of different PC; <i>material change in circumstances</i> and that replacement of PC is in <i>best interests of the child</i>
<b>Can a PC's Appointment be Modified if for reasons other than (§ 14(a)-(d))?</b> (§ 14(e))	Yes, by agreement → parties may agree to modify PC appointment; but only enforceable if approved by court and incorporated into Order/Judgment per § 5
	If no agreement and action is pending → party may file motion to change provisions of PC appointment; per § 6(a) and § 15(b); <i>good cause</i> and that change is in <i>best interests of the child</i>
	If no agreement and no action is pending → party may file a complaint for modification to modify provisions of PC appointment; per § 6(a) and § 15(b); <i>material change in circumstances</i> and that modification is in <i>best interests of the child</i> ;
<b>What else <u>must</u> be specified in PC agreement/Order/Judgment?</b> (§ 15)	<ul style="list-style-type: none"> <li>-Agreement must include amount or rate of compensation</li> <li>-How PC's fees/expenses are allocated between parties and maximum expenditure by each party</li> <li>-Court must enter written findings that one or both parties consents to allocation of fees/expenses and the party/parties have financial means to make such payment</li> <li>Court's Order must state the allocation of fees/expenses to which parties have consented</li> <li>-If neither party agrees to pay the PC, court is not permitted to enter an Order/Judgment appointing a PC</li> <li>-"[A] judge may not require the parties to use services of a parent[ing] coordinator if the order would require one or both parents to pay for the services without his or her consent." <i>Bower v. Bournay-Bower</i>, 469 Mass. 690 (2014).</li> </ul>
<b>Is Standing Order 1-17 Prospective Only?</b> (§ 16)	No - § 14 (and hence §§ 5, 6, and 15) apply to all PC appointments, regardless of whether appointment was prior to effective date of July 1, 2017