



**NEW YORK STATE**  
**Unified Court System**

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS  
CHIEF ADMINISTRATIVE JUDGE

**MEMORANDUM**

JOHN W. McCONNELL  
COUNSEL

November 29, 2017

To: All Interested Persons

From: John W. McConnell

Re: Request for Public Comment on Proposed Amendment to 22 NYCRR § 144.3 to Mandate Attendance in the New York State Parent Education and Awareness Program

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR § 144.3 (2)(b) to require judges to order parents to attend parent education and awareness programs in annulment, divorce, separation, and custody matters unless the court has specifically found “that the program would be inappropriate due to the existence of domestic violence or other enumerated factors” (Exh. A, pp. 1-2). Attendance at parent education and awareness programs, designed to inform parents of the “impact of parental breakup or conflict on children, how children experience family change, and ways in which parents can help children manage the family reorganization,” may be ordered by the court as a matter of discretion under current rule (22 NYCRR §144.1). The proponent of the proposed amendment, Judicial Restoration of Parent Education (JROPE), believes that mandating the programs will save time and judicial resources and improve participation; notes that that mandatory parent education programs exist in 46 states; and suggests that accommodations be provided for those who cannot afford to pay the fees associated with attending the programs, and for those with language barriers and disabilities (Exh. A, p. 2).<sup>1</sup>

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Persons wishing to comment on the proposal should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11<sup>th</sup> Fl., New York, New York, 10004. Comments must be received no later than January 29, 2018.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

<sup>1</sup> Although the supporting memorandum proffered by JROPE makes several additional proposals relating to Part 144, the Administrative Board is seeking public comment only on the mandate proposal at this time.

## **EXHIBIT A**



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October 12, 2017

**VIA OVERNIGHT MAIL**

Honorable Lawrence K. Marks  
Chief Administrative Judge  
NYS Unified Court System  
Office of Court Administration  
25 Beaver Street, 11<sup>th</sup> Floor  
New York, NY 10004

Dear Judge Marks:

Thank you and Judge DiFiore for your interest and support for Judicial Restoration of Parent Education (JROPE),<sup>1</sup> which seeks to restore and improve the parent education program presently provided for in Section 144 of the Rules of the Chief Administrator, which was launched in 2005 and continues in certain counties of the State but does not exist in others.<sup>2</sup> JROPE requests one modification of those rules, which must be effectuated by the Administrative Board. That rule (Section 144.3.2(b)) provides:

“In any action or proceeding to which the program may apply, the Court in its discretion may order both parties to attend a parent education and awareness program.”

After considerable discussion and research, JROPE unanimously voted to request a modification of that section to provide that:

“The Court shall mandate parents to attend the program unless the court exercises its discretion and determines that the program

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<sup>1</sup> JROPE was formed on February 14, 2017. Seven meetings were held at the offices of Judge Jaqueline Silbermann. Judge Silbermann and I are Co-Chairs of JROPE. The committee members are listed in the power point presentation, a copy of which is enclosed and will be provided to the Administrative Board.

<sup>2</sup> No parent education programs exist in the following counties: Broome, Delaware, Franklin, Fulton, Herkimer, Montgomery, Rensselaer, St. Lawrence, Sullivan, Ulster and Westchester.

would be inappropriate, due to the existence of domestic violence or other enumerated factors; and that the Court must require proof of attendance before granting judgment in matters requiring parent education.”

We noted that mandatory parent education programs exist in 46 states.<sup>3</sup> It is our belief that judges will find it easier and more expeditious, saving time and argument, if attendance at the program is mandatory. We concluded that the rule mandating parent education will result in more parents attending sessions, and that the Court may always exercise its discretion in cases where attendance would be inadvisable or inappropriate. A provision providing proof of attendance prior to the Court granting judgment will guarantee the benefits of the program to all appropriate parties.

In order for JROPE to achieve its goals, we respectfully request the cooperation and assistance of the Office of Court Administration by:

1. Establishing parent education programs in counties where none exists.
2. Approving and certifying new providers, including online programs.
3. Establishing administrative support for parent education within OCA (as previously existed; 22 NYCRR 144.2(c)(f)).
4. Coordinating with judicial and non-judicial personnel.
5. Maintaining statistical information on the programs.

JROPE believes that parties should be directed to attend parent education as early as possible after the commencement of an action and before the first Court appearance.

We recognize that fees may be required for attendance pursuant to Rule 144.5 that are reasonably related to the cost of providing the services, not to exceed the maximum amount set forth in the Guidelines (currently not more than \$100 per person). JROPE urges accommodation not only for those with financial hardship (Rule 144.5), but also for those with language barriers and disabilities pursuant to the ADA.

We recognize that there are implementation issues that we intentionally did not address out of deference to the Courts and to those in the best position to consider and resolve them.

We further urge the creation of a statewide Advisory Board to be created by a combined committee of JROPE and OCA. That Board should consist of attorneys, judges, mental health professionals and educators. The Board shall work closely with

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<sup>3</sup> 2016 Mich.St.L.Rev.1147 at 1163.

OCA and the Matrimonial Practice Advisory and Rules Committee. The Board shall support and administer curriculum programs, their implementation, and evaluations. The Board shall work with the Maurice A. Deane School of Law at Hofstra University, which has generously agreed to host Advisory Board meetings and provide occasional research and support.

JROPE shall continue to meet no less than every three months to assess the programs and review reports from providers, judges, and attorneys regarding the success of the program.

Again, we thank you for your interest and assistance.

Respectfully yours,



Sondra M. Miller

Enclosure

cc: The JROPE Committee:

Hon. Jacqueline Silbermann, Ret.  
Hon. Gail Prudenti, Ret.  
Hon. Rachel Adams  
Hon. Saralee Evans, Ret.  
Harriet Weinberger, Esq.  
Daniel Weitz, Esq.  
Andrew Schepard, Esq.  
Lesley Ann Friedland, Esq.  
Shari Bornstein, Esq.  
Dolores Gebhardt, Esq.  
Ellen Taner, MA  
Nancy Nybergh, MA, LP  
Abby Rosmarin, Esq.  
Cara Ruda, Esq.  
Catherine McKinney, Esq.  
Robert Keidel  
Robert Pope, Jr.  
Shelby Grynberg



# ACHIEVING EXCELLENCE IN PARENT EDUCATION IN NEW YORK

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PRESENTATION TO CHIEF JUDGE JANET DIFIORE    JULY 2017

MAURICE A. DEANE SCHOOL OF LAW  
HOFSTRA  LAW



## JROPE\* COMMITTEE MEMBERS

Hon. Sondra Miller, Retired  
Hon. Jacqueline Silbermann, Retired  
Hon. Gail Prudenti, Retired  
Hon. Rachel Adams  
Hon. Sara Lee Evans, Retired  
Harriet Weinberger, Esq.  
Daniel Weitz, Esq.  
Andrew Schepard, Esq.  
Lesley Ann Friedland, Esq.  
Shari Bornstein, Esq.  
Dolores Gebhardt, Esq.  
Ellen Taner, MA  
Nancy Nybergh, MA, LP  
Abby Rosmarin, Esq.

\*Judicial Restoration of Parent Education in  
New York State



# WHAT IS PARENT EDUCATION?

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The New York State Parent Education and Awareness Program ("Program") provides information to parents about the impact of parental breakup or conflict on children, how children experience family change, and ways in which parents can help their children manage the family reorganization. The curriculum is child-centered and directed primarily toward promoting children's healthy adjustment and development by educating parents about ways they can minimize the stress of family change and protect their children from the negative effects of ongoing parental conflict. The administration and curriculum of the parent education program is sensitive to domestic violence concerns and must be in compliance with the Guidelines and Procedures for Certification of Parent Education and Awareness Programs.

22 NYCRR §144.1





## PARENT EDUCATION GOAL: FOCUS ON THE CHILDREN'S BEST INTEREST DURING TRANSITION

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- Inform parents about the emotional, educational and economic impact on children created by divorce and separation;
- Encourage parents to manage their transition and conflicts responsibly utilizing skills taught in NYS approved programs;
- Educate parents about parenting plans that are developmentally appropriate and in their children's best interests.

\*[https://www.health.ny.gov/statistics/vital\\_statistics/2014/table52.htm](https://www.health.ny.gov/statistics/vital_statistics/2014/table52.htm)



## NEW YORK STATE PARENT EDUCATION AND AWARENESS PROGRAM

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22 NYCRR §144.2

- Program providers certified by the Office of Court Administration (OCA) pursuant to 22 NYCRR §144.4
- Justices, judges, judicial hearing officers, matrimonial referees, court attorney-referees, and support magistrates refer parents to a certified program
- Administered by a Program Administrator and overseen by a Program Coordinator
- Governed by Guidelines and Procedures for Certification of Parent Education Awareness Programs, which contains minimum standards required for program providers to be approved and certified



## APPLICATION OF PROGRAM

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22 NYCRR §144.3

- Any action for divorce, annulment, separation, custody, support or modification of custody
  - Supreme Court or the Family Court
  - Involving a child under age 18
- Determination of whether parents are to attend a program is at the discretion of the Court
- Domestic violence victims may opt out
- Participant information kept confidential pursuant to 22 NYCRR §144.6





## CURRENT PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE (22 NYCRR § 144.3)

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- All providers are required to screen for domestic violence
- Victims may be screened out or opt out
- Couples never attend the same in-person session regardless of Domestic Violence status
- Providers are required to have security measures in place
- The parent education curriculum includes an introductory component about domestic violence including the definition of domestic violence, encouraging access to legal support, making a value-free distinction of parallel and cooperative parenting, parenting plans that emphasize the safety of the parents and children and available resources in the community.





## STATUS OF PARENT EDUCATION IN NEW YORK (AS OF APRIL 11, 2017)

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- 4 certified programs operating within New York City
- As many as 40 counties outside New York City have one or more certified programs
- A number of counties have yet to establish OR no longer provide parent education programs
- OCA no longer tracks and maintains current statistics

Court Website Provider list:

<http://www.nycourts.gov/ip/parented/pdf/PublicCertifiedPEP01.pdf>



# ROADMAP TO REVITALIZING PARENT EDUCATION IN NEW YORK

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- Revise Court Rule 144 to make parent education non-discretionary, with exceptions for victims of domestic violence
- Establish a university supported interdisciplinary advisory committee
- OCA to approve and certify new providers, including online programs
- Establish administrative support for parent education within the OCA



## APPROVED ONLINE CLASSES THAT CONFORM WITH THE CURRICULUM OF THE NYS PROGRAM

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- Increases compliance by providing flexibility for scheduling
- Cost effective
- Possible alternative for victims of domestic violence



# THE ROLE OF OCA

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- Certify program providers including online providers
- Coordinate with Judicial and non-judicial personnel
- Provide for a program coordinator in accordance with 22 NYCRR §144.2 (c) & (f) – (e.g. attorney, social worker)
- Maintain statistical information on the program





# MANDATORY ATTENDANCE

(Amending 22 NYCRR §144)

- Extends potential benefits of parent education (e.g. reducing trauma, cost and delay) to children and families who might not otherwise attend
- Provides uniformity and consistency of referrals
- Allows sanctions for non-compliance as judge deems appropriate

## A STATEWIDE ADVISORY BOARD

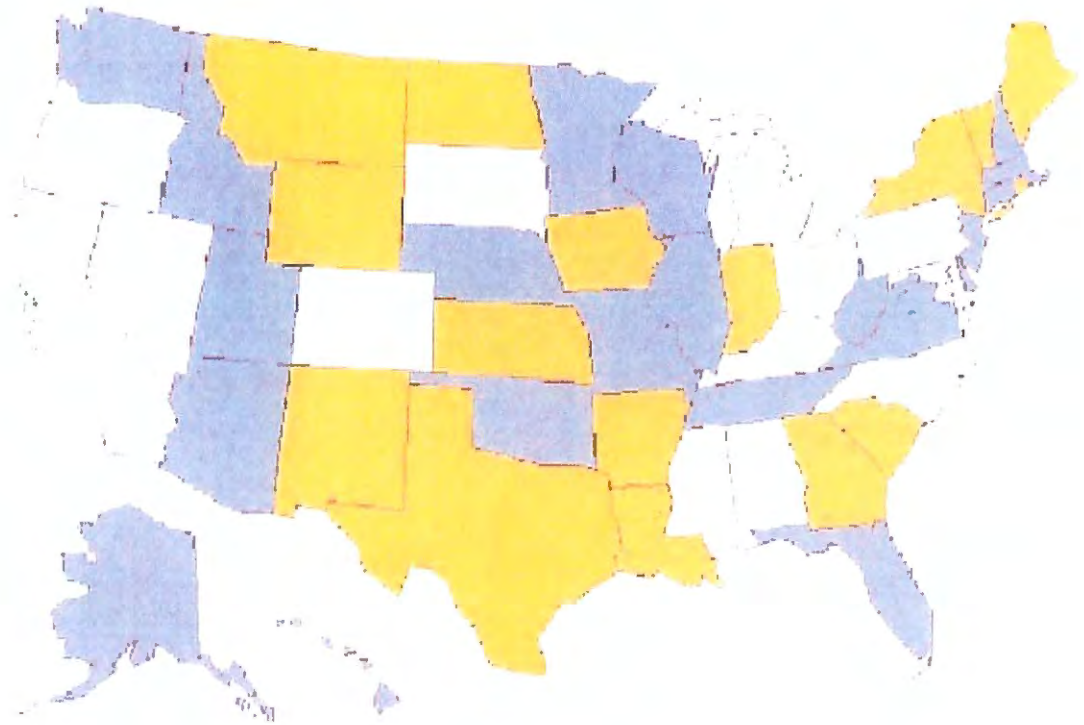
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- Interdisciplinary membership – (e.g. law, education, psychology, community)
- Work closely with OCA and Matrimonial and Family Court Advisory Committees
- Support and advise on overall curriculum development and program implementation and evaluation



## NATIONAL OVERVIEW

- States in blue mandate all divorcing couples with children to attend parent education
  - States in gold allow for judicial discretion
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## STATE COMPARISON

### ILLINOIS

- Mandatory program
- Parents must attend with 60 days of first appearance
- Course must be 4 hours
- Divorce will not be granted without program participation
- Similar to New York in size and divorce rate

### FLORIDA

- Mandatory program
- Course must be 4 hours
- Course must be reasonable in cost
- Courses offered online and in person
- Similar to New York in size and divorce rate

### CONNECTICUT

- Mandatory program
- Course must be 6 hours
- Course costs \$125 or fee waived by court
- Courses must be taken within 60 days after a family case is filed in court
- Similar to New York in that it requires attendance of parents with children under the age of 18





# CONNECTICUT- PARENT EDUCATION PROGRAMS 2016 STATISTICAL SURVEY\*

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- 93%: the program was valuable to separating parents
- 92%: the presenters had a very good understanding of the needs and problems of divorcing families
- 96%: the program helped parents understand the needs and reactions of children of various ages
- 95%: the program helped parents understand the benefits to children of parents working together
- 92%: the program helped parents resolve conflicts between parents about the children
- 91%: the program was helpful in learning how to arrange meaningful parenting time
- 93%: the program was helpful for reducing stress in children

*\*Judicial Branch Court Support Services Division Family Services 2016 Parent Education*

*Program Statistics*



## PARENT EDUCATION PROGRAM: POSITIVE OUTCOMES

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*“There is broad evidence across evaluations that there is a high level of parent satisfaction with parent education programs. The information they provide is seen as very helpful both by parents who voluntarily attend and those who are mandated to attend. **This outcome is important in that it likely increases their respect for the legal system.**”* Peter Salem et al., *Taking Stock of Parent Education in the Family Courts: Envisioning A Public Health Approach*, Family Court Review, Vol. 51 No. 1 January 2013 at 136.



# ACKNOWLEDGMENTS

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Robert C. Keidel  
Robert E. Pope, Jr.  
Shelby Grynberg  
Cara Ruda, Esq.  
Catherine McKinney, Esq.

MAURICE A. DEANE SCHOOL OF LAW  
HOFSTRA  LAW





## THANK YOU

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On behalf of the Judicial Restoration Of Parent Education in New York State Committee, and Hofstra University faculty and students who provided valuable input, we appreciate your attention and consideration of the proposed changes to Rule 22 NYCRR §144.2 contained within this document.

