

**UNIFORM RULES REGULATING MEDIATION OF CUSTODY AND
VISITATION DISPUTES UNDER THE NORTH CAROLINA CUSTODY
AND VISITATION MEDIATION PROGRAM FOR
JUDICIAL DISTRICT 15A**

The Judicial District 15A Custody and Visitation Mediation program is established under the following North Carolina General Statutes, 7A-494, 7A-495, and 50-13.1.

1. **PURPOSE AND GOALS OF THE PROGRAM:** The purpose of the Custody and Visitation Mediation program is to provide the services of a skilled mediator to the parties that are involved in a custody and visitation dispute. The goal of the program is centered in the reduction of stress and anxiety experienced by children in separation and divorce by furnishing an alternative way for the parties to resolve these disputes. The mediator helps the parties reorganize the family in order to continue parenting their children despite the separation and to begin an educational process which will help parties to recognize and meet the needs of their children. A successful mediation will help the parties put a parenting agreement in writing, teach them to resolve future problems without recourse to the courts, and reduce the relitigation of custody and visitation disputes.
2. **REFERRAL TO MEDIATION:** All actions involving unresolved or temporary issues of custody and visitation of a minor child shall be ordered to mediation on such issues either prior to trial or after a temporary order has been issued by the court, unless the court waives mediation.
3. **PROCEDURES FOR REFERRAL TO MEDIATION:** Unless Custody Mediation has been waived by the court (see Paragraph 4) any party filing a custody action, motion, or claim must schedule the matter with the clerk for mediation prior to docketing the case for hearing. The case may be **scheduled** for trial before mediation occurs but may not be **tried** until mediation is either partially achieved or fails. This request for mediation occurs within 45 days of the original filing. The party requesting the Custody Mediation Orientation date is responsible for notifying all opposing parties. Unless waived by both sides, notice for mediation will be made ten (10) days prior to the Mediation Orientation date to allow for service. If one or more of the parties is not present as scheduled, the judge will be asked to sign an Order for Mediation. Parties failing to comply with this order will be subject to the contempt powers of the court.
 - A. A written request for expedited mediation, signed by both parties or their attorneys, will waive the notice period.
 - B. Time-Referral: Should the attorney for the parties fail to schedule mediation within 45 days of the filing of the action, an Order for Mediation shall issue. The Custody Mediator will notify the parties ten (10) days prior to the Mediation Orientation date. Parties failing to comply with this Order will be subject to the contempt powers of the court.

- C. At the discretion of the presiding judge, a case may be ordered to mediation from the bench.
4. **WAIVER OF MEDIATION:** On its own motion, or that of either party, the court may waive mediation of a contested custody or visitation matter for good cause. Good cause includes, but is not limited to, a showing of undue hardship to a party, an agreement between the parties for voluntary mediation, allegations of abuse or neglect of the minor child, allegations of alcoholism, drug abuse, spousal abuse, or allegations of severe psychological, psychiatric, or emotional problems. **WAIVERS OF MEDIATION WILL BE MADE TO AND APPROVED BY THE COURT.** Where the parties reside more than 50 miles from the court, such distance may be considered good cause in the discretion of the court. If the party residing outside the area agrees, mediation may still proceed.
- A. The custody mediation office will be notified of any change in the status of a pending case including, a signed consent order, voluntary dismissal, or exemption.
- B. No discovery regarding a custody or visitation claim shall be served, noticed or conducted until the mediation process is complete or has been exempted by judicial order. Except for oral depositions of parties, discovery may proceed regarding financial information.
5. **THE MEDIATION PROCESS:** The mediator shall assist the parties in focusing on The needs of their children, the need to reorganize the family and use its strengths, the need to maintain a continuity of relationships and stability in the child's life, and the options available to the parties that will accomplish these goals.
- A. Prior to mediation, an Orientation session is held at which the goals and procedures of the mediation process are explained to the parties. Orientation will be held on a regular schedule which is maintained in the mediator's office. The parties involved will schedule their private mediation session at the time of Orientation. They are required to attend the Orientation and at least one private session before withdrawing from the process.
- B. As a result of mediation, the parties may enter into a full agreement, a partial agreement, or fail to reach agreement. The full agreement resolves all issues surrounding custody and visitation that have been addressed. The partial agreement will state those issues that have been resolved and those that still remain open to litigation. If the parties fail to reach any agreement, all custody and visitation issues remain open to trial. Both the court and representing attorneys will be notified of the disposition of each mediated case, although information discussed during the mediation sessions remains confidential in accord with the guidelines of the mental health professions. The mediator maintains a neutral stance and at no time will testify on behalf of either party.
- C. Although attorneys are generally not present at the mediation session, A copy of any memorandum of understanding is sent to each attorney for review. The client will have approximately ten (10) days after the receipt of the agreement to consult with counsel before signing.

- D.** The signed agreement is presented to the District Court Judge for review and signature, along with the Order Approving making this agreement a custody order within the meaning of Chapter 50A of the General Statutes G.S. 14-320.1, G.S. 110-139.1, or other places where those terms appear.
- E.** Custody orders agreed to in mediation are enforced as any other court order. They are not enforced by the mediation office, although parties do have the opportunity to return to modify their existing agreement without refileing with the court.
- F.** Parties present in mediation are only those named in the suit. The participation of others will only be with the consent of those involved and at the discretion of the mediator.
- G.** If the mediator receives information during the course of mediation that shows that mediation in a particular case would be inappropriate for reasons of safety, welfare, or psychological dynamics, the mediator in his/her discretion may make the decision to terminate the process.