

**TWELFTH JUDICIAL DISTRICT
DISTRICT COURT
FAMILY COURT DIVISION**

**RULES IMPLEMENTING MANDATORY
CHILD CUSTODY/VISITATION MEDIATION
AND PARENTING EDUCATION**

Effective November 1, 2000

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Child Custody/Visitation Mediation Rules

RULE 1. MANDATORY APPLICATION

1.1 In every action where it is determined that a contested issue as to custody and/or visitation exists, the Family Court Administrator shall schedule the case for mediation of the contested custody and/or visitation claims and for a one-hour parenting education class prior to the calendaring of the matter before the Court.

RULE 2. READY CASES

2.1 A case shall be ready to set for mediation when the Family Court Administrator has determined that at least one of the following conditions exist:

- (A) A custody and/or visitation case has been on file for thirty (30) days or more with no consent order or judgment of record;
- (B) Prior to the Court's intervention, the parties or their counsel have consented to an earlier mediation date and have contacted the Custody Mediation Coordinator to schedule the matter for the next available custody mediation orientation session;
- (C) Thirty (30) days have passed since the expiration of the time period in Rule 2.1(A) above, the Family Court Administrator has failed to set the case, and either party has contacted the assigned Domestic Case Manager to schedule the case for the next available custody orientation session

2.2 When the Family Court Administrator has determined a case ready for mediation, she shall in conjunction with the custody mediation office, notify the attorneys of record and the parties of the date, time, and place the parties are to appear for their initial mediation orientation and parent education session.

RULE 3. ATTENDANCE

3.1 Attorneys shall reinforce with their clients that attendance at the mediation orientation session, parent education and the individual mediation session(s) is mandatory.

RULE 4. NOTICE

4.1 Attached to each Parent Education and Custody Mediation Orientation Notice shall be *The Goals and Benefits of Child Custody/Visitation Mediation* form. In each case, the Custody Mediation Office shall distribute a copy of the notice and form to each counsel of record/unrepresented party.

4.2 In each case, counsel shall provide to their respective party a copy of the Notice and form identified in Rule 4.1.

4.3 Each Domestic Civil Action Cover Sheet (AOC-CV-750) filed with the Court shall contain the address of all counsel/unrepresented party.

4.4 After receipt of the Parent Education and Custody Mediation Orientation Notice, all further communications regarding mediation scheduling shall be directed to the Custody Mediation office. [*The Goals and Benefits of Child Custody/Visitation Mediation letter shall be on form CCLF-FC-009 as prepared and distributed by the Custody Mediation Office.*]

RULE 5. SANCTIONS

5.1 Notice from the Family Court Administrator instructing the parties to appear for mediation shall have the same force and effect as an order of the Chief District Court Judge. Parties who fail to comply with this notice shall be subject to the contempt powers of the Court.

RULE 6. MOTIONS TO MODIFY PRIOR ORDER

6.1 Motions to modify a prior custody and/or visitation Court order shall also be scheduled for mediation prior to any hearing before the Court. Counsel shall contact the Custody Mediation Office at the time of filing the motion to schedule the mediation orientation session or mediation session.

6.2 If the parties have already been through a mediation orientation session for their initial agreement, the case will be directly assigned to mediation session.

6.3 The Custody Mediation Office shall be responsible for providing notice of hearing to all parties pursuant to Rule 4, above.

A copy of *The Goals and Benefits of Child Custody/Visitation Mediation* shall be attached to each *Custody Mediation Notice of Hearing* form served upon all parties. [*The Goals and Benefits of Child Custody/Visitation Mediation shall be on form CCLF-FC-009 as prepared and distributed by the Custody Mediation Office.*]

6.4 Motions referred directly by the Court shall be scheduled for mediation by the Custody Mediation Office.

RULE 7. EXEMPTIONS

7.1 For good cause, on the motion of either party or on the Court's own motion, the Court may waive the mandatory setting under Article 39A of Chapter 7A of the General Statutes of a contested custody and/or visitation matter for mediation. Good cause is defined under G.S. 50-13.1(c).

7.2 Counsel desiring an exemption shall complete and file a *Motion to Exempt Child Custody/Visitation Mediation* form with the Custody Mediation Office for approval by the Court. Requests to exempt mediation based on the fifty plus (50+) mile rule shall include the physical location of each party. Exemptions from mediation are discretionary with the court. Exemptions from mediation do not exempt one or more parties from attendance of the Parenting Education Session. Parties who receive a mediation exemption based on the *50 Plus Mile Rule* must contact the Family Court Administrator for referral to an approved parenting education program [*The Motion to Exempt Child Custody/Visitation Mediation shall be on form CCLF-FC-010 as prepared and distributed by the Family Court Administrator's Office.*]

7.3 The Custody Mediation Office shall monitor the number of contested custody and/or visitation case filings in relation to mediator staffing levels. In the mediator's discretion and in accordance with the policies of the Family Court Administrator's office, a contested custody case or post decree motion may bypass mediation and be scheduled directly for hearing before the Court. This action shall only be taken when the next regularly available mediation session would result in undue delay to the parties.

7.4 Mere notification that the parties have reached agreement is not sufficient to exempt any party from attendance at a scheduled orientation session, parenting education session, or mediation session. The assigned Domestic Case Manager must have actual receipt of a consent order, memorandum of judgment, or voluntary dismissal in order for a party to be excused from attendance at a scheduled orientation session, parenting education session, or mediation session.

RULE 8. PRIVILEGED COMMUNICATIONS

8.1 All verbal or written communications from either or both the parties to the mediator, or between the parties in the presence of the mediator, made in a proceeding pursuant to these Rules are absolutely privileged and inadmissible in Court.

8.2 Neither the mediator nor any party or other person involved in mediation under these Rules shall be called to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime or fraud.

RULE 9. FORMS

Local forms for use by counsel/unrepresented parties in accordance with these rules are attached hereto and are subject to change as legislation and/or policy dictates.