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**JUDICIAL DISTRICT 15B LOCAL RULES
MANDATORY CHILD CUSTODY/VISITATION MEDIATION**

The Judicial District 15B custody and visitation mediation program is established under the following North Carolina General Statutes, 7A-494, 7A-495, and 50-13.1.

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1. Purpose, Goals, and Steps of the Program

The Custody and Visitation Mediation Program provides the service of a skilled mediator to the parties involved in a custody and/or visitation dispute. The goal of the program is the reduction of stress and anxiety experienced by children and parents during separation and divorce by furnishing an alternative way for the parties to resolve their disputes. The mediator assists with communication as the parties reorganize the family and plan to continue parenting their children despite the separation. The parties will begin an educational process through mediation which will help them focus on meeting the ongoing and changing needs of their children. Through mediation, the parties will have the opportunity to reduce any acrimony that exists between them regarding custody or visitation, develop a written parenting agreement that is in their children's best interest, and develop skills that will enable them to resolve future problems without involving the courts. **Any attorney or unrepresented party filing a custody or visitation action, motion or claim shall follow these steps:**

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- A. **Obtain CVD#:** (Custody Action filed with the clerk)
 - B. **Notice the other party:** Notice to attend mediation-group orientation shall be given as set out in these rules and procedures. (Forms are in the front of the red custody binder in the Custody Mediator mail slot located in the clerk's office or available via email and fax from the CUSMED office)
 - C. **Attend Group Orientation:** Chatham County is the Second Thursday at 9 am; Orange County is the third Thursday at noon.
 - D. **Attend Mediation Session:** (This appointment is scheduled at the Orientation Session).

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2. Referral to Mediation

All actions involving unresolved or temporary issues of custody and visitation of a minor child, including motions for modification, shall be referred to mediation on such issues either prior to trial or after a temporary order has been issued by the court, unless the Chief Judge waives mediation. If a mediation is waived by a judge, the Orientation must still be attended. **Any attorney or unrepresented party filing a custody or visitation action, motion or claim shall follow the rules and procedures to sign up for group orientation as listed in 3A and 3B.**

3. Group Orientation

Group orientation will ordinarily be scheduled once a month in the local county courthouse. Group orientation is an educational group session during which the goals and procedures of the mediation process are explained to the parties as a group. Attendance by non-parties is only allowed with the permission of the mediator and it

48 must be for good cause and obtained at least three days before the scheduled day. **Once**
49 **parties have attended a group orientation they do not need to return for group**
50 **orientation again – unless three or more years have passed since their last group**
51 **orientation or at the discretion of the Custody Mediator.**

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53 If either party is not present at the Orientation as scheduled, they may be subject to the
54 contempt powers of the court. All such contempt matters shall be heard by the Chief
55 Judge.

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57 **A. Calendar for Group Orientation**

58 Any party filing a custody action, motion or claim must simultaneously schedule
59 the matter for group **orientation even if custody mediation plans to be waived.**
60 It is the policy of the court to not allow waivers from attendance at group
61 Orientation. Scheduling parties for group orientation requires the case file
62 number, the names of the both parties, and the names of all attorneys representing
63 any parties in the case. This information shall be listed in either the Custody
64 Mediation notebook maintained in the clerk’s office or on the REQUEST FOR
65 MEDIATION form available electronically. The information obtained from these
66 two sign-up options shall be used by the custody mediator to establish case files;
67 record attendance at the mediation group orientation; and denote scheduled
68 mediation sessions and attendance. For safety purposes, there will not be more
69 than 20 people scheduled for any one group orientation. The initiating party must
70 choose the next available mediation group orientation session, provided there is
71 time for notice to responding parties as required in Rule 3.B below.

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73 **B. Noticing All Parties to Attend Group Orientation**

74 The party scheduling the group orientation date is responsible for noticing all
75 opposing parties. Opposing parties shall be given 10 days notice in the manner
76 provided in NCGS 1A-1, Rules 5(b) and 6. A copy of the Notice shall be
77 provided to the Clerk’s office. The Mediator may expedite the orientation at
78 his/her discretion.

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80 **C. Attendance at Mediation Group Orientation**

81 Both parties shall attend the scheduled mediation group orientation session
82 unless:

- 83 (1) one party is granted permission to attend another session separately by
84 the Custody Mediator, or
85 (2) the parties, or party, with the concurrence of the Custody Mediator,
86 agree to attend on another date.

87
88 Based upon request by either party, the mediator will attempt to accommodate special
89 circumstances for orientation.

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91 If a party fails to attend the scheduled orientation, an Order to Mediation will be entered.
92 Parties failing to comply with this order may be subject to appropriate legal sanctions,
93 including the contempt powers of the court.

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4. The Mediation

At the discretion of the District Court Judge, a case may be ordered to mediation from the bench.

A. Scheduling of the Mediation Session:

The parties involved **will be scheduled for the mediation session by the Custody Mediator at the conclusion of the group orientation.** Mediation appointments must be scheduled within 30 days of completion of the group orientation unless agreed upon by both parties and the mediator.

B. Mediation Sessions:

The mediation session may last up to 2 hours. Attendance at one session is required per North Carolina General Statute, subsequent sessions are voluntary and at the mediator’s discretion. The mediator will facilitate communication and problem-solving which assists the parties in focusing on the needs of their children, the need to reorganize the family and use its strengths to maintain a continuity of relationship and stability in the child’s life, and in understanding the options available to the parties that will accomplish these goals.

The mediator has a responsibility to solicit from the parents what issues are significant to them and then to facilitate the mediation of those issues, provided they do not go outside the specific limits of child custody mediation.

The mediator does not decide issues but encourages parents to assume responsibility for parenting decisions. Parents are not required to reach an agreement in mediation.

C. Attendance at Mediation

The persons present at the mediation sessions are the parties named in the action. Participation of non-parties is unusual and is permitted only at the discretion of the mediator.

D. Confidentiality

Mediation proceedings shall be held in private and shall be confidential.

Except as provided in G.S. 50-13.1, all verbal or written communications from either or both parties to the mediator or between the parties in the presence of the mediator made in a proceeding pursuant to that section are “absolutely privileged and inadmissible in court” as stated in the General Statute. The mediator shall not at any time disclose to any judge or court personnel the reason that the mediation was not successful. The Court shall not inquire of the parties or the mediator as to the reasons for the success or failure of the mediation.

E. Mediator May Terminate Process

In the event that the parties have an open Child-Protective Services investigation, prior to the mediation session, the mediation must be postponed until such time

140 where the case has been closed. Additionally, if a mediator ascertains that
141 mediation is inappropriate, or there are safety issues which mediation will not
142 address appropriately, he or she may terminate the mediation process and return
143 the case to court. In the event that mediation is deemed inappropriate, the
144 mediator will still utilize the **(AOC Form: 914-c2c)** form for the file, indicating,
145 “the parties met the requirements of the mediation program but did not reach a
146 mediated parenting agreement.” Attorneys will be notified of the disposition of
147 each case by the Custody Mediator.
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149 **F. Outcomes**

150 As a result of mediation, the parties may enter into a full agreement, a partial
151 agreement, a temporary agreement or no agreement. A full agreement will record
152 all issues surrounding custody and visitation that have been addressed and agreed
153 to. A partial agreement will state those issues that have been resolved and set
154 forth with specificity those issues that still remain open to litigation. A temporary
155 parenting agreement will specify when the parties will return to mediation to
156 review their agreement.
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158 **No Agreement/Unresolved Cases:**

159 Any time after completion of the one required mediation session, either party or
160 the mediator may unilaterally terminate the mediation process. In the event of
161 termination, the mediator shall file a notice of completion **(AOC Form: 914- c2c)**
162 to the clerk which shall **not** disclose the reason for termination or the individual
163 who initiated the termination. Attorneys will be notified of the disposition of each
164 case by the Custody Mediator. In Chatham County, the mediator does not submit
165 AOC Form 914-c2c to the clerk and it is the responsibility of the parties or their
166 attorneys to file the appropriate forms.
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168 **G. Preparation, Review and Signing of Parenting Agreements**

169 Any full, partial or temporary agreement which has been reached by the parties
170 shall be drafted into a Parenting Agreement by the mediator. A copy of the Draft
171 Parenting Agreement shall be given to each party and a copy shall be sent to each
172 attorney of record by the mediator along with signing instructions. This
173 instruction letter will be filed in the court file by the mediator. The parties will be
174 given at least 10 business days to consider the Parenting Agreement and review it
175 with legal counsel before signing.
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178 After completion of the Parenting Agreement, the mediator shall mail the
179 Parenting Agreement with signing instructions to have the parties signatures
180 properly notarized and the agreement returned to the mediator. Based upon
181 request by either party, the mediator will attempt to accommodate special
182 circumstances for signing the Parenting Agreement.
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185 Minor changes to the proposed agreement may be initiated by the parties with the
186 mediator over the telephone. Major changes may require the parties to return to
187 the mediation process.

188 189 **H. Agreements Become Orders of the Court**

190 The signed Parenting Agreement will be presented to any District Court Judge for
191 review and signature, along with the Order Approving Parenting Agreement
192 Order (**AOC-CV-631**) making this agreement a custody order.

193 194 **I. Enforcement**

195 Custody orders agreed to in mediation are enforced as any other court order
196 through the legal system in place. They are not enforced by the mediation office.
197 If problems arise, parents may return to mediation and they may agree to this step
198 in their parenting agreement.

200 201 **5. Procedures for Referral to Mediation - Waiver**

202 Either party may file a request for waiver of mediation at any time subsequent to the
203 filing of the custody or visitation action, motion or claim. For good cause shown, the
204 District Court Judge may waive the mediation requirement. Good cause may include, but
205 is not limited to, a showing of undue hardship, an agreement between the parties for
206 voluntary mediation, allegations of abuse or neglect of a minor child, allegations of
207 alcoholism, drug abuse or spousal abuse, or allegations of severe psychological,
208 psychiatric, or emotional problems. **However, it is the policy of the court to not allow**
209 **waivers from attendance at group orientation.**

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211 Requests for waiver of mediation shall be submitted to the Chief Judge in writing for
212 consideration and parties are required to follow notification procedures to the Custody
213 Mediator as set forth in the Local Rules (Rule 6:a) in order that the Custody Mediation
214 office can document the waiver and close out the file. Failure to notify the Custody
215 Mediation Office often results in parties receiving unnecessary Failure to Appear Notices
216 which causes confusion to the parties. The request shall be served on opposing counsel
217 of record or unrepresented parties. Opposing counsel or the unrepresented party shall
218 respond in writing within five days. The Chief Judge will rule on the request for waiver
219 based on the written request for waiver and any responses thereto, or may conduct a
220 hearing on the request.

221 222 223 **6. Status Changes and Discovery**

224 **A. Changes in Status**

225 The party who filed the original action, claim or motion for custody or visitation
226 shall immediately advise the mediator of any changes in the status of the pending
227 case including a signed consent order, voluntary dismissal or waiver. Notice shall
228 be given at least 24 hours in advance of the group orientation or scheduled
229 mediation session where possible, and **a copy of any such order shall be**

230 **delivered to the Custody Mediator’s mail slot located in the Clerk’s office;**
231 **emailed; or faxed at the same time that it is filed.**

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233 **B. Holds on Discovery**

234 No discovery regarding a custody or visitation claim shall be served, noticed or
235 conducted until the mediation process is complete or has been waived by judicial
236 order. Except for oral depositions of parties, discovery may proceed regarding
237 child support.

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239 **7. Open Cases**

240 Any custody mediation case that is open beyond 90 days of the first mediation session
241 will not retain its open status, but shall be referred to the court as “unresolved” unless
242 otherwise determined by the Custody Mediator.

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244 **8. Modifications**

245 These rules apply to modification of existing custody orders, visitation orders and
246 Parenting Agreement orders. If the parties previously attended a group orientation
247 session, the mediator will schedule the parties for a mediation session as soon as possible.
248 The moving party or counsel is responsible for contacting the mediator and notifying the
249 opposing party or counsel of the mediation session date. That date may be rescheduled in
250 the discretion of the mediator. If the parties have not previously attended a group
251 orientation session, the case will be handled as an original pleading as set out herein
252 beginning with Rule 2.

253

254 **9. Return to Mediation**

255 Parties who have previously completed custody mediation with a Parenting Agreement,
256 who want to modify their Parenting Agreement without filing additional court pleadings,
257 and who want to use the services of the Custody Mediator voluntarily, may request a
258 mediation session through the Custody Mediation office.

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260 Parties who have previously completed custody mediation with a Parenting Agreement,
261 who want to modify their Parenting Agreement may use the “Motion to Return to
262 Custody Mediation” form (AOC-CV-634) as an appropriate method of filing such a
263 request.

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These Rules are adopted this 20 day of December, 2013 and shall become effective in the 15B Judicial District on January 1, 2014.



Joseph M. Buckner
Chief District Court Judge

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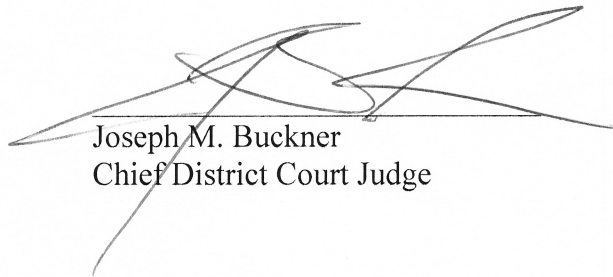
STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 15B
ORANGE and CHATHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

MANDATORY CHILD CUSTODY AND VISITATION MEDIATION PROCEDURES
(LOCAL RULES)

Pursuant to North Carolina General Statutes 7A-494, 7A-495 and 50-131, the Child Custody and Visitation Mediation Program for Judicial District 15B is hereby established. In order to utilize the resources of the District Court Division in the 15B Judicial District more effectively and efficiently and to promote the prompt, effective and the least stressful resolution of child custody and visitation cases, the following Local Rules are hereby adopted and shall become effective December 3, 2013. The Local Rules will be published in the next Administrative Office of the Courts Local Rules publication which is maintained in the Office of the Clerk of Superior court, and shall be posted on the website maintained by the Administrative Office of the Courts.

Adopted December 20, 2013.



Joseph M. Buckner
Chief District Court Judge