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STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
19A JUDICIAL DISTRICT

JUN 1 10 33 AM '20

CABARRUS COUNTY DISTRICT COURT

In re the Adoption of Local Rules )  
For Child Custody Mediation )  
In Cabarrus County District Court )

**ADMINISTRATIVE ORDER**  
20-17

The attached Local Rules for Child Custody Mediation are hereby adopted effective June 1, 2020, pursuant to the authority of N. C. Gen. Stat. §§ 7A-494 *et seq.* and 50-13.1(b) and shall apply to all cases filed on or after that date, and insofar as practicable, to all cases pending on that date.

It is, therefore, so ORDERED, this the 1st day of June, 2020.



\_\_\_\_\_  
The Honorable Christy E. Wilhelm  
Chief District Court Judge

**Local Rules for District 19A for Child Custody Mediation  
in Civil District Court**

**1. Making Referrals to Child Custody Mediation.**

- A. All cases filed for hearing before the District Court in which there is a dispute over the custody or visitation of a minor child, an “Order on Child Custody Mediation” (Form AOC-CV-630) and “Referral Information Sheet” (one sheet per party to be referred) will be completed and given to the District Court Judges’ Office.
- B. Referral Information Sheets must be completed by each party or the party’s attorney and returned with the Order on Child Custody Mediation form.
- C. Motions for modification of an existing custody or visitation order shall be ordered to return to mediation. An updated “Referral Information Sheet” for each party as well as an “Order to Return to Custody Mediation” Form must be filled out and given to the District Court Judges’ Office.
- D. The Order on Child Custody Mediation, Order to Return to Custody Mediation, and Referral Information Sheets may be completed and provided to the District Court Judges’ Office outside of a court proceeding.
- E. Each party will be given information on how to access the online Child Custody Mediation Orientation session once the Referral Information Sheets are completed and allowed a certain time period in which to complete Orientation before their mediation session will be assigned.

**2. Exemption from Mediation.**

N.C. G. S. §50-13.1(c) provides for the waiver of mediation if there is “good cause” shown. Any requested waiver of mediation must be indicated on the Order on Child Custody Mediation and placed in the file as a matter of record. The presiding Judge shall have discretion whether mediation should be waived, even when good cause to waive is presented.

**3. Mediation Sessions.**

- A. Parties are required to attend an online mediation orientation program prior to scheduling any mediation session with a court-appointed mediator. Each party will receive this notification once the Referral Information Sheet is received by the District Court Judges' Office.
- B. Parties are not required to complete the online mediation orientation program a second time if they are returning to mediation upon a filing of an "Order to Return to Custody Mediation" or upon a voluntary return to mediation by consent.
- C. Sessions of mediation will be set for a period of two hours by the mediation department, whether said sessions are in person or via virtual technology. The mediator and parties will determine if additional sessions are necessary and schedule those for another date and time.
- D. The parties may meet with the mediators for up to four sessions, if progress towards resolution of the custody or visitation matter is being made, at the discretion of the mediator.
- E. If the parties reach a resolution of the custody or visitation issues, that resolution will be memorialized in a Parenting Agreement. The Parenting Agreement will be sent to each party and his or her attorney, with a request to review and comment or sign by a certain date. Minor changes may be negotiated via telephone conference, however major changes must be discussed in another session of mediation set by the mediator, at the mediator's discretion.

**4. Failure to Appear.**

Unless otherwise instructed by the Court, all parties are required to complete the orientation and attend at least one mediation session with the Mediator. Any party who fails to complete the orientation and attend the first mediation session may be held in contempt of court.

**5. Failure to Negotiate Parenting Agreement.**

- A. If the parties are unwilling to reschedule additional sessions, if the case is determined by the Mediator to be inappropriate for mediation, or if the parties are not able to negotiate a resolution, then the case shall be returned to the District Court.

B. Referral back to the Court shall be in the form of a letter or memorandum notifying the attorneys and the Court that the parties were unable to prepare a Parenting Agreement. This notification will be signed by the Mediator, Judicial Assistant, Trial Court Coordinator or District Court Judge. Upon receipt of this notification by the Clerk of Superior Court's office, the Clerk's Office shall close out the OTCM (Order to Custody Mediation) issue pending on the case management software.

6. **Entry of Orders.**

A. Once the parenting agreement is signed, it will be sent to a District Court Judge requesting that it be adopted as an Order of the Court. An "Order Approving Parenting Agreement" (AOC-CV-631) must be attached to the Parenting Agreement, he or she will sign both the Order Approving Parenting Agreement and the Parenting Agreement. A signed and filed copy of the Parenting Agreement will be mailed to the parties and their attorneys, with the original document placed in the Court's file.

B. Parties that enter into a "Temporary" Parenting Agreement will be given a designated date to return to mediation in order to develop a permanent Parenting Agreement. If the parties fail to return on the date assigned by the Mediator, then the case will be closed in mediation and referred back to the District Court for any further proceedings.

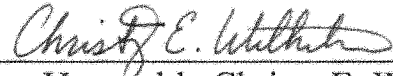
7. **Confidentiality.**

Child Custody Mediation is protected by law as a confidential proceeding. The Mediator cannot answer questions regarding information discussed during any mediation session. The parties are encouraged to maintain dialogue with their attorneys throughout the process so that the parties will be aware of their legal rights and understand the consequences of their decisions. The Mediator cannot be called as a witness in any child custody or visitation litigation, nor can their notes be subpoenaed or used as evidence in any proceeding in court.

8. **Returning to Mediation.**

In the event either party has filed for a modification of an existing custody or visitation order, whether by completing Form AOC-CV-634 or in a separate Motion, then an Order to Return to Custody Mediation should be issued by a District Court Judge before the parties may return to mediation. Parties are not required to complete the online mediation orientation program a second time before returning to mediation.

Adopted and signed this the 1st day of June 2020.



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Honorable Christy E. Wilhelm  
Chief District Court Judge  
19A Judicial District

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
District Court Division

Name And Address Of Plaintiff(s)

VERSUS

Name And Address Of Defendant(s)

MOTION AND ORDER TO WAIVE
CUSTODY MEDIATION

G.S. 50-13.1(c)

MOTION

The undersigned party moves that mediation of this custody/visitation case through the mandatory custody mediation program be waived, and in support of the motion states:

(Check only the boxes that apply)

- 1. The party making this Motion lives more than fifty (50) miles from the Court.
2. Custody mediation would be an undue hardship because
3. The parties have agreed to private mediation subject to the approval of the Court.
4. The other party has abused or neglected the minor child(ren) involved in the case.
5. The other party suffers from alcoholism. abuses drugs. abuses me.
6. The other party has severe psychological, psychiatric, or emotional problems.

I UNDERSTAND THAT I WILL HAVE TO APPEAR IN COURT AND OFFER EVIDENCE TO SUPPORT THE STATEMENTS I HAVE CHECKED ABOVE.

Date Signature Of Movant Plaintiff Defendant

NOTICE OF HEARING

NOTICE TO THE DEFENDANT(S)/PLAINTIFF(S):

You are hereby notified that this Motion To Waive Custody Mediation will be heard on the date, time and at the location set out below. You must be present if you wish to be heard.

Date Of Hearing Time Of Hearing AM PM Location Of Hearing

Date Signature Of Movant

CERTIFICATE OF SERVICE

I certify that on the date of mailing shown below a copy of this Motion and Notice was served on the opposing party(ies) at the address listed above by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date Of Mailing Date Of Certification Signature Of Movant

NOTE TO MOVING PARTY: Obtain from the Clerk a date, time and location for a hearing on this Motion. Fill in that information in the Notice of Hearing. Date and sign the Notice of Hearing and mail a copy to the other party by regular mail. Complete the Certificate of Service and file the original with the Clerk.

**ORDER**

- 1. The Court concludes that the movant has shown good cause to waive mediation under the mandatory custody mediation program, and the motion is allowed.
- 2. Mandatory custody mediation is waived because the case is being referred to private mediation. If private mediation is unsuccessful, then the case is to be returned to Court for referral to the mandatory custody mediation program.
- 3. The motion is denied and it is ordered that this case be referred to the custody mediation program for mediation of all unresolved custody and visitation issues in the case.

*Date*

*Name Of District Court Judge (Type Or Print)*

*Signature Of District Court Judge*





**CERTIFICATION OF SERVICE**

I certify that a copy of this Order was served by

- depositing a copy enclosed in a postpaid properly addressed wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal service directed to
  - defendant.                       defendant's attorney.
  - plaintiff.                          plaintiff's attorney.
  
- leaving a copy personally to
  - defendant.                       defendant's attorney.
  - plaintiff.                          plaintiff's attorney.
  
- leaving a copy at the             defendant's attorney's office with a partner or employee.  
    plaintiff's attorney's office with a partner or employee.
  
- Other \_\_\_\_\_

Date Mailed/Delivered

Signature

Name (type or print)

Title

Name And Address of Plaintiff

**ORDER TO RETURN TO****VERSUS****CHILD CUSTODY MEDIATION**

Name And Address of Defendant

G.S. 50-13.1

Name And Address of Plaintiff's Attorney

Name And Address of Defendant's Attorney

This matter involves issues relating to child custody or visitation. The parties are legally required, or have consented, to return and participate in the court's mediation program for custody and visitation disputes.

There  has  has not been a showing of good cause which would allow, or require, the court to waive mediation.

It is ORDERED, pursuant to G.S. 50-13.1, that:

1. The child custody and visitation issues in this case be referred to mediation, and that further proceedings, including discovery, relating to these issues are stayed.

**Notice To Parties: The Mediation Office will notice the parties by email of their appointment date and time.**

2. For good cause shown, mediation is waived for the following reason: \_\_\_\_\_

3. A copy of this Order be served on the  plaintiff  plaintiff's attorney  defendant  defendant's attorney.

4. Other: \_\_\_\_\_  
Within 14 days after this Order is filed, the parties will be notified by email of the date and time of the assigned mediation session. If you do not receive this email, please contact [D19A.CustodyMediation@nccourts.org](mailto:D19A.CustodyMediation@nccourts.org)

Date

Name of Presiding Judge (Type Or Print)

Signature of District Court Judge

## REFERRAL INFORMATION

Date Referred: \_\_\_\_\_ File No: \_\_\_\_\_

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

Email Address (required): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Attorney: \_\_\_\_\_ Phone No: \_\_\_\_\_

Attorney Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**CHILD(REN) (involved in this action)**

NAME	AGE	DATE OF BIRTH	RESIDES WITH
_____	_____	_____	Mother ( )
_____	_____	_____	Father ( )
_____	_____	_____	Mother ( )
_____	_____	_____	Father ( )
_____	_____	_____	Mother ( )
_____	_____	_____	Father ( )
_____	_____	_____	Mother ( )
_____	_____	_____	Father ( )

Marital Status: \_\_\_\_\_ Married and living together  
 \_\_\_\_\_ Unmarried parents  
 \_\_\_\_\_ Separated Date: \_\_\_\_\_  
 \_\_\_\_\_ Divorced Date: \_\_\_\_\_  
 \_\_\_\_\_ Remarried Date: \_\_\_\_\_

Have you ever participated in mediation before? \_\_\_\_\_ Yes \_\_\_\_\_ No

Is domestic violence an issue in this relationship: \_\_\_\_\_ Yes \_\_\_\_\_ No

Is English your primary language? \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, primary language spoken \_\_\_\_\_

Request a court approved interpreter? \_\_\_\_\_