

**UNIFORM RULES REGULATING MEDIATION OF CUSTODY AND
VISITATION DISPUTES UNDER THE NORTH CAROLINA CUSTODY
AND VISITATION MEDIATION PROGRAM FOR
JUDICIAL DISTRICT 17B**

The Judicial District 17B 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 involved in a custody and visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternate 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 also assists the family in recognizing and meeting 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:** Any action involving custody of or visitation with a minor child or children shall be ordered to mediation prior to trial or after a temporary order has been issued by the court, unless the court waives mediation. An original and one copy of the appropriate cover sheet must be filed with each custody or visitation action.

- 3. PROCEDURES FOR REFERRAL TO MEDIATION:**
 - A. Attorney Referral Phase: Unless Custody and Visitation Mediation has been waived by the court (see Paragraph 4), any party filing any action involving custody or visitation must schedule the matter with the clerk for mediation prior to docketing the case for hearing. This request for mediation occurs within 45 days of the original filing of the action. The party requesting the Mediation Orientation date is responsible for noticing all opposing parties. Unless waived by both sides, Notice for Mediation shall be served 10 days prior to the Mediation Orientation. If one or more of the parties is not present as scheduled, the judge will sign an Order for Mediation. Parties failing to comply with this order may be subject to the contempt powers of the court.

 - B. A written Request for Expedited Mediation, signed by both parties or their attorneys, will waive the notice period.

 - C. Time-Referral Phase: Should the counsel 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 notice the parties 10 days prior to the Mediation Orientation date. Parties failing to comply with this Order may be subject to the contempt powers of the court.

- D. 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, of drug abuse, or domestic violence or of severe psychological, psychiatric, or emotional problems. **REQUESTS FOR 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 resides outside the area agrees, mediation may still proceed.
- A. The Custody and Visitation Mediation office will be notified of any change in the status of a pending case, including, a signed consent order, voluntary dismissal, or exemption. The clerk will put a copy in the Custody Mediator's box.
- 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, and the need to maintain continuity of relationships and stability in the child's life. The mediator will help the parties to explore the options available to them that will best 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 that is maintained in the Mediator's office. The parties involved will schedule their private mediation session at the time of orientation. Parties are required to attend the orientation and at least on 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. Both the court and the 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. Generally, attorneys are not present at the mediation session. A copy of any memorandum of understanding will be sent to each attorney for review. The client

- D. The signed agreement will be presented to the District Court Judge for review and signature. Upon approval, the judge will sign an order that shall make the parenting agreement a CUSTODY ORDER within the meaning of NCGS 50, 50A, 14-320.1, 110-139.1, or other places within the General Statutes where that term appears. The Custody Mediator will send a certified copy of the PARENTING AGREEMENT to each of the parties and will provide a copy to attorneys of record.
- E. Custody orders agreed to in mediation are enforceable through the legal system as with any other court order; they are not enforced by the mediation office. However, the parties will have the opportunity to return to mediation to modify an existing agreement without refileing with the court.
- F. Parties permitted to be 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. All participants in mediation are bound by the confidentiality requirements.
- G. The Custody Mediator in her/his discretion may terminate the mediation if the Mediator receives information during the course of the mediation which shows that continuing mediation would be inappropriate for reasons of safety, welfare, or psychological dynamics.
- H. When custody mediation does not result in a parenting agreement the Custody Mediator will send a notice of that fact to attorneys of record and to unrepresented parties. Thereafter, an Order to Calendar Custody (AOC#CV-914M) shall be submitted to the judge by the Custody Mediator.