

**INITIAL ADMINISTRATIVE ORDER  
GOVERNING CUSTODY AND VISITATION  
DISPUTES UNDER THE NORTH CAROLINA CUSTODY AND  
VISITATION MEDIATION PROGRAM FOR 27B**

The Judicial District **27B** Custody and Visitation Mediation Program is established under the following North Carolina General Statutes: 7A-494, 7A-495, and 50-13.1.

**PURPOSE AND GOALS OF THE PROGRAM:** The purpose of the Custody and 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 assists them in recognizing and meeting the needs of their children. A successful mediation will help the parties put a parenting agreement in writing, and teach them to resolve future problems.

**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 exempts the case from mediation. **An** original and one copy of the appropriate cover sheet must be filed with each custody or visitation action. The clerk will place the additional cover sheet in the custody mediator's box in the clerk's office.

**PROCEDURES FOR REFERRAL TO MEDIATION:**

**ATTORNEY REFERRAL PHASE:** Unless Custody Mediation has been exempted by the court, any party filing an action involving custody or visitation must schedule the matter for mediation prior to noticing the case for a court hearing. This request for mediation is to occur within 45 days of the original filing. The party requesting the custody 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 will be subject to the contempt powers of the court.

The parties **may** avoid the notice requirements stated above by entering into a Stipulation to Expedite Mediation. The date the parties will appear for mediation orientation is set out on the stipulation. The custody mediator will cause a notebook to be maintained in the office of the clerk, in which attorneys note the stipulated time and date for Orientation. Attorneys and/or Clerk of Superior Court should see that the mediator gets a copy of the stipulations, by placing same in the box in the Clerk's office.

**TIME-REFERRAL PHASE:** Should the counsel for the parties fail to schedule mediation with 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 will be subject to the contempt power of the court.

At the discretion of the presiding judge, a case may be ordered to mediation from the bench.

**EXEMPTION FROM MEDIATION:** On its own motion, or that of either party, the court may exempt a contested custody or visitation matter from mediation, 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, substantial allegations of abuse or neglect of the minor child, or of alcoholism, or of drug abuse, or of spousal abuse, or of severe psychological, psychiatric, or emotional problems. **REQUESTS FOR EXEMPTIONS WILL BE MADE TO AND RULED UPON 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.

Matters with non-answering defendants or respondents, or which otherwise appear to be uncontested, are exempt from these rules, at least for so long as no opposing party appears.

Attorneys are to notify the custody mediator of any change in the status of a pending case, including a signed consent order, voluntary dismissal, or an exemption.

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.

**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.

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 clerk'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 one private session before withdrawing from the process.

As a result of mediation, the parties may enter into an agreement, or fail to reach an agreement. The agreement resolves **all** issues surrounding custody and visitation that have been addressed. 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.

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 will have approximately three weeks after mediation to consult with counsel prior to returning to the mediation office to sign the agreement. with the court, if that is their choice.

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 requirement.

The Mediator in her/his discretion **may** terminate the mediation if the Mediator receives information during the course of the mediation that leads the Mediator to believe that continuing mediation would be inappropriate for reasons of safety, welfare, or psychological conflicts.

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, the parties shall proceed to calendar the matter for hearing pursuant to the rules previously promulgated for the setting of domestic cases.

This order is effective on March 16, 1998, for actions or motions filed on or after that date. Any case pending on March 16, 1998, is subject to court-ordered referral, in the discretion of the presiding domestic court judge.

This the 16 day of March, 1998

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J Keaton Fonville  
Chief District Court Judge