

**PROCEDURES FOR CHILD CUSTODY MEDIATION
IN CABARRUS COUNTY**

1. Making Referrals:

- a. All cases filed and calendared for hearing before the Domestic Court Bench in which there is a dispute over the custody or visitation of a minor child, an “Order on Child Custody Mediation” (AOC-CV-630) and a “Referral Information Sheet” (one sheet for each party or household to be referred) will be filled out in the courtroom and a mediation orientation date will be assigned and entered in the space provided on the face of the Order.
- b. The signed Order on Child Custody Mediation and completed Referral Information Sheets must then be given to the courtroom clerk. Please note that the Referral Information Sheets **must** be completed by each party or their attorney. The clerk shall provide each party with a copy of the Mediation Brochure.
- c. The courtroom clerk will provide copies of the Order on Child Custody Mediation and completed Referral Information Sheets to the Mediation Department by placing copies in the Mediator’s mailbox in the Clerk’s Office. The originals shall be placed in the court file.
- d. Motions for modification of an existing custody or visitation order shall be ordered to return to mediation. A “Motion and Order to Return to Custody Mediation” (AOC-CV-634), as well as updated “Referral Information Sheets” (one sheet for each party or household to be referred) will be filled out in the courtroom. The original documents shall be placed in the court file with copies to the Mediator’s mailbox. The Child Custody Mediation Office will notice the parties and their attorneys of the mediation session date.

2. Exemption from Mediation:

- a. N.C.G.S. 50-13.1(c) provides for the waiver of mediation if there is “good cause.” Any waiver of mediation must be indicated on the Order on Child Custody Mediation and placed in the file as a matter of record. It shall always be in the Presiding Judge’s discretion as to whether a case is referred to mediation, even when there is good cause to do otherwise.

3. Mediation Sessions:

- a. Parties are required to attend a mediation orientation prior to any mediation session being scheduled with a Mediator.

- b. Parties will meet with the Mediator in the Mediation Office. Sessions are set up for periods of two hours. The parties and the Mediator will decide together if additional sessions are necessary and will schedule those at a time convenient to the parties.
- c. If the parties are progressing in their discussions and are developing options for resolution, they may meet with the Mediator for as many as four sessions. A draft of the Parenting Agreement will be prepared and sent to the parties and their attorneys with a letter reminding the parties of their scheduled signing date or advising the parties to call back by a certain date. Minor changes to the draft may be negotiated by telephone. Major changes will require an appointment with all parties. Any changes to drafts will be made and revised copies will be sent to the parties and their attorneys.

4. Failure to Appear:

- a. Unless otherwise instructed by the Court, all parties are required to attend the orientation and at least one mediation session with the Mediator. Any party who fails to attend the orientation and/or 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 locked in their positions and there is no room for movement, then the case shall be referred back to the Court. Referral back to the Court shall be in the form of a letter or memorandum notifying the attorneys that the parties were unable to complete a Parenting Agreement. A copy shall be provided to the Clerk's Office. Upon this notification, the Clerk's Office shall close out the OTCM (Order to Custody Mediation) issue.
- b. Notification of failed mediation shall be accepted by the Clerk's Office upon letter or memorandum signed by the Mediator, Mediator's Assistant, Judicial Assistant, Trial Court Coordinator or District Court Judge.

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. If the District Court Judge approves 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 by Certificate of Service, and the original will be 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 designated by the Mediator, then the “Temporary” Parenting Agreement will become “Permanent” after thirty (30) days of the failure to return to mediation.

7. Confidentiality:

- a. Please understand that the mediation process was set up by law to be confidential. The Mediator can not answer questions regarding information discussed during any mediation session. The parties are encouraged to be in dialogue with their attorneys throughout the process so they can be advised of their legal rights and understand the legal consequences of their decisions. Further, the Mediator cannot be called on to testify in a custody case, nor can the notes from any mediation session be used in court.)

8. Returning to Mediation:

- a. Parties who have signed a Parenting Agreement developed through the Mediation Program are encouraged to return to mediation when revisions are necessary or desired. This does not require a court order. Either party may contact the Mediation Office and request to return to mediation, provided both parties are willing. It is expected that adjustments to Parenting Agreements may be necessary from time to time.
- b. In the event either party has filed for a modification of an existing custody or visitation order, then a Motion and Order to Return to Custody Visitation will need to be issued by a District Court Judge before the parties are allowed to return to mediation.