



CHILD CUSTODY AND VISITATION MEDIATION

Uniform Rules Regulating Mediation of Child Custody
and Visitation Disputes under the North Carolina Child Custody
and Visitation Mediation Program



1. STATUTORY AUTHORITY.

G.S.7A-494 requires the North Carolina Administrative Office of the Courts (NCAOC) to establish a statewide Custody and Visitation Mediation Program and to promulgate rules and regulations necessary and appropriate for the administration of the program, and that services be “uniform.”

Uniform rules protect families receiving such services, allow meaningful statistical comparisons to be made, and allow both mediators and the mediation program to be periodically reevaluated.

2. Program Facilitation of Mediation. The child custody and visitation mediation program facilitates the mediation of child custody matters under Chapter 50 of the General Statutes as well as the mediation of motions to modify, enforce, or terminate post-adoption contact agreements and orders pursuant to Chapter 7B of the General Statutes. The mediation of an initial post-adoption contact agreement and order is facilitated by the permanency mediation program.¹ For resolution of issues related to visitation under Chapter 7B, the court may order parties to participate in custody mediation where there is a program established pursuant to G.S. 7A-494. In referring a case to custody mediation under Chapter 7B, the court shall specify the issue or issues for mediation, including, but not limited to, whether visitation shall be supervised and whether overnight visitation may occur.

3. Goals of Mediation. Custody mediation provides a structured, confidential, non-adversarial setting designed to help parties make informed choices about matters related to the child(ren) involved. A cooperative resolution to disputes alleviates the acrimony and stress family systems typically encounter in court. A specially trained mediator facilitates the exchange of information between the parties as they explore ways to address their concerns and meet the needs of the child(ren.)

4. Purpose of Program. The North Carolina Child Custody and Visitation Mediation Program is to provide the services of skilled mediators to further the goals set out above.

Definitions.

4.01. Mediation. A process whereby a trained, neutral third-party acts to encourage and facilitate the resolution of a dispute without prescribing what the resolution should be.

4.02. Mediator. A trained, neutral third-party who acts to encourage and facilitate the resolution of a dispute without prescribing what the resolution should be.

¹ See the Uniform Rules for the Permanency Mediation Program.



4.03. Parenting Agreement. A written agreement reached by the parties with the assistance of the mediator, which may be presented to the court for approval and adoption as an order of the court.

4.04. Post-adoption Contact Agreement. A voluntary mediated agreement reached by the designated parties which may be presented to the court for approval by a district court judge, and incorporated into a district court order under Article 9A of Subchapter I of Chapter 7B of the General Statutes that allows specifically described post-adoption contact with a child, including visitation, sharing of information, and communication such as the exchange of letters, electronic communication, and telephone contact.

5. Administration of Program. The North Carolina Administrative Office of the Courts (NCAOC) is responsible for establishing the North Carolina Child Custody and Visitation Mediation Program and is to promulgate rules and regulations for the administration of the program. The Director of the NCAOC shall appoint necessary staff to plan, organize, and administer the program on a statewide basis. The NCAOC will collaborate with each Chief District Court Judge and other district personnel in implementation and administration of the program.

5.01. Employment of Mediators. Mediators are to be employed by the Chief District Court Judge of the judicial district, after consultation with NCAOC Court Programs staff concerning qualifications, salary and benefits, and are to be hired as full or part-time employees.

5.02. In-House Contracts Permitted. The Chief District Court Judge may request that NCAOC contract for delivery of mediation services. Such contracts are to be approved by the Director of the NCAOC and are exempt from competitive bidding procedures under Chapter 143 of the General Statutes.

5.03. Administration of Funds. Funds appropriated by the General Assembly for the establishment and maintenance of mediation programs are to be administered by the NCAOC.

5.04. Multi-District Programs. The NCAOC may authorize all or part of a program in one district to be operated in conjunction with that of another district or districts.

5.05. Advisory Committee Established. The Director of the NCAOC shall appoint a Custody Mediation Advisory Committee of at least five members to advise the Child Custody and Visitation Mediation Program. Members of the committee are to receive the same per diem and travel expenses as members of state boards and commissions generally.



6. Local District Programs. Each local district program consists of a qualified mediator, or mediators, and such clerical staff as the NCAOC, in consultation with the local program, deems necessary. Each Chief District Court Judge should develop local rules to address custody mediation practices, including issues not addressed in statute or in the Uniform Rules.

7. Qualifications of Mediators. A person desiring to furnish mediation services must demonstrate that he or she:

- 1) Has at least a master's degree in psychology, social work, family counseling, or a comparable human relations discipline; and
- 2) Has completed at least 40 hours of training in mediation techniques by an instructor deemed qualified by the NCAOC; and
- 3) Has professional training and experience relating to child development, family dynamics, or comparable areas; and
- 4) Meets such other criteria as specified by the NCAOC.

7.01. Initial Training Period. A person just beginning to furnish mediation services in the North Carolina Child Custody and Visitation Mediation Program shall satisfy the following requirements for training and mentoring, to be completed in 6-12 months following employment, unless some or all the requirements are waived by the Director of the NCAOC or his designee. The new mediator shall not conduct mediations without supervision until the individual is assessed by NCAOC staff and approved by the hiring authority.

- 1) 18 hours of court observations of domestic trials involving child custody and visitation issues.
- 2) 18 hours of custody mediation observation with mediators approved by the NCAOC.
- 3) 40 hours of mediation training in a program approved by the NCAOC.
- 4) 24 hours of co-mediation with mediators approved by the NCAOC.
- 5) Minimum four hours (two sessions) solo mediation under observation by NCAOC staff.
- 6) Official assessment of knowledge, skills and performance of mediation conducted by NCAOC staff.



- 7) Approval as a Child Custody and Visitation Mediator signed by the Custody Mediation Program Manager and sent to the hiring authority.
- 8) Attendance at a minimum of four new mediator meetings.
- 9) Attendance at any additional training required by NCAOC staff.

7.02. Continuing Education and Professional Development. Mediators shall participate in the annual training events provided by the NCAOC. At minimum, every two years a mediator shall complete 16 hours of annual training, including a component on ethics. In the interest of professional development, NCAOC staff may provide additional in-service workshops, regional meetings, and co-mediation or observation opportunities for mediators. Mediators are strongly encouraged to participate in these events. Mediators may also co-mediate with their custody mediation colleagues with prior approval from the Custody Mediation Program Manager and their hiring authority.

7.03. Support. NCAOC Custody Mediation Program staff shall be available to assist Chief District Court Judges in any requested evaluation of their program and mediators. Staff are also available to review applications and assist with interviews during the process of recruiting and hiring new mediators.

6.04. Mediator Ethics. See *Standards of Practice for Mediators in the North Carolina Child Custody and Visitation Mediation Program*.

8. Neutral Stance of Mediator. The mediator always maintains a neutral and impartial position. The mediator's role is to facilitate open and respectful communication and to assist the parties with identifying their concerns and goals, the needs of the child, and guide the parties to the development of a mutually acceptable agreement that serves the best interests of the child.

The mediator shall recuse himself or herself when they have familiarity with the party or the party's family. A party may request a different mediator for the same reason as well as other prejudicial grounds.

9. Authority of Mediator. The mediator shall be in control at all times of the mediation process and the procedures to be followed in the mediation. The mediator may suspend the mediation session if it becomes counterproductive or if it becomes unsafe for any of the participants, including the mediator.

10. Evaluation of Program. The NCAOC shall evaluate the program from time to time and shall prepare a summary of the program activities to be included in the North Carolina Courts Annual Report of the Administrative Office of the Courts.



In addition to evaluation of the statistics compiled and submitted by the various programs, user satisfaction might be monitored by using exit interviews, and follow-up questionnaires and telephone interviews in a sampling of cases at some time after the completion of the process.

11. Complaint Procedure. The orientation material and the public website for the mediation program shall advise that any complaints about custody mediation or a specific mediator should be put in writing and sent to the Chief District Court Judge of the judicial district where the mediation took place.

12. Communication. Custody mediators shall return communications from parties and attorneys within a reasonable timeframe.

CUSTODY MEDIATION PROCESS FOR ACTIONS INITIATED UNDER CHAPTER 50 OF THE GENERAL STATUTES (G.S. 50-13.1)

All actions initiated *under the provisions of Chapter 50 of the General Statutes* involving unresolved issues as to the custody or visitation of a minor child shall be ordered to mediation on such issues prior to the trial of the matter, unless the court waives mediation. Such actions include an action for custody or visitation in which no order has been previously entered, motions to modify orders previously entered, and actions to enforce custody and visitation orders. This mandatory referral procedure does not limit the right of the court to enter temporary and *ex parte* orders under the applicable statutory provisions, or to immediately enforce existing orders. The order of referral may advise the parties that a show cause order may be issued, or other sanctions imposed, if they fail to appear at the orientation session, or the first mediation session.

The mandatory provisions of G.S. 50-13.1(b), the statutory authority for this section, apply only to actions brought under the provisions of Chapter 50 of the General Statutes. Actions instituted under the provisions of the Juvenile Code, as found in Chapter 7B of the General Statutes, often include issues of placement and visitation at the dispositional stage; such issues may, in appropriate cases, be referred for mediation by a district court judge. Actions brought under the provisions of Chapter 50B of the General Statutes (Domestic Violence) are inappropriate for mediation because they necessarily involve allegations of intimate partner abuse.

1. Waiver of Mediation. On its own motion, or that of either party, the court may waive mediation for good cause when there is sufficient evidence of domestic violence as defined herein by these rules. On its own motion, or that of either party, the court may waive the setting of a contested custody or visitation matter for mediation upon other findings of good cause. Other bases for good cause include, but are not limited to: 1) a showing of undue hardship to a party, 2) an agreement between the parties for private mediation, 3) allegations



of abuse or neglect of the minor child, 4) allegations of alcoholism, 5) allegations of drug abuse, or 6) allegations of severe psychological, psychiatric, or emotional problems. In addition, where a party resides more than 50 miles from court, such distance may be considered good cause.

Further, if the mediator determines that the case is not suitable for mediation due to domestic violence, a power imbalance between the parties, the presence of child abuse or neglect, or other reason, the mediator may bring the case to the judge's attention for consideration of a waiver.

2. Confidentiality. The mediation proceeding, intake form, and all information gathered during DV screenings by the Custody Mediation Program shall be confidential. Neither the mediator nor any party or other person involved in mediation sessions shall be competent to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime or fraud. An individual shall not, however, obtain immunity from prosecution for criminal conduct or be excused from the reporting requirement of Article 3 of Chapter 7B or G.S. 108A-102. (G.S. 50-13.1)

3. Orientation. Prior to and separate from mediation, an orientation session shall be held to introduce the parties to the goals and procedures of the mediation process. Orientations are provided to reduce parties' apprehension of the process and maximize their informed participation. The intake form shall be completed prior to mediation. The parties shall be advised that if they fail to appear for the initial mediation session, an order to show cause may be issued and the non-appearing party could be found in contempt of the court. Whether orientations are held in-person, live on video conferencing, or via the self-directed option, is a decision each Chief District Court Judge will make for his or her Custody Mediation Program.

4. The Mediation Process. The mediator should assist the parties in focusing on the needs of their child, the need to reorganize the family and use its strengths, the need to maintain continuity of relationships and stability in the child's life, and the options available to the parties which would accomplish those goals. The mediator should help the parties select from the range of options those which are sound and workable, to reach an agreement which will reduce the conflict in the family, benefiting both the parties and child.

4.01. Location. Mediation shall be held in a private and safe location. Whether mediation sessions are held in-person or via video conferencing is a decision each Chief District Court Judge will make for his or her Custody Mediation Program. When sessions are to be held in-person, and when one or more parties cannot attend in-person due to extenuating circumstance or long distance as determined by the mediator and with consent from the Chief District Court Judge, all parties will attend via online video conferencing. Telephone mediation is prohibited unless parties do not have the ability to use online video



conferencing. In these cases, both parties will participate via the telephone to provide a uniform method of communicating.

4.02. Parenting Agreement. A detailed and clearly written parenting agreement is the anticipated product of the mediation process. A permanent parenting agreement which determines all issues pertinent to custody or visitation shall include details related to major decision-making responsibilities of significant consequence and residential schedules for the children. The agreement will list specific dates and times that children are with each party, including holidays, vacations, and special events, such as birthdays. The need for children to maintain relationships with persons with whom the child has a substantial relationship may be addressed. When the parties agree it is appropriate, the parenting agreement may require that a party submit to drug and/or alcohol testing or screening. The parenting agreement shall not include provisions regarding financial matters except that the parenting agreement may provide for the allocation of the cost associated with the drug and/or alcohol testing or screening between the parties.

The mediator shall help the parties reduce their agreement to writing and ensure that each party understands the written document. *Before the parties sign the proposed agreement*, the mediator shall send a copy of the proposed agreement to parties and counsel, encourage each party to have their attorneys review the agreement with them prior to signing it, and afford them a reasonable opportunity to do so. Determining acceptable methods for parties to sign the parenting agreement is a decision each Chief District Court Judge will make for his or her Custody Mediation Program. The mediator shall promptly submit the initial signed agreement, or any signed modification agreement to the court. An *Order Approving Parenting Agreement* is to be attached for the judge's signature. Signed copies will be provided to both parties and their attorneys.

4.03. Parenting Agreement Incorporated in Court Order. Where an initial signed agreement or a signed modification of that agreement is submitted to the court, it shall be incorporated in a court order unless the court finds good reason not to do so. When incorporated, the agreement is enforceable as is any other court order. Even though designated "parenting agreement," or some similar name, the incorporated agreement shall be considered a custody order or child custody determination within the meaning of Chapter 50A of the General Statutes, G.S. 14-320.1, G.S. 110-139.1, or other places where those terms appear.

4.04. Termination of Mediation. After the parties have attended at least the orientation and one mediation session, either or both of the parties may decide not to continue with the process. The mediator shall only report to the court that no agreement was reached. Whether an agreement was drafted or not, as well as who did or did not sign a draft agreement is confidential information and will not be reported.



4.05. Return to Mediation. The mediator shall explain to the parties that the needs of their children change over time and encourage them to return to mediation if they are unable to resolve any problems caused by that factor, or other changes in circumstances.

4.06. Other Participants. At the mediator’s discretion and with the consent of all parties, other participants may be included in mediation sessions following the initial mediation session if the mediator determines such inclusion will be productive.

4.07. Caucus with Parties. Caucusing can be a useful intervention for the sake of assessing direction and appropriateness of mediation. Although most of a typical session is conducted with all parties together, at the mediator’s discretion, and with consent of all parties, the mediator may utilize a caucus or shuttle mediation, allowing the mediator to speak to each participant individually.

MEDIATION PROCESS FOR THE MODIFICATION OF POST-ADOPTION CONTACT AGREEMENTS (N.C.G.S. 7B-909.3.)

Post-adoption contact agreements and orders entered pursuant to Article 9A of Subchapter I of Chapter 7B of the General Statutes are custody determinations. If a party to the agreement seeks to modify, enforce, or terminate the agreement, the party must file a motion in the civil action containing the court order. The issues set forth in the motion will be set for custody mediation unless waived by the court for good cause.

A court-imposed modification of the agreement *may limit, restrict, condition, decrease, or terminate the sharing of information and contact between the former parent or parents and the child, but in no event shall a court-imposed modification serve to expand, enlarge, or increase the amount of contact between the former parent or parents and the child.* (G.S. 7B-909.3(c))

1. Waiver of Mediation. On its own motion, or that of either party, the court may waive mediation for good cause pursuant to G.S. 7B-909.3(a).

2. Confidentiality. The mediation proceedings and information relating to the proceedings are confidential pursuant to N.C.G.S 7B-909.2. All participants shall receive a copy of the confidentiality clause prior to mediation. The mediator will review the terms of confidentiality with the parties. All participants, including the mediators, shall honor the confidentiality provisions regardless of the outcome of the mediation. Information or statements of any person participating in the mediation shall not be disclosed or used in any subsequent proceedings unless otherwise authorized by law.



The mediator shall destroy any notes and agreement drafts immediately after mediation is concluded.

3. Orientation. Parties ordered to mediation for the modification, enforcement, or termination of a post-adoption contact agreement will attend an online orientation prior to mediation that is specifically designed for post-adoption parties as opposed to the orientation to custody mediation. The orientation may be waived if the parties have attended an orientation within the last 12 months. Otherwise, they will attend an orientation prior to mediation. Orientations are provided to reduce parties' apprehension of the process and maximize their informed participation. The goals of post-adoption contact mediation and the parameters of any resulting modification of an existing order will be reviewed with each party during orientation. The parties shall be advised that if they fail to appear for the initial mediation session, an order to show cause may be issued and the non-appearing party could be found in contempt of the court.

4. Mediation Process. The mediator will assist the parties in understanding the issues and concerns that bring them back to mediation. The mediator will help the parties explore their concerns and options that support the child's best interest. The mediator should help the parties select options which are sound, workable and which **do not** serve to expand, enlarge, or increase the amount of contact between the former parent(s) and the child as specified in the post-adoption contact agreement. Any resulting modification will not exceed the limitations of Article 9A of Subchapter I of Chapter 7B of the General Statutes² and shall contain as much specificity as possible regarding the modification.

4.01. Location. Mediation shall be held in a private and safe location. Whether mediation sessions are held in-person or via video conferencing is a decision each Chief District Court Judge will make for modifications of post-adoption contact agreements in his or her Custody Mediation Program. When sessions are to be held in-person, and when one or more parties cannot attend in-person due to extenuating circumstances or long distance as determined by the mediator and with consent from the Chief District Court Judge, all parties will attend via online video conferencing to avoid the appearance of unequal treatment. Telephone mediation is prohibited unless parties do not have the ability to use online video conferencing. In these cases, both parties will participate via the telephone to provide a uniform method of communicating.

4.02. Participants. The parties to the post-adoption contact agreement and order are ordered to attend the mediation.

² See Article 9A of Subchapter I of Chapter 7B of the General Statutes. (G.S. 7B-909.2 et seq.)



At the mediator’s discretion and with the consent of all parties, other participants may be invited to attend the mediation sessions. Invited attendees are not parties to any agreement reached during mediation and shall not receive a copy of any agreement.

4.03. Caucus Sessions. The mediator will caucus at least once with each party for reasonable amounts of time during a mediation session. If an agreement is reached, and even if a caucus was already conducted, the mediator will caucus again to ensure that both parties feel comfortable with the terms of the modification.

4.04. Modification of a Post-Adoption Contact Agreement. The mediator will help the parties reduce their agreement to writing and ensure that each party understands the written document. The mediator will include as much specificity and detail as possible when drafting the modification of the post-adoption contact agreement to avoid future confusion and conflict.

Before the parties sign the proposed agreement, the mediator shall send a copy of the proposed agreement to parties and any counsel, encourage each party to have their attorneys review the agreement with them prior to their signing it, and afford them a reasonable opportunity to do so. Determining acceptable methods for parties to sign the parenting agreement is a decision each Chief District Court Judge will make for his or her Custody Mediation Program. The mediator shall promptly submit the signed modification agreement to the court. Signed copies will be provided to the parties and their attorneys.

4.05. Modification Agreement Incorporated in Court Order. A modification agreement reached by the parties may be presented to the court for approval and incorporation into an order of the court.

4.06. Termination of Mediation. After the parties have attended the orientation, if required, and at least one mediation session, either or both of the parties may decide not to continue with the process. The mediator shall only report to the court that no agreement was reached. Whether an agreement was drafted or not, as well as who did or did not sign a draft agreement is confidential information and will not be reported. Any draft and all mediator notes will be destroyed.

[SIGNATURE PAGE FOLLOWS]



Pursuant to N.C. Gen. Stat. § 7A-494, these revised Uniform Rules are effective **March 1, 2026.**

Adopted the 23rd day of February, 2026.



Ryan S. Boyce
Director

