

THE MEDIATION PROCESS INSTRUCTIONS FOR FAMILY LAW CASES

Authority: Pursuant to §44.1011 and 44.108 Fla. Stat., and Fla. Fam. L. R. P. 12.740, *et seq.*, judges have the authority to order all contested family matters and issues to mediation.

To help make mediation more accessible to all parties, Chapter 2004-265, Laws of Florida, amended 44.108 Florida Statutes. Through funding for the State Court System, the Sixth Judicial Circuit will implement Fl Stat 44.108 with a mediation model that provides paid family and county civil mediation services to certain parties.

Definition: Mediation is statutorily defined as "...[A] process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties." It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives. The mediator has no decision making power. Any agreement reached will be by mutual consent of the parties. A written agreement that is signed may be filed and submitted to the court with the parties consent.

Special Rules or Procedures: For each case referred to family mediation, parties eligible for court provided mediation shall select either privately retained mediation or court provided mediation services. Parties not eligible for court provided mediation shall select their own mediator and hold a mediation conference in accordance with the order of referral. In accordance with Family Law Rule of Procedure 12.741 (b)(6)(A) and Rule of Civil Procedure 1.710(f)(1), eligible and non-eligible parties may choose their own mediator; however the selection must occur within ten(10) days of the order of referral.

Court Provided Mediation Services

Requirements: To determine eligibility for court provided mediation, both parties must submit a Family Law Financial Affidavit 12.902(b)-Short Form upon receipt of this notice that is no more than six months old. The form can be obtained

<http://www.flcourts.org/core/fileparse.php/293/urlt/902b.pdf>

A general income statement, **for the purpose of determining eligibility for court-provided mediation only**, is available from the mediation staff or online at www.jud6.org/ContactInformation/AlternativeDisputeResolution.html

The financial affidavits must be notarized and mailed or emailed to the Mediation Program either to our St Petersburg (for St Pete Judge cases) office 501 1st Avenue No., Room 722, St Petersburg, FL 33701 or Email to: smorrison@jud6.org , or our Clearwater office (for Clearwater Judge cases) at 315 Court St., Room 401, Clearwater, FL 33756 or Email to: jpadoll@jud6.org.

1. After you submit the financial affidavit, contact the mediation office at (727) 464-4947 for a determination of eligibility and the assignment of the mediator. The Program will select a family mediator **by rotation from the court contracted list**. You shall have ten days to schedule the date, time and location of the mediation conference with the mediator, **and** pay the clerk the required mediation fee.
2. You shall contact the Mediation Program office with the above information within the specified ten days. If you do not notify the Program within ten days, you will be given another ten days to select a private mediator at an agreed upon rate of pay that you will pay directly to the mediator. If you fail to notify the Program with this information within ten days, the Program will select a private mediator

by rotation, set the date, time and location of the mediation without contacting the parties, at the rate of not more than \$200.00 per hour.

Parties deemed otherwise eligible for court provided mediation may also opt instead to retain private mediation, in which case the mediation fees below will not apply.

Mediation Fees

Fees are established by statute and are as follows:

\$60.00 per person per session in family mediation when the parties' combined **gross** income is less than \$50,000.00 per year.

\$120.00 per person per session in family mediation when the parties' combined **gross** income is greater than \$50,000.00 but less than \$100,000.00 per year.

Any party may pay any other party's mediation fee. **A mediation fee collected from any party is nonrefundable.**

Parties must take a copy of the order of referral to one of the offices of the Clerk of Circuit Court in Pinellas County and pay the designated fee in the order within ten days of receiving the order of referral.

Important: Keep and bring receipt of payment to the mediation conference.

Staff will also prepare notices reflecting your coordinated date and mediator that will be mailed to both parties and the mediator.

Clerk of Circuit Court locations for payment of fees:

545 1st Avenue North, First Floor St. Petersburg, FL 33701 (727) 464-7000

or

315 Court Street, First Floor, Clearwater, FL 33756 (727) 464-7000

Private Mediation

If the parties choose their own private mediator, they may select a mutually acceptable mediator from the list of certified mediators upon a stipulation with the court or by selecting a mediator who does not meet the certification requirements, but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case. Parties must select a mediator and notify the Program of this selection within ten days of receipt of the order of referral, or the Program will select a mediator for you. The parties and the mediator agree upon a fee, and the parties pay the mediator at the time of the mediation.

The parties must coordinate with the mediator a date and time of mediation and notify the Program. Staff will also prepare notices reflecting your coordinated date and mediator selection. Mediation conferences generally last three hours and are scheduled from 9:00 a.m. until 12:00 p.m. or 1:00 p.m. until 4:00 p.m., unless otherwise requested. Please see below for more detailed information regarding our scheduling policies.

Procedures Applicable to Both Court-Provided Family Mediation and Private Family Mediation

Appearances: Unless otherwise stipulated by the parties, a named party must be physically present at the mediation conference. In the discretion of the mediator, and with the agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

The Conference: ATTORNEYS SHOULD SUBMIT A BRIEF WRITTEN SUMMARY OF THE FACTS/ISSUES OF THE CASE TO THE MEDIATOR AT LEAST ONE WEEK BEFORE THE SCHEDULED CONFERENCE. During the conference, counsel should be prepared to discuss the facts and legal issues involved in the case and to generally help the parties evaluate the case. The ultimate

decision making authority of whether or not to settle the case rests with the parties, with the advice of counsel.

IMPORTANT: The parties **shall** bring a copy of their financial affidavits to the mediation. If the case involves child support, the parties **shall** bring to the mediation conference a Child Support Guidelines Worksheet in substantial conformity with Florida Family Law Form 12.902 (e).

Upon motion or request of any party, the Court will not refer a case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process. The Court on its own motion may determine that a case will not be referred to mediation because of a history of domestic violence.

If the case involves parental responsibility and primary residence of the children, a parenting plan proposal shall be exchanged between the parties five (5) to seven (7) days prior to the mediation conference. The Florida Supreme Court approved parenting plans may be accessed at www.jud6.org/ContactInformation/AlternativeDisputeResolution.html

Your mediator will be explaining the process in greater detail the day of the conference. In the meantime, if you have any questions about these or any other court-ordered mediation procedures, you should call the mediation program that is handling your case St. Petersburg (727) 582-7206.

PLEASE READ CAREFULLY

Scheduling, rescheduling and cancellations: The rules require that mediation be completed within 75 days of the initial mediation conference unless otherwise ordered by the court. The initial mediation conference shall be held within sixty (60) days of the signed referral order.

The party or attorney who is requesting that a mediation session be rescheduled must obtain consent from opposing counsel and the assigned mediator. ***The Program must also be notified of any rescheduling attempts.*** If opposing counsel and/or the mediator do not give consent to reschedule the conference, the attorney must apply for relief through the presiding judge prior to the scheduled conference. Cancellation (with no attempt to reschedule) of the mediation conference will only be permitted where one or both parties have applied for relief from the presiding judge and has had the case properly deferred or removed from mediation. NO OTHER UNILATERAL CANCELLATION OR RESCHEDULING WILL BE PERMITTED AND IS A VIOLATION OF THE COURT'S ORDER TO ATTEND.

Notifying the Mediator: The mediator must be notified at least forty-eight (48) hours in advance (not including weekends and holidays) of any rescheduling or cancellation, for whatever reason. If the late cancellations was due to a unilateral request through the court for a continuance or deferment, the moving party may be assessed the entire cancellation fee. If the late rescheduling was due to a stipulation between parties, any fee charged by the mediator (excludes cases involving a court mediator) will be divided equally between or among them.

Settlement Prior to Mediation: Settlement before mediation is always encouraged but is still considered a cancellation. Consequently, the forty-eight (48) hours notice requirement applies. It is the responsibility of plaintiff's counsel to notify the Program and the mediator in a timely manner of any settlement before the initial conference. Written confirmation is required by the court order.

Payment: **If the parties choose to utilize a court mediator, the fee of \$60.00 or \$120.00 per party must be paid prior to the mediation conference. See page 1 for requirements regarding fees..** If the parties choose their own private mediator in the absence of a written fee agreement providing for the private mediator's compensation, the mediator shall be paid at the rate of not more than \$200.00 per hour. Payment of the agreed fee is due to the mediator on the day of the mediation conference.