



**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER # 2020-00-19
(RESCINDING ADMINISTRATIVE ORDER 2007-00-09)**

RE: DEPENDENCY MEDIATION PROGRAM

Whereas, mediation is a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination in an informal, non-adversarial manner with the goal of helping the parties reach a mutually acceptable agreement. Mediation has proven to be a process which improves the efficiency and proper administration of justice to families and children.

Whereas, Chapter 39, Florida Statutes, and Rule 8.290, Florida Rules of Juvenile Procedure, provide for mediation of dependency matters.

Whereas, Section 44.108, Florida Statutes, provides that mediation be accessible to all parties, regardless of financial status and states that no fee can be collected from parties found to be indigent. This statute does not outline a fee that may be assessed for dependency mediation. Funding for this program has been provided from an outside source, Big Bend Community Based Care, Inc. (BBCBC) since 2009. The funding from BBCBC remains in place and is contingent upon their available funding. Should available funding from BBCBC terminate, state contract funding may be used to reimburse contract mediators for their services and is solely based on funding availability.

Whereas, Section 43.26, Florida Statutes, and Rule 2.215 (b) (2), Florida Rules of Judicial Administration, establishes that the chief judge of a circuit "shall exercise administrative supervision over all courts within the judicial circuit."

Whereas, Rule 2.215 (b) (3), Florida Rules of Judicial Administration, directs the chief judge to develop an administrative plan for the efficient and proper administration of all courts within the circuit and accordingly finds it necessary and appropriate to amend the current administrative order related to the dependency mediation program.

Now Therefore, it is ORDERED and ADJUDGED that the following procedures concerning the dependency mediation program in the Fourteenth Judicial Circuit shall be followed:

A. REFERRAL TO MEDIATION

1. At any stage of the dependency process, the Court can order a dependency case to mediation. Orders of Referral to Mediation and the Notice of Dependency Mediation shall be prepared by the Juvenile Dependency Mediation Program after a coordinated date is selected by all parties.
2. The Court shall **NOT** refer any case to dependency mediation if it confirms there are criminal charges pending that stem from the child abuse allegation. Upon written motion with good cause shown, a party may apply to the court to waive the required mediation for this purpose.

B. DEFERRING OR WAIVING MEDIATION

3. The court may defer or waive mandatory mediation if it appears:
 - a. Mediation of the issues would not be appropriate under the circumstances of the case; or
 - b. Exigent circumstances require that a hearing before the judge should be expedited.
4. Either party may file a *Motion to Waive or Defer Mediation* within 10 days of the *Order Directing Parties to Mediation and Notice of Dependency Mediation* being filed with the court.
 - a. Mediation will be scheduled and occur as scheduled unless the party who filed the *Motion to Waive or Defer Mediation* receives an order granting the motion from the assigned judge.
 - b. A copy of the order granting the waiver must be provided to the Alternative Dispute Resolution (ADR) Director as well as to the assigned mediator.

- c. If a deferment is granted, the order shall specify the period of the deferment and another mediation conference will be scheduled accordingly.

C. FOURTEENTH JUDICIAL CIRCUIT'S DEPENDENCY MEDIATION PROGRAM

5. The Fourteenth Judicial Circuit's Dependency Mediation Program shall be available to all dependency cases filed in all counties within the Fourteenth Judicial Circuit.

D. PROCEDURES FOR SELECTION AND SCHEDULING A MEDIATOR

6. The ADR Director shall maintain a list of certified dependency mediators who have agreed to participate in the Fourteenth Judicial Circuit's Dependency Mediation Program and have signed a Professional Services Agreement. All mediators who are under contract by the Fourteenth Judicial Circuit shall conduct themselves in a professional manner as required by Florida Statutes and the standards of professional conduct established by the Florida Rules for Certified and Court-Appointed Mediators.
7. Staff mediators, those full-time state employees who are also certified dependency mediators, may also provide program mediation services to eligible parties. They are not required to sign a Professional Services Agreement due to the fact that as state employees, they will not receive a dual compensation for providing services as a certified mediator. Rather, the services are considered part of their full-time public service duty.
8. All mediations shall be conducted in accordance with Rule 8.290, Florida Rules of Juvenile Procedure and this administrative order.
9. Once dependency mediation is scheduled and noticed by the program, it may only be cancelled by mutual written agreement of the parties at least 48-hours prior to the scheduled mediation or by order of the court. If the mediation session is cancelled, by mutual written agreement, the parties shall provide a copy of the agreement to the ADR Director at least 48-hours prior to the scheduled mediation.

E. GENERAL GUIDELINES FOR MEDIATION

10. As a process whereby a neutral third person acts to encourage and facilitate resolution of disputes prior to judicial determination in an informal, non-adversarial manner with the goal of helping the parties reach a mutually acceptable agreement, the mediation session is a time for all parties to attempt to work out their differences in a positive manner. Each party will be given the opportunity to share their side of the case with a neutral mediator who is trained to encourage cooperation and assist with facilitating an agreement. Civility and respect from all participants is expected during these sessions.
11. Parties may find it desirable to have their attorneys attend the mediation session; however, attorney attendance is **NOT** required unless otherwise ordered by the Court. For mediation occurring post-arraignment, typical parties present at a mediation held after arraignment include; the Mother, the Father, their attorney, if they have been appointed or retained counsel, the Children's Legal Services (CLS) attorney, the BBCBC care manager or their supervisor, the protective investigator or their supervisor, the Guardian ad Litem (GAL) attorney, the GAL case advocate manager or their supervisor and the GAL volunteer. By order of the court, the parties may also include family members, the child(ren), and other community members. CLS, BBCBC, GAL, and the parents can recommend parties to include. The Court may add parties who have an interest in the proceedings.
12. If either parent or agency attorney fails to appear at a scheduled mediation session without good cause, the program mediator shall provide a written mediator's report indicating what party or attorney failed to appear. Willful refusal to appear at a scheduled mediation without good cause shall place the offending party in jeopardy of sanctions by the court, including contempt of court, assessment of mediator and attorney fees and other costs, the striking of pleadings or portions thereof, and/or other appropriate sanctions, and the court may issue an order to show cause as to why the court should not assess fees and costs against the responsible party or parties.
13. Except as otherwise provided by Sections 44.401-406, Florida Statutes, verbal or written communications made during a mediation session or proceeding other than an executed settlement agreement are confidential and inadmissible in subsequent legal proceedings. Certified dependency mediators shall comply with required reporting procedures at the conclusion of mediation and shall report to the Court and the ADR Director attendance and non-attendance of the parties at all required mediation sessions, the existence or non-existence of mediated agreements or mediated partial agreements, and such other information to which both parties agreed to in writing.

14. If the parties reach an agreement, the agreement will be reduced to writing by the mediator. The parties will be afforded an opportunity to review the written agreement before signing.

H. SPECIAL CIRCUMSTANCES

15. Due to Covid-19, all dependency mediations have transitioned to a Zoom platform. Mediators and all participants appear virtually via Zoom. Any agreements reached are circulated for signature electronically and subsequently e-filed. The transition to Zoom has allowed the process of mediation to continue while safe-guarding all parties and participants. The program has continued to successfully mediate dependency cases since this transition in May 2020 and shall continue this process unless directed otherwise from the Court.

I. SPECIAL ACCOMMODATIONS


16. If either party is a person with a disability who needs any accommodation in order to participate in dependency mediation, they are entitled, at no cost, to the provisions of certain assistance. Please contact the Office of the Court Administrator, P.O. Box 1089, Panama City, Florida, 32402, or call (850) 767-3550, within seven (7) days of your mediation. If you are hearing impaired or voice impaired, please call *711 or email ADARequest@jud14.flcourts.org*

If either party's primary language is any language other than English, the non-English speaking party or his/her attorney shall refer to **Administrative Order 2007-00-02, Responsibilities and Procedures for Requesting Court Interpreters for Due Process Proceedings and for Compliance with Americans with Disabilities Act and Rule**, for procedures for locating a certified language interpreter who can assist the party during the mediation. Under present Florida law a language interpreter is not provided by the Court.

H. REPORTING ON CIRCUIT-WIDE MEDIATION BY FOURTEENTH JUDICIAL CIRCUIT FAMILY MEDIATION PROGRAM AND PRIVATE MEDIATORS

17. All dependency mediators who conduct scheduled mediation sessions shall e-file a copy of the mediation outcome report in the court file and provide a copy when submitting their invoices for payment to the ADR Director.

DONE and ORDERED in Chambers at Panama City, Bay County, Florida, this 23rd
day of November, 2020.



PETER MALLORY
ADMINISTRATIVE JUVENILE JUDGE



CHRISTOPHER N. PATTERSON
CHIEF JUDGE



A CERTIFIED TRUE COPY
BILL KINSAUL CLERK
OF THE CIRCUIT COURT

By 
Deputy Clerk