

Mediation Rules
January 8, 2017
Fourth Judicial District of Iowa

1. **Mandatory Mediation.** Parties to domestic relations matters involving children filed in the Fourth Judicial District of Iowa are required to present a Parenting Plan in a form approved by the Judges of the Fourth Judicial District of Iowa or participate in efforts to mediate their issues as provided by § 598.7. The Parenting Plan must be filed with the Court or mediation scheduled within sixty (60) days of the Answer or other responsive pleading being filed with the Clerk of Court. The mediation session shall be held within one hundred twenty (120) days of the Answer or other responsive pleading being filed with the Clerk of Court. No trial date will be scheduled for such cases, until the parties have filed a Parenting Plan or participated in mediation. This requirement applies to all proceedings for dissolution of marriage with children, all proceedings for modification of custody or visitation, and all proceedings to establish paternity, custody or visitation. Failure or refusal to participate in mediation, shall not delay entry of final judgment by more than six months. If the domestic relations matter involves domestic abuse pursuant to Chapter 236 or a history of domestic violence as defined by § 598.41(3)(j), the parties may seek a waiver of mandatory mediation by filing a request for such a waiver with the court. Upon such a request being made, mediation shall be waived if the court determines that there has been founded domestic violence between the parties. Such requests for waiving of mediation shall be filed with the court within thirty (30) days of the Answer or other responsive pleading being filed with the Clerk of Court. Participation in mediation will not be considered a violation of existing Protection Orders. Mediation may be waived upon recommendation of the Juvenile Court when granting concurrent jurisdiction. An Order of Court will issue at the time such a petition is filed, which will set out the mediation requirements and the timing of such. The Clerk of Court is directed to include this Order with the filing and service packets distributed by the Clerk. The individual mediator may also refuse to mediate a case if the mediator determines that it would be inappropriate due to a conflict of interest, ethical conflicts or a history of domestic violence or abuse which prevents appropriate mediation from occurring.
2. **Mandatory Education.** A course intended to sensitize parents to the needs of children who are affected by a dissolution of marriage is mandated by § 598.15. This requirement includes all proceedings for dissolution of marriage with children, all proceedings for modification of custody or visitation, and all proceedings to establish paternity, custody or visitation. Parties to such a proceeding shall attend the course within forty-five days of service of the Answer or other responsive pleading being filed with the Clerk of Court. A certificate of completion shall be filed with the Court. No trial date will be scheduled for such cases, until the parties have attended the required course. A Final Decree shall not be entered until the parties have attended the required course. Failure or refusal to attend the required course shall not delay entry of final judgment by more than six months. Participation in the course may be waived for good cause, including default of any party. An Order of Court will issue at the time a petition is filed concerning children, which will set out the education requirements and the timing of such. The Clerk of Court is directed to include this Order with the filing and service packets distributed by the Clerk.
3. **Approved Mediators.** A list of mediators approved by the District Court Judges of the

Fourth District will be maintained by the Mediation Center. At a minimum, these mediators must meet State of Iowa standards for training as well as those established by the Mediation Center, in order to qualify. All approved Mediators shall complete four hours of continuing education in mediation practices and ethics over each two-year period beginning January 1, 2017. The continuing education training shall be provided by the Southwest Iowa Mediation Center or shall be approved by the Director of the Mediation Center. Continuing education for Mediators shall consist of one hour of ethics, one hour pertaining to Domestic Violence as it relates to mediation, and four hours of general training in mediation practices in each two year period. State of Iowa standards are set forth in § 598.7, Chapters 679 and 679C of the Iowa Code, and Chapter 11 of the Iowa Rules of Court. The following requirements apply to all participating mediators:

- a.** Fees will be determined by the Mediation Center Administrator. In order to be on the list of court-approved mediators, a mediator must agree to accept the fee determined by the Mediation Center Administrator. The standard fee for mediation is \$150 per hour per couple, with a three hour minimum, effective April 1, 2014. The Mediation Center Administrator will consider written requests for deviation from the standard fee or for pro rata division of the fee between the parties. Court-approved mediators must also agree to accept *pro bono* cases on an “as-needed” basis. The Mediation Center will determine the need for such *pro bono* services, so that the burden of these cases is equitably distributed among the participating mediators. Unpaid fees will be taxed as Court costs to the appropriate party. **Fees shall be paid to the Mediator at the beginning of the first Mediation Session. Each person must bring \$225 to the first Mediation Session, beginning April 1, 2014.**
4. **Mediation of Parenting Plan Issues.** Prior to participation in the program, qualified mediators will be required to attend an orientation session to review the mediation procedures and the Parenting Plan checklist as approved by the District Judges. Each participating mediator must be willing to agree to the court requirements for participation, and each mediator will be asked to sign a statement indicating acknowledgement and acceptance of the requirements.
5. **Assignment of Mediators.** The attorneys for the parties may ~~also~~ mutually agree upon the choice of a mediator and may indicate whether they wish the parties to mediate issues in addition to custody and Parenting Plans. If financial issues are to be mediated, the case will be assigned to an attorney mediator. Either party or their attorney may object to the assigned mediator once, without expressed cause. When a judge refers a case for mediation, the judge will indicate the issues to be mediated, as well as any choice of a mediator if the judge has a preference. The judge may also indicate whether there is a particular mediator whom the judge does not wish to use. If the parties have not selected a mediator by the time a trial scheduling conference is held, Court Administration shall assign a mediator. Such assignments shall be on a rotational basis and tracked by Court Administration. The mediator shall be contacted within 10 days of assignment to schedule a mediation session.
6. **Provision of Information and Documents.** The attorneys shall provide the mediator with all necessary client contact information as well as any relevant pleadings and orders within

ten (10) days of the assignment of the mediator. Pro se parties shall cooperate with the provision of required information and documents. Communications with the mediator are privileged as defined in § 679C.104. Statements by the parties during mediation are to be considered statements proposing settlement, and would ordinarily be inadmissible at trial pursuant to Rule 5.408. Unless a specific mediator has been requested, the next mediator appropriate to the parties and their needs will be assigned from the rotating list. Mediators shall be notified of their assignment by Court Administration

7. **Mediation:** A mediation session shall be held as soon as practicable following the assignment of the mediator. If one of the parties fails to participate in mediation, the other party may petition the court for sanctions for such refusal. The mediator shall file with the Clerk of Court a Notice of Compliance within four (4) days of a mediation session being held indicating whether a mediation session had occurred and whether the parties had participated in said mediation. If no issues were successfully resolved through mediation, the mediator shall note that as well, and no further filings shall be required of the mediator.
8. **Parenting Plan.** If the parties reach a Parenting Plan through Mediation, the Mediated Parenting Plan shall be reduced to writing within ten (10) days of the conclusion of the Mediation. The Mediated Parenting Plan shall be submitted to the parties, their counsel and the Mediation Center, in digital format as a pdf file. If the parties reach a Parenting Plan without Mediation, the Negotiated Parenting Plan shall be reduced to a document for filing with the court. The Negotiated Parenting Plan shall be filed with the Clerk of Court for review as to completeness by the Court. If one party fails to participate in Mediation, the other party may petition the court for sanctions for such refusal. When the Decree of Dissolution of Marriage, Custody, Visitation and Support Order, Order of Modification or other similar decree or order is prepared, it shall incorporate the Parenting Plan by reference.
9. **Objections to Parenting Plan.** Along with a written or electronic copy of the Parenting Plan, the Mediator shall provide a notice informing the parties and their attorneys of their right to express objections to the Parenting Plan. The notice shall inform the parties and their attorneys that they have twenty-one days from the date of the notice to notify the Mediator and the Mediation Center of any objections to the terms of the written Parenting Plan. The making of such objections shall extend the twenty-one day objection period for an additional five days for the other party to make any necessary responsive objections. Such objections must be documented and specific. All matters not specifically objected to within the provided time frames shall be deemed final, subject to approval of the court. All matters not agreed upon in the Parenting Plan are reserved to the court for the trial. Upon the expiration of the objection period, if there are no objections made, the mediator shall file the Mediated Parenting Plan with the Clerk of Court through the EDMS system.
10. **Procedure after Objections.** Upon the making by either party or attorney of objections to a Parenting Plan, the Mediator shall report to the Mediation Center any issues which remain contested. If objections are submitted, the options after objection are as follows:

- a. The parties may agree on resolving the objections. The parties let the Mediator know the agreed changes, and the Mediator would prepare a final Amended Parenting Plan and send it to the Center and file it with the Clerk of Court through the EDMS system.
 - b. The parties may contract with the Mediator to further mediate the objections. The Mediator would prepare a final Amended Parenting Plan with the agreed provisions, ~~and~~ send it to the Center, and file it with the Clerk of Court through the EDMS system.
 - c. If there is no agreement on the objections, the Mediator prepares a final Amended Parenting Plan with the objected to content removed and reserved for the court to determine, sends said Amended Parenting Plan ~~to~~ to the Center, and files it with the Clerk of Court through the EDMS system. Again, any matters not agreed upon are reserved for the court to determine.
 - d. Further mediation or amendments to the Parenting Plan shall be completed 30 days after the objection is filed.
 - e. It should be noted that the mediator is not expected to conduct a new round of mediation through email or through the parties' attorneys during this objection period. If the parties are unable to resolve their objections through mutual agreement, or are unwilling to contract with the mediator for further mediation, the unresolved issues shall be noted as unresolved in the Amended Parenting Plan and reserved for the court to determine.
11. **Deadlines.** The Mediation Center staff will monitor the deadlines set by the court and note whether any extensions of time have been granted.
12. **Mediation Committee.** The Board of Directors of the Southwest Iowa Mediation Center will be composed of at least one (1) District Judge from the Fourth Judicial District, at least two (2) lawyers who practice law in the Fourth Judicial District, at least two (2) lay persons who reside in the Fourth Judicial District, the Director of the Mediation Center, and such other persons the Committee deems necessary. The Chief Judge of the Fourth Judicial District may be consulted as needed by the Mediation Center Director, for answers on day-to-day operations of the mediation program.
13. **Rules.** The Mediation Committee of the Fourth Judicial District Court may make such other operating rules as may be needed to facilitate the beginning and continuation of this mediation program.