

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT,  
IN AND FOR SEMINOLE COUNTY,  
FLORIDA

**ADMINISTRATIVE ORDER NO.:**  
**10-30-S**

**IN RE: JUVENILE - DEPENDENCY MEDIATION - FLORIDA STATUTES CHAPTER 39  
MANDATORY REFERRAL OF ALL CONTESTED DEPENDENCY CASES TO  
MEDIATION**

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**WHEREAS**, certain Chapter 39 dependency and Termination of Parental Rights matters that include matters of abuse, abandonment and neglect, may, through an informal and non-adversarial mediation process facilitated by a Supreme Court certified dependency mediator, be resolved in an amicable and expeditious manner and

**WHEREAS**, the parties may be facilitated by a Mediator in the identification of issues, the fostering of joint problem solving, the exploration of settlement alternatives to effect resolution of the dispute between two or more parties and

**WHEREAS**, the parties may through mediation agree on a means by which the issues may be resolved in order to effect a timely resolution of permanency for children; and

**WHEREAS**, It has been found that there are numerous benefits to dependency mediation as delineated in the May 30, 2009 Final Report of the Analysis of Dependency Mediation in Florida Courts prepared by The Harrell Center for the Study of Family Violence, including, but not limited to findings that:

- Within counties utilizing mediation, time to permanency was significantly reduced if mediation took place prior to adjudication;
- Children in mediated cases were more likely to be placed with a non-abusive parent or a relative and less likely to be placed in a residential facility;
- Family members reported more satisfaction with mediation compared to court, including more frequent consultation with an attorney before and during the session; that they more frequently thought that all professionals kept an open mind; and that all the participants listened to and understood them.

**WHEREAS**, the mediation process may result in cost efficiencies to the parties and appears less costly than litigation, and

**WHEREAS**, mediation is a process whereby a neutral third person acts to encourage the resolution of disputes through a non-adversarial process and assists the parties in reaching a mutually acceptable agreement; and

**WHEREAS**, The mediation model requires the participation of the parents, parent's attorney(s), guardian ad litem, guardian ad litem attorney, Protective Investigator(s), CBC Seminole Case Manager and Supervisor, and the Children Legal Services attorney, including if possible those parties who may be incarcerated, and other participants and individuals whose participation might be helpful may be invited to attend the mediation, including Foster Parents, custodians and appropriate family members, if agreed upon by the Mediator.

**WHEREAS**, subject to the Court's ruling, it may be appropriate for children to participate in the mediation process, in consideration of a child's age, developmental stage, and mental health in determining if it is in the best interests of a child to participate in mediation.

**WHEREAS**, mandatory mediation for dependency increases the availability of judicial resources, and in recognition that Courtroom 3 of the Juvenile Justice Center and related office space may be made available for utilization in Mediation, thereby providing a safe and secure means whereby incarcerated parties may be made available for attendance at Mediation.

**WHEREAS**, it is necessary for the prompt and efficient administration of justice of this Court.

**IT IS HEREBY ORDERED AND ADJUDGED THAT;**

**1. DISPUTE RESOLUTION SERVICES:**

This program is conducted under the direction of the Office of the Court Administrator and the Chief Judge of the Eighteenth Judicial Circuit. The Dependency Circuit Court shall promote and, where deemed appropriate, order parties to mediation on Chapter 39 Dependency matters, including any and all issues related to Dependency and Termination of Parental Rights proceeding for parties appearing on matters pending before Dependency Court.

**2. AUTHORITY TO REFER TO MEDIATION:**

Pursuant to Chapter 39. 521, Florida Statutes, and Florida Rules of Juvenile Procedure § 8.290, the Court on its own motion may refer all or any part of a Chapter 39 Dependency or Termination of Parental Rights matter to mediation for the purpose of mediating any and/or all Chapter 39 Dependency or Termination of Parental Rights issues.

**3. NOTICE:**

The Court will issue to the parties an Order of Referral to Mediation, the name of the Mediator, and a date and time when Courtroom 3 will be available. It is the responsibility of the parties to notify others who may wish to participate, including the foster parents, custodians, appropriate relatives, and the child.

**4. PROCEDURE:**

**Shelter, Pre and Post Adjudication:** At any time after removal of a child and a finding of shelter care status, or after arraignment, The Court may, on its own motion and/or upon receipt of a request by a party for Mediation, issue an Order of Referral of the matter to Mediation. The Parties have ten (10) days after filing of the Order of Referral to

object to the referral. The matter may be scheduled for Mediation at the Dependency Court, Court Room 3, Juvenile Justice Center, 190 Bush Boulevard, Sanford, Florida 32773, telephone number (407) 665-5344, Fax number (407) 665-5449. The Court will attempt to schedule with both parties. After several unsuccessful attempts to reach the parties the Court may schedule the mediation session. Mediation sessions shall be scheduled and conducted in accordance with F. R. of Juv. P. § 8.290.

**5. SCHEDULING:**

Mediation may be ordered at the shelter hearing, arraignment or at any time the Court believes mediation would be beneficial. Mediation shall ideally take place as early as possible, commensurate with the determination of representation by counsel. Once the mediation is ordered, a mediation master calendar shall be maintained wherein mediation dates and times will be coordinated for the use of Courtroom 3, with the cooperation of all the parties. The order containing the mediation information will be copied and distributed to all parties and their attorneys. If mediation cannot be set in Court, all parties will contact the Court within 24 hours of the order of mediation. All questions regarding general information about the mediations will be directed to the appropriate Court liaison at (407) 665-5344. Mediation shall be conducted in Courtroom 3 on Fridays, or at other dates and times as may be available, in accordance with the following time schedule:

- a. 08:30am - 10:00 am
- b. 10:00am - 11:30 am
- c. 1:00 pm - 2:30 pm
- d. 3:00pm - 4:30 pm

**6. INCARCERATED PARTIES:**

In order to provide appropriate security and participation by an incarcerated party, the attorney representing an incarcerated party incarcerated at the John E. Polk Correctional Facility shall submit to the Court a Motion and Order for Transportation of that party no later than five (5) days before the scheduled mediation date.

**7. LIST OF MEDIATORS:**

A list of contract certified Dependency Mediators shall be maintained by the Court at the Juvenile Justice Center, 190 Bush Boulevard, Sanford Florida 32773 Telephone Number (407) 665-5344, Fax (407) 665-5449 and the Mediation Coordinator, 301 North Park Avenue, Suite N301, Sanford, FL 32771, telephone number (407) 665-4244.

**8. APPOINTMENT OF MEDIATORS:**

The parties must have a pending Chapter 39 Dependency or Termination of Parental Rights case to be eligible to participate in the mediation program. If one or more of the parties are indigent, the Seminole County Dependency Circuit Judge shall appoint a Florida Supreme Court Certified Dependency Mediator.

**9. REFERRAL OF FLORIDA STATUTES CHAPTER 39 DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS MATTERS:**

- a. Any person who seeks to schedule a final hearing for either pre-adjudication or post adjudication Florida Statutes Chapter 39 Dependency and Termination of

Parental Rights matters must first participate in a mediation conference through the Seminole County Dependency Mediation Program herein established, unless waived pursuant to this order.

- b. Each person shall have previously filed a financial affidavit with the Court, and there shall have been a determination of civil indigency status and, if so found, appointment of counsel.
- c. In order to determine child support, the parent(s) shall bring to the initial mediation conference a current short form financial affidavit, and if the earnings have changed prior to filing; a copy of the most current pay stub voucher or letter from an employer stating current earnings. If self-employed, the person may bring a copy of the most recent 1040 filed with the Internal Revenue Service (IRS).

**10. EXCEPTION - HISTORY OF DOMESTIC VIOLENCE:**

Pursuant to Florida Statutes § 44.102 (2) (c), upon motion or request of a person, the Court shall not refer any case to mediation if it finds there has been a significant history of domestic violence that would compromise the mediation process.

**11. WAIVERS:**

**A. Automatic Waivers:** A person may file a Motion to Vacate the Order of Referral to Mediation and Notice of Trial with a Motion before the Court to dispense with mediation; if it has not been scheduled and if:

- 1. A mediation was scheduled and the other person failed to appear;
- 2. A default has been entered; or
- 3. A person is unavailable for mediation either in person or telephone because he/she:
  - a. is not subject to the jurisdiction of this Court and refuses to participate; or
  - b. currently resides in another country; or
  - c. is imprisoned out of state, or
  - d. All current issues have been mediated by a certified mediator, and an impasse has been declared.

**B. Waivers on Motion:** If mediation has been scheduled, a person may motion the Court to dispense with mediation based on Paragraph 7 (A). Any person may apply to the Court by written motion for good cause, to waive the mandatory mediation required by this Order prior to filing a notice for trial. The Court may waive such a requirement if it appears (a) that mediation of the issues would not be appropriate under the circumstances of that case or (b) that due to exigent circumstances a hearing before the Court should be expedited. If mediation has already been scheduled, and the mediation is canceled by the Court, both parties shall notify the Seminole County Dependency Mediation Program, in writing, with copy of Order signed by the Judge within five (5) business days prior to the scheduled mediation to cancel the mediation. If the parties do provide appropriate notice, five (5) business days, of cancellation, there shall be no fee. If both parties

do not give proper notification of the judicial waiver cancellation, each person may be required to pay a full session fee for the canceled mediation session as the Court may determine, to be paid to the Clerk of the Court.

**12. ATTENDANCE OF COUNSEL:**

In the discretion of the mediator and with the agreement of the parties, the mediation session may proceed in the absence of counsel unless otherwise ordered by the Court. If counsel is not present within thirty (30) minutes after the scheduled mediation session time and his /her client does not wish to proceed in the attorney's absence, at the discretion of the mediator, the mediation session may be cancelled. If the mediation is so cancelled, the mediation fees paid by the party who will not proceed without counsel present will not apply to the next mediation. Any fee paid by the other party is applied to the next mediation session. The fee paid by the non cancelling party applied to the rescheduled mediation session because of the cancellation will not be refunded if no future mediation session occurs.

**13. ATTENDANCE:**

Each party shall appear at any scheduled mediation session. A party is deemed to appear at a convened mediation session if the named party is physically present at the commencement of the mediation session. Upon the Court's own motion or upon motion of the appearing party, the failure of a party to appear for the mediation session may result in sanctions being imposed by the Court against the non-appearing party including, but not limited to payment of the session fee for both parties plus an additional session fee and attorneys' fees, if any. These fees will not apply to any future mediation sessions. If an indigent party fails to appear, sanctions may include the cost of a session fee.

**14. APPEARANCE BY TELEPHONE:**

In the case of an emergency or because of exigent circumstances that preclude personal attendance a person may request an appearance by telephone. In these cases, telephonic appearance is allowed by stipulation of both parties in writing to the Court prior to the mediation session, or by motion and order by the Court. The party appearing by telephone must have access to a fax machine. All mediation session fees from the party appearing by telephone must be received by the specified date on the Order.

**15. CANCELLATIONS AND CONTINUANCES BY THE PARTIES:**

Subject to Court approval, a mediation session may be continued or canceled if the parties agree in writing to the continuance or cancellation and the Court and Mediator are properly notified of said continuance or cancellation within five (5) business days of the scheduled mediation. If the parties cannot agree to a continuance, then the party who is requesting the continuance or cancellation shall apply to the Court for a continuance or cancellation. The process for continuation or cancellation must be completed and the Court must receive a signed stipulation by each party allowing the continuance or cancellation at least five (5) business days prior to the scheduled mediation session to avoid a full payment of one session fee. The party requesting the continuance or cancellation is responsible for assuring that the Court receives signed stipulation(s) from the parties.

**16. FULL SETTLEMENT AUTHORITY OF PARTIES:**

Pursuant to F. R. Juv. P. 8.290 the parties appearing for mediation must have full and complete authority to negotiate a Mediated Settlement Agreement, and to bind their respective agency, department or program. Failure to do so may result in sanctions, as ordered by the Court.

**17. IF AN AGREEMENT OR IMPASSE IS REACHED DURING THE MEDIATION SESSION:**

If an agreement of all the issues is reached, the Mediation Agreement will be drafted by the Mediator while all parties are present at the session, and shall note the full or partial settlement of the issues. The parties and their attorneys shall sign the Agreement, and receive draft copies pending review and action by the Court. The parties may then proceed on the uncontested hearing calendar to request that the Court review it, and, if deemed appropriate, in consideration of the best interests of the child or children, approve and ratify the Mediated Agreement, unless the Court deems other changes are required, or determines that it is not acceptable. The final approved Mediation Agreement shall be distributed to the parties, filed with the Court and made a part of the Court file, and any scheduled Adjudicatory Hearing before the Court may be cancelled. If a partial agreement is reached, the mediation report form shall note that the case has remaining issues and said form shall be filed with the Court. If there is no Agreement, the Mediator shall report to the Court that an impasse has been reached. The Court may then restore the matter to the Trial Calendar.

**18. COMMUNICATIONS DURING THE MEDIATION SESSION:**

Pursuant to the Mediation Confidentiality and Privilege Act, with the exception of the parties' signed financial affidavits and any other documents which are required to be filed in the public record, all communications, verbal or written, between the parties and from the parties made during the mediation session, including caucus sessions, shall be confidential and inadmissible as evidence if any subsequent legal proceeding, unless both parties agree otherwise, or as otherwise provided in Florida Statutes and Florida Rules of Juvenile Procedure. If an agreement is reached regarding said support, the signed agreement with the Child Support Guidelines Worksheet shall be filed with the Court.

**19. RECORD KEEPING:**

The Court shall keep a record of the case name, number, assigning judge, mediator, the attorney and the outcome of the mediation session in all cases referred to Dependency Mediation. The outcome shall be reported to the Court, who shall cause the entry of the information in the Uniform Reporting Data Index for transmittal to the appropriate governmental agency in Tallahassee without identification of the Parties.

**20. FUNDING:**

Any funding made available through grants, Federal, State or County funding or by other means shall be administered under the auspices of the Court Administrator, through the Mediation Coordinator.

**21. FAILURE TO MEDIATE IN GOOD FAITH:**

Good cause for objection to an assigned mediator cannot be based solely on the grounds that the assigned mediator had previously handled or is currently handling an unrelated dependency case without a showing of good cause by proper motion accompanying the objection. An expedited hearing will be scheduled before the court to determine any conflicts. Barring a finding of the court as to a conflict, failure to participate in mediation after hearing and order of the court, the court may impose sanctions including, but not limited to, immediate dismissal of the petition for dependency.

**22. EFFECTIVE DATE:**

This Administrative Order shall become effective for cases as described herein which are mediated on or after the date of this order.

Done and Ordered this 13th day of October, 2010.

J. PRESTON SILVERNAIL  
J. PRESTON SILVERNAIL  
CHIEF JUDGE

**DISTRIBUTION:**

All Circuit and County Judges and General Magistrates (Seminole County)  
Court Administration (Brevard and Seminole Counties)  
Clerk of the Court (Seminole County)  
Sheriff (Seminole County)  
Conflict/Regional Counsel Office (Seminole County)  
Guardian ad Litem Program (Seminole County)  
Department of Children and Families Child Legal Services (Seminole County)  
Bar Association (Seminole County)  
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