

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

ADMINISTRATIVE ORDER NO.:
19-32-S
SUPERSEDES 17-08-S

IN RE: MEDIATION - FAMILY LAW MEDIATION PROGRAM

WHEREAS, this Administrative Order is adopted under the provisions of Chapter 44 and Chapter 61 of the Florida Statutes.

WHEREAS, pursuant to Florida Statute 44.102 (2) (c) quoted in pertinent part “A court, under rules adopted by the Supreme Court; in circuits in which a family mediation program has been established and upon a court finding a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.”

WHEREAS, pursuant to Florida Statute 61.183 (1) “In any proceeding in which the issues of parental responsibility, primary residence, access to, visitation with, or support of a child are contested, the court may refer the parties to mediation in accordance with the rules promulgated by the Supreme Court.”

WHEREAS, pursuant to Florida Statute 44.102 2 (b) quoted in pertinent part “A court, under rules adopted by the Supreme Court, may refer to mediation all or any part of a filed civil action for which mediation is not required under this section”. The court relies on this provision to mandatorily refer to mediation all paternity actions under Florida Statutes 742 and all issues of property and indebtedness filed in any family law case regardless of the pendency of any issues involving children.

WHEREAS, a Family Mediation Program is required under F.S. 44.102 (2) (c) in order for the courts in the Eighteenth Judicial Circuit, Seminole County, to mandatorily refer all family law matters with disputed or contested issues regarding children to mediation. In accordance with the statute, the Family Law Mediation Department for Seminole County, Florida is hereby created under this order. This Order adopts and establishes procedures to set the standards for operation of this court based program.

WHEREAS, all mediators serving in the Seminole County Family Law Mediation Department must be Florida Supreme Court Certified Family Law Mediators.

WHEREAS, the Family Law Mediation Program for Seminole County, Florida is developed to serve families with a combined gross income of \$100,000.00 or less.

IT IS HEREBY ORDERED AND ADJUDGED:

1. All contested family law cases not specified as exceptions herein are referred to mediation. Mediation must be completed before any hearing on temporary or final matters by the presiding judge. A family law case is deemed contested or disputed upon the filing with the Clerk of Court of an initial or supplemental petition seeking relief and when any form of responsive paper or pleading is filed unless the responsive filing can only be construed as an admission to all allegations of the initial or supplemental petition. The effective date of this order of referral is the date in which a respondent files the first responsive paper or pleading to any initial or supplemental petition and the response has been docketed by the Clerk of Court.
2. As paternity actions under Florida Statutes Chapter 742 raise virtually identical issues to issues relating to children in dissolution of marriage actions under Florida Statutes Chapter 61 and as the best interests of children are a paramount concern to the courts of the Eighteenth Judicial Circuit, Seminole County, all paternity actions under Florida Statutes Chapter 724 are referred to mandatory mediation under the same conditions and standards as dissolution of marriage actions under Florida Statutes Chapter 61. Reference herein to family law cases or family law matters includes paternity actions.
3. Mediation for all pending family law cases is required before any court hearing on any temporary matters or trial is scheduled before the presiding judge.
4. The following matters are deemed to be not contested or are considered not suitable for a mandatory referral to mediation. These matters are not to be set with the Seminole County Family Law Mediation Program;
 - a. Actions in which a default has been entered by the clerk or the trial court and the default has not been set aside;
 - b. Actions for enforcement and contempt in which no other issues are pled;
 - c. Actions in which the parties are in agreement and have filed with the clerk of court a fully executed Marital Settlement Agreement and, in cases involving children, a fully executed Parenting Plan;
 - d. Actions in which the trial court has entered an order dispensing with mediation due to a history of domestic violence;
 - e. Actions in which the trial court has entered an order dispensing with mediation for any cause accepted by the court, and
 - f. Pre-suit mediations.
5. Other than the general referral to mediation herein, including the requirement that mediation be completed before temporary or final hearings are heard before the presiding judge, this order will not serve as any limitation on mediation or any form of dispute

resolution between the parties not set with Seminole County Family Law Mediation Department.

6. SCHEDULING MEDIATION SESSIONS:

- a. The program administrator, or a person specifically designated by Court Administration, are the only person(s) authorized to coordinate and set mediation sessions for the Seminole County Family Law Mediation Program.
- b. Mediation scheduling is initiated by receipt of the court approved form titled “*Information for Scheduling Mediation*” or a form substantially in compliance. Failure to fully complete all information may result in substantial delays.
- c. The program administrator will initiate telephone contact to coordinate the scheduling with both parties. If any party cannot be reached by two attempts on two calls made on two separate business days and two different times of day, the program administrator will set the mediation session not less than 21 days from the date of the last attempt.
- d. The program administrator will honor a request by both parties to schedule mediation with a specific mediator. Unilateral selection of a mediator over the other party’s objection will not be honored. If the parties disagree on selection of a mediator, designation of the mediator must be determined by the court. If the parties have no mediator preference the program administrator will select a mediator from the court approved mediators within the program.
- e. The program administrator reserves the right to re-assign mediators to specific cases in an effort to effectively manage the program.

7. REQUIRED DOCUMENTATION:

- a. The Program Administrator will not schedule a case for a mediation session until the parties have filed and the clerk of court has docketed a current financial affidavit substantially in compliance with Form 12.902 (b) Florida Family Law Forms promulgated by the Florida Supreme Court. A financial affidavit is deemed current if it has been filed within two years of the first mediation scheduling attempt so long as the parties’ income has not changed. The parties shall also bring to mediation their pay stubs or other pay records covering the month preceding the date of the mediation session.

8. ATTENDANCE AND SANCTIONS:

- a. Pursuant to Florida Family Law Rule of Procedure 12.740 and in accordance with the uniform Order of Referral and Requirement to Attend Mediation with the Seminole County Family Mediation Program appearance of a party is by personal appearance not less than 15 minutes before the scheduled session start time through the scheduled start time. No party making a proper appearance is required to wait more than 15 minutes after the scheduled start time when the opposing party has made no appearance. Each party must pay all applicable mediation fees regardless of the other party’s failure to appear.

- b. Sanctions for failure of a party to appear are governed by Florida Family Law Rule of Procedure 12.741 which provides as follows: “If a party fails to appear at a duly noticed mediation conference without good cause, or knowingly and willfully violates any confidentiality provision under section 44.405, Florida Statutes, the court upon motion shall impose sanctions, including an award of mediator and attorneys’ fees and other costs, against the party”.
 - c. Specific costs required by the Seminole County Family Law Mediation Program are also assessed pursuant to the uniform Order of Referral and Requirement to Attend Family Mediation. All program costs and cost setting procedures are detailed herein.
 - d. All parties have a right to counsel of an attorney licensed to practice law in the State of Florida. 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 court ordered (Florida Statute 44.1011(2) (d). No party or the mediator is required to wait for counsel delayed and unable to appear at mediation within 15 minutes after the scheduled session start time. By definition (F.S, 44.1011(2) (d) the conduct of a family law mediation is to be conducted by the parties. When counsel for a party does not show and when the opposing party agrees to proceed, the party whose counsel is absent will be required to make a decision to proceed or not to proceed without counsel. A decision not to proceed will not be treated as a failure to appear but the refusal to proceed is a unilateral cancellation with assessment of costs as addressed herein.
 - e. Appearance of a party by telephone or electronic device is allowed by stipulation of the parties prior to the mediation or by court order. Both parties are obligated to timely notify the program administrator of any agreement or court order allowing appearance of a party by telephone or electronic device and the specific manner of appearance. The program administrator must be able to confirm in advance the party appearing electronically must have continuous access to a fax machine requiring not more than 5 minutes time per transmission.
9. CANCELLATION AND MEDIATION RESETS:
- a. All Seminole County Family Law Mediation Department mediation sessions are scheduled by uniform court orders. Scheduled mediations sessions can be reset or cancelled anytime and under any conditions by court order. Absent court order, the courts allow that a scheduled mediation with the Seminole County Family Law Mediation Department may be cancelled or reset without cost or court sanction upon receipt to the program administrator, a signed stipulation from both parties not later than three (3) working days prior to the scheduled mediation date.
 - b. No party may unilaterally cancel or reset a mediation session.
 - c. All mediation fees must be paid to the Clerk of Court before the scheduled mediation session or the session may be cancelled.
10. MEDIATION FEES:

- a. Mediation fees for the Seminole County Family Law Mediation Program are set by Florida Statute and by the adoption of this Administrative Order along with the uniform Order of Referral and Requirement to Attend Family Mediation.
- b. The Seminole County Family Law Mediation Program can only accept cases in which the combined gross annual income of the parties is \$100,000.00 or less.
- c. The following mediation session fees shall be collected by the Clerk of Court:
 - 1. One hundred twenty dollars (\$120.00) per person per scheduled session when the parties combined gross annual income is greater than \$50,000.00, but less than \$100,000.00 per year;
 - 2. Sixty dollars (\$60.00) per person per scheduled session when the parties combined gross annual income is less than \$50,000.00 per year.
 - 3. Any person who is determined to be indigent by the Clerk of Court will not be charged a session fee. Only an authorized Deputy Clerk of Court may make an indigent determination. If the Clerk of Court denies a request for indigent status the matter may be reviewed by the judge assigned to the specific case.
- d. Mediation session fees are paid directly to the Clerk of Court, Family Division located at 301 North Park Avenue, Sanford, FL 32771. Payments are accepted in the form of cash, check, cashier's check, certified check or money order only. No third party checks will be accepted.
- e. Mediation session costs are set by Florida Statute cannot be waived. Non-payment of these fees may cause the mediation session to be cancelled by the program administrator.
- f. Each mediation session is set for up to three (3) hours from the scheduled start time. Any extension of a mediation session over three hours requires agreement of the parties and the mediator. If subsequent sessions are scheduled or if the scheduled session exceeds three (3) hours the parties are required to pay an additional session cost at the applicable rates described above.
- g. If a mediation session is not cancelled or reset by joint stipulation within three (3) working days from the scheduled session date, the party initiating or making the reset or cancellation request must pay the cost for the scheduled session and the session costs for any reset mediation session. The opposing party not initiating the reset or cancellation request will have the present session fee carried over to any future reset mediation session. The family mediation program administrator must receive the joint stipulation signed by both parties no later than 5:00 p.m. within the three (3) full business days prior, and not including, the original scheduled mediation date for fees to be waived.
- h. All mediation fees must be paid in advance of the scheduled session pursuant to the uniform Order of Referral to mediation.
- i. If a party fails to pay mediation fees in advance, the mediation session may be cancelled. No subsequent mediations (resets, continuances or supplemental

sessions) will be scheduled if fees are outstanding. Any party who fails to pay the mediation fees is subject to judicial sanctions.

11. CONDUCT OF MEDIATION:

- a. Mediators in the Seminole County Family Mediation Program shall conduct mediation in accordance with the Florida Rules for Certified and Court-Appointed Mediators and the Standards of Professional Conduct promulgated by the Florida Supreme Court.
- b. For each mediation session the mediator shall report the mediation results, attendance of parties or failure to appear, full settlement, partial settlement or continuance on the court approved report form.

DONE AND ORDERED this 29th day of July, 2019.

LISA DAVIDSON
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CHIEF JUDGE

DISTRIBUTION:

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