

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2009-107
(Supersedes Administrative Orders S-2008-163)**

MEDIATION OF FAMILY LAW CASES

Chapter 44, Florida Statutes, and Florida Family Law Rule of Procedure 12.740 provide for mediation of family law actions. The Family Diversion Program has been established as a court program under Mediation and Diversion Services to implement an equitable and expeditious alternative dispute resolution process for family law cases. It is necessary for the proper and efficient administration of justice in the Unified Family Court Domestic Relations / Family Law Division to update procedures for the mediation of family law cases through the Family Diversion Program.

By the power vested in the chief judge under Florida Rule of Judicial Administration 2.215(b)(2), it is therefore **ORDERED**:

1. Court Referral of Family Matters to Mediation

All issues in marriage dissolution and post dissolution proceedings and in domestic proceedings between unmarried parents may be referred to mediation by the presiding judge unless excluded by statute or court rule. All court-ordered referrals will be made through the Family Diversion Program ("Program"). Matters referred will be handled by Florida Supreme Court certified family mediators. See Florida Rule for Certified and Court-Appointed Mediators 10.100 for certification requirements.

An Order Referring Parties to Family Mediation will be prepared by the court. The court will forward the original order to the Clerk of the Circuit Court, Family Law Division ("clerk"). A copy of the order will be mailed by the court to each party or party's counsel of record and a copy will be provided to the Program.

2. Selection of Mediators and Scheduling

The parties or their counsel will have 10 days from the date of the Order Referring Parties to Family Mediation in which to select a mediator and notify the Program of the selection. The petitioner or petitioner's counsel will be solely responsible for notifying the Program. If a certified private mediator is selected instead of a Program mediator, the parties should also propose a date and time for a conference. If a certified private mediator is selected, the petitioner or petitioner's counsel should notify the Program of the mediator, proposed date and proposed time. If the parties select a Program mediator, upon notification by the petitioner or petitioner's counsel of the mediator selected, the Program will arrange the conference date and time. If selections of a particular mediator, date and time for a conference are not made within 10 days from the date of the Order Referring Parties to Family Mediation, such decisions will be made by the Program. In any case, the Program will provide written notice to the parties of the mediator, date, time and location of the mediation conference.

3. Deferment

Within 15 days of the Order Referring Parties to Family Mediation, any party may file a motion to defer the mediation conference. The moving party will use best efforts to set the motion to defer for hearing prior to the scheduled date for the mediation conference. If a hearing on the motion to defer cannot be set prior to the mediation conference date the moving party will, more than 48 hours before the originally scheduled conference, take necessary steps to reschedule the conference. Failure to comply with this time standard may result in the imposition of monetary sanctions as determined by the court. Notice of the hearing on the motion to defer will be provided to all parties, the Program, and the appointed mediator. The court will forward to the Program a copy of any order granting a deferment of the mediation conference. If a deferment has been granted, the order will include the actual period of deferral and another mediation conference will be scheduled.

4. Mandatory Post-Judgment Mediation

Whenever a post-judgment family law case is initiated, as a prerequisite to scheduling a hearing before the presiding judge or general magistrate, the parties will submit such issues to mediation. Such post-judgment matters are hereby automatically referred to the Program without further order of the court. The party initiating the post-judgment action will have the responsibility of initially contacting the Program to arrange for its service.

A. Scheduling

The Program will set a reasonable time for a mediation conference on the matter(s) in controversy. The conference will be held within the time frames outlined in Rule 12.740(e), unless the parties agree to an extension of time or the court, for good cause, extends the time. The Program will notify the parties and their respective attorneys of the time and place of the mediation conference.

B. Discovery Not Limited

Nothing in this administrative order will be construed as limiting the parties or their attorneys from scheduling discovery prior to the mediation conference.

C. Non-Applicability

This mandatory post-judgment mediation requirement will not apply when the Department of Revenue brings an action as plaintiff or pursuant to chapter 409, Florida Statutes.

5. Waiver of Mandatory Mediation

Notwithstanding the provisions of section 4 of this administrative order, any party may request the presiding judge to waive the requirement of mandatory mediation of post-judgment parenting plan or time-sharing disputes. The judge will waive such requirement in cases where the judge finds there has been a history of domestic violence that would compromise the mediation process. The judge may also waive the requirement if it appears mediation of the issues would not be appropriate under the circumstances of the case or because of exigent circumstances a hearing before the judge should be expedited.

6. Mediation Conference

The mediator will be in control of the mediation conference at all times. If a resolution is imminent or likely, the mediator may, at his or her discretion and with the agreement of the parties, schedule another mediation conference. The mediator will then arrange a date and time for the subsequent conference with the parties and notify the Program. The Program will prepare a notice of additional mediation conference and provide a copy to each party. Upon completion of mediation, the mediator will return a completed Outcome of Service form to the Program office within 48 hours of the mediation conference.

7. Report to the Court

The Program will submit to the court a report stating whether or not the parties appeared for the mediation conference, and whether or not any agreement was reached.

8. Agreements

Agreements reached during mediation must be memorialized, completed and submitted in accordance with Florida Family Rule of Procedure 12.740(f).

9. Rescheduling or Cancellation Prior to Mediation

The parties or their counsel must notify the Program of any rescheduling no later than 48 hours, excluding weekends and legal holidays, before the scheduled mediation conference. Petitioner, or if petitioner is represented by counsel, petitioner's counsel, must notify the Program in writing if the mediation must be cancelled because a settlement has been reached or the case has been dismissed more than 48 hours prior to the scheduled conference.

10. Disqualification or Withdrawal of Mediator

A party may move at any time to disqualify a mediator. The court will forward to the Program a copy of any order disqualifying a mediator. If a mediator has been disqualified or has withdrawn, a new mediator will be assigned by the Program. Rescheduling may be necessary to accommodate the substitute mediator.

11. Fees

Fees for court-ordered mediation sessions will be assessed and collected in accordance with section 44.108, Florida Statutes. If proof of income is not provided, the fee will be as provided for in section 44.108(2)(a). If payment of any owed fees is not made by the time of the scheduled mediation session, the mediation session will not take place. Payment may be by check (payable to the "Clerk of the Circuit Court"), money order, cash or credit card (Visa / MasterCard / Discover). Credit card payments cannot be made over the telephone.

If a party fails to appear at a scheduled mediation session, or fails to make payment by the time of the mediation session, or fails to provide at least 24 hours prior written notice to the Program of the cancellation of a mediation session, the party will be billed for the cancelled mediation session.

12. Invoicing

The Program will be responsible for generating invoices for all parties participating in the mediation conference. An invoice for payment will outline each party's portion of the mediation cost. The clerk will accept payment, on behalf of the Program, of the amount due from the parties; however, the clerk will accept payment only in the amount specified on the invoice for payment. All payments made to the clerk will be accompanied by the invoice for payment.

13. Statistical Data

All parties ordered by the court to mediation will provide data as requested by the Program for statistical purposes. The data will remain confidential to the extent that any data published will contain no identifying information.

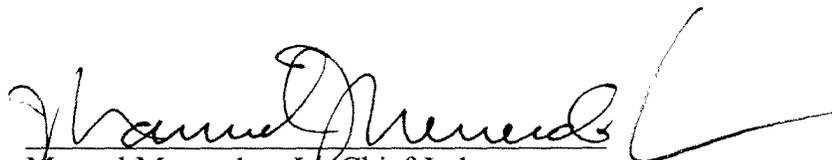
14. Previous Administrative Orders Superseded

This administrative order supersedes Administrative Order S-2008-163 (*Mediation of Family Law Cases*).

15. Effective Date

This administrative order is effective January 1, 2010.

It is ORDERED in Tampa, Hillsborough County, Florida, on this 28th day of October, 2009.


Manuel Menendez, Jr., Chief Judge

Original to: Pat Frank, Clerk of the Circuit Court
Copies to: All Domestic Relations / Family Law Division Judges
All Domestic Relations / Family Law Division General Magistrates
Mediation & Diversion Services