

**SUPPLEMENTARY LOCAL RULES
FOR THE 25TH JUDICIAL DISTRICT
Yamhill County**

Effective February 1, 1999

12.015 MEDIATION.

NOTE: Rules specifically relating to Temporary Custody Orders during Mediation are found in SLR Chapter 8.

(1) PURPOSE AND MATTERS SUBJECT TO MEDIATION.

(A) *Purpose of Mediation.* The purpose of the mediation shall be to assist the parties in reaching a workable settlement of those issues before the Court.

(B) *Mandatory Mediation.* Participation in mediation is mandatory in any dispute involving custody and/or non-custodial parent parenting time (visitation) arising from any of the following types of cases:

- (1) Any domestic relations suit, as defined in ORS 107.510 (3).
- (2) Any filiation proceeding pursuant to ORS 109.124 to 109.230.
- (3) Proceedings to determine the custody or support of a child under ORS 109.103.
- (4) Any proceeding to modify custody and /or visitation or parenting time previously determined in one of the above types of cases.
- (5) Any other matter involving a dispute over custody, visitation or parenting time upon referral of the court.

(C) *Other Matters.* The mediator may consider issues of property division or spousal or child support in connection with the mediation of a dispute concerning child custody, visitation or parenting time with the written approval of both parties or their counsel.

(2) AUTHORITY OF CIRCUIT COURT NOT EFFECTED BY MEDIATION.

The authority of the Circuit Court over a domestic relations case is not effected by referral to mediation. Any agreement of the parties reached as a result of mediation for which court enforcement may be sought must be presented to the court and the court shall retain final authority to accept, modify or reject the agreement.

(3) MEDIATION PROCESS.

(A) *Commencement of Mediation by Stipulated Request for Mediation.* If there is a disagreement between the parents concerning custody or visitation at any stage of a domestic relations proceeding, both parents or their attorneys may sign and file with the Court a stipulated request for mediation. A mediator will be available to the parents in accordance with these rules or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation. If the parties choose an independent mediator the costs for the mediator will be paid by the parties jointly.

(B) *Commencement of Mediation by Request for Mediation by One Parent.* If there is a disagreement between the parents concerning custody, visitation, or parenting time at any stage of a domestic relations proceeding, either parent seeking to resolve the matter may file with the Court and serve upon the other parent or his or her attorney a request for mediation.

(C) *Commencement of Mediation when Custody or Parenting Time Appears at Issue.* When-ever a respondent generally appears in a domestic relations suit by filing an answer such as "Respondent Appears" or the like, the respondent shall in addition state whether there is any disagreement over child custody and/or parenting time for the non-custodial parent in the case or, alternatively, whether child custody or non-custodial parenting time is not an issue in the case. In the event no such statement is made, it will be assumed that custody and/or parenting time is in dispute, and the matter shall be referred to mediation.

(D) *Mediation Orientation.* Whenever mediation is requested as in paragraphs (a) and (b) above or whenever any pleadings indicate that child custody or non-custodial parent parenting time is at issue, the parties shall be ordered to appear at a mediation orientation. The parents will be given an opportunity to choose a mediator from those under contract within the 25th Judicial District at the orientation or consult with their counsel and report their choice of mediator to the Court within ten (10) days. If the parties are unable to agree upon a mediator within ten (10) days, the Court will appoint a mediator and notify the parties of the appointment.

(E) *Content of Mediation.* Mediation shall consist of an orientation session and a maximum of eight (8) hours of sessions involving the parties and the mediator. Additional sessions may be provided at the parties' expense. or upon approval of the Court on recommendation of the mediator. Parents may, upon written request of the parties, be allowed, at any stage of the proceeding, or post-judgment, to re-enter mediation to use the balance of session time not previously used.

(F) *Unsuccessful Mediation.* The mediator may notify the Court at any time following the initial mediation session involving the parties and the mediator that mediation has been unsuccessful, in which case the proceeding will be scheduled for hearing in the same course and with the same priority as if there had been no mediation. The mediator may determine that the mediation has been unsuccessful if the parents are unable to resolve the custody or non-custodial parent parenting time controversy, if one or both parents are unwilling to participate in mediation or if the mediator determines that either parent is using the mediation process in bad faith for the delay of resolution of other issues.

(G) *Temporary Orders*. At any point during the mediation the court may approve a temporary custody and parenting time plan order reflecting the parents' agreement as to the issues.

(H) *Child Support*. If the parents cannot agree on the amount of support to be paid by one to the other and they are also in dispute as to custody and/or parenting time plan, the mediator may assist upon the written request of the parents and the consent of the mediator in resolving the support issue as well.

(I) *Mediation Completion*. It is the responsibility of the parties and their attorneys to see that mediation is completed within such time as to not delay the trial of the case. Failure to do so may result in dismissal of the case when called for trial or postponement under such conditions as the court may require.

(4) CUSTODY STUDIES.

If the parties are unable, after a good faith effort, to resolve custody and/or visitation issues in mediation, the parties may agree to a custody study. The study must be performed by a duly qualified person, but must not be the mediator assigned to the case.

The parties must agree in advance that the report of the custody study will be admissible at trial or other proceedings without appearance of the person who performed the study. The person who performed the study may, however, be subpoenaed at the expense of the person calling the person as a witness.

When the study report had been received by the parties, the parties may, if both parties agree, resume mediation after the report is made available to the mediator.

The expense of the study shall be the responsibility of the parties in such proportion as the parties may agree or as ordered by the Court. Persons who seek a custody study under this rule may, prior to proceeding with a custody study, petition the Court for partial assistance in the cost of the study, to be paid from funds from the county mediation filing fees. The decision to provide funding shall be based on the abilities of the parties to afford the study. A petition for financial assistance for the custody study shall be accompanied by the name and qualifications of the person to be selected, a recommendation from the mediator as to whether a custody study may be useful and an estimate of cost and affidavits setting forth the financial resources of the parties.