

Circuit Court Mediation Program Procedures

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1.	Judge decides a contested case is appropriate for referral to a dispute resolution proceeding and orders the matter (or selected issues) to an Orientation Session, for which there is no cost to the parties.
2.	The court sends a copy of the signed Order of Referral to the Office of the Executive Secretary, Dispute Resolution Services, 100 N. Ninth Street, Richmond, VA 23219.
3.	Referral to an orientation session has no impact on the docketing procedures of the court and the case is set for trial in accordance with normal procedures.
4.	The Order of Referral directs parties to choose a circuit court certified mediator to conduct the Orientation Session from the Circuit Court Mediation Program Mediator Eligibility List on the Virginia Judicial System web site. The court should make a paper copy of the list available to parties who do not have access to the Internet. If parties wish to schedule their mediation sessions outside the referring jurisdiction, they may choose a mediator from other circuits. If the case is a family case, parties must choose a circuit court-family certified mediator. If the case is a civil (non-family) case, parties must choose a circuit court-civil certified mediator. (Parties should consider the mediators' mediation fees before selecting the mediator to conduct the free orientation session, as parties often choose to proceed to mediation with the same mediator.)
5.	If the matter referred to the orientation session involves only custody, visitation and/or support issues, then Virginia Code § 20-124.4 provides for mediation free of charge to the parties and for mediator payment of \$100 by the Supreme Court. (If equitable distribution is referred with custody, visitation and/or support issues, Virginia Code § 20-124.4 does not apply and free services are not available.) Parties may choose the free mediation or may pay for the mediation. To take advantage of free mediation, for the orientation session the parties must select a circuit court-family mediator designated on the list as accepting the \$100 payment. If no circuit court-family mediator is so designated in the jurisdiction, then the parties may select a JDR certified mediator who provides mediation services in the local JDR court. For assistance identifying a JDR mediator, contact the Dispute Resolution Services office at 804-786-6455 or the local JDR clerk's office.
6.	If the parties cannot agree on a mediator, the court chooses one for them from the list on the basis of a fair and equitable rotation, taking into account the subject matter of the dispute and the expertise of the mediator, as appropriate.
7.	If a party objects to the Order of Referral, the party must file a written statement with the court within 14 days after entry of the order, indicating that the dispute resolution process has been explained to the party and that he or she objects to the Order. Upon receipt of such statement, the court shall excuse the parties from participation in the orientation session.
8.	Parties contact the chosen mediator to schedule the orientation session. The orientation session is conducted at no cost to the parties and should take place no later than 30 days from the date of entry of the order.

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9.	Attorneys for any party may participate in the orientation session.
10.	During the orientation session, the mediator explains dispute resolution options that are available, screens for domestic violence and assesses the appropriateness of the case for mediation.
11.	After the orientation session, further participation in a dispute resolution proceeding shall be by consent of all parties. The decision whether, how and with which mediator to proceed is made at the end of the orientation session or no more than 10 days after the orientation session.
12.	If parties elect to proceed with a dispute resolution proceeding, they may i) continue with the mediator who conducted the orientation session or ii) choose another mediator from the list or iii) pursue any other alternative for voluntarily resolving the dispute to which the parties agree. If parties are unable to agree on a mediator, the court chooses one for them from the list on the basis of a fair and equitable rotation, taking into account the subject matter of the dispute and the expertise of the mediator. While the orientation session is free, parties must pay for the actual mediation sessions. (See #5 above for the availability of free mediation services for custody, visitation and/or support issues only.)
13.	If one or more of the parties is indigent or no agreement as to payment is reached between the parties and the mediator, the court sets a reasonable fee for the service of the mediator who accepts referrals from this mediation program.
14.	Attorneys for any party may participate in the mediation.
15.	Parties shall inform the court in writing if the dispute is resolved prior to the return date or if a continuance is requested to further pursue a dispute resolution proceeding. Otherwise, the parties shall appear in court on the return date.
16.	If the parties reach a settlement and execute a written agreement disposing of the dispute, the agreement is enforceable in the same manner as any other written contract. Upon request of all parties and consistent with law and public policy, the court shall incorporate the written agreement into the terms of its final decree disposing of the case.
17.	At the end of mediation, parties fill out an Evaluation of Mediation Session(s) and Mediator(s) form provided by the mediator.
18.	Following the mediation, the mediator should complete a Circuit Court Mediation Report Form and send it to the Office of the Executive Secretary, Dispute Resolution Services, 100 N. Ninth Street, Richmond, VA 23219.