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Chapter 15

Rules of Mandatory Mediation in Certain Family Law Cases

Rule 15.1 Definitions. As used in this chapter:

15.1(1) “Mediation” means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

15.1(2) “Mediator” means an individual who conducts a mediation.

15.1(3) “Mediation Agreement” means a written voluntary agreement the parties have reached during the mediation process.

Rule 15.2 Scope.

15.2(1) All parties must participate in mediation in all cases involving permanent custody, visitation, and other matters filed under Iowa Code chapters 598 and 600B. This rule applies to both initial proceedings and modification proceedings.

15.2(2) Each judicial district or court retains the authority to order mediation for other matters filed under Iowa Code chapters 598 and 600B.

15.2(3) Mediation does not change a party’s obligation to follow statutory requirements in Iowa Code chapter 598.

Rule 15.3 Waivers and exemptions.

15.3(1) The following cases are exempt from mandatory mediation:

- a.* All temporary proceedings.
- b.* All contempt proceedings.
- c.* Child support or medical support obligations enforced by the Child Support Recovery Unit.
- d.* Elder abuse pursuant to Iowa Code chapter 235F.
- e.* Domestic abuse pursuant to Iowa Code chapter 236.
- f.* Cases in which a mediation party is served by publication.
- g.* Cases in which a party serves a Notice of Intent to File Written Application for Default Judgment, an Application for Default Judgment, or a similar pleading regarding default judgment.

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2 *h.* Cases participating in the Informal Family Law Trial Pilot Project or other
3 court-approved informal or abbreviated family law trial proceedings.

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5 **15.3(2)** Upon application of a party, the court may grant a waiver from
6 mandatory mediation when:

7 *a.* The party demonstrates a history of domestic abuse as specified in Iowa
8 Code section 598.41(3);

9 *b.* The parties file a stipulated settlement addressing all issues within 90 days
10 of service; or

11 *c.* The party shows good cause for a waiver.

12 **Rule 15.4 Scheduling.**

13 **15.4(1)** Within 30 days from the date of service, the parties must set a date
14 for mediation to be completed within 180 days from the date of service unless a
15 case is exempt from mandatory mediation under rule 15.3 (1) or the court has
16 granted a waiver from mandatory mediation under rule 15.3 (2).

17 **15.4(2)** The parties or their attorneys must obtain a date for mediation
18 directly with the mediator or through the mediation program in the judicial
19 district where the case is filed.

20 **15.4(3)** Following completion of mediation, the parties must file a Certificate
21 of Mediation with the court, on a form the supreme court prescribes, before a
22 trial date may be scheduled.

23 **Rule 15.5 Selection of mediators.**

24 **15.5(1)** The parties must select a mediator from the registry of qualified
25 mediators.

26 **15.5(2)** If the parties cannot agree on a mediator, the court will appoint a
27 mediator from the registry of qualified mediators.

28 **Rule 15.6 Mediation process.**

29 **15.6(1)** Parties may be represented by their attorneys at the mediation.

30 **15.6(2)** A party may have a person other than the party's attorney attend the
31 mediation, but the mediator may determine whether the person will be allowed
32 to participate in the mediation.

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2 **15.6(3)** Mediation sessions are confidential and are governed by the
3 requirements of Iowa Code chapter 679C and Iowa Court Rule 11.6.

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5 **15.6(4)** When the parties have completed mediation, the mediator will provide
6 the parties with a supreme court prescribed Certificate of Mediation for filing
7 with the court.

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9 **Rule 15.7 Payment of mediators.** Mediator fees will be evenly divided between
10 the parties unless the parties agree otherwise.

11 **Rule 15.8 Enforcement.** The court may enforce the requirements of these rules
12 through contempt proceedings, compliance hearings, imposition of sanctions, or
13 other means the court deems appropriate.

14 **Rule 15.9 Mediator registry and qualifications.**

15 **15.9(1)** *Statewide mediator registry.*

16 *a.* The office of professional regulation will maintain a statewide registry of
17 qualified family law mediators. The registry will be updated and published on a
18 regular basis. The office of professional regulation will review applications from
19 persons who wish to be listed on the registry of qualified family law mediators,
20 which will include persons who meet the training requirements established in
21 this rule or who have received a waiver under rule 15.9(6).

22 *b.* The statewide mediator registry will contain the mediators' names,
23 addresses, telephone numbers, and any biographical information the mediator
24 provides, including information about the mediator's education, professional
25 experience, and mediation training and experience, and will be maintained on
26 the office of professional regulation's website.

27 **15.9(2)** *Mediators' designations.* As part of the application process, all
28 mediators must designate the judicial districts or counties for which they are
29 willing to accept court appointments. Each designation will be deemed to be a
30 representation that the mediator will accept appointments from the designated
31 district or county and will not charge for travel time and expenses incurred in
32 carrying out the mediator's duties associated with those appointments. A refusal
33 to accept an appointment in a mediator's designated judicial district or county
34 may be grounds for denying future appointments of the mediator in the judicial
35 district or county.

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15.9(3) Registry fees. The office of professional regulation will establish a reasonable administrative fee for qualified individuals and organizations to be placed on the statewide registry. Any such fees will go to the office of professional regulation for administration of the statewide registry.

15.9(4) Mediator qualifications. Prior to being listed on the statewide registry, all mediators providing family law mediation services under this chapter must have a minimum of 40 hours of family law mediation training accredited by the Iowa Supreme Court Commission on Continuing Legal Education. Mediators who are attorneys must have an active Iowa law license.

15.9(5) Removal from statewide registry. The office of professional regulation may administratively remove a mediator from the statewide registry if the mediator's law license has been suspended, revoked, or placed into exempt or inactive status. A mediator may also be removed from the registry for reasons including, but not limited to, concerns about the mediator's competence, misrepresentations the mediator made during the application process, a finding of liability against the mediator under Iowa Code section 679C.115, or a determination by a court that the mediator has engaged in the unauthorized practice of law. Any removal from the registry may be reviewed by the State Court Administrator upon written request.

15.9(6) Waiver of training requirement. Mediators who are listed on one or more rosters of family law mediators maintained by an Iowa district court administrator as of June 30, 2019, may be listed on the statewide registry maintained by the office of professional regulation by submitting an application and showing they have previously completed the training requirements set forth in rule 15.9(4).

Rule 15.10 Administration.

15.10(1) The director of the office of professional regulation will serve as the principal executive officer for matters pertaining to the qualifications, classification, and discipline of family law mediators under this chapter. The director may, subject to the approval of the supreme court, employ such other employees as may be necessary to carry out the duties of this chapter.

15.10(2) At least 60 days prior to the start of each fiscal year or on a date otherwise set by the supreme court, the director of the office of professional regulation will submit to the supreme court for consideration and approval a

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2 budget for the upcoming fiscal year covering the operations provided for in this
3 chapter. The supreme court's approval of the budget authorizes payment as
4 provided in the budget. A separate bank account designated as the mediator
5 operating account must be maintained for payment of authorized expenditures
6 as provided in the approved budget. Fees or other funds received or collected as
7 directed in this chapter or in accordance with an interagency agreement will be
8 deposited in the mediator operating account for payment of the expenditures
9 authorized in the approved budget.

10 **Rule 15.11 Immunity**

11 **15.12(1) Claims.** Claims against the director, assistant directors, and staff of
12 the office of professional regulation are subject to the State Tort Claims Act set
13 forth in Iowa Code chapter 669.

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15 **15.12(2) Immunity.** The director, assistant director, and staff of the office of
16 professional regulation are immune from all civil liability for damages for the
17 conduct, communications, and omissions occurring in the performance of and
18 within the scope of their official duties under these rules.

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20 **15.12(3) Qualified immunity.** Records, statements of opinion, and other
21 information regarding a mediator that are communicated by an entity, including
22 any person, firm, or institution, without malice, to the director, assistant
23 directors, and staff of the office of professional regulation, are privileged and civil
24 suits predicated thereon may not be instituted.

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