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Child Custody Mediation Explained

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by LeAnn Goss

At the heart of every family law matter involving children lies a shared desire—to ensure their well-being. Child custody mediation provides a structured and collaborative approach to navigating this critical process. Learn the benefits of child custody mediation and when the judge might waive mediation.

What is a Custody Mediation?

Custody Mediation is a potential solution in which parties to a custody dispute can work together to find a custody arrangement that works for everyone, including the child(ren) involved. Mediation creates a safe space where parties can express their thoughts and concerns about co-parenting, schedules, and responsibilities to one another through the guidance of a mediator. Parties can seek private mediation or can go through the court mediation process.

Court-Ordered Mediation

North Carolina General Statute 50-13.1 mandates that parties who file custody complaints with the court attend mediation prior to a hearing before a judge unless the court waives mediation.

When a complaint is filed, the court contacts both parties to schedule an orientation for

mediation. Upon completion of orientation, mediation efforts can progress with a mediator at the courthouse or virtually, depending on the County. Counsel cannot and will not be present at court-ordered mediation.

If mediation is successful and the parties reach an agreement, they will not need to go before the court. A judge will review and sign an order approving the parenting agreement drafted by the mediator pursuant to the agreement reached in mediation. If no agreement is reached, the court will schedule a hearing before a judge.

This pathway promotes a cost-effective, efficient solution that attempts to keep parties out of court. Once parties are in front of a judge, their lives (past, future, and present) are often put on the stand just as much as the parties themselves are. Court-ordered child custody mediation promotes considering and advocating for the best interests of the child(ren) as a team rather than as adversaries.

When will the Court Waive Custody Mediation?

If a party wishes to have court-ordered custody mediation waived because they wish to pursue private mediation or go directly before a judge, they must first file a Motion and Order to Waive Custody Mediation. A hearing will then be held so a judge can determine if mediation should be waived. A judge may consider whether abuse, alcoholism, severe psychological concerns, or drug addictions pose a problem for successful mediation.

Private Mediation

Parties may seek private mediation as a matter of dispute resolution. This means that instead of having a mediator at the courthouse, a private mediator will likely be a former judge or a current family law attorney. The cost is the most notable difference between private and court-ordered mediation. While there is no cost to the parties for court-ordered mediation (though there are fees related to the court filing), parties will generally split the cost of the mediator per hour in private mediation. This cost will vary depending on the geographic area, the qualifications of the mediator, etc. Another notable difference is that counsel can attend private mediation to represent the parties. Your attorney can advise you as to which mediation best fits your circumstances.

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If you are interested in a child custody consultation, call us at 252-757-3535 to schedule a consultation. One of our experienced family law attorneys will be happy to speak with you!

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