

APPENDIX 29.4: COURT-SPECIFIC RULES CONCERNING MEDIATION

COURT	PARISHES	COURT-SPECIFIC RULES CONCERNING MEDIATION
3 rd J.D.C.	Lincoln and Union Parishes	<p>A. When it appears on the face of the petition, motion for an order or motion for modification of an order that custody or visitation of a child or children is contested, or, when during such proceeding it appears to the court to be in the best interest of the child or children, the parties may be required to mediate their differences in accordance with the provisions of La. Rev. Stat. 9:351, et seq. In such cases, upon request and/or notification by the court, the parties shall have a period of ten (10) days from notice to select a mediator. If the parties are unable to agree upon a mediator, both parties shall so inform the court in writing, stating the names of those persons suggested as mediators who have not been agreed upon. Upon receipt of this notification, the court shall select the mediator.</p> <p>B. Upon the resolution of the controversies by the parties, the mediator shall prepare a written, signed and dated agreement, verified by the mediator, setting forth the settlement terms of the controversies. If an agreement is reached by the parties, through mediation or otherwise, a consent judgment shall be prepared by respective counsel for each of the parties, which shall be submitted immediately to the court. Willful failure of either party to comply with attempts at mediation shall subject that party to all costs of mediation.</p>
4 th J.D.C.	Morehouse and Ouachita Parishes	<p>In the event the Hearing Officer believes the matter is appropriate for mediation, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the time within which to comply with any order implementing the recommendation and the manner in which the costs of said mediation should be paid by the parties. The Hearing Officer may, but is not required to, include a recommendation of a specific mediator to perform the mediation. The Hearing Officer shall prepare an Order of Mediation at the time of the Hearing Officer Conference, in substantial compliance with 4th JDC Family Docket Form 6.0 for the review and consideration of the assigned civil judge.</p>
10 th J.D.C.	Natchitoches Parish	<p>In any custody or visitation proceeding, the court, on its own motion or the motion of either party, may require the parties to mediate their differences. The court may apportion the costs of the mediation between the parties. The mediator shall be selected by the court. The mediation shall be conducted and the mediator shall be qualified in accordance with R.S. 9:351, et seq.</p> <p>When it appears on the face of the petition or motion for an order or modification of an order for the custody or visitation</p>

		<p>of a child or children that either or both such issues are contested, or when during such a proceeding it appears to the court to be in the best interest of the child or children, the parties may be required to mediate their differences upon the motion of the court or upon the motion of either party. The court may apportion the costs of the mediation between the parties. The costs of mediation shall be subject to approval by the court.</p> <p>PURPOSE: The purpose of such mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child or children's close continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute.</p> <p>DUTIES OF THE MEDIATOR: In performing the mediation contemplated herein, the mediator shall assist the parties in formulating a written, signed, and dated agreement to mediate which shall identify the controversies between the parties, affirm the parties' intent to resolve these controversies through mediation, and specify the circumstances under which the mediation may terminate. The mediator has a duty to advise each of the mediation participants to obtain legal review prior to reaching any agreement. The mediator has a duty to be impartial and has no power to impose a solution on the parties.</p> <p>MEDIATION AGREEMENT: Upon the resolution of the controversies by the parties, the mediator shall prepare a written, signed and dated agreement, verified by the mediator, setting out the settlement terms of the controversies. If an agreement is reached by the parties through mediation, a consent judgment and/or plan of mediation incorporating the agreement shall be prepared by respective counsel for each of the parties. The consent judgment and/or plan of mediation shall be submitted to the court for its approval and signature.</p>
13 th J.D.C.	Evangeline Parish	<p>A. If the parties do not agree to custody and/or visitation, the hearing officer will determine if the case needs to be referred to mediation.</p> <p>B. If mediation or psychological evaluation is recommended by the hearing officer at the Intake Conference, the hearing officer will determine, at the Intake Conference, the terms and conditions upon which the parties are to pay for the mediation and/or psychological evaluations and prepare an order to that effect.</p> <p>C. The parties who have been referred to mediation or psychological evaluations will be required to provide proof to the Court as to the appointments set for mediation or evaluations within fifteen working days after the Intake Conference.</p>
14 th J.D.C.	Calcasieu Parish	<p>A. If the Hearing Officer or Court determines that a matter is appropriate for mediation, a Mediation Order shall be issued.</p>

		<p>The Hearing Officer or Court shall determine the terms and conditions upon which the parties shall participate in mediation. Prior to the execution of a mediation order, the parties may agree to a mediator of their choosing.</p> <p>B. A party objecting to the order of mediation shall raise those objections at the Hearing Officer Conference. If a continuance is granted, the mediation order shall remain in effect unless the motion contains certification by both parties or their attorneys that mediation is not warranted.</p> <p>C. In order to be listed as an approved mediator with the Family and Juvenile Court, an individual shall have successfully completed mediation training in accordance with La. R.S. 9:334, provided a resume and proof of professional liability insurance and be a practicing member of the Family Mediation Council of Louisiana. Individuals seeking to be placed on the list of approved mediators shall agree to charge according to the fee schedule promulgated by the Family and Juvenile Court Judges.</p> <p>D. After mediation has been ordered, the appointed mediator shall file an Acceptance of Appointment and Initial Disclosure and the Initial Appointment Notice.</p> <p>E. The mediator shall communicate with the parties and schedule mediation sessions as appropriate. The mediator shall encourage and assist the parties in reaching a settlement of their dispute but may not compel or coerce the parties to enter into a settlement agreement.</p> <p>F. Mediators shall preserve and maintain the confidentiality of mediation proceedings pursuant to La. R.S. 9:332 C.</p> <p>(1) They shall keep confidential from opposing parties any information obtained in individual caucuses unless the party or parties to a caucus permit disclosure.</p> <p>(2) They shall maintain confidentiality in the storage and disposal of records and shall render anonymous all identifying information when materials are used for research, training or statistical compilations.</p> <p>(3) All discussions during mediation, including statements made by any party, attorney or other participant, are privileged in all respects. The mediation discussions shall not be reported, recorded, placed into evidence, made known to the trial court, or construed for any purpose as an admission against interest.</p> <p>(4) The mediator shall not be named as a witness, nor may the mediator's records be subpoenaed or used as evidence, nor shall the mediator's deposition be taken, or any other discovery had against the mediator.</p> <p>G. At the conclusion of the mediation between the parties, the mediator shall submit to the Court a Final Report of Mediator. In the event a total or partial agreement is reached, a memorandum of understanding summarizing the nature and</p>
--	--	--

		<p>substance of the parties' agreement shall be signed by both parties. The mediator shall provide to both parties and their respective legal counsel a copy of the agreement. The mediator shall notify the parties and their respective legal counsel that if there is no written objection to the agreement made within 30 days from the date of the mailing of the agreement or prior to the hearing on custody, whichever occurs first, the mediator shall submit the agreement to the Court, with an accompanying order to make the agreement a judgment of the Court. In the event no agreement was reached, the mediator shall report to the Court, the parties and their respective legal counsel that the parties were unable to reach a mediated agreement.</p> <p>H. Failure to schedule or attend mediation appointments or comply with the Court's mediation order in any way may constitute contempt of court.</p> <p>I. The cost of mediation shall initially be borne proportionally as set by the Hearing Officer and/or the Court, unless the parties agree otherwise, and may be taxed as costs of court. The minimum portion paid by either party shall be 20% of the total cost. At the conclusion of mediation, if a mediator's fee is not paid, it shall be certified by the mediator and placed in the record. All court filings made by the mediator shall be accepted by the Clerk of Court without any filing fee from the mediator, but the cost of filing shall be taxed as costs of court.</p>
<p>15th J.D.C.</p>	<p>Acadia, Lafayette, and Vermilion Parishes</p>	<p>A. At the time of the Hearing Officer Conference with the hearing officer, the parties or their respective counsel shall have an opportunity to provide a verbal statement of their positions to the hearing officer with regard to the custody and/or visitation issues before the Court. The hearing officer shall then determine whether the matter is appropriate for mediation.</p> <p>B. In the event the hearing officer determines that the matter is appropriate for mediation, the hearing officer shall determine whether the issues will require only one mediation session, or whether more than one mediation session shall be required.</p> <p>1. In the event the issues appear to require only one mediation session, the case may be mediated by court officers who have been trained to mediate custody and visitation matters in accordance with LSA R.S. 9:334. However, in no event may a court officer who will be serving as a Hearing Officer for support issues mediate a custody or visitation issue.</p> <p>2. If the issues will require more than one mediation session, then the parties shall be referred to a mediator from the list of approved mediators maintained by the Clerk of Court, on a rotating basis.</p> <p>C. If the hearing officer refers the matter to mediation, an Order of Mediation shall issue at the time of the Hearing Officer Conference. A party objecting to the referral of the</p>

		<p>matter to mediation by the hearing officer shall have three (3) court days within which to file an objection to the Order of Mediation, in which the party shall set forth, with specific allegations of fact, the basis upon which an objection to mediation is being filed.</p> <p>D. In the event the hearing officer does not refer the matter to mediation, either party may nevertheless file a motion seeking a court order of mediation, and shall, at the time said motion is filed, have the matter set for contradictory hearing on the next available rule docket.</p> <p>E. In the event the parties agree upon a mediator other than the mediator appointed by the court, the name, address, and telephone number of the agreed upon mediator shall be provided to the Judge within five (5) court days after notice to the parties by the hearing officer of the referral to mediation.</p> <p>F. In order to be listed as an approved mediator with the Clerk of Court, an individual must have successfully completed mediation training in accordance with LSA R.S. 9:334, and must be a practicing member of the Family Mediation Council of Louisiana. Individuals seeking to be placed on the list of approved mediators shall be required to provide a resume and shall agree to charge according to the fee schedule promulgated by the Judges assigned to the Family Docket on file with the Clerk of Court in advance of consideration of his or her placement on the approved list.</p> <p>G. After mediation has been ordered, the appointed mediator shall file an Acceptance of Appointment and Initial Disclosure by Court Appointed Mediator.</p> <p>H. The mediator shall communicate with the parties and schedule mediation sessions as appropriate. The mediator shall encourage and assist the parties in reaching a settlement of their dispute but may not compel or coerce the parties to enter into a settlement agreement.</p> <p>I. Mediators shall preserve and maintain the confidentiality of mediation proceedings pursuant to LSA R.S. 9:332C:</p> <ol style="list-style-type: none">1. They shall keep confidential from opposing parties any information obtained in individual caucuses unless the party or parties to a caucus permit disclosure.2. They shall maintain confidentiality in the storage and disposal of records and shall render anonymous all identifying information when materials are used for research, training or statistical compilations.3. All proceedings of the mediation, including statements made by any party, attorney or other participant, are privileged in all respects. The proceedings may not be reported, recorded, placed into evidence, made known to the trial court, or construed for any purpose as an admission
--	--	---

		<p>against interest.</p> <p>4. The mediator shall not be named as a witness, nor may the mediator's records be subpoenaed or used as evidence, nor may the mediator's deposition be taken, or any other discovery had against the mediator.</p> <p>J. At the conclusion of the mediation between the parties, the mediator shall report to the Court that the parties have reached a mediated agreement, and shall provide a memorandum of understanding to the parties and their respective legal counsel, summarizing the nature and substance of the parties' agreement. In the event no settlement was reached, the mediator shall report to the Court, the parties, and their respective legal counsel that the parties were unable to reach a mediated agreement. In either case, the mediator shall file a Final Report of Mediator to the Court.</p> <p>K. The cost of mediation shall initially be borne equally by the parties, unless the parties agree otherwise, and shall ultimately be taxed as costs of court in the event mediation does not resolve the dispute. At the conclusion of each mediation session, whether or not successful, the parties shall pay the mediator's fee as per the fee schedule on file, or as agreed upon, and the amount of the fee shall be certified by the mediator and placed in the record of the action. All court filings made by the mediator shall be accepted by the Clerk of Court without any filing fee from the mediator, but the cost of filing shall be taxed as costs of court.</p>
<p>16th J.D.C.</p>	<p>St. Mary, Iberia, and St. Martin Parishes</p>	<p>A. At the time of the Hearing Officer Conference, the parties or their respective counsel shall have an opportunity to provide a verbal statement of their positions to the Hearing Officer with regard to the custody and/or visitation issues before the Court. In the event the Hearing Officer believes the matter is appropriate for mediation, a recommendation to that effect shall be included in the Hearing Officer Conference Report, including recommendations regarding the time within which to comply with any order implementing the recommendation and the manner in which the costs of said mediation should be paid by the parties. The Hearing Officer may, but is not required to, include a recommendation of a specific mediator to perform the mediation.</p> <p>B. If the Hearing Officer recommends that the matter should be referred to mediation, the Hearing Officer shall prepare an Order of Mediation at the time of the Hearing Officer Conference for the review and consideration of the presiding Judge. A party objecting to the recommendation that a matter should be referred to mediation shall file a written objection with the clerk of court as provided elsewhere in these rules.</p> <p>C. In the event the parties agree to the recommendation of</p>

		<p>the Hearing Officer that the matter should be referred to mediation, the Hearing Officer shall prepare the appropriate consent Order of Mediation for the review and approval of the parties and, if they are represented by legal counsel, their respective counsel of record, which shall then be submitted to the Court for approval and execution.</p> <p style="text-align: center;"><u>Comment</u></p> <p>Mediation, former Sixteenth Judicial District Court Rule 5A.6.</p>
18 th J.D.C.	Iberville, Pointe Coupee, and West Baton Rouge Parishes	<p style="text-align: center;">MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES</p> <p>Section A.</p> <p>At the time of the Intake Conference with the hearing officer, the parties or their respective counsel shall have an opportunity to provide a verbal statement of their positions to the hearing officer with regard to the custody and/or visitation issues before the Court. The hearing officer shall then determine whether the matter is appropriate for mediation.</p> <p>1. In the event the issues appear to require only one mediation session, the case may be mediated by court officers who have been trained to mediate custody and visitation matters in accordance with LSA RS 9:334. However, in no event may a court officer who will be serving as a Hearing Officer for support issues mediate a custody or visitation issue.</p> <p>Section B.</p> <p>If the hearing officer refers the matter to mediation, an Order of Mediation shall issue at the time of the Intake Conference, in substantial compliance with Form R (Order of Mediation).</p> <p>Section C.</p> <p>At any time the Judge may refer any matter he/she deems fit for mediation.</p> <p>Section D.</p> <p>The Clerk of Court shall accept all court filings made by the mediator without any filing fee from the mediator, but the cost of filing shall be taxed as costs of court.</p>
22 nd J.D.C.	St. Tammany and Washington Parishes	<p>A. At the time of the Hearing Officer Conference, the Hearing Officer may make a finding that a mediator and/or a parenting coordinator should be appointed. The Hearing Officer may also make recommendations referring the parties to the court's social workers or other mental health professionals or experts to discuss parenting schedules, co-parenting and parenting classes, medical and/or psychological evaluation, drug testing, counseling, and substance abuse treatment.</p>

		<p>B. Mediation:</p> <p>1) The parties shall have an opportunity to provide a verbal statement of their positions to the Hearing Officer with regard to the custody and/or visitation issues before the Court. The Hearing Officer may make a finding that the matter is appropriate for mediation, or another form of alternative dispute resolution.</p> <p>2) The case may be mediated by court approved mediators who meet qualifications set forth in La R.S. 9:334. Mediators shall preserve and maintain the confidentiality of mediation proceedings pursuant to La R.S. 9:332C.</p> <p>3) In order to be listed as an approved mediator, a mediator must be listed on the roster of approved custody and visitation mediators with the Louisiana State Bar Association Alternative Dispute Resolution Section.</p> <p>4) Notwithstanding any other provision of law to the contrary, in any separation, divorce, child custody, visitation, child support, spousal support, or community property proceeding, a party who satisfies the court that they, or any of the children, have been the victim of family violence perpetrated by the other party shall not be court ordered to participate in mediation.</p>
<p>24th J.D.C.</p>	<p>Jefferson Parish</p>	<p>A. The court, or the commissioner, as to matters within his or her area of responsibility, may</p> <ol style="list-style-type: none"> 1. order an evaluation of a party(ies) or the child(ren) in a custody or visitation proceeding for good cause shown pursuant to La. R. S. 9:331; 2. order a party to submit to specified drug tests and the collection of hair, urine, tissue, and blood samples for good cause shown, after a contradictory hearing pursuant to La. R. S. 9:331.1; and 3. order the parties to mediate their differences pursuant to La. R.S. 9:332 et seq. <p>B. For good cause shown, after a contradictory hearing, the court, or the commissioner, as to matters within his or her area of responsibility, may appoint an attorney to represent the child. The fees for such representation shall be set by the court and paid by the parties as ordered by the court. See La. R.S. 9:376.</p> <p>C. For good cause shown, after a contradictory hearing, the court, or the commissioner, as to matters within his or her area of responsibility, may order, and the hearing officer may recommend, either parent to participate in mental health treatment, drug or alcohol treatment, parenting or anger management classes, alcoholics or narcotics anonymous as a</p>

		condition of custody or visitation. The fees for such treatment shall be paid by the parties as ordered by the court.
28 th J.D.C.	LaSalle Parish	This court encourages and supports the use of alternative dispute resolution to promote resolution of disputes and refer all counsel to the Louisiana Mediation Act La. R.S. 9:4101, et seq. Additionally, this court encourages and supports the use of special masters in appropriate circumstances.
29 th J.D.C.	St. Charles Parish	<p>Mediation may be ordered when custody or visitation of children is an issue for decision in any petition or motion. If the parties do not agree on a mediator, the court will select one. Failure to comply with an order of mediation will subject a party to the contempt powers of the court.</p> <p>If the parties reach an agreement, the mediator shall prepare a written, signed and dated agreement. Counsel for both parties shall submit a consent judgment immediately for the approval of the court.</p> <p>An order of mediation may be set aside at any time if counsel notify the court that custody or visitation issues are not contested, or for other reason(s) deemed sufficient by the court.</p> <p>Unless otherwise ordered by the court, costs of mediation shall be equally divided between and paid by the parties.</p>
31 st J.D.C.	Jefferson Davis Parish	<p>When it appears on the face of a petition or motion that custody or visitation is an issue for decision, the Court may require the parties to mediate. In any custody or visitation proceeding, if the rule is contested on the date fixed in the Order, when the case is called, a pre-trial conference will be held. If no settlement is agreed upon, the Court may require the parties to mediate their differences. The mediator shall be selected by the Court.</p> <p>The Court may apportion the costs of the mediation between the parties. Unless otherwise ordered by the Court, costs of mediation shall be equally divided between and paid by the parties. All mediation will be handled on a fee schedule based on income.</p> <p>Noncompliance with the provisions of the order of Mediation will subject such party to the contempt powers of the Court.</p> <p>Upon resolution of the controversies by the parties, the mediator shall prepare and provide to each party a written, signed and dated agreement, verified by the mediator, setting forth the settlement terms of the controversies. If an agreement is reached by the parties through mediation, a consent judgment and/or plan of mediation incorporating the agreement shall be prepared by respective counsel for each of the parties. The consent judgment and/or plan of mediation shall be submitted to the Court for its approval and signature.</p>

<p>Civil District Court</p>	<p>Orleans Parish</p>	<p>A. In any case where custody/visitation is at issue, the Court may order the parties to participate in mediation unless prohibited by La. R.S. 9:363. The Court will determine if the case is appropriate for mediation based on the petition, rule, or motion filed.</p> <p>B. Once the Court has determined that mediation is appropriate, the Court will issue an Order appointing a mediation to begin the mediation process before the scheduled hearing/trial. The Court will provide a copy of the Order of Mediation to both parties. The Order will contain contact information for the mediator.</p> <p>C. The assigned mediator will meet with the parties a minimum of three times. If a party is represented by counsel, the attorney is welcome to participate in the mediation process. The mediator's fees will be based on a sliding scale.</p> <p>D. During the mediation process, the parties may agree to have any other issues contained in the pleadings addressed by the mediator during the mandated sessions.</p>
-----------------------------	-----------------------	---