

Subsidized Mediation Appointments

To ensure the appropriate distribution of public monies collected by the Galveston County District Clerk for the Subsidized Mediation Program, as well as compliance with Texas Government Code 37.004 and the Mediation Services Board By-Laws, the following plan is to be implemented effective January 1, 2019. This plan is applicable for all cases where a mediator submits a voucher for payment from the Subsidized Mediation Program:

County Courts at Law and Family District Court

A. Individual Case Appointment - Family Law Matters

For every case, upon issuance of a docket control order; the Court will select the first (1st) name on the wheel of the Approved Court Appointed Mediator Master List of those qualified to mediate family law matters. (i.e. 40 hours of initial training, and 24 hours of family law training, and six (6) hours of family violence training as per *Section 154.052, Civil Practice and Remedies Code*, and appearing on the Master List maintained by Court Administration and/or Justice Administration and the Mediation Services Board.)

A mediator may not be bypassed for appointment more than two (2) times unless the Court/Judge finds, in writing, that a conflict of interest exists or that other good cause exists for bypassing the Mediator. (TX Gov't Code 37.004):

(d) On finding good cause, the court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person as ...mediator...:

- (1) possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case;
- (2) has relevant prior involvement with the parties or case;
- or,
- (3) is in a relevant geographic location.

Attorneys are not precluded from selecting a mediator agreed upon to conduct their mediation; but their clients are precluded from having their mediation paid for by the *public monies* received and managed by the Mediation Services Board.

B. Two-Hour Temporary Orders Mediations for Family Law Matters

1. Temporary Orders Mediations are currently funded up to two hours from the public funds administered by the Mediation Services Board.
2. In the event the attorney/party seeks to have his/her case participate in the temporary orders mediation program, the attorney/party shall contact the Court coordinator and obtain the name of the next mediator on the list and the Court coordinator shall advise the mediator of the appointment.
3. Cases that are mediated through this program that result in final settlement; and have utilized the Court Appointed mediator will be treated as a final mediation, and the mediator may bill up to, but not more than 4 hours for his/her time.

Attorneys are not precluded from selecting a mediator agreed upon to conduct their mediation; but their clients are precluded from having their mediation paid for by the *public monies* received and managed by the Mediation Services Board.

C. Individual Case Appointment – CPS Cases

1. Two Hour Pre-Adversary Temporary Orders Mediations:

For every case, where a CPS Removal Order is signed by the Court, whether emergency or nonemergency; the Court will select mediators from the Calendar Wheel created from the Approved Court Appointed CPS Pre-Adversary Mediators List (Mediators who are qualified to mediate Family Law matters with the additional 8 hours of CPS Mediation Training); and the appointment of the mediator will be reflected in the Court Order.

The appointed Mediator shall appear on his/her assigned Monday, or Wednesday to conduct a Two-Hour Pre-Adversary Temporary Orders Mediation in the morning and a Two-Hour Pre-Adversary Temporary Orders mediation in the afternoon. The alternate Mediator will be on standby. These Two-Hour Pre-Adversary Temporary Orders Mediations are to be administered in the same manner or in a comparable manner as the Two-Hour Temporary Orders Mediation Cases, in Family Law Cases; and are to be billed to the fund in the same manner.

In the event that a mediation cannot be completed in the two hours allotted, the mediator may submit for additional time, with an explanation provided to the Court as to the reason the matter took more than two hours, without divulging confidentiality; and the court may approve, or deny payment, of same up to an additional two hours per mediation case.

Mediators shall convene the mediation at the time directed by the Court. If no Respondent/ parent appears within 45 minutes of the Court Ordered Mediation start time; the mediation will end in impasse, due to failure to appear. The Mediator shall be paid in accordance with appearing for one hour of mediation.

If there are no Pre-Adversary Temporary Orders Mediations scheduled during the mediator's assigned day; the mediator does not need to appear and will not be paid from the fund.

Failure of a mediator to appear for an assigned Pre-Adversary Mediation may result in the mediator's removal from the Calendar Wheel and subject the mediator to removal procedures as outlined by the Mediation Services Board.

Mediators shall be responsible for filing Mediated Settlement Agreements with the Family Service Plans and the Visitation Plans attached. Mediators shall also be responsible for preparing the Docket Control Order, and for providing copies of same to the Respondents/parents.

In the event the mediation needs to last longer than four hours, the mediator will seek court approval and/or reconvene the mediation and will bill no more than 8 hours.

A. Pretrial Mediations CPS Matters

For every case, upon issuance of a docket control order; the Court will select the first (1st) name on the wheel of the Approved Court Appointed CPS Mediator Master List of those qualified to mediate CPS matters.

A mediator may not be bypassed for appointment more than two (2) times unless the Court/Judge finds, in writing, that a conflict of interest exists or that other good cause exists for bypassing the Mediator. (TX Gov't Code 37.004):

(d) On finding good cause, the court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person as ...mediator...:

(1) possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case;

(2) has relevant prior involvement with the parties or case;

or,

(3) is in a relevant geographic location.

B. Individual Case Appointment – Civil Cases/ JP Cases

For every case, upon issuance of a docket control order; the Court will select the first (1) name on the wheel of the Approved Court Appointed Mediator Master List of those qualified to mediate civil matters (i.e. 40 hours of mediation training) and on the Master List maintained by Court administration and/or Justice Administration and the Mediation Services Board.

A mediator may not be bypassed for appointment more than two (2) times unless the Court/Judge finds, in writing, that a conflict of interest exists or that other good cause exists for bypassing the Mediator. (TX Gov't Code 37.004):

(d) On finding good cause, the court may appoint a person included on the applicable list whose name does not appear first on the list, or a person who meets statutory or other requirements to serve on the case and who is not included on the list, if the appointment of that person as ...mediator...:

- (1) possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case;
- (2) has relevant prior involvement with the parties or case;
- or,
- (3) is in a relevant geographic location.

Attorneys are not precluded from selecting a mediator agreed upon to conduct their mediation; but their clients are precluded from having their mediation paid for by the *public monies* received and managed by the Mediation Services Board.

Mediators Responsibilities:

- 1) Mediator shall declare under penalty of perjury, that he has verified his/her appointment as mediator, before submitting voucher.
- 2) Mediator shall require the parties to submit proof of the mediator's appointment, i.e. Order Appointing Mediator or Docket Control Order noting the appointment, prior to the scheduling of any mediation in which any party is seeking payment of mediation from the Mediation Services Board.
- 3) Mediator shall ensure compliance with credentialing as required by Mediation Service Board.
- 4) Mediator shall confirm no conflict of interest and shall notify the court immediately if there is a discovered conflict of interest in proceeding with the mediation.

- 5) For CPS Pre-trial Mediations, if a mediator has the need to find a substitute mediator, the mediator shall first confirm the availability of the assigned Alternate Mediators for that week. If the alternate Mediators are unavailable, then the Mediator shall be free to contact another CPS qualified mediator whose name appears on the Master List to cover the mediation.
- 6) Mediator shall submit a report of the mediation within 3 working days of the mediation having convened.
- 7) Mediator shall be responsible for filing the Mediated Settlement Agreement with the office of the District Clerk, either via e-file or in person in accordance with the requirements of the District Clerk.
- 8) In the event Mediation needs to last longer than 4 hours, the Mediator may choose in their discretion to continue the mediation but will bill no more than \$800 for the initial session. If in the Mediator's judgment it is necessary to reconvene for an additional session, Court approval must be sought by the Mediator in order to receive additional payment from the fund.
- 9) All CPS Mediators shall attend a 1 hour continuing education regarding the preparation of Docket Control Orders for CPS cases.