

SUPERIOR COURT OF CALIFORNIA, IN AND FOR THE COUNTY OF PLACER

30.00 FAMILY LAW

**RULE 30.1 MEDIATION AND CHILD CUSTODY RECOMMENDING
COUNSELING**

A. Purpose

The purpose of meeting with a child custody professional before attending a court hearing is to promote cooperation between the parents and to develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with law including, but not limited to, Family Code sections 3011, 3020, and 3044. The purpose is also to reduce acrimony, conflict, trauma, and uncertainty for children to effect settlement of the issue of visitation rights of all parties that is in the best interest of the child. With these objectives in mind, the Placer County Superior Court endeavors to provide opportunities to resolve conflict and promote the best interest of the child(ren) prior to court hearings. These rules are intended to enhance the objectives of reducing conflict for families and children (Family Code section 3161).

B. Types of Mediation and Child Custody Recommending Counseling (CCRC) Sessions

Family Court Services (FCS) provides the following services. Confidential mediation (Tier I below) shall be made available in all cases in which child custody is at issue; the remaining services shall be scheduled as directed by the family law judicial officer in the exercise of his/her discretion according to the needs of the case (Family Code section 3170).

If confidential mediation has not resulted in full agreement, the judicial officer has discretion to refer the parties to further services with FCS as provided after Tier I.

1. Confidential Mediation (Tier I). Tier I referrals provide confidential mediation for families who have been unable to reach an agreement regarding custody, parenting time, and visitation before their mediation appointment. The mediator will not issue a recommendation to the court, but shall report the parties' agreement to the court.

a. Nothing prohibits the court from ordering a referral of the parties to expedited or emergency child custody recommending counseling (Tier III) without first attending confidential mediation (Tier I).

b. Children shall not participate in Tier I unless directed by the court, FCS, or the child custody professional (Family Code section 3180).

c. Tier I is confidential except that the mediator may report any suspected child abuse, elder abuse, and/or if someone is a danger to themselves or others pursuant to Penal Code section 11166.

2. Information Gathering (Tier II). Tier II referrals are for the purpose of gathering information. A judicial officer has the discretion to include any specific areas of inquiry in a Tier II referral including, but not limited to, contact with law enforcement, contact with Child Protective Services, and interviews with the child(ren) or other collateral contacts. A Tier II summary report shall be submitted to the court and will not include any recommendations from the child custody professional. Tier II sessions are not confidential.

3. Child Custody Recommending Counseling (Tier III). Tier III referrals are child custody recommending counseling sessions. If an agreement is reached, the child custody recommending counselor will document the agreement. Otherwise, the professional will prepare a summary report and submit a recommendation to the court. Tier III sessions are not confidential.

C. Process

1. The party requesting or responding to a request for temporary orders involving child custody and visitation will provide the court with a current mailing address, electronic address, and telephone number for each party and counsel of record.

2. The Family Court Services Director will assign the case to a Tier I mediator. A notice of assignment of the Tier I mediator will be mailed to all parties and counsel of record.

- a. If parties are later referred to Tier II or Tier III, the Tier I mediator will not be assigned to conduct Tier II or Tier III in the absence of unusual circumstances as determined by the FCS Director or order of the court after a hearing before a judicial officer.
3. It is the responsibility of the parties to contact the assigned Tier I, II, or III professional to set up an appointment. Prior to attending the appointment, each party must first attend a Family Court Services orientation.
4. Personal appearance for a Tier I, II, or III appointment is required unless there are unusual circumstances. Unusual circumstances include 1) one party resides more than 250 miles away from Placer County; 2) traveling to the appointment would cause an extreme hardship; 3) telephonic participation is ordered by the court; or 4) the professional finds good cause to allow a party to attend via telephone. The court, the FCS Director, or the assigned professional, all have the discretion to permit a request for a telephonic appearance at the appointment.
5. In matters where domestic violence has been alleged or there is a protective order as defined in Family Code section 6218 in effect, parties shall have the right to separate appointments for Tier I, Tier II, and Tier III appointments.
6. The parties may agree to attend private mediation or CCRC with a private mediator or child custody recommending counselor attesting that his or her qualifications are in compliance with California Rules of Court, rules 5.210 and 5.230 by submitting a proposed stipulation and order to the court for review.
7. All parties must attend orientation prior to an appointment with the assigned mediator or CCRC unless attendance is excused by the court. Parties may attend in person or online if an online orientation is available through the Placer County Superior Court.
8. The parties shall not attach any portion of the Tier II or Tier III summary report or documents to any documents filed with the court, nor shall any such Tier II or Tier III summary reports or documents be kept in the public file. The Tier II or Tier III summary report may be attached as an order of the court after a properly noticed hearing.
9. Access and disclosure of a Tier II and Tier III summary report, in the absence of a court order stating otherwise, are limited to the parties, their attorneys of record, the child's attorney, other evaluators retained in the case, and other court-appointed mediators, CCRCs, and evaluators addressing issues with the same family. The parties, their attorneys of record, and/or other evaluators shall not disclose or discuss the Tier II, Tier III, or evaluation summary reports with the minor child.
10. The court retains jurisdiction to impose monetary sanctions for failure to comply with the court-ordered mediation or child custody recommending counseling process.

D. Hearings After Confidential Mediation (Tier I)

If an agreement is not reached during confidential mediation (Tier I), the parties will be required to attend a hearing before a judicial officer. The judicial officer has the discretion to make temporary child custody, parenting time, or visitation orders, and/or refer the parties to Tier II or Tier III.

E. Hearings After Information Gathering (Tier II)

If the parties do not reach an agreement after information gathering (Tier II), the parties will be required to attend a hearing before a judicial officer. The judicial officer has the discretion to make temporary child custody, parenting time, or visitation orders, and/or refer the parties Tier III.

F. Hearings After Child Custody Recommending Counseling (Tier III)

If an agreement is not reached during child custody recommending counseling (Tier III), the parties will be required to attend a hearing before a judicial officer. The judicial officer has the discretion to make temporary child custody, parenting time, or visitation orders.

G. Challenges and Complaints Regarding the Assigned Mediator (Tier I) or Child Custody Recommending Counselor (Tier II or III)

1. Each party may challenge/object to the assignment of a particular mediator or CCRC once by filing written challenges/objections with the Family Court Services Director. Written challenges/objections to an assigned mediator or CCRC must be filed and served on the other party within seven (7) calendar days of the date of the notice of the assignment. Neither party may challenge/object to an assigned mediator or CCRC after the (7) calendar days of the date of the notice of assignment. The FCS Director in his/her discretion may remove an assigned mediator or CCRC.
2. Any complaints against an assigned mediator or CCRC shall be presented to the Family Court Services Director.

H. Contacting the Assigned Mediator (Tier I) or Child Custody Recommending Counselor (Tier II or III)

1. There will be no ex parte communications with the assigned mediator or CCRC by the parties and/or the attorneys of record.
2. The parties and/or their attorneys may submit further information to the assigned CCRC (Tier II or III) not to exceed thirteen (13) pages in length if it is provided at least three (3) calendar days prior to the regularly scheduled appointment and includes a proof of service showing service on the opposing party and/or attorney. An attorney may submit an "attorney input letter" no longer than one (1) page in length, double-spaced to the assigned CCRC (Tier II or Tier III) as part of the thirteen (13) pages.
3. For emergency or expedited appointments (Tier III), any documentation may be submitted on the day of the appointment if it includes a proof of service showing service on the opposing party and/or attorney at least one (1) calendar day prior to the appointment. The documents shall not exceed thirteen (13) pages in length.
4. If further information is submitted for an information gathering (Tier II) appointment, parties may not resubmit the information to the Tier III CCRC if the professional is the same.

I. Availability of Child Custody Recommending Counselors for Testimony

A party may subpoena or take the deposition of a CCRC that conducted a Tier II or Tier III session after the issuance of their summary report. A party may not subpoena or take the deposition of a mediator that conducted Tier I in the absence of a court order. The hourly rate for testimony will be set by the court-connected (contracted) CCRC and shall be paid at the time the subpoena is served. The court-connected CCRC may also require a deposit for time expended preparing for the testimony. A party seeking to take the deposition of a CCRC must provide them at least thirty (30) calendar days advance notice.

[Effective 7/1/17]