

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

FAMILY RULES

RULE 2 CUSTODY AND VISITATION

A. PARENT ORIENTATION AND INITIATING MEDIATION

(Effective 6/23/2020)

(1) Except as provided in subdivision (a) of this rule, in all motions or requests for order in which custody or visitation is an issue, the moving party must include the order described in subdivision (b) of this rule and must serve a notice form describing Parent Orientation and Mediation that is available through the Calendar Office of the Clerk's Office.

(Effective 6/23/2020)

(a) Due to the Covid-19 pandemic, neither a motion nor a court order referring parties to mediation is required. Instead, mediation may be initiated by a Stipulation to Telephonic Family Court Services. Any Stipulation to Telephonic Family Court Services must be filed with the Clerk's Office with a copy served on Family Court Services. This subdivision (1)(a) will remain in place until further action by the Court.

(Effective 6/23/2020)

(b) "Each party is ordered to complete Parent Orientation immediately by either contacting Family Court Services at (408) 534-5600 or by completing Orientation online at www.scscourt.org/court_divisions/family/orientation/orientation1.shtml. Failure to comply with this order or keep any FCS appointments may result in the imposition of sanctions."

(Effective 6/23/2020)

(c) The Court may also order parents to attend Parent Orientation at any time. Generally, parents are required to attend Parent Orientation only once, but the Court may order parties to take the class more than once.

(Effective 6/23/2020)

(2) Attendance at or participation in online Parent Orientation must occur before mediation, unless the Court orders otherwise. Upon request, parents who must travel a substantial distance or suffer some other hardship may request to attend Parent Orientation and the first mediation appointment on the same day.

(Effective 7/1/2015)

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

FAMILY RULES

- (3) Each parent attending Parent Orientation shall complete and deliver an FCS Intake Form for mediation (Attachment FM-1015 English or Attachment FM-1015 Spanish) to the FCS office within two court days after the Parent Orientation, unless all custody and visitation issues have been settled. Each parent participating in online Parent Orientation satisfies the Orientation requirement on the Intake form.

(Effective 6/23/2020)

B. MEDIATION PROCEDURE

(Effective 6/23/2020)

- (1) Upon receipt of the parties' FCS Intake Form for mediation (Attachment FM-1015 English or Attachment FM-1015 Spanish), FCS shall schedule the first available mediation appointment and both parties shall attend the mediation. If the date assigned by FCS is not acceptable, either party may request one rescheduled date for mediation. If a party does not notify FCS of a request to reschedule at least 48 hours before the mediation appointment, that party will be assessed a fee to FCS.

(Effective 6/23/2020)

- (2) The mediation appointment shall be considered a court date at which the parties shall appear. Failure to attend mediation or late cancellation of mediation appointments may result in sanctions. There are no fees for FCS mediation, provided that there is a pending custody or visitation motion before the Court.

(Effective 1/1/2013)

- (3) The parties may stipulate to private mediation for custody and visitation disputes, at their own expense. The APJ will determine whether the parties must also participate in mediation with FCS.

(Effective 1/1/2007)

- (4) Mediation proceedings shall be private and confidential, and the mediator's notes shall be confidential, unless the parties and the mediator agree otherwise. Absent agreement, the mediator will not be called to testify or to make recommendations to the Court. However, the mediator shall report any allegations of child abuse to the proper authorities.

(Effective 1/1/2011)

- (5) At the mediation, if the parties agree to some or all of the custody and visitation issues, the mediator shall prepare the written agreement and shall mail copies of the document to the parties and attorneys. The parties may object to the mediated agreement by submitting written objections to FCS, along with

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

FAMILY RULES

a proof of service on all attorneys or self-represented parties.

a. Objections: Objections shall be in writing and shall include:

- i.** the specific paragraphs and language to which the party objects;
- ii.** the reasons for the objections; and
- iii.** the proposed modified language.

(Effective 1/1/2011)

If FCS receives no written objections with proof of service within 15 calendar days from the date of the mailing of the mediated agreement, the agreement will be submitted to the Court for review and signature. Family Court will send a copy of the agreement and order, when signed and filed by the Court, with proof of service to the parties and attorneys.

(Effective 1/1/2011)

- (6) Waiver of Objections Time:** In cases without allegations of domestic violence, parties may stipulate to waiving the 15 calendar day period provided for objections and their child custody order will be filed with the court upon completion of the mediation appointment.

(Effective 7/1/2019)