

Rule 905. Mediation

(a) Each judicial circuit shall establish a program to provide mediation for cases involving the custody or allocation of parental responsibilities of a child or relocation of a child or visitation or parenting time issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in child custody, allocation of parental responsibilities, relocation, visitation, and parenting time cases shall address: (i) mandatory training for mediators; (ii) limitation of the mediation program to child custody, allocation of parental responsibilities, relocation, visitation, and parenting time issues; (iii) (unless otherwise provided for in this article) standards to determine which child custody, allocation of parental responsibilities, relocation, visitation, and parenting time issues should be referred to mediation and the time for referral; and (iv) excuse from referral to mediation if the court determines an impediment to mediation exists. The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody, allocation of parental responsibilities, relocation, visitation, and parenting time matters.

(b) Each judicial circuit shall establish a program to provide mediation for dissolution of marriage and paternity cases involving the custody, allocation of parental responsibilities of a child, relocation of a child, visitation or parenting time issues (whether or not the parties have been married). In addition to the minimum requirements set forth in subparagraph (b)(2) of Rule 99, local circuit court rules for mediation in dissolution of marriage and paternity cases shall address: (i) mandatory expertise requirements of a mediator; (ii) mandatory training for mediators; (iii) limitation of the mediation program to child custody, allocation of parental responsibilities, relocation, visitation, and parenting time issues; and (iv) referral of child custody, allocation of parental responsibilities, relocation, visitation, and parenting time issues to mediation, pursuant to Rule 923(a)(3), unless the court determines an impediment to mediation exists. The immunity and approval requirements of subparagraph (b)(1) of Rule 99 shall apply to mediation programs for child custody, allocation of parental responsibilities, relocation, visitation, and parenting time matters. In cases where a litigant can only communicate in a language other than English, the court will make a good-faith effort to provide a mediator, and a *pro bono* attorney where applicable, and/or an interpreter who speaks the language of the litigant who needs English assistance.

(c) Every judicial circuit shall file a quarterly report with the Administrative Office of the Illinois Courts setting out the number of custody, allocation of parental responsibilities, visitation, parenting time, and relocation cases referred to mediation, the number of custody, allocation of parental responsibilities, visitation, parenting time, and relocation cases where mediation was referred but did not proceed, the number of cases referred on a *pro bono* basis, the number of cases where there was a full settlement, the number of cases where there was a partial settlement, and the percentage of cases wherein the parties were satisfied or unsatisfied with the process. Every judicial circuit shall require the completion of a mediation report filled out by a mediator on every custody, allocation of parental responsibilities, visitation, parenting time, and relocation case referred to mediation as well as the parties' evaluation of the mediation on forms prescribed by the Administrative Office of the Illinois Courts. The information contained in the mediator and parties' evaluation reports shall remain confidential and shall only be utilized for administrative and statistical purposes as well as the court's review of the efficacy of the mediation program.

(d) In addition to meeting the requirements of Rule 905(a), (b), and (c), local circuit rules may

also impose other requirements as deemed necessary by the individual circuits.

Adopted February 10, 2006, effective January 1, 2007; amended May 19, 2006, effective January 1, 2007; amended July 1, 2013, eff. Sept. 1, 2013; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(Revised March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Committee believes mediation can be useful in nearly all contested custody or allocation of parental responsibilities proceedings. Mediation can resolve a significant portion of custody and allocation of parental responsibilities disputes and often has a positive impact even when these issues are not resolved. The process of mediation focuses the parties' attention on the needs of the child and helps parties to be realistic in their expectations regarding custody or allocation of parental responsibilities.

Many counties and judicial circuits have had mandatory mediation programs in place in their domestic relations courts for years. Cook County and Du Page County have utilized mandatory mediation programs for more than a decade. To date, these mandatory mediation programs have been implemented by the judicial circuits under the auspices of Rule 99, Mediation Programs.

Rule 905 requires each judicial circuit to establish a mediation program for child custody and allocation of parental responsibilities proceedings. Local circuit court rules will address the specifics of the mediation programs. The Cook County model for mediation programs, which provides county-employed mediators at no cost to the parties, may not be financially or administratively feasible for every circuit. Alternatively, some circuits have required approved mediators to mediate a certain number of reduced fee or *pro bono* cases per year as identified by the court. The individual judicial circuits may implement rules which are particularly appropriate for them, including provisions specifying responsibility for mediation costs.

Paragraph (a) applies to cases involving custody, allocation of parental responsibilities, visitation, or parenting time issues, other than those arising in dissolution of marriage and paternity cases. It requires local circuit court rules to address mandatory training for mediators and limits the mediation program to issues involving child custody, allocation of parental responsibilities, visitation, and parenting time. Paragraph (a) also requires local circuit court rules to set standards to use in determining which child custody, allocation of parental responsibilities, visitation, and parenting time issues should be referred to mediation and also address when the referral will be made.

Paragraph (b) provides for mediation of disputed custody, allocation of parental responsibilities, visitation, parenting time, and relocation issues in dissolution of marriage and paternity cases. The timing and manner of referral to mediation in dissolution of marriage and paternity cases is provided for in Rule 923.

Parties may be excused from referral under both paragraphs (a) and (b) if the court determines an impediment to mediation exists. Such impediments may include family violence, mental or cognitive impairment, alcohol abuse or chemical dependency, or other circumstances which may render mediation inappropriate or would unreasonably interfere with the mediation process.