

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE ADOPTION OF A)
NEW RULE TO BE DESIGNATED AS SDCL)
25-4-58.2)

RULE 97-42

A hearing having been held on February 21, 1997, at Pierre, South Dakota, relating to the adoption of a new rule concerning the conduct of family court mediators, and the Court having considered the proposed new rule, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is

ORDERED that the following new rule, to be designated as SDCL 25-4-58.2, be and it is hereby adopted to read in its entirety as follows:

25-4-58.2. Conduct of Family Court Mediators.

Mediators are expected to conduct themselves by the highest ethical standards. Mediators should conduct themselves and mediations according to the following general principles:

- (1) A mediator should recognize that mediation is based on participation and self-determination by the parties. A mediator shall conduct the mediation process fairly, diligently, impartially and in a manner consistent with assisting the parties in reaching a voluntary, uncoerced agreement on the issues outstanding between them.
- (2) A mediator shall fully disclose to all parties involved in the mediation any actual or potential conflicts of interest. A mediator shall not accept or shall withdraw from any mediation in which the mediator has reason to believe he or she cannot conduct the mediation in an impartial manner. After full disclosure of an actual or potential conflict of interest to the parties, the mediator shall withdraw from the mediation if requested by any party to do so.

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- (3) A mediator should maintain confidentiality at all times except as provided by law or court order. A mediator may otherwise disclose information regarding the mediation only with the expressed consent of the parties.
- (4) A mediator shall fully disclose to the parties and explain the basis of compensation, fees, and other charges to the parties. This disclosure should occur at the first meeting of the mediator and the parties.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 1997.


DATED at Pierre, South Dakota, this 17th day of March, 1997.

BY THE COURT:



Robert A. Miller, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 17 1997



Clerk