

ORANGE COUNTY JUVENILE COURT

TITLE: Protocol re Dependency Mandatory Settlement Conferences

A. Intent:

1. It is the intent of this protocol to implement a practice of mandatory settlement conferences in the Orange County Juvenile Court, to enhance the informal non-adversarial disposition of matters in accordance with Welfare and Institutions Code §350.
2. Notwithstanding the use of the term “mandatory settlement conference” (MSC), it is the intent of this protocol to implement the general concept and spirit of Rule 5.518, California Rules of Court, regarding dependency mediation. However, inasmuch as this protocol differs from the processes described in Rule 5.518, where the Rule and this protocol are in direct conflict, this protocol shall control.

B. Definitions:

1. “Assigned judicial officer” is the judicial officer to whom a dependency case is assigned for all purposes.
2. “Scheduling attorney” is the attorney designated by counsel of record to coordinate the setting of the settlement conference.
3. “Settlement officer” is the judicial officer selected by the parties or ordered by the assigned judicial officer to preside over the mandatory settlement conference.

C. Ordering a Mandatory Settlement Conference:

1. At any time during the pendency of a dependency case, the assigned judge may order that the parties participate in a mandatory settlement conference, to resolve any disputed issue or hearing.
 - a) The Court order that the parties shall participate in a settlement conference shall state a future date by which the MSC is to be completed, and the Court should continue the hearing at which the MSC was ordered to the future MSC completion date in the assigned courtroom.

2. The parties shall be afforded the opportunity to meet and confer and agree upon a judicial officer to preside over the settlement conference. If the parties cannot agree upon a judicial officer to preside over the settlement conference, the assigned judge shall select a judicial officer for that purpose.
 - a) In the event that it is subsequently determined that the agreed upon judicial officer is not available, the parties shall be given the opportunity to agree upon a different judicial officer.
3. The following persons are required to be personally present at the settlement conference, if they have appeared:
 - a) The assigned social worker;
 - b) The mother;
 - c) The presumed father[s];
 - d) The legal guardian[s];
 - e) The minor's guardian ad litem.
4. The assigned judicial officer may order the following persons to be personally present at the settlement conference:
 - a) The supervisor for the assigned social worker;
 - b) The minor;
 - c) The minor's CASA;
 - d) The biological father;
 - e) The alleged father[s];
 - f) The de facto parents;
 - g) Any other person whose presence the Court believes will assist in the resolution of the issues.
5. The assigned judicial officer or the settlement officer may authorize the appearance of any person ordered to be present to be present or immediately available by telephone. Counsel for any party may not waive the personal appearance of a party ordered to be personally present, without authorization from the Court.
6. The Court may order a report prepared by the Social Service Agency for the settlement conference.

D. Setting the Mandatory Settlement Conference:

1. Each dependency judicial officer, serving as a settlement officer, shall determine how frequently each month he or she wishes to schedule, and the manner of scheduling, settlement conferences. (For instance, one judicial officer may choose to designate specific days of the month for MSCs, whereas another may elect to select dates on an ad hoc basis when asked to preside over a settlement conference.)

2. Counsel for the parties shall select one attorney to coordinate the setting of the settlement conference (the "scheduling attorney"). Only the scheduling attorney may contact the clerk for the selected settlement officer for the purpose of selecting a date for the conference.
 - a) Once a settlement conference date is selected, the clerk for the settlement officer shall provide written notice of the conference date to all counsel of record.
 - b) County Counsel shall be responsible for notifying the assigned social worker (and supervisor for the assigned social worker if ordered to be present) of the MSC date and the order to be present.
 - c) Minor's counsel shall be responsible for notifying the minor's CASA of the MSC and any order to be present.
3. In the event that the dates available from the settlement officer exceed the completion date set by the assigned judicial officer, an extension of the completion date may be granted only by the assigned judicial officer.

E. Conduct of the settlement conference:

1. Consistent with Canon 3(B), California Code of Judicial Ethics, the settlement officer shall require order, decorum, courtesy and respect from all participants in the settlement conference by articulating to all participants the settlement officer's expectations regarding their conduct.
2. The settlement officer shall have no decision-making power with respect to the matter heard for settlement conference, either at the time of or after the conference. Specifically, the settlement officer shall not preside over any subsequent contested evidentiary hearing regarding the case.
3. The settlement officer shall protect the confidentiality of the parties, and shall not reveal any information, recommendations or opinions regarding the matter to any other person or judicial officer, except as required by statute.
4. The settlement conference should include the direct and active participation of all of the conference participants, including but not limited to, the child, the parents or legal guardian, the social worker, the CASA, and their respective attorneys of record.
 - a) "Direct and active participation" should include affording all participants an opportunity to be heard regarding the issues involved in the settlement conference.

5. The settlement officer may, unless objected to by counsel for the party, engage in direct discussions with the conference participants.
6. The settlement officer may seek the consent of the parties to conduct ex parte discussions with individual parties and their counsel as a way toward facilitating a resolution.
7. A settlement conference participant who has been the victim of violence allegedly perpetrated by another conference participant shall have the right to be accompanied by a support person. Unless expressly invited by the settlement officer, the support person may not actively participate in the conference, except to be present as a source of emotional support for the alleged victim.


F. Voluntary Settlement Conferences:

1. At any time during the pendency of a dependency case, counsel for the parties may stipulate to participate in a voluntary settlement conference to resolve any disputed issue or hearing.
2. The stipulation by all counsel to participate in a voluntary settlement conference shall constitute good cause for the continuance of a contested hearing for a reasonable period of time.
3. In the event of a stipulation by all counsel to participate in a voluntary settlement conference, the conference shall be scheduled and conducted pursuant to this protocol for mandatory settlement conferences.
4. The assigned judicial officer may issue any order, including for the attendance of any person, necessary for conducting a meaningful settlement conference.

The Court hereby adopts this protocol:



Hon. Douglas J. Hatchimonji



Date