



I.R.C.P. 37.1. Mediation of Civil Lawsuits

Idaho Rules of Civil Procedure Rule 37.1. Mediation of Civil Cases.

(a) Definitions of Mediation. Mediation under this Rule is the process by which a neutral mediator assists the parties in reaching a mutually acceptable agreement. The role of the mediator is to help the parties identify the issues, reduce misunderstandings, clarify priorities, explore areas of compromise, and find points of agreement. An agreement of the parties must be based on the decisions of the parties, not the decisions of the mediator.

(b) Matters Subject to Mediation. All civil cases may be referred to mediation.

(c) Authority of the Courts. Referral of a case to mediation does not limit the court's authority to manage and control the case during the mediation.

(d) Referral to Mediation. A court may, in its discretion, order a case into mediation, as follows:

(1) on motion by a party;

(2) at a Rule 16 conference;

(3) on consideration of request for trial setting made under Rule 16(b), if all parties agree; or

(4) at any other time the court determines mediation is appropriate and provides the parties 7 days' notice.

(e) Selection of the Mediator. The parties must select a mediator within 28 days of the entry of the mediation order, unless the court orders otherwise. If the parties do not timely select a mediator and report their selection to the court, the court will appoint a mediator from the judicial district's list of mediators.



(f) Scheduling of First Mediation Session. Unless the court orders otherwise, the first mediation session must take place within 42 days of:

(1) the parties reporting to the court their selection of a mediator; or

(2) the appointment of the mediator.

(g) Reports. The mediator or the parties must advise the court within 7 days of the last mediation session as to whether the case has been settled, in whole or in part. The parties must be copied on the communication to the court.

(h) Compensation of Mediators. Mediators must be compensated at their regular fees and expenses, which must be clearly stated in the information and materials provided to the parties. The parties are responsible for a prorata share of the mediator's fees and expenses, unless other arrangements are made by the parties or ordered by the court. If a mediator is not paid, the court may order payment on motion of the mediator.

(i) Impartiality. The mediator has a duty to be impartial. This includes a continuing duty to advise all parties of any circumstances bearing on possible bias, prejudice, or partiality.

(j) Attendance at Mediation.

(1) In General. Mediation must be attended by:

A. The attorneys primarily responsible for trying the case; and

B. all parties, or insurers, if applicable, with authority to settle.

(2) When attendance is excused.

A. Where excused by the court.



B. At the request of the parties who are in agreement, can show good cause, and are excused by the court.

C. At the request of the mediator who can show good cause and is excused by the court.

(k) Confidentiality. The mediator must follow the confidentiality rules agreed to by the parties. The confidentiality protections of Rules 408 and 507 of the Idaho Rules of Evidence apply to mediations.

(l) Sanctions. If a mediator fails to fulfill their responsibilities in this Rule they may be sanctioned, including removal from the roster of mediators.

([Adopted March 1, 2016, effective July 1, 2016](#) [1]; [amended September 9, 2016, effective September 9, 2016](#) [2]; [amended June 24, 2021, effective July 1, 2021](#); [amended March 28, 2025, effective March 28, 2025](#) [3].)

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Links

[1] <https://isc.idaho.gov/./rules/IRCP/03012016-Adoption-Newly-Formatted.pdf>

[2] <https://isc.idaho.gov/./rules/IRCP/09092016-Amendments.pdf>

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