

## Chapter 9 – MEDIATION

### **Rule 9.01 – Mediation**

#### **A. Ohio Uniform Mediation Act**

The Carroll County Common Pleas incorporates by reference the R.C. 2710 “Uniform Mediation Act” (UMA).

#### **B. Cases Eligible for Mediation**

The Carroll County Common Pleas Court has discretion to encourage parties to use mediation in any civil action filed in this court. A case may be submitted to mediation as provided in this rule. The Court may issue an order on its own motion, upon the motion of counsel, upon the request of a party, or upon referral by the Mediator.

(a) Exceptions. Mediation is prohibited in the following:

- (I) As an alternative to the prosecution or adjudication of domestic violence;
- (ii) In determining whether to grant, modify, or terminate a protection order;
- (iii) In determining the terms and conditions of a protection order;
- (iv) In determining the penalty for violation of a protection order.

(b) Nothing in this division shall prohibit the use of mediation in a subsequent divorce or custody case, even though that case may result in the termination of the provisions of a protection order; or in a juvenile court delinquency case, even though the case involves juvenile-perpetrated domestic violence.

#### **C. Confidentiality**

All mediation communications related to or made during the mediation process are subject to and governed by the Uniform Mediation Act. Mediation communications are confidential, and no one shall disclose any of these communications unless all parties and the mediator consent to disclosure. This Court may impose penalties for any improper disclosures made in violation of this rule. Disputes regarding confidentiality should first be addressed with the mediator or mediation department where possible. By participating in mediation, a nonparty participant, as defined by R.C. 2710.01(D), submits to the Court’s jurisdiction to the extent necessary for enforcement of this rule. Any nonparty participant shall have the rights and duties under this Rule as are attributed to parties, except that no evidence privilege shall be expanded.

(a) Exceptions. All mediation communications are confidential with the following exceptions:

- (I) Parties may share all mediation communications with their attorneys;
- (ii) Certain threats of abuse or neglect of a child or an adult;

- (iii) Statements made during the mediation process to plan or hide an ongoing crime;
- (iv) Statements made during the mediation process that reveal a felony.

#### **D. Referral to Resources**

The Court will maintain information for the public, mediators, and other staff as appropriate. The information will include: 1) attorney referral contact information, 2) information regarding Children Services and 3) resource information for local domestic violence prevention, counseling, substance abuse and mental health services

#### **E. Mediator Training and Education**

A mediator shall meet the qualifications of and comply with all training requirements of Superintendent Rule 16.23 and adopted pursuant to Superintendent Rule 16.22 governing mediators and mediation.

#### **F. Procedures**

In accordance with all applicable provisions of this Rule, if a case is deemed appropriate by the court for mediation, mediation may be scheduled.

#### **G. Party/Nonparty Participation**

If counsel of any party to the mediation become aware of the identity of a person or entity whose consent is required to resolve the dispute, but has not yet been joined as a party in the pleadings, they shall promptly inform the mediator as well as the Court.

#### **H. Termination**

If the assigned mediator determines that further mediation efforts would be of no benefit to the parties, they shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

#### **I. Stay of Proceedings**

Upon referral of a case to mediation, the court may elect to stay all filing deadlines for up to 60 days. The Clerk of Courts shall not accept any documents for filing while a case is in mediation, unless expressly permitted by these Rules or by Court Order.

Only the following documents may be filed while a mediation stay is in effect:

1. Motion to lift the mediation stay;
2. Response to a motion to lift mediation stay;
3. Motion or Stipulation to Dismiss the case;
4. Notice related to counsel

**J. Continuances**

It is the policy of this court to determine matters in a timely way. Continuances of scheduled mediations shall be granted only for good cause shown after a mutually acceptable future date has been determined.

**K. Fees and Costs**

The court may impose upon the party's fees and costs for mediation. If there is a fee for mediation, unless otherwise agreed by the parties, the mediation fees shall be shared equally.

**L. Attendance; Sanctions**

If any individual ordered by the court to attend mediation fails to attend mediation without good cause, the court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the Court.