

## Rule 32~~+~~, Mediation

(A) This Rule incorporates by reference R.C. Chapter 2710, commonly known as the Uniform Mediation Act, ("UMA"), R.C. 3109.052 and Sup.R.16.

(B) ~~Referrals to Mediation.~~(A) ~~When Ordered.~~

(1) The Court court may order both parties to participate in mediation on its own initiative, motion of counsel or a self-represented party at any time after service in any action for divorce, legal separation, annulment, family case, or after service of a post decree motion to modify allocation of parental rights or parenting time or on any other issue the court deems necessary. ~~—upon its own motion or upon motion of either or both parties, may order both parties to participate in mediation at any time after service of summons in any action for divorce, legal separation or annulment, in which the allocation of parental rights and responsibilities and/or parenting time of the child(ren) is at issue, or at any time after the filing of a post decree motion to modify the allocation of parental rights and responsibilities and/or parenting time of the minor child(ren), This issue shall be addressed on the first occasion the case is considered by the Judge or Magistrate. Parties who have agreed to use the services of an outside mediator shall prepare and submit an order designating the mediator and allocating the responsibility for payment of the selected individual. In the absence of such an order, an order for mediation shall refer the parties to the Court's Mediation Services.~~

(2) If the parties have no parenting time agreement at the first pretrial, the matter may be referred to mediation.

(3) A party may request mediation in parenting matters without an active post-decree motion.

~~(B C) Scope Exceptions. Only issues regarding the allocation of parental rights and responsibilities and parenting time of the minor child(ren) may be mediated under this local rule. No financial matter, including support, shall be the subject of mediation. Further,~~

~~(1) The Court shall not permit the use of mediation in any of the following situations:~~

- ~~(1) a.~~ As an alternative to the prosecution or adjudication of domestic violence;
- ~~(2) b.~~ In determining whether to grant, modify, or terminate a civil protection order;
- ~~(3) c.~~ In determining the terms and conditions of a civil protection order; and
- ~~(4) d.~~ In determining the penalty for violation of a civil protection order.

(2) This rule does not prohibit the use of mediation in a divorce or allocation of parental rights case subsequent to the issuance of a civil protection order.

~~(D C) Procedure. If it is determined that mediation is appropriate, the Court shall ensure that both parties are permitted to participate in the mediation process with a mediator who meets the qualifications set forth in this rule. Existing Court orders are not stayed or suspended during the mediation process. Mediation shall commence within fourteen (14) days of the date of the order referring the parties to mediation.~~

~~The parties shall be advised that either can withdraw from the mediation process at any time without fear that terminating the process will adversely affect his or her standing before the Court. Within 45 days of the date of the order referring the parties to mediation or upon the termination of mediation, whichever occurs first, the mediator shall file a mediation report. Any agreement reached during~~

~~mediation shall not be binding upon the parties until approved by the Court, who shall consider the best interests of the child(ren) when allocating parental rights and responsibilities and establishing a parenting time schedule.~~

~~—(1) All parties referred to mediation shall be screened for suitability and capacity to mediate.~~

~~\_\_\_\_ (2) Upon successful screening, the court shall order the parties to participate in the mediation process.~~

~~\_\_\_\_ (3) Mediation shall commence within 30 days of the order for mediation.~~

~~\_\_\_\_ (4) Mediation may be in person or conducted through an electronic forum.~~

~~\_\_\_\_ (5) The parties shall be advised that either may withdraw from the mediation process at any time without any adverse effect upon the party's standing before the court.~~

~~\_\_\_\_ (6) The mediator shall have the right not to conduct the mediation session or to terminate a mediation session.~~

~~\_\_\_\_ (7) All court orders shall remain in effect during the mediation process.~~

~~\_\_\_\_ (8) All agreements reached during mediation shall not be binding upon the parties until adopted by the court.~~

~~\_\_\_\_ (9) The mediation does not provide legal advice.~~

~~(ED) Privilege/Confidentiality. Qualifications. Mediators shall meet the qualifications in Rule 16 of the Ohio Rules of Superintendence.~~

~~\_\_\_\_ (1) All communications related to the mediation or made during the mediation process shall be governed by the privileges as set forth in the UMA, R.C. 3109.052, Sup.R.16, and the Ohio Rules of Evidence.~~

~~\_\_\_\_ (2) Statements made during the course of the mediation screening, mediation sessions and the notes of the mediator or individual(s) conducting the screening shall not be discoverable or admissible as evidence in any proceeding in this court.~~

~~\_\_\_\_ (3) This rule does not require the exclusion of any evidence that is otherwise discoverable merely because it is disclosed in the course of a screening or during mediation. This rule shall not preclude the mediator from testifying as to a crime committed in the presence of the mediator or from complying with any law requiring the reporting of child abuse or any other mandatory reporting statute.~~

~~(FE) Attendance. Confidentiality. Neither the statements made during the course of the mediation screening nor mediation sessions nor the notes of either the mediator or individual conducting the screening shall be discoverable or admissible as evidence in any subsequent proceeding in this Court. This rule does not require the exclusion of any evidence that is otherwise discoverable, merely because it is disclosed in the course of an assessment or during mediation. Further, this rule shall not preclude the mediator from testifying as to a crime committed in his or her presence or from complying with any law requiring the reporting of child abuse.~~

~~\_\_\_\_ The court may require a party's attorney or a guardian ad litem to attend the mediation if the court determines it is appropriate and necessary for the process and consistent with the UMA. Parties, attorneys and guardians ad litem who fail to appear for a court ordered mediation may be charged an additional fee for failing to appear without good cause.~~

(G) Continuances.

Mediations may be continued by the parties for good cause shown and only after a new date has been agreed upon. Mediations may also be continued by the mediator, the judge or magistrate who referred the case.

(H) Mediation Outcome Report.

The mediator shall file a mediation outcome report or an extension of time to mediate within 60 days of the date of the order for mediation or upon the terminate of the mediation, whichever occurs first. The mediation outcome report shall inform the court who attended mediation and whether a settlement was reached. No other information shall be communicated by the mediator to the court unless all who hold a mediation privilege as to the confidentiality of the mediation including the mediator, have consented in writing to such a disclosure with the exception of the items listed in the UMA.

(I) Resources.

The mediator is authorized to provide referrals for legal or other community support services. The parties are advised to evaluate those resources independently. The referrals provided to the parties are not a recommendation by the court or the mediator.

(J) Private Mediation.

Parties using the services of a private mediator shall identify the private mediator to the court in writing. Parties shall also notify the court of the termination of private mediation and its outcome. Private mediation is subject to the time guidelines as set forth in this rule unless an extension has been requested and approved by the court.

(K) Qualifications.

Mediators shall meet the qualifications as set forth in Sup.R.16.