

Franklin County Court of Common Pleas, Domestic Relations/Juvenile Division
Process to address complaints about mediators

Preliminary Considerations

- The Uniform Mediation Act (UMA), O.R.C. 2710 et seq. applies to mediations referred by courts to staff, private or contract mediators. The UMA provides that mediation communications are privileged pursuant to O.R.C. 2710.03 subject to the exceptions to privilege listed in O.R.C. 2710.05 or a waiver of privilege pursuant to O.R.C. 2710.04.
- There is an exception to privilege in O.R.C. 2710.05 that provides that a mediation communication is not privileged if it “is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator.” Thus, the complainant can discuss mediation communications and the mediator can respond to the allegations without triggering the mediation communications privilege.
- A mediator is prohibited by O.R.C. 2710.06 (A) from making “a report, assessment, evaluation, recommendation, finding or other communication regarding mediation to a court, department, agency or officer of this state or its political subdivisions that may make a ruling on the dispute that is the subject of the mediation.” While there is an exception in O.R.C. 2710.06(B) for the exceptions to privilege listed in O.R.C. 2710.05, it would be better to have the person who receives and initially reviews complaints be someone other than the assigned judge and magistrate on the case.

Process for Franklin County DRJ to Address Complaints about Mediators

- The Director of Court Services serves as the complaint reviewer and will receive and conduct the initial review of complaints against mediators.
- All complaints shall be submitted in writing utilizing the Mediator Complaint Form.
- The complaint reviewer will forward the written complaint to the mediator and give the mediator thirty (30) days to provide a written response to the complaint.

Process for Franklin County DRJ to Address Complaints about Mediators continued:

- After receiving the response from the mediator or the expiration of the time provided to the mediator to respond, the complaint reviewer does an initial review of the complaint and the mediator's response to evaluate if there appear to be any violations of Sup.R. 16, the Uniform Mediation Act, the court's mediation local rule, the Model Standards of Conduct for Mediators and/or the Model Standards of Practice for Family and Divorce Mediation (for family and divorce cases.)
- If the complaint reviewer determines that there do not appear to be any violations of the provisions listed above, the complaint reviewer will notify the complainant and the mediator in writing of the determination that no violations were found. This will be done in writing within sixty (60) days.
- If the complaint reviewer finds a possible violation of the provisions listed above, the complaint reviewer shall do the following:
 - If the mediator is a staff mediator, the complaint and mediator's response shall be forwarded to the mediator's direct supervisor and the person responsible for overseeing the mediation program or other person designated to make a determination about the complaint.
 - If the mediator is a contract or private mediator, the complaint and mediator's response shall be forwarded to the person responsible for overseeing the mediation program or other person designated to make a determination about the complaint.
- If the person designated to make a determination about the complaint finds that the mediator has violated a mediation duty, they will determine the outcome for the mediator such as whether the mediator should participate in additional training or oversight or should be removed from the list of approved mediators.
- The complainant and the mediator shall be notified of the final decision on the complaint in writing, within sixty (60) days.
- This process shall not address any claims for financial compensation or financial sanctions against the mediator beyond a possible recommendation that the mediator return mediation fees or deposits received from the parties in the case at issue.