

**Rule 21
Probate Mediation**

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Section 21.1 Referral to mediation

(a) On motion of a party or on the court’s own motion, the court may refer a contested matter to a member of the mediation panel established by the probate court administrator if the parties file an agreement to mediate with the court under which the parties:

- (1) agree to participate in mediation;
- (2) summarize the issues that will be the subject of mediation; and
- (3) agree to the allocation of mediation fees under C.G.S. section 45a-106a (e) or section 45a-107 (k).

(b) The parties may designate a mediator from the panel to conduct the mediation. The court shall refer the matter to the designated mediator or, if the parties have not designated a mediator from the panel, to a panel member selected by the court.

(Probate Court Regulations, section 22.)

Section 21.2 Notice; time and location of mediation session

(a) The court shall give notice of a mediation session to each party and attorney of record. The notice shall instruct the parties to be available for a minimum of eight hours from the starting time of the mediation session.

(b) A mediation session may be held at the court or at any other location in the state.

Section 21.3 Conduct of mediation session

(a) The mediator shall facilitate voluntary resolution of the contested matter. While conducting mediation, the mediator may meet with:

- (1) all parties and attorneys;

(2) a party or group of parties and, if represented, the attorney for each party; or

- (3) one or more attorneys.

(b) The mediator may schedule an additional mediation session upon concluding that further mediation will facilitate settlement. The court shall give notice of an additional mediation session in accordance with section 21.2 (a).

Section 21.4 Termination and withdrawal

(a) The mediator may terminate the mediation at any time upon concluding that further efforts to mediate the dispute would be futile.

(b) A party may withdraw from mediation at any time upon giving written notice to the mediator, the court and each party and attorney of record. The mediation terminates when a party gives notice of withdrawal.

Section 21.5 Mediator to inform court whether settlement achieved

At the conclusion of the mediation, the mediator shall inform the court, in writing, whether a settlement was achieved. If the mediation results in resolution of the matter, the mediator shall, unless otherwise agreed by the parties, attach a copy of any settlement agreement. The court shall send a copy of the mediator’s communication to each party and attorney of record.

Section 21.6 Ex parte communications

Except as provided in section 21.5, the judge who refers a matter for mediation and the mediator who conducts the mediation shall refrain from ex parte communications in all but administrative issues with respect to the matter that is the subject of the mediation.

Section 21.7 Confidentiality

(a) Mediation sessions are closed to the public, provided that the mediator may permit members of the public to observe sessions if all parties consent.

(b) Except as provided in subsections (c) and (d), records relating to the mediation are confidential and are not open to inspection by the parties, their attorneys or the public.

(c) The following records are open to inspection by the parties, their attorneys and the public:

(1) the motion for referral to mediation under section 21.1;

(2) the agreement to mediate under section 21.1;

(3) an order of notice issued by the court;

(4) the mediator's communication under section 21.5; and

(5) any settlement agreement filed with the court.

(d) If a party submits a document to the mediator, the mediator may disclose the document to other participants in the mediation only if the party consents to disclosure.

Section 21.8 Private mediation

Nothing in this rule shall be construed to preclude parties from engaging a private mediator without a referral under section 21.1. This rule does not apply to private mediation.

History: Rule 21 adopted effective July 1, 2017.

Rules 22 through 29 are reserved for future use.