

**State of Connecticut  
Office of the Probate Court Administrator**

# **Probate Court Regulations**

## **Section 22 Mediation Panel**

### **22.1 Panel**

Within available funds, the administrator shall establish a panel of probate judges and retired probate judges who are qualified to mediate contested probate cases.

### **22.2 Referral to Mediation**

(a) On motion of a party or on the court's own motion, the court may refer any contested probate matter to a member of the mediation panel for mediation if:

(1) the parties submit a mediation memorandum under which the parties:

- (A) agree to participate in mediation;
- (B) summarize the issues that will be the subject of mediation;
- (C) select a mediator from the panel; and
- (D) agree to an allocation of the mediation fees under C.G.S. section 45a-107 (j) or section 450 (e) of Public Act 15-5 (June 2015 Special Session) among themselves; and

(2) the mediator accepts the referral.

(b) If the court has granted a party's fee waiver petition under C.G.S. section 45a-111 (c), the court shall waive that portion of mediation fees that are reasonably allocated to the party under regulation section 22.2 (a) (1) (D).

### **22.3 Mediation Process**

(a) Immediately upon receipt of a mediation referral under regulation section 22.2, the mediator shall set a time and place for a mediation session. The mediation may be held at the court or at any other mutually convenient location within the state. The court shall give notice of the mediation session by regular mail to each party and attorney of record and to such other persons as the court determines. The notice shall instruct the parties to be available for a minimum of eight hours from the starting time of the mediation.

(b) The mediator shall facilitate a voluntary resolution of the issues involved in the contested matter. While conducting the mediation, the mediator may speak to all parties and attorneys as a group, meet separately with one or more individual parties and their attorneys or meet separately with one or more attorneys, provided that all parties and attorneys are made aware of any separate discussions.

(c) The mediator may schedule additional mediation sessions upon concluding that further mediation will facilitate settlement and may terminate mediation at any time upon concluding that further efforts to mediate the dispute would be futile. The court shall give notice of additional mediation sessions in the same manner as provided in regulation section 22.3 (a). A party may withdraw from mediation at any time during the process after giving notice to the mediator, the court and each party and attorney of record. A party's notice of withdrawal shall serve to terminate the mediation.

(d) During the mediation process, the court shall adhere to all statutorily-mandated deadlines unless the court extends any such deadlines in accordance with law.

(e) At the conclusion of the mediation, the mediator shall submit a written report to inform the court whether a settlement was achieved. If the mediation

resulted in resolution, the mediator shall attach a copy of any settlement agreement executed by the parties or briefly summarize the terms of the settlement. The court shall send a copy of the mediator's report to all parties and attorneys of record.

#### **22.4 Ex Parte Communications**

Except as provided in regulation section 22.3 (e), the judge who refers a matter to mediation and the mediator who conducts the mediation shall refrain from ex parte communications in all but administrative matters with respect to the case that is the subject of mediation.

#### **22.5 Confidentiality**

(a) Mediation sessions and other meetings among the mediator and the parties related to the mediation shall be closed to the public, provided that the mediator may permit members of the public to observe sessions and meetings if all parties consent.

(b) All records relating to the mediation, including, but not limited to, all correspondence, exhibits, memoranda, statements and briefs, shall be confidential and shall not be open to public inspection, except that:

(1) the records shall be available to parties and attorneys of record;  
and

(2) the following records shall be open to the public:

- (A) orders of notice and notices given by the court to inform parties of the time and place of mediation sessions and other meetings relating to the mediation;
- (B) mediation memoranda under regulation section 22.2 (a);
- (C) mediator reports under regulation section 22.3 (e); and
- (D) written settlement agreements submitted to the court.

(c) Except as otherwise provided by law or directed by the court, notes taken by the mediator in connection with a mediation shall be confidential and shall not be open to inspection by the judge, court employees, parties, attorneys or the public.

## **22.6 Compensation of Mediator**

(a) No member of the mediation panel who is currently serving as a probate judge shall receive compensation for conducting mediation under regulation section 22.

(b) A member of the mediation panel who is a retired probate judge may receive compensation for conducting mediation under regulation section 22 at the rate of \$50.00 per hour, not to exceed \$250.00 per day. The number of hours for which compensation is paid shall be included in the calculation of the maximum amount that a judge who is receiving pension benefits from the Probate Judges and Employees Retirement Fund may work in any year under C.G.S section 45a-42.

(c) A panel member who has conducted mediation under regulation section 22 shall submit an invoice to the administrator no later than six (6) months after the date of any service as a mediator. The administrator shall not pay the portion of any invoice that covers services rendered more than six (6) months before submission of the invoice to the court.

(d) Compensation under regulation section 22.6 shall be paid from the administration fund and is subject to availability of funds as budgeted and approved by the administrator each fiscal year.

## **22.7 Continuing Education**

Within available funds, the administrator shall arrange continuing

education programs on mediation for members of the panel and may reimburse members for registration fees to attend approved programs on mediation sponsored by other organizations.

**Section 22 was amended January 25, 2016** (*Approved by the Executive Committee October 14, 2015; Approved by the Judiciary Committee January 25, 2016*)