

UNIFORM MEDIATION ACT – A Summary

1. TITLE. This [Act] may be cited as the Uniform Mediation Act.
2. DEFINITIONS: [see Act]
3. SCOPE.
What's covered: court-ordered; parties sign an agreement; engage a professional mediator
What's not: collective bargaining agreements, school-based peer mediation, judicial settlement conferences
4. PRIVILEGE AGAINST DISCLOSURE; ADMISSIBILITY; DISCOVERY
Privilege exists against disclosure in judicial/administrative proceedings or in discovery
Privilege can be asserted by:
 - Parties: with regard to everything
 - Mediator: with regard to the mediator's communications
 - Non-party participants: with regard to the non-party's communicationsPrivilege applies only to communications in mediation – not otherwise discoverable facts
5. WAIVER AND PRECLUSION OF PRIVILEGE
Privilege can be waived, either explicitly or by disclosing a mediation communication that prejudices someone else who was in the mediation
Privilege doesn't exist if the mediation was used for the purpose of committing a crime
6. EXCEPTIONS TO PRIVILEGE
There is no privilege for a mediation communication that is:
 - settlement agreement
 - public mediation
 - a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
 - a plan to commit or conceal a crime
 - offered to assert or defend professional misconduct claim
 - needed with regard to allegations of child abuse or neglect
 - found by a court to be needed in connection with criminal proceedings or mediation contract proceedingsIf exception applies, it applies only to those portions of the mediation where disclosure is needed
7. PROHIBITED MEDIATOR REPORTS
Mediators are not allowed to report to the court except
 - whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;
 - mediation communication that falls within the exceptions
 - to protective agencies
8. CONFIDENTIALITY
Mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this State.
9. MEDIATOR'S DISCLOSURE OF CONFLICTS OF INTEREST; BACKGROUND
 - Mediators must disclose conflicts and make reasonable inquiry
 - Mediators must supplement their disclosures
 - If asked, mediators must disclose their qualifications
 - Mediators lose their privilege if they don't comply with this provision
 - Mediators must be impartial unless the parties agree otherwise
10. PARTICIPATION IN MEDIATION
Attorneys and other advocates can participate in mediations
11. INTERNATIONAL COMMERCIAL MEDIATION
In international mediations, parties can choose to use this Act or the UN (UNCITRAL) rules.
12. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT
This Act is consistent with both federal law and the uniform statute governing the use of electronic signatures and communications.
13. UNIFORMITY OF APPLICATION AND CONSTRUCTION
Courts should interpret this Act in a manner that promotes uniformity of application in the states that adopt it.
14. SEVERABILITY CLAUSE
If a court finds that one part of this Act to be invalid, the rest of the Act is still valid and enforceable.
15. EFFECTIVE DATE
This [Act] takes effect on _____.
16. REPEALS
This Act repeals the following laws . . .
17. APPLICATION TO EXISTING AGREEMENTS OR REFERRALS
This Act applies to mediations begun after the effective date of the Act; after _____ [specify a date] the Act applies to all agreements to mediate.