

# Consideration of the Model Standards of Conduct and Rule 16 in Guiding Our Practice

Teresa Cusma, Advanced Mediation Practitioner, Coleman Professional Services

Tammy Martin, Mediator and Program Coordinator, Ashtabula County Court of  
Common Pleas

Jim Petas, Senior Mediator and Director of Mediation Services, Toledo Municipal  
Court

Marty Riewaldt, Mediator and Trainer, Ducey and Riewaldt

THE SUPREME COURT *of* OHIO **2020**  
Dispute Resolution  
Conference

# The Model Standards of Conduct for Mediators

- Prepared in 1994 by the American Arbitration Association, the American Bar Association's Section of Dispute Resolution, and the Association for Conflict Resolution.
- A joint committee consisting of representatives from the same successor organizations revised the Model Standards in 2005.
- The organizations approved the Model Standards in 2005

# The Standards

- I. Self Determination
- II. Impartiality
- III. Conflict of Interest
- IV. Competence
- V. Confidentiality
- VI. Quality of the Process
- VII. Advertising and Solicitation
- VIII. Fees and Other Charges
- IX. Advancement of Mediation Practice

# I. Self Determination

- The act of coming to a voluntary un-coerced decision in which each party makes free and informed choices as to process and outcome.
- Participants may exercise self-determination at any stage of a mediation including mediator selection, process design, participation or withdrawal from the process and outcomes.

## II. Impartiality

- The concept of mediator impartiality is central to the mediation process. A mediator shall mediate only those matters where they are free from bias, favoritism or prejudice. If at any time the mediator is unable to conduct the process in an impartial manner, the mediator is obligated to withdraw.

### III. Conflict of Interest

- A mediator shall avoid a conflict of interest or the appearance of a conflict of interest during the entire mediation communication. A mediator shall disclose all actual and potential conflicts of interest reasonably known to the mediator.

## IV. Competency

- A mediator shall mediate only when the mediator has the necessary qualifications to satisfy the reasonable expectations of the parties.

## V. Confidentiality

- A mediator shall maintain the confidentiality of all information obtained by the mediator in mediation, unless otherwise agreed to by the participants or required by applicable law.



<https://images.app.goo.gl/K1DmX37a4Tj2w7x2A>

## VI. Quality of the Process

- A mediator shall conduct the mediation fairly, diligently, and in a manner consistent with these Standards and in a manner that promotes diligence, timeliness, safety, presence of the appropriate participants, party participation, procedural fairness, party competency, and mutual respect among all participants

## VII. Advertising and Solicitation

- A mediator shall be truthful and not misleading when advertising, soliciting or otherwise communicating the mediator's qualifications, experience, services and fees.
- A mediator shall not solicit in a manner that gives an appearance of partiality for or against a party or otherwise undermines the integrity of the process.
- A mediator shall not communicate to others, in promotional materials the names of persons served without their permission.

## VIII. Fees and Other Charges

- A mediator shall provide each party true and complete information about mediation fees, expenses and any other actual or potential charges that may be incurred and not charge fees in a manner that impairs impartiality.



<https://images.app.goo.gl/uTuGUTQKLxhM82N79>

## IX. ADVANCEMENT OF MEDIATION PRACTICE

- A mediator should act in a manner that advances the practice of mediation.
- A mediator promotes this Standard by engaging in some or all of the following: Fostering diversity within and accessibility to the field of mediation. Participating in research, outreach, feedback and education efforts when appropriate.
- Assisting newer mediators through training, mentoring and networking.
- Demonstrate respect for differing points of view within the field, seek to learn from other mediators and work together to improve the profession and better serve people in conflict.

# Rule 16

Amendments to the Rules of Superintendence for the Courts of Ohio (Sup.R. 16 through 16.25) were adopted by the Supreme Court of Ohio effective Jan. 1, 2020

Complete Rules of Superintendence for the Courts of Ohio:  
[www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf](http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf)



<https://www.shutterstock.com/image-photo/macro-photo-tooth-wheels-compliance-regulations-635952077>

# Rule 16 Components

- RULE 16.14. Definitions
- RULE 16.21. Local Mediation Rule
- 3 RULE 16.22. Responsibilities of Mediator
- RULE 16.23. Mediator Education and Training  
Domestic Relations and Juvenile Courts
- RULE 16.24. Responsibilities of Court

# RULE 16.14. Definitions

- (A) Facilitation
  - “Facilitation” means a process in which a neutral party moderates discussions by ensuring the fluid and orderly exchange of information and ideas from all participants and that is primarily concerned with assisting individuals in refining their communication and organizational skills so that they may learn to work more efficiently with one another in a group setting.

# RULE 16.14. Definitions

- (B) Mediation
  - “Mediation” means any process in which a neutral third party helps the parties communicate and negotiate with each other to help them reach a voluntary agreement regarding their dispute.
- (C) Mediator
  - “Mediator” means an individual who conducts a mediation.

# RULE 16.14 Definitions

- (D) Neutral Evaluation
  - “Neutral evaluation” means a process in which the parties to a dispute present their claims or defenses and describe the principal evidence on which their claims or defenses are based to a neutral third party who then shares impressions about the strengths and weaknesses of each matter.

# Core Values for Mediation

Core values help mediators to stay in compliance with statutes, regulations, rules, standards and ethics regarding mediation



*Developed by The Supreme Court of Ohio  
Dispute Resolution Section & Commission on  
Dispute Resolution January 2017*

# Professional Conduct Mediator Core Values

Self  
Determination

Impartiality

Fairness of  
Process

Cooperation

Confidentiality

Conflict  
of Interest

Competence

Neutrality

Flexibility  
And  
Informality

Voluntariness  
of  
Agreement

# Core Values

- **Self-Determination** - to support the parties in making their own voluntary and informed decisions.
- **Neutrality** - to not seek any particular resolution of the dispute. Support party self-determination by focusing on a constructive decision-making process rather than a particular outcome.
- **Impartiality** - to avoid having mediator's own beliefs, preferences and other personal perspectives substitute for those of the parties.

## Core Values Cont.

- **Confidentiality** - Ohio's enactment of the Uniform Mediation Act (UMA) protects "mediation communications" in Ohio's courts, legislature, and administrative agency processes and limits the communications the mediator can have with the court and others.
- **Flexibility and Informality** - to allow mediators to select various styles appropriate to the needs of participants
- **Competence** -Duty to have the appropriate qualifications and training

## Core Values Cont.

- **Conflict of Interest** - to avoid anything that would compromise mediator's impartiality or neutrality
- **Fairness of process** - fair to each party
- **Voluntariness** of the (Settlement) Agreement - a voluntary exercise of self-determination
- **Cooperation** - working together



**ASSOCIATION OF FAMILY  
AND CONCILIATION COURTS**

Improving the lives of children and families  
through the resolution of family conflict

# Model Standards of Practice for Family and Divorce Mediation

# Case Reviews & Discussion

**THANK YOU!**

# Contact Information

## Teresa P. Cusma

M.Ed., Advanced Mediation Practitioner, Coleman Professional Services

400 West Tuscarawas Avenue  
Canton, Ohio

Phone: 330-430-9503

Email: [teresa.cusma@colemanservices.org](mailto:teresa.cusma@colemanservices.org)

# Contact Information

## Tammy Martin Kosier

J.D., Mediator and Program Coordinator, Ashtabula County Court of  
Common Pleas

Phone: 440-576-3628

Email: [TMKosier@ashtabulacounty.us](mailto:TMKosier@ashtabulacounty.us)

# Contact Information

## Martha L. Riewaldt

J.D., Mediator and Trainer, Ducey and Riewaldt

5330 Heatherdowns Blvd  
Ste 105  
Toledo, OH 43614-4644

Phone: 419-867-3946

Email: [mriewaldt@buckeye-express.com](mailto:mriewaldt@buckeye-express.com)

# Contact Information

## James “Jim” Stergios Petas

M.Ed., Senior Mediator and Director of Mediation Services, Toledo  
Municipal Court

Phone: 419-245-1951

Email: [james.petas@tmcourt.org](mailto:james.petas@tmcourt.org)