

# **Policy for Approval of Parenting Act Mediators** **Nebraska Administrative Office of the Courts**

## **SECTION I. APPROVAL OF MEDIATORS**

### **A. Authorization**

Neb. Rev. Stat. § 43-2937(1), sets forth in part: “The State Court Administrator’s office shall develop a process to approve mediators who are qualified under subsection (2) or (3) of section 43-2938.” Further, Neb. Rev. Stat. § 43-2940 (1) states: “Mediation of cases under the Parenting Act shall be governed by uniform standards of practice adopted by the State Court Administrator.” Therefore, the Office of Dispute Resolution (ODR), performing its duties on behalf of the State Court Administrator, is ultimately responsible for approving mediators who meet the standards of practice for mediating cases under subsection (2) or (3) of section 43-2938. In that regard, the mediator who has met the criteria shall be known as an “approved Parenting Act mediator.”

### **B. Definitions**

1. **Approved Parenting Act Mediator.** An affiliated or private mediator approved by ODR, on behalf of the State Court Administrator, pursuant to the Parenting Act, Neb. Rev. Stat. § 43-2937 and this Policy.
2. **Affiliated Mediator.** A mediator affiliated with a Nebraska ODR-approved mediation centers, namely Mediation West, Scottsbluff; Central Mediation Center, Kearney; Concord Mediation Center, Omaha; The Mediation Center, Lincoln; Nebraska Mediation Center, Fremont; The Resolution Center, Beatrice (hereinafter ODR-approved mediation centers); or a member of the Douglas County Conciliation and Mediation Services panel, Omaha, Fourth Judicial District Court of Nebraska (hereinafter Douglas County Conciliation Office).
3. **Private Mediator.** A mediator in private practice that is approved by ODR though not mediating as an affiliate with an ODR-approved mediation center or the Douglas County Conciliation Office.
4. **Parenting Plan Mediator.** An attorney licensed to practice law in the State of Nebraska may serve as a parenting plan mediator if the parties agree to use such attorney as a mediator. Parenting plan mediators are not approved by the Office of Dispute Resolution,

and are not as a Parenting Act Mediator under subsection (2) or (3) of section 43-2938 and not subject to this policy.

5. Parenting Act. The provisions of Neb. Rev. Stat. §§ 43-2920 through 43-2943

### **C. Application and Approval of Parenting Act Mediators**

The process for the approval of Parenting Act mediators authorized by subsection (2) or (3) of section 43-2938 includes both application and approval.

1. Application for Approval. A private or affiliate mediator shall make application for approval as a Parenting Act mediator to ODR, based upon this Policy and criteria stated herein. ODR shall provide standardized forms for application as an approved Parenting Act mediator.
2. Approval of Parenting Act Mediators
  - a. Criteria for consideration of approval as a Parenting Act mediator shall include, but is not limited to, the following:
    - i. Meeting the training, educational, and apprenticeship standards for Parenting Act mediators as set forth under Section II of this Policy;
    - ii. Adhering to the *Nebraska Standards of Practice and Ethics for Family Mediators*;
    - iii. Demonstrating and maintaining an active status as a Parenting Act mediator; and
    - iv. Disclosing any prior criminal convictions or professional licensure suspensions or revocations; and
    - v. Authorizing ODR to conduct a child abuse and criminal background check.
  - b. Approval may be denied if any of the above criteria is not met, including if the applicant's criminal history reports conviction for child abuse or neglect or a violent crime, including if a violent crime in which applicant was found not guilty due to mental illness and committed for treatment, or if a professional license has been suspended, revoked, or voluntarily surrendered to avoid charges.
  - c. ODR, on behalf of the State Court Administrator, is responsible for the final approval of Parenting Act mediators authorized to practice under the Parenting Act.

### **D. ODR List of Approved Parenting Act Mediators**

1. ODR shall develop and shall maintain the *ODR List of Approved Parenting Act Mediators*. The list shall include the following information: name, address, telephone number, e-mail address, professional background, mediation background (years, numbers of cases, kinds of cases, supervisory status); and whether the mediator is approved as a

Parenting Act mediator, a specialized alternative dispute resolution (SADR) facilitator, or both.

2. The list shall be distributed widely among all of those who may reasonably be expected to have need of it, including the courts, attorneys, and the public. The list will be maintained and regularly updated, providing immediate access to the most recent roster of approved mediators. The list shall be placed on the Nebraska Judicial Branch website, and shall be made available in written form, upon request to ODR.

## SECTION II. TRAINING AND EDUCATION

### PART I – TRAINING

#### A. Required Parenting Act Mediator Training

1. To be eligible for approval as a Parenting Act mediator, a person shall have successfully completed *Basic Mediation Training* and *Family Mediation Training*, approved by ODR. Neb. Rev. Stat. § 43-2938(2).
2. To be eligible for approval as a specialized alternative dispute resolution (SADR) facilitator for parents involved in unresolved parental conflict and situations in which domestic intimate partner abuse or child abuse/neglect is present, a Parenting Act mediator mediating for an approved mediation center or Douglas County Conciliation Court shall have successfully completed an additional minimum 24-hour ODR-approved *Specialized Alternative Dispute Resolution (SADR)* training course. Neb. Rev. Stat. § 43-2938(3).
3. All Basic Mediation Trainings, Family Mediation Trainings, and SADR Trainings approved by ODR prior to the implementation of this Policy shall be considered as approved training under the Parenting Act. However, mediators who have not been trained to conduct the domestic intimate partner abuse screening protocols required by the Parenting Act must successfully complete an ODR-approved class on the proper procedure to conduct screening protocols.
4. *Recency of Trainings.* To ensure that applicants for approval as Parenting Act mediators are well qualified, those individuals who have successfully completed approved required trainings may need to retake the trainings, or make other accommodations as determined by ODR, in order to be eligible for approval as a Parenting Act mediator if the training is more than five years old and the mediator is not current in continuing mediator education

or has not been actively mediating. Other accommodations may include successful completion of continuing mediator education, apprenticing in parenting plan cases with supervisory mediators, or other relevant actions.

5. *Trainings not pre-approved by ODR.* ODR may determine that mediators who have not taken an ODR-approved training have received the equivalent of the ODR approved training. Such mediators shall submit to ODR information adequate for ODR to determine whether the training received is in substantial conformity with approved training. ODR may require the mediator to take parts of an ODR-approved training or make other accommodation if that aspect of the training was not part of the training that the mediator had taken.

## **B. Core Values of Mediation Training**

To be approved by ODR, a training program shall be conducted in accordance with the core values of mediation and the core values for mediation training as reflected in the following definitions:

Mediation is a confidential process of dispute resolution in which one or more trained impartial neutrals assists the participants without coercion or the appearance of coercion to define and clarify issues and interests, reduce obstacles to communication, explore possible solutions, and where desired, reach a mutually satisfactory agreement. Party self-determination is a core value of mediation, in which the decision-making authority rests with the participants themselves.

The content of approved mediation trainings shall, where possible, be based upon reputable research. Adult learning methodologies shall be utilized.

## **C. Content of Approved Training Curriculum**

1. An approved Basic Mediation Training course curriculum shall include, but not be limited to, the following topics:
  - Overview of alternative dispute resolution (ADR) processes
  - Principles of mediation
  - Mediation styles
  - Stages and goals of mediation process
  - The role of the mediator
  - Nature of conflict/behaviors in conflict
  - Mediation skills, including negotiation skills, interactive listening, question-asking, use of neutral language, reframing, issue and interest identification, option generation, addressing barriers to agreement, reality testing, agreement writing
  - Caucus
  - Values, self-awareness, and bias awareness

- Cultural diversity including race and gender
- Power imbalances
- Working with attorneys and representatives of parties
- Confidentiality and privilege
- Ethical issues, including impartiality, party self-determination, informed consent, conflicts of interest, responsibilities to third parties, dealing with legal issues, withdrawal by mediator, and termination of the mediation
- Relevant Nebraska mediation and ADR law

2. An approved ***Family Mediation Training*** curriculum shall include, but not be limited to,

- a. Topics listed in the Parenting Act:
  - i. Knowledge of the court system and procedures used in contested family matters;
  - ii. General knowledge of family law, especially regarding custody, parenting time, visitation, and other access, and support, including calculation of child support using the current Nebraska child support guidelines;
  - iii. Knowledge of other resources in the state to which parties and children can be referred for assistance;
  - iv. General knowledge of child development, the potential effects of dissolution or parental separation upon children, parents, and extended families, and the psychology of families;
  - v. Knowledge of child abuse or neglect and domestic intimate partner abuse and their potential impact upon the safety of family members, including knowledge of provisions for safety, transition plans, domestic intimate partner abuse screening protocols, and mediation safety measures; and
  - vi. Knowledge in regard to the potential effects of domestic violence on a child; the nature and extent of domestic intimate partner abuse; the social and family dynamics of domestic intimate partner abuse; techniques for identifying and assisting families affected by domestic intimate partner abuse; interviewing, documentation of, and appropriate recommendations for families affected by domestic intimate partner abuse; and availability of community and legal domestic violence resources;
- b. Mediation process and skills as set forth under Nebraska’s Basic Mediation Training, or comparable elements;
- c. Family mediation-related issues, including:
  - i. Family systems theory and its application to parenting mediation;
  - ii. Mediator’s approach and skills in working with the emotions of the separation and dissolution process and post-separation dynamics;
  - iii. Overview of working with parties engaged in high conflict dynamics;
  - iv. Process to assist parties in child-centered decision-making;
  - v. Process to address children’s best interests, including whether and how to involve children in the process;
  - vi. Parenting Act and its amendments;

- vii. Specific knowledge of the parenting plan contents and formats;
- d. Awareness of what trauma is, its effects, and how to develop trauma-informed responses; and
- e. *Nebraska Standards of Practice and Ethics for Family Mediators*.

Pre-requisite: Prior to participating in Family Mediation Training, the trainee shall have completed the ODR-approved Basic Mediation Training or its equivalent.

3. An approved ***SADR (Specialized Alternative Dispute Resolution) Training*** shall include, but not be limited to:
  - a. The topics listed in the Parenting Act:
    - i. Advanced education in regard to the potential effects of domestic intimate partner abuse on the child;
    - ii. The nature and extent of domestic intimate partner abuse;
    - iii. The social and family dynamics of domestic intimate partner abuse;
    - iv. Techniques for identifying and assisting families affected by domestic intimate partner abuse; and
    - v. Appropriate and safe mediation strategies to assist parties in developing a parenting plan, provisions for safety, and a transition plan.
  - b. Distinguishing the SADR intervention process from the customary family mediation process;
  - c. Techniques for assisting parties engaged in high conflict dynamics;
  - d. Techniques for being trauma-informed, non-discriminatory, and accommodate parties' mental health needs and appropriately responsive to those disclosing mental health conditions or substance use issues;
  - e. Information and tools that can be used to increase the likelihood of providing a safe environment for the child and victim parent;
  - f. Information and skills to ensure that SADR process takes into account the safety needs of the children, the parties, and the SADR facilitator;
  - g. Advanced process skills for SADR facilitators using primarily a caucused-based approach to negotiation;
  - h. Information as to the availability of community and legal domestic violence resources; and,
  - i. Standards and ethics as applicable to SADR facilitators.

Pre-requisites: Prior to participating in SADR Training, the trainee shall have completed the ODR-approved Basic and Family Mediation trainings or their equivalents.

#### **D. Training Methodology**

1. **Basic Mediation Training and Family Mediation Training** must each be a minimum of 30 instructional hours.

- a. Each 30-hour training must be conducted within a minimum of three days and maximum of 30 days unless it has been otherwise incorporated into an academic curriculum. Training registrants shall be a minimum of eight and a maximum of 36 participants. For trainings with less than eight participants, a waiver of the minimum requirement may be submitted to ODR for approval.
- b. In Basic Mediation Training and Family Mediation Training, all trainings shall include adult learning theory approaches to education, including but not limited to: presentations, group discussions, written and oral exercises, mediation simulations, role-plays, and additional readings. In Basic Mediation Training, written exercises shall include writing an agreement.
- c. In Basic Mediation Training and Family Mediation Training, at least six hours shall be devoted to mediation role plays with the participants playing the roles of the mediators and the disputants. At a minimum, every trainee must take part in at least one continuous role-play acting as a solo or co-mediator and one continuous role-play acting as a disputant. A continuous role-play is defined as one beginning with the mediator's introduction and continuing through to a resolution, or one which is a minimum of 45 minutes in length. These role-plays are to be conducted under supervision of a qualified coach. At the conclusion of each role-play, a minimum of 15 minutes must be allocated for oral feedback to the mediator. A coach shall observe no more than one role-play at a time. Trainers must present a role-play mediation simulation (either live or video) prior to the participant's role-play experience as a mediator.

2. **SADR Training** must be a minimum of 24 hours and shall include adult learning theory approaches to education. Any simulations or role plays shall be conducted under supervision of a qualified coach. The training curriculum and program shall reflect an interdisciplinary collaboration including family mediators, domestic abuse serving agencies, family law professionals, and child and family development professionals.

#### **E. Training Administration**

1. Participant attendance. Trainees must demonstrate successful completion of all components of one entire training program. The lead trainer is responsible for ensuring that the integrity of each portion of the program is not compromised. Trainers shall provide written documentation attesting to trainee's attendance at the training. Under no circumstances may an individual be excused from attending portions of the training without making up that portion missed as directed by the lead trainer preferably during the training period. If more than 60 minutes is missed of a single subject matter presentation, the trainee must attend that portion of a future training program or comply with another ODR approved method.
2. Training Evaluation. For all approved trainings, evaluations of the training and trainers shall be collected. Copies of the evaluations and a roster of participants who completed the training shall be submitted to ODR within 30 days of completion of the training.

## **F. Mediation Training Program Approval**

For a basic, family, or SADR training program to be considered for approval by ODR, the provider must submit the following information to ODR at least 60 days prior to the proposed training event:

1. Trainer Qualifications:
  - a. Trainers of Nebraska ODR-approved basic, family mediation, and SADR training shall meet ODR training standards, including adhering to the core values of mediation training, covering all content of approved training curriculum, training methodology, and training administration (Section II, Part I, B – E of this policy).
  - b. Trainers teaching ODR-approved basic, family, and SADR mediation trainings shall:
    - i. Be experienced mediators in the subject matter of the training program;
    - ii. Have considerable previous experience as trainers in relevant workshops, seminars, and courses; and
    - iii. have participated in ongoing continuing education courses relevant to the subject matter and to mediation practice.
  - c. Trainers of non-ODR basic, family, and SADR mediation trainings in which an equivalency approval is being sought, shall be experienced mediators in the subject matter of the training program.
  - d. Role play coaches must be experienced mediators who have been instructed in how to coach role plays.
  - e. For Family Mediation Training, the person responsible for presenting the material on child abuse and neglect and domestic intimate partner abuse should have professional experience with child abuse or neglect or domestic intimate partner abuse (DIPA). If for a particular training such a person is unavailable to be physically in the classroom, the trainer may use other collaboratively (DIPA or child abuse) developed substitute materials such as an electronic presentations.
  - f. For SADR Training, the trainer cadre shall reflect an interdisciplinary approach, including experienced family mediators and domestic abuse, child abuse, and related family law professionals.
2. Student Instructional Materials. Each student must receive comprehensive instructional materials that supplement the material presented by the training. Training materials should be a guide to which the students can turn when they set to practice and should therefore stand alone as a guide to mastering the content of the training, regardless of the training approach.
3. Program Design. The training must cover all of the required content areas. Learning objectives and a training agenda must be submitted, showing topics, timeframes, trainers/presenters responsible, and skill-based learning opportunities. A clear plan must be submitted that shows the training meets the required provisions of this Policy.



## **PART II. APPRENTICESHIP**

### **A. Required Apprenticeship**

1. To be eligible for approval as a Parenting Act mediator, a person shall have successfully served as an apprentice to a supervisory Parenting Act mediator.
2. Such apprenticeship shall include co-mediating at least three parenting plan cases with at least two, and preferably three, different supervisory mediators. It is expected that the apprentice will co-mediate with the supervisory mediator during all sessions in each of the cases. At least one of the mediations shall include screening for ability to negotiate and screening of domestic intimate partner abuse for at least one party, and preferably both of the parties. In at least one of the mediations, the apprentice shall serve as lead mediator. It is expected that the apprentice shall draft an acceptable written parenting plan for at least one of the mediation cases. If none of the mediations result in an agreed-upon parenting plan, the apprentice mediator will be required to submit to a supervisory mediator:
  - a. An acceptable written parenting plan based on a hypothetical case, or
  - b. An acceptable parenting plan that the apprentice had drafted as a lawyer.

In addition, apprentice mediators are encouraged to observe mediations, but such observations shall not be counted toward fulfilling apprenticeship requirements. Following the mediation session, the apprentice mediator should request oral and written feedback from the supervisory mediator as well as complete a mediator self-reflection form on the mediation. The apprentice mediator should collect written evaluations from each of the parties for submittal in the approval process.

### **B. Approval of Apprenticeships.** Apprentices shall submit required documentation regarding successful completion of apprenticeship as a part of their application to ODR for approval as Parenting Act mediator, including:

- Supervisory mediator assessments (at least three)
- Mediation participants' evaluation of the mediation cases
- Mediator self-reflection forms
- At least one acceptable written parenting plan, as approved by a supervisory mediator

### **C. Approval of Supervisory Mediators**

1. A mediator who wishes to be a supervisory mediator for the purposes of the Parenting Act shall apply to ODR for approval to attend the Supervisory Mediator Training. After training is completed, the online listing for the mediator will be updated by ODR to indicate that the mediator is recognized as a supervisory mediator.

2. Mediators serving as supervisory mediators affiliated with the Douglas County Conciliation Office or the ODR-approved mediation centers at the date of adoption of this Policy are deemed supervisory mediators as defined herein. The Douglas County Conciliation Office and ODR-approved mediation centers shall submit names of supervisory mediators and relevant information to ODR upon request.

**D. Supervisory Mediators**

1. Apprenticeships shall be offered by a supervisory mediator who:
  - Is an approved Parenting Act mediator;
  - Completed 50 parenting plan mediation hours over five (5) years – or – have 12 parenting plan mediation hours (above apprenticeship hours) within one (1) year plus eight (8) Continuing Mediator Education (CME) hours within that same year;
  - Demonstrated advanced skills as a Parenting Act mediator and have the temperament, skills, and self-awareness to be a supervisory mediator; and
  - Successfully completed supervisory mediator training.
2. The supervisory mediator shall provide written and oral feedback to the apprentice mediator. The feedback shall include an assessment of how well the apprentice understood the role of the mediator and how well the apprentice performed as a mediator. Both the apprentice’s strengths and areas in need of improvement should be included.
3. ODR affiliated mediation centers, the Douglas County Conciliation Office, and private mediators may charge a fee to the apprentice mediator to provide these services.

**E. Adjustment or Waiver of Apprenticeship**

1. A mediator who, after receiving family mediator training, has successfully completed the apprenticeship required by an ODR-affiliated mediation center or Douglas County Conciliation Office prior to the implementation of this Policy shall be considered as having met the apprenticeship requirements of this Policy.
2. A mediator who has conducted parenting mediations in a significant number of cases may request an adjustment or waiver of the apprenticeship requirements by submitting to ODR documentation clearly demonstrating that they are competent to serve as an approved Parenting Act mediator.
3. To ensure that an applicant to be approved as a Parenting Act mediator is well qualified, if the mediator’s apprenticeship is five or more years old and the mediator is not current in continuing mediator education or has not been actively mediating, the mediator will need to (a) co-mediate with a supervisory mediator for at least one Parenting Act mediation or (b) successfully complete required continuing education. ODR may impose additional requirements.

## **PART III. CONTINUING MEDIATOR EDUCATION**

### **A. Parenting Act Continuing Mediator Education (CME)**

1. Every two years after approval as a Parenting Act mediator, the mediator must have completed eight hours of continuing education in family mediation (CME), at least two hours of which shall be in the area of domestic intimate partner abuse, child abuse, or unresolved parental conflict, and at least one hour of which shall be in the area of ethics. An hour is a classroom hour.

The year runs to the end of the calendar year, not to the anniversary date of a mediator's approval.

2. Approved Parenting Act mediators may receive CME credit for courses provided by ODR-approved mediation centers, the Douglas County Conciliation Services, or other ODR-approved providers. In order to request CME credit for courses, the mediator shall submit to ODR a request for CME credit that shall include a description of the course including the course's dates, location, subject matters covered, instructors and their qualifications, and a copy of the program outline or brochure. ODR shall advise the mediator in writing whether the course was approved and the number of CME credit hours for which it was approved.

### **B. CME Providers**

1. ODR, ODR-approved mediation centers, and the Douglas County Conciliation Services are considered ODR-approved CME providers under this Policy and may submit a CME event for pre-approval.
2. Other CME providers may request ODR approval of the CME prior to the proposed training event. The request must include a statement of qualifications reflecting this Policy, trainers' names and qualifications, and a training agenda and/or brochure. Entities that may seek approval to offer CME may include, but are not limited to:
  - Nebraska Mediation Association
  - Nebraska State Bar Association
  - Universities and colleges
  - Private training organizations

### **C. Parenting Act CME Topics and Subject Matter**

The subject matter of CME may include:

- General mediation skills
- Mediation ethics
- Family mediation issues
- Family law relating to parenting plans

- Domestic intimate partner abuse, child abuse, and unresolved parental conflict
- Child development
- Family systems theory
- Psychological and other issues in parenting
- Other matters relevant to parenting plan mediation

**D. Reporting of CMEs**

1. Receiving pre-approval of a CME event requires that the provider:
  - Submit documentation of the attendees’ participation to ODR within 30 days following the event, and
  - Provide each attendee a Certificate of Attendance for the event, including the date, location, name of event, name of attendee, number of CME hours granted, and the course number.
2. Approved Parenting Act mediators must submit reports of their CMEs every two years in accordance with the procedures established by ODR.

**E. Failure to Meet CME Requirements**

The status of an approved Parenting Act mediator who does not meet the CME requirements within the timeline provided shall be considered as lapsed. Lapsed status includes having the mediator’s name removed from approved Parenting Act mediator list. To be considered active, the mediator will need to complete the required CME, as well as satisfying the other provisions of this Policy.

## SECTION III. MEDIATOR STATUS and GRIEVANCE PROCESS

### PART I: APPROVED PARENTING ACT MEDIATOR STATUS

#### A. Active Status

1. Each individual approved as a Parenting Act mediator shall adhere to the *Nebraska Standards of Practice and Ethics for Family Mediators* and comply with this Policy to maintain an active approved status. The mediator's status shall be reflected on the list of approved Parenting Act mediators.
2. An approved Parenting Act mediator shall submit a biennial report to ODR, indicating completion of required CMEs, Parenting Act mediation activity, and other relevant information. ODR shall provide standardized procedures and forms for submittal of the biennial report.

#### B. Lapsed Status

1. An approved Parenting Act mediator's active status shall be treated as lapsed when:
  - a. The mediator notifies ODR in writing that they are relinquishing the approved Parenting Act mediator's status;
  - b. The mediator fails to maintain or update the continuing education requirements;
  - c. The mediator has not mediated at least two parenting plan cases in the immediately preceding two years of the biennial report; or
  - d. Fails to submit the biennial report in a timely fashion.

Once a mediator's approved status has lapsed, ODR will remove the mediator's name, contact, and other information from the list of approved Parenting Act mediators.

2. ODR will inform the approved Parenting Act mediator in writing, within ten days, of its decision to place an approved Parenting Act mediator on lapsed status.
3. An approved Parenting Act mediator whose active status has lapsed shall no longer mediate any matter referred to mediation within the context of the Parenting Act, unless the mediator is a licensed attorney in the State of Nebraska serving as a parenting plan mediator. If at the time a mediator's approved status lapses and they not serving as a parenting plan mediator, and they were appointed by a judge to mediate a parenting plan case or by the parties to mediate a case, the mediator shall immediately notify the parties, judge, any attorneys or *pro se* parties involved that his or her approval status has lapsed and that the mediator is no longer eligible to serve as a mediator in the matter.

4. A Parenting Act mediator whose status has lapsed may apply to ODR for reactivation. If the mediator's status has lapsed because the mediator had failed to maintain or update the continuing education requirements, the mediator will need to complete the required CME and submit required information to ODR. If the mediator's status has lapsed because the mediator voluntarily relinquished the approved Parenting Act status or because the mediator had not mediated at least two Parenting Act cases in the immediately preceding two years, the mediator will need attend at least eight hours of relevant continuing education within the two year period immediately preceding the application for reactivation and participate in at least one supervised Parenting Act mediation. Additional actions may be required by ODR.

If a Parenting Act mediator's status has lapsed for a period of five years or longer, the mediator must reapply to be a Parenting Act mediator including completing the training and apprenticeship requirements of this Policy. The mediator may apply to ODR for an adjustment of this requirement.

### **C. Removal for Cause**

1. An approved Parenting Act mediator may be removed for cause from the list of approved Parenting Act mediators when it is established that the mediator:
  - a. No longer meets the requirements to be an approved Parenting Act mediator;
  - b. Has failed to faithfully observe the *Nebraska Standards of Practice and Ethics for Family Mediators*;
  - c. Has engaged in misconduct showing an unfitness to serve as an approved Parenting Act mediator;
  - d. Does not otherwise meet the statutory and policy requirements as a Parenting Act mediator.
2. ODR will inform the approved Parenting Act mediator in writing within ten days of its decision to remove the mediator for cause.
3. An approved affiliated or private mediator whose approved status has been removed for cause shall no longer mediate any matter referred to mediation as a Parenting Act Mediator. If at the time a mediator's approved status has been removed, and they were appointed by a judge to mediate a parenting plan case or selected by the parties to mediate such a case, the mediator shall immediately notify the parties, judge, any attorneys or pro se parties involved that the mediator is no longer eligible to serve as a Parenting Act mediator in the matter.

### **D. Mediator Status Reconsideration and Appeal**

1. An approved Parenting Act mediator who disagrees with the determination of status may file a written request for reconsideration to ODR within 15 days of the determination. ODR will meet with the mediator in person or by telephonic or video conference to attempt to achieve resolution within 10 days of receipt of the written notice. As part of

the reconsideration of active status, ODR may require that the mediator meet certain standards, comply with certain education requirements, participate in additional training or mentorship, or other relevant actions.

2. If resolution is not achieved, the mediator or ODR may submit a request that a third party mediator assist with resolution. If a mediated resolution is not achieved, the mediator may submit a written appeal to the Dispute Resolution Advisory Council within 10 days of the mediation or receiving notification by ODR. If the mediator disagrees with the decision of the Dispute Resolution Advisory Council, they may file a written appeal to the State Court Administrator within 10 days of receiving notification by the Dispute Resolution Advisory Council. The State Court Administrator shall review the information and documentation provided in the complaint, the mediator's response, and the recommendation of the Dispute Resolution Advisory Council. The State Court Administrator's decision is final.

## **PART II: GRIEVANCE PROCESS FOR MEDIATION PARTIES**

Approved Parenting Act mediators shall provide mediation parties with information as to how to make a complaint or grievance regarding the mediator or mediation process, which shall include information about informal and formal grievance processes described below.

### **A. Informal Grievance Process**

1. The aggrieved party may request an informal meeting directly with the mediator to address the grievance.
2. If the informal meeting does not resolve the matter, the parties may enlist an impartial mediator to assist in resolving the issue.
3. If enlisting an impartial mediator does not resolve the matter, the aggrieved party may file a formal written complaint with ODR within 10 days after the mediation session.

### **B. Formal Written Complaint**

1. When a formal complaint is made against an approved Parenting Act mediator, or upon the initiation by the AOCP itself of a complaint, it will be reviewed and investigated by ODR to determine whether the allegations are in violation of this Policy or the Nebraska Standards of Practice and Ethics for Family Mediators. ODR may convene a mediator peer review committee to address complaints.
2. If, after investigation, ODR finds that the allegations in a formal complaint do not violate the Nebraska Standards of Practice and Ethics for Family Mediators or this Policy, ODR shall dismiss the complaint, and will inform the mediator and the grievant in writing of its decision.

3. If, after the investigation ODR finds that the allegations in a formal complaint constitute a violation of the Standards of Practice and Ethics for Family Mediators or this Policy, ODR will inform the mediator and grievant in writing within 10 days of its decision that one or more of these actions will be taken:
  - a. Remove the mediator for cause, as outlined in Part 1, C. 1. of this section, from the ODR approved list of Parenting Act mediators, or
  - b. Require the mediator to
    - i. to meet certain standards, comply with certain education requirements, or participate in additional training or apprenticeship.
4. If either party disagrees with the determination of the formal complaint, they may file a written request for reconsideration to ODR within 15 days of the determination. ODR will meet with the parties in person or telephonic or video conference to attempt to achieve resolution within 10 days of receipt of the written notice.
5. If resolution is not achieved, either party may submit a written appeal to the Dispute Resolution Advisory Council within 10 days of receiving notification by ODR. If either party disagrees with the decision of the Dispute Resolution Advisory Council, they may file a written appeal to the State Court Administrator within 10 days of receiving notification by the Advisory Council on Dispute Resolution. The State Court Administrator shall review the information and documentation provided in the complaint, the mediator's response, and the recommendation of the Dispute Resolution Advisory Council. The State Court Administrator's decision is final.