

§ 7A-38.3E. Mediation of public records disputes.

(a) Voluntary Mediation. – The parties to a public records dispute under Chapter 132 of the General Statutes may agree at any time prior to filing a civil action under Chapter 132 of the General Statutes to mediation of the dispute under the provisions of this section. Mediation of a public records dispute shall be initiated by filing a request for mediation with the clerk of superior court in a county in which the action may be brought.

(b) Mandatory Mediation. – Subsequent to filing a civil action under Chapter 132 of the General Statutes, a person shall initiate mediation pursuant to this section. Such mediation shall be initiated no later than 30 days from the filing of responsive pleadings with the clerk in the county where the action is filed.

(c) Initiation of Mediation. – The Administrative Office of the Courts shall prescribe a request for mediation form. The party filing the request for mediation shall mail a copy of the request by certified mail, return receipt requested, to each party to the dispute. The clerk shall provide each party with a list of mediators certified by the Dispute Resolution Commission. If the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint that mediator selected by the parties. If the parties do not agree on the selection of a mediator, the party filing the request for mediation shall bring the matter to the attention of the clerk, and a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify the mediator and the parties of the appointment of the mediator.

(d) Mediation Procedure. – Except as otherwise expressly provided in this section, mediation under this section shall be conducted in accordance with the provisions for mediated settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted pursuant to those sections. The Supreme Court may adopt additional rules and standards to implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases in which mediation was attempted under this section.

(e) Waiver of Mediation. – The parties to the dispute may waive the mediation required by this section by informing the mediator of the parties' waiver in writing. No costs shall be assessed to any party if all parties waive mediation prior to the occurrence of an initial mediation meeting.

(f) Certification That Mediation Concluded. – Immediately upon a waiver of mediation under subsection (e) of this section or upon the conclusion of mediation, the mediator shall prepare a certification stating the date on which the mediation was concluded and the general results of the mediation, including, as applicable, that the parties waived the mediation, that an agreement was reached, that mediation was attempted but an agreement was not reached, or that one or more parties, to be specified in the certification, failed or refused without good cause to attend one or more mediation meetings or otherwise participate in the mediation. The mediator shall file the original of the certification with the clerk and provide a copy to each party.

(g) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of other action with respect to a public records dispute, including any applicable statutes of limitations, shall be tolled upon the filing of a request for mediation under this section, until 30 days after the date on which the mediation is concluded as set forth in the mediator's certification, or if the mediator fails to set forth such date, until 30 days after the filing of the certification under subsection (f) of this section.

(h) [Other Remedies Not Affected.] – Nothing in this section shall prevent a party seeking production of public records from seeking injunctive or other relief, including production of public records prior to any scheduled mediation. (2010-169, s. 21(a).)