

Domestic Mediation Manual, “History of Mediation,” Section 1, pp. 3-4 (The Kansas Institute for Peace & Conflict Resolution [KIPCOR], 2020).



Kansas Judicial Branch

DISPUTE RESOLUTION IN KANSAS

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**AUTHORED BY THE
ADVISORY COUNCIL ON DISPUTE RESOLUTION**

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Kansas Judicial Branch

Kansas Supreme Court Advisory Council on Dispute Resolution Court Dispute Resolution Procedures

The following information is provided by the Kansas Supreme Court Advisory Council on Dispute Resolution and is meant for those individuals or organizations who wish to receive or refer to dispute resolution and for those seeking approval to provide dispute resolution in the State of Kansas. Kansas state government is composed of three branches: the legislative branch which makes laws, the executive branch which enforces laws and the judicial branch which interprets and applies laws. This manual is endorsed by the Office of Judicial Administration.

Dispute Resolution is a process by which the parties involved in a dispute voluntarily agree or are referred or ordered by a court to enter into discussion and negotiation with the assistance of a neutral person. This manual offers a summary of guidelines and provides links to governing statutes and rules applicable to dispute resolution in Kansas under the Kansas Supreme Court Office of Judicial Administration.

This manual is not prescriptive, but rather is a working tool that provides options to be considered. Many different types of models may be used to implement ADR in a given jurisdiction, such as a court-connected model that is established within the court system. Disputants and referring agencies are in the best position to determine the method with the highest potential to resolve a particular dispute.

I. History of Dispute Resolution in Kansas

The Kansas legislature passed its first mediation statute in 1985, allowing for mediation among divorcing couples. In 1994 the Kansas Legislature passed the Dispute Resolution Act (KSA 5-501 et seq.), establishing a special Office of Dispute Resolution, along with a state-wide Advisory Council on Dispute Resolution and a Director of Dispute Resolution. In February 1996, after extensive hearings, the Kansas Supreme Court adopted Rules 901 to 904, establishing guidelines for the practice of mediation in Kansas.

Over 20 years later, the Advisory Council spent nearly 6 years revising and expanding the Supreme Court Rules related to dispute resolution in Kansas, culminating in the Kansas Supreme Court repealing Rules 901-904 and adopting new Rules 905 – 922, effective January 1, 2020. These Rules relate not only to mediation, but also regulate the practice of domestic conciliation, parent coordination, and case management.

II. Abbreviations and Definitions

ADR / DR	Alternative Dispute Resolution / Dispute Resolution
CDRE	Continuing Dispute Resolution Education
COUNCIL	Advisory Council on Dispute Resolution
DIRECTOR	Director of Dispute Resolution
DRA	Dispute Resolution Act
DRAC	Dispute Resolution Advisory Council (Kansas Supreme Court)
KSA / K.S.A.	Kansas Statutes Annotated
KSCourt / SC	Kansas Supreme Court
OJA	Office of Judicial Administration
RULE/s	Kansas Supreme Court Rule
URL	Uniform Resource Locator referring to an internet address, www or http/s

III. Description of Dispute Resolution Processes

Court Approved Dispute Resolution Processes are practices authorized and used within the court system. Cases are referred to dispute resolution by the court and carried out by an approved dispute resolution practitioner under the Kansas Supreme Court Office of Judicial Administration Dispute Resolution Program.

The court referral for dispute resolution usually contains information regarding:

- The parties to the dispute
- The nature of the dispute
- The complexity of the dispute
- The type of dispute resolution required.

Core Mediation [*neighborhood, community, small claims, other non-domestic*]

A dispute resolution process by which a neutral mediator assists parties in neighborhood, community, small claims, or other similar disputes. This dispute resolution process can be voluntary or court -ordered. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. Core concerns include neighborhood, community, small claims, or other similar matters are mediated by a Supreme Court Approved Core Mediator or an attorney licensed to practice law in the State of Kansas.

Civil Mediation

A confidential dispute resolution process by which a neutral mediator assists disputing parties in civil cases other than small claims. Civil cases are generally where the parties are suing for money or assets. Any civil case or issue in a civil case can be mediated so long as the parties agree it should be mediated. This dispute resolution process can be voluntary or court - ordered. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. General civil disputes, other than small claims, are mediated by a Supreme Court Approved Civil Mediator or an attorney licensed to practice law in the State of Kansas.

Domestic Mediation

A confidential dispute resolution process by which a neutral mediator assists parents to resolve issues involving child custody, residency, visitation, parenting time, division of property, or other issues under K.S.A. 23-3501. The role of the mediator is to aid in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. This dispute resolution process can be voluntary or court -ordered. Domestic disputes are mediated by a Supreme Court Approved Domestic Mediator or an attorney licensed to practice law in the State of Kansas.

Parent/Adolescent Mediation

A confidential dispute resolution process by which a neutral mediator provides facilitated problem-solving approaches for families with children ages 10-18. This dispute resolution process can be voluntary or court -ordered. An agreement reached by the parties is to be based on the decisions of the parties and not the decisions of the mediator. Parent/Adolescent disputes are mediated by a Supreme Court Approved Parent/Adolescent mediator or an attorney licensed to practice law in the State of Kansas.

Domestic Conciliation

A non-confidential dispute resolution process for parents to resolve issues involving child custody, residency, visitation, parenting time, division of property, or other issues under K.S.A. 23-3501. A domestic conciliator if ordered, provides a report to the court. A domestic conciliator has no decision-making authority. Domestic conciliation is court ordered and domestic disputes are mediated by a Supreme Court Approved Domestic Conciliator or an attorney licensed to practice law in the State of Kansas who has knowledge and experience in domestic relations cases.

Parenting Coordination

A non-confidential dispute resolution process for parents where mediation has not been successful and parents remain in conflict. Parenting Coordination is a child centered process designed to assist conflicted parents and help the courts determine the best interest of involved children. Parenting coordinators may make temporary decisions consistent with the scope of a court order or appointment contract to help high-conflict parents who have demonstrated an inability or unwillingness to make parenting decisions on their own. A parenting coordinator must not make decisions that would change legal or physical custody from one parent to the other or substantially change the parenting plan. This dispute resolution process is court-ordered and conducted by a Supreme Court Approved Parenting coordinator or an attorney licensed to practice law in the State of Kansas who has knowledge and experience in domestic relations cases.

Case Management

A non-confidential dispute resolution process for highly conflicted parents where mediation has not been successful. Conflict in these families is evidenced by repetitive filings of motions, diminished parenting capacity to parent or other dispute resolution processes that are inappropriate for the family. A case manager helps the parties by providing a procedure, other than mediation, that facilitates negotiation of a plan for child custody, residency, or parenting time. If the parties are unable to reach an agreement, the case manager shall make recommendations to the court. This dispute resolution process is court ordered, time limited and conducted by a Supreme Court Approved Case Manager.

Limited Case Management

A non-confidential dispute resolution process for parents where mediation has not been successful. This process is similar to case management but is restricted to resolving specific issues identified in the court order. The limited case manager serves and functions under the direction and control of the court, and in that capacity the limited case manager shall have qualified quasi-judicial immunity. If the limited case manager is also a licensed attorney, he or she is not representing either party or offering legal advice to the parties concerning their rights in this case. A limited case manager helps the parties by providing a procedure, other than mediation, that facilitates negotiation of a plan for child custody, residency, or parenting time, and any other matters permitted by K.S.A. 23-3508 et seq. If the parties are unable to reach an agreement, the case manager must make recommendations to the court. ~~Limited case management is not a confidential process, the parties waive confidentiality of the proceeding under K.S.A. 5-512,~~ The limited case manager has the responsibility to report to the court and to other authorities under K.S.A. 23-3509 and as the court order directs. The term of this process expires when the issue is resolved. This dispute resolution process is conducted by a Supreme Court Approved Case Manager.

Juvenile Dependency Mediation

A confidential dispute resolution process used in Child in Need of Care cases and conducted by a neutral mediator. Juvenile Dependency mediation provides a problem-solving forum for all interested persons to develop a plan in the best interests of the child, safety for all members emphasizing strengthening families and family preservation. This dispute resolution process is mediated by a Supreme Court Approved Juvenile Dependency Mediator, and meets one of the following requirements pursuant to Rule 911 (c)(v)(aa-dd)

Mentor Mediation

Is the process of using experienced mentor mediators to supervise newly trained mediators for the co-mediation requirement for the Supreme Court approval process. A mentor mediator is a Supreme Court Approved Mediator in the area they supervise mediators and meets the requirements for a Mentor Mediator pursuant to Rule 912.

IV. Statutes and Rules Governing Dispute Resolution in Kansas

Reference to the Dispute Resolution Act, the Dispute Resolution Director, the Advisory Council on Dispute Resolution, Standards, Rules and Ethics can be found in Chapter 5 of the Kansas Statutes. The administration and use of this legislation is described in Kansas Supreme Court Rules 905-922. (NOTE: The items in blue text contain active hyperlinks.)

[KANSAS STATUTES CHAPTER 5.- Dispute Resolution](#)

5-501 [Citation of act; application.](#)

5-502 [Definitions.](#)

5-503 [Director of dispute resolution; appointment.](#)

5-504 [Advisory council on dispute resolution; members; terms, election of officers.](#)

5-505 [Same; duties and functions; meeting requirements; subcommittees.](#)

5-506 [Director's duties; annual report.](#)

5-507 [Programs or individuals in dispute resolution; approval of; application; annual report.](#)

5-508 [Same; funds; fees.](#)

5-509 [Same; cases accepted.](#)

5-510 [Supreme court adopts standards; ethics requirements; compensation for services.](#)

5-511 [Rules of procedure and ethics.](#)

5-512 [Confidentiality of proceedings.](#)

5-513 [Immunity from liability.](#)

5-514 [Mediation agreement.](#)

5-515 [Statute of limitations.](#)

5-516 [Supreme court adopts rules.](#)

5-517 [Dispute resolution fund; expenditures.](#)

5-518 [Intentional avoidance of mediation; penalty.](#)

Kansas Statutes Chapter 5 can be found at https://www.ksrevisor.org/statutes/ksa_ch5.html

[KANSAS SUPREME COURT RULES 905-922: Rules Relating to Dispute Resolution](#)

Rule 905 - Prefatory Rule

Rule 906 - Definitions

Rule 907 - Mediation

Rule 908 - Domestic Conciliation

Rule 909 - Parenting Coordination

Rule 910 - Case Management

Rule 911 - Individual Approval And Renewal-mediator, Domestic Conciliator, Parenting Coordinator, or Case Manager

Rule 912 - Individual Approval And Renewal-mentor Mediator

Rule 913 - Program Approval And Renewal

Rule 914 - Primary Training Courses

Rule 915 - Mediation Practicum

Rule 916 - Continuing Dispute Resolution Education

Rule 917 - Approved Program Providing Training Courses and Cdre

Rule 918 - Ethics

Rule 919 - Complaints

Rule 920 - Investigations

Rule 921 - Complaint Resolution

Rule 922 - Immunity

Appendix 1 - Kansas Standards of Practice for Lawyer Mediators in Family Disputes Introductory Comments by the Family Law Advisory Committee [Repealed effective January 1, 2020]

Kansas Supreme Court Rules 905-922 can be found at
https://www.kscourts.org/KSCourts/media/KsCourts/Rules/Rule_905-922.pdf

[KANSAS STATUTES Chapter 23. Articles 3501-3509 — KANSAS FAMILY LAW CODE-REVISED](#)

23-3501 Mediation; defined.

23-3502 Same; when ordered; appointment and qualifications of mediator.

23-3503 Duties of mediator.

23-3504 Termination of mediation.

23-3505 Confidentiality.

23-3506 Costs.

23-3507 Case management; process.

23-3508 Same; when ordered; appointment of case manager; qualifications.

23-3509 Case manager; duties; withdrawal; reassignment; recommendations.

Kansas Statutes Chapter 23 can be found at https://www.ksrevisor.org/statutes/ksa_ch23.html

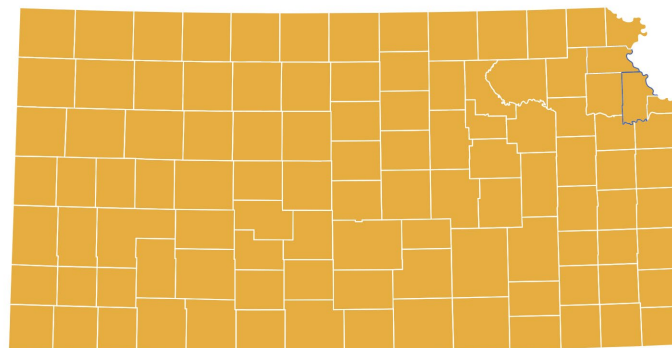
Other Kansas Statutes that refer to mediation, include: Juvenile Offenders (KSA 38-2361 & [38-2362](#)), Juvenile Permanency Determinations (KSA [75-7023](#)), Workers Compensation (KSA [44-5,117](#)), Community Developmental Disability Support (KSA [39-1806](#)), Special Education (KSA [72-3438](#)), Rural Water Districts (KSA [12-541](#)), Swine Production (KSA [16-1505](#)), just to name a few.

Federal statutes also mandate the use of mediation in disputes involving matters of; Discrimination in Housing (HUD) and Employment Discrimination (EEOC), the U.S. Department of Agriculture provides grants to states in support of agricultural mediation programs such as Kansas Agricultural Mediation Services [KAMS] and the US Federal Courts sanction the use of Restorative Justice and Restorative Circles/Dialogue.

V. Judicial District Practices

Judicial districts may have unique practices. Listed below are the links and associated counties for each Kansas Judicial District. **Please click on the map below** which provides the direct links to each of the 24 districts. Or enter this URL in your browser:

[https://www.kscourts.org/districts/.](https://www.kscourts.org/districts/)



Here are the direct links to each Judicial District.

- [1st](#)
- [2nd](#)
- [3rd](#)
- [4th](#)
- [5th](#)
- [6th](#)
- [7th](#)
- [8th](#)
- [9th](#)
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- [28th](#)
- [29th](#)
- [30th](#)
- [31st](#)

VI. How to Choose a Mediator, Conciliator, Parenting Coordinator or Case Manager

Mediators, conciliators, parenting coordinators and case managers come from different professional backgrounds. We recommend selecting a practitioner with the knowledge, skills, and experience in concerns and circumstances similar to your case.

Mediators, conciliators, parenting coordinators and case managers who provide services under the Kansas Judicial Branch Office of Judicial Administration on Dispute Resolution meet the standards set by the Kansas Supreme Court Dispute Resolution Rules 911-915, including:

- approved training and experience,
- participation in an approved practicum in the area for which the applicant received approved training,
- character, fitness, and general qualifications that meet the requirements of the program.

VII. Kansas Approved Dispute Resolution Providers

Mediators, Conciliators, Parenting Coordinators and Case Managers on the attached lists are approved to provide services under the Kansas Judicial Branch Office of Judicial Administration on Dispute Resolution as of the date noted on the attached link or document.

[Civil Mediators](#)

[Domestic Mediators](#)

[Parent/Adolescent Mediators](#)

[Juvenile Dependency Mediators](#)

[Core Mediators](#)

[Parenting Coordinators](#)

[Case Managers](#)

[Domestic Conciliators](#)

[Mentor Mediators](#)

VIII. Resources for Dispute Resolution Providers and Mentors (Individual)

The new Supreme Court Rules specifically outline the requirements for practitioners of each of the dispute resolution processes and becoming a mentor. Persons interested will find these requirements outlined in [Rule 911 and 912 of these Supreme Court Rules](#).

Dispute Resolution Provider Applications (Individual)

[Approval of Individual Dispute Resolution Providers](#)

To be submitted by individuals seeking initial approval as a dispute resolution provider.

[Annual Individual Renewal Form](#)

To be submitted by individuals who were previously approved as a dispute resolution provider.

Continuing Dispute Resolution Education**[Calendar of Approved Dispute Resolution Trainings](#)**

The list of approved training programs is updated regularly when trainers or programs submit information regarding mediation training opportunities to the Office of Judicial Administration.

IX. Resources for Dispute Resolution Programs**Education Program Applications****[Approval of Primary Training and Live CDRE Activity](#)**

To be submitted by individuals seeking Continuing Dispute Resolution Education (CDRE) credit for teaching an approved CDRE activity or an approved primary training course pursuant to Supreme Court Rules 916(d)(3) and 917(b).

[Approval of CDRE Activity: Teaching Credit](#)

To be submitted by individuals seeking Continuing Dispute Resolution Education (CDRE) credit for teaching an approved CDRE activity or an approved primary training course pursuant to Supreme Court Rules 916(d)(3) and 917(b)

[Approval of CDRE Activity: Authorship Credit](#)

To be submitted by individuals seeking Continuing Dispute Resolution Education (CDRE) credit for published materials they have authored pursuant to Supreme Court Rules 916(d)(4) and 917(b).

[Approval of CDRE Activity: Live Teleconference and/or Webinar](#)

To be submitted by approved programs seeking Continuing Dispute Resolution Education (CDRE) credit for a live teleconference or webinar presentation pursuant to Supreme Court Rules 916 and 917(b).

[Approval of CDRE Activity: Prerecorded Programming](#)

To be submitted by approved programs seeking Continuing Dispute Resolution Education (CDRE) credit for prerecorded programming (including DVD [digital video disk], online video, audio, CD [compact disk], podcast/mp3 [audio], etc.), pursuant to Supreme Court Rules 916 and 917(b)