



WHY YOUR STATE SHOULD ADOPT THE UNIFORM MEDIATION ACT (2001) (LAST AMENDED 2003)

The Uniform Mediation Act represents an important development in the law of mediation. Mediation is a consensual dispute resolution process in which the disputing parties reach a resolution themselves with the help of a mediator, instead of having a ruling imposed upon them. Parties' participation in mediation allows them to reach results that are tailored to their interests and needs. Mediation has been increasingly utilized in recent decades in resolving both personal and business disputes.

Highlights of the uniform act include the following:

- ***The Act provides certainty.*** Legal rules on mediation are addressed in more than 2,500 state and federal statutes, and more than 250 of these deal with confidentiality and privileges issues, alone. Complexity means uncertainty, which may inhibit the use of mediation. The Act provides a single comprehensive law governing privileges and confidentiality in mediation.
- ***The Act includes a confidentiality privilege.*** One of the Act's central purposes is to provide a privilege for the mediation process that assures confidentiality. The Act establishes a confidentiality privilege for mediators and participants that prohibits what is said during mediation from being used in later legal proceedings.
- ***The Act contains exceptions to privilege.*** The Act provides important exceptions to the confidentiality privilege. These exceptions include threats made to inflict bodily harm or other violent crime; parties' attempt to use mediation to plan or commit a crime; the need for information to prove or disprove allegations of child abuse or neglect; or the need for information to prove or disprove a claim or complaint of professional misconduct by a mediator.
- ***The Act protects parties to the mediation.*** The Act requires the mediator to disclose qualifications as well as known conflicts of interest.
- ***The Act includes applicability exceptions.*** The Act does not apply to collective bargaining disputes, some judicial settlement conferences, or mediation involving parties who are all minors.
- ***The Act promotes uniformity.*** Uniformity of the law helps bring order and understanding across state lines. Without uniformity, there can be no firm assurance in any state that a mediation is privileged. Uniformity is particularly important in cross-jurisdictional mediation. Because it is unclear which state's laws apply in those cases, the parties cannot be certain of the reach of their home state's confidentiality protections.

For more information about UMA, please contact ULC Legislative Counsel Kari Bearman at (312) 450-6617 or kbearman@uniformlaws.org.