

44-817. Mediators; appointment; functions; compensation; confidentiality. (a) The secretary of labor shall have power to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either upon the secretary's own initiative or upon the request of one of the parties to the dispute. It shall be the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the secretary of labor shall have any power of compulsion in mediation proceedings. The secretary of labor or the secretary's designee shall be authorized to charge fees to the parties for mediation, conflict resolution services or training programs contracted for to be provided by the agency and shall prescribe reasonable rules of procedure for such mediators. The costs for such mediation services shall be allocated by the secretary or the secretary's designee.

(b) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq., and amendments thereto, shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

(c) The confidentiality and privilege requirements of this section shall not apply to:

- (1) Information that is reasonably necessary to establish a defense for the mediator or staff of an approved program conducting the proceeding in the case of an action against the mediator or staff of an approved program that is filed by a party to the mediation;
- (2) any information that the mediator is required to report under K.S.A. 2016 Supp. 38-2223, and amendments thereto;
- (3) any information that is reasonably necessary to stop the commission of an ongoing crime or fraud or to prevent the commission of a crime or fraud in the future for which there was an expressed intent to commit such crime or fraud; or
- (4) any information that the mediator is required to report or communicate under the specific provisions of any statute or in order to comply with orders of the court.

History: L. 1955, ch. 252, § 7; L. 1976, ch. 370, § 81; L. 1996, ch. 129, § 3; L. 2001, ch. 173, § 4; L. 2004, ch. 179, § 79; L. 2006, ch. 200, § 102; Jan. 1, 2007.