

# RULE 38 TRAINING GUIDE

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# Rule 38 Origin

- The Tennessee legislature enacted Title 36, Chapter 6, Part 4 of the Tennessee Code Annotated to promote continuing parenting arrangements for families involved in divorce, legal separation, annulment or separate maintenance proceedings and for families that are involved in any other custody matters. Such arrangements reinforce the fundamental importance of the parent/child relationship to the welfare of the child.
- In order to help parents receive the necessary education and alternative dispute resolution services, the Tennessee legislature established the divorcing Parent Education and Mediation Fund. The Administrative Office of the Courts is charged with the distribution of the moneys in the fund to or for the benefit of each judicial district to provide education and mediation for indigent parents and the administration of those services.
- The present rule sets forth the qualifications and processes for the appointment compensation and payment of the reasonable expenses of the Alternative Dispute Resolution neutrals and education providers serving indigent parents involved in absolute divorce, legal separation, annulment, or separate maintenance proceedings and any other custody matters.
- \$7.00 of every marriage license fee is paid to the AOC for the divorcing parent education and mediation fund which funding includes the costs of court ordered mediation, parenting education programs, and nay related services related to resolve family conflict in divorce and post divorce matters.

# Tennessee Supreme Court Rule 38

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Click [here](#) to read Rule 38.



# Approved Case Types & Services

- Service types:
  - Mediation
  - Parent education
- Case Party Types:
  - Divorcing parents
  - Unmarried parents
  - Parent/non-parent
  - Must be deemed indigent

# How do you qualify for Rule 38 funds?

- Although Rule 38 funds are derived from the PEMF grant, these funds do not require a provider contract between the provider and the AOC.
- The court determines who will provide Rule 38 services
- Mediation services:
  - A court will refer a case to a listed mediator
- Parenting education classes:
  - Each court approves these providers



# Mediation Referrals

- Judicial Officers are required to make referrals to listed mediators pursuant to Rule 31.
- If you are not listed and mediate a court referred mediation, you will not qualify for Rule 38 funds.
- A referral order or “order of reference” is required to claim Rule 38 funds.



# Parenting Education Classes

- The court determines the providers to be utilized.
- The AOC does not assist the court with these decisions.
- The court may develop a set of criteria, minimum requirement, etc., used to determine approved providers.
- The court refers the parties to the provider via court order.
- Step 1 to becoming a provider is to contact the court you want to serve. The court will employ an administrator or a position much like an administrator. Ask to speak with the administrator-type employee. The administrator runs the business of the court and can point you in the right direction to begin the approval process.



# Rule 38 Fee Amounts

- Rule 31 Mediations
  - Up to \$25 per party, for each hour spent in mediation
  - Up to \$20 per party, for each out spent in out of mediation activities.
  - Reasonable costs and expenses: travel, printing, space rental, etc.
- Parenting Education Classes
  - Up to \$25 per parent
  - Fee covers time and materials spent providing this service

# Submitting a Rule 38 Claim to the AOC

- All claims are submitted to the AOC at [grants@tncourts.gov](mailto:grants@tncourts.gov)
- Mediation claims consist of:
  - Referral order provided by the AOC (order for reduced fee mediation)
    - Order must be signed by referring judge
  - Rule 38 mediator invoice form
    - Invoice must be fully completed and signed by a mediator or judge
- Parent education claims consist of:
  - Referral order provided by the AOC (order for reduced fee education)
  - Rule 38 parent education invoice form provided by the AOC

## Mediation Forms & Invoices

ACCESS TO JUSTICE
COURT IMPROVEMENT
COURT INTERPRETERS
COURT REPORTERS
GAVELS PROGRAM
INDEPENDENT DEFENSE
MEDIATION
ADR Plan
Covid-19 Protocols
Find a Mediator
Resources for Mediators
ADR Workshop Information
Listing Renewal
Continuing Mediation Education
<b>Forms &amp; Invoices</b>
Opinions
Policies
Rules
Reports & Publications
Misc. Resources
Submit Rule 31 Report

### RULE 31 MEDIATION FORMS & INVOICES

- Getting started with Zoom and Using it securely
- Preparation and Practice are Key to Successful Remote Mediation
- CMC Roolhouse
- Agreement to Mediate
- General Order
- Mediator Invoice
- Mediators 30 day report
- Mediators Final Report
- Motion for reduced fee mediation
- Motion to preempt mediation
- Order for Reduced Fee Mediation
- Order to mediate designating a mediator
- Rule 31/ADR Commission Information (benchcard)

### RULE 31A - ALTERNATIVE DISPUTE RESOLUTION FORMS

- Form Agreed Order for Non-Binding Arbitration
- Form Order for Case Evaluation
- Form Agreed Order for Summary Jury Trial
- Form Agreed Order for Minitrial

### RULE 38 MEDIATION FORMS & INVOICES

- Form Rule 38 Order for Reduced Fee Mediation
- Form Rule 38 Mediator Invoice for Reduced Fee Mediation
- Form Rule 38 Order for Reduced Fee Parent Ed Class
- Form Rule 38 Parent Education Invoice For Reduced Parent Ed Class

# AOC Link for Rule 38 Forms

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<https://www.tncourts.gov/programs/mediation/resources-mediators/forms-invoices>



# Contact Information

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- Email is the quickest way to receive a response