



**Georgia Office of Dispute Resolution**

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**Ethics Opinion Summaries**

1. **Ethics Opinion #1 (1998):** Ethics Opinion #1 highlights several best practice methods that all mediators should use when conducting mediations and for ADR program directors when crafting ADR program guidelines and rules. This opinion also emphasizes the dangers of failing to reduce an agreement to writing at the mediation session, warning that if the points of an agreement are not clear, mediators should call a break in the session, schedule another session, or do whatever is necessary to allow the parties to satisfy themselves that there is an agreement. If there is an agreement at mediation, the agreement should be memorialized in writing and signed when the parties are present. A written agreement protects against problems of proof of an agreement when there is a motion to enforce an oral agreement allegedly made in a confidential mediation.
2. **Ethics Opinion #2 (2002):** Ethics Opinion #2 stems from a complaint against a mediator, following a mediator’s derogatory comments made during a mediation. When a party feels humiliated or insulted by the mediator, and where there is an objective reason for such feeling, there is a loss of mediation integrity and fairness. Mediator conduct that is insulting to a party can be perceived as intimidating, which may be coercive and undermine the party’s self-determination. The Commission reminds mediators that vulgar, offensive, and demeaning remarks are a reflection on the referring court, the local ADR program, and the process of mediation in general.
3. **Ethics Opinion #3 (2009):** Ethics Opinion #3 followed a complaint about a mediator’s partiality and confidentiality, and the mediator’s actions resulted in the mediator’s removal from the registry of neutrals. The opinion emphasizes that a mediator’s credibility is fragile, and a mediator should guard against the perception of impartiality and bias, and cautions against handling cases in which the parties have engaged the mediator in another professional capacity. The Committee also recommends that mediators never voluntarily testify about their mediations other than when the situation is covered by the exceptions to confidentiality in the Supreme Court ADR Rules.
4. **Ethics Opinion #4 (2012):** Ethics Opinion #4 emphasizes that mediators must exercise caution when communicating with mediation participants and court staff about a mediation session. Additionally, mediators should remember that the mediator’s ethical obligations to a case do not end at the conclusion of the mediation session but continue indefinitely.



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5. **Ethics Opinion #5 (2012)**: Ethics Opinion #5 follows the voluntary discipline of a mediator after the mediator began a relationship with a mediation participant following a mediation session. The Ethics Committee found that a reasonable person could easily conclude that having two dinners with a party three months after a contentious 12-hour divorce mediation, and prior to the final divorce decree being entered, would create a perceived or actual conflict of interest. A perceived or actual conflict of interest that raises questions about a mediator’s impartiality, especially in the case of a dual relationship with a participant, should be avoided during and after mediation.
  
6. **Ethics Opinion #6 (2016)**: Ethics Opinion #6 arose from a complaint about an attorney and an unregistered neutral starting a mediation business one month after the mediation session in question took place. A business arrangement between the Respondent and the unregistered neutral created a dual relationship that caused the parties to question the neutrality of the mediator and subsequently, the integrity of the mediation process. This opinion addresses the importance that neutrals be transparent and forthcoming about relationships and sensitive to the fact that future business dealings with parties or their attorneys may create the appearance of impropriety.
  
7. **Ethics Opinion #7 (2022)**: Ethics Opinion #7 arose not out of a mediation, but instead a court hearing calendar call where a mediator was present and had a conversation via a Zoom chat with a courtroom participant. The mediator took a screen shot of the conversation and posted it to her Facebook page with disrespectful commentary about the courtroom participant. While no mediation occurred in this instance, and no confidential communications were shared, the Ethics Committee found that the ethics rules and standards continue to apply to neutrals when they are representing to the public that they are a mediator, and therefore all neutrals are encouraged to act in a way that does not erode the public’s confidence in the judiciary.