

NORTHERN TERRITORY OF AUSTRALIA

**CARE AND PROTECTION OF CHILDREN (MEDIATION CONFERENCES)
REGULATIONS**

Subordinate Legislation No. 4 of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 4 of 2010*

Care and Protection of Children (Mediation Conferences) Regulations

I, Thomas Ian Pauling, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Care and Protection of Children Act*.

Dated 30 April 2010

T. I. PAULING
Administrator

By His Honour's Command

C. B. BURNS
Minister for Education and Training
acting for
Minister for Child Protection

* Notified in the *Northern Territory Government Gazette* on 12 May 2010.

1 Citation

These Regulations may be cited as the *Care and Protection of Children (Mediation Conferences) Regulations*.

2 Commencement

These Regulations commence on the commencement of Chapter 2, Part 2.1, Division 6 of the *Care and Protection of Children Act*.

3 Definitions

In these Regulations:

convenor, for a mediation conference arranged under section 49 of the Act, means the person appointed under section 49(5) of the Act to convene the conference.

participant, for a mediation conference, means a person who attends the conference.

4 Referral by CEO

As soon as practicable following the appointment of a convenor to convene a mediation conference for a child, the CEO must give the convenor written notice of the following:

- (a) the name and contact details of the following persons:
 - (i) the child;
 - (ii) each parent of the child;
 - (iii) any member of the child's family whom the CEO or a parent of the child considers should be invited to the conference;
 - (iv) any other person whom the CEO or a parent of the child considers should be invited to the conference;
- (b) the cultural, ethnic and religious background of the child;
- (c) the purpose for which the conference is to be convened;
- (d) any other information the CEO considers appropriate.

5 Preparing for mediation conference

- (1) Before convening the mediation conference, the convenor must:
 - (a) take the following actions if appropriate to do so, having regard to the child's maturity and understanding:
 - (i) explain to the child the purpose of the conference;
 - (ii) discuss with the child whether the child wants a person to be appointed under regulation 6(1) to present, or assist the child to present, the wishes and views of the child at the conference;
 - (iii) discuss with the child whether the child wants a particular person to attend the conference to support the child; and
 - (b) explain to such members of the child's family as the convenor considers appropriate the purpose of the conference; and
 - (c) discuss with such members of the child's family as the convenor considers appropriate who should be invited to the conference.
- (2) Despite subregulation (1), the convenor is not required to take the actions mentioned in subregulation (1)(b) and (c) in relation to a member of the child's family whom the convenor is unable to contact after making reasonable attempts to do so.
- (3) Before convening the mediation conference the convenor must also invite to the conference any person the convenor considers should attend.

Note for subregulation (3)

For a mediation conference for an Aboriginal child, the convenor should have regard to section 12(2) of the Act.

- (4) The convenor may arrange for a person who has a similar cultural, ethnic or religious background to the child to assist the convenor to prepare for or conduct the mediation conference.

6 Appointment of representative for child

- (1) Before convening the mediation conference, the convenor must appoint a suitable person to present, or assist the child to present, the wishes and views of the child at the conference if:
 - (a) the convenor is requested to do so by the child; and

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- (b) the convenor considers it to be in the best interests of the child.

- (2) In subregulation (1):

suitable person means any person the convenor considers will accurately and effectively present, or assist the child to present, the wishes and views of the child at the mediation conference, taking into account the cultural, ethnic and religious background of the child.

7 Notify CEO if mediation conference not convened

- (1) This regulation applies if:
 - (a) following discussions with the child or a member of the child's family – the convenor forms the view that the mediation conference should not be convened; or
 - (b) following an attempt to convene the conference – the convenor forms the view that it will not be possible for the conference to be convened within a reasonable time.
- (2) As soon as practicable after forming the view, the convenor must give the CEO written notice of the convenor's view and the grounds on which it is based.

8 Conduct of mediation conference

- (1) The convenor may conduct the mediation conference in any way the convenor considers appropriate but must, as far as practicable, convene and conduct the conference in a manner appropriate to the cultural, ethnic and religious background of the child.
- (2) In addition, the convenor must, as far as practicable, ensure the following things occur at the mediation conference in the order specified:
 - (a) firstly:
 - (i) the convenor explains to the participants the purpose of the conference; and
 - (ii) each participant is given an opportunity to present his or her views and raise concerns relevant to the purpose of the conference;

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- (b) secondly, the family members of the child who are attending the conference (the **family members**) are given an opportunity, in private, to:
 - (i) consider and discuss the views presented and concerns raised by the participants; and
 - (ii) if applicable – develop a proposal for safeguarding the wellbeing of the child (the **proposal**);
 - (c) finally, if applicable:
 - (i) the family members are given an opportunity to present the proposal; and
 - (ii) the participants are given an opportunity to consider and discuss the proposal and negotiate with the family members any aspects of the proposal that may not safeguard the child's wellbeing; and
 - (iii) the participants try to agree on the best means of safeguarding the wellbeing of the child.
 - (3) If, during the mediation conference, an agreement on the best means of safeguarding the wellbeing of the child is arrived at, the convenor must:
 - (a) make a written record of:
 - (i) the details of the agreement; and
 - (ii) the name of each participant who is party to the agreement; and
 - (iii) whether the participant is attending the conference in person or by other means; and
 - (b) arrange for the record to be signed by each participant who is party to the agreement and attending the conference in person.

9 Reporting outcomes of mediation conference

- (1) The convenor must prepare a written report about the mediation conference and, within 28 days after the conference, give a copy of the report to:
 - (a) each participant; and
 - (b) the CEO.

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- (2) The report must be signed by the convenor and contain the following:
- (a) details of the time and place the mediation conference was held;
 - (b) a list of the persons who were invited to the conference;
 - (c) a list of the participants;
 - (d) a summary of the concerns that were raised and the outcomes of the conference;
 - (e) a summary of the views of the child if the child agrees to have the summary included and the convenor considers it to be in the best interests of the child to do so;
 - (f) if, during the conference, an agreement on the best means of safeguarding the wellbeing of the child was arrived at:
 - (i) a copy of the record made under regulation 8(3); and
 - (ii) a statement as to whether or not the convenor considers the wellbeing of the child will be safeguarded through the agreement.
- (3) The report must not disclose any matters that were discussed at the mediation conference, except as required by subregulation (2).

10 No disclosure of personal information

- (1) Except as required by regulation 9, a convenor must not disclose any personal information about a child, or a member of the child's family, that the convenor obtains as a result of convening a mediation conference for the child.

Maximum penalty: 200 penalty units.

- (2) A person mentioned in regulation 5(4) must not disclose any personal information about a child, or a member of the child's family, that the person obtains as a result of assisting the convenor in relation to a mediation conference for the child.

Maximum penalty: 200 penalty units.

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- (3) A person appointed under regulation 6(1) in relation to a mediation conference for a child must not disclose any personal information about the child, or a member of the child's family, that the person obtains as a result of the person's appointment.

Maximum penalty: 200 penalty units.

- (4) This regulation does not prevent a person from disclosing information if authorised or required to do so by law.

- (5) In this regulation:

personal information means information from which a person's identity is apparent or reasonably able to be ascertained.

11 Qualifications of convenor

For section 49(5) of the Act, a person may be appointed as a convenor if the person:

- (a) is accredited to act as a mediator under the Australian National Mediator Accreditation System; or
- (b) has experience relevant to convening a mediation conference.