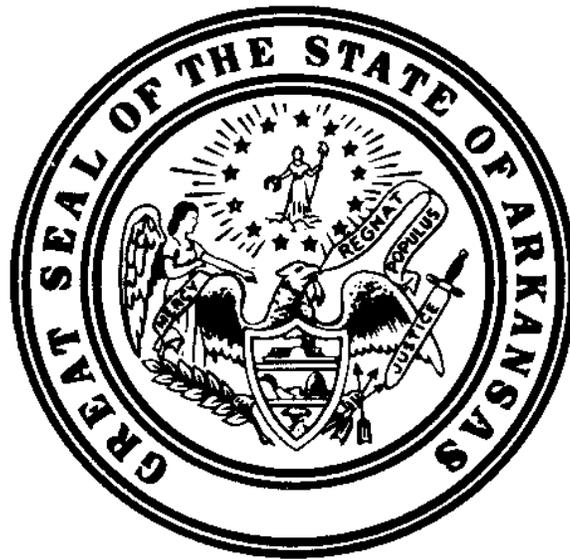


**ARKANSAS
ALTERNATIVE DISPUTE RESOLUTION
COMMISSION**



*Requirements for the Certification of Mediators
for Circuit Courts*

and

Procedures for the Discipline of Mediators

REQUIREMENTS AND PROCEDURES FOR INCLUSION ON THE ROSTER OF CERTIFIED MEDIATORS FOR CIRCUIT COURTS

A. *Scope of Requirements*

All mediators on the Roster of Certified Mediators for Circuit Courts shall be qualified pursuant to these Requirements. Persons included on this Roster are eligible to serve as compensated mediators in and for circuit courts pursuant to Ark. Code Ann. § 16-7-104 (3). The Roster will indicate whether the mediator is qualified to serve in Family/Juvenile cases, other Civil/Probate cases, or both, depending on the mediators qualifications as set forth in part C below.

B. *Procedures for Inclusion on the Roster of Certified Mediators*

1. A mediator seeking certification shall make application on a form to be provided by the Commission.
2. The application for certification shall be accompanied by a fee of \$75. The \$75 fee includes a certification fee of \$50 plus a \$25 non-refundable application fee. In order to refund the certification fee if certification is not granted, please enclose two checks or money orders - one in the amount of \$50 and the other in the amount of \$25.
3. The application shall contain or be accompanied by the following:
 - a. statement of educational background;
 - b. evidence of successful completion of the appropriate mediation training for the Roster;
 - c. statement of experience/areas of expertise;
 - d. statement of adherence to the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*; and
 - e. statement certifying accuracy of information contained in the application and a statement of adherence in which the applicant agrees to submit to the jurisdiction of Arkansas Courts and the ADR Commission.
4. Application for certification shall be acted upon by the Coordinator of the Commission. Any applicant denied inclusion shall have the right to request a hearing before the Commission for reconsideration of such a denial.

5. Notification of certification shall be made by letter and shall include whether the person is certified for Family/Juvenile matters, other Civil/Probate matters, or both. A letter denying certification, or certification as to one class of case, shall state the grounds for the denial and make reference to the right of the applicant to request a hearing for reconsideration of the denial. Such request by the applicant must be in writing and addressed to the Coordinator of the Commission and must be made within 30 days of receipt of notification of denial. Within 15 days of the reconsideration, and, if requested, a hearing, the Commission shall render a final decision.
6. An applicant denied inclusion may reapply for certification six months after the date of denial.
7. In order to maintain certification, each mediator must renew annually on a form supplied by the Commission which must be accompanied by a renewal fee in the amount of \$75. The date for renewal will be September 1 of each year.

C. *Standards for Inclusion on Roster of Certified Mediators*

1. Family/Juvenile
 - a. Have completed a minimum of 40 hours in a family mediation training program approved by the Commission; or have completed 40 hours of basic mediation training with an additional 20 hours of family mediation training in a program devoted entirely to family or parenting mediation which is approved by the Commission;
 - b. Have a bachelor's level degree with at least two years work experience in family and marriage issues; or have a master's degree or higher in social work, mental health, behavioral social science, or communications; or have a juris doctorate;
 - c. Have observed, mediated, or co-mediated two family mediations;
 - d. Be of good moral character; and
 - e. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators*
2. Civil/Probate
 - a. Have completed a minimum of 40 hours in a mediation training approved by the Commission;
 - b. Have a master's level degree or higher; or have a juris doctorate
 - c. Have observed, mediated, or co-mediated two mediations of circuit court cases other than family or juvenile matters;
 - d. Be of good moral character; and
 - e. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators*

Note: all degrees must have been obtained at an accredited college, university or law school.

D. *Requirements for Annual Renewal*

1. In order to maintain certification, each mediator must renew annually. Certified mediators will receive a renewal packet each year from the Commission. The date for renewal is September 1 of each year.
2. In order to qualify for certification renewal, each mediator must provide the following to the Coordinator of the Commission:
 - a. Completed and signed renewal form
 - b. Evidence of completion of 6 hours of CME
 - c. Mediation statistical reports (provided by the Commission)
 - d. Updated profile form
 - e. \$75 renewal fee
3. *Continuing Mediation Education:* Certified Mediators must receive 6 hours each year of continuing mediation education. This CME requirement may be met by attending a CME program conducted by the Commission, or by attending some other mediation related program which is approved by the Commission to qualify for CME.
4. *Mediation Statistical Reports:* All certified mediators are required to maintain certain information on each court ordered case they mediate. The information is to be recorded on a form provided by the Commission. All such forms are to be submitted to the Commission when the mediator applies for renewal of his or her certification. None of the information required will violate the terms of confidentiality. The information will be used to generate a statistical report that will be distributed to the circuit courts, and available to anyone who requests it.

Statistical reports should be submitted to the Commission at the conclusion of each court ordered mediation. Any reports not submitted by the time of renewal must be included with the renewal application.
5. *Mediator Profiles:* The Commission maintains a profile of each certified mediator. The profiles are provided to circuit court judges, attorneys, and parties who are would like additional information when selecting a mediator. At renewal each year, mediators are given an opportunity to update information on their profiles.

Note: If anything in these requirements and procedures conflict with previous publications promulgated by the Arkansas Alternative Dispute Resolution Commission, the requirements and procedures in this document override the previously promulgated publications.

Procedures for the Discipline of Mediators

Disciplinary Action

The Commission may take disciplinary, adverse, or other action against any applicant or mediator included on the Commission's Roster of Certified Mediators for any of the following:

1. Fraud, deceit, material misrepresentation or omission, in application to the Commission's Roster of Mediators or any other information provided to the Commission whenever discovered.
2. Any gross negligence, incompetence, or misconduct in the practice of mediation.
3. Any felony; or any misdemeanor involving violence, threatened violence or moral turpitude or adversely affecting the practice of mediation.
4. Any violation of the Commission's *Requirements for the Certification of Mediators for Circuit Courts*.
5. Any violation of the *Requirements for the Conduct of Mediations and Mediators*.
6. A violation of the policies or procedures of any program administered by the Commission.

Method for Hearings

Complaints/Allegations-- Complaints or allegations made against any person shall be in writing, and signed by the person or persons making them, and shall be filed with the Coordinator for the Commission. Reports, complaints, or allegations may also be made to the Commission by the Coordinator or Commission members.

Unless dismissed by the Commission as unfounded or trivial, all charges shall be heard by the Commission within a reasonable time.

Investigation - Once the Commission is made aware of a complaint or allegation, they may appoint an investigation committee. The Committee may include one member of the Commission, the Coordinator, Assistant Coordinator for the Commission, and may be advised the Assistant Attorney General assigned to advise the Commission. The Committee may serve in the following capacities: 1) to gather information to determine if a complaint or allegation is founded or legitimate; and 2) to provide evidence to be used in presenting the case; and 3) such other capacities as permitted or not prohibited by law or regulation.

Notice-- All parties shall be given an opportunity for hearing after reasonable notice consistent with the Administrative Procedures Act codified at Ark. Code Ann. § 25-15-201 et seq.

Continuances-- A continuance shall be granted only for good cause. Requests for continuances must be made to the Commission in writing and received no less than 10 working days prior to the scheduled hearing.

Hearing--Opportunity shall be given to all parties to respond and present evidence and argument on all issues involved.

1. at any hearing, the party shall have the right to appear in person. The party may also be represented by counsel.
2. to cross examine witnesses and evidence in his or her defense.

Failure to Appear-- If, after being served notice, the party fails to appear and has not been granted a continuance, the Commission may conduct the proceedings without the party's presence.

Panel to Hear Case - Five of the seven Commission members must be present to conduct a hearing. Any member of the Commission who has served on the investigation committee for the case, or who initiated the complaint, is prohibited from sitting on the panel.

Presiding Officer-- The Chair of the Commission may be the presiding officer at hearings, or the Commission may elect to have a hearing officer preside over any hearing. If the Chair is unavailable, a majority of the Commission members present may select a presiding officer from among the Commission members present or elect to have a hearing officer preside over the hearing.

The presiding officer shall have the power to maintain order and generally regulate and guide the course of the pending proceeding.

Legal Assistance - The Attorney General of the State of Arkansas or one of his assistants may act as legal advisor to the Commission and render legal assistance needed in fulfilling the provisions of the Commission's Rules

Decisions

If, after hearing the evidence, a majority of the Commission members present and participating sustain the disciplinary, adverse, or other action the Commission may reprimand, suspend, revoke, limit or otherwise condition the mediator's certificate, remove or refuse to include his or her name on the Commission's Roster of Certified Mediators.

A final decision will be made in writing within 15 days of the hearing. A final decision shall include findings of fact and conclusions made in the hearing. Findings of fact shall include a concise and explicit statement of the underlying facts supporting the findings. A copy of the findings shall be served to the party by registered mail.

Appeal

The decision of the Commission may be appealed within 30 days of service of the same upon respondent as specified in the Administrative Procedures Act codified at Ark. Code Ann. § 25-15-201 et seq.

Informal Disposition of Complaints

Nothing contained herein shall prohibit informal disposition of complaints or allegations by settlement, consent or agreement of parties.

Amendments to the Procedures

These rules, regulations, and definitions may be modified, added to, or deleted as deemed appropriate by the Arkansas Alternative Dispute Resolution Commission in the method prescribed for such changes by the laws of the State of Arkansas.