

RECEIVED

OCT 24 2017

BUREAU OF LEGISLATIVE RESEARCH

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 in which divisions of circuit court the mediator is qualified to serve, depending on the mediator's 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 \$75 application fee.
3. The application shall contain or be accompanied by the following:
 - a. ~~Statement of Certified transcript or letter from a college or university verifying the applicant's educational background;~~
 - b. Evidence of successful completion of the appropriate mediation training for the Roster;
 - c. Appropriate forms authorizing the Commission to run background checks
 - d. Statement of experience/areas of expertise;
 - e. Statement of adherence to the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*; and
 - f. 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 certification shall have the right to request reconsideration of such a denial by the Commission.
5. Applicants may request a waiver of one or more requirements. Such waiver is to be made in writing and addressed to the Coordinator of the Commission. The Commission, at its discretion, may waive any of the certification requirements, recertification requirements, or continuing mediation education requirements set forth of these standards.

6. Notification of certification shall be made by letter and shall indicate in which categories the person is certified: Civil, Probate, Domestic Relations, and/or Juvenile. ~~Domestic Relations matters, Juvenile matters, and/or Civil and Probate matters.~~ 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 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~~ 30 days of the reconsideration, the Commission shall render a final decision.
7. An applicant denied certification may reapply six months after the date of denial.
8. In order to maintain certification, each mediator must renew annually on a form supplied by the Commission which must be accompanied by a \$75 renewal fee. ~~The renewal fee is set by the Commission annually.~~ Recertification applications must be received by the Commission office by August 31st of each year. The date for renewal will be September 1st of each year.
9. Applicants who reside outside the state of Arkansas must agree to submit to the jurisdiction of Arkansas courts and designate an agent of service in Arkansas.
10. "Bachelor's degree" and "master's degree" are only those degrees awarded by an institution of higher education accredited by an agency recognized by the Council for Higher Education (CHEA) and approved or listed by the United States Department of Education as a recognized accredited agency. "Juris Doctorate" degrees are only those degrees earned from a law school accredited by the American Bar Association. Degrees earned outside the United States shall be evaluated on a case by case basis by the Commission in order to determine whether the degree is substantially equal to a like and similar degree earned in this country and which degree if earned in this country would have been subject to the standards and academic quality which would be mandated by the foregoing accreditation process and procedure in this country.
11. Temporary Certification: The following applicants are eligible for temporary certification while completing the process for full certification, if the applicant is the holder in good standing of a substantially equivalent certificate issued by another state.
 - a. Active duty military service members stationed in the State of Arkansas.
 - b. Returning military veterans who were discharged under circumstances other than dishonorable and who are applying within one year of discharge from active duty.
and;
 - c. Spouses of active duty military service members or spouses of returning military veterans applying within one year of discharge from active duty.

The applicant must notify the Commission on their application that they fall into one of the categories eligible for temporary certification and provide documentation verifying

eligibility.

12. Expedited Application Process: The Commission will expedite the process and procedures for full certification for the following applicants:
- a. Active duty military service members stationed in the State of Arkansas.
 - b. Returning military veterans who were discharged under circumstances other than dishonorable and who are applying within one year of discharge from active duty, and;
 - c. Spouses of active duty military service members or spouses of returning military veterans applying within one year of discharge from active duty.

The applicant must notify the Commission on their application that they fall into one of the categories eligible for expedited application processing and provide documentation verifying eligibility.

13. Military Training and Experience: When considering an application for full certification for an active duty military service member stationed in the State of Arkansas or a returning military veteran applying within one year of his or her discharge from active duty, the Commission will consider the applicant's military training and experience and if it is determined to be substantially similar to experience or education required for certification, the training and experience will be accepted in lieu of experience or education required for certification.

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

1. Civil Division Mediators

a. Training

1. Have completed a minimum of 40 hours in a *basic or civil* mediation training *course* approved by the Commission;
2. Applicants who complete a mediation training course outside of Arkansas must also complete the Commission's course *Mediator Ethics, Law and General Practices in Arkansas*.
3. Applicants must complete the certification process within ~~five~~ *three* years of completing ~~basic~~ *their initial* mediation training. If a complete certification application has not been submitted to the Commission within the ~~five~~ *three* year period, the applicant must retake all training required for certification in the civil division. If the applicant can demonstrate that they have actively mediated since receiving ~~the basic~~ *their initial* mediation training, this requirement may be waived at the Commission's discretion. *If the applicant is certified by the Commission in another division, the three year time limit is not applicable.*

b. Education

1. Have a master's level degree or higher; or
2. Have a bachelor's degree plus a graduate level certificate in conflict resolution; or
3. Have a juris doctorate or equivalent; or
4. Have substantial, demonstrated, and satisfactory knowledge, skills, abilities, and experience as a mediator in the applicable field of mediation

c. Practical Experience

1. Have observed, mediated, or co-mediated two mediations involving issues that would be heard in circuit court, other than domestic relations or juvenile matters;
2. Observations and co-mediations must be of a case that is, or would be, filed in the civil division of the Arkansas Circuit Courts. Observations and co-mediations must be completed with a mediator who is certified by the Arkansas ADR Commission.
3. *Observations must be completed during, or after, completion of mediation training.*

d. Ethics

1. Be of good moral character; and
2. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators*
3. *Submit to an Arkansas State Police Records check and an Arkansas Child Maltreatment Registry check. If the applicant has resided in any*

state other than Arkansas in the previous five years, they must submit to a background check in the state or states of prior residence in that prior five years.

e. Examination

1. Prior to granting certification, the Commission may require applicants to successfully complete an examination on mediation concepts, ethics, and other topics relevant to mediation in the Arkansas Circuit Court system.

2. Domestic Relations

a. Training

1. Have completed a ~~minimum of 40 hours in a~~ family mediation training ~~program~~ approved by the Commission; or
2. Have completed 40 hours of basic *or civil* 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;
3. Applicants who complete a basic, *civil* or family mediation training course outside of Arkansas must also complete the Commission's course *Mediator Ethics, Law and General Practices in Arkansas*. If the applicant has completed an approved mediation training course in Arkansas, this requirement will be waived.
4. Applicants must complete the certification process within ~~five~~ *three* years of completing ~~basic~~ *their initial* mediation training. If a complete certification application has not been submitted to the Commission within the ~~five~~ *three* year period, the applicant must retake all training required for certification in the domestic relations division. If the applicant can demonstrate that they have actively mediated since receiving ~~the basic~~ *their initial* mediation training, this requirement may be waived at the Commission's discretion. If the applicant is certified by the Commission in another division, the three year time limit is not applicable.

b. Education

1. Have a bachelor's level degree with at least two years work experience in family and marriage issues; or
2. Have a master's degree or higher; or
3. Have a bachelor's degree plus a graduate level certificate in conflict resolution; or
4. Have a juris doctorate or equivalent; or
5. Have substantial, demonstrated, and satisfactory knowledge, skills, abilities, and experience as a mediator in the applicable field of mediation

- c. Practical Experience
 - 1. Have observed, mediated, or co-mediated two domestic relations mediations;
 - 2. Observations and co-mediations must be of a case that is, or would be, filed in the domestic relations division of the Arkansas Circuit Courts. Observations and co-mediations must be completed with a mediator who is certified by the Arkansas ADR Commission.
 - 3. Observations must be completed during, or after, completion of mediation training.

- d. Ethics
 - 1. Be of good moral character; and
 - 2. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators*.
 - 3. Submit to an Arkansas State Police Records check and an Arkansas Child Maltreatment Registry check. If the applicant has resided in any state other than Arkansas in the previous five years, they must submit to a background check in the state or states of prior residence in that prior five years.

- e. Examination
 - 1. Prior to granting certification, the Commission may require applicants to successfully complete an examination on mediation concepts, ethics, and other topics relevant to mediation in the Arkansas Circuit Court system.

- 3. Probate Division
 - a. Any mediator who is certified in, or meets the certification requirements of either the civil division or the domestic relations division is eligible for certification in the probate division.

- 4. Juvenile Division Mediators
 - a. Training
 - 1. Have completed a ~~minimum of 40 hours in a~~ family mediation training ~~program~~ approved by the Commission; or
 - 2. Have completed a 40 hours of basic *or civil* mediation training with an additional 20 hours of family mediation training ~~in a program~~ devoted entirely to family or parenting mediation *and* which is approved by the Commission; and
 - 3. Have completed a course on the Arkansas juvenile court system approved by the Commission.
 - 4. Applicants who complete a basic or family mediation training course

outside of Arkansas must also complete the Commission's course *Mediator Ethics, Law and General Practices in Arkansas*.

5. Applicants must complete the certification process within ~~five~~ *three* years of completing basic mediation training. If a complete certification application has not been submitted to the Commission within the ~~five~~ *three* year period, the applicant must retake all training required for certification in the juvenile division. If the applicant can demonstrate that they have actively mediated since receiving the ~~basic~~ *their initial* mediation training, this requirement may be waived at the Commission's discretion. *If the applicant is certified by the Commission in another division, the three year time limit is not applicable.*

b. Education

1. Have a bachelor's level degree with at least two years work experience in family issues; or
2. Have a master's degree or higher; or
3. Have a bachelor's degree plus a graduate level certificate in conflict resolution; or
4. Have a juris doctorate or equivalent; or
5. Have substantial, demonstrated, and satisfactory knowledge, skills, abilities, and experience as a mediator in the applicable field of mediation

c. Practical Experience

1. Have co-mediated three cases from the juvenile division of the Arkansas Circuit courts, at least one of which must be a dependency-neglect case.
 - a. Co-mediations must be completed in Arkansas with a mediator who is certified by the Arkansas ADR Commission and designated as a juvenile mediation mentor. The Commission may consider evaluations made by the mentor mediator when determining whether the applicant is qualified for certification in the juvenile category.
2. *If there is a three month period in which there are no opportunities to work with a mentor and the applicant has mediated five domestic relations or probate cases, the applicant, with authorization from the Coordinator for the Commission, may:*
 - a. *observe or co-mediate three juvenile mediations, one of which must be a dependency neglect case; or*
 - b. *observe a facilitated dependency neglect staffing and observe or co-mediate two juvenile mediations; or*
 - c. *observe or co-mediate one juvenile mediation, one dependency neglect facilitated staffing, and co-facilitate one dependency neglect facilitated staffing.*
 - i. *Observations or co-mediations must be completed with a mediator who is certified by the Arkansas ADR*

Commission.

- ii. Applicants for juvenile certification must receive authorization from the Coordinator for the Commission to complete the practical experience component using prior experience and observations or co-mediations.

d. Ethics

1. Be of good moral character; and
2. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators*.
3. Submit to an Arkansas State Police Records check and an Arkansas Child Maltreatment Registry check. If the applicant has resided in any state other than Arkansas in the previous five years, they must submit to a background check in the state or states of prior residence in that prior five years.

e. Examination

1. Prior to granting certification, the Commission may require applicants to successfully complete an examination on mediation concepts, ethics, and other topics relevant to mediation in the Arkansas Circuit Court system.

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. Applications for renewal must be received by the Commission by August 31.
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 Commission approved continuing mediation education (CME)
 - c. Mediation statistical reports for all court ordered cases mediated by the mediator during the reporting period. The reports must be made on a form provided by the Commission.
 - d. ~~Updated profile form~~
 - e. Renewal fee
3. *Continuing Mediation Education:* Certified Mediators must ~~receive~~ complete 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.

The Commission will allow a full or partial exemption from continuing mediation education requirements for the following individuals:

- a. An active duty military service member deployed outside the State of Arkansas.
- b. A returning military veteran with one year of his or her discharge from active duty; or
- c. The spouse of a person who is an active duty military service member deployed outside the State of Arkansas or a returning military veteran with one year of his or her discharge from active duty.

The mediator must notify the Commission that they fall into one of the categories eligible for an exemption from continuing mediation education requirements and provide documentation verifying eligibility.

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 must be submitted to the Commission when the mediator applies for renewal of 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~~ available to assist anyone for who would like additional information when selecting a mediator. At renewal each year, mediators are given an opportunity to update information on their profiles.
6. *Active Status:* Completion of all renewal requirements and submission of the recertification application in a timely manner maintains active certification status.
7. *Suspended Status:* Failure to provide proof of continuing mediation education hours or submit recertification fees with the renewal application, or for other good cause shown, may result in suspended certification status. If suspended for failure to submit CME or fees, the mediator is not eligible for active status until the following September 1st. If suspended for good cause shown, the suspension remains in effect until the date specified by the Commission.
8. *Lapsed Certification:* Failure to renew certification will result in a mediator being placed in lapsed certification status.

Certification held by an active duty military service member deployed outside the State of Arkansas, or his or her spouse, will not expire or lapse until 180 days following the active duty military service member's return from active deployment. Service members should notify the Commission at the time they are deployed outside the State of Arkansas, and when they return from active deployment.

To ~~renew certification~~ return to active status, the mediator must: 1) submit a renewal application, 2) submit proof of completion of continuing mediation education hours due for all reporting periods that occurred during the lapsed period, 3) and certification fees ~~and late fees due for all reporting periods that occurred during~~ for the lapsed period, up to \$225, 4) submit to background checks. The reporting period for mediators is September 1st through August 31st of each year. ~~Lapsed status may last for no more than three years. After three years, the Commission will review the recertification application to determine if the mediator will be required to complete the application process as a new applicant. Completing the application process includes retaking the required mediation training and completing new mediation observations, as well as all~~

~~other certification requirements.~~

9. *Inactive Status:* A mediator desiring to be placed on inactive status for personal or professional reasons may petition the Commission. Such reasons may include, but are not limited to, being on active military outside the State of Arkansas, temporary appointment to the bench or political office, or serious health issues. The Commission may grant inactive status for good cause shown. When inactive status is granted, the mediator is not required to complete continuing mediation education or pay certification fees.

Return to active status occurs automatically at the expiration of the inactive status period. The mediator may request to return to active status prior to the expiration of the inactive status period. All requests must be made in writing to the Coordinator for the Commission.

10. *Relinquishment of Certification:* A certified mediator may voluntarily relinquish their certification for any reason. Upon relinquishment, their name will be removed from the Roster of Certified Mediators and the mediator will not be eligible to return to active status as a certified mediator unless they apply for reinstatement and the application is approved by the Commission.

Applicants for reinstatement must complete the number of CME hours they would have been required to complete if certification had been maintained, not to exceed 24 hours, submit to background checks, and pay a reinstatement fee of \$75.

To relinquish certification, the mediator must complete a form provided by the Commission stating that they are voluntarily relinquishing certification and that they understand they are no longer eligible to mediate for compensation cases ordered to mediation by the Arkansas Circuit courts, unless authorized under Ark. Code Ann. §16-7-202.