

# **APPENDIX C**

Proposed Rules for Appellate Mediator Qualifications and Discipline  
in Full-Page Legislative Format

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# FLORIDA RULES for CERTIFIED and COURT-APPOINTED MEDIATORS

## PART I MEDIATOR QUALIFICATIONS

### Rule 10.100 Certification Requirements

(a) General. For certification as a county court, family, circuit court, ~~or~~ dependency, or appellate mediator, a mediator must be at least 21 years of age, and be of good moral character. For certification as a county court, family, circuit court, or dependency mediator, and one must have the required number of points for the type of certification sought as specifically required in rule 10.105.

(b) County Court Mediators. For initial certification as a mediator of county court matters, an applicant must have at least a high school diploma or a General Equivalency Diploma (GED) and 100 points, which shall include:

- (1) 30 points for successful completion of a Florida Supreme Court certified county court mediation training program;
- (2) 10 points for education; and
- (3) 60 points for mentorship.

(c) Family Mediators. For initial certification as a mediator of family and dissolution of marriage issues, an applicant must have at least a bachelor's degree and 100 points, which shall include, at a minimum:

- (1) 30 points for successful completion of a Florida Supreme Court certified family mediation training program;
- (2) 25 points for education/mediation experience; and
- (3) 30 points for mentorship.

Additional points above the minimum requirements may be awarded for completion of additional education/mediation experience, mentorship, and miscellaneous activities.

(d) Circuit Court Mediators. For initial certification as a mediator of circuit court matters, other than family matters, an applicant must have at least a bachelor's degree and 100 points, which shall include, at a minimum:

- (1) 30 points for successful completion of a Florida Supreme Court certified circuit mediation training program;
- (2) 25 points for education/mediation experience; and
- (3) 30 points for mentorship.

Additional points above the minimum requirements may be awarded for completion of additional education/mediation experience, mentorship, and miscellaneous activities.

(e) Dependency Mediators. For initial certification as a mediator of dependency matters, as defined in Florida Rule of Juvenile Procedure 8.290, an applicant must have at least a bachelor's degree and 100 points, which shall include, at a minimum:

- (1) 30 points for successful completion of a Florida Supreme Court certified dependency mediation training program;
- (2) 25 points for education/mediation experience; and
- (3) 40 points for mentorship.

Additional points above the minimum requirements may be awarded for completion of an additional education/mediation experience, mentorship, and miscellaneous activities.

(f) Appellate Mediators. For initial certification as a mediator of appellate matters, an applicant must be a Florida Supreme Court certified circuit, family or dependency mediator and successfully complete a Florida Supreme Court certified appellate mediation training program.

~~(f)~~(g) Senior Judges Serving As Mediators. A senior judge may serve as a mediator in a court-ordered mediation only if certified by the Florida Supreme Court as a mediator for that type of mediation.

~~(g)~~(h) Referral for Discipline. If the certification or licensure necessary for any person to be certified as a family or circuit mediator is suspended or revoked, or if the mediator holding such certification or licensure is in any

other manner disciplined, such matter shall be referred to the Mediator Qualifications Board for appropriate action pursuant to rule 10.800.

~~(h)~~(i) Special Conditions. Mediators who are certified prior to August 1, 2006, shall not be subject to the point requirements for any category of certification in relation to which continuing certification is maintained.

## PART III DISCIPLINE

### Rule 10.730 Mediator Qualifications Board

(a) **Generally.** The mediator qualifications board shall be composed of 3 standing divisions that shall be located in the following regions:

- (1) One division in north Florida, encompassing the First, Second, Third, Fourth, Eighth, and Fourteenth judicial circuits;
- (2) One division in central Florida, encompassing the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth, and Eighteenth judicial circuits;
- (3) One division in south Florida, encompassing the Eleventh, Fifteenth, Sixteenth, Seventeenth, Nineteenth, and Twentieth judicial circuits.

Other divisions may be formed by the supreme court based on need.

(b) **Composition of Divisions.** Each division of the board shall be composed of:

- (1) three circuit or county judges;
- (2) three certified county mediators;
- (3) three certified circuit mediators;
- (4) three certified family mediators, at least 2 of whom shall be non-lawyers;
- (5) not less than 1 nor more than 3 certified dependency mediators;  
~~and~~
- (6) not less than 1 nor more than 3 certified appellate mediators; and
- ~~(6)~~(7) three attorneys licensed to practice law in Florida who have a substantial trial practice and are neither certified as mediators nor judicial

officers during their terms of service on the board, at least 1 of whom shall have a substantial dissolution of marriage law practice.

**(c) Appointment; Terms.** Eligible persons shall be appointed to the board by the chief justice of the Supreme Court of Florida for a period of 4 years. The terms of the board members shall be staggered.

**(d) Complaint Committee.** Each complaint committee of the board shall be composed of 3 members. A complaint committee shall cease to exist after disposing of all assigned cases. Each complaint committee shall be composed of:

- (1) one judge or attorney, who shall act as the chair of the committee;
- (2) one mediator, who is certified in the area to which the complaint refers; and
- (3) one other certified mediator.

**(e) Qualifications Complaint Committee.** One member of each division shall serve as a member of the qualifications complaint committee for a period of 1 year. The qualifications complaint committee shall be composed of:

- (1) one judge or attorney, who shall act as the chair of the committee; and
- (2) two certified mediators.

**(f) Panels.** Each panel of the board shall be composed of 5 members. A panel shall cease to exist after disposing of all assigned cases. Each panel shall be composed of:

- (1) one circuit or county judge, who shall serve as the chair;
- (2) three certified mediators, at least 1 of whom shall be certified in the area to which the complaint refers; and
- (3) one attorney.

**(g) Panel Vice-Chair.** Each panel once appointed shall elect a vice-chair. The vice-chair shall act as the chair of the panel in the absence of the chair.

*Committee Notes*

**2000 Revision.** In relation to (b)(5), the Committee believes that the Chief Justice should have discretion in the number of dependency mediators appointed to the Board depending on the number of certified dependency mediators available for appointment. It is the intention of the Committee that when dependency mediation reaches a comparable level of activity to the other three areas of certification, the full complement of three representatives per division should be realized.

## **Rule 10.900 Mediator Ethics Advisory Committee**

- (a) **Scope and Purpose.** The Mediator Ethics Advisory Committee shall provide written advisory opinions to mediators subject to these rules in response to ethical questions arising from the Standards of Professional Conduct. Such opinions shall be consistent with supreme court decisions on mediator discipline.
- (b) **Appointment.** The Mediator Ethics Advisory Committee shall be composed of 9 members, 3 from each geographic division served by the Mediator Qualifications Board. No member of the Mediator Qualifications Board shall serve on the committee.
- (c) **Membership and Terms.** The membership of the committee shall be composed of 1 county mediator, 1 family mediator, and 1 circuit mediator from each division and shall be appointed by the chief justice. At least one of the 9 members shall also be a certified dependency mediator, and at least one of the 9 members shall also be a certified appellate mediator. All appointments shall be for 4 years. No member shall serve more than 2 consecutive terms. The committee shall select 1 member as chair and 1 member as vice-chair.
- (d) **Meetings.** The committee shall meet in person or by telephone conference as necessary at the direction of the chair to consider requests for advisory opinions. A quorum shall consist of a majority of the members appointed to the committee. All requests for advisory opinions shall be in writing. The committee may vote by any means as directed by the chair.
- (e) **Opinions.** Upon due deliberation, and upon the concurrence of a majority of the committee, the committee shall render opinions. A majority of all members shall be required to concur in any advisory opinion issued by the committee. The opinions shall be signed by the chair, or vice-chair in the absence of the chair, filed with the Dispute Resolution Center, published in the Dispute Resolution Center newsletter, and be made available upon request.
- (f) **Effect of Opinions.** While reliance by a mediator on an opinion of the committee shall not constitute a defense in any disciplinary proceeding, it shall be evidence of good faith and may be considered by the board in relation to any determination of guilt or in mitigation of punishment.

**(g) Confidentiality.** Prior to publication, all references to the requesting mediator or any other real person, firm, organization, or corporation shall be deleted from any request for an opinion, any document associated with the preparation of an opinion, and any opinion issued by the committee. This rule shall apply to all opinions, past and future.

**(h) Support.** The Dispute Resolution Center shall provide all support necessary for the committee to fulfill its duties under these rules.

*Committee Notes*

2000 Revision. The Mediator Ethics Advisory Committee was formerly the Mediator Qualifications Advisory Panel.