

Supreme Court of Florida

No. AOSC19-26

IN RE: PROCEDURES GOVERNING CERTIFICATION OF MEDIATORS

ADMINISTRATIVE ORDER

Chapter 44, Florida Statutes, recognizes the Supreme Court of Florida as having the authority and responsibility for certifying all persons who are eligible to receive court referrals for mediation. Pursuant to article V, section 2(a), of the Florida Constitution, and Chapter 44, Florida Statutes, the Court adopted rules 10.100, 10.105 and 10.110, Florida Rules for Certified and Court-Appointed Mediators, specifying the requirements for such mediators.

This administrative order is adopted to update and combine *In re: Procedures Governing Certification of Mediators*, Fla. Admin. Order No. AOSC11-1 (Jan. 4, 2011) and *In re: Procedures Governing the Certification of Mediators*, Fla. Admin. Order No. AOSC12-48 (Sept. 4, 2012), which govern the certification process for mediators. The provisions of this order supersede all previous orders on this subject.

I. Initial Certification

A. Application

The certification application provided by the Dispute Resolution Center (DRC) shall be completed by all individuals seeking certification, in accordance with the following procedures.

The DRC shall provide, to all individuals who have successfully completed a certified mediation training program, an application and information on the certification requirements. An application should be complete upon filing with the DRC. However, if an application is received which is not complete upon filing, such incomplete application may not remain pending for a period longer than one year. Any application pending more than one year from the date of original filing shall be denied and returned to the applicant. The one-year period shall be tolled during any review by the DRC or the Mediator Qualifications and Discipline Review Board (MQDRB).

Any material misrepresentation by the applicant in the application process shall be automatically referred to the MQDRB.

B. Certification Requirements

To obtain certification, applicants for county, family, circuit, and dependency mediator shall meet all certification requirements in rules 10.100, 10.105 and 10.110, Florida Rules for Certified and Court-Appointed Mediators,

and this order. Applicants for appellate mediator certification shall meet all certification requirements in rules 10.100 and 10.110, Florida Rules for Certified and Court-Appointed Mediators, and this order.

1. Good Moral Character

For applicants seeking certification and mediators adding additional areas of certification after April 1, 2018, the requirements of Florida Rule for Certified and Court-Appointed Mediators 10.110, Good Moral Character, will be satisfied, in part, by submitting to a Florida Department of Law Enforcement (FDLE) criminal background check at the applicant's expense. Applicants are required to be fingerprinted by a Livescan Service Provider. The list of providers throughout the state can be found on the FDLE website. The applicant will provide the DRC's Originating Agency Identification (ORI) number, FL737127Z, to the Livescan Service Provider so that the background screening results are sent directly from FDLE to the DRC. The applicant must file his or her mediator certification application with the DRC within 90 days of being fingerprinted; applicants who fail to do so will be required to be rescreened at their own expense. Mediator certification applications will not be considered complete and processed until the results of the criminal background screening have been received by the DRC. After April 1, 2018, if a mediator applies for another type of mediator certification

within two years of his or her initial certification date, additional background screenings will not be required for the additional certification(s).

An initial applicant for county mediator certification who is sponsored into training by a trial court alternative dispute resolution program to serve as a small claims mediator for the program is eligible for an exemption from the criminal background check process described above provided the following two conditions are met: first, the local court program has already received, at a minimum, Level I criminal background screening results based on fingerprints from FDLE; and second, the program notified the DRC in writing at the time of application submission that the applicant has passed the criminal background screening and is approved to serve as a small claims mediator.

2. Point Categories

a. Mediation Training. Applicants must complete a Supreme Court of Florida certified mediation training program for the type of mediation for which they are seeking certification. To qualify as a Supreme Court of Florida certified mediation training program, a training program must satisfy all of the requirements of *In re: Mediation Training Standards and Procedures*, Fla. Admin. Order No. AOSC17-25 (May 3, 2017), or any subsequent successor order.

Applicants shall file their application with the DRC no later than two years from the date of conclusion of the requisite certified mediation training program.

b. Education/Mediation Experience. Any applicant relying on an educational degree shall provide evidence of such degree in the form of an official transcript sent directly from the educational institution to the DRC. In the event that such documentation is unavailable, the applicant must submit another form of appropriate documentation, such as a sworn affidavit.

In lieu of an official transcript, a member of The Florida Bar shall provide verification from The Florida Bar reflecting the applicant's membership. The verification shall be dated no more than 90 days prior to the date of filing an application for mediator certification.

Proof of educational points via an official transcript only needs to be submitted once to the DRC regardless of the number of certifications sought or applications submitted.

c. Mentorship. Mentorship shall include observing mediations conducted by certified mediators and conducting mediations under the supervision and observation of certified mediators. The mentorship

requirements for those seeking certification shall be performed in a manner consistent with the following requirements. The responsibility of structuring a mentorship rests with each trainee. The trainee shall not receive any fees for any case that the trainee utilizes to complete the required mentorship.

All duly certified mediators are required to allow, upon request, a minimum of two mediation observations or supervised mediations per year. The certified mediator shall not charge the trainee any fees to observe a mediation conducted by the certified mediator. The certified mediator may charge a reasonable fee for supervising a trainee while the trainee conducts mediation. In addition, the certified mediator shall be entitled to any compensation paid for the mediation.

The certified mediator shall remain in control of the case.

For an applicant to be awarded mentorship points the applicant must work with at least two different certified mediators and the mediations involved must be of the type for which certification is sought. A trainee is not required to participate in supervised mediations under the certification point system.

State-funded trial court mediation programs shall assist trainees in completing their mentorship requirements.

Applicants shall provide original signatures of all mentors in relation to all mentorship activity claimed.

A trainee shall not be awarded points for any mentorship requirements completed before beginning the certified mediation training program; however, a trainee may be awarded points for observations completed after commencement but prior to the conclusion of the certified mediation training program. In no case shall an observation that is part of a certified mediation training be used for mentorship points. A supervised mediation shall only be conducted by a trainee after the completion of a certified mediation training program.

i. Mediation Observations

For each observation required for certification the trainee must observe an entire session of the type of mediation for which certification is sought, conducted by a certified mediator in the same category for which certification is sought. The observation requirement shall not be satisfied by any individual who is a party, participant, or representative in the mediation. An appellate or pre-suit mediation may be utilized for observation purposes if (1) it is or would have been the type of

mediation for which certification is sought if it had been filed in a trial court, and (2) it is conducted by a certified mediator of the type for which certification is sought. A federal court mediation conducted by a certified circuit court mediator may be utilized to fulfill a circuit court mentorship. In addition, pre-suit home owner association (HOA) disputes, within the jurisdiction of the circuit court, mediated by a certified circuit court mediator may be utilized to fulfill a circuit court mentorship. Administrative agency mediations conducted under rules and procedures other than those of the state trial courts may not be utilized to fulfill the mentorship requirements.

ii. Supervised Mediations

A supervised mediation is defined as one in which the trainee either conducts a mediation under the supervision and observation of a certified mediator or the trainee co-mediate with a certified mediator. At the conclusion of the mediation, the mentor shall determine if the trainee made a substantial contribution to the mediation. If so, the case may qualify as a

supervised mediation. If not, the case will qualify only as an observation.

For purposes of conducting supervised mediations, mediation is defined as a complete case, which may consist of multiple sessions. The entire mediation shall be co-mediated or observed by a certified mediator of the type for which certification is sought. In the event the trainee is only able to participate in a single session of a multi-session mediation, such participation qualifies only as an observation regardless of the trainee's level of participation. An appellate or pre-suit mediation may be utilized for the requirements to conduct mediations under supervision and observation if (1) it is or would have been the type of mediation for which certification is sought if it had been filed in a trial court, and (2) it is conducted by a certified mediator of the type for which certification is sought. A federal court mediation conducted by a certified circuit court mediator may be utilized to fulfill a circuit court mentorship. In addition, pre-suit HOA disputes, within the jurisdiction of the circuit court, mediated by a certified circuit court mediator may be utilized to fulfill a circuit court

mentorship. Administrative agency mediations conducted under rules and procedures other than those of the state trial courts may not be utilized to fulfill the mentorship requirements.

d. Miscellaneous Points. Any applicant requesting certification points on the basis of licensure in a profession shall provide all applicable information necessary for the DRC to verify such licensure.

3. Fees

Application, certification, and renewal fees shall be as follows.

Application Fee:	\$20.00 ¹
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Certification and Renewal Fees:

County	\$40.00 ²
Family	\$150.00
Circuit	\$150.00
Dependency	\$100.00
Appellate	\$100.00
Family/Circuit	\$275.00
Family/Dependency	\$225.00
Circuit/Dependency	\$225.00
Family/Appellate	\$225.00
Circuit/Appellate	\$225.00
Dependency/Appellate	\$175.00
Family/Dependency/Circuit	\$375.00
Family/Circuit/Appellate	\$375.00

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1. The \$20 application fee is nonrefundable.
 2. The \$40 county fee is not reduced and must be added to any of the combination fees listed.

Family/Dependency/Appellate	\$325.00
Circuit/Dependency/Appellate	\$325.00
Family/Dependency/Circuit/Appellate	\$450.00

Certification fees shall be returned to applicants who, upon review of their applications, are deemed ineligible to be certified. Applicants who are denied certification may reapply upon compliance with the qualifications for certification.

Applicants who meet the requirements for mediator certification shall be certified for a two-year period and shall be provided with a certificate from the Supreme Court of Florida evidencing such certification.

4. Review Process

An applicant who disagrees with a finding of ineligibility may respond in writing within 30 days of the initial determination of ineligibility as indicated in a certificate of mailing. Any such response shall be reviewed by a three-person subcommittee of the Committee on Alternative Dispute Resolution Rules and Policy (Committee) appointed to review such matters, which shall make a recommendation to the full Committee. The decision of the full Committee shall be final.

II. Certification Renewal

A. Application for Renewal

Mediators seeking continued certification shall file an application for renewal and a completed Continuing Mediator Education (CME) Reporting Form accompanied by renewal payment fees with the DRC prior to the expiration of their mediator certification. Mediators shall file a renewal application, CME Reporting Form, and applicable fees two years after their initial certification and every two years thereafter.

Mediators seeking renewal for appellate mediator certification shall also be required to maintain no less than one of their previous certifications in family, dependency, or circuit court mediation.

Any material misrepresentation by a mediator in the renewal process shall be automatically referred to the MQDRB.

B. Continuing Mediator Education

The purpose of CME shall be to enhance the participant's professional competence as a mediator. The requirement of CME and the reporting thereof shall apply to all certified mediators seeking renewal and shall be fulfilled in accordance with the following procedures.

1. General Requirements

To qualify as CME, a course or activity shall have significant, current intellectual or practical content and shall constitute an organized program of learning directly related to the practice of mediation. CME shall be conducted by an individual or group qualified by practical or academic experience. CME shall be based on a 50-minute hour.

a. Number of Hours. All certified mediators (mediators) must complete a minimum of:

i. Generally

All mediators must complete 16 hours of CME that shall include a minimum of four hours of mediator ethics, a minimum of two hours of interpersonal violence³ education, and a minimum of one hour of diversity/cultural awareness education in each two-year renewal cycle, including the two years following initial certification.

3. Interpersonal violence education includes the following subject matters: domestic violence; stalking; repeat violence; dating violence; child abuse; child neglect; abuse of vulnerable adults; human trafficking; animal cruelty; workplace violence; physical and emotional safety and security; trauma informed responses; suicide prevention, awareness and risk factors; and self-harm (not suicidal).

ii. Family and Dependency

Family and dependency mediators must complete an additional two hours of the required 16 hours in interpersonal violence education each renewal cycle, for a total of four hours.

Mediators who are certified in more than one area must complete 16 hours of CME applicable to each of their areas of certification. Hours completed may be utilized toward more than one area of certification if the subject matter is relevant to each field of certification. For example, courses on such topics as mediator ethics, interpersonal violence, appellate mediation, and cultural diversity may be credited to all of the areas of certification.

b. Methods of Obtaining CME Hours

i. Continuing Education from Other Professions

Continuing education completed for another profession's continuing education requirement may be used as CME if the material bears directly on the mediator's mediation practice and complies with the CME guidelines set forth in this order.

ii. Live Methods

At a minimum, eight hours of CME must be satisfied by live methods. Live methods include:

- 1) attendance at a live lecture or seminar; or
- 2) attendance at an audio/video playback of a CME seminar attended by no less than two persons who discuss the materials presented after the conclusion of the playback; or
- 3) attendance at an interactive internet presentation that includes audience participation in real time; or
- 4) participation as a lecturer, presenter, or panel member in a CME program, or serving as a mentor under rule 10.100, Florida Rules for Certified and Court-Appointed Mediators. Mentorship hours are limited to four hours. Regardless of the area of mentoring offered, the CME hours claimed count in all areas of certification but cannot be applied toward the required ethics, diversity/cultural awareness, or interpersonal violence education CME components; or
- 5) attendance at court alternative dispute resolution committee and board meetings for the time spent on mediation topics.

iii. Non-live Methods

CME may also be satisfied through non-live methods, provided the eight hours of live CME have been satisfied. Non-live CME methods include:

- 1) listening to or viewing previously recorded presentations alone; or
- 2) attendance at a web-based seminar without real-time audience participation; or
- 3) authoring or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation; or
- 4) successfully completing a self-directed program that is qualified for continuing education credit by a governmental licensing board.

Mediator certification shall not be renewed until all CME requirements are completed.

2. Reporting Requirements

Mediators must maintain proof of attendance at CME programs or other appropriate documentation and must report their CME at the end of

each two-year renewal cycle on the DRC's renewal form. The mediator shall be responsible for maintaining all records relating to CME, which records shall be subject to audit. In addition, the mediator must certify that he or she has read the current Florida mediation rules; Chapter 44, Florida Statutes; and other relevant statutes.

Any CME hours completed may be utilized for only one renewal cycle. Hours in excess of the minimum requirement shall not be carried forward to the next renewal cycle.

Attending and lecturing or teaching at the same CME presentation will not entitle a mediator to additional credit. This prohibition against repeat attendance shall not apply to annual conferences and yearly updates of a previously attended session.

If all other qualifications for renewal are satisfied and all fees are paid or waived, but a mediator is deficient in CME credits, the mediator shall be notified in writing and certification shall be continued for 90 days from the notice of noncompliance. During those 90 days, the mediator shall complete all remaining CME requirements in order to be eligible for renewal.

3. Review Process

A mediator who disagrees with a finding of ineligibility to renew may respond in writing within 30 days of the initial determination as indicated in

a certificate of mailing. Any such response shall be reviewed by a three-person subcommittee of the Committee appointed to review such matters, which shall make a recommendation to the full Committee. The decision of the full Committee shall be final.

4. Fees

Renewal fees shall be at the same levels as for initial certification. All mediators seeking renewal shall be responsible for these fees. However, for renewals that are filed timely, the \$40 county mediator renewal fee will be waived upon written confirmation from the trial court ADR director (or designee) that the mediator served as a volunteer in the county court mediation program a minimum of six times during the prior certification period.

Mediators whose certification has lapsed may renew certification up to 180 days from the lapse date upon payment of a late fee in an amount equal to the mediator's renewal fee. Mediators who apply for renewal within 365 days after the lapse date will be required to pay a late fee equal to five times the mediator's renewal fee, up to a maximum of \$750. Mediators who apply for certification after day 365 will be required to meet the requirements for certification as a new mediator, including satisfactory completion of a certified mediation training program and fulfillment of the

mentorship requirements. For purposes of this paragraph, the lapse date reverts to the initial renewal date notwithstanding any extensions.

A mediator may request from the DRC an extension of the renewal requirements and a waiver of any penalties for an extraordinary hardship. The request shall be made in writing. If such request is denied, a request for review may be taken to the three-person subcommittee of the Committee appointed to review such matters, which shall make a recommendation to the full Committee. The decision of the full Committee shall be final.

III. Administrative Responsibility

Administrative responsibility for implementation of the provisions of Chapter 44, Florida Statutes; rules 10.100, 10.105 and 10.110, Florida Rules for Certified and Court-Appointed Mediators; and this administrative order shall be with the Dispute Resolution Center in the Office of the State Courts Administrator.

All certification, application, renewal, and late fees shall be used to provide support for implementing the applicable statutes, rules, and this administrative order.

IV. Effective Date

The provisions of this order stated in section I.B.1. Good Moral Character are effective beginning on April 1, 2018, *nunc pro tunc*. All other provisions of this order are effective the date the order is signed.

DONE AND ORDERED at Tallahassee, Florida, on May 28, 2019.

Char. T. Canady

Chief Justice Charles T. Canady
AOSC19-26 5/28/2019

ATTEST:

[Signature]

John A. Tomasino, Clerk of Court
AOSC19-26 5/28/2019

