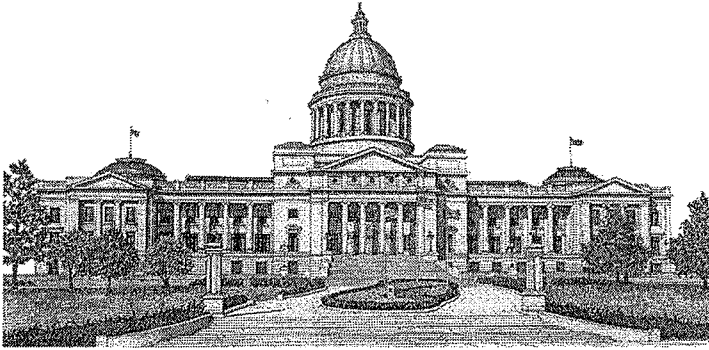


ARKANSAS REGISTER

Transmittal Sheet

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For Office
Use Only:

Effective Date _____ Code Number _____

Name of Agency ARKANSAS ALTERNATIVE DISPUTE RESOLUTION COMMISSION

Department _____

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Statutory Authority for Promulgating Rules Ark. Code Ann.16-7-104

Rule Title: Requirements for the Certification of Mediators for Arkansas Circuit Courts

Intended Effective Date
(Check One)

- Emergency (ACA 25-15-204)
- 30 Days After Filing (ACA 25-15-204)
- Other _____
(Must be more than 30 days after filing date.)

	Date
Legal Notice Published	<u>August 24, 2012</u>
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Electronic Copy of Rule submitted under ACA 25-15-218 by:

<u>JENNIFER TAYLOR</u>	<u>jennifer.taylor@arkansas.gov</u>	<u>December 18, 2012</u>
Contact Person	E-mail Address	Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 the Arkansas Administrative Procedures Act. (ACA 25-15-201 et. seq.)

Jennifer Taylor
Signature

(501) 682-9400
Phone Number E-mail Address

ADR Coordinator
Title

12-19-12
Date

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 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 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 set forth in Section C of these standards.

6. Notification of certification shall be made by letter and shall indicate in which categories the person is certified: 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 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.

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 mediation training 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 years of completing basic mediation training. If a complete certification application has not been submitted to the Commission within the five 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 mediation training, this requirement may be waived at the Commission's discretion.

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.

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*

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 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 or family mediation training course outside of Arkansas must also complete the Commission's course *Mediator Ethics, Law and General Practices in Arkansas*.
4. Applicants must complete the certification process within five years of completing basic mediation training. If a complete certification application has not been submitted to the Commission within the five 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 mediation training, this requirement may be waived at the Commission's discretion.

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.

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*.

- 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 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; 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 years of completing basic mediation training. If a complete certification application has not been submitted to the Commission within the five 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 mediation training, this requirement may be waived at the Commission's discretion.

 - 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.
 - 2. 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 or not the applicant is qualified for certification in the juvenile category.

- 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*.

- 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.

- 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 continuing mediation education (CME)
 - c. Mediation statistical reports (provided by the Commission)
 - d. Updated profile form
 - e. 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 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 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. To renew certification, the mediator must submit a renewal application, proof of continuing mediation education hours for the lapsed period, and certification fees and late fees for the lapsed period. 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. 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.

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.

