

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

Mark Martin

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Alternative Dispute Resolution Commission

Department _____

Contact Jennifer Taylor E-mail jennifer.taylor@arcourts.gov Phone 501-682-9400

Statutory Authority for Promulgating Rules ACA 21-7-704

Rule Title: Requirements for the Certification of Mediators for the State Employee Grievance Program

Intended Effective Date
(Check One)

Emergency (ACA 25-15-204)

10 Days After Filing (ACA 25-15-204)

Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

10/26-10/29/2017

11/29/2017

1/16/2018

11/30/2017

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Jennifer Taylor jennifer.taylor@arcourts.gov

1/26/2017

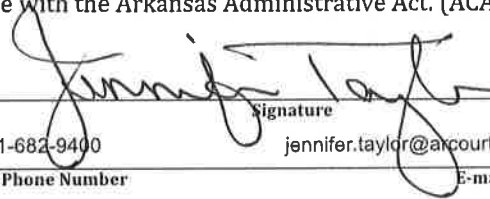
Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

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



Signature

501-682-9400

Phone Number

jennifer.taylor@arcourts.gov

E-mail Address

ADR Coordinator

Title

1/26/2018

Date

**REQUIREMENTS AND PROCEDURES FOR INCLUSION ON THE
ROSTER OF CERTIFIED MEDIATORS FOR THE
ARKANSAS STATE EMPLOYEE GRIEVANCE PROGRAM**

A. *Scope of Requirements*

All mediators on the Roster of Certified Mediators for the State Employee Grievance Program shall be qualified pursuant to these Requirements. Persons included on this Roster are eligible to serve as mediators in and for the program pursuant to Ark. Code Ann. ' 21-1-704.

B. *Procedures for Inclusion on the Roster of Certified Mediators for the State Employee Grievance Program*

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, including a certified letter or transcript from the university or college conferring the degree;
 - b. Evidence of successful completion of the appropriate mediation training;
 - c. Statement of adherence to the *Arkansas Alternative Dispute Resolution Commission=s Requirements for the Conduct of Mediation and Mediators in the State Employee Grievance Program*; and
 - d. 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 in these standards.
6. Notification of certification shall be made by letter. A letter denying certification 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.

7. An applicant denied certification may reapply six months after the date of final Commission action.
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. 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

- c. dishonorable and who are applying within one year of discharge from active duty, and;
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 with 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.

Program

1. Training
 - a. Have completed a minimum of 40 hours in a mediation training approved by the Commission for the State Employee Grievance Program; or
 - b. Be certified and in good standing on the Commission's Roster of Mediators for the Arkansas Circuit Courts, and have completed the Orientation to the Arkansas State Employee Grievance Mediation Program.
 - c. 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 three year period, the applicant must retake all training required for certification.

2. Education
 - a. Have a bachelor's degree or higher; or
 - b. Have substantial, demonstrated, and satisfactory knowledge, skills, abilities, and experience as a mediator in the applicable field of mediation.

3. Practical Experience
 - a. Have co-mediated two state employee grievance program mediations.
 - b. Co-mediations must be completed with a certified mediator for State Employee Grievance Program. The Commission may consider evaluations made by the co-mediator when determining whether or not the applicant is qualified for certification.

4. Ethics
 - a. Be of good moral character; and
 - b. Accept and follow the Arkansas Alternative Dispute Resolution Commission's *Requirements for the Conduct of Mediation and Mediators in the State Employee Grievance Program*;
 - c. Submit to an Arkansas State Police background check.

5. Examination
 - a. 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 State Employee Grievance Program.

D. *Requirements for Annual Renewal*

1. In order to maintain certification, each mediator must renew annually. 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 apply 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. Renewal fee

Recertification will be granted based upon the applicant's timely compliance with all certification, continuing mediation education, and recertification standards.

3. *Continuing Mediation Education*: Certified State Employee Grievance Program Mediators must receive 6 hours each year of continuing mediation education. The requirement may be met by attending a program which is approved by the Commission to qualify for continuing mediation education (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.

5. *Active Status*: Completion of all renewal requirements and submission of the recertification application in a timely manner maintains active certification status.
6. *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.

7. *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 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 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.

8. *Inactive Status:* A mediator desiring to be placed on inactive status for personal or professional reasons may petition the Commission. Reasons may include, but are not limited to, being on active military duty 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.

9. *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.