The Florida Dispute Resolution Center's *ADR Resource Handbook*

Select ADR statutes, court rules, and administrative orders

January 2020

ADR Resource Handbook

Select ADR statutes, court rules and administrative orders

January 2020 Edition

Florida Dispute Resolution Center
Office of the State Courts Administrator
Supreme Court Building
Tallahassee, Florida 32399
drcmail@flcourts.org www.flcourts.org

ADR Resource Handbook
January 2020 Edition
Table of Contents

Florida Court Related ADR Statutes

Florida Court Related ADR Statutes

Florida Court Related ADR Statutes

Florida Court Related ADR Statutes

Chapter 44 - Mediation Alternatives to Judicial Action

44.1011 Definitions

(1) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding as provided in this chapter.

(2) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decisionmaking authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives. "Mediation" includes:

(a) "Appellate court mediation," which means mediation that occurs during the pendency of an appeal of a civil case.

(b) "Circuit court mediation," which means mediation of civil cases, other than family matters, in circuit court. If a party is represented by counsel, the counsel of record must appear unless stipulated to by the parties or otherwise ordered by the court.

(c) "County court mediation," which means mediation of civil cases within the jurisdiction of county courts, including small claims. Negotiations in county court mediation are primarily conducted by the parties. Counsel for each party may participate. However, presence of counsel is not required.

(d) "Family mediation" which means mediation of family matters, including married and unmarried persons, before and after judgments involving dissolution of marriage; property division; shared or sole parental responsibility; or child support, custody, and visitation involving emotional or financial considerations not usually present in other circuit civil cases. Negotiations in family mediation are primarily conducted by the parties. Counsel for each party may attend the mediation conference and privately communicate with their clients. However, presence of counsel is not required, and, in the discretion of the mediator, and with the agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

(e) "Dependency or in need of services mediation," which means mediation of dependency, child in need of services, or family in need of services matters. Negotiations in dependency or in need of services mediation are primarily conducted by the parties. Counsel for each party may attend the mediation conference and privately communicate with their clients. However, presence of counsel is not required and, in the discretion of the mediator and with the

agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

44.102 Court-ordered mediation

(1) Court-ordered mediation shall be conducted according to rules of practice and procedure adopted by the Supreme Court.

(2) A court, under rules adopted by the Supreme Court:

(a) Must, upon request of one party, refer to mediation any filed civil action for monetary damages, provided the requesting party is willing and able to pay the costs of the mediation or the costs can be equitably divided between the parties, unless:

1. The action is a landlord and tenant dispute that does not include a claim for personal injury.
2. The action is filed for the purpose of collecting a debt.
3. The action is a claim of medical malpractice.
4. The action is governed by the Florida Small Claims Rules.
5. The court determines that the action is proper for referral to nonbinding arbitration under this chapter.
6. The parties have agreed to binding arbitration.
7. The parties have agreed to an expedited trial pursuant to s. 45.075.
8. The parties have agreed to voluntary trial resolution pursuant to s. 44.104.

(b) May refer to mediation all or any part of a filed civil action for which mediation is not required under this section.

(c) In circuits in which a family mediation program has been established and upon a court finding of a dispute, shall refer to mediation all or part of custody, visitation, or other parental responsibility issues as defined in s. 61.13. Upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process.

(d) In circuits in which a dependency or in need of services mediation program has been established, may refer to mediation all or any portion of a matter relating to dependency or to a child in need of services or a family in need of services.

(3) All written communications in a mediation proceeding, other than an executed settlement agreement, shall be exempt from the requirements of chapter 119.

(4) The chief judge of each judicial circuit shall maintain a list of mediators who have been certified by the Supreme Court and who have registered for appointment in that circuit.

(a) Whenever possible, qualified individuals who have volunteered their time to serve as mediators shall be appointed. If a mediation program is funded pursuant to s. 44.108, volunteer mediators shall be entitled to reimbursement pursuant to s. 112.061 for all actual expenses necessitated by service as a mediator.

(b) Nonvolunteer mediators shall be compensated according to rules adopted by the Supreme Court. If a mediation program is funded pursuant to s. 44.108, a mediator may be compensated by the county or by the parties.

(5)(a) When an action is referred to mediation by court order, the time periods for responding to an offer of settlement pursuant to s. 45.061, or to an offer or demand for judgment pursuant to s. 768.79, respectively, shall be tolled until:

1. An impasse has been declared by the mediator; or

2. The mediator has reported to the court that no agreement was reached.

(b) Sections 45.061 and 768.79 notwithstanding, an offer of settlement or an offer or demand for judgment may be made at any time after an impasse has been declared by the mediator, or the mediator has reported that no agreement was reached. An offer is deemed rejected as of commencement of trial.

44.103 Court-ordered, nonbinding arbitration

(1) Court-ordered, nonbinding arbitration shall be conducted according to the rules of practice and procedure adopted by the Supreme Court.

(2) A court, pursuant to rules adopted by the Supreme Court, may refer any contested civil action filed in a circuit or county court to nonbinding arbitration.

(3) Arbitrators shall be selected and compensated in accordance with rules adopted by the Supreme Court. Arbitrators shall be compensated by the parties, or, upon a finding by the court that a party is indigent, an arbitrator may be partially or fully compensated from state funds according to the party's present ability to pay. At no time may an arbitrator charge more than $1,500 per diem, unless the parties agree otherwise. Prior to approving the use of state funds to reimburse an arbitrator, the court must ensure that the party reimburses the portion of the total cost that the party is immediately able to pay and that the party has agreed to a payment plan established by the clerk of the court that will fully reimburse the state for the balance of all state costs for both the arbitrator and any costs of administering the payment plan and any collection efforts that may be necessary in the future. Whenever possible, qualified individuals who have volunteered their time to serve as arbitrators shall be appointed. If an arbitration program is

funded pursuant to s. 44.108, volunteer arbitrators shall be entitled to be reimbursed pursuant to s. 112.061 for all actual expenses necessitated by service as an arbitrator.

(4) An arbitrator or, in the case of a panel, the chief arbitrator, shall have such power to administer oaths or affirmations and to conduct the proceedings as the rules of court shall provide. The hearing shall be conducted informally. Presentation of testimony and evidence shall be kept to a minimum, and matters shall be presented to the arbitrators primarily through the statements and arguments of counsel. Any party to the arbitration may petition the court in the underlying action, for good cause shown, to authorize the arbitrator to issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence at the arbitration and may petition the court for orders compelling such attendance and production at the arbitration. Subpoenas shall be served and shall be enforceable in the manner provided by law.

(5) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a request for a trial de novo is not filed within the time provided by rules promulgated by the Supreme Court. The decision shall not be made known to the judge who may preside over the case unless no request for trial de novo is made as herein provided or unless otherwise provided by law. If no request for trial de novo is made within the time provided, the decision shall be referred to the presiding judge in the case who shall enter such orders and judgments as are required to carry out the terms of the decision, which orders shall be enforceable by the contempt powers of the court, and for which judgments execution shall issue on request of a party.

(6) Upon motion made by either party within 30 days after entry of judgment, the court may assess costs against the party requesting a trial de novo, including arbitration costs, court costs, reasonable attorney's fees, and other reasonable costs such as investigation expenses and expenses for expert or other testimony which were incurred after the arbitration hearing and continuing through the trial of the case in accordance with the guidelines for taxation of costs as adopted by the Supreme Court. Such costs may be assessed if:

(a) The plaintiff, having filed for a trial de novo, obtains a judgment at trial which is at least 25 percent less than the arbitration award. In such instance, the costs and attorney's fees pursuant to this section shall be set off against the award. When the costs and attorney's fees pursuant to this section total more than the amount of the judgment, the court shall enter judgment for the defendant against the plaintiff for the amount of the costs and attorney's fees, less the amount of the award to the plaintiff. For purposes of a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus all taxable costs pursuant to the guidelines for taxation of costs as adopted by the Supreme Court, plus any postarbitration collateral source payments received or due as of the date of the judgment, and plus any postarbitration settlement amounts by which the verdict was reduced; or

(b) The defendant, having filed for a trial de novo, has a judgment entered against the defendant which is at least 25 percent more than the arbitration award. For purposes of a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus any post arbitration settlement amounts by which the verdict was reduced.

44.104 Voluntary binding arbitration and voluntary trial resolution

(1) Two or more opposing parties who are involved in a civil dispute may agree in writing to submit the controversy to voluntary binding arbitration, or voluntary trial resolution, in lieu of litigation of the issues involved, prior to or after a lawsuit has been filed, provided no constitutional issue is involved.

(2) If the parties have entered into an agreement which provides in voluntary binding arbitration for a method for appointing of one or more arbitrators, or which provides in voluntary trial resolution a method for appointing a member of The Florida Bar in good standing for more than 5 years to act as trial resolution judge, the court shall proceed with the appointment as prescribed. However, in voluntary binding arbitration at least one of the arbitrators, who shall serve as the chief arbitrator, shall meet the qualifications and training requirements adopted pursuant to s. 44.106. In the absence of an agreement, or if the agreement method fails or for any reason cannot be followed, the court, on application of a party, shall appoint one or more qualified arbitrators, or the trial resolution judge, as the case requires.

(3) The arbitrators or trial resolution judge shall be compensated by the parties according to their agreement.

(4) Within 10 days after the submission of the request for binding arbitration, or voluntary trial resolution, the court shall provide for the appointment of the arbitrator or arbitrators, or trial resolution judge, as the case requires. Once appointed, the arbitrators or trial resolution judge shall notify the parties of the time and place for the hearing.

(5) Application for voluntary binding arbitration or voluntary trial resolution shall be filed and fees paid to the clerk of court as if for complaints initiating civil actions. The clerk of the court shall handle and account for these matters in all respects as if they were civil actions, except that the clerk of court shall keep separate the records of the applications for voluntary binding arbitration and the records of the applications for voluntary trial resolution from all other civil actions.

(6) Filing of the application for binding arbitration or voluntary trial resolution will toll the running of the applicable statutes of limitation.

(7) The chief arbitrator or trial resolution judge may administer oaths or affirmations and conduct the proceedings as the rules of court shall provide. At the request of any party, the chief arbitrator or trial resolution judge shall issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and may apply to the court for

orders compelling attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by law.

(8) A voluntary binding arbitration hearing shall be conducted by all of the arbitrators, but a majority may determine any question and render a final decision. A trial resolution judge shall conduct a voluntary trial resolution hearing. The trial resolution judge may determine any question and render a final decision.

(9) The Florida Evidence Code shall apply to all proceedings under this section.

(10) An appeal of a voluntary binding arbitration decision shall be taken to the circuit court and shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrators to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the Constitution of the United States or of the State of Florida.

(11) Any party may enforce a final decision rendered in a voluntary trial by filing a petition for final judgment in the circuit court in the circuit in which the voluntary trial took place. Upon entry of final judgment by the circuit court, any party may appeal to the appropriate appellate court. Factual findings determined in the voluntary trial are not subject to appeal.

(12) The harmless error doctrine shall apply in all appeals. No further review shall be permitted unless a constitutional issue is raised.

(13) If no appeal is taken within the time provided by rules promulgated by the Supreme Court, then the decision shall be referred to the presiding judge in the case, or if one has not been assigned, then to the chief judge of the circuit for assignment to a circuit judge, who shall enter such orders and judgments as are required to carry out the terms of the decision, which orders shall be enforceable by the contempt powers of the court and for which judgments execution shall issue on request of a party.

(14) This section shall not apply to any dispute involving child custody, visitation, or child support, or to any dispute which involves the rights of a third party not a party to the arbitration or voluntary trial resolution when the third party would be an indispensable party if the dispute were resolved in court or when the third party notifies the chief arbitrator or the trial resolution judge that the third party would be a proper party if the dispute were resolved in court, that the third party intends to intervene in the action in court, and that the third party does not agree to proceed under this section.

Florida Court Related ADR Statutes

44.106 Standards and procedures for mediators and arbitrators; fees

(1) The Supreme Court shall establish minimum standards and procedures for qualifications, certification, professional conduct, discipline, and training for mediators and arbitrators who are appointed pursuant to this chapter. The Supreme Court is authorized to set fees to be charged to applicants for certification and renewal of certification. The revenues generated from these fees shall be used to offset the costs of administration of the certification process. The Supreme Court may appoint or employ such personnel as are necessary to assist the court in exercising its powers and performing its duties under this chapter.

(2) An applicant for certification as a mediator shall undergo a security background investigation, which includes, but is not limited to, submitting a full set of fingerprints to the Department of Law Enforcement or to a vendor, entity, or agency authorized by s. 943.053. The vendor, entity, or agency shall forward the fingerprints to the department for state processing, and the department shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Any vendor fee and state and federal processing fees shall be borne by the applicant. For records provided to a person or entity other than those excepted therein, the cost for state fingerprint processing is the fee authorized in s. 943.053(3)(e).

44.107 Immunity for arbitrators, mediators, and mediator trainees

(1) Arbitrators serving under s. 44.103 or s. 44.104, mediators serving under s. 44.102, and trainees fulfilling the mentorship requirements for certification by the Supreme Court as a mediator shall have judicial immunity in the same manner and to the same extent as a judge.

(2) A person serving as a mediator in any noncourt-ordered mediation shall have immunity from liability arising from the performance of that person's duties while acting within the scope of the mediation function if such mediation is:

(a) Required by statute or agency rule or order;

(b) Conducted under ss. 44.401-44.406 by express agreement of the mediation parties; or

(c) Facilitated by a mediator certified by the Supreme Court, unless the mediation parties expressly agree not to be bound by ss. 44.401-44.406.

The mediator does not have immunity if he or she acts in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(3) A person serving under s. 44.106 to assist the Supreme Court in performing its disciplinary function shall have absolute immunity from liability arising from the performance of that person's duties while acting within the scope of that person's appointed function.

Florida Court Related ADR Statutes

44.108 Funding of mediation and arbitration

(1) Mediation and arbitration should be accessible to all parties regardless of financial status. A filing fee of $1 is levied on all proceedings in the circuit or county courts to fund mediation and arbitration services which are the responsibility of the Supreme Court pursuant to the provisions of s. 44.106. The clerk of the court shall forward the moneys collected to the Department of Revenue for deposit in the State Courts Revenue Trust Fund.

(2) When court-ordered mediation services are provided by a circuit court's mediation program, the following fees, unless otherwise established in the General Appropriations Act, shall be collected by the clerk of court:

(a) One-hundred twenty dollars per person per scheduled session in family mediation when the parties' combined income is greater than $50,000, but less than $100,000 per year;

(b) Sixty dollars per person per scheduled session in family mediation when the parties' combined income is less than $50,000; or

(c) Sixty dollars per person per scheduled session in county court cases involving an amount in controversary not exceeding $15,000.

No mediation fees shall be assessed under this subsection in residential eviction cases, against a party found to be indigent, or for any small claims action. Fees collected by the clerk of court pursuant to this section shall be remitted to the Department of Revenue for deposit into the State Courts Revenue Trust Fund to fund court-ordered mediation. The clerk of court may deduct $1 per fee assessment for processing this fee. The clerk of the court shall submit to the chief judge of the circuit and to the Office of the State Courts Administrator, no later than 30 days after the end of each quarter of the fiscal year, a report specifying the amount of funds collected and remitted to the State Courts Revenue Trust Fund under this section and any other section during the previous quarter of the fiscal year. In addition to identifying the total aggregate collections and remissions from all statutory sources, the report must identify collections and remissions by each statutory source.

44.201 Citizen Dispute Settlement Centers; establishment; operation; confidentiality

(1) The chief judge of a judicial circuit, after consultation with the board of county commissioners of a county or with two or more boards of county commissioners of counties within the judicial circuit, may establish a Citizen Dispute Settlement Center for such county or counties, with the approval of the Chief Justice.

(2)(a) Each Citizen Dispute Settlement Center shall be administered in accordance with rules adopted by a council composed of at least seven members. The chief judge of the judicial circuit shall serve as chair of the council and shall appoint the other members of the council. The membership of the council shall include a representative of the state attorney, each sheriff, a

county court judge, and each board of county commissioners within the geographical jurisdiction of the center. In addition, council membership shall include two members of the general public who are not representatives of such officers or boards. The membership of the council also may include other interested persons.

(b) The council shall establish qualifications for and appoint a director of the center. The director shall administer the operations of the center.

(c) A council may seek and accept contributions from counties and municipalities within the geographical jurisdiction of the Citizen Dispute Settlement Center and from agencies of the Federal Government, private sources, and other available funds and may expend such funds to carry out the purposes of this section.

(3) The Citizen Dispute Settlement Center, subject to the approval of the council and the Chief Justice, shall formulate and implement a plan for creating an informal forum for the mediation and settlement of disputes. Such plan shall prescribe:

(a) Objectives and purposes of the center;

(b) Procedures for filing complaints with the center and for scheduling informal mediation sessions with the parties to a complaint;

(c) Screening procedures to ensure that each dispute mediated by the center meets the criteria of fitness for mediation as set by the council;

(d) Procedures for rejecting any dispute which does not meet the established criteria of fitness for mediation;

(e) Procedures for giving notice of the time, place, and nature of the mediation session to the parties and for conducting mediation sessions;

(f) Procedures to ensure that participation by all parties is voluntary; and

(g) Procedures by which any dispute that was referred to the center by a law enforcement agency, state attorney, court, or other agency and that fails at mediation, or that reaches settlement that is later breached, is reported to the referring agency.

(4)(a) Each mediation session conducted by a Citizen Dispute Settlement Center shall be nonjudicial and informal. No adjudication, sanction, or penalty may be made or imposed by the mediator or the center.

(b) A Citizen Dispute Settlement Center may refer the parties to judicial or nonjudicial supportive service agencies.

(5) Any information relating to a dispute obtained by any person while performing any duties for the center from the files, reports, case summaries, mediator's notes, or other communications or materials is exempt from the provisions of s. 119.07(1).

(6) No officer, council member, employee, volunteer, or agent of a Citizen Dispute Settlement Center shall be held liable for civil damages for any act or omission in the scope of employment or function, unless such person acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of another.

(7) Any Citizen Dispute Settlement Center in operation on October 1, 1985, may continue its operations in its current form with the approval of the chief judge of the judicial circuit in which such center is located, except that paragraph (4)(b) and subsections (5) and (6) shall apply to such centers.

(8) Any utility regulated by the Florida Public Service Commission is excluded from the provisions of this act.

44.401 Mediation Confidentiality and Privilege Act. --Sections 44.401-44.406 may be known by the popular name the "Mediation Confidentiality and Privilege Act."

44.402 Scope

(1) Except as otherwise provided, ss. 44.401-44.406 apply to any mediation:

(a) Required by statute, court rule, agency rule or order, oral or written case-specific court order, or court administrative order;

(b) Conducted under ss. 44.401-44.406 by express agreement of the mediation parties; or

(c) Facilitated by a mediator certified by the Supreme Court, unless the mediation parties expressly agree not to be bound by ss. 44.401-44.406.

(2) Notwithstanding any other provision, the mediation parties may agree in writing that any or all of s. 44.405(1), s. 44.405(2), or s. 44.406 will not apply to all or part of a mediation proceeding.

44.403 Definitions. --As used in ss. 44.401-44.406, the term:

(1) "Mediation communication" means an oral or written statement, or nonverbal conduct intended to make an assertion, by or to a mediation participant made during the course of a mediation, or prior to mediation if made in furtherance of a mediation. The commission of a crime during a mediation is not a mediation communication.

(2) "Mediation participant" means a mediation party or a person who attends a mediation in person or by telephone, videoconference, or other electronic means.

(3) "Mediation party" or "party" means a person participating directly, or through a designated representative, in a mediation and a person who:

(a) Is a named party;

(b) Is a real party in interest; or

(c) Would be a named party or real party in interest if an action relating to the subject matter of the mediation were brought in a court of law.

(4) "Mediator" means a neutral, impartial third person who facilitates the mediation process. The mediator's role is to reduce obstacles to communication, assist in identifying issues, explore alternatives, and otherwise facilitate voluntary agreements to resolve disputes, without prescribing what the resolution must be.

(5) "Subsequent proceeding" means an adjudicative process that follows a mediation, including related discovery.

44.404 Mediation; duration

(1) A court-ordered mediation begins when an order is issued by the court and ends when:

(a) A partial or complete settlement agreement, intended to resolve the dispute and end the mediation, is signed by the parties and, if required by law, approved by the court;

(b) The mediator declares an impasse by reporting to the court or the parties the lack of an agreement;

(c) The mediation is terminated by court order, court rule, or applicable law; or

(d) The mediation is terminated, after party compliance with the court order to appear at mediation, by:

(1) Agreement of the parties; or

(2) One party giving written notice to all other parties in a multiparty mediation that the one party is terminating its participation in the mediation. Under this circumstance, the termination is effective only for the withdrawing party.

(2) In all other mediations, the mediation begins when the parties agree to mediate or as required by agency rule, agency order, or statute, whichever occurs earlier, and ends when:

(a) A partial or complete settlement agreement, intended to resolve the dispute and end the mediation, is signed by the parties and, if required by law, approved by the court;

(b) The mediator declares an impasse to the parties;

(c) The mediation is terminated by court order, court rule, or applicable law; or

(d) The mediation is terminated by:

(1) Agreement of the parties; or

(2) One party giving notice to all other parties in a multiparty mediation that the one party is terminating its participation in the mediation. Under this circumstance, the termination is effective only for the withdrawing party.

44.405 Confidentiality; privilege; exceptions

(1) Except as provided in this section, all mediation communications shall be confidential. A mediation participant shall not disclose a mediation communication to a person other than another mediation participant or a participant's counsel. A violation of this section may be remedied as provided by s. 44.406. If the mediation is court ordered, a violation of this section may also subject the mediation participant to sanctions by the court, including, but not limited to, costs, attorney's fees, and mediator's fees.

(2) A mediation party has a privilege to refuse to testify and to prevent any other person from testifying in a subsequent proceeding regarding mediation communications.

(3) If, in a mediation involving more than two parties, a party gives written notice to the other parties that the party is terminating its participation in the mediation, the party giving notice shall have a privilege to refuse to testify and to prevent any other person from testifying in a subsequent proceeding regarding only those mediation communications that occurred prior to the delivery of the written notice of termination of mediation to the other parties.

(4)(a) Notwithstanding subsections (1) and (2), there is no confidentiality or privilege attached to a signed written agreement reached during a mediation, unless the parties agree otherwise, or for any mediation communication:

(1) For which the confidentiality or privilege against disclosure has been waived by all parties;

(2) That is willfully used to plan a crime, commit or attempt to commit a crime, conceal ongoing criminal activity, or threaten violence;

(3) That requires a mandatory report pursuant to chapter 39 or chapter 415 solely for the purpose of making the mandatory report to the entity requiring the report;

(4) Offered to report, prove, or disprove professional malpractice occurring during the mediation, solely for the purpose of the professional malpractice proceeding;

(5) Offered for the limited purpose of establishing or refuting legally recognized grounds for voiding or reforming a settlement agreement reached during a mediation; or

(6) Offered to report, prove, or disprove professional misconduct occurring during the mediation, solely for the internal use of the body conducting the investigation of the conduct.

(b) A mediation communication disclosed under any provision of subparagraph (a)3., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. remains confidential and is not discoverable or admissible for any other purpose, unless otherwise permitted by this section.

(5) Information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery by reason of its disclosure or use in mediation.

(6) A party that discloses or makes a representation about a privileged mediation communication waives that privilege, but only to the extent necessary for the other party to respond to the disclosure or representation.

44.406 Confidentiality; civil remedies

(1) Any mediation participant who knowingly and willfully discloses a mediation communication in violation of s. 44.405 shall, upon application by any party to a court of competent jurisdiction, be subject to remedies, including:

(a) Equitable relief.

(b) Compensatory damages.

(c) Attorney's fees, mediator's fees, and costs incurred in the mediation proceeding.

(d) Reasonable attorney's fees and costs incurred in the application for remedies under this section.

(2) Notwithstanding any other law, an application for relief filed under this section may not be commenced later than 2 years after the date on which the party had a reasonable opportunity to discover the breach of confidentiality, but in no case more than 4 years after the date of the breach.

(3) A mediation participant shall not be subject to a civil action under this section for lawful compliance with the provisions of s. 119.07.

Florida Court Related ADR Statutes

Chapter 29 - Court System Funding

29.004 State courts system

For purposes of implementing s. 14, Art. V of the State Constitution, the elements of the state courts system to be provided from state revenues appropriated by general law are as follows:

……

(11) Mediation and arbitration, limited to trial court referral of a pending judicial case to a mediator or a court-related mediation program, or to an arbitrator or a court-related arbitration program, for the limited purpose of encouraging and assisting the litigants in partially or completely settling the case prior to adjudication on the merits by the court. This does not include citizen dispute settlement centers under s. 44.201 and community arbitration programs under s. 985.16.

Florida Court Related ADR Statutes

Chapter 39 - Proceedings Relating to Children

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(c) Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(d) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;
2. Health or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in s. 39.202.

(e) A professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(f) An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the

information has been provided to the officer or employee in the course of carrying out his or her official duties.

(g) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.987 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(h) An officer or employee of a law enforcement agency is not required to provide notice to the department of reasonable cause to suspect child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare when the incident under investigation by the law enforcement agency was reported to law enforcement by the Central Abuse Hotline through the electronic transfer of the report or call. The department's Central Abuse Hotline is not required to electronically transfer calls and reports received pursuant to paragraph (2)(b) to the county sheriff's office if the matter was initially reported to the department by the county sheriff's office or another law enforcement agency. This paragraph applies only when the information related to the alleged child abuse has been provided to the officer or employee of a law enforcement agency or Central Abuse Hotline employee in the course of carrying out his or her official duties.

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

(b) Each report of known or suspected child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Such reports or calls shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) Reports involving juvenile sexual abuse or a child who has exhibited inappropriate sexual behavior shall be made and received by the department. An alleged incident of juvenile sexual

abuse involving a child who is in the custody of or protective supervision of the department shall be reported to the department's central abuse hotline.

1. The central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

2. The department shall ensure that the facts and results of any investigation of child sexual abuse involving a child in the custody of or under the protective supervision of the department are made known to the court at the next hearing or included in the next report to the court concerning the child.

(d) If the report is of an instance of known or suspected child abuse, abandonment, or neglect which occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline may not accept the report or call for investigation unless the child is currently being evaluated in a medical facility in this state.

1. If the child is currently being evaluated in a medical facility in this state, the central abuse hotline shall accept the report or call for investigation and shall transfer the information on the report or call to the appropriate state or country.

2. If the child is not currently being evaluated in a medical facility in this state, the central abuse hotline shall transfer the information on the report to or call to the appropriate state or country.

(e) If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(f) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(g) Reports involving surrendered newborn infants as described in s. 383.50 shall be made and received by the department.

1. If the report is of a surrendered newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

2. If the call, fax, web-based chat, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol (IP) address from which the report is received. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the reporter pursuant to s. 39.202.

(i) The department shall voice-record all incoming or outgoing calls that are received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The department shall maintain an electronic copy of each fax and web-based report. The recording or electronic copy of each fax and web-based report shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings, the electronic copies of faxes, and web-based reports by hotline staff for quality assurance and training.

(j)1. The department shall update the web form used for reporting child abuse, abandonment, or neglect to:

a. Include qualifying questions in order to obtain necessary information required to assess need and a response.

b. Indicate which fields are required to submit the report.

c. Allow a reporter to save his or her report and return to it at a later time.

2. The report shall be made available to the counselors in its entirety as needed to update the Florida Safe Families Network or other similar systems.

(k) The department shall conduct a study to determine the feasibility of using text and short message service formats to receive and process reports of child abuse, abandonment, or neglect to the central abuse hotline.

(l) The department shall initiate an investigation when it receives a report from an emergency room physician.

(3) Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the

department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

(4) The department shall operate and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, via web-based chat, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The department shall promote public awareness of the central abuse hotline through community-based partner organizations and public service campaigns. The central abuse hotline is the first step in the safety assessment and investigation process. The central abuse hotline shall be operated in such a manner as to enable the department to:

(a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.

(b) Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.

(c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.

(d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports. The department shall collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02.

(e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.

(f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.

(5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of

understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h) or s. 402.302(15). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q), the information in the central abuse hotline may also be used by the Department of Education for purposes of educator certification discipline and review.

(7) On an ongoing basis, the department's quality assurance program shall review calls, fax reports, and web-based reports to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. A component of the quality assurance program shall analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened out calls. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

39.2015 Critical incident rapid response team

(1) As part of the department's quality assurance program, the department shall provide an immediate multiagency investigation of certain child deaths or other serious incidents. The purpose of such investigation is to identify root causes and rapidly determine the need to change policies and practices related to child protection and child welfare.

(2) An immediate onsite investigation conducted by a critical incident rapid response team is required for all child deaths reported to the department if the child or another child in his or her family was the subject of a verified report of suspected abuse or neglect during the previous 12 months. The secretary may direct an immediate investigation for other cases involving death or serious injury to a child, including, but not limited to, a death or serious injury occurring during an open investigation.

(3) Each investigation shall be conducted by a multiagency team of at least five professionals with expertise in child protection, child welfare, and organizational management. The team may

consist of employees of the department, community-based care lead agencies, Children's Medical Services, and community-based care provider organizations; faculty from the institute consisting of public and private universities offering degrees in social work established pursuant to s. 1004.615; or any other person with the required expertise. The team shall include, at a minimum, a Child Protection Team medical director. The majority of the team must reside in judicial circuits outside the location of the incident. The secretary shall appoint a team leader for each group assigned to an investigation.

(4) An investigation shall be initiated as soon as possible, but not later than 2 business days after the case is reported to the department. A preliminary report on each case shall be provided to the secretary no later than 30 days after the investigation begins.

(5) Each member of the team is authorized to access all information in the case file.

(6) All employees of the department or other state agencies and all personnel from community-based care lead agencies and community-based care lead agency subcontractors must cooperate with the investigation by participating in interviews and timely responding to any requests for information. The members of the team may only access the records and information of contracted provider organizations which are available to the department by law.

(7) The secretary shall develop cooperative agreements with other entities and organizations as necessary to facilitate the work of the team.

(8) The members of the team may be reimbursed by the department for per diem, mileage, and other reasonable expenses as provided in s. 112.061. The department may also reimburse the team member's employer for the associated salary and benefits during the time the team member is fulfilling the duties required under this section.

(9) Upon completion of the investigation, the department shall make the team's final report, excluding any confidential information, available on its website.

(10) The secretary, in conjunction with the institute established pursuant to s. 1004.615, shall develop guidelines for investigations conducted by critical incident rapid response teams and provide training to team members. Such guidelines must direct the teams in the conduct of a root-cause analysis that identifies, classifies, and attributes responsibility for both direct and latent causes for the death or other incident, including organizational factors, preconditions, and specific acts or omissions resulting from either error or a violation of procedures. The department shall ensure that each team member receives training on the guidelines before conducting an investigation.

(11) The secretary shall appoint an advisory committee made up of experts in child protection and child welfare, including the Statewide Medical Director for Child Protection under the

Department of Health, a representative from the institute established pursuant to s. 1004.615, an expert in organizational management, and an attorney with experience in child welfare, to conduct an independent review of investigative reports from the critical incident rapid response teams and to make recommendations to improve policies and practices related to child protection and child welfare services. The advisory committee shall meet at least once each quarter and shall submit quarterly reports to the secretary which include findings and recommendations. The secretary shall submit each report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

39.202 Confidentiality of reports and records in cases of child abuse or neglect

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

[1](2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;
6. Employment screening for caregivers in residential group homes; or
7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01(41), an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

(3) The department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse or neglect.

(4) Notwithstanding any other provision of law, when a child under investigation or supervision of the department or its contracted service providers is determined to be missing, the following shall apply:

(a) The department may release the following information to the public when it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child:

1. The name of the child and the child's date of birth;
2. A physical description of the child, including at a minimum the height, weight, hair color, eye color, gender, and any identifying physical characteristics of the child; and
3. A photograph of the child.

(b) With the concurrence of the law enforcement agency primarily responsible for investigating the incident, the department may release any additional information it believes likely to assist efforts in locating the child or to promote the safety or well-being of the child.

(c) The law enforcement agency primarily responsible for investigating the incident may release any information received from the department regarding the investigation, if it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child.

The good faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

[1](5) The department may not release the name of, or other identifying information with respect to, any person reporting child abuse, abandonment, or neglect to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the Child Protection Team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(6) All records and reports of the Child Protection Team of the Department of Health are confidential and exempt from the provisions of ss. 119.07(1) and 456.057, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child, by order of the court, or to health plan payors, limited to that information used for insurance reimbursement purposes.

(7) The department shall make and keep reports and records of all cases under this chapter and shall preserve the records pertaining to a child and family until the child who is the subject of the record is 30 years of age and may then destroy the records.

(a) Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult who was in the department's custody, which specifies how the records may be obtained.

(b) The department may adopt rules regarding the format, storage, retrieval, and release of such records.

(8) A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

[1](9) The expansion of the public records exemption under this section to include other identifying information with respect to any person reporting child abuse, abandonment, or neglect is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. If the expansion of the exemption is not saved from repeal, this section shall revert to that in existence on June 30, 2019, except that any other amendments made to this section, other than by this act, are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire under this subsection.

[1]**Note.**—Section 1, ch. 2019-49, provides in subsection (9) that if the expansion of the public records exemption under this section is not saved from repeal by October 2, 2024, "this section shall revert to that in existence on June 30, 2019, except that any other amendments made to this section, other than by this act, are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire under this subsection." Pursuant to its own terms, subsection (9) is repealed, and subsections (2) and (5), as amended by s. 15, ch. 2019-3, and s. 1, ch. 2019-49, will read:

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, family day care homes, providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of children;
6. Employment screening for caregivers in residential group homes; or
7. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 60 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 60 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;

2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or

3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.

(l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).

(m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

(n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.

(o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

(r) Staff of a children's advocacy center that is established and operated under s. 39.3035.

(s) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

* * * * *

(5) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the Child Protection Team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

39.2021 Release of confidential information

(1) Any person or organization, including the Department of Children and Families, may petition the court for an order making public the records of the Department of Children and Families which pertain to investigations of alleged abuse, abandonment, or neglect of a child. The court shall determine whether good cause exists for public access to the records sought or a portion thereof.

In making this determination, the court shall balance the best interests of the child who is the focus of the investigation and the interest of that child's siblings, together with the privacy rights of other persons identified in the reports, against the public interest. The public interest in access to such records is reflected in s. 119.01(1) and includes the need for citizens to know of and adequately evaluate the actions of the Department of Children and Families and the court system in providing children of this state with the protections enumerated in s. 39.001. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting the abuse, abandonment, or neglect of a child.

(2) In cases involving serious bodily injury to a child, the Department of Children and Families may petition the court for an order for the immediate public release of records of the department which pertain to the protective investigation. The petition must be personally served upon the child, the child's parent or guardian, and any person named as an alleged perpetrator in the report of abuse, abandonment, or neglect. The court must determine whether good cause exists for the public release of the records sought no later than 24 hours, excluding Saturdays, Sundays, and legal holidays, after the date the department filed the petition with the court. If the court does not grant or deny the petition within the 24-hour time period, the department may release to the public summary information including:

(a) A confirmation that an investigation has been conducted concerning the alleged victim.

(b) The dates and brief description of procedural activities undertaken during the department's investigation.

(c) The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceeding, and the ruling of the court.

The summary information shall not include the name of, or other identifying information with respect to, any person identified in any investigation. In making a determination to release confidential information, the court shall balance the best interests of the child who is the focus of the investigation and the interests of that child's siblings, together with the privacy rights of other persons identified in the reports against the public interest for access to public records. However, this subsection does not contravene s. 39.202, which protects the name of any person reporting abuse, abandonment, or neglect of a child.

(3) When the court determines that good cause for public access exists, the court shall direct that the department redact the name of, and other identifying information with respect to, any person identified in any protective investigation report until such time as the court finds that there is probable cause to believe that the person identified committed an act of alleged abuse, abandonment, or neglect.

Florida Court Related ADR Statutes

39.2022 Public disclosure of reported child deaths

(1) It is the intent of the Legislature to provide prompt disclosure of the basic facts of all deaths of children from birth through 18 years of age which occur in this state and which are reported to the department's central abuse hotline. Disclosure shall be posted on the department's public website. This section does not limit the public access to records under any other provision of law.

(2) Notwithstanding s. 39.202, if a child death is reported to the central abuse hotline, the department shall post on its website all of the following:

(a) The date of the child's death.

(b) Any allegations of the cause of death or the preliminary cause of death, and the verified cause of death, if known.

(c) The county where the child resided.

(d) The name of the community-based care lead agency, case management agency, or out-of-home licensing agency involved with the child, family, or licensed caregiver, if applicable.

(e) Whether the child has been the subject of any prior verified reports to the department's central abuse hotline.

(f) Whether the child was younger than 5 years of age at the time of his or her death.

39.203 Immunity from liability in cases of child abuse, abandonment, or neglect

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by this chapter or reporting in good faith any instance of child abuse, abandonment, or neglect to the department or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in this chapter, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, abandoned, or neglected a child, or committed any illegal act upon or against a child.

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, abandonment, or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

Florida Court Related ADR Statutes

39.204 Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect

The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.

(1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of $1 million for each such failure.

(a) A Florida College System institution subject to a fine shall be assessed by the State Board of Education.

(b) A state university subject to a fine shall be assessed by the Board of Governors.

(c) A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, shall be subject to fines of $1 million for each such failure assessed in the same manner as subsection (3).

(5) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, shall have the right to challenge the determination that the institution acted knowingly and willfully under subsection (3) or subsection (4) in an administrative hearing pursuant to s. 120.57; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and was not reported, a presumption of a knowing and willful act will be established.

(6) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and shall report annually to the Legislature the number of reports referred.

(8) If the department or its authorized agent has determined during the course of its investigation that a report is a false report, the department may discontinue all investigative activities and shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01. During the pendency of the investigation, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must ensure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

(9) A person who knowingly and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this subsection.

(10) The State Board of Education shall adopt rules to implement this section as it relates to Florida College System institutions; the Commission for Independent Education shall adopt rules to implement this section as it relates to nonpublic colleges, universities, and schools; and the Board of Governors shall adopt regulations to implement this section as it relates to state universities.

39.206 Administrative fines for false report of abuse, abandonment, or neglect of a child; civil damages.

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed $10,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report.

(2) If the department alleges that a person has filed a false report with the central abuse hotline, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to chapter 120, before the imposition of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the Notice of Intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the Notice of Intent constitutes a waiver of the right to a hearing, making the administrative fine final.

(5) At the administrative hearing, the department must prove by a preponderance of the evidence that the person filed a false report with the central abuse hotline. The administrative hearing officer shall advise any person against whom a fine may be imposed of that person's right to be represented by counsel at the administrative hearing.

(6) In determining the amount of fine to be imposed, if any, the following factors shall be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.
(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine pursuant to s. 120.68.

(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

(9) A person who is determined to have filed a false report of abuse, abandonment, or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report shall be made public, pursuant to s. 119.01(1). Such information shall be admissible in any civil or criminal proceeding.

(10) A person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report may be civilly liable for damages suffered, including reasonable attorney fees and costs, as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the dependency court determines in a written order upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.

(11) Any person making a report who is acting in good faith is immune from any liability under this section and shall continue to be entitled to have the confidentiality of their identity maintained.

Florida Court Related ADR Statutes

Chapter 39 Proceedings Related to Children

39.4075 Referral of a dependency case to mediation

(1) At any stage in a dependency proceeding, any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation. When such services are available, the court must determine whether it is in the best interests of the child to refer the parties to mediation.

(3) The department shall advise the parties that they are responsible for contributing to the cost of the dependency mediation.

(4) This section applies only to courts in counties in which dependency mediation programs have been established and does not require the establishment of such programs in any county.

Florida Court Related ADR Statutes

Chapter 61 - Dissolution of Marriage; Support; Time-Sharing

61.001 Purpose of chapter

(1) This chapter shall be liberally construed and applied.

(2) Its purposes are:
(a) To preserve the integrity of marriage and to safeguard meaningful family relationships;
(b) To promote the amicable settlement of disputes that arise between parties to a marriage; and
(c) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage.

61.125 Parenting coordination

(1) Definitions. As used in this section, the term:

(a) "Communication" means an oral or written statement, or nonverbal conduct intended to make an assertion, by or to a parenting coordinator, a participant, or a party made during parenting coordination, or before parenting coordination if made in furtherance of the parenting coordination process. The term does not include the commission of a crime during parenting coordination.

(b) "Office" means the Office of the State Courts Administrator.

(c) "Participant" means any individual involved in the parenting coordination process, other than the parenting coordinator and the named parties, who takes part in an event in person or by telephone, videoconference, or other electronic means.

(d) "Parenting coordination" means a nonadversarial dispute resolution process that is court ordered or agreed upon by the parties.

(e) "Parenting coordinator" means an impartial third party appointed by the court or agreed to by the parties whose role is to assist the parties in successfully creating or implementing a parenting plan.

(f) "Parenting Coordinator Review Board" means the board appointed by the Chief Justice of the Florida Supreme Court to consider complaints against qualified and court-appointed parenting coordinators.

(g) "Party" means a person participating directly, or through a designated representative, in parenting coordination.

(2) Purpose. The purpose of parenting coordination is to provide a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations, and, with the prior approval of the parents and the court, making limited decisions within the scope of the court's order of referral.

(3) Referral. In any action in which a judgment or order has been sought or entered adopting, establishing, or modifying a parenting plan, except for a domestic violence proceeding under chapter 741, and upon agreement of the parties, the court's own motion, or the motion of a party, the court may appoint a parenting coordinator and refer the parties to parenting coordination to assist in the resolution of disputes concerning their parenting plan.

(4) Domestic Violence Issues.

(a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party's consent. The court must determine whether each party's consent has been given freely and voluntarily.

(b) In determining whether there has been a history of domestic violence, the court shall consider whether a party has committed an act of domestic violence as defined s. 741.28, or child abuse as defined in s. 39.01, against the other party or any member of the other party's family; engaged in a pattern of behaviors that exert power and control over the other party and that may compromise the other party's ability to negotiate a fair result; or engaged in behavior that leads the other party to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. The court shall consider and evaluate all relevant factors, including, but not limited to, the factors listed in s. 741.30(6)(b).

(c) If there is a history of domestic violence, the court shall order safeguards to protect the safety of the participants, including, but not limited to, adherence to all provisions of an injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings.

(5) Qualifications of a Parenting Coordinator.

(a) To be qualified, a parenting coordinator must:

1. Meet one of the following professional requirements:

a. Be licensed as a mental health professional under chapter 490 or chapter 491.

b. Be licensed as a physician under chapter 458, with certification by the American Board of Psychiatry and Neurology.

c. Be certified by the Florida Supreme Court as a family law mediator, with at least a master's degree in a mental health field.

d. Be a member in good standing of The Florida Bar.

2. Complete all of the following:
a. Three years of postlicensure or postcertification practice.
b. A family mediation training program certified by the Florida Supreme Court.
c. A minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.

(b) The court may require additional qualifications to address issues specific to the parties.

(c) A qualified parenting coordinator must be in good standing, or in clear and active status, with his or her respective licensing authority, certification board, or both, as applicable.

(d) Unless there is a written agreement between the parties, the court may appoint only a qualified parenting coordinator.

(6) Disqualification of Parenting Coordinator.
(a) The court may not appoint a person to serve as parenting coordinator who, in any jurisdiction:
1. Has been convicted or had adjudication withheld on a charge of child abuse, child neglect, domestic violence, parental kidnapping, or interference with custody;
2. Has been found by a court in a child protection hearing to have abused, neglected, or abandoned a child;
3. Has consented to an adjudication or a withholding of adjudication on a petition for dependency;
4. Is or has been a respondent in a final order or injunction of protection against domestic violence; or
5. Has been disqualified by the Parenting Coordinator Review Board.
(b) A parenting coordinator must discontinue service as a parenting coordinator and immediately report to the court and the parties if any of the disqualifying circumstances described in paragraph (a) occur, or if he or she no longer meets the qualifications in subsection (5), and the court may appoint another parenting coordinator.

(7) Fees for Parenting Coordination. The court shall determine the allocation of fees and costs for parenting coordination between the parties. The court may not order the parties to parenting coordination without their consent unless it determines that the parties have the financial ability to pay the parenting coordination fees and costs.

(a) In determining if a non-indigent party has the financial ability to pay the parenting coordination fees and costs, the court shall consider the party's financial circumstances, including income, assets, liabilities, financial obligations, resources, and whether paying the fees and costs would create a substantial hardship.
(b) If a party is found to be indigent based upon the factors in s. 57.082, the court may not order the party to parenting coordination unless public funds are available to pay the indigent party's allocated portion of the fees and costs or the non-indigent party consents to paying all of the fees and costs.

(8) Confidentiality. Except as otherwise provided in this section, all communications made by, between, or among the parties, participants, and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator, participants, and each party designated in the order appointing the coordinator may not testify or offer evidence about communications made by, between, or among the parties, participants, and the parenting coordinator during parenting coordination sessions, except if:
(a) Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination;
(b) The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party, participant, or the parenting coordinator;
(c) The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment;
(d) The parenting coordinator reports that the case is no longer appropriate for parenting coordination;
(e) The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed;
(f) The testimony or evidence is necessary pursuant to paragraph (6)(b) or subsection (9);
(g) The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed;
(h) The parties or participants agree that the testimony or evidence may be permitted;
(i) The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence under chapter 741; child abuse, neglect, or abandonment under chapter 39; or abuse, neglect, or exploitation of an elderly or disabled adult under chapter 825.
(j) The testimony or evidence is offered to report, prove, or disprove, a violation of professional malpractice occurring during the parenting coordination process, solely for the purpose of the professional malpractice proceeding; or
(k) The testimony or evidence is offered to report, prove, or disprove, professional misconduct occurring during the parenting coordination process, solely for the internal use of the body conducting the investigation of the conduct.

(9) Report of Emergency to Court.

(a) A parenting coordinator must immediately inform the court by affidavit or verified report without notice to the parties of an emergency situation if:

1. There is a reasonable cause to suspect that a child will suffer or is suffering abuse, neglect, or abandonment as provided under chapter 39;
2. There is a reasonable cause to suspect a vulnerable adult has been or is being abused, neglected, or exploited as provided under chapter 415;
3. A party, or someone acting on a party's behalf, is expected to wrongfully remove or is wrongfully removing the child from the jurisdiction of the court without prior court approval or compliance with the requirements of s. 61.13001. If the parenting coordinator suspects that the parent has relocated within the state to avoid domestic violence, the coordinator may not disclose the location of the parent and child unless required by court order.

(b) Upon such information and belief, a parenting coordinator shall immediately inform the court by affidavit or verified report and serve a copy on each party of an emergency in which a party obtains a final order or injunction of protection against domestic violence or is arrested for an act of domestic violence as provided under chapter 741.

(10) Immunity and Limited Liability.

(a) A person appointed or employed to assist the Supreme Court in performing its duties relating to disciplinary proceedings involving parenting coordinators, including a member of the Parenting Coordinator Review Board, is not liable for civil damages for any act or omission arising from the performance of his or her duties while acting within the scope of his or her appointed function or job description unless such person acted in bad faith or with malicious purpose.

(b) A parenting coordinator appointed by the court is not liable for civil damages for any act or omission in the scope of his or her duties under an order of referral unless such person acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.

(11) Standards and Procedures. The Supreme Court shall establish minimum standards and procedures for the training, ethical conduct, and discipline of parenting coordinators who serve under this section. The office may appoint or employ personnel as necessary to assist the court in exercising its powers and performing its duties under this section.

Collaborative Law Process Act

61.55 Purpose. The purpose of this part is to create a uniform system of practice for the collaborative law process in this state. It is the policy of this state to encourage the peaceful resolution of disputes and the early resolution of pending litigation through a voluntary settlement process. The collaborative law process is a unique non-adversarial process that

preserves a working relationship between the parties and reduces the emotional and financial toll of litigation.

61.56 Definitions. As used in this part, the term:

(1) "Collaborative attorney" means an attorney who represents a party in a collaborative law process.

(2) "Collaborative law communication" means an oral or written statement, including a statement made in a record, or nonverbal conduct that:

(a) Is made in the conduct of or in the course of participating in, continuing, or reconvening for a collaborative law process; and

(b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded or terminated.

(3) "Collaborative law participation agreement" means an agreement between persons to participate in a collaborative law process.

(4) "Collaborative law process" means a process intended to resolve a collaborative matter without intervention by a tribunal and in which persons sign a collaborative law participation agreement and are represented by collaborative attorneys.

(5) "Collaborative matter" means a dispute, a transaction, a claim, a problem, or an issue for resolution, including a dispute, a claim, or an issue in a proceeding which is described in a collaborative law participation agreement and arises under chapter 61 or chapter 742, including, but not limited to:

(a) Marriage, divorce, dissolution, annulment, and marital property distribution.
(b) Child custody, visitation, parenting plan, and parenting time.
(c) Alimony, maintenance, and child support.
(d) Parental relocation with a child.
(e) Parentage and paternity.
(f) Premarital, marital, and postmarital agreements.

(6) "Law firm" means:

(a) One or more attorneys who practice law in a partnership, professional corporation, sole proprietorship, limited liability company, or association; or

(b) One or more attorneys employed in a legal services organization, the legal department of a corporation or other organization, or the legal department of a governmental entity, subdivision, agency, or instrumentality.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative attorney, who participates in a collaborative law process.

(8) "Party" means a person who signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual; a corporation; a business trust; an estate; a trust; a partnership; a limited liability company; an association; a joint venture; a public corporation; a government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(10) "Proceeding" means a judicial, an administrative, an arbitral, or any other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery.

(11) "Prospective party" means a person who discusses with a prospective collaborative attorney the possibility of signing a collaborative law participation agreement.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "Sign" means, with present intent to authenticate or adopt a record, to:
(a) Execute or adopt a tangible symbol; or
(b) Attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Tribunal" means a court, an arbitrator, an administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter.

61.57 Beginning, concluding, and terminating a collaborative law process.—

(1) The collaborative law process begins, regardless of whether a legal proceeding is pending, when the parties enter into a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by any of the following:
(a) Resolution of a collaborative matter as evidenced by a signed record;

(b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the collaborative matter will not be resolved in the collaborative law process; or

(c) Termination of the collaborative law process.

(4) A collaborative law process terminates when a party:

(a) Gives notice to the other parties in a record that the collaborative law process is concluded;

(b) Begins a proceeding related to a collaborative matter without the consent of all parties;

(c) Initiates a pleading, a motion, an order to show cause, or a request for a conference with a tribunal in a pending proceeding related to a collaborative matter;

(d) Requests that the proceeding be put on the tribunal's active calendar in a pending proceeding related to a collaborative matter;

(e) Takes similar action requiring notice to be sent to the parties in a pending proceeding related to a collaborative matter; or

(f) Discharges a collaborative attorney or a collaborative attorney withdraws from further representation of a party, except as otherwise provided in subsection (7).

(5) A party's collaborative attorney shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative attorney, the collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative attorney required by subsection (5) is sent to the parties:

(a) The unrepresented party engages a successor collaborative attorney;

(b) The parties consent to continue the collaborative law process by reaffirming the collaborative law participation agreement in a signed record;

(c) The collaborative law participation agreement is amended to identify the successor collaborative attorney in a signed record; and

(d) The successor collaborative attorney confirms his or her representation of a party in the collaborative law participation agreement in a signed record.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of a collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods for concluding a collaborative law process.

Florida Court Related ADR Statutes

61.58 Confidentiality of a collaborative law communication.

Except as provided in this section, a collaborative law communication is confidential to the extent agreed by the parties in a signed record or as otherwise provided by law.

(1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW COMMUNICATION; ADMISSIBILITY; DISCOVERY. —

(a) Subject to subsections (2) and (3), a collaborative law communication is privileged as provided under paragraph (b), is not subject to discovery, and is not admissible into evidence.

(b) In a proceeding, the following privileges apply:

1. A party may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication.

2. A nonparty participant may refuse to disclose, and may prevent another person from disclosing, a collaborative law communication of a nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

(2) WAIVER AND PRECLUSION OF PRIVILEGE. —

(a) A privilege under subsection (1) may be waived orally or in a record during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, if it is expressly waived by the nonparty participant.

(b) A person who makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding may not assert a privilege under subsection (1). This preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

(3) LIMITS OF PRIVILEGE. —

(a) A privilege under subsection (1) does not apply to a collaborative law communication that is:

1. Available to the public under chapter 119 or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

2. A threat, or statement of a plan, to inflict bodily injury or commit a crime of violence;

3. Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

4. In an agreement resulting from the collaborative law process, as evidenced by a record signed by all parties to the agreement.

(b) The privilege under subsection (1) for a collaborative law communication does not apply to the extent that such collaborative law communication is:

1. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or relating to a collaborative law process; or
2. Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or an adult unless the Department of Children and Families is a party to or otherwise participates in the process.

(c) A privilege under subsection (1) does not apply if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

1. A proceeding involving a felony; or
2. A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense is asserted to avoid liability on the contract.

(d) If a collaborative law communication is subject to an exception under paragraph (b) or paragraph (c), only the part of the collaborative law communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under paragraph (b) or paragraph (c) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) The privilege under subsection (1) does not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This paragraph does not apply to a collaborative law communication made by a person who did not receive actual notice of the collaborative law participation agreement before the communication was made.

61.183 Mediation of certain contested issues

(1) In any proceeding in which the issues of parental responsibility, primary residence, access to, visitation with, or support of a child are contested, the court may refer the parties to mediation in accordance with rules promulgated by the Supreme Court. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the non-prevailing obligor after the court makes a determination of the non-prevailing obligor's ability to pay such costs and fees.

(2) If an agreement is reached by the parties on the contested issues, a consent order incorporating the agreement shall be prepared by the mediator and submitted to the parties and their attorneys for review. Upon approval by the parties, the consent order shall be reviewed by

the court and, if approved, entered. Thereafter, the consent order may be enforced in the same manner as any other court order.

(3) Any information from the files, reports, case summaries, mediator's notes, or other communications or materials relating to a mediation proceeding pursuant to this section obtained by any person performing mediation duties is exempt from the provisions of s. 119.07(1).

Florida Court Related ADR Statutes

Chapter 63 – Adoption

63.0427 Agreements for continued communication or contact between adopted child and siblings, parents, and other relatives. —

(1) A child whose parents have had their parental rights terminated and whose custody has been awarded to the department pursuant to s. 39.811, and who is the subject of a petition for adoption under this chapter, shall have the right to have the court consider the appropriateness of postadoption communication or contact, including, but not limited to, visits, written correspondence, or telephone calls, with his or her siblings or, upon agreement of the adoptive parents, with the parents who have had their parental rights terminated or other specified biological relatives. The court shall consider the following in making such determination:

(a) Any orders of the court pursuant to s. 39.811(7).

(b) Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian ad litem.

(c) Statements of the prospective adoptive parents.

(d) Any other information deemed relevant and material by the court.

If the court determines that the child's best interests will be served by postadoption communication or contact, the court shall so order, stating the nature and frequency of the communication or contact. This order shall be made a part of the final adoption order, but the continuing validity of the adoption may not be contingent upon such postadoption communication or contact and the ability of the adoptive parents and child to change residence within or outside the State of Florida may not be impaired by such communication or contact.

(2) Notwithstanding s. 63.162, the adoptive parent may, at any time, petition for review of a communication or contact order entered pursuant to subsection (1), if the adoptive parent believes that the best interests of the adopted child are being compromised, and the court may order the communication or contact to be terminated or modified, as the court deems to be in the best interests of the adopted child; however, the court may not increase contact between the adopted child and siblings, birth parents, or other relatives without the consent of the adoptive parent or parents. As part of the review process, the court may order the parties to engage in mediation. The department shall not be required to be a party to such review.

Florida Court Related ADR Statutes

Chapter 320 - Motor Vehicle Licenses

320.3210 Civil dispute resolution; mediation; relief. —

(1) A dealer, manufacturer, distributor, or warrantor injured by another party's violation of ss.320.3201-320.3211 may bring a civil action in circuit court to recover actual damages. The court shall award attorney's fees and costs to the prevailing party in such action. Venue for any civil action authorized by this section must exclusively be in the county in which the dealership is located. In an action involving more than one dealer, venue may be in any county in which a dealer who is party to the action is located.

(2) Before bringing suit under this section, the party bringing suit for an alleged violation shall serve a written demand for mediation upon the offending party.

(a) The demand for mediation shall be served upon the offending party via certified mail at the address stated within the agreement between the parties. In the event of a civil action between two dealers, the demand must be mailed to the address on the dealer's license filed with the department.

(b) The demand for mediation must contain a brief statement of the dispute and the relief sought by the party filing the demand.

(c) Within 20 days after the date a demand for mediation is served, the parties shall mutually select an independent certified mediator and meet with the mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this state in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or upon stipulation of both parties.

(d) The service of a demand for mediation under this subsection stays the time for the filing of any complaint, petition, protest, or action under ss. 320.3201-320.3211 until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this subsection, enter an order suspending the proceeding or action for as long a period as the court considers appropriate. A suspension order issued under this paragraph may be revoked by the court.

(e) The parties to the mediation shall bear their own costs for attorney's fees and divide equally the cost of the mediator.

(3) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a dealer or manufacturer may apply to a circuit court for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a dealer, manufacturer, distributor, or importer without being properly licensed pursuant to this chapter, from violating or continuing to violate any of the provisions of ss.320.3201-320.3211, or from failing or refusing to comply with the requirements of ss. 320.3201-320.3211. Such injunction shall be issued without bond. A single act in violation of s. 320.3203 is sufficient to authorize the issuance of an injunction.

Florida Court Related ADR Statutes

Chapter 415 - Adult Protective Services

415.101 Adult Protective Services Act; legislative intent

(1) Sections 415.101-415.113 may be cited as the "Adult Protective Services Act."

(2) The Legislature recognizes that there are many persons in this state who, because of age or disability, are in need of protective services. Such services should allow such an individual the same rights as other citizens and, at the same time, protect the individual from abuse, neglect, and exploitation. It is the intent of the Legislature to provide for the detection and correction of abuse, neglect, and exploitation through social services and criminal investigations and to establish a program of protective services for all vulnerable adults in need of them. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear in an effort to prevent further abuse, neglect, and exploitation of vulnerable adults. In taking this action, the Legislature intends to place the fewest possible restrictions on personal liberty and the exercise of constitutional rights, consistent with due process and protection from abuse, neglect, and exploitation. Further, the Legislature intends to encourage the constructive involvement of families in the care and protection of vulnerable adults.

415.102 Definitions of terms used in ss. 415.101-415.113

(1) "Abuse" means any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

(2) "Activities of daily living" means functions and tasks for self-care, including ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.

(3) "Alleged perpetrator" means a person who has been named by a reporter as the person responsible for abusing, neglecting, or exploiting a vulnerable adult.

(4) "Capacity to consent" means that a vulnerable adult has sufficient understanding to make and communicate responsible decisions regarding the vulnerable adult's person or property, including whether or not to accept protective services offered by the department.

(5) "Caregiver" means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a vulnerable adult on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person's guardian that a caregiver role exists. "Caregiver" includes, but is not limited to, relatives, household members, guardians, neighbors, and employees and volunteers of facilities as defined in subsection (9). For the purpose of departmental investigative jurisdiction, the term "caregiver"

does not include law enforcement officers or employees of municipal or county detention facilities or the Department of Corrections while acting in an official capacity.

(6) "Deception" means a misrepresentation or concealment of a material fact relating to services rendered, disposition of property, or the use of property intended to benefit a vulnerable adult.

(7) "Department" means the Department of Children and Families.

(8) (a) "Exploitation" means a person who:

1. Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
2. Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

(b) "Exploitation" may include, but is not limited to:

1. Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
2. Unauthorized taking of personal assets;
3. Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or
4. Intentional or negligent failure to effectively use a vulnerable adult's income and assets for the necessities required for that person's support and maintenance.

(9) "Facility" means any location providing day or residential care or treatment for vulnerable adults. The term "facility" may include, but is not limited to, any hospital, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, residential facility licensed under chapter 393, adult day training center, or mental health treatment center.

(10) "False report" means a report of abuse, neglect, or exploitation of a vulnerable adult to the central abuse hotline which is not true and is maliciously made for the purpose of:

(a) Harassing, embarrassing, or harming another person;
(b) Personal financial gain for the reporting person;
(c) Acquiring custody of a vulnerable adult; or
(d) Personal benefit for the reporting person in any other private dispute involving a vulnerable adult.

The term “false report” does not include a report of abuse, neglect, or exploitation of a vulnerable adult which is made in good faith to the central abuse hotline.

(11) “Fiduciary relationship” means a relationship based upon the trust and confidence of the vulnerable adult in the caregiver, relative, household member, or other person entrusted with the use or management of the property or assets of the vulnerable adult. The relationship exists where there is a special confidence reposed in one who in equity and good conscience is bound to act in good faith and with due regard to the interests of the vulnerable adult. For the purposes of this part, a fiduciary relationship may be formed by an informal agreement between the vulnerable adult and the other person and does not require a formal declaration or court order for its existence. A fiduciary relationship includes, but is not limited to, court-appointed or voluntary guardians, trustees, attorneys, or conservators of a vulnerable adult’s assets or property.

(12) “Guardian” means a person who has been appointed by a court to act on behalf of a person; a preneed guardian, as provided in chapter 744; or a health care surrogate expressly designated as provided in chapter 765.

(13) “In-home services” means the provision of nursing, personal care, supervision, or other services to vulnerable adults in their own homes.

(14) “Intimidation” means the communication by word or act to a vulnerable adult that that person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence.

(15) “Lacks capacity to consent” means a mental impairment that causes a vulnerable adult to lack sufficient understanding or capacity to make or communicate responsible decisions concerning person or property, including whether or not to accept protective services.

(16) “Neglect” means the failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term “neglect” also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. “Neglect” is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

(17) “Obtains or uses” means any manner of:

(a) Taking or exercising control over property;

(b) Making any use, disposition, or transfer of property;

(c) Obtaining property by fraud, willful misrepresentation of a future act, or false promise; or

(d)

1. Conduct otherwise known as stealing; larceny; purloining; abstracting; embezzlement; misapplication; misappropriation; conversion; or obtaining money or property by false pretenses, fraud, or deception; or
2. Other conduct similar in nature.

(18) "Office" has the same meaning as in s. 400.0060.

(19) "Position of trust and confidence" with respect to a vulnerable adult means the position of a person who:

(a) Is a parent, spouse, adult child, or other relative by blood or marriage;

(b) Is a joint tenant or tenant in common;

(c) Has a legal or fiduciary relationship, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator; or

(d) Is a caregiver or any other person who has been entrusted with or has assumed responsibility for the use or management of the vulnerable adult's funds, assets, or property.

(20) "Protective investigation" means acceptance of a report from the central abuse hotline alleging abuse, neglect, or exploitation as defined in this section; investigation of the report; determination as to whether action by the court is warranted; and referral of the vulnerable adult to another public or private agency when appropriate.

(21) "Protective investigator" means an authorized agent of the department who receives and investigates reports of abuse, neglect, or exploitation of vulnerable adults.

(22) "Protective services" means services to protect a vulnerable adult from further occurrences of abuse, neglect, or exploitation. Such services may include, but are not limited to, protective supervision, placement, and in-home and community-based services.

(23) "Protective supervision" means those services arranged for or implemented by the department to protect vulnerable adults from further occurrences of abuse, neglect, or exploitation.

(24) "Psychological injury" means an injury to the intellectual functioning or emotional state of a vulnerable adult as evidenced by an observable or measurable reduction in the vulnerable adult's ability to function within that person's customary range of performance and that person's behavior.

(25) "Records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, videotapes, or other material, regardless of physical form or characteristics, made or received pursuant to a protective investigation.

(26) "Sexual abuse" means acts of a sexual nature committed in the presence of a vulnerable adult without that person's informed consent. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's sexual organs, or the use of a vulnerable adult to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal caregiving action or appropriate display of affection.

(27) "Victim" means any vulnerable adult named in a report of abuse, neglect, or exploitation.

(28) "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

(29) "Vulnerable adult in need of services" means a vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party perpetrator and is in need of protective services or other services to prevent further harm.

Florida Court Related ADR Statutes

415.1034 Mandatory reporting of abuse, neglect, or exploitation of vulnerable adults; mandatory reports of death

(1) Mandatory Reporting.

(a) Any person, including, but not limited to, any:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;
2. Health professional or mental health professional other than one listed in subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;
5. State, county, or municipal criminal justice employee or law enforcement officer;
6. An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments under s. 509.032;
7. Florida advocacy council member or long-term care ombudsman council member; or
8. Bank, savings and loan, or credit union officer, trustee, or employee,

who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

1. Name, age, race, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited.
2. Names, addresses, and telephone numbers of the victim's family members.
3. Name, address, and telephone number of each alleged perpetrator.
4. Name, address, and telephone number of the caregiver of the victim, if different from the alleged perpetrator.
5. Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation.
6. Description of the physical or psychological injuries sustained.
7. Actions taken by the reporter, if any, such as notification of the criminal justice agency.
8. Any other information available to the reporting person which may establish the cause of abuse, neglect, or exploitation that occurred or is occurring.

(2) Mandatory Reports of Death. Any person who is required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, to the appropriate criminal justice agency, and to the department, notwithstanding the existence of a death certificate signed by a practicing physician. The medical

examiner shall accept the report for investigation pursuant to s. 406.11 and shall report the findings of the investigation, in writing, to the appropriate local criminal justice agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 415.107.

415.1036 Immunity

(1) Any person who participates in making a report under s. 415.1034 or participates in a judicial proceeding resulting therefrom is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any liability, civil or criminal, that otherwise might be incurred or imposed. This section does not grant immunity, civil or criminal, to any person who is suspected of having abused, neglected, or exploited, or committed any illegal act upon or against, a vulnerable adult. Further, a resident or employee of a facility that serves vulnerable adults may not be subjected to reprisal or discharge because of the resident's or employee's actions in reporting abuse, neglect, or exploitation pursuant to s. 415.1034.

(2) Any person who makes a report under s. 415.1034 has a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of the reporting party's making the report. Any detrimental change made in the residency or employment status of such a person, such as, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations, within 120 days after the report is made establishes a rebuttable presumption that the detrimental action was retaliatory.

Florida Court Related ADR Statutes

Chapter 429 - Assisted Care Communities

429.87 Civil actions to enforce rights

(1) Any person or resident whose rights as specified in this part are violated has a cause of action against any adult family-care home, provider, or staff responsible for the violation. The action may be brought by the resident or the resident's guardian, or by a person or organization acting on behalf of a resident with the consent of the resident or the resident's guardian, to enforce the right. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages when malicious, wanton, or willful disregard of the rights of others can be shown. Any plaintiff who prevails in any such action is entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith or with malicious purpose or that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant is entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to other legal and administrative remedies available to a resident or to the agency.

(2) To recover attorney's fees under this section, the following conditions precedent must be met:

(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.

1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:

a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.

b. Set a date for mediation.

c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.

2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.

3. The mediation shall be conducted in the following manner:

a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.

b. Each party shall mediate in good faith.

4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.

(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.

(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.

(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.

(3) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(4) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

Florida Court Related ADR Statutes

Chapter 440 - Workers' Compensation

440.25 Procedures for mediation and hearings

(3) Such mediation conference shall be conducted informally and does not require the use of formal rules of evidence or procedure. Any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation conference under this section obtained by any person performing mediation duties is privileged and confidential and may not be disclosed without the written consent of all parties to the conference. Any research or evaluation effort directed at assessing the mediation program activities or performance must protect the confidentiality of such information. Each party to a mediation conference has a privilege during and after the conference to refuse to disclose and to prevent another from disclosing communications made during the conference whether or not the contested issues are successfully resolved. This subsection and paragraphs (4)(a) and (b) shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rule of procedure, except that any conduct or statements made during a mediation conference or in negotiations concerning the conference are inadmissible in any proceeding under this chapter.

(a) Unless the parties conduct a private mediation under paragraph (b), mediation shall be conducted by a mediator selected by the Director of the Division of Administrative Hearings from among mediators employed on a full-time basis by the Office of the Judges of Compensation Claims. A mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Deputy Chief Judge. Adjunct mediators may be employed by the Office of the Judges of Compensation Claims on an as-needed basis and shall be selected from a list prepared by the Director of the Division of Administrative Hearings. An adjunct mediator must be independent of all parties participating in the mediation conference. An adjunct mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Office of the Judges of Compensation Claims. An adjunct mediator shall have access to the office, equipment, and supplies of the judge of compensation claims in each district.

(b) With respect to any private mediation, if the parties agree or if mediators are not available under paragraph (a), pursuant to notice from the judge of compensation claims, to conduct the required mediation within the period specified in this section, the parties shall hold a mediation conference at the carrier's expense within the 130-day period set for mediation. The mediation conference shall be conducted by a mediator certified under s. 44.106. If the parties do not agree upon a mediator within 10 days after the date of the order, the claimant shall notify the judge in writing and the judge shall appoint a mediator under this paragraph within 7 days. In the event both parties agree, the results of the mediation conference shall be binding and neither party shall have a right to appeal the results. In the event either party refuses to agree to the results of the mediation conference, the results of

the mediation conference as well as the testimony, witnesses, and evidence presented at the conference shall not be admissible at any subsequent proceeding on the claim. The mediator shall not be called in to testify or give deposition to resolve any claim for any hearing before the judge of compensation claims. The employer may be represented by an attorney at the mediation conference if the employee is also represented by an attorney at the mediation conference.

Florida Court Related ADR Statutes

Chapter 682 - Arbitration Code

682.011 Definitions. —As used in this chapter, the term:

(1) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) "Court" means a court of competent jurisdiction in this state.

(4) "Knowledge" means actual knowledge.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(6) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

682.012 Notice

(1) Except as otherwise provided in this chapter, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(2) A person has notice if the person has knowledge of the notice or has received notice.

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

682.013 Applicability of revised code

(1) The Revised Florida Arbitration Code governs an agreement to arbitrate made on or after July 1, 2013.

(2) Until June 30, 2016, the Revised Florida Arbitration Code governs an agreement to arbitrate made before July 1, 2013, if all the parties to the agreement or to the arbitration proceeding so

agree in a record. Otherwise, such agreements shall be governed by the applicable law existing at the time the parties entered into the agreement.

(3) The Revised Florida Arbitration Code does not affect an action or proceeding commenced or right accrued before July 1, 2013.

(4) Beginning July 1, 2016, an agreement to arbitrate shall be subject to the Revised Florida Arbitration Code.

682.014 Effect of agreement to arbitrate; nonwaivable provisions

(1) Except as otherwise provided in subsections (2) and (3), a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this chapter to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of:

1. Commencing a petition for judicial relief under s. 682.015(1);
2. Making agreements to arbitrate valid, enforceable, and irrevocable under s. 682.02(1);
3. Permitting provisional remedies under s. 682.031;
4. Conferring authority on arbitrators to issue subpoenas and permit depositions under s. 682.08(1) or (2);
5. Conferring jurisdiction under s. 682.181; or
6. Stating the bases for appeal under s. 682.20;

(b) Agree to unreasonably restrict the right under s. 682.032 to notice of the initiation of an arbitration proceeding;

(c) Agree to unreasonably restrict the right under s. 682.041 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under s. 682.07 of a party to an agreement to arbitrate to be represented by an attorney at any proceeding or hearing under this chapter, but an employer and a labor organization may waive the right to representation by an attorney in a labor arbitration.

(3) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements in this section or:

(a) The applicability of this chapter, the Revised Florida Arbitration Code, under s. 682.013(1) or (4);

(b) The availability of proceedings to compel or stay arbitration under s. 682.03;

(c) The immunity conferred on arbitrators and arbitration organizations under s. 682.051;

(d) A party's right to seek judicial enforcement of an arbitration preaward ruling under s. 682.081;
(e) The authority conferred on an arbitrator to change an award under s. 682.10(4) or (5);
(f) The remedies provided under [1]s. 682.12;
(g) The grounds for vacating an arbitration award under s. 682.13;
(h) The grounds for modifying an arbitration award under s. 682.14;
(i) The validity and enforceability of a judgment or decree based on an award under s. 682.15(1) or (2);
(j) The validity of the Electronic Signatures in Global and National Commerce Act under s. 682.23; or
(k) The effect of excluding from arbitration under this chapter disputes involving child custody, visitation, or child support under s. 682.25.

[1]Note. —Section 682.11 relates to remedies; s. 682.12 relates to confirmation of an award.

682.015 Petition for judicial relief

(1) Except as otherwise provided in s. 682.20, a petition for judicial relief under this chapter must be made to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial petition to the court under this chapter must be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by law or rule of court for serving motions in pending cases.

682.02 Arbitration agreements made valid, irrevocable, and enforceable; scope

(1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

(5) This section also applies to written interlocal agreements under ss. 163.01 and 373.713 in which two or more parties agree to submit to arbitration any controversy between them concerning water use permit applications and other matters, regardless of whether or not the water management district with jurisdiction over the subject application is a party to the interlocal agreement or a participant in the arbitration.

682.03 Proceedings to compel and to stay arbitration

(1) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(a) If the refusing party does not appear or does not oppose the motion, the court shall order the parties to arbitrate.

(b) If the refusing party opposes the motion, the court shall proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(2) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(3) If the court finds that there is no enforceable agreement to arbitrate, it may not order the parties to arbitrate pursuant to subsection (1) or subsection (2).

(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in s. 682.19.

(6) If a party makes a motion to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

Florida Court Related ADR Statutes

682.031 Provisional remedies

(1) Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) A party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(3) A party does not waive a right of arbitration by making a motion under this section.

(4) If an arbitrator awards a provisional remedy for injunctive or equitable relief, the arbitrator shall state in the award the factual findings and legal basis for the award.

(5) A party may seek to confirm or vacate a provisional remedy award for injunctive or equitable relief under s. 682.081.

682.032 Initiation of arbitration

(1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(2) Unless a person objects for lack or insufficiency of notice under s. 682.06(3) not later than the beginning of the arbitration hearing, the person by appearing at the hearing waives any objection to lack of or insufficiency of notice.

682.033 Consolidation of separate arbitration proceedings

(1) Except as otherwise provided in subsection (3), upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

(a) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person;
(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;
(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and
(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(2) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation. Nothing in this section is intended or shall be construed to affect commencing, maintaining, or certifying a claim or defense on behalf of a class or as a class action.

682.04 Appointment of arbitrators by court

(1) If the parties to an agreement to arbitrate agree on a method for appointing arbitrators, this method must be followed, unless the method fails.

(2) The court, on motion of a party to an arbitration agreement, shall appoint one or more arbitrators, if:
(a) The parties have not agreed on a method;
(b) The agreed method fails;
(c) One or more of the parties failed to respond to the demand for arbitration; or
(d) An arbitrator fails to act, and a successor has not been appointed.

(3) An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate appointed pursuant to the agreed method.

(4) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

682.041 Disclosure by arbitrator

(1) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person

would consider likely to affect the person's impartiality as an arbitrator in the arbitration proceeding, including:

(a) A financial or personal interest in the outcome of the arbitration proceeding.

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representative, a witness, or another arbitrator.

(2) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(3) If an arbitrator discloses a fact required by subsection (1) or subsection (2) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under s. 682.13(1)(b) for vacating an award made by the arbitrator.

(4) If the arbitrator did not disclose a fact as required by subsection (1) or subsection (2), upon timely objection by a party, the court may vacate an award under s. 682.13(1)(b).

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under s. 682.13(1)(b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under s. 682.13(1)(b).

682.05 Majority action by arbitrators

If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of the arbitrators shall conduct the hearing under s. 682.06(3).

682.051 Immunity of arbitrator; competency to testify; attorney fees and costs

(1) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded under this section supplements any immunity under other law.

(3) The failure of an arbitrator to make a disclosure required by s. 682.041 does not cause any loss of immunity under this section.

(4) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(a) To the extent necessary to determine the claim of an arbitrator, arbitration organization, or representative of the arbitration organization against a party to the arbitration proceeding; or

(b) To a hearing on a motion to vacate an award under s. 682.13(1)(a) or (b) if the movant establishes prima facie that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4), and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and other reasonable expenses of litigation.

682.06 Hearing

(1) An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The arbitrator's authority includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

(2) An arbitrator may decide a request for summary disposition of a claim or particular issue:

(a) If all interested parties agree; or

(b) Upon request of one party to the arbitration proceeding, if that party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than 5 days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the

arbitrator may adjourn the hearing from time to time as necessary, but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(4) At a hearing under subsection (3), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with s. 682.04 to continue the proceeding and to resolve the controversy.

682.07 Representation by attorney

A party has the right to be represented by an attorney at any arbitration proceeding or hearing under this law.

682.08 Witnesses, subpoenas, depositions

(1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) In order to make the proceedings fair, expeditious, and cost effective, upon request of a party to, or a witness in, an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(3) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective.

(4) If an arbitrator permits discovery under subsection (3), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a

discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

(6) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

(8) Fees for attendance as a witness shall be the same as for a witness in the circuit court.

682.081 Judicial enforcement of preaward ruling by arbitrator

(1) Except as provided in subsection (2), if an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request that the arbitrator incorporate the ruling into an award under s. 682.12. A prevailing party may make a motion to the court for an expedited order to confirm the award under s. 682.12, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under s. 682.13 or s. 682.14.

(2) A party to a provisional remedy award for injunctive or equitable relief may make a motion to the court seeking to confirm or vacate the provisional remedy award.

(a) The court shall confirm a provisional remedy award for injunctive or equitable relief if the award satisfies the legal standards for awarding a party injunctive or equitable relief.

(b) The court shall vacate a provisional remedy award for injunctive or equitable relief which fails to satisfy the legal standards for awarding a party injunctive or equitable relief.

Florida Court Related ADR Statutes

682.09 Award

(1) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend, or the parties to the arbitration proceeding may agree in a record to extend, the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

682.10 Change of award by arbitrators

(1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(a) Upon a ground stated in s. 682.14(1)(a) or (c);

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(2) A motion under subsection (1) must be made and notice given to all parties within 20 days after the movant receives notice of the award.

(3) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

(4) If a motion to the court is pending under s. 682.12, s. 682.13, or s. 682.14, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in s. 682.14(1)(a) or (c);

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) To clarify the award.

(5) An award modified or corrected pursuant to this section is subject to ss. 682.09(1), 682.12, 682.13, and 682.14.

682.11 Remedies; fees and expenses of arbitration proceeding

(1) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(2) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(3) As to all remedies other than those authorized by subsections (1) and (2), an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under s. 682.12 or for vacating an award under s. 682.13.

(4) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(5) If an arbitrator awards punitive damages or other exemplary relief under subsection (1), the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

682.12 Confirmation of an award

After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to s. 682.10 or s. 682.14 or is vacated pursuant to s. 682.13.

682.13 Vacating an award

(1) Upon motion of a party to an arbitration proceeding, the court shall vacate an arbitration award if:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

1. Evident partiality by an arbitrator appointed as a neutral arbitrator;
2. Corruption by an arbitrator; or
3. Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to hear evidence material to the controversy, or otherwise conducted

the hearing contrary to s. 682.06, so as to prejudice substantially the rights of a party to the arbitration proceeding;

(d) An arbitrator exceeded the arbitrator's powers;

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under s. 682.06(3) not later than the beginning of the arbitration hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in s. 682.032 so as to prejudice substantially the rights of a party to the arbitration proceeding.

(2) A motion under this section must be filed within 90 days after the movant receives notice of the award pursuant to s. 682.09 or within 90 days after the movant receives notice of a modified or corrected award pursuant to s. 682.10, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

(3) If the court vacates an award on a ground other than that set forth in paragraph (1)(e), it may order a rehearing. If the award is vacated on a ground stated in paragraph (1)(a) or paragraph (1)(b), the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (1)(c), paragraph (1)(d), or paragraph (1)(f), the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in s. 682.09(2) for an award.

(4) If a motion to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

682.14 Modification or correction of award

(1) Upon motion made within 90 days after the movant receives notice of the award pursuant to s. 682.09 or within 90 days after the movant receives notice of a modified or corrected award pursuant to s. 682.10, the court shall modify or correct the award if:

(a) There is an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award.

(b) The arbitrators have awarded upon a matter not submitted in the arbitration and the award may be corrected without affecting the merits of the decision upon the issues submitted.

(c) The award is imperfect as a matter of form, not affecting the merits of the controversy.

(2) If the motion is granted, the court shall modify and correct the award and confirm the award as so modified and corrected. Otherwise, unless a motion to vacate the award under s. 682.13 is pending, the court shall confirm the award as made.

(3) A motion to modify or correct an award may be joined in the alternative with a motion to vacate the award under s. 682.13.

682.15 Judgment or decree on award

(1) Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(2) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(3) On motion of a prevailing party to a contested judicial proceeding under s. 682.12, s. 682.13, or s. 682.14, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

682.181 Jurisdiction

(1) A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under this chapter.

682.19 Venue

A petition pursuant to s. 682.015 must be filed in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the petition may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent petitions must be made in the court hearing the initial petition unless the court otherwise directs.

682.20 Appeals

(1) An appeal may be taken from:
- (a) An order denying a motion to compel arbitration made under s. 682.03.
- (b) An order granting a motion to stay arbitration pursuant to s. 682.03(2)-(4).
- (c) An order confirming an award.
- (d) An order denying confirmation of an award unless the court has entered an order under s. 682.10(4) or s. 682.13. All other orders denying confirmation of an award are final orders.

(e) An order modifying or correcting an award.
(f) An order vacating an award without directing a rehearing.
(g) A judgment or decree entered pursuant to this chapter.

(2) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

682.23 Relationship to Electronic Signatures in Global and National Commerce Act

The provisions of this chapter governing the legal effect, validity, and enforceability of electronic records or electronic signatures and of contracts performed with the use of such records or signatures conform to the requirements of s. 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. s. 7002.

682.25 Disputes excluded

This chapter does not apply to any dispute involving child custody, visitation, or child support.

Florida Court Related ADR Statutes

Chapter 718 – Condominiums

718.401 Leaseholds

(f) 1. A lease of recreational or other commonly used facilities entered into by the association or unit owners prior to the time when the control of the association is turned over to unit owners other than the developer shall grant to the lessee an option to purchase the leased property, payable in cash, on any anniversary date of the beginning of the lease term after the 10th anniversary, at a price then determined by agreement. If there is no agreement as to the price, then the price shall be determined by arbitration conducted pursuant to chapter 44 or chapter 682. This paragraph shall be applied to contracts entered into on, before, or after January 1, 1977, regardless of the duration of the lease.

718.1255 Alternative dispute resolution; voluntary mediation; mandatory nonbinding arbitration; legislative findings. —

(1) DEFINITIONS. —As used in this section, the term "dispute" means any disagreement between two or more parties that involves:

(a) The authority of the board of directors, under this chapter or association document to:

1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.
2. Alter or add to a common area or element.

(b) The failure of a governing body, when required by this chapter or an association document, to:

1. Properly conduct elections.
2. Give adequate notice of meetings or other actions.
3. Properly conduct meetings.
4. Allow inspection of books and records.

(c) A plan of termination pursuant to s. 718.117.

"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.

(3) LEGISLATIVE FINDINGS. —

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES. —The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this chapter. No person may be employed by the department as a full-time arbitrator unless he or she is a member in good standing of The Florida Bar. A person may only be certified by the division to act as an arbitrator if he or she has been a member in good standing of The Florida Bar for at least 5 years and has mediated or arbitrated at least 10 disputes involving condominiums in this state during the 3 years immediately preceding the date of application, mediated or arbitrated at least 30 disputes in any subject area in this state during the 3 years immediately preceding the date of application, or attained board certification in real estate law or condominium and planned development law from The Florida Bar. Arbitrator certification is valid for 1 year. An arbitrator who does not maintain the minimum qualifications for initial certification may not have his or her certification renewed. The department may not enter into a legal services contract for an arbitration hearing under this chapter with an attorney who is not a certified arbitrator unless a certified arbitrator is not available within 50 miles of the dispute. The department shall adopt rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall petition the division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount

of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;
2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and
3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and

(d) If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(e) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, the division shall assign or enter into a contract with an arbitrator and serve a copy of the petition upon all respondents. The arbitrator shall conduct a hearing within 30 days after being assigned or entering into a contract unless the petition is withdrawn, or a continuance is granted for good cause shown.

(f) Before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(g) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorney fees incurred by the other parties. Unless otherwise agreed to by the

parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

(h) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

(i) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorney fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(j) Arbitration shall be conducted according to rules adopted by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(k) At the request of any party to the arbitration, the arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(l) The arbitration decision shall be rendered within 30 days after the hearing and presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the

condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

(m) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney fees.

(n) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(5) DISPUTES INVOLVING ELECTION IRREGULARITIES. —Every arbitration petition received by the division and required to be filed under this section challenging the legality of the election of any director of the board of administration must be handled on an expedited basis in the manner provided by the division's rules for recall arbitration disputes.

(6) APPLICABILITY. —This section does not apply to a nonresidential condominium unless otherwise specifically provided for in the declaration of the nonresidential condominium.

Florida Court Related ADR Statutes

Chapter 720 – Homeowners' Association

720.311 Dispute resolution. —

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department pursuant to s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(j) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct mandatory binding arbitration of election disputes between a member and an association pursuant to s. 718.1255 and rules adopted by the division. Neither election disputes nor recall disputes are eligible for presuit mediation; these disputes shall be arbitrated by the department. At the conclusion of the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least $200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney's fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

(2)(a) Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be the subject of a demand for presuit mediation served by an aggrieved party before the dispute is filed in court. Presuit mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Disputes subject to presuit mediation under this section shall not include the collection of any assessment, fine, or other financial obligation, including attorney's fees and costs, claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. Also, in any dispute subject to presuit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the presuit mediation requirements of this section. After any issues regarding emergency or temporary relief are resolved, the court may either refer the parties to a mediation program administered by the courts or require mediation under this section. An arbitrator or judge may not consider any information or evidence arising from the presuit mediation proceeding except in a proceeding to impose sanctions for failure to attend a presuit mediation session or to enforce a mediated settlement agreement. Persons who are not parties to the dispute may not attend the presuit mediation conference without the consent of all parties, except for counsel for the parties and a corporate representative designated by the association.

When mediation is attended by a quorum of the board, such mediation is not a board meeting for purposes of notice and participation set forth in s. 720.303. An aggrieved party shall serve on the responding party a written demand to participate in presuit mediation in substantially the following form:

STATUTORY OFFER TO PARTICIPATE
IN PRESUIT MEDIATION

The alleged aggrieved party, , hereby demands that , as the responding party, engage in mandatory presuit mediation in connection with the following disputes, which by statute are of a type that are subject to presuit mediation:

(List specific nature of the dispute or disputes to be mediated and the authority supporting a finding of a violation as to each dispute.)

Pursuant to section 720.311, Florida Statutes, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in presuit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in presuit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists five certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select

any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:

(List the names, addresses, telephone numbers, and hourly rates of the mediators. Other pertinent information about the background of the mediators may be included as an attachment.)

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, section 720.311(2)(b), Florida Statutes, requires that the parties share the costs of presuit mediation equally, including the fee charged by the mediator. An average mediation may require three to four hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment of some or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in presuit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within 20 days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first-class mail to the address shown on this demand.

RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.

AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in presuit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:

(List acceptable mediator or mediators.)

I/we further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

Signature of responding party #1

Telephone contact information

Signature and telephone contact information of responding party #2 (if applicable) (if property is owned by more than one person, all owners must sign)

(b) Service of the statutory demand to participate in presuit mediation shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address of the responding party as it last appears on the books and records of the association. The responding party has 20 days from the date of the mailing of the statutory demand to serve a response to the aggrieved party in writing. The response shall be served by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address shown on the statutory demand. Notwithstanding the foregoing, once the parties have agreed on a mediator, the mediator may reschedule the mediation for a date and time mutually convenient to the parties. The parties shall share the costs of presuit mediation equally, including the fee charged by the mediator, if any, unless the parties agree otherwise, and the mediator may require advance payment of its reasonable fees and costs. The failure of any party to respond to a demand or response, to agree upon a mediator, to make payment of fees and costs within the time established by the mediator, or to appear for a scheduled mediation session without the approval of the mediator, shall constitute the failure or refusal to participate in the mediation process and shall operate as an impasse in the presuit mediation by such party, entitling the other party to proceed in court and to seek an award of the costs and fees associated with the mediation. Additionally, notwithstanding the provisions of any other law or document, persons who fail or refuse to participate in the entire mediation process may not recover attorney's fees and costs in subsequent litigation relating to the dispute. If any presuit mediation session cannot be scheduled and conducted within 90 days after the offer to participate in mediation was filed, an impasse shall be deemed to have occurred unless both parties agree to extend this deadline.

(c) If presuit mediation as described in paragraph (a) is not successful in resolving all issues between the parties, the parties may file the unresolved dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration pursuant to the procedures set forth in s. 718.1255 and rules adopted by the division, with the arbitration proceeding to be conducted by a department arbitrator or by a private arbitrator certified by the department. If all parties do not agree to arbitration proceedings following an unsuccessful presuit mediation, any party may file the dispute in court. A final order resulting from nonbinding arbitration is final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days after entry of the order. As to any issue or dispute that is not resolved at presuit mediation, and as to any issue that is settled at presuit mediation but is thereafter subject to an action seeking enforcement of the mediation settlement, the prevailing party in any subsequent arbitration or litigation proceeding shall be entitled to seek recovery of all costs and attorney's fees incurred in the presuit mediation process.

(d) A mediator or arbitrator shall be authorized to conduct mediation or arbitration under this section only if he or she has been certified as a circuit court civil mediator or arbitrator, respectively, pursuant to the requirements established by the Florida Supreme Court. Settlement agreements resulting from mediation shall not have precedential value in proceedings involving parties other than those participating in the mediation to support either a claim or defense in other disputes.

(e) The presuit mediation procedures provided by this subsection may be used by a Florida corporation responsible for the operation of a community in which the voting members are parcel owners or their representatives, in which membership in the corporation is not a mandatory condition of parcel ownership, or which is not authorized to impose an assessment that may become a lien on the parcel.

Florida Court Related ADR Statutes

Chapter 723 - Mobile Home Park Lot Tenancies

723.0381 Civil actions; arbitration.

(1) After mediation of a dispute pursuant to s. 723.038 has failed to provide a resolution of the dispute, either party may file an action in the circuit court.

(2) The court may refer the action to nonbinding arbitration pursuant to s. 44.103 and the Florida Rules of Civil Procedure. The court shall order the hearing to be held informally with presentation of testimony kept to a minimum and matters presented to the arbitrators primarily through the statements and arguments of counsel. The court shall assess the parties equally to pay the compensation awarded to the arbitrators if neither party requests a trial de novo. If a party has filed for a trial de novo, the party shall be assessed the arbitration costs, court costs, and other reasonable costs of the opposing party, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If subsequent to arbitration a party files for a trial de novo, the arbitration decision may be made known to the judge only after he or she has entered his or her order on the merits.

Florida Court Related ADR Statutes

Chapter 752 - Grandparental Visitation Rights

752.015 Mediation of visitation disputes

It is the public policy of this state that families resolve differences over grandparent visitation within the family. It is the further public policy of this state that, when families are unable to resolve differences relating to grandparent visitation, the family participate in any formal or informal mediation services that may be available. If families are unable to resolve differences relating to grandparent visitation and a petition is filed pursuant to s. 752.011, the court shall, if such services are available in the circuit, refer the case to family mediation in accordance with the Florida Family Law Rules of Procedure.

Florida Court Related ADR Statutes

Chapter 766 - Medical Malpractice and Related Matters

766.108 Mandatory mediation and mandatory settlement conference in medical negligence actions.

(1) Within 120 days after the suit is filed, unless such period is extended by mutual agreement of all parties, all parties shall attend in-person mandatory mediation in accordance with s. 44.102 if binding arbitration under s. 766.207 has not been agreed to by the parties. The Florida Rules of Civil Procedure shall apply to mediation held pursuant to this section.

(2) (a) In any action for damages based on personal injury or wrongful death arising out of medical malpractice, whether in tort or contract, the court shall require a settlement conference at least 3 weeks before the date set for trial.

(b) Attorneys who will conduct the trial, parties, and persons with authority to settle shall attend the settlement conference held before the court unless excused by the court for good cause.

Florida Court Related ADR Statutes

Chapter 984 - Children and Families in Need of Services

984.18 Referral of child-in-need-of-services cases to mediation.

(1) At any stage in a child-in-need-of-services proceeding, the case staffing committee or any party may request the court to refer the parties to mediation in accordance with chapter 44 and rules and procedures developed by the Supreme Court.

(2) A court may refer the parties to mediation.

(3) The department shall advise the parties or legal guardians that they are responsible for contributing to the cost of the child-in-need-of-services mediation to the extent of their ability to pay.

(4) This section applies only to courts in counties in which child-in-need-of-services mediation programs have been established and does not require the establishment of such programs in any county.

Florida Rules of Court Procedure

Florida Rules of Court Procedure

Florida Rules of Civil Procedure - Rules 1.700 – 1.830

Rule 1.700 Rules Common to Mediation and Arbitration

(a) Referral by Presiding Judge or by Stipulation. Except as hereinafter provided or as otherwise prohibited by law, the presiding judge may enter an order referring all or any part of a contested civil matter to mediation or arbitration. The parties to any contested civil matter may file a written stipulation to mediate or arbitrate any issue between them at any time. Such stipulation shall be incorporated into the order of referral.
   (1) Conference or Hearing Date. Unless otherwise ordered by the court, the first mediation conference or arbitration hearing shall be held within 60 days of the order of referral.
   (2) Notice. Within 15 days after the designation of the mediator or the arbitrator, the court or its designee, who may be the mediator or the chief arbitrator, shall notify the parties in writing of the date, time, and place of the conference or hearing unless the order of referral specifies the date, time, and place.

(b) Motion to Dispense with Mediation and Arbitration. A party may move, within 15 days after the order of referral, to dispense with mediation or arbitration if:
   (1) the issue to be considered has been previously mediated or arbitrated between the same parties pursuant to Florida law;
   (2) the issue presents a question of law only;
   (3) the order violates rule 1.710(b) or rule 1.800; or
   (4) other good cause is shown.

(c) Motion to Defer Mediation or Arbitration. Within 15 days of the order of referral, any party may file a motion with the court to defer the proceeding. The movant shall set the motion to defer for hearing prior to the scheduled date for mediation or arbitration. Notice of the hearing shall be provided to all interested parties, including any mediator or arbitrator who has been appointed. The motion shall set forth, in detail, the facts and circumstances supporting the motion. Mediation or arbitration shall be tolled until disposition of the motion.

(d) Disqualification of a Mediator or Arbitrator. Any party may move to enter an order disqualifying a mediator or an arbitrator for good cause. If the court rules that a mediator or arbitrator is disqualified from hearing a case, an order shall be entered setting forth the name of a qualified replacement. Nothing in this provision shall preclude mediators or arbitrators from disqualifying themselves or refusing any assignment. The time for mediation or arbitration shall be tolled during any periods in which a motion to disqualify is pending.

Florida Rules of Court Procedure

Rule 1.710 Mediation Rules

(a) Completion of Mediation. Mediation shall be completed within 45 days of the first mediation conference unless extended by order of the court or by stipulation of the parties.

(b) Exclusions from Mediation. A civil action shall be ordered to mediation or mediation in conjunction with arbitration upon stipulation of the parties. A civil action may be ordered to mediation or mediation in conjunction with arbitration upon motion of any party or by the court, if the judge determines the action to be of such a nature that mediation could be of benefit to the litigants or the court. Under no circumstances may the following categories of actions be referred to mediation:
   (1) Bond estreatures.
   (2) Habeas corpus and extraordinary writs.
   (3) Bond validations.
   (4) Civil or criminal contempt.
   (5) Other matters as may be specified by administrative order of the chief judge in the circuit.

(c) Discovery. Unless stipulated by the parties or ordered by the court, the mediation process shall not suspend discovery.

Committee Notes

1994 Amendment. The Supreme Court Committee on Mediation and Arbitration Rules encourages crafting a combination of dispute resolution processes without creating an unreasonable barrier to the traditional court system.

Rule 1.720 Mediation Procedures

(a) Interim or Emergency Relief. A party may apply to the court for interim or emergency relief at any time. Mediation shall continue while such a motion is pending absent a contrary order of the court or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods where mediation is interrupted pending resolution of such a motion.

(b) Appearance at Mediation. Unless otherwise permitted by court order or stipulated by the parties in writing, a party is deemed to appear at a mediation conference if the following persons are physically present:

   (1) The party or a party representative having full authority to settle without further consultation; and

   (2) The party's counsel of record, if any; and

(3) A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle in an amount up to the amount of the plaintiff's last demand or policy limits, whichever is less, without further consultation.

(c) Party Representative Having Full Authority to Settle. A "party representative having full authority to settle" shall mean the final decision maker with respect to all issues presented by the case who has the legal capacity to execute a binding settlement agreement on behalf of the party. Nothing herein shall be deemed to require any party or party representative who appears at a mediation conference in compliance with this rule to enter into a settlement agreement.

(d) Appearance by Public Entity. If a party to mediation is a public entity required to operate in compliance with chapter 286, Florida Statutes, that party shall be deemed to appear at a mediation conference by the physical presence a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity.

(e) Certification of Authority. Unless otherwise stipulated by the parties, each party, 10 days prior to appearing at a mediation conference, shall file with the court and serve all parties a written notice identifying the person or persons who will be attending the mediation conference as a party representative or as an insurance carrier representative, and confirming that those persons have the authority required by subdivision (b).

(f) Sanctions for Failure to Appear. If a party fails to appear at a duly noticed mediation conference without good cause, the court, upon motion, shall impose sanctions, including award of mediation fees, attorneys' fees, and costs, against the party failing to appear. The failure to file a confirmation of authority required under subdivision (e) above, or failure of the persons actually identified in the confirmation to appear at the mediation conference, shall create a rebuttable presumption of a failure to appear.

(g) Adjournments. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference notwithstanding rule 1.710(a). No further notification is required for parties present at the adjourned conference.

(h) Counsel. The mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation. Counsel shall be permitted to communicate privately with their clients. In the discretion of the mediator and with the agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.

(i) Communication with Parties or Counsel. The mediator may meet and consult privately with any party or parties or their counsel.

(j) Appointment of the Mediator.

(1) Within 10 days of the order of referral, the parties may agree upon a stipulation with the court designating:

(A) a certified mediator, other than a senior judge presiding as a judge in that circuit; or

(B) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(2) If the parties cannot agree upon a mediator within 10 days of the order of referral, the plaintiff or petitioner shall so notify the court within 10 days of the expiration of the period to agree on a mediator, and the court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending. At the request of either party, the court shall appoint a certified circuit court mediator who is a member of The Florida Bar.

(3) If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator shall not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator shall have the same qualifications as the original mediator.

(k) Compensation of the Mediator. The mediator may be compensated or uncompensated. When the mediator is compensated in whole or part by the parties, the presiding judge may determine the reasonableness of the fees charged by the mediator. In the absence of a written agreement providing for the mediator's compensation, the mediator shall be compensated at the hourly rate set by the presiding judge in the referral order. Where appropriate, each party shall pay a proportionate share of the total charges of the mediator. Parties may object to the rate of the mediator's compensation within 15 days of the order of referral by serving an objection on all other parties and the mediator.

Committee Notes

2011 Amendment. Mediated settlement conferences pursuant to this rule are meant to be conducted when the participants actually engaged in the settlement negotiations have full authority to settle the case without further consultation. New language in subdivision (c) now defines "a party representative with full authority to settle" in two parts. First, the party representative must be the final decision maker with respects to all issues presented by the case in question. Second, the party representative must have the legal capacity to execute a binding agreement on behalf of the settling party. These are objective standards. Whether or not these standards have been met can be determined without reference to any confidential mediation communications. A decision by a party representative not to settle does not, in and of itself, signify the absence of full authority to settle. A party may delegate full authority to settle to more than one person, each of whom can serve as the final decision maker. A party may also designate multiple persons to serve together as the final decision maker, all of whom must appear at mediation.

New subdivision (e) provides a process for parties to identify party representative and representatives of insurance carriers who will be attending the mediation conference on behalf of parties and insurance carriers and to confirm their respective settlement authority by means of a direct representation to the court. If necessary, any verification of this representation would be upon motion by a party or inquiry by the court without involvement of the mediator and would not require disclosure of confidential mediation communications. Nothing in this rule shall be deemed to impose any duty or obligation on the mediator selected by the parties or appointed by the court to ensure compliance.

The concept of self-determination in mediation also contemplates the parties' free choice in structuring and organizing their mediation sessions, including those who are to participate. Accordingly, elements of this rule are subject to revision or qualification with the mutual consent of the parties.

Rule 1.730 Completion of Mediation

(a) No Agreement. If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

(b) Agreement. If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. The agreement shall be filed when required by law or with the parties' consent. A report of the agreement shall be submitted to the court or a stipulation of dismissal shall be filed. By stipulation of the parties, the agreement may be electronically or stenographically recorded. In such

event, the transcript may be filed with the court. The mediator shall report the existence of the signed or transcribed agreement to the court without comment within 10 days thereof. No agreement under this rule shall be reported to the court except as provided herein.

(c) Imposition of Sanctions. In the event of any breach or failure to perform under the agreement, the court upon motion may impose sanctions, including costs, attorney fees, or other appropriate remedies including entry of judgment on the agreement.

Committee Notes

1996 Amendment. Subdivision(b) is amended to provide for partial settlements, to clarify the procedure for concluding mediation by report or stipulation of dismissal, and to specify the procedure for reporting mediated agreements to the court. The reporting requirements are intended to ensure the confidentiality provided for in section 44.102(3), Florida Statutes, and to prevent premature notification to the court.

Rule 1.750 County Court Actions

(a) Applicability. This rule applies to the mediation of county court matters and issues only and controls over conflicting provisions in rules 1.700, 1.710, 1.720, and 1.730.

(b) Limitation on Referral to Mediation. When a mediation program utilizing volunteer mediators is unavailable or otherwise inappropriate, county court matters may be referred to a mediator or mediation program which charges a fee. Such order of referral shall advise the parties that they may object to mediation on grounds of financial hardship or on any ground set forth in Rule 1.700(b). If a party objects, mediation shall not be conducted until the court rules on the objection. The court may consider the amount in controversy, the objecting party's ability to pay, and any other pertinent information in determining the propriety of the referral. When appropriate, the court shall apportion mediation fees between the parties.

(c) Scheduling. In small claims actions, the mediator shall be appointed, and the mediation conference held during or immediately after the pretrial conference unless otherwise ordered by the court. In no event shall the mediation conference be held more than 14 days after the pretrial conference.

(d) Appointment of the Mediator. In county court actions not subject to the Florida Small Claims Rules, rule 1.720(f) shall apply unless the case is sent to a mediation program provided at no cost to the parties.

(e) Appearance at Mediation. In small claims actions, an attorney may appear on behalf of a party at mediation provided that the attorney has full authority to settle without further consultation. Unless otherwise ordered by the court, a nonlawyer

representative may appear on behalf of a party to a small claims mediation if the representative has the party's signed written authority to appear and has full authority to settle without further consultation. In either event, the party need not appear in person. In any other county court action, a party will be deemed to appear if the persons set forth in rule 1.720(b) are physically present.

(f) Agreement. Any agreements reached as a result of small claims mediation shall be written in the form of a stipulation. The stipulation may be entered as an order of the court.

Rule 1.800 Exclusions from Arbitration

A civil action shall be ordered to arbitration or arbitration in conjunction with mediation upon stipulation of the parties. A civil action may be ordered to arbitration or arbitration in conjunction with mediation upon motion of any party or by the court, if the judge determines the action to be of such a nature that arbitration could be of benefit to the litigants or the court. Under no circumstances may the following categories of actions be referred to arbitration:

(1) Bond estreatures.
(2) Habeas corpus or other extraordinary writs.
(3) Bond validations.
(4) Civil or criminal contempt.
(5) Such other matters as may be specified by order of the chief judge in the circuit.

Committee Notes

1994 Amendment. The Supreme Court Committee on Mediation and Arbitration Rules encourages crafting a combination of dispute resolution processes without creating an unreasonable barrier to the traditional court system.

Rule 1.810 Selection and Compensation of Arbitrators

(a) Selection. The chief judge of the circuit or a designee shall maintain a list of qualified persons who have agreed to serve as arbitrators. Cases assigned to arbitration shall be assigned to an arbitrator or to a panel of three arbitrators. The court shall determine the number of arbitrators and designate them within 15 days after service of the order of referral in the absence of an agreement by the parties. In the case of a panel, one of the arbitrators shall be appointed as the chief arbitrator. Where there is only one arbitrator, that person shall be the chief arbitrator.

(b) Compensation. The chief judge of each judicial circuit shall establish the compensation of arbitrators subject to the limitations in section 44.103(2), Florida Statutes.

Florida Rules of Court Procedure

Rule 1.820 Hearing Procedures for Non-Binding Arbitration

(a) Authority of the Chief Arbitrator. The chief arbitrator shall have authority to commence and adjourn the arbitration hearing and carry out other such duties as are prescribed by section 44.103, Florida Statutes. The chief arbitrator shall not have authority to hold any person in contempt or to in any way impose sanctions against any person.

(b) Conduct of the Arbitration Hearing.

(1) The chief judge of each judicial circuit shall set procedures for determining the time and place of the arbitration hearing and may establish other procedures for the expeditious and orderly operation of the arbitration hearing to the extent such procedures are not in conflict with any rules of court.

(2) Hearing procedures shall be included in the notice of arbitration hearing sent to the parties and arbitration panel.

(3) Individual parties or authorized representatives of corporate parties shall attend the arbitration hearing unless excused in advance by the chief arbitrator for good cause shown.

(c) Rules of Evidence. The hearing shall be conducted informally. Presentation of testimony shall be kept to a minimum, and matters shall be presented to the arbitrator(s) primarily through the statements and arguments of counsel.

(d) Orders. The chief arbitrator may issue instructions as are necessary for the expeditious and orderly conduct of the hearing. The chief arbitrator's instructions are not appealable. Upon notice to all parties the chief arbitrator may apply to the presiding judge for orders directing compliance with such instructions. Instructions enforced by a court order are appealable as are other orders of the court.

(e) Default of a Party. When a party fails to appear at a hearing, the chief arbitrator may proceed with the hearing and the arbitration panel shall render a decision based upon the facts and circumstances as presented by the parties present.

(f) Record and Transcript. Any party may have a record and transcript made of the arbitration hearing at that party's expense.

(g) Completion of the Arbitration Process.

(1) Arbitration shall be completed within 30 days of the first arbitration hearing unless extended by order of the court on motion of the chief arbitrator or of a

party. No extension of time shall be for a period exceeding 60 days from the date of the first arbitration hearing.

(2) Upon the completion of the arbitration process, the arbitrator(s) shall render a decision. In the case of the panel, a decision shall be final upon a majority vote of the panel.

(3) Within 10 days of the final adjournment of the arbitration hearing, the arbitrator(s) shall notify the parties, in writing, of their decision. The arbitration decision may set forth the issues in controversy and the arbitrator('s)(s') conclusions and findings of fact and law. The arbitrator('s)(s') decision and the originals of any transcripts shall be sealed and filed with the clerk at the time the parties are notified of the decision.

(h) Time for Filing Motion for Trial. Any party may file a motion for trial. If a motion for trial is filed by any party, any party having a third-party claim at issue at the time of arbitration may file a motion for trial within 10 days of service of the first motion for trial. If a motion for trial is not made within 20 days of service on the parties of the decision, the decision shall be referred to the presiding judge, who shall enter such orders and judgments as may be required to carry out the terms of the decision as provided by section 44.103(5), Florida Statutes.

Committee Notes

2007 Amendment. Subdivision (h) is amended to avoid the unintended consequences for defendants with third-party claims who prevailed at arbitration but could not pursue those claims in a circuit court action because no motion for trial was filed despite a plaintiff or plaintiffs having filed a motion for trial that covered those claims. See *State Dept. of Transportation v. BellSouth Telecommunications, Inc.*, 859 So. 2d 1278 (Fla. 4th DCA 2003).

2003 Amendment. The statutory reference in subdivision (h) is changed to reflect changes in statutory numbering.

1994 Amendment. The Supreme Court Committee on Mediation and Arbitration Rules recommends that a copy of the local arbitration procedures be disseminated to the local bar.

1988 Adoption. Arbitration proceedings should be informal and expeditious. The court should take into account the nature of the proceedings when determining whether to award costs and attorneys' fees after a trial de novo. Counsel are free to file exceptions to an arbitration decision or award at the time it is to be considered by the court. The court should consider such exceptions when determining whether to award costs and attorneys' fees. The court should consider rule 1.442 concerning offers of judgement and section 45.061, Florida Statutes (1985), concerning offers of settlement, as statements of public policy in deciding whether fees should be awarded.

Florida Rules of Court Procedure

Rule 1.830 Voluntary Binding Arbitration

(a) Absence of Party Agreement.
  (1) Compensation. In the absence of an agreement by the parties as to compensation of the arbitrator(s), the court shall determine the amount of compensation subject to the provisions of section 44.104(3), Florida Statutes.
  (2) Hearing Procedures. Subject to these rules and section 44.104, Florida Statutes, the parties may, by written agreement before the hearing, establish the hearing procedures for voluntary binding arbitration. In the absence of such agreement, the court shall establish the hearing procedures.

(b) Record and Transcript. A record and transcript may be made of the arbitration hearing if requested by any party or at the direction of the chief arbitrator. The record and transcript may be used in subsequent legal proceedings subject to the Florida Rules of Evidence.

(c) Arbitration Decision and Appeal.
  (1) The arbitrator(s) shall serve the parties with notice of the decision and file the decision with the court within 10 days of the final adjournment of the arbitration hearing.
  (2) A voluntary binding arbitration decision may be appealed within 30 days after service of the decision on the parties. Appeal is limited to the grounds specified in section 44.104(10), Florida Statutes.
  (3) If no appeal is filed within the time period set out in subdivision (2) of this rule, the decision shall be referred to the presiding judge who shall enter such orders and judgments as required to carry out the terms of the decision as provided under section 44.104(11), Florida Statutes.

Florida Rules of Court Procedure

Florida Small Claims Rules - Rule 7.090

Rule 7.090 Appearance; Defensive Pleadings; Trial Date

(a) Appearance. On the date and time appointed in the notice to appear, the plaintiff and defendant shall appear personally or by counsel, subject to subdivision (b).

(b) Notice to Appear; Pretrial Conference. The summons/notice to appear shall specify that the initial appearance shall be for a pretrial conference. The initial pretrial conference shall be set by the clerk not more than 50 days from the date of the filing of the action. In the event the summons/notice to appear is non-served and the return of service is filed 5 days before the pretrial conference, the pretrial conference shall be canceled by the court as to any non-served party. The plaintiff may request a new summons/notice to appear and include a new initial appearance date for the pretrial conference. The pretrial conference may be managed by nonjudicial personnel employed by or under contract with the court. Nonjudicial personnel must be subject to direct oversight by the court. A judge must be available to hear any motions or resolve any legal issues. At the pretrial conference, all of the following matters shall be considered:

(1) The simplification of issues.
(2) The necessity or desirability of amendments to the pleadings.
(3) The possibility of obtaining admissions of fact and of documents that avoid unnecessary proof.
(4) The limitations on the number of witnesses.
(5) The possibilities of settlement.
(6) Such other matters as the court in its discretion deems necessary. Form 7.322 shall and form 7.323 may be used in conjunction with this rule.

(c) Defensive Pleadings. Unless required by order of court, written pretrial motions and defensive pleadings are not necessary. If filed, copies of such pleadings shall be served on all other parties to the action at or prior to the pretrial conference or within such time as the court may designate. The filing of a motion or a defensive pleading shall not excuse the personal appearance of a party or attorney on the initial appearance date (pretrial conference).

(d) Trial date. The court shall set the case for trial not more than 60 days from the date of the pretrial conference. Notice of at least 10 days' of the time of trial shall be given. The parties may stipulate to a shorter or longer time for setting trial with the approval of the court. This rule does not apply to actions to which chapter 51, Florida Statutes, applies.

(e) Waiver of Appearance at Pretrial Conference. Where all parties are represented by an attorney, counsel may agree to waive personal appearance at the initial pretrial conference, if a written agreement of waiver signed by all attorneys is presented to the

court prior to or at the pretrial conference. The agreement shall contain a short statement of the disputed issues of fact and law, the number of witnesses expected to testify, an estimate of the time needed to try the case, and any stipulations of fact. The court shall forthwith set the case for trial within the time prescribed by these rules.

(f) Appearance at Mediation; Sanctions. In small claims actions, an attorney may appear on behalf of a party at mediation if the attorney has full authority to settle without further consultation. Unless otherwise ordered by the court, a nonlawyer representative may appear on behalf of a party to a small claims mediation if the representative has the party's signed written authority to appear and has full authority to settle without further consultation. In either event, the party need not appear in person. Mediation may take place at the pretrial conference. Whoever appears for a party must have full authority to settle. Failure to comply with this subdivision may result in the imposition of costs and attorney fees incurred by the opposing party.

(g) Agreement. Any agreements reached as a result of small claims mediation shall be written in the form of a stipulation. The stipulation may be entered as an order of the court.

Committee Notes

2008 Amendment. The requirement that an attorney attending mediation on behalf of the client have full authority to settle should not be equated to a requirement to settle where one or more parties wants to proceed to trial.

Florida Rules of Court Procedure

Florida Rules of Juvenile Procedure - Rule 8.290

Rule 8.290 Dependency Mediation

(a) Definitions. The following definitions apply to this rule:

(1) "Dependency matters" means proceedings arising under Chapter 39, Florida Statutes.

(2) "Dependency mediation" means mediation of dependency matters.

(3) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and non-adversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.

(b) Applicability. This rule applies only to mediation of dependency matters.

(c) Compliance with Statutory Time Requirements. Dependency mediation shall be conducted in compliance with the statutory time requirements for dependency matters.

(d) Referral. Except as provided by this rule, all matters and issues described in subdivision (a)(1) may be referred to mediation. All referrals to mediation shall be in written form, shall advise the parties of their right to counsel, and shall set a date for hearing before the court to review the progress of the mediation. The mediator or mediation program shall be appointed by the court or stipulated to by the parties. If the court refers the matter to mediation, the mediation order shall address all applicable provisions of this rule. The mediation order shall be served on all parties and on counsel under the provisions of the Florida Rules of Juvenile Procedure.

(e) Appointment of the Mediator.

(1) Court Appointment. The court, in the order of referral to mediation, shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending.

(2) Party Stipulation. Within 10 days of the filing of the order of referral to mediation, the parties may agree upon a stipulation with the court designating:

(A) another certified dependency mediator, other than a senior judge presiding as a judge in that circuit, to replace the one selected by the judge; or

(B) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(f) Fees. Dependency mediation referrals may be made to a mediator or mediation program that charges a fee. Any order of referral to a mediator or mediation program charging a fee shall advise the parties that they may timely object to mediation on grounds of financial hardship. On the objection of a party or the court's own motion, the court may, after considering the objecting party's ability to pay and any other pertinent information, reduce or eliminate the fee.

(g) Objection to Mediation. Within 10 days of the filing of the order of referral to mediation, any party or participant ordered to mediation may make a written objection to the court about the order of referral if good cause for such objection exists. If a party objects, mediation shall not be conducted until the court rules on the objection.

(h) Scheduling. The mediation conference may be held at any stage of the proceedings. Unless otherwise scheduled by the court, the mediator or the mediation program shall schedule the mediation conference.

(i) Disqualification of the Mediator. Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that a mediator is disqualified from mediating a case, an order shall be entered with the name of a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment.

(j) Substitute Mediator. If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator shall not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator shall have the same qualifications as the original mediator.

(k) Discovery. Unless stipulated by the parties or ordered by the court, the mediation process shall not suspend discovery.

(l) Appearances.

(1) Order naming or prohibiting attendance of parties. The court shall enter an order naming the parties and the participants who must appear at the mediation and any parties or participants who are prohibited from attending the mediation. Additional participants may be included by court order or by mutual agreement of all parties.

(2) Physical presence of adult parties and participants. Unless otherwise agreed to by the parties or ordered by the court, any party or participant ordered to mediation shall be physically present at the mediation conference. Persons representing an agency, department, or program must have full authority to enter into an agreement that shall be binding on that agency, department, or program. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of any party or participant ordered to mediation.

(3) Appearance of counsel. In the discretion of the mediator, and with the agreement of the attending parties, dependency mediation may proceed in the absence of counsel, unless otherwise ordered by the court.

(4) Appearance of child. The court may prohibit the child from appearing at mediation upon determining that such appearance is not in the best interest of the child. No minor child shall be required to appear at mediation unless the court has previously determined by written order that it is in the child's best interest to be physically present. The court shall specify in the written order of referral to mediation any special protections necessary for the child's appearance.

(5) Sanctions for failure to appear. If a party or participant ordered to mediation fails to appear at a duly noticed mediation conference without good cause, the court, on motion of any party or on its own motion, may impose sanctions. Sanctions against the party or participant failing to appear may include one or more of the following: contempt of court, an award of mediator fees, an award of attorney fees, an award of costs, or other remedies as deemed appropriate by the court.

(m) Caucus with Parties and Participants. During the mediation session, the mediator may meet and consult privately with any party, participant, or counsel.

(n) Continuances. The mediator may end the mediation session at any time and may set new times for reconvening the mediation. No further notification shall be required for parties or participants present at the mediation session.

(o) Report on Mediation.

(1) If agreement is reached on all or part of any matter or issue, including legal or factual issues to be determined by the court, the agreement shall be immediately reduced to writing, signed by the attending parties, and promptly submitted to the court by the mediator with copies to all parties and counsel.

(2) If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation.

(p) Court Hearing and Order On Mediated Agreement. On receipt of a full or partial mediation agreement, the court shall hold a hearing and enter an order accepting or rejecting the agreement consistent with the best interest of the child. The court may modify the terms of the agreement with the consent of all parties to the agreement.

(q) Imposition of Sanctions on Breach of Agreement. In the event of any breach or failure to perform under the court-approved agreement, the court, on a motion of any party or on its own motion, may impose sanctions. The sanctions may include contempt of court, vacating the agreement, imposition of costs and attorney fees, or any other remedy deemed appropriate by the court.

Committee Notes

1997 Adoption. In considering the provision regarding the appearance of the child found in subdivision (l)(4), the Committee considered issues concerning the child's right to participate and be heard in mediation and the need to protect the child from participating in proceedings when such participation would not be in the best interest of the child. The Committee has addressed only the issue of mandating participation of the child in mediation. In circumstances where the court has not mandated that the child appear in mediation, the Committee believes that, in the absence of an order prohibiting the child from mediation, the participation of the child in mediation will be determined by the parties. Whenever the court, pursuant to subdivision (p) determines whether to accept, reject, or modify the mediation agreement, the Committee believes that the court shall act in accordance with the confidentiality requirements of chapter 44, Florida Statutes.

Florida Rules of Court Procedure

Florida Rules of Appellate Procedure - Rules 9.700 – 9.740

Rule 9.700 Mediation Rules

(a) Applicability. Rules 9.700 – 9.740 apply to all appellate courts, including circuit courts exercising jurisdiction under rule 9.030(c), district courts of appeal, and the Supreme Court of Florida.

(b) Referral. The court, upon its own motion or upon motion of a party, may refer a case to mediation at any time. Such motion from a party shall contain a certification that the movant has consulted opposing counsel or unrepresented party and that the movant is authorized to represent that opposing counsel or unrepresented party:
   (1) has no objection;
   (2) objects and cites that specific reasons for objections; or
   (3) will promptly file an objection.

(c) Time Frames for Mediation. The first mediation conference shall be commenced within 45 days of referral by the court, unless the parties agree to postpone mediation until after the period for filing briefs has expired. The mediation shall be completed within 30 days of the first mediation conference. These times may be modified by order of the court.

(d) Tolling of Times. Unless otherwise ordered, or upon agreement of the parties to postpone mediation until after the expiration of time for filing the appellate briefs, all times under these rules for the processing of cases shall be tolled for the period of time from the referral of a case to mediation until mediation ends pursuant to section 44.404, Florida Statutes. The court, by administrative order, may provide for additional tolling of deadlines. A motion for mediation filed by a party within 30 days of the notice of appeal shall toll all deadlines under these rules until the motion is ruled upon by the courts.

(e) Motion to Dispense with Mediation. A motion to dispense with mediation may be served not later than 10 days after the discovery of the facts which constitute the grounds for the motion, if:
   (1) the order violates rule 9.710; or
   (2) other good cause is shown.

Rule 9.710 Eligibility for Mediation

Any case filed may be referred to mediation at the discretion of the court, but under no circumstances may the following categories of action be referred:
   (a) Criminal and post-conviction cases.
   (b) Habeas corpus and extraordinary writs.
   (c) Civil or criminal contempt.
   (d) Involuntary civil commitments of sexually violent predators.

(e) Collateral criminal cases.
(f) Other matters as may be specified by administrative order.

Rule 9.720 Mediation Procedures

(a) Appearance. If a party to mediation is a public entity required to conduct its business pursuant to chapter 286, Florida Statutes, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. Otherwise, unless changed by order of the court, a party is deemed to appear at a mediation conference if the following persons are physically present or appear electronically upon agreement of the parties:

(1) The party or its representative having full authority to settle without further consultation.
(2) The party's trial or appellate counsel of record, if any. If a party has more than one counsel, the appearance of only one counsel is required.
(3) A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle without further consultation.

(b) Sanctions. If a party fails to appear at a duly noticed mediation conference without good cause, the court, upon motion of a party or upon its own motion, may impose sanctions, including, but not limited to, any or all of the following, against the party failing to appear:

(1) An award of mediator and attorney fees and other costs or monetary sanctions.
(2) The striking of briefs.
(3) Elimination of oral argument.
(4) Dismissal or summary affirmance.

(c) Scheduling of Adjournments. Consistent with the time frames established in rule 9.700(c) and after consulting with the parties, the mediator shall set the initial conference date. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference. The mediator shall notify the parties in writing of the date, time, and place of any mediation conference, except no further notification is required for parties present at an adjourned mediation conference.

(d) Control of Procedures. The mediator shall at all times be in control of the procedures to be followed in the mediation.

(e) Communication with Parties. The mediator may meet and consult privately with any party or parties or their counsel. Counsel shall be permitted to communicate privately with their clients.

(f) Party Representative Having Full Authority to Settle. Except as provided in subdivision (a) as to public entities, a "party or its representative having full authority to settle" shall mean the final decision maker with respect to all issues presented by the case who has the legal capacity to execute a binding settlement agreement on behalf of the party. Nothing herein shall be deemed to require any party or party representative who appears at a mediation conference in compliance with this rule to enter into a settlement agreement.

(g) Certificate of Authority. Unless otherwise stipulated by the parties, each party, 10 days prior to appearing at a mediation conference, shall file with the court and serve upon all parties a written notice identifying the person or persons who will be attending the mediation conference as a party representative or as an insurance carrier representative, and confirming that those persons have the authority required by this rule.

Committee Note

2014 Amendment. The amendment adding subdivisions (f) and (g) is intended to make this rule consistent with the November 2011 amendments to Florida Rule of Civil Procedure 1.720.

Rule 9.730 Appointment and Compensation of the Mediator

(a) Appointment by Agreement. Within 10 days of the court order of referral, the parties may file a stipulation with the court designating a mediator certified as an appellate mediator pursuant to rule 10.100(f), Florida Rules for Certified and Court-Appointed Mediators. Unless otherwise agreed to by the parties, the mediator shall be licensed to practice law in any United States jurisdiction.

(b) Appointment by Court. If the parties cannot agree upon a mediator within 10 days of the order of referral, the appellant shall notify the court immediately and the court shall appoint a certified appellate mediator selected by such procedure as is designated by administrative order. The court shall appoint a certified appellate mediator who is licensed to practice law in any United States jurisdiction, unless otherwise requested upon agreement of the parties.

(c) Disqualification of Mediator. Any party may move to enter an order disqualifying a mediator for good cause. Such a motion to disqualify shall be filed within a reasonable time, not to extend 10 days after discovery of the facts constituting the grounds for the motion, and shall be promptly presented to the court for an immediate ruling. If the court rules that a mediator is disqualified form a case, an order shall be entered setting forth the name of a qualified replacement. The time for mediation shall be tolled during any period in which a motion to disqualify is pending.

(d) Substitute Mediator. If a mediator agreed upon by the parties or appointed by the court cannot serve, a substitute mediator may be agreed upon or appointed in the same manner as the original mediator.

(e) Compensation of a Court-Selected Mediator. If the court selects the mediator pursuant to subdivision (b), the mediator shall be compensated at the hourly rate set by the court in the referral order or applicable administrative order. Unless otherwise agreed, the compensation of the mediator should be prorated among the named parties.

Committee Notes

This rule is not intended to limit the parties from exercising self-determination in the selection of any appropriate form of alternative dispute resolution or to deny the right of the parties to select a neutral. The rule does not prohibit parties from selecting an otherwise qualified non-certified appellate mediator prior to the court's order of referral. Parties may pursue settlement with a non-certified appellate mediator even within the ten-day period following the referral. However, once parties agree on a certified appellate mediator, or notify the court of their inability to do so, the parties can satisfy the court's referral to mediation pursuant to these rules only by appearing at a mediation conducted by a supreme court certified appellate mediator.

Rule 9.740 Completion of Mediation

(a) No Agreement**.** If the parties do not reach an agreement as a result of mediation, the mediator shall report, within 10 days, the lack of an agreement to the court without comment or recommendation.

(b) Agreement**.** If a partial or final agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. Within 10 days thereafter, the mediator shall file a report with the court on a form approved by the court.

Florida Rules of Court Procedure

Family Law Rules of Procedure
Rules 12.010, 12.610, 12.740 – 12.742 and 12.745

Rule 12.010 Scope, Purpose, and Title

(a) Scope.

(1) These rules apply to all actions concerning family matters, including actions concerning domestic, repeat violence, dating, and sexual violence except as otherwise provided by the Florida Rules of Juvenile Procedure or the Florida Probate Rules. "Family matters," "family law matters," or "family law cases" as used within these rules include, but are not limited to, matters arising from dissolution of marriage, paternity, child support, custodial care of or access to children (except as otherwise provided by the Florida Rules of Juvenile Procedure), proceedings for temporary or concurrent custody of minor children by extended family, adoption, proceedings for emancipation of a minor, declaratory judgment actions related to premarital, marital, or post-marital agreements (except as otherwise provided, when applicable, by the Florida Probate Rules), injunctions for domestic, repeat, dating, and sexual violence, and all proceedings for modification, enforcement, and civil contempt of these actions.

Rule 12.610 Injunctions for Protection Against Domestic, Repeat, Dating and Sexual Violence and Stalking

(a) Application. This rule shall apply only to temporary and permanent injunctions for protection against domestic violence and temporary and permanent injunctions for protection against repeat violence, dating violence, or sexual violence, and stalking. All other injunctive relief sought in cases to which the Family Law Rules apply shall be governed by Florida Rule of Civil Procedure 1.610.

(b) Petitions.

(1) Requirements for Use.

(A) Domestic Violence. Any person may file a petition for an injunction for protection against domestic violence as provided by law.

(B) Repeat Violence. Any person may file a petition for an injunction for protection against repeat violence as provided by law.

(C) Dating Violence. Any person may file a petition for an injunction for protection against dating violence as provided by law.

(D) Sexual Violence. Any person may file a petition for an injunction for protection against sexual violence as provided by law.

(E) Stalking. Any person may file a petition for an injunction for protection against stalking as provided by law.

(2) Service of Petitions.

(A) Domestic Violence. Personal service by a law enforcement agency is required. The clerk of the court shall furnish a copy of the petition for an injunction for protection against domestic violence, financial affidavit (if support is sought), Uniform Child Custody Jurisdiction and Enforcement Act affidavit (if custody is sought), temporary injunction (if one has been entered), and notice of hearing to the appropriate sheriff or law enforcement agency of the county where the respondent resides or can be found for expeditious service of process.

(B) Repeat Violence, Dating Violence, Sexual Violence and Stalking. Personal service by a law enforcement agency is required. The clerk of the court shall furnish a copy of the petition for an injunction for protection against repeat violence, dating violence, sexual violence, or stalking, temporary injunction (if one has been entered), and notice of hearing to the appropriate sheriff or law enforcement agency of the county where the respondent resides or can be found for expeditious service of process.

(C) Additional Documents. Service of pleadings in cases of domestic, repeat, dating, or sexual violence, or stalking other than petitions, supplemental petitions, and orders granting injunctions shall be governed by rule 12.080, except that service of a motion to modify or vacate an injunction should be by notice that is reasonably calculated to apprise the nonmoving party of the pendency of the proceedings.

(3) Consideration by Court.

(A) Domestic Violence and Stalking Injunctions. Upon the filing of a petition, the court shall set a hearing to be held at the earliest possible time. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. When the only ground for denial is no appearance of an immediate and present danger of domestic violence or stalking, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with these rules.

(B) Repeat, Dating, or Sexual Violence Injunctions. Upon the filing of a petition, the court shall set a hearing to be held at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition or otherwise be heard in person on any petition consistent with these rules.

(4) Forms.

(A) Provision of Forms. The clerk of the court or family or injunctions for protection intake personnel shall provide simplified forms, including instructions for completion,

for any person whose circumstances meet the requirements of this rule and shall assist the petitioner in obtaining an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking as provided by law.

(B) Confidential Filing of Address. A petitioner's address may be furnished to the court in a confidential filing separate from a petition or other form if, for safety reasons, a petitioner believes that the address should be concealed. The ultimate determination of a need for confidentiality must be made by the court as provided in Florida Rule of Judicial Administration 2.420.

(c) Orders of Injunction.

(1) Consideration by Court.

(A) Temporary Injunction.

(i) Domestic, Repeat, Dating, or Sexual Violence. For the injunction for protection to be issued ex parte, it must appear to the court that an immediate and present danger of domestic, repeat, dating, or sexual violence exists. In an ex parte hearing for the purpose of obtaining an ex parte temporary injunction, the court may limit the evidence to the verified pleadings or affidavits for a determination of whether there is an imminent danger that the petitioner will become a victim of domestic, repeat, dating, or sexual violence. If the respondent appears at the hearing or has received reasonable notice of the hearing, the court may hold a hearing on the petition. If a verified petition and affidavit are amended, the court shall consider the amendments as if originally filed.

(ii) Stalking. For the injunction for protection to be issued ex parte, it must appear to the court that stalking exists. In an ex parte hearing for the purpose of obtaining an ex parte temporary injunction, the court may limit the evidence to the verified pleadings or affidavits for a determination of whether stalking exists. If the respondent appears at the hearing or has received reasonable notice of the hearing, the court may hold the hearing on the petition. If a verified petition and affidavit are amended, the court shall consider the amendments as if originally filed.

(B) Final Judgment of Injunction for Protection Against Repeat, Dating, or Sexual Violence or Stalking. A hearing shall be conducted.

(C) Final Judgment of Injunction for Protection Against Domestic Violence. The court shall conduct a hearing and make a finding of whether domestic violence occurred or whether imminent danger of domestic violence exists. If the court determines that an injunction will be issued, the court shall also rule on the following:

(i) whether the respondent may have any contact with the petitioner, and if so, under what conditions;
(ii) exclusive use of the parties' shared residence;
(iii) petitioner's temporary time-sharing with the minor child or children;
(iv) whether respondent will have temporary time-sharing with the minor child or children and whether it will be supervised;
(v) whether temporary child support will be ordered;
(vi) whether temporary spousal support will be ordered; and
(vii) such other relief as the court deems necessary for the protection of the petitioner.

The court, with the consent of the parties, may refer the parties to mediation by a certified family mediator to attempt to resolve the details as to the above rulings. This mediation shall be the only alternative dispute resolution process offered by the court. Any agreement reached by the parties through mediation shall be reviewed by the court and, if approved, incorporated into the final judgment. If no agreement is reached the matters referred shall be returned to the court for appropriate rulings. Regardless of whether all issues are resolved in mediation, an injunction for protection against domestic violence shall be entered or extended the same day as the hearing on the petition commences.

(2) Issuing of Injunction.

(A) Standarized Forms. The temporary and permanent injunction forms approved by the Florida Supreme Court for domestic, repeat, dating, and sexual violence, and stalking injunctions shall be the forms used in the issuance of injunctions under chapters 741 and 784, Florida Statutes. Additional standard provisions, not inconsistent with the standarized portions of those forms, may be added to the special provisions section of the temporary and permanent injunction forms, or at the end of each section to which they apply, on the written approval of the chief judge of the circuit, and upon final review and written approval by the chief justice. Copies of such additional standard provisions, once approved by the chief justice, shall be sent to the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Steering Committee on Families and Children in the Court, and the chair of The Governor's Task Force on Domestic and Sexual Violence.

(B) Bond. No bond shall be required by the court for the entry of an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking. The clerk of the court shall provide the parties with sufficient certified copies of the order of injunction for service.

(3) Service of Injunctions.

(A) Temporary Injunction. A temporary injunction for protection against domestic, repeat, dating, or sexual violence, or stalking must be personally served. When the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent pleadings seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer. If the temporary injunction was issued after a hearing because the respondent was present at the hearing or had reasonable notice of the hearing, the injunction may be served in the manner provided for a permanent injunction.

(B) Permanent Injunction.

(i) Party Present at Hearing. The parties may acknowledge receipt of the permanent injunction for protection against domestic, repeat, dating, or sexual violence, or stalking in writing on the face of the original order. If a party is present at the hearing and that party fails or refuses to acknowledge the receipt of a certified copy of the injunction, the clerk shall cause the order to be served by mailing certified copies of the injunction to the parties who were present at the hearing at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subdivision, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and within 24 hours shall forward a copy of the injunction and the clerk's affidavit of service to the sheriff with jurisdiction over the residence of the petitioner. This procedure applies to service of orders to modify or vacate injunctions for protection against domestic, repeat, dating, or sexual violence, or stalking.

(ii) Party not Present at Hearing. Within 24 hours after the court issues, continues, modifies, or vacates an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking the clerk shall forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner for service.

(4) Duration.

(A) Temporary Injunction. Any temporary injunction shall be effective for a fixed period not to exceed 15 days. A full hearing shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the temporary injunction and of the full hearing for good cause shown by any party, or upon its own motion for good cause, including failure to obtain service.

(B) Permanent Injunction. Any relief granted by an injunction for for protection against domestic, repeat, dating, or sexual violence, or stalking shall be granted for a fixed

period or until further order of court. Such relief may be granted in addition to other civil and criminal remedies. Upon petition of the victim, the court may extend the injunction for successive periods or until further order of court. Broad discretion resides with the court to grant an extension after considering the circumstances. No specific allegations are required.

(5) Enforcement. The court may enforce violations of an injunction for protection against domestic, repeat, dating, or sexual violence, or stalking in civil contempt proceedings, which are governed by rule 12.570, or in criminal contempt proceedings, which are governed by Florida Rule of Criminal Procedure 3.840, or, if the violation meets the statutory criteria, it may be prosecuted as a crime under Florida Statutes.

(6) Motion to Modify or Vacate Injunction. The petitioner or respondent may move the court to modify or vacate an injunction at any time. Service of a motion to modify or vacate injunctions shall be governed by subdivision (b)(2) of this rule. However, for service of a motion to modify to be sufficient if a party is not represented by an attorney, service must be in accordance with rule 12.070, or in the alternative, there must be filed in the record proof of receipt of this motion by the nonmoving party personally.

(7) Forms. The clerk of the court or family or injunction for protection intake personnel shall provide simplified forms including instructions for completion, for the persons whose circumstances meet the requirements of this rule and shall assist in the preparation of the affidavit in support of the violation of an order of injunction for protection against domestic, repeat, dating, or sexual violence, or stalking.

Rule 12.740 Family Mediation

(a) Applicability. This rule governs mediation of family matters and related issues.

(b) Referral. Except as provided by law and this rule, all contested family matters and issues may be referred to mediation. Every effort shall be made to expedite mediation of family issues.

(c) Limitation on Referral to Mediation. Unless otherwise agreed by the parties, family matters and issues may be referred to a mediator or mediation program which charges a fee only after the court has determined that the parties have the financial ability to pay such a fee. This determination may be based upon the parties' financial affidavits or other financial information available to the court. When the mediator's fee is not established under section 44.108, Florida Statutes, or when there is no written agreement providing for the mediator's compensation, the mediator shall be compensated at an hourly rate set by the presiding judge in the referral order. The presiding judge may also determine the reasonableness of the fees charged by the

mediator. When appropriate, the court shall apportion mediation fees between the parties and shall state each party's share in the order of referral. Parties may object to the rate of the mediator's compensation within 15 days of the order of referral by serving an objection on all other parties and the mediator.

(d) Appearances. Unless otherwise stipulated by the parties, a party is deemed to appear at a family mediation convened pursuant to this rule if the named party is physically present at the mediation conference. In the discretion of the mediator and with the agreement of the parties, family mediation may proceed in the absence of counsel unless otherwise ordered by the court.

(e) Completion of Mediation. Mediation shall be completed within 75 days of the first mediation conference unless otherwise ordered by the court.

(f) Report on Mediation.

(1) If agreement is reached as to any matter or issue, including legal or factual issues to be determined by the court, the agreement shall be reduced to writing, signed by the parties and their counsel, if any and if present, and submitted to the court unless the parties agree otherwise. By stipulation of the parties, the agreement may be electronically or stenographically recorded and made under oath or affirmed. In such event, an appropriately signed transcript may be filed with the court.

(2) After the agreement is filed, the court shall take action as required by law. When court approval is not necessary, the agreement shall become binding upon filing. When court approval is necessary, the agreement shall become binding upon approval. In either event, the agreement shall be made part of the final judgment or order in the case.

(3) If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

Commentary

1995 Adoption. This rule is similar to former Florida Rule of Civil Procedure 1.740. All provisions concerning the compensation of the mediator have been incorporated into this rule so that all mediator compensation provisions are contained in one rule. Additionally, this rule clarifies language regarding the filing of transcripts, the mediator's responsibility for mailing a copy of the agreement to counsel, and counsel's filing of written objections to mediation agreements.

Florida Rules of Court Procedure

Rule 12.741 Mediation Rules

(a) Discovery. Unless stipulated by the parties or ordered by the court, the mediation process shall not suspend discovery.

(b) General Procedures.

(1) Interim or Emergency Relief. A party may apply to the court for interim or emergency relief at any time. Mediation shall continue while such a motion is pending absent a contrary order of the court, or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods when mediation is interrupted pending resolution of such a motion.

(2) Sanctions. If a party fails to appear at a duly noticed mediation conference without good cause, or knowingly and willfully violates any confidentiality provision under section 44.405, Florida Statutes, the court upon motion shall impose sanctions, including an award of mediator and attorneys' fees and other costs, against the party.

(3) Adjournments. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference. No further notification is required for parties present at the adjourned conference.

(4) Counsel. Counsel shall be permitted to communicate privately with their clients. The mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation.

(5) Communication with Parties. The mediator may meet and consult privately with any party or parties or their counsel.

(6) Appointment of the Mediator.

(A) Within 10 days of the order of referral, the parties may agree upon a stipulation with the court designating:

(i) a certified mediator, other than a senior judge presiding as a judge in that circuit; or

(ii) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(B) If the parties cannot agree upon a mediator within 10 days of the order of referral, the plaintiff or petitioner shall so notify the court within 10 days of the expiration of the

period to agree on a mediator, and the court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending.

(C) If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator shall not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator shall have the same qualifications as the original mediator.

Commentary

1995 Adoption. This rule combines and replaces Florida Rules of Civil Procedure 1.710, 1.720, and 1.730. The rule, as combined, is substantially similar to those three previous rules, with the following exceptions. This rule deletes subdivisions (a) and (b) of rule 1.710 and subdivisions (b) and (c) or rule 1.730. This rule compliments Florida Family Law Rule of Procedure 12.740 by providing direction regarding various procedures to be followed in family law mediation proceedings.

Rule 12.742. Parenting Coordination

(a) Applicability. This rule applies to parenting coordination.

(b) Qualification Process. Each judicial circuit shall establish a process for determining that a parenting coordinator is qualified in accordance with the requirements established in the parenting coordination section of Chapter 61, Florida Statutes.

(c) Order Referring Parties to Parenting Coordinator. An order referring the parties to a parenting coordinator must be in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(a). The order must specify the role, responsibility, and authority of the parenting coordinator.

(d) Appointment of Parenting Coordinator. The parties may agree in writing on a parenting coordinator subject to the court's approval. If the parties cannot agree on a parenting coordinator, the court shall appoint a parenting coordinator qualified by law.

(e) Response by Parenting Coordinator. The parenting coordinator must file a response accepting or declining the appointment in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(b).

(f) Term of Service. The term of the parenting coordinator shall be as specified in the order of appointment or as extended by the court. The initial term of service shall not exceed two years. The court shall terminate the service on:

(1) The parenting coordinator's resignation or disqualification; or

(2) A finding of good cause shown based on the court's own motion or a party's written motion. Good cause includes but is not limited to the occurrence of domestic violence; circumstances that compromise the safety of any person or the integrity of the process; or a finding that there is no longer a need for the service of the parenting coordinator. The motion and notice of hearing shall also be served on the parenting coordinator.

(g) Removal of Parenting Coordinator. The court shall remove the parenting coordinator if the parenting coordinator becomes disqualified under the parenting coordination section of Chapter 61, Florida Statutes, or if good cause is shown.

(h) Appointment of Substitute Parenting Coordinator. If a parenting coordinator cannot serve or continue to serve, a substitute parenting coordinator may be chosen in the same manner as the original.

(i) Authority with Consent. The parenting coordinator may have additional authority with express written consent. If there has been a history of domestic violence the court must find that consent has been freely and voluntarily given.

(1) With the express written consent of both parties, the parenting coordinator may
(A) have temporary decision-making authority to resolve specific non-substantive disputes between the parties until such time as a court order is entered modifying the decision; or
(B) make recommendations to the court concerning modifications to the parenting plan or time-sharing.

(2) With the express written consent of a party, a parenting coordinator may
(A) have access to confidential and privileged records and information of that party; or
(B) provide confidential and privileged information for that party to health care providers and to any other third parties.

(3) With the express approval of the court, the parenting coordinator may
(A) have access to a child's confidential and privileged records and information; or
(B) provide confidential and privileged information for that child to health care providers and to any other third parties.

(j) Limitation of Authority.

(1) A parenting coordinator shall not have decision making authority to resolve substantive disputes between the parties. A dispute is substantive if it would
(A) significantly change the quantity or decrease the quality of time a child spends with either parent; or
(B) modify parental responsibility.

(2) A parenting coordinator shall not make a substantive recommendation concerning parental responsibility or timesharing to the court unless the court on its own motion or a joint motion of the parties determines that:

(A) there is an emergency as defined by the parenting coordination section of Chapter 61, Florida Statutes,

(B) the recommendation would be in the best interest of the child, and

(C) the parties agree that any parenting coordination communications that may be raised to support or challenge the recommendation of the parenting coordinator will be permitted.

(k) Emergency Order.

(1) Consideration by the Court. Upon the filing of an affidavit or verified report of an emergency by the parenting coordinator, the court shall determine whether the facts and circumstances contained in the report constitute an emergency and whether an emergency order needs to be entered with or without notice to the parties to prevent or stop furtherance of the emergency. Except for the entry of an ex parte order in accordance with (k)(2), the court shall set a hearing with notice to the parties to be held at the earliest possible time.

(2) Ex Parte Order. An emergency order may be entered without notice to the parties if it appears from the facts shown by the affidavit or verified report that there is an immediate and present danger that the emergency situation will occur before the parties can be heard. No evidence other than the affidavit or verified report shall be used to support the emergency being reported unless the parties appear at the hearing or have received notice of a hearing. Every temporary order entered without notice in accordance with this rule shall be endorsed with the date and hour of entry, be filed forthwith in the clerk's office, and define the injury or potential injury, state findings by the court why the injury or potential injury may be irreparable and give the reasons why the order was granted without notice. The court shall provide the parties and attorney ad litem, if one is appointed, with a copy of the parenting coordinator's affidavit or verified report giving rise to the ex parte order. A return hearing shall be scheduled if the court issues an emergency ex parte order.

(3) Duration. The emergency order shall remain in effect until further order.

(4) Motion to Dissolve or Modify Ex Parte Order. A motion to modify or dissolve an ex parte emergency order must be heard within 5 days after the movant applies for a hearing.

(l) Written Communication with Court. The parenting coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court. Parenting coordinators are required, pursuant to the parenting coordination section of Chapter 61, Florida Statutes, to report certain emergencies to the court without giving notice to the parties. The parenting coordinator shall use a form in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(c) when reporting any emergency to the court, whether or not

notice to the parties is required by law. If the parenting coordinator is unable to adequately perform the duties in accordance with the court's direction, the parenting coordinator shall file a written request for a status conference and the court shall set a timely status hearing. The parenting coordinator shall use a form in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(d) to request a status conference. When notice to the parties is required, the parenting coordinator must contemporaneously serve each party with a copy of the written communication.

(m) Testimony and Discovery. A parenting coordinator shall not be called to testify or be subject to the discovery rules of the Florida Family Law Rules of Procedure unless the court makes a prior finding of good cause. A party must file a motion, alleging good cause why the court should allow the parenting coordinator to testify or be subject to discovery. The requesting party shall serve the motion and notice of hearing on the parenting coordinator. The requesting party shall initially be responsible for the parenting coordinator's fees and costs incurred as a result of the motion.

(n) Parenting Coordination Session. A parenting coordination session occurs when a party and the parenting coordinator communicate with one another. A parenting coordination session may occur in the presence or with the participation of persons in addition to a party and the parenting coordinator. Unless otherwise directed by the court, the parenting coordinator shall determine who may be present during each parenting coordination session including, without limitation, attorneys, parties, and other persons.

Committee Notes

2014 Revision. Parties are more likely to comply with a parenting plan which has been voluntarily and mutually self-determined by the parties without undue outside influence. Courts therefore should consider referring parties to mediation prior to parenting coordination when a parenting plan has not been agreed to by the parties or adopted by the court. Courts are also encouraged to review what additional forms of alternative dispute resolution as well as social, psychological and educational interventions may best assist the parties in a timely manner. In cases where parties are referred to a parenting coordinator to adopt or create a parenting plan, the court should consider whether the parties would be better served by the court determining certain aspects of the parenting plan (such as parental responsibility, time sharing schedule, etc.) prior to referral to a parenting coordinator. New subdivisions (b), (g), (j)(2), (l), and (n) were added and others were renumbered accordingly.

2010 Adoption. The provisions of subdivision (k) do not abrogate the confidentiality provisions of section 61.125, Florida Statutes. An exception to confidentiality must apply before invoking this subdivision of the rule.

Florida Rules of Court Procedure

Rule 12.745. Collaborative Law Process

(a) Application. This rule governs all proceedings under chapter 61, part III, Florida Statutes.

(b) Collaborative Law Process.

(1) Initiating Process.

(a) A collaborative law process begins, regardless of whether a legal proceeding is pending, when the parties sign a collaborative law participation agreement.

(b) When a proceeding is pending before a court, the parties may sign a collaborative law participation agreement to seek to resolve a matter related to the proceeding. The parties shall promptly file with the court a notice of the agreement after it is signed, and it shall operate as an application for a stay of the proceeding. A court in which a proceeding is stayed under this subdivision may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. The status report may only indicate whether the process is ongoing or concluded and no other information. The status report may not include a report, assessment, recommendation, finding, or other communication regarding a collaborative matter. A court shall provide notice to the parties and an opportunity to be heard before dismissing a proceeding, in which a notice of collaborative process is filed, based on delay or failure to prosecute. A court may not consider a communication made in violation of this subdivision.

(2) Concluding and Terminating Process. A collaborative law process is concluded by:

(a) the resolution of a collaborative matter as evidenced by a signed record;

(b) the resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process;

(c) a party unilaterally terminating the collaborative law process, with or without cause, by

(i) giving notice to other parties in a record that the process is ended,

(ii) beginning a contested proceeding related to a collaborative matter without the agreement of all parties, or

(iii) in a pending proceeding related to the matter:

a. initiating a pleading, motion, order to show cause, or request for a conference with the court;

b. requesting that the proceeding be put on the court's active calendar; or

c. taking similar action requiring notice to be sent to the parties; or

(d) except as otherwise provided by subdivision (b)(3), a party discharging a collaborative lawyer or a collaborative lawyer withdrawing from further representation of a party.

If a proceeding is pending before a court, the parties shall promptly file with the court notice in a record when a collaborative law process concludes. Any stay of the proceeding is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) Discharge or Withdrawal from Representation. A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal. If a proceeding was pending prior to the initiation of the collaborative process, the party's collaborative lawyer shall comply with the requirements of Florida Rule of Judicial Administration 2.505. Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer is sent to the parties:

(a) the unrepresented party retains a successor collaborative lawyer; and

(b) in a signed record:

(i) the parties consent to continue the process by reaffirming the collaborative law participation agreement; and

(ii) the agreement is amended to identify the successor collaborative lawyer and the successor attorney signs the participation agreement.

(c) Approval of Interim Agreements. A collaborative law process does not conclude if, with the consent of the parties, a party requests a court to approve a written agreement resolving an issue in the collaborative matter while other issues remain pending.

(d) Alternative Dispute Resolution Permitted. Nothing in this rule shall be construed to prohibit the parties from using, by mutual agreement, any other permissible form of alternative dispute resolution to reach a settlement on any of the issues included in the collaborative process.

(e) Emergency Order. During a collaborative law process, a court may issue emergency orders to protect the health, safety, welfare, or interest of a party or a family or household member as defined in section 741.28, Florida Statutes.

(f) Disqualification of Collaborative Lawyer and Lawyers in Associated Law Firm.

(1) Except as otherwise provided in subdivision (f)(3), a collaborative lawyer is disqualified from appearing before a court to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subdivisions (b)(3) and (c), a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a court to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subdivision (f)(1).

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(a) to ask a court to approve an agreement resulting from the collaborative law process; or

(b) to seek to defend an emergency order to protect the health, safety, welfare, or interest of a party, or a family or household member as defined in section 741.28, Florida Statutes, if a successor lawyer is not immediately available to represent that person, but only until the party or family or household member is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of that person.

Rules for Certified and Court-Appointed Mediators

Rules for Certified and Court-Appointed Mediators

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, 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, 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 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.

(g) Senior Judges Serving As Mediators. A senior judge may serve as a mediator in a court-ordered mediation in a circuit in which the senior judge is not presiding as a judge only if certified by the Florida Supreme Court as a mediator for that type of mediation.

(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.

(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.

Rule 10.105 Point System Categories

(a) Education. Points shall be awarded in accordance with the following schedule (points are only awarded for the highest level of education completed and honorary degrees are not included):

High School Diploma/GED	10 points
Associate's Degree	15 points
Bachelor's Degree	20 points
Master's Degree	25 points
Master's Degree in Conflict Resolution	30 points
Doctorate (e.g., Ph.D., J.D., M.D., Ed.D., LL.M)	30 points
Ph.D. from Accredited Conflict Resolution Program	40 points

An additional five points will be awarded for completion of a graduate level conflict resolution certificate program in an institution which has been accredited by Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, the American Bar Association, or an entity of equal status.

(b) Mediation Experience. One point per year will be awarded to a Florida Supreme Court certified mediator for each year that mediator has mediated at least 15 cases of any type. In the alternative, a maximum of five points will be awarded to any mediator, regardless of Florida Supreme Court certification, who has conducted a minimum of 100 mediations over a consecutive five-year period.

(c) Mentorship. Ten points will be awarded for each supervised mediation completed of the type for which certification is sought and five points will be awarded for each mediation session of the type for which certification is sought which is observed.

(d) Miscellaneous Points.

(1) Five points shall be awarded to applicants currently licensed or certified in any United States jurisdiction in psychology, accounting, social work, mental health, health care, education, or the practice of law or mediation. Such award shall not exceed a total of five points regardless of the number of licenses or certifications obtained.

(2) Five points shall be awarded for possessing conversational ability in a foreign language as demonstrated by certification by the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Test, qualification as a court interpreter, accreditation by the American Translators Association, or approval as a sign language interpreter by the Registry of Interpreters for the Deaf. Such award shall not exceed a total of five points regardless of the number of languages in which the applicant is proficient.

(3) Five points shall be awarded for the successful completion of a mediation training program (minimum 30 hours in length) which is certified or approved by a jurisdiction other than Florida and which may not be the required Florida Supreme Court certified mediation training program. Such award shall not exceed five points regardless of the number of training programs completed.

(4) Five points shall be awarded for certification as a mediator by the Florida Supreme Court. Such award shall not exceed five points per category regardless of the number of training programs completed or certifications obtained.

Rules for Certified and Court-Appointed Mediators

Committee Notes

The following table is intended to illustrate the point system established in this rule. Any discrepancy between the table and the written certification requirements shall be resolved in favor of the latter.

Points Needed Per Area of Certification		**Minimum Points Required in Each Area**
County	100	30 certified county mediation training; 10 education (minimum HS Diploma/GED); 60 mentorship
Family	100	30 certified family mediation training; 25 education/mediation experience (minimum Bachelor's Degree); 30 mentorship [and requires 15 additional points]
Dependency	100	30 certified dependency mediation training; 25 education/mediation experience (minimum Bachelor's Degree); 40 mentorship [and requires 5 additional points]
Circuit	100	30 certified circuit mediation training, 25 education/mediation experience (minimum Bachelor's Degree); 30 mentorship; [and requires 15 additional points]

Education/Mediation Experience (points awarded for highest level of education received)			
HS Diploma/GED	10 points	Master's Degree in Conflict Resolution	30
Associate's Degree	15 points	Doctorate (e.g., JD, MD, PhD, EdD, LLM)	30
Bachelor's Degree	20 points	Ph.D. from accredited CR Program	40
Master's Degree	25 points	Graduate Certificate CR Program	+5
Florida certified mediator: 1 point per year in which mediated at least 15 mediations (any type) OR any mediator: – 5 points for minimum of 100 mediations (any type) over a 5-year period			

Mentorship - must work with at least 2 different certified mediators and must be completed for the type of certification sought	
Observation	5 points each session
Supervised Mediation	10 points each complete mediation

Miscellaneous Points	
Licensed to practice law, psychology, accounting, social work, mental health, health care, education or mediation in any US jurisdiction	5 points (total)
Florida Certified Mediator	5 points (total)
Foreign Language Conversational Ability as demonstrated by certification by ACTFL Oral Proficiency Test; qualified as a court interpreter; or accredited by the American Translators Association; Sign Language Interpreter as demonstrated by approval by the Registry of Interpreters for the Deaf	5 points (total)
Completion of additional mediation training program (minimum 30 hours in length) certified/approved by a state or court other than Florida	5 points (total)

Rules for Certified and Court-Appointed Mediators

Rule 10.110 Good Moral Character

(a) General Requirement. No person shall be certified by this Court as a mediator unless such person first produces satisfactory evidence of good moral character as required by rule 10.100.

(b) Purpose. The primary purpose of the requirement of good moral character is to ensure protection of the participants in mediation and the public, as well as to safeguard the justice system. A mediator shall have, as a prerequisite to certification and as a requirement for continuing certification, the good moral character sufficient to meet all of the Mediator Standards of Professional Conduct set out in rules 10.200-10.690.

(c) Certification. The following shall apply in relation to determining the good moral character required for initial and continuing mediator certification:

(1) The applicant's or mediator's good moral character may be subject to inquiry when the applicant's or mediator's conduct is relevant to the qualifications of a mediator.

(2) An applicant for initial certification who has been convicted of a felony shall not be eligible for certification until such person has received a restoration of civil rights.

(3) An applicant for initial certification who is serving a sentence of felony probation shall not be eligible for certification until termination of the period of probation.

(4) In assessing whether the applicant's or mediator's conduct demonstrates a present lack of good moral character the following factors shall be relevant:

(A) the extent to which the conduct would interfere with a mediator's duties and responsibilities;
(B) the area of mediation in which certification is sought or held;
(C) the factors underlying the conduct;
(D) the applicant's or mediator's age at the time of the conduct;
(E) the recency of the conduct;
(F) the reliability of the information concerning the conduct;
(G) the seriousness of the conduct as it relates to mediator qualifications;
(H) the cumulative effect of the conduct or information;
(I) any evidence of rehabilitation;
(J) the applicant's or mediator's candor; and
(K) denial of application, disbarment, or suspension from any profession.

(d) Decertification. A certified mediator shall be subject to decertification for any knowing and willful incorrect material information contained in any mediator application. There is a presumption of knowing and willful violation if the application is completed, signed, and notarized.

Rule 10.120 Notice of Change of Address or Name

(a) Address Change. Whenever any certified mediator changes residence or mailing address, that person must within 30 days thereafter notify the center of such change.

(b) Name Change. Whenever any certified mediator changes legal name, that person must within 30 days thereafter notify the center of such change.

Rule 10.130 Notification of Conviction

(a) Definition. "Conviction" means a determination of guilt which is the result of a trial, or entry of a plea of guilty or no contest, regardless of whether adjudication of guilt or imposition of sentence was suspended, deferred, or withheld, and applies in relation to any of the following:

(1) a felony, misdemeanor of the first degree, or misdemeanor of the second-degree involving dishonesty or false statement;

(2) a conviction of a similar offense described in subdivision (1) that includes a conviction by a federal, military, or tribal tribunal, including courts-martial conducted by the Armed Forces of the United States;

(3) a conviction of a similar offense described in subdivision (1) that includes a conviction or entry of a plea of guilty or no contest resulting in a sanction in any jurisdiction of the United States or any foreign jurisdiction. A sanction includes, but is not limited to, a fine, incarceration in a state prison, federal prison, private correctional facility, or local detention facility; or

(4) a conviction of a similar offense described in subdivision (1) of a municipal or county ordinance in this or any other state.

(b) Report of Conviction. A conviction shall be reported in writing to the center within 30 days of such conviction. A report of conviction shall include a copy of the order or orders pursuant to which the conviction was entered.

(c) Suspension. Upon receipt of a report of felony conviction, the center shall immediately suspend all certifications and refer the matter to the qualifications complaint committee.

(d) Referral. Upon receipt of a report of misdemeanor conviction, the center shall refer the matter to the qualifications complaint committee for appropriate action. If the center becomes aware of a conviction prior to the required notification, it shall refer the matter to the qualifications complaint committee for appropriate action.

Part II Standards of Professional Conduct

Rule 10.200 Scope and Purpose

These Rules provide ethical standards of conduct for certified and court-appointed mediators. Court-appointed mediators are mediators selected by the parties or appointed by the court as the mediator in court-ordered mediations. These Rules are intended to both guide mediators in the performance of their services and instill public confidence in the mediation process. The public's use, understanding, and satisfaction with mediation can only be achieved if mediators embrace the highest ethical principles. Whether the parties involved in a mediation choose to resolve their dispute is secondary in importance to whether the mediator conducts the mediation in accordance with these ethical standards.

Committee Notes

2000 Revision. In early 1991, the Florida Supreme Court Standing Committee on Mediation and Arbitration Rules was commissioned by the Chief Justice to research, draft and present for adoption both a comprehensive set of ethical standards for Florida mediators and procedural rules for their enforcement. To accomplish this task, the Committee divided itself into two sub-committees and, over the remainder of the year, launched parallel programs to research and develop the requested ethical standards and grievance procedures.

The Subcommittee on Ethical Standards began its task by searching the nation for other states or private dispute resolution organizations who had completed any significant work in defining the ethical responsibilities of professional mediators. After searching for guidance outside the state, the subcommittee turned to Florida's own core group of certified mediators for more direct and firsthand data. Through a series of statewide public hearings and meetings, the subcommittee gathered current information on ethical concerns based upon the expanding experiences of practicing Florida certified mediators. In May of 1992, the "Florida Rules for Certified and Court-Appointed Mediators" became effective.

In the years following the adoption of those ethical rules, the Committee observed their impact on the mediation profession. By 1998, several other states and dispute resolution organizations initiated research into ethical standards for mediation which also became instructive to the Committee. In addition, Florida's Mediator Qualifications Advisory Panel, created to field ethical questions from practicing mediators, gained a wealth of pragmatic experience in the application of ethical concepts to actual practice that became available to the Committee. Finally, the Florida

Rules for Certified and Court-Appointed Mediators

Mediator Qualifications and Discipline Review Board, the disciplinary body for mediators, developed specific data from actual grievances filed against mediators over the past several years, which also added to the available body of knowledge.

Using this new body of information and experience, the Committee undertook a yearlong study program to determine if Florida's ethical rules for mediators would benefit from review and revision.

Upon reviewing the 1992 ethical Rules, it immediately became apparent to the Committee that reorganization, renumbering, and more descriptive titles would make the Rules more useful. For that reason, the Rules were reorganized into four substantive groups which recognized a mediator's ethical responsibilities to the "parties," the "process," the "profession" and the "courts." The intent of the Committee here was to simply make the Rules easier to locate. There is no official significance in the order in which the Rules appear; any one area is equally important as all other areas. The Committee recognizes many rules overlap and define specific ethical responsibilities which impact more than one area. Clearly, a violation of a rule in one section may very well injure relationships protected in another section.

Titles to the Rules were changed to more accurately reflect their content. Additionally, redundancies were eliminated, phrasing tightened, and grammatical changes made to more clearly state their scope and purpose.

Finally, the Committee sought to apply what had been learned. The 2000 revisions are the result of that effort.

Rule 10.210 Mediation Defined

Mediation is a process whereby a neutral and impartial third person acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. It is an informal and non-adversarial process intended to help disputing parties reach a mutually acceptable agreement.

Rule 10.220 Mediator's Role

The role of the mediator is to reduce obstacles to communication, assist in the identification of issues and exploration of alternatives, and otherwise facilitate voluntary agreements resolving the dispute. The ultimate decision-making authority, however, rests solely with the parties.

Rules for Certified and Court-Appointed Mediators

Rule 10.230 Mediation Concepts

Mediation is based on concepts of communication, negotiation, facilitation, and problem-solving that emphasize:

(a) self determination;
(b) the needs and interests of the parties;
(c) fairness;
(d) procedural flexibility;
(e) confidentiality; and
(f) full disclosure.

Rule 10.300 Mediator's Responsibility to the Parties

The purpose of mediation is to provide a forum for consensual dispute resolution by the parties. It is not an adjudicatory procedure. Accordingly, a mediator's responsibility to the parties includes honoring their right of self-determination; acting with impartiality; and avoiding coercion, improper influence, and conflicts of interest. A mediator is also responsible for maintaining an appropriate demeanor, preserving confidentiality, and promoting the awareness by the parties of the interests of non-participating persons. A mediator's business practices should reflect fairness, integrity and impartiality.

Committee Notes

2000 Revision. Rules 10.300 - 10.380 include a collection of specific ethical concerns involving a mediator's responsibility to the parties to a dispute. Incorporated in this new section are the concepts formerly found in Rule 10.060 (Self Determination); Rule 10.070 (Impartiality/Conflict of Interest); Rule 10.080 (Confidentiality); Rule 10.090 (Professional Advice); and Rule 10.100 (Fees and Expenses). In addition, the Committee grouped under this heading ethical concerns dealing with the mediator's demeanor and courtesy, contractual relationships, and responsibility to non-participating persons.

Rule 10.310 Self-Determination

(a) Decision-making. Decisions made during a mediation are to be made by the parties. A mediator shall not make substantive decisions for any party. A mediator is responsible for assisting the parties in reaching informed and voluntary decisions while protecting their right of self-determination.

(b) Coercion Prohibited. A mediator shall not coerce or improperly influence any party to make a decision or unwillingly participate in a mediation.

(c) Misrepresentation Prohibited. A mediator shall not intentionally or knowingly misrepresent

any material fact or circumstance in the course of conducting a mediation.

(d) Postponement or Cancellation. If, for any reason, a party is unable to freely exercise self-determination, a mediator shall cancel or postpone a mediation.

Committee Notes

2000 Revision. Mediation is a process to facilitate consensual agreement between parties in conflict and to assist them in voluntarily resolving their dispute. It is critical that the parties' right to self-determination (a free and informed choice to agree or not to agree) is preserved during all phases of mediation. A mediator must not substitute the judgment of the mediator for the judgment of the parties, coerce or compel a party to make a decision, knowingly allow a participant to make a decision based on misrepresented facts or circumstances, or in any other way impair or interfere with the parties' right of self-determination.

While mediation techniques and practice styles may vary from mediator to mediator and mediation to mediation, a line is crossed, and ethical standards are violated when any conduct of the mediator serves to compromise the parties' basic right to agree or not to agree. Special care should be taken to preserve the party's right to self-determination if the mediator provides input to the mediation process. See Rule 10.370.

On occasion, a mediator may be requested by the parties to serve as a decision-maker. If the mediator decides to serve in such a capacity, compliance with this request results in a change in the dispute resolution process impacting self-determination, impartiality, confidentiality, and other ethical standards. Before providing decision-making services, therefore, the mediator shall ensure that all parties understand and consent to those changes. See Rules 10.330 and 10.340.

Under subdivision (d), postponement or cancellation of a mediation is necessary if the mediator reasonably believes the threat of domestic violence, existence of substance abuse, physical threat or undue psychological dominance are present and existing factors which would impair any party's ability to freely and willingly enter into an informed agreement.

Rule 10.320 Nonparticipating Persons

A mediator shall promote awareness by the parties of the interests of persons affected by actual or potential agreements who are not represented at mediation.

Committee Notes

2000 Revision. Mediated agreements will often impact persons or entities not participating in the process. Examples include lienholders, governmental agencies, shareholders, and related commercial entities. In family and dependency mediations, the interests of children, grandparents or other related persons are also often affected. A mediator is responsible for making the parties

aware of the potential interests of such non-participating persons.

In raising awareness of the interests of non-participating persons, however, the mediator should still respect the rights of the parties to make their own decisions. Further, raising awareness of possible interests of related entities should not involve advocacy or judgments as to the merits of those interests. In family mediations, for example, a mediator should make the parents aware of the children's interests without interfering with self-determination or advocating a particular position.

Rule 10.330 Impartiality

(a) Generally. A mediator shall maintain impartiality throughout the mediation process. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(b) Withdrawal for Partiality. A mediator shall withdraw from mediation if the mediator is no longer impartial.

(c) Gifts and Solicitation. A mediator shall neither give nor accept a gift, favor, loan, or other item of value in any mediation process. During the mediation process, a mediator shall not solicit or otherwise attempt to procure future professional services.

Committee Notes

2000 Revision. A mediator has an affirmative obligation to maintain impartiality throughout the entire mediation process. The duty to maintain impartiality arises immediately upon learning of a potential engagement for providing mediation services. A mediator shall not accept or continue any engagement for mediation services in which the ability to maintain impartiality is reasonably impaired or compromised. As soon as practical, a mediator shall make reasonable inquiry as to the identity of the parties or other circumstances which could compromise the mediator's impartiality.

During the mediation, a mediator shall maintain impartiality even while raising questions regarding the reality, fairness, equity, durability and feasibility of proposed options for settlement. In the event circumstances arise during a mediation that would reasonably be construed to impair or compromise a mediator's impartiality, the mediator is obligated to withdraw.

Subdivision (c) does not preclude a mediator from giving or accepting de minimis gifts or incidental items provided to facilitate the mediation.

Rules for Certified and Court-Appointed Mediators

Rule 10.340 Conflicts of Interest

(a) Generally. A mediator shall not mediate a matter that presents a clear or undisclosed conflict of interest. A conflict of interest arises when any relationship between the mediator and the mediation participants or the subject matter of the dispute compromises or appears to compromise the mediator's impartiality.

(b) Burden of Disclosure. The burden of disclosure of any potential conflict of interest rests on the mediator. Disclosure shall be made as soon as practical after the mediator becomes aware of the interest or relationship giving rise to the potential conflict of interest.

(c) Effect of Disclosure. After appropriate disclosure, the mediator may serve if all parties agree. However, if a conflict of interest clearly impairs a mediator's impartiality, the mediator shall withdraw regardless of the express agreement of the parties.

(d) Conflict During Mediation. A mediator shall not create a conflict of interest during the mediation. During a mediation, a mediator shall not provide any services that are not directly related to the mediation process.

(e) Senior and Retired Judges. If a mediator who is a senior judge or retired judge not eligible for assignment to temporary judicial duty has presided over a case involving any party, attorney, or law firm in the mediation, the mediator shall disclose such fact prior to mediation. A mediator shall not serve as a mediator in any case in a circuit in which the mediator is currently presiding as a senior judge. Absent express consent of the parties, a mediator shall not serve as a senior judge over any case involving any party, attorney, or law firm that is utilizing or has utilized the judge as a mediator within the previous three years. A senior judge who provides mediation services shall not preside over any case in the circuit where the mediation services are provided; however, a senior judge may preside over cases in circuits in which the judge does not provide mediation services.

Committee Notes

2000 Revision. Potential conflicts of interests which require disclosure include the fact of a mediator's membership on a related board of directors, full or part time service by the mediator as a representative, advocate, or consultant to a mediation participant, present stock or bond ownership by the mediator in a corporate mediation participant, or any other form of managerial, financial, or family interest by the mediator in any mediation participant involved in a mediation. A mediator who is a member of a law firm or other professional organization is obliged to disclose any past or present client relationship that firm or organization may have with any party involved in a mediation. The duty to disclose thus includes information relating to a mediator's ongoing financial or professional relationship with any of the parties, counsel, or related entities. Disclosure is required with respect to any significant past, present, or promised future relationship with any party involved in a proposed mediation. While impartiality is not necessarily compromised, full disclosure

and a reasonable opportunity for the parties to react are essential.

Disclosure of relationships or circumstances which would create the potential for a conflict of interest should be made at the earliest possible opportunity and under circumstances which will allow the parties to freely exercise their right of self-determination as to both the selection of the mediator and participation in the mediation process. A conflict of interest which clearly impairs a mediator's impartiality is not resolved by mere disclosure to, or waiver by, the parties. Such conflicts occur when circumstances or relationships involving the mediator cannot be reasonably regarded as allowing the mediator to maintain impartiality.

To maintain an appropriate level of impartiality and to avoid creating conflicts of interest, a mediator's professional input to a mediation proceeding must be confined to the services necessary to provide the parties a process to reach a self-determined agreement. Under subdivision (d), a mediator is accordingly prohibited from utilizing a mediation to supply any other services which do not directly relate to the conduct of the mediation itself. By way of example, a mediator would therefore be prohibited from providing accounting, psychiatric or legal services, psychological or social counseling, therapy, or business consultations of any sort during the mediation process. Mediators establish personal relationships with many representatives, attorneys, mediators, and other members of various professional associations. There should be no attempt to be secretive about such friendships or acquaintances, but disclosure is not necessary unless some feature of a particular relationship might reasonably appear to impair impartiality.

Rule 10.350 Demeanor

A mediator shall be patient, dignified, and courteous during the mediation process.

Rule 10.360 Confidentiality

(a) Scope. A mediator shall maintain confidentiality of all information revealed during mediation except where disclosure is required or permitted by law or is agreed to by all parties.

(b) Caucus. Information obtained during caucus may not be revealed by the mediator to any other mediation participant without the consent of the disclosing party.

(c) Record Keeping. A mediator shall maintain confidentiality in the storage and disposal of records and shall not disclose any identifying information when materials are used for research, training, or statistical compilations.

Rules for Certified and Court-Appointed Mediators

Rule 10.370 Advice, Opinions, or Information

(a) Providing Information. Consistent with standards of impartiality and preserving party self-determination, a mediator may provide information that the mediator is qualified by training or experience to provide.

(b) Independent Legal Advice. When a mediator believes a party does not understand or appreciate how an agreement may adversely affect legal rights or obligations, the mediator shall advise the party of the right to seek independent legal counsel.

(c) Personal or Professional Opinion. A mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, or direct a resolution of any issue. Consistent with standards of impartiality and preserving party self-determination however, a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense. A mediator shall not offer a personal or professional opinion as to how the court in which the case has been filed will resolve the dispute.

Committee Notes

2000 Revision (previously Committee Note to 1992 adoption of former rule 10.090). Mediators who are attorneys should note Florida Bar Committee on Professional Ethics, formal opinion 86-8 at 1239, which states that the lawyer-mediator should "explain the risks of proceeding without independent counsel and advise the parties to consult counsel during the course of the mediation and before signing any settlement agreement that he might prepare for them."

2000 Revision. The primary role of the mediator is to facilitate a process which will provide the parties an opportunity to resolve all or part of a dispute by agreement if they choose to do so. A mediator may assist in that endeavor by providing relevant information or helping the parties obtain such information from other sources. A mediator may also raise issues and discuss strengths and weaknesses of positions underlying the dispute. Finally, a mediator may help the parties evaluate resolution options and draft settlement proposals. In providing these services however, it is imperative that the mediator maintain impartiality and avoid any activity which would have the effect of overriding the parties' rights of self-determination. While mediators may call upon their own qualifications and experience to supply information and options, the parties must be given the opportunity to freely decide upon any agreement. Mediators shall not utilize their opinions to decide any aspect of the dispute or to coerce the parties or their representatives to accept any resolution option.

While a mediator has no duty to specifically advise a party as to the legal ramifications or consequences of a proposed agreement, there is a duty for the mediator to advise the parties of the importance of understanding such matters and giving them the opportunity to seek such advice if they desire.

Rules for Certified and Court-Appointed Mediators

Rule 10.380 Fees and Expenses

(a) Generally. A mediator holds a position of trust. Fees charged for mediation services shall be reasonable and consistent with the nature of the case.

(b) Guiding Principles in Determining Fees. A mediator shall be guided by the following general principles in determining fees:

(1) Any charges for mediation services based on time shall not exceed actual time spent or allocated.

(2) Charges for costs shall be for those actually incurred.

(3) All fees and costs shall be appropriately divided between the parties.

(4) When time or expenses involve two or more mediations on the same day or trip, the time and expense charges shall be prorated appropriately.

(c) Written Explanation of Fees. A mediator shall give the parties or their counsel a written explanation of any fees and costs prior to mediation. The explanation shall include:

(1) the basis for and amount of any charges for services to be rendered, including minimum fees and travel time;

(2) the amount charged for the postponement or cancellation of mediation sessions and the circumstances under which such charges will be assessed or waived;

(3) the basis and amount of charges for any other items; and

(4) the parties' pro rata share of mediation fees and costs if previously determined by the court or agreed to by the parties.

(d) Maintenance of Records. A mediator shall maintain records necessary to support charges for services and expenses and upon request shall make an accounting to the parties, their counsel, or the court.

(e) Remuneration for Referrals. No commissions, rebates, or similar remuneration shall be given or received by a mediator for a mediation referral.

(f) Contingency Fees Prohibited. A mediator shall not charge a contingent fee or base a fee on the outcome of the process.

Rules for Certified and Court-Appointed Mediators

Rule 10.400 Mediator's Responsibility to the Mediation Process

A mediator is responsible for safeguarding the mediation process. The benefits of the process are best achieved if the mediation is conducted in an informed, balanced and timely fashion. A mediator is responsible for confirming that mediation is an appropriate dispute resolution process under the circumstances of each case.

Committee Notes

2000 Revision. Rules 10.400 - 10.430 include a collection of specific ethical concerns involved in a mediator's responsibility to the mediation process. Incorporated in this new section are the concepts formerly found in rule 10.060 (Self-Determination), rule 10.090 (Professional Advice); and rule 10.110 (Concluding Mediation). In addition, the Committee grouped under this heading ethical concerns dealing with the mediator's duty to determine the existence of potential conflicts, a mandate for adequate time for mediation sessions, and the process for adjournment.

Rule 10.410 Balanced Process

A mediator shall conduct mediation sessions in an even-handed, balanced manner. A mediator shall promote mutual respect among the mediation participants throughout the mediation process and encourage the participants to conduct themselves in a collaborative, non-coercive, and non-adversarial manner.

Committee Notes

2000 Revision. A mediator should be aware that the presence or threat of domestic violence or abuse among the parties can endanger the parties, the mediator, and others. Domestic violence and abuse can undermine the exercise of self-determination and the ability to reach a voluntary and mutually acceptable agreement.

Rule 10.420 Conduct of Mediation

(a) Orientation Session. Upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator, and shall inform the mediation participants that:

(1) mediation is a consensual process;

(2) the mediator is an impartial facilitator without authority to impose a resolution or adjudicate any aspect of the dispute; and

(3) communications made during the process are confidential, except where disclosure is required or permitted by law.

(b) Adjournment or Termination. A mediator shall:

(1) adjourn the mediation upon agreement of the parties;

(2) adjourn or terminate any mediation which, if continued, would result in unreasonable emotional or monetary costs to the parties;

(3) adjourn or terminate the mediation if the mediator believes the case is unsuitable for mediation or any party is unable or unwilling to participate meaningfully in the process;

(4) terminate a mediation entailing fraud, duress, the absence of bargaining ability, or unconscionability; and

(5) terminate any mediation if the physical safety of any person is endangered by the continuation of mediation.

(c) Closure. The mediator shall cause the terms of any agreement reached to be memorialized appropriately and discuss with the parties and counsel the process for formalization and implementation of the agreement.

Committee Notes

2000 Revision. In defining the role of the mediator during the course of an opening session, a mediator should ensure that the participants fully understand the nature of the process and the limits on the mediator's authority. See rule 10.370(c). It is also appropriate for the mediator to inform the parties that mediators are ethically precluded from providing non-mediation services to any party. See rule 10.340(d). Florida Rule of Civil Procedure 1.730(b), Florida Rule of Juvenile Procedure 8.290(o), and Florida Family Law Rule of Procedure 12.740(f) require that any mediated agreement be reduced to writing. Mediators have an obligation to ensure these rules are complied with but are not required to write the agreement themselves.

Rule 10.430 Scheduling Mediation

A mediator shall schedule a mediation in a manner that provides adequate time for the parties to fully exercise their right of self-determination. A mediator shall perform mediation services in a timely fashion, avoiding delays whenever possible.

Rule 10.500 Mediator's Responsibility to the Courts

A mediator is accountable to the referring court with ultimate authority over the case. Any interaction discharging this responsibility, however, shall be conducted in a manner consistent with these ethical rules.

Rules for Certified and Court-Appointed Mediators

Committee Notes

2000 Revision. Rules 10.500 - 10.540 include a collection of specific ethical concerns involved in a mediator's responsibility to the courts. Incorporated in this new section are the concepts formerly found in rule 10.040 (Responsibilities to Courts).

Rule 10.510 Information to the Court

A mediator shall be candid, accurate, and fully responsive to the court concerning the mediator's qualifications, availability, and other administrative matters.

Rule 10.520 Compliance with Authority

A mediator shall comply with all statutes, court rules, local court rules, and administrative orders relevant to the practice of mediation.

Rule 10.530 Improper Influence

A mediator shall refrain from any activity that has the appearance of improperly influencing a court to secure an appointment to a case.

Committee Notes

2000 Revision. Giving gifts to court personnel in exchange for case assignments is improper. De minimis gifts generally distributed as part of an overall business development plan are excepted. See also rule 10.330.

Rule 10.600 Mediator's Responsibility to the Mediation Profession

A mediator shall preserve the quality of the profession. A mediator is responsible for maintaining professional competence and forthright business practices, fostering good relationships, assisting new mediators, and generally supporting the advancement of mediation.

Committee Notes

2000 Revision. Rules 10.600 - 10.690 include a collection of specific ethical concerns involving a mediator's responsibility to the mediation profession. Incorporated in this new section are the concepts formerly found in rule 10.030 (General Standards and Qualifications), rule 10.120 (Training and Education), rule 10.130 (Advertising), rule 10.140 (Relationships with Other Professionals), and rule 10.150 (Advancement of Mediation).

Rules for Certified and Court-Appointed Mediators

Rule 10.610 Marketing Practices

(a) False or Misleading Marketing Practices. A mediator shall not engage in any marketing practice, including advertising, which contains false or misleading information. A mediator shall ensure that any marketing of the mediator's qualifications, services to be rendered, or the mediation process is accurate and honest.

(b) Supreme Court Certification. Any marketing practice in which a mediator indicates that such mediator is "Florida Supreme Court certified" is misleading unless it also identifies at least one area of certification in which the mediator is certified.

(c) Other Certifications. Any marketing publication that generally refers to a mediator being "certified" is misleading unless the advertising mediator has successfully completed an established process for certifying mediators that involves actual instruction rather than the mere payment of a fee. Use of the term "certified" in advertising is also misleading unless the mediator identifies the entity issuing the referenced certification and the area or field of certification earned, if applicable.

(d) Prior Adjudicative Experience. Any marketing practice is misleading if the mediator states or implies that prior adjudicative experience, including, but not limited to, service as a judge, magistrate, or administrative hearing officer, makes one a better or more qualified mediator.

(e) Prohibited Claims or Promises. A mediator shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

(f) Additional Prohibited Marketing Practices. A mediator shall not engage in any marketing practice that diminishes the importance of a party's right to self-determination or the impartiality of the mediator, or that demeans the dignity of the mediation process or the judicial system.

Commentary

2010 Revision. Areas of certification in subdivision (b) include county, family, circuit, dependency and other Supreme Court certifications.

The roles of a mediator and an adjudicator are fundamentally distinct. The integrity of the judicial system may be impugned when the prestige of the judicial office is used for commercial purposes. When engaging in any mediation marketing practice, a former adjudicative officer should not lend the prestige of the judicial office to advance private interests in a manner inconsistent with this rule. For example, the depiction of a mediator in judicial robes or use of the word "judge" with or without modifiers to the mediator's name would be inappropriate. However, an accurate representation of the mediator's judicial experience would not be inappropriate.

Rules for Certified and Court-Appointed Mediators

Rule 10.620 Integrity and Impartiality

A mediator shall not accept any engagement, provide any service, or perform any act that would compromise the mediator's integrity or impartiality.

Rule 10.630 Professional Competence

A mediator shall acquire and maintain professional competence in mediation. A mediator shall regularly participate in educational activities promoting professional growth.

Rule 10.640 Skill and Experience

A mediator shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

Rule 10.650 Concurrent Standards

Other ethical standards to which a mediator may be professionally bound are not abrogated by these rules. In the course of performing mediation services, however, these rules prevail over any conflicting ethical standards to which a mediator may otherwise be bound.

Rule 10.660 Relationships with Other Mediators

A mediator shall respect the professional relationships of another mediator.

Rule 10.670 Relationships with Other Professionals

A mediator shall respect the role of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

Rule 10.680 Prohibited Agreements

With the exception of an agreement conferring benefits upon retirement, a mediator shall not restrict or limit another mediator's practice following termination of a professional relationship.

Committee Notes

2000 Revision. Rule 10.680 is intended to discourage covenants not to compete or other practice restrictions arising upon the termination of a relationship with another mediator or mediation firm. In situations where a retirement program is being contractually funded or supported by a surviving mediator or mediation firm, however, reasonable restraints on competition are acceptable.

Rules for Certified and Court-Appointed Mediators

Rule 10.690 Advancement of Mediation

(a) Pro Bono Service. Mediators have a responsibility to provide competent services to persons seeking their assistance, including those unable to pay for services. A mediator should provide mediation services pro bono or at a reduced rate of compensation whenever appropriate.

(b) New Mediator Training. An experienced mediator should cooperate in training new mediators, including serving as a mentor.

(c) Support of Mediation. A mediator should support the advancement of mediation by encouraging and participating in research, evaluation, or other forms of professional development and public education.

Part III Mediation Certification Applications and Discipline

Rule 10.700 Scope and Purpose

These rules apply to all proceedings before investigatory committees and adjudicatory panels of the Mediator Qualifications and Discipline Review Board (MQDRB) involving applications for certification or discipline of certified and court-appointed mediators. The purpose of these rules is to provide a means for enforcing the Florida Rules for Certified and Court-Appointed Mediators (Rules).

Rule 10.710 Privilege to Mediate

The privilege to mediate as a certified or court-appointed mediator is conditional, confers no vested right, and is revocable for cause.

Rule 10.720 Definitions

(a) Applicant. A new applicant with no previous certifications, an applicant for renewal of a current certification, an applicant for additional certifications, and an applicant for reinstatement of certification.

(b) Court-Appointed. Being appointed by the court or selected by the parties as the mediator in a court-ordered mediation.

(c) Division. One of the standing divisions of the MQDRB established on a regional basis.

(d) DRC or Center. The Florida Dispute Resolution Center of the Office of the State Courts Administrator.

(e) File. To deliver to the office of the Florida Dispute Resolution Center of the Office of the State Courts Administrator pleadings, motions, instruments, and other papers for preservation and reference.

(f) Good Moral Character Inquiry. A process which is initiated based on information which comes to the attention of the DRC relating to the good moral character of a certified or court-appointed mediator or applicant for certification.

(g) Investigator. A certified mediator, lawyer, or other qualified individual retained by the DRC at the direction of a RVCC or a QIC to conduct an investigation.

(h) MQDRB or Board. The Mediator Qualifications and Discipline Review Board.

(i) Panel. Five members of the MQDRB selected by the DRC by rotation to adjudicate the formal charges associated with a rule violation or a good moral character complaint, selected from the division in which the complaint arose unless, in the discretion of the DRC Director, there is good reason to choose members from 1 of the other divisions.

(j) Panel Adviser. A member of The Florida Bar retained by the DRC to assist a panel in performing its functions during a hearing. A panel adviser provides procedural advice only, is in attendance at the hearing, is not part of the panel's private deliberations, but may sit in on deliberations in order to answer procedural questions and is authorized to draft the decision and opinion of the panel for approval by the full panel and execution by the Chair.

(k) Prosecutor. A member of The Florida Bar in good standing retained by the DRC to prosecute a complaint before a hearing panel. The Prosecutor is authorized to perform additional investigation in order to prepare the case, negotiate a consent to charges and an agreement to the imposition of sanctions to be presented to the panel prior to the hearing, and to fully prosecute the case, including any post hearing proceedings.

(l) Qualifications Inquiry Committee or QIC. Four members of the MQDRB, no more than 1 from each division, selected by the DRC by rotation to serve for a 1-year period to conduct investigations and disposition of any good moral character inquiry for any applicant.

(m) Rule Violation Complaint. Formal submission of alleged violation(s) of the Florida Rules for Certified and Court-Appointed Mediators. A complaint may originate from any person or from the DRC.

(n) Rule Violation Complaint Committee or RVCC. Three members of the MQDRB selected by the DRC by rotation to conduct the investigation and disposition of any rule violation complaint.

Rules for Certified and Court-Appointed Mediators

Rule 10.730 Mediator Qualifications and Discipline Review Board

(a) Generally. The Mediator Qualifications and Discipline Review Board (MQDRB) shall be composed of 4 standing divisions that shall be located in the following regions:

(1) Northern: encompassing the First, Second, Third, Fourth, Eighth, and Fourteenth judicial circuits;

(2) Central: encompassing the Fifth, Seventh, Ninth, Tenth,-Eighteenth and Nineteenth judicial circuits;

(3) Southeast: encompassing the Eleventh, Fifteenth, Sixteenth, and Seventeenth judicial circuits; and

(4) Southwest: encompassing the Sixth, Twelfth, Thirteenth, and Twentieth judicial circuits.

Other divisions may be formed by the Supreme Court of Florida based on need.

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

(1) Judges: three circuit, county, or appellate judges;

(2) County Mediators: three certified county mediators;

(3) Circuit Mediators: three certified circuit court mediators;

(4) Family Mediators: three certified family mediators, at least 2 of whom shall be non-lawyers;

(5) Dependency Mediators: not less than 1 nor more than 3 certified dependency mediators, at least 1 of whom shall be a non-lawyer;

(6) Appellate Mediators: not less than 1 nor more than 3 certified appellate mediators; and

(7) Attorneys: three attorneys who are currently or were previously licensed to practice law in Florida for at least 3 years who have or had a substantial trial or appellate practice and are neither certified as mediators nor judicial officers during their terms of service on the MQDRB but who have a knowledge of and experience with mediation practice, statutes, and rules, at least 1 of whom shall have a substantial family law practice.

(c) Appointment and Term. Eligible persons shall be appointed to the MQDRB by the chief justice of the Supreme Court of Florida for a period of 4 years. The terms of the MQDRB members shall be staggered. No member of the MQDRB shall serve more than 3 consecutive terms. The term of any member serving on a committee or panel may continue until the final disposition of their service on a case.

(d) Rule Violation Complaint Committee (RVCC). Each RVCC shall be composed of 3 members of the MQDRB selected by the DRC on a rotation basis. To the extent possible, members of a RVCC shall be selected from the division in which the alleged violation occurred. RVCCs are assigned to a single case; however, they may be assigned to related cases to be disposed of collectively as is deemed appropriate by the DRC Director. A RVCC shall cease to exist after the disposition of the case(s) to which they are assigned. Each RVCC 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 Inquiry Committee (QIC). Each QIC shall be composed of 4 members, 1 from each of the 4 divisions of the MQDRB, selected by the DRC on a rotation basis to serve for a period of 1 year or until completion of all assigned cases, whichever occurs later. The QIC shall be composed of:

(1) one judge or attorney, who shall act as the chair of the committee; and

(2) three certified mediators.

(f) Panels. Each panel shall be composed of 5 members of the MQDRB selected by the DRC on a rotation basis. To the extent possible, members shall be selected from the division in which the alleged violation occurred or, in the case of a good moral character inquiry, from the division based on the Florida address of the subject of the inquiry. Panels are assigned to a single case; however, they may be assigned to related cases to be disposed of collectively as is deemed appropriate by the DRC Director. A panel shall cease to exist after disposing of all cases to which it is assigned. Each panel shall be composed of:

(1) one 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 or inquiry refers; and

(3) one attorney who shall serve as vice-chair. The vice-chair shall act as the chair of the panel in the event of the unavailability of the chair.

(g) Decision making. For all RVCCs, QICs, and panels, while unanimity is the preferred method of decision making, a majority vote shall rule.

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 3 areas of certification, the full complement of 3 representatives per division should be realized.

Rule 10.740 Jurisdiction and Powers

(a) RVCC. Each RVCC shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any complaint. The judge or attorney chairing the RVCC shall have the power to compel:

(1) attendance of any person at a RVCC proceeding;

(2) statements, testimony, and depositions of any person; and

(3) production of documents, records, and other evidence.

The RVCC shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(b) QIC. The QIC shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of: any good moral character inquiry pursuant to rule 10.800; petitions for reinstatement; or other matters referred by the DRC. The judge or attorney chairing the QIC shall have the power to compel:

(1) attendance of any person at a QIC proceeding;

(2) statements, testimony, and depositions of any person; and

(3) production of documents, records, and other evidence.

The QIC shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(c) Panel. Each panel shall have such jurisdiction and powers as are necessary to conduct the proper and speedy adjudication and disposition of any proceeding before it. The panel shall perform the adjudicatory function but shall not have any investigatory functions.

(d) Panel Chair. The chair of a panel shall have the power to:

(1) compel the attendance of witnesses;

(2) issue subpoenas to compel the depositions of witnesses;

(3) order the production of records or other documentary evidence;

(4) hold anyone in contempt prior to and during the hearing;

(5) implement procedures during the hearing;

(6) determine admissibility of evidence; and

(7) decide motions prior to or during the hearing.

The vice-chair of a panel, upon the unavailability of the chair, is authorized only to issue subpoenas or order the production of records or other documentary evidence.

(e) Contempt/Disqualification Judge. One MQDRB judge member from each division shall be designated by the DRC, to serve for a term of 1 year, to hear all motions for contempt at the complaint committee level (RVCC or QIC) and hear motions for disqualification of any member of a RVCC, QIC or panel.

Rule 10.750 Contempt Process

(a) General. Should any person fail, without justification, to respond to the lawful subpoena of a RVCC, QIC, or panel, or, having responded, fail or refuse to answer all inquiries or to turn over evidence that has been lawfully subpoenaed, or should any person be guilty of disorderly conduct, that person may be found to be in contempt.

(b) RVCC or QIC Contempt. A motion for contempt based on the grounds delineated in subdivision (a) above along with a proposed order to show cause may be filed before the contempt/disqualification judge in the division in which the matter is pending. The motion shall allege the specific failure on the part of the person or the specific disorderly or contemptuous act of the person which forms the basis of the alleged contempt.

(c) Panel Contempt. The chair of a panel may hear any motions filed either before or during a hearing or hold any person in contempt for conduct occurring during the hearing.

Rule 10.760 Duty to Inform

A certified mediator shall inform the DRC in writing within 30 days of having been reprimanded, sanctioned, or otherwise disciplined by any court, administrative agency, bar association, or other professional group.

Rule 10.770 Staff

The DRC shall provide all staff support to the MQDRB necessary to fulfill its duties and responsibilities under these rules and perform all other functions specified in these rules.

Rule 10.800 Good Moral Character Inquiry Process

(a) Generally. Good moral character issues of applicants shall be heard by the QIC to determine if an applicant has the good moral character necessary to be certified pursuant to rule 10.110. If, during the term of certification of a mediator, the DRC becomes aware of any information concerning a certified mediator which could constitute credible evidence of a lack of good moral character under rule 10.110, the DRC shall refer such information to a RVCC as a rule violation complaint pursuant to 10.810. The QIC and RVCC shall be informed of the applicant's or mediator's prior disciplinary history.

(b) Meetings. The QIC shall convene as necessary by conference call or other electronic means to consider all cases currently pending before it.

(c) Initial Review. Prior to approving a new or renewal application for certification, the DRC shall review the application and any other information to determine whether the applicant appears to meet the standards for good moral character under rule 10.110. If the DRC's review of an application for certification or renewal raises any questions regarding the applicant's good moral character, the DRC shall request the applicant to supply additional information as necessary. Upon completing this extended review, if the information continues to raise questions regarding the applicant's good moral character, the DRC shall forward the application and supporting material as an inquiry to the QIC.

(d) Process. In reviewing all documentation relating to the good moral character of any applicant, the QIC shall follow the process below.

(1) In relation to a new application, the QIC shall either recommend approval or, if it finds there is reason to believe that the applicant lacks good moral character, the QIC may do 1 or more of the following:

(A) offer the applicant the opportunity to withdraw his/her application prior to the finding of probable cause;

(B) offer the applicant the opportunity to satisfy additional conditions prior to approval of application; or

(C) prepare a complaint and submit the complaint to the DRC for forwarding to the applicant. The complaint shall state with particularity the specific facts and details that form the basis of the complaint. The applicant shall respond within 20 days of receipt of the complaint unless the time is otherwise extended by the DRC in writing.

(i) After the response is received, the QIC may:

1. dismiss the complaint and approve the application; or

2. make a finding of probable cause, prepare formal charges, and refer the matter to the DRC for assignment to a panel.

(2) In relation to a renewal application, the QIC shall either recommend approval or, if it finds there is reason to believe that the renewal applicant lacks good moral character, the QIC may do 1 or more of the following:

(A) offer the renewal applicant the opportunity to withdraw his/her application and may include the necessity to resign any other certifications prior to the finding of probable cause; or

(B) offer the applicant the opportunity to satisfy additional conditions prior to approval of application; or

(C) prepare a complaint and submit same to the DRC for forwarding to the applicant. The complaint shall state with particularity the specific facts and details that form the basis of the complaint. The applicant shall respond to the complaint within 20 days of receipt unless otherwise extended by the DRC in writing.

(i) After the response is received, the QIC may:

1. dismiss the complaint and approve the renewal application; or

2. make a finding of probable cause, prepare formal charges and refer the matter to the DRC for assignment to a panel.

(e) Notification. Within 10 days of a matter being referred to the QIC, the DRC shall send notification to the applicant of the existence of a good moral character inquiry. Notification to the applicant shall be made by certified mail addressed to the applicant's physical address on file with the DRC until such time as the mediator expressly agrees in writing to accept service electronically and then notification shall be made to the applicant's e-mail address on file with the DRC.

(f) Investigation. The QIC, after review of the information presented, may direct the DRC to retain the services of an investigator to assist the QIC in any of its functions. The QIC, or any member or members thereof, may also conduct an investigation if authorized by the QIC chair. Any investigation may include meeting with the applicant or any other person.

(g) QIC Meeting with the Applicant. Notwithstanding any other provision in this rule, at any time while the QIC has jurisdiction, it may meet with the applicant in an effort to resolve the matter. This resolution may include additional conditions to certification if agreed to by the applicant. If additional conditions are accepted, all relevant documentation shall be forwarded to the DRC. These meetings may be in person, by teleconference, or other communication method at the discretion of the QIC.

(h) Notice and Publication. Any consensual resolution agreement with an applicant which includes sanctions shall be distributed by the DRC to all circuits and districts through the chief judges, all trial and appellate court administrators, the ADR directors, and mediation coordinators and published on the DRC page of the Florida Courts website with a summary of the case and a copy of the agreement.

(i) Review. If no other disposition has occurred, the QIC shall review all available information including the applicant's response to a complaint, any investigative report, and any underlying documentation to determine whether there is probable cause to believe that the alleged conduct would constitute evidence of the applicant's lack of good moral character.

(j) No Probable Cause. If the QIC finds no probable cause, it shall close the inquiry by dismissal and so advise the applicant in writing.

(k) Probable Cause and Formal Charges. If the QIC finds probable cause to believe the applicant lacks the good moral character necessary to be certified as a mediator, the QIC shall draft formal charges and forward such charges to the DRC for assignment to a panel. The charges shall include a statement of the matters regarding the applicant's lack of good moral character and references to the rules relating to those matters. At the request of the QIC, the DRC may retain a member in good standing of The Florida Bar to conduct such additional investigation as necessary and to draft the formal charges for the QIC. The formal charges shall be signed by the chair, or, in the alternative, by the remaining 3 members of the QIC.

(l) Withdrawal of Application. A withdrawal of an application does not result in the loss of jurisdiction by the QIC.

(m) Panel. If a matter is referred to a panel under this section, the process shall proceed pursuant to rule 10.820.

Committee Notes

2015 Revision. A lack of good moral character may be determined not only by 1 incident but also by the cumulative effect of many instances. In reviewing an application for matters concerning the good moral character of any applicant, prior disciplinary actions against the applicant, from whatever source, should be provided to the QIC for their review and consideration.

Rule 10.810 Rule Violations Complaint Process

(a) Initiation of Complaint. Any individual or the DRC may make a complaint alleging that a mediator has violated 1 or more provisions of these rules. The complaint from an individual shall be written, sworn to under oath and notarized using a form supplied by the DRC. A complaint initiated by the DRC need not be sworn nor notarized but shall be signed by the director or the DRC staff attorney, if any. The complaint shall state with particularity the specific facts and details that form the basis of the complaint.

(b) Filing. The complaint shall be filed with the DRC. Once received by the DRC, the complaint shall be stamped with the date of receipt.

(c) Assignment to a Rules Violation Complaint Committee (RVCC). Upon receipt of a complaint, the DRC shall assign the complaint to a RVCC within a reasonable period of time. The RVCC shall be informed by the DRC of the mediator's prior disciplinary history. As soon as practical after the receipt of a complaint from an individual, the DRC shall send a notification of the receipt of the complaint to the complainant.

(d) Facial Sufficiency Determination. The RVCC shall convene by conference call to determine whether the allegation(s), if true, would constitute a violation of these rules.

(1) If the RVCC finds a complaint against a mediator to be facially insufficient, the complaint shall be dismissed without prejudice and the complainant shall be so notified and given an opportunity to re-file within a 20-day time period. No complainant whose complaint is dismissed without prejudice pursuant to this section shall be permitted more than 1 additional filing to establish facial sufficiency.

(2) If the complaint is found to be facially sufficient, the RVCC shall prepare a list of any rule or rules which may have been violated and shall submit same to the DRC.

(e) Service. Upon the finding of facial sufficiency of a complaint, the DRC shall serve on the mediator a copy of the list of alleged rule violations, a copy of the complaint, and a link to an electronic copy of these rules or the rules which were in effect at the time of the alleged violation. Service on the mediator shall be made either electronically or by certified mail addressed to the mediator's physical or e-mail address on file with the DRC.

(f) Response. Within 20 days of the receipt of the list of alleged rule violations and the complaint, the mediator shall send a written, sworn under oath, and notarized response to the DRC by registered or certified mail. Unless extended in writing by the DRC, if the mediator does not respond within the 20-day time frame, the allegations shall be deemed admitted and the matter may be referred to a panel.

(g) Resignation of Certification. A resignation of certification by a mediator after the filing of a complaint does not result in the loss of jurisdiction by the MQDRB.

(h) Investigation. The RVCC, after review of the complaint and response, may direct the DRC to appoint an investigator to assist the RVCC in any of its functions. The RVCC, or any member or members thereof, may also conduct an investigation if authorized by the RVCC chair. Any investigation may include meeting with the mediator, the complainant or any other person.

(i) RVCC Meeting with the Complainant and Mediator. Notwithstanding any other provision in this rule, at any time while the RVCC has jurisdiction, it may meet with the complainant and the mediator, jointly or separately, in an effort to resolve the matter. This resolution may include sanctions as set forth in rule 10.840(a) if agreed to by the mediator. If sanctions are accepted, all relevant documentation shall be forwarded to the DRC. Such meetings may be in person, by teleconference, or other communication method, at the discretion of the RVCC.

(j) Notice and Publication. Any consensual resolution agreement which includes sanctions shall be distributed by the DRC to all circuits and districts through the chief judges, all trial and appellate court administrators, the ADR directors, and mediation coordinators and published on the DRC page of the Florida Courts website with a summary of the case, the rule or rules listed as violated, the circumstances surrounding the violation of the rules, and a copy of the agreement.

(k) Review. If no other disposition has occurred, the RVCC shall review the complaint, the response, and any investigative report, including any underlying documentation, to determine whether there is probable cause to believe that the alleged misconduct occurred and would constitute a violation of the rules.

(l) No Probable Cause. If the RVCC finds no probable cause, it shall dismiss the complaint with prejudice and so advise the complainant and the mediator in writing. Such decision shall be final.

(m) Probable Cause Found. If the RVCC finds that probable cause exists, it may:

(1) draft formal charges and forward such charges to the DRC for assignment to a panel; or
(2) decide not to proceed with the case by filing an Order of Non-Referral containing a short and plain statement of the rules for which probable cause was found and the reason or reasons for non-referral, and so advise the complainant and the mediator in writing.

(n) Formal Charges and Counsel. If the RVCC finds probable cause that the mediator has violated 1 or more of these rules, the RVCC shall draft formal charges and forward such charges to the DRC for assignment to a panel. The charges shall include a statement of the matters asserted in the complaint relevant to the finding of rules violations, any additional information relevant to the finding of rules violations, and references to the particular sections of the rules violated. The formal charges shall be signed by the chair, or, in the alternative, by the other 2 members of the RVCC. At the request of the RVCC, the DRC may retain a member in good standing of The Florida Bar to conduct such additional investigation as necessary and draft the formal charges.

(o) Dismissal. Upon the filing of a stipulation of dismissal signed by the complainant and the mediator, and with the concurrence of the RVCC, which may withhold concurrence, the complaint shall be dismissed with prejudice.

Rule 10.820 Hearing Panel Procedures

(a) Notification of Formal Charges. Upon the referral of formal charges to the DRC from a RVCC or QIC, the DRC shall promptly send a copy of the formal charges to the mediator or applicant and complainant, if any, by certified mail, return receipt requested.

(b) Prosecutor. Upon the referral of formal charges, the DRC shall retain the services of a member in good standing of The Florida Bar to prosecute the case.

(c) Panel Adviser. After the referral of formal charges, the DRC may retain the services of a member in good standing of The Florida Bar to attend the hearing and advise and assist the panel on procedural and administrative matters.

(d) Assignment to Panel. After the referral of formal charges to the DRC, the DRC shall send to the complainant, if any, and the mediator or applicant a Notice of Assignment of the case to a panel. No member of the RVCC or QIC that referred the formal charges shall serve as a member of the panel.

(e) Assignment of Related Cases. If the DRC assigns related cases to a panel for a single hearing, any party to those cases may make a motion for severance which shall be heard by the chair of the panel.

(f) Time of the Hearing. Absent stipulation of the parties or good cause, the DRC shall set the hearing for a date not more than 120 days nor less than 30 days from the date of the notice of assignment of the case to the panel. Within 10 days of the scheduling of the hearing, a notice of hearing shall be sent by certified mail to the mediator or applicant and his or her attorney, if any.

(g) Admission to Charges. At any time prior to the hearing, the panel may accept an admission to any or all charges and impose sanctions upon the mediator or applicant. The panel shall not be required to meet in person to accept any such admission and imposition of sanctions.

(h) Dismissal by Stipulation. Upon the filing of a stipulation of dismissal signed by the complainant, if any, the mediator or applicant, and the prosecutor and with the review and concurrence of the panel, which concurrence may be withheld, the case shall be dismissed with prejudice. Upon dismissal, the panel shall promptly forward a copy of the dismissal order to the DRC.

(i) Procedures for Hearing. The procedures for a hearing shall be as follows:

(1) Panel Presence. No hearing shall be conducted without the chair being physically present. All other panel members must be physically present unless the chair determines that exceptional circumstances are shown to exist which include, but are not limited to, unexpected illness, unexpected incapacity, or unforeseeable and unavoidable absence of a panel member. Upon such determination, the hearing may proceed with no fewer than 4 panel members, of which 1 is the chair. In the event only 4 of the panel members are present, at least 3 members of the panel must agree on the decisions of the panel. If 3 members of the panel cannot agree on the decision, the hearing shall be rescheduled.

(2) Decorum. The hearing may be conducted informally but with decorum.

(3) Oath. Anyone testifying in the hearing shall swear or affirm to tell the truth.

(4) Florida Evidence Code. The rules of evidence applicable to trials of civil actions shall apply but are to be liberally construed.

(5) Testimony. Testimony at the hearing may be given through the use of telephonic or other communication equipment upon a showing of good cause to the chair of the panel within a reasonable time prior to the hearing.

(6) Right to Defend. A mediator or applicant shall have the right: to defend against all charges; to be represented by an attorney; to examine and cross-examine witnesses; to compel the attendance of witnesses to testify; and to compel the production of documents and other evidentiary matter through the subpoena power of the panel.

(7) Mediator or Applicant Discovery. The prosecutor shall, upon written demand of a mediator, applicant, or counsel of record, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing; copies of all written statements and transcripts of the testimony of such witnesses in the possession of the prosecutor or the DRC which are relevant to the subject matter of the hearing and which have not previously been furnished; and copies of any exhibits which are expected to be offered at the hearing.

(8) Prosecutor Discovery. The mediator, applicant, or their counsel of record shall, upon written demand of the prosecutor, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing; copies of all written statements and transcripts of the testimony of such witnesses in the possession of the mediator, applicant or their counsel of record which are relevant to the subject matter of the hearing and which have not previously been furnished; and copies of any exhibits which are expected to be offered at the hearing.

(9) Complainant's Failure to Appear. Absent a showing of good cause, if the complainant fails to appear at the hearing, the panel may dismiss the case.

(10) Mediator's or Applicant's Failure to Appear. If the mediator or applicant has failed to answer the underlying complaint or fails to appear, the panel may proceed with the hearing.

(A) If the hearing is conducted in the absence of a mediator or applicant who failed to respond to the underlying complaint and the allegations were therefore admitted, no further notice to the mediator or applicant is necessary and the decision of the panel shall be final.

(B) If the hearing is conducted in the absence of a mediator or applicant who submitted a response to the underlying complaint, the DRC shall notify the mediator or applicant that the hearing occurred and whether the matter was dismissed or if sanctions were imposed. The mediator or applicant may petition

for rehearing by showing good cause for such absence. A petition for rehearing must be received by the DRC and the prosecutor no later than 10 days from receipt of the DRC notification. The prosecutor shall file a response, if any, within 5 days from receipt of the petition for rehearing. The disposition of the petition shall be decided solely by the chair of the panel and any hearing required by the chair of the panel may be conducted telephonically or by other communication equipment.

(11) Reporting of Proceedings. Any party shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings reported and transcribed by a court reporter at the party's expense.

(j) Decision of Panel. Upon making a determination that the case shall be dismissed or that the imposition of sanctions or denial of application is appropriate, the panel shall promptly notify the DRC of the decision including factual findings and conclusions signed by the chair of the panel. The DRC shall thereafter promptly mail a copy of the decision to all parties.

(k) Notice to Circuits and Districts. In every case in which a mediator or applicant has had sanctions imposed by agreement or decision, such agreement or decision shall be sent by the DRC to all circuits and districts through the chief judges, all trial and appellate court administrators, the ADR directors, and mediation coordinators.

(l) Publication. Upon the imposition of sanctions, whether by consent of the mediator or applicant and approval by the panel or by decision of the panel after a hearing, the DRC shall publish the name of the mediator or applicant, a summary of the case, a list of the rule or rules which were violated, the circumstances surrounding the violation, and a copy of the decision of the panel. Such publication shall be on the DRC page of the Florida Courts website and in any outside publication at the discretion of the DRC Director.

Rule 10.830 Burden of Proof

(a) Rule Violation. The burden of proof for rule violations other than good moral character is clear and convincing evidence.

(b) Good Moral Character. The burden of proof for any good moral character issue is the preponderance of the evidence.

Rules for Certified and Court-Appointed Mediators

Rule 10.840 Sanctions

(a) Generally. The mediator or applicant may be sanctioned pursuant to the following:

(1) by agreement with a RVCC or QIC;

(2) by agreement with a panel to the imposition of sanctions; or

(3) by imposition of sanctions by a panel as a result of their deliberations.

(b) Types of Sanctions. Sanctions may include 1 or more of the following:

(1) denial of an application;

(2) oral admonishment;

(3) written reprimand;

(4) additional training, which may include the observation of mediations;

(5) restriction on types of cases which can be mediated in the future;

(6) supervised mediation;

(7) suspension for a period of up to 1 year;

(8) decertification or, if the mediator is not certified, bar from service as a mediator under any rule of court or statute pertaining to certified or court-appointed mediators;

(9) costs incurred prior to, during, and subsequent to the hearing. The specific categories and amounts of such costs are to be decided by the chair of the panel upon submission of costs by the DRC or the prosecutor, and shall include only:

(A) all travel expenses for members of the panel;

(B) all travel expenses for witnesses, prosecutor, panel adviser, and DRC Director or designee;

(C) court reporter fees and transcription;

(D) fees and costs for all investigation services;

(E) telephone/conference call charges;

(F) postage and delivery;

(G) notary charges;

(H) interpretation and translation services; and

(I) copy costs.

(10) any other sanctions as deemed appropriate by the panel.

(c) Failure to Comply With Sanctions.

(1) If there is a reasonable belief that a mediator or applicant failed to comply with any sanction, unless otherwise provided for in the agreement with a RVCC or QIC or the decision of the panel, the DRC may file a motion for contempt with the Contempt/Disqualification Judge of the division in which the sanctions were agreed to or imposed and serve the mediator or applicant with a copy of the motion.

(2) The mediator or applicant shall file a response within 20 days of receipt of the motion for contempt.

(3) If no response is filed, the allegations of the motion are admitted.

(4) The DRC shall thereafter set a hearing with the Contempt/Disqualification Judge and provide notice to the mediator or applicant. The holding of a hearing shall not preclude subsequent hearings on any other alleged failure.

(5) Any sanction in effect at the time that the DRC has a reasonable belief that a violation of the sanctions has occurred shall continue in effect until a decision is reached by the Contempt/Disqualification Judge.

(6) A finding by the Contempt/Disqualification Judge that there was a willful failure to substantially comply with any imposed or agreed-to sanction shall result in the automatic decertification of the mediator for no less than 2 years after which the mediator shall be required to apply as a new applicant.

Rules for Certified and Court-Appointed Mediators

Rule 10.850 Suspension, Decertification, Denial of Application, and Removal

(a) Suspension. During the period of suspension, compliance with all requirements for certification must be met including, but not limited to, submittal of renewal application, fees and continuing education requirements.

(b) Reinstatement After Suspension. A mediator who has been suspended shall be reinstated as a certified mediator, unless otherwise ineligible, upon the expiration of the suspension period and satisfaction of any additional obligations contained in the sanction document.

(c) Automatic Decertification or Automatic Denial of Application. A mediator or applicant shall automatically be decertified or denied application approval without the need for a hearing upon the following:

(1) Conviction of Felony of Certified Mediator. If the DRC finds that a certified mediator has a felony conviction, the mediator shall automatically be decertified from all certifications and notification and publication of such decertification shall proceed pursuant to rule 10.820(j) and (k). The decertified mediator may not apply for any certification for a period of 2 years or until restoration of civil rights, whichever comes later.

(2) Conviction of Felony of Applicant. If the DRC finds that an applicant for certification has a felony conviction and has not had civil rights restored, the application shall be automatically denied and may not be resubmitted for consideration until restoration of civil rights.

(3) Revocation of Professional License of Certified Mediator. If the DRC finds that a certified mediator has been disbarred from any state or federal bar or has had any professional license revoked, the mediator shall be automatically decertified and cannot reapply for certification for a period of 2 years.

(4) Revocation of Professional License of Applicant. If the DRC finds that an applicant for certification has been disbarred from any state or federal bar or has had any professional license revoked, the applicant shall be automatically denied approval and cannot reapply for certification for a period of 2 years.

(5) Notification and Publication. In the event of an automatic denial of an application or decertification, the DRC shall follow all procedures for notification and publication as stated in rule 10.820(k) and (l).

(d) Decertified Mediators. If a mediator or applicant has been decertified or barred from service pursuant to these rules, the mediator or applicant shall not thereafter be assigned or appointed to mediate a case pursuant to court rule or order or be designated as a mediator by the parties in any court proceeding.

(e) Removal from Supreme Court Committees. If a member of the MQDRB, the ADR Rules and Policy Committee, the Mediator Ethics Advisory Committee, the Mediation Training Review Board, or any supreme court committee related to alternative dispute resolution processes established in the future, is disciplined, suspended, or decertified, the DRC shall immediately remove that member from the committee or board on which the member serves.

(f) Reinstatement after Decertification.

(1) Except if inconsistent with rule 10.110, or subdivision (b) of this rule, a mediator who has been decertified may be reinstated as a certified mediator after application unless the document decertifying the mediator states otherwise.

(2) Unless a greater time period has been imposed by a panel or rule, no application for reinstatement may be submitted prior to 1 year after the date of decertification.

(3) The reinstatement procedures shall be as follows:

(A) A petition for reinstatement shall be made in writing, sworn to by the petitioner, notarized under oath, and filed with the DRC.

(B) The petition shall contain:

(i) a new and current application for mediator certification along with required fees;

(ii) a description of the offense or misconduct upon which the decertification was based, together with the date of such decertification and the case number;

(iii) a copy of the sanction document decertifying the mediator;

(iv) a statement of facts claimed to justify reinstatement as a certified mediator; and

(v) if the period of decertification is 2 years or more, the petitioner shall complete a certified mediation training program of the type for which the

petitioner seeks to be reinstated and complete all mentorship and other requirements in effect at the time.

(C) The DRC shall refer the petition for reinstatement to the current QIC.

(D) The QIC shall review the petition for reinstatement. If there are no matters which make the mediator otherwise ineligible and if the petitioner is found to have met the requirements for certification, the QIC shall notify the DRC and the DRC shall reinstate the petitioner as a certified mediator. However, if the decertification was for 2 or more years, reinstatement shall be contingent on the petitioner's completion of a certified mediation training program of the type for which the petitioner seeks to be reinstated.

Rule 10.860 Subpoenas

(a) RVCC or QIC. Subpoenas for the production of documents or other evidence and for the appearance of any person before a RVCC or QIC, or any member thereof, may be issued by the chair of the RVCC or QIC. If the chair is unavailable, the subpoena may be issued by the remaining members of the RVCC or QIC.

(b) Panel. Subpoenas for the attendance of witnesses and the production of documents or other evidence before a panel may be issued by the chair of the panel. If the chair of a panel is unavailable, the subpoena may be issued by the vice-chair.

(c) Service. Subpoenas may be served in any manner provided by law for the service of witness subpoenas in a civil action.

(d) Failure to Obey. Any person who, without good cause shown, fails to obey a duly served subpoena may be cited for contempt in accordance with rule 10.750.

Rule 10.870 Confidentiality

(a) Generally. Until the finding of probable cause, all communications and proceedings shall be confidential. Upon the filing of formal charges, the formal charges and all documents created subsequent to the filing of formal charges shall be public with the exception of those matters which are otherwise confidential under law or rule of the supreme court, regardless of the outcome of any appeal. If a consensual agreement is reached between a mediator or applicant and a RVCC or QIC, only a summary of the allegations and a link or copy of the agreement may be released to the public and placed on the DRC page of the Florida Courts website.

(b) Breach of Confidentiality. Violation of confidentiality by a member of the MQDRB shall subject the member to discipline under these rules and removal from the MQDRB by the chief justice of the Supreme Court of Florida.

Committee Notes

2008 Revision. The recent adoption of the Florida Mediation Confidentiality and Privilege Act, sections 44.401 - 44.406, Florida Statutes, renders the first paragraph of the 1995 Revision Committee Notes inoperative. The second paragraph explains the initial rationale for the rule, which is useful now from a historical standpoint.

1995 Revision. The Committee believed the rule regarding confidentiality should be amended in deference to the 1993 amendment to section 44.102, Florida Statutes, that engrafted an exception to the general confidentiality requirement for all mediation sessions for the purpose of investigating complaints filed against mediators. Section 44.102(4) specifically provides that "the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation" and that "[Prior] to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record."

These provisions created a substantial potential problem when read in conjunction with the previous rule on confidentiality, which made public all proceedings after formal charges were filed. In addition to the possibly substantial burden of redacting the files for public release, there was the potentially greater problem of conducting panel hearings in such a manner as to preclude the possibility that confidential communications would be revealed during testimony, specifically the possibility that any public observers would have to be removed prior to the elicitation of any such communication only to be allowed to return until the next potentially confidential revelation. The Committee believes that under the amended rule the integrity of the disciplinary system can be maintained by releasing the results of any disciplinary action together with a redacted transcript of panel proceedings, while still maintaining the integrity of the mediation process.

Rule 10.880 Disqualification and Removal of Members of a Committee, Panel or Board

(a) Disqualification of Member. A member of the MQDRB is disqualified from serving on a RVCC, QIC or panel involving that member's own discipline or decertification.

(b) Party Request for Disqualification of a MQDRB Member. Any party may move to disqualify a member of the committee or panel before which the case is pending. Factors to be considered include, but are not limited to:

(1) the member or some person related to that member is interested in the result of the case;

(2) the member is related to an attorney or counselor of record in the case; or

(3) the member is a material witness for or against 1 of the parties to the case.

(c) Facts to Be Alleged. Any motion to disqualify shall be in writing, allege the facts relied on to show the grounds for disqualification and shall be made under oath by the moving party.

(d) Time for Motion. A party shall file a motion to disqualify with the DRC not later than 10 days after the movant discovered or reasonably should have discovered the facts which would constitute grounds for disqualification.

(e) Action by Contempt/Disqualification Judge. One of the Contempt/Disqualification Judges shall rule on any motions for disqualification.

(f) Board Member Initiative. A member of any committee or panel may disqualify him/herself on the member's own initiative at any time.

(g) Replacement. Depending on the circumstances, the DRC may replace any disqualified member.

(h) Qualifications for New Member. Each new member serving as a replacement shall have the same qualifications as the disqualified member, but, if needed, may be chosen from a different division of the MQDRB.

Rule 10.890 Limitation on Time to Initiate a Complaint

(a) Rule Violations. Except as otherwise provided in this rule, complaints alleging violations of the Florida Rules for Certified and Court-Appointed Mediators shall not be filed later than 2 years after the date on which the party had a reasonable opportunity to discover the violation, but in no case more than 4 years after the date of the violation.

(b) Felonies. There shall be no limit on the time in which to file a complaint alleging a conviction of a felony by an applicant or mediator.

(c) Good Moral Character. A complaint alleging lack of good moral character in connection with an application under these rules shall not be filed later than 4 years after the date of the discovery by the DRC of the matter(s) evidencing a lack of good moral character.

Rules for Certified and Court-Appointed Mediators

Rule 10.900 Supreme Court Chief Justice Review

(a) Right of Review. Any mediator or applicant found to have committed a violation of these rules or otherwise sanctioned by a hearing panel shall have a right of review of that action. Review of this type shall be by the chief justice of the Supreme Court of Florida or by the chief justice's designee. A mediator shall have no right of review of any resolution reached under rule 10.800(g) and 10.810(i).

(b) Rules of Procedure. The Florida Rules of Appellate Procedure, to the extent applicable and except as otherwise provided in this rule, shall control all appeals of mediator disciplinary matters.

(1) The jurisdiction to seek review of disciplinary action shall be invoked by filing a Notice of Review of Mediator Disciplinary Action with the clerk of the supreme court within 30 days of the panel's decision. A copy shall be provided to the DRC.

(2) The notice of review shall be substantially in the form prescribed by rule 9.900(a), Florida Rules of Appellate Procedure. A copy of the panel decision shall be attached to the notice.

(3) Appellant's initial brief, accompanied by an appendix as prescribed by rule 9.210, Florida Rules of Appellate Procedure, shall be served within 30 days of submitting the notice of review. Additional briefs shall be served as prescribed by rule 9.210, Florida Rules of Appellate Procedure.

(c) Standard of Review. The review shall be conducted in accordance with the following standard of review:

(1) The chief justice or designee shall review the findings and conclusions of the panel using a competent substantial evidence standard, neither reweighing the evidence in the record nor substituting the reviewer's judgment for that of the panel.

(2) Decisions of the chief justice or designee shall be final upon issuance of a mandate under rule 9.340, Florida Rules of Appellate Procedure.

Rule 10.910 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, 2 from each of the 4 divisions of the Mediator Qualifications and Discipline Review Board and the ninth member from any of the 4 divisions. No member of the Mediator Qualifications and Discipline Review Board shall serve on the committee.

(c) Membership and Terms. The membership of the committee, appointed by the chief justice, shall be composed of 1 county mediator, 1 family mediator, 1 circuit mediator, 1 dependency mediator, 1 appellate mediator and 4 additional members who hold any type of Florida Supreme Court mediator certification. 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 by the Dispute Resolution Center, in its newsletter, or by posting on the DRC website, 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.

Florida Rules for Court-Appointed Arbitrators

Part I Arbitrator Qualifications

Rule 11.010 Qualification

Arbitrators shall be members of The Florida Bar, except where otherwise agreed by the parties. The chief arbitrator shall have been a member of The Florida Bar for at least five years. Individuals who are not members of The Florida Bar may serve as arbitrators only on an arbitration panel and then only upon the written agreement of all parties.

Rule 11.020 Training

All arbitrators, except as noted below, shall attend 4 hours of training in a program approved by the Supreme Court of Florida. This rule shall not preclude the parties from agreeing to use the services of an arbitrator who has not completed the required training. Any former Florida trial judge who has not completed the training shall be exempt from the training requirements upon submission of documentation of such experience to the chief judge. The Supreme Court or chief justice may grant a waiver of the training requirement to any group possessing special qualifications which obviate the necessity of such training.

Florida Rules for Court-Appointed Arbitrators

Part II Standards of Professional Conduct

Rule 11.030 Preamble

(a) Scope; Purpose. These rules are intended to instill and promote public confidence in arbitration conducted pursuant to Chapter 44, Florida Statutes, and to be a guide to arbitrator conduct. As with other forms of dispute resolution, arbitration must be built on public understanding and confidence. Persons serving as arbitrators are responsible to the parties, the public, and the courts to conduct themselves in a manner which will merit that confidence. These rules apply to all arbitrators who participate in arbitration conducted pursuant to Chapter 44 and are a guide to arbitrator conduct in discharging their professional responsibilities in the arbitration of cases in the State of Florida.

(b) Arbitration Defined. Pursuant to chapter 44, Florida Statutes, arbitration is a process whereby a neutral third person or panel considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

Rule 11.040 General Standards and Qualifications

(a) Integrity, Impartiality, and Competence. Integrity, impartiality, and professional competence are essential qualifications of any arbitrator. An arbitrator is in a relation of trust to the parties and shall adhere to the highest standards of integrity, impartiality, and professional competence in rendering professional service.

(1) An arbitrator shall not accept any engagement, perform any service, or undertake any act which would compromise the arbitrator's integrity.

(2) An arbitrator shall maintain professional competence in arbitration skills including, but not limited to:

(A) staying informed of and abiding by all statutes, rules, and administrative orders relevant to the practice of arbitration conducted pursuant to Chapter 44, Florida Statutes; and

(B) regularly engaging in educational activities promoting professional growth.

(3) An arbitrator shall decline appointment, withdraw, or request technical assistance when the arbitrator decides that a case is beyond the arbitrator's competence.

(b) Concurrent Standards. Nothing herein shall replace, eliminate, or render inapplicable relevant ethical standards, not in conflict with these rules, which may be imposed upon any arbitrator by virtue of the arbitrator's professional calling.

(c) Continuing Obligations. The ethical obligations begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, whenever specifically set forth in these rules, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator, and certain ethical obligations continue even after the decision in the case has been given to the parties.

Rule 11.050 Responsibilities to the Courts

An arbitrator shall be candid, accurate, and fully responsive to a court concerning the arbitrator's qualifications, availability, and all other pertinent matters. An arbitrator shall observe all administrative policies, local rules of court, applicable procedural rules, and statutes. An arbitrator is responsible to the judiciary for the propriety of the arbitrator's activities and must observe judicial standards of fidelity and diligence. An arbitrator shall refrain from any activity which has the appearance of improperly influencing a court to secure placement on a roster or appointment to a case, including gifts or other inducements to court personnel.

Rule 11.060 The Arbitration Process

(a) Avoidance of Delays. An arbitrator shall plan a work schedule so that present and future commitments will be fulfilled in a timely manner. An arbitrator shall refrain from accepting appointments when it becomes apparent that completion of the arbitration assignments accepted cannot be completed in a timely fashion. An arbitrator shall perform the arbitrator's services in a timely and expeditious fashion, avoiding delays whenever possible.

(b) Conduct of Proceedings.

(1) An arbitrator shall conduct the proceedings evenhandedly and treat all parties with equality and fairness at all stages of the proceedings.

(2) An arbitrator must afford a hearing which provides both parties the opportunity to present their respective positions pursuant to the arbitration rules.

(3) An arbitrator should be patient and courteous to the parties, to their lawyers, and to the witnesses and should encourage similar conduct by all participants in the proceedings.

(c) Decision-Making.

(1) An arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.

(2) An arbitrator should not delegate the duty to decide to any other person.

(3) If all parties agree upon a settlement of the issues in dispute and request an arbitrator to embody that agreement in an award, an arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of the settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.

(d) The Award. The award should be definite, certain, and as concise as possible.

Rule 11.070 Ex Parte Communication

(a) General. Arbitrators communicating with the parties should avoid impropriety or the appearance of impropriety.

(b) When Permissible. Arbitrators should not discuss a case with any party in the absence of each other party, except in the following circumstances:

(1) Discussions may be held with a party concerning such matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express its views.

(2) If a party fails to be present at a hearing after having been given due notice, the arbitrator may discuss the case with any party who is present.

(3) If all parties request or consent that such discussion take place.

(c) Written Communications. Whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to each other party. Whenever an arbitrator receives any written communication concerning the case from one party which has not already been sent to each other party, the arbitrator should do so.

Florida Rules for Court-Appointed Arbitrators

Rule 11.080 Impartiality

(a) Impartiality. An arbitrator shall be impartial and advise all parties of any circumstances bearing on possible bias, prejudice, or impartiality. Impartiality means freedom from favoritism or bias in word, action, and appearance.

(1) Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, fear of criticism, or self-interest.

(2) An arbitrator shall withdraw from an arbitration if the arbitrator believes the arbitrator can no longer be impartial.

(3) An arbitrator shall not give or accept a gift, request, favor, loan, or other item of value to or from a party, attorney, or any other person involved in and arising from any arbitration process.

(4) After accepting appointment, and for a reasonable period of time after the decision of the case, an arbitrator should avoid entering into family, business, or personal relationships which could affect impartiality or give the appearance of partiality, bias, or influence.

(b) Conflicts of Interest and Relationships; Required Disclosures; Prohibitions

(1) An arbitrator must disclose any current, past, or possible future representation or consulting relationship with any party or attorney involved in the arbitration. Disclosure must also be made of any pertinent pecuniary interest. All such disclosures shall be made as soon as practical after the arbitrator becomes aware of the interest or relationship.

(2) An arbitrator must disclose to the parties or to the court involved any close personal relationship or other circumstance, in addition to those specifically mentioned earlier in this rule, which might reasonably raise a question as to the arbitrator's impartiality. All such disclosures shall be made as soon as practical after the arbitrator becomes aware of the interest or relationship.

(3) The burden of disclosure rests on the arbitrator. After disclosure, the arbitrator may serve if both parties so desire. If the arbitrator believes or perceives that there is a clear conflict of interest, the arbitrator should withdraw, irrespective of the expressed desire of the parties.

(4) An arbitrator shall not use the arbitration process to solicit, encourage, or otherwise incur future professional services with either party.

Florida Rules for Court-Appointed Arbitrators

Committee Notes

The duty to disclose potential conflicts includes the fact of membership on a board of directors, full-time or part-time service as a representative or advocate, consultation work for a fee, current stock or bond ownership (other than mutual fund shares or appropriate trust arrangements), or any other pertinent form of managerial, financial or immediate family interest of the party involved. An arbitrator who is a member of a law firm is obliged to disclose any representational relationship the member firm may have had with the parties. Arbitrators establish personal relationships with many representatives, attorneys, arbitrators, other members of various professional associations. There should be no attempt to be secretive about such friendships or acquaintances, but disclosure is not necessary unless some feature of a particular relationship might reasonably appear to impair impartiality.

Rule 11.090 Relationship With Other Professionals

When there is more than one arbitrator, the arbitrators should afford each other the full opportunity to participate in all aspects of the proceedings.

Rule 11.100 Fees and Expenses

An arbitrator occupies a position of trust with respect to the parties and the courts. In charging for services and expenses, the arbitrator must be governed by the same high standard of honor and integrity which applies to all other phases of the arbitrator's work. An arbitrator must keep total charges for services and expenses reasonable and consistent with the nature of the case or within statutory payment limitations.

Rule 11.110 Training and Education

(a) Training. An arbitrator is obligated to acquire knowledge and training in the arbitration process, including an understanding of appropriate professional ethics, standards, and responsibilities. Upon request, an arbitrator is required to disclose the extent and nature of the arbitrator's training and experience.

(b) Continuing Education. It is important that arbitrators continue their professional education throughout the period of their active service. An arbitrator shall be personally responsible for ongoing professional growth, including participation in such continuing education as may be required by law.

(c) New Arbitrator Training. An experienced arbitrator should cooperate in the training of new arbitrators.

Florida Rules for Court-Appointed Arbitrators

Rule 11.120 Advertising

All advertising by an arbitrator must represent honestly the services to be rendered. No claims of specific results or promises which imply favoritism to one side should be made for the purpose of obtaining business. An arbitrator shall make only accurate statements about the arbitration process, its costs and benefits, and the arbitrator's qualifications.

Part III Discipline

Rule 11.130 Chief Judge Responsibility

Arbitrators shall serve at the pleasure of the chief judge, who shall be responsible for enforcing the rules of conduct for arbitrators appointed pursuant to chapter 44, Florida Statutes.

Committee Notes

The Florida Supreme Court Standing Committee on Mediator and Arbitrator Rules believes that arbitrator discipline, unlike mediator discipline, should be administered by the chief judge rather than by a board appointed for that purpose. The primary reason for this distinction is that there is presently no statewide arbitrator certification process. Rather, arbitrators are made eligible by placement on a list by the chief judge. See Florida Rule of Civil Procedure 1.810(a). It was the feeling of the committee that a method of removal consistent with that of appointment, that is, discretion of the chief judge, would also be appropriate. The rules make the chief judge responsible for enforcing the rules of conduct for arbitrators appointed pursuant to chapter 44, Florida Statutes. The committee reserves the right to reconsider the effectiveness of this method of discipline after observing operation for a period of time. If this method of removal proves to be ineffective, a board to conduct discipline may need to be appointed. It should, however, be noted that a similar system for the removal of quasi-judicial officers exists in relation to masters, Florida Rule of Civil Procedure 1.490(a), child support enforcement officers, Florida Rule of Civil Procedure 1.491(c), and traffic magistrates, Florida Rule of Traffic Court 6.630(c).

Appeals from decisions of the chief judge shall be taken in the same manner as any other matter appealed from the chief judge.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rules for Qualified & Court-Appointed Parenting Coordinators

Part I Standards

Rule 15.000 Applicability of Standards

These standards apply to all qualified parenting coordinators and court-appointed parenting coordinators. A qualified parenting coordinator is anyone who is qualified to serve as a parenting coordinator pursuant to the parenting coordination section of Chapter 61, Florida Statutes, and has been approved by the court to serve as a qualified parenting coordinator or to be on a qualified parenting coordination panel for any circuit.

Rule 15.010 Parenting Coordination Defined

Parenting coordination is a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations, and, with the prior approval of the parents and the court, making limited decisions within the scope of the court's order of referral. For the purposes of these standards, “parent” refers to the child’s mother, father, legal guardian, or other person who is acting as a parent and guardian.

Rule 15.020 Parenting Coordination Concepts

Parenting coordination is a child-focused alternative dispute resolution process that emphasizes the needs and interests of children, parents and families. It is based on the concepts of communication, education, negotiation, facilitation, and problem-solving. The role of a parenting coordinator includes the integration of skills and core knowledge drawn primarily from the areas of mental health, law, and conflict resolution.

Rule 15.030 Competence

(a) Professional Competence. Parenting coordinators shall acquire and maintain professional competence in parenting coordination. A parenting coordinator shall regularly participate in educational activities promoting professional growth.

(b) Circumstances Affecting Role. Parenting coordinators shall withdraw from the parenting coordination role if circumstances arise which impair the parenting coordinators’ competency.

(c) Skill and Experience. A parenting coordinator shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the parenting coordinator’s skill or experience.

(d) Knowledge. A parenting coordinator shall maintain knowledge of all current statutes, court rules, local court rules, and court and administrative orders relevant to the parenting coordination process.

Rule 15.040 Integrity

(a) Avoiding Dual Relationships. A parenting coordinator shall not accept the role of parenting coordinator if there has been a prior personal, professional or business relationship with the parties or their family members. A parenting coordinator shall not enter into a personal, professional or business relationship with the parties or their family members during the parenting coordination process or for a reasonable time after the parenting coordination process has concluded.

(b) Respect for Diversity. Parenting coordinators shall not allow their personal values, morals, or religious beliefs to undermine or influence the parenting coordination process or their efforts to assist the parents and children. If the parenting coordinator has personal, moral, or religious beliefs that will interfere with the process or the parenting coordinator's respect for persons involved in the parenting coordination process, the parenting coordinator shall decline the appointment or withdraw from the process.

(c) Inappropriate Activity. Parenting coordinators shall not engage in any form of harassment or exploitation of parents, children, students, trainees, supervisees, employees, or colleagues.

(d) Misrepresentation. A parenting coordinator shall not intentionally or knowingly misrepresent any material fact or circumstance in the course of conducting a parenting coordination process.

(e) Demeanor. A parenting coordinator shall be patient, dignified, and courteous during the parenting coordination process.

(f) Maintaining Integrity. A parenting coordinator shall not accept any engagement, provide any service, or perform any act that would compromise the parenting coordinator's integrity.

(g) Avoiding Coercion. A parenting coordinator shall not unfairly influence the parties as a means to achieve a desired result.

Committee Notes

Any sexual relationship between a parenting coordinator and a party or a party's family member is a form of exploitation and creates a dual relationship and therefore would be considered a violation of these standards.

A parenting coordinator may at times direct a party's conduct. An example is when a parenting coordinator encourages compliance with a parenting plan by pointing out possible consequences

of a party's course of action. However, the means to direct behavior should not include unfairly influencing the parties. Examples of unfairly influencing the parties include lying to the parties or exaggerating the parenting coordinator's power to influence the court.

Rule 15.050 Advice, Recommendations, and Information

(a) Informing Parties of Risks. Prior to a parenting coordinator making substantive recommendations to the parties regarding timesharing and parental responsibilities, the parenting coordinator should inform the parties of the inherent risk of making substantive recommendations without adequate data.

(b) Right to Independent Counsel. When a parenting coordinator believes a party does not understand or appreciate the party's legal rights or obligations, the parenting coordinator shall advise the party of the right to seek independent legal counsel.

Rule 15.060 Impartiality

(a) Freedom from Favoritism and Bias. A parenting coordinator shall conduct the parenting coordination process in an impartial manner. Impartiality means freedom from favoritism or bias in word, action, and appearance.

(b) Disclosure. A parenting coordinator shall advise all parties of circumstances which may impact impartiality including but not limited to potential conflicts of interests bearing on possible bias, prejudice, or impartiality.

(c) Influence. A parenting coordinator shall not be influenced by outside pressure, bias, fear of criticism, or self-interest.

(d) Gifts. A parenting coordinator shall not give, accept or request a gift, favor, loan, or other item of value to or from a party, attorney, or any other person involved in and arising from any parenting coordination process.

(e) Prohibited Relationships. After accepting appointment, and for a reasonable period of time after the parenting coordination process has concluded, a parenting coordinator shall avoid entering into family, business, or personal relationships which could affect impartiality or give the appearance of partiality, bias, or influence.

(f) Withdrawal. A parenting coordinator shall withdraw from a parenting coordination process if the parenting coordinator can no longer be impartial.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.070 Conflicts of Interest

(a) Generally. A parenting coordinator shall not serve as a parenting coordinator in a matter that presents a clear or undisclosed conflict of interest. A conflict of interest arises when any relationship between the parenting coordinator and the parenting coordination participants or the subject matter of the dispute compromises or appears to compromise the parenting coordinator's impartiality.

(b) Disclosure. The burden of disclosure rests on the parenting coordinator. All such disclosures shall be made as soon as practical after the parenting coordinator becomes aware of the interest or relationship. After appropriate disclosure, the parenting coordinator may serve if all parties agree. However, if a conflict of interest clearly impairs a parenting coordinator's impartiality, the parenting coordinator shall withdraw regardless of the express agreement of the parties.

(c) Solicitation Prohibited. A parenting coordinator shall not use the parenting coordination process to solicit, encourage, or otherwise incur future professional services with any party.

Committee Notes

The parenting coordination process may take place over a long period of time. Therefore, the parenting coordinator may initially accept an appointment where a potential conflict does not exist but arises during the course of the parenting coordination process.

The disclosure requirements in this subdivision do not abrogate subdivision 15.040 (a) which prohibits a parenting coordinator from accepting the role of parenting coordinator if there has been a prior personal, professional or business relationship with the parties' or their family members. It is intended to address situations in which the conflict arises after the acceptance of appointment and encourage the timely disclosure to the parties.

Rule 15.080 Scheduling the Parenting Coordination Process

A parenting coordinator shall schedule parenting coordination sessions in a manner that provides adequate time for the process. A parenting coordinator shall perform parenting coordination services in a timely fashion, avoiding delays whenever possible.

Rule 15.090 Compliance with Authority

A parenting coordinator shall comply with all statutes, court rules, local court rules, and court and administrative orders relevant to the parenting coordination process.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.100 Improper Influence

A parenting coordinator shall refrain from any activity that has the appearance of improperly influencing a court to secure an appointment to a case.

Rule 15.110 Marketing Practices

(a) False or Misleading Marketing Practices. A parenting coordinator shall not engage in any marketing practice, including advertising, which contains false or misleading information. A parenting coordinator shall ensure that any marketing of the parenting coordinator's qualifications, services to be rendered, or the parenting coordination process is accurate and honest.

(b) Qualification. Any marketing practice in which a parenting coordinator indicates that such parenting coordinator is "qualified" is misleading unless the parenting coordinator indicates the Florida judicial circuits in which the parenting coordinator has been qualified.

(c) Prior Adjudicative Experience. Any marketing practice is misleading if the parenting coordinator states or implies that prior adjudicative experience, including, but not limited to, service as a judge, magistrate, or administrative hearing officer, makes one a better or more qualified parenting coordinator.

(d) Prohibited Claims or Promises. A parenting coordinator shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

(e) Additional Prohibited Marketing Practices. A parenting coordinator shall not engage in any marketing practice that diminishes the importance of a party's right to self-determination or the impartiality of the parenting coordinator, or that demeans the dignity of the parenting coordination process or the judicial system.

Committee Note

The roles of a parenting coordinator and an adjudicator are fundamentally distinct. The integrity of the judicial system may be impugned when the prestige of the judicial office is used for commercial purposes. When engaging in any parenting coordinator marketing practice, a former adjudicative officer should not lend the prestige of the judicial office to advance private interests in a manner inconsistent with this rule. For example, the depiction of a parenting coordinator in judicial robes or use of the word "judge" with or without modifiers to the parenting coordinator's name would be inappropriate. However, an accurate representation of the parenting coordinator's judicial experience would not be inappropriate.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.120 Concurrent Standards

Other ethical standards to which a parenting coordinator may be professionally bound are not abrogated by these rules. In the course of performing parenting coordination services, however, these rules prevail over any conflicting ethical standards to which a parenting coordinator may otherwise be bound.

Rule 15.130 Relationship with Other Professionals

A parenting coordinator shall respect the role of other professional disciplines in the parenting coordination process and shall promote cooperation between parenting coordinators and other professionals.

Rule 15.140 Confidentiality

(a) Preservation of Confidentiality. A parenting coordinator shall maintain confidentiality of all communications made by, between, or among the parties and the parenting coordinator except when disclosure is required or permitted by law or court order. The parenting coordinator shall maintain confidentiality of all records developed or obtained during the parenting coordination process in accordance with law or court order.

(b) Use of Materials for Educational Purposes. A parenting coordinator shall not disclose the identity of the parents, children, or other persons involved in the parenting coordination process when information is used in teaching, writing, consulting, research, and public presentations.

(c) Record Keeping. A parenting coordinator shall maintain privacy in the storage and disposal of records and shall not disclose any identifying information when materials are used for research, training, or statistical compilations.

Rule 15.150 Notice and Initial Session

(a) Notice of Fees. Prior to an initial meeting with the parties in a parenting coordination session, the parenting coordinator shall provide written notice of all fees, costs, methods of payment and collection.

(b) Initial Session. At the initial session a parenting coordinator shall, in person, describe the terms of the Order of Referral, if any, and inform the participants in writing of the following:

> (1) the parenting coordination process, the role of the parenting coordinator and the prohibition against dual roles;

(2) parenting coordination is an alternative dispute resolution process wherein a parenting coordinator assists parents in creating or implementing a parenting plan;

(3) the parenting coordinator may provide education and make recommendations to the parties, and, with prior approval of the parents and the court, make non-substantive decisions;

(4) communications made during the parenting coordination session are confidential, except where disclosure is required or permitted by law;

(5) all fees, costs, methods of payment, and collections related to the parenting coordination process;

(6) the court's role in overseeing the parenting coordination process, including a party's right to seek court intervention;

(7) the party's right to seek legal advice; and

(8) the extent to which parties are required to participate in the parenting coordination process.

Rule 15.160 Fees and Costs

A parenting coordinator holds a position of trust. Fees shall be reasonable and be guided by the following general principles:

(a) Changes in Fees, Costs, or Payments. Once services have begun, parenting coordinators shall provide advance written notice of any changes in fees or other charges.

(b) Maintenance of Financial Records. Parenting coordinators shall maintain the records necessary to support charges for services and expenses, and, upon request, shall make an accounting to the parents, their counsel, or the court.

(c) Equitable Service. Parenting coordinators shall provide the same quality of service to all parties regardless of the amount of each party's financial contribution.

(d) Basis for Charges. Charges for parenting coordination services based on time shall not exceed actual time spent or allocated.

(e) Costs. Charges for costs shall be for those actually incurred.

(f) Expenses. When time or expenses involve two or more parenting coordination processes on the same day or trip, the time and expense charges shall be prorated appropriately.

(g) Written Explanation of Fees. A parenting coordinator shall give the parties and their counsel a written explanation of any fees and costs prior to the parenting coordination process. The explanation shall include the:

(1) basis for and amount of any charges for services to be rendered, including minimum fees and travel time;

(2) amount charged for the postponement or cancellation of parenting coordination sessions and the circumstances under which such charges will be assessed or waived;

(3) basis and amount of charges for any other items; and

(4) parties' pro rata share of the parenting coordinator's fees and costs if previously determined by the court or agreed to by the parties.

(h) Maintenance of Records. A parenting coordinator shall maintain records necessary to support charges for services and expenses and, upon request, shall make an accounting to the parties, their counsel, or the court.

(i) Remuneration for Referrals. No commissions, rebates, or similar remuneration shall be given or received by a parenting coordinator for a parenting coordination referral.

(j) Contingency Fees Prohibited. A parenting coordinator shall not charge a contingent fee or base a fee on the outcome of the process.

Rule 15.170 Records

(a) Documentation of Parenting Coordination Process. Parenting coordinators shall maintain all information and documents related to the parenting coordination process.

(b) Record Retention. Parenting coordinators shall maintain confidentiality and comply with applicable law when storing and disposing of parenting coordination records.

(c) Relocation or Closing the Parenting Coordination Practice. A parenting coordinator shall provide public notice of intent to relocate or close his or her practice. The notification shall include instructions on how parties' may obtain a copy of their records or arrange for their records to be transferred.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.180 Safety, Capacity, and Protection

(a) Monitoring. Parenting coordinators shall monitor the process for domestic violence, substance abuse, or mental health issues and take appropriate action to address any safety concerns.

(b) Injunctions for Protection. Parenting coordinators shall honor the terms of all active injunctions for protection and shall not seek to modify the terms of an injunction.

(c) Terminating Process Based on Safety Concerns. Parenting coordinators shall suspend the process and notify the court when the parenting coordinator determines it is unsafe to continue.

(d) Adjournment or Termination. A parenting coordinator shall adjourn or terminate a parenting coordination process if any party is incapable of participating meaningfully in the process.

Rule 15.190 Education and Training

Parenting coordinators shall comply with any statutory, rule or court requirements relative to qualifications, training, and education.

Rule 15.200 Responsibility to the Courts

(a) Candid with Referring Court. Parenting coordinators shall be candid, accurate, and responsive to the court concerning the parenting coordinators' qualifications, availability and other administrative matters.

(b) Providing Information to the Court. When parenting coordinators provide information to the court, parenting coordinators shall do so in a manner that is consistent with court rules and statutes. Parenting coordinators shall notify the referring court when the court orders conflict with the parenting coordinator's professional ethical responsibilities. Parenting coordinators shall notify the court when it is appropriate to terminate the process. A parenting coordinator shall be candid, accurate, and fully responsive to the court concerning the parenting coordinator's qualifications, availability, and other administrative matters.

Part II Discipline

Rule 15.210 Scope and Purpose

The purpose of these disciplinary rules is to provide a means for enforcing the Florida Rules for Qualified and Court-Appointed Parenting Coordinators (rules). These rules apply to all proceedings before rules violation complaint committees and hearing panels of the

Rules for Qualified & Court-Appointed Parenting Coordinators

Parenting Coordinator Review Board (PCRB) involving the discipline of qualified parenting coordinators and court-appointed parenting coordinators. The PCRB shall be responsible for the enforcement of these rules, with the exception of rule 15.220, Responsibilities of Chief Judge, and rule 15.370, Chief Judge Review.

Rule 15.220 Responsibilities of Chief Judge

The chief judge or the judge's designee in each judicial circuit shall have responsibility for:

(a) the qualification and disqualification of parenting coordinators;

(b) any disciplinary proceedings regarding:

(1) a qualified parenting coordinator's failure to continue to meet the minimum qualifications in section 61.125, Florida Statutes;

(2) a qualified parenting coordinator experiencing any of the disqualifying circumstances described in section 61.125, Florida Statutes; and

(3) any failure of a qualified parenting coordinator to immediately report to the court and the parties the occurrence of (a) or (b) above; and

(c) review of the decision of a hearing panel as provided in rule 15.370, Chief Judge Review.

Rule 15.230 Administrative Responsibility

Administrative responsibility for implementation of the disciplinary procedures in the Rules for Qualified and Court-Appointed Parenting Coordinators shall be with the Dispute Resolution Center of the Office of the State Courts Administrator (DRC).

Rule 15.240 Privilege to Serve

The privilege to serve as a parenting coordinator is conditional, confers no vested right, and is revocable for cause.

Rule 15.250 Definitions

(a) Court-Appointed. Being appointed by the court as the parenting coordinator.

(b) DRC. The Dispute Resolution Center of the Office of the State Courts Administrator.

(c) File. To file is to deliver to the office of the DRC of the Office of the State Courts Administrator pleadings, motions, instruments, and other papers for preservation and reference.

(d) Investigator. An individual qualified by experience to investigate complaints. An investigator may be a qualified parenting coordinator, Florida Bar member in good standing, or other qualified individual retained by the DRC at the direction of a rule violation complaint committee (RVCC) to conduct an investigation.

(e) Panel. Three members of the PCRB selected by the DRC who did not serve on the RVCC to adjudicate the formal charges associated with a rule violation complaint.

(f) Panel Adviser. A member of The Florida Bar in good standing retained by the DRC to assist a panel in performing its functions during a hearing. A panel adviser provides only procedural advice, is in attendance at the hearing, and is not part of the panel's private deliberations. A panel adviser may not sit in on deliberations but may be called into the deliberations in order to answer procedural questions and is authorized to draft the decision and opinion of the panel.

(g) PCRB. The Parenting Coordinator Review Board.

(h) Prosecutor. An active member of The Florida Bar in good standing retained by the DRC to prosecute a complaint before a hearing panel. The prosecutor is authorized to: perform additional investigation to prepare the case; negotiate a consent to charges and an agreement to the imposition of sanctions to be presented to the panel prior to the hearing; to fully prosecute the case at the hearing; and represent the PCRB or DRC at post hearing proceedings.

(i) Qualified. Meeting the requirements specified in the Florida Statutes.

(j) Rule Violation Complaint. Formal submission of an alleged violation(s) of the Florida Rules for Qualified and Court-Appointed Parenting Coordinators. A complaint may originate from any person or from the DRC.

(k) Rule Violation Complaint Committee or RVCC. Three members of the PCRB selected by the DRC by rotation to conduct the investigation and disposition of any rule violation complaint.

Rule 15.260 Parenting Coordinator Review Board

(a) Generally. The PCRB shall be composed of 20 individuals selected based on the following criteria:

(1) Judges: 6 circuit, family or county judges with no disciplinary history during the ten years prior to the date of submitting their application to serve as a member of the PCRB.

(2) Parenting coordinators: 10 qualified parenting coordinators from professions eligible to be qualified parenting coordinators under section 61.125, Florida Statutes, with no disciplinary history during the ten years prior to the date of submitting their application to serve as a member of the PCRB, at least 5 of whom are non-attorney parenting coordinators. In the event there are not enough qualified applicants for the non-attorney parenting coordinator seats from whom to choose, the chief justice may appoint attorney parenting coordinator applicants to fill the seats as necessary.

(3) Attorneys: 4 attorneys licensed to practice law in Florida for at least 3 years who have or had a substantial family practice and are neither qualified as parenting coordinators nor judicial officers during their terms of service on the PCRB, but who have knowledge of and experience with parenting coordination practice, statutes, and procedures. These attorneys must be members in good standing of The Florida Bar with no disciplinary history during the ten years prior to the date of submitting his or her application to serve as a member of the PCRB.

(b) Appointment and Term. Eligible persons shall be appointed to the PCRB by the chief justice of the Supreme Court of Florida for a period of 4 years. No member of the PCRB shall serve more than 3 terms. The term of any member serving on a committee or panel may continue until the final disposition of their service on a case.

(c) Duty to Notify. In the event a PCRB member is disciplined, suspended, or disqualified as a parenting coordinator, or is disciplined, suspended, or disbarred by any professional licensing organization of which he or she is a member, the PCRB member shall report such information to the DRC in writing within 10 days of the discipline, suspension, disqualification, or disbarment.

(d) Rule Violation Complaint Committee (RVCC). Each RVCC shall be composed of 3 members of the PCRB selected by the DRC on a rotation basis. RVCCs are assigned to a single case; however, a RVCC may be assigned to related cases to be disposed of collectively as is deemed appropriate by the Chief of Alternative Dispute Resolution. A RVCC shall disband after the disposition of the case(s) to which it is assigned. Each RVCC shall be composed of:

(1) 1 judge or attorney, who shall act as the chair of the RVCC; and

(2) 2 qualified parenting coordinators from different regulatory backgrounds, if feasible.

(e) Panels. Each panel shall be composed of 3 members of the PCRB selected by the DRC on a rotation basis. No member of a panel shall have served on the RVCC for the same case(s). A panel may be assigned to more than 1 unrelated case and may be assigned to related cases to be disposed of collectively as is deemed appropriate by the Chief of Alternative Dispute Resolution. A panel shall disband after disposing of all cases to which it is assigned. Each panel shall be composed of:

(1) 1 judge, who shall serve as the chair;

(2) 1 qualified parenting coordinator; and

(3) 1 attorney who shall serve as vice-chair. The vice-chair shall act as the chair of the panel in the event of the unavailability of the chair.

(f) Decision making. For all RVCCs and panels, while unanimity is the preferred method of decision making, a majority vote shall control.

Rule 15.270 Jurisdiction and Powers

(a) RVCC. Each RVCC shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any complaint. The judge or attorney chairing the RVCC shall have the power to compel:

(1) the attendance of any person at a RVCC meeting;

(2) any person to give statements, testimony, and depositions; and

(3) production of documents, records, and other evidence;

The RVCC shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(b) Panel. Each panel shall have such jurisdiction and powers as are necessary to conduct the proper and speedy adjudication and disposition of any proceeding before it. The panel shall perform the adjudicatory function but shall not have any investigatory functions. The chair of a panel shall have the power to:

(1) compel the attendance of witnesses;

(2) issue subpoenas to compel the depositions of witnesses;

(3) order the production of records or other documentary evidence;

(4) hold anyone in contempt prior to and during the hearing;

(5) implement procedures during the hearing;

(6) determine admissibility of evidence; and

(7) decide motions prior to, during or subsequent to the hearing if related to the hearing.

(c) The vice-chair of a panel, upon the unavailability of the chair, is authorized to issue subpoenas or order the production of records or other documentary evidence.

Rule 15.280 Contempt Process

(a) General. Should any person fail, without justification, to respond to the lawful subpoena of a RVCC or, having responded, fail or refuse to answer all inquiries or to turn over evidence that has been lawfully subpoenaed, or should any person be guilty of disorderly conduct, that person may be found to be in contempt.

(b) RVCC and Panel Contempt. The chair of an RVCC or panel may hear any motions filed either before or during a RVCC meeting or panel hearing or hold any person in contempt for conduct occurring during the RVCC meeting or panel hearing.

Committee Notes

The chair of RVCC or panel shall file the order of contempt in the local court for enforcement. The order of contempt shall state the specific failure on the part of the person, or the specific disorderly or contemptuous act which formed the basis of the contempt. The circuit court shall issue such orders and judgments as the court deems appropriate.

Rule 15.290 Rule Violation Complaint Process

(a) Initiation of Complaint. Any individual or the DRC may file a complaint alleging that a parenting coordinator has violated one or more provisions of the rules. The complaint from an individual shall be written, sworn to under oath and notarized using a form supplied by the DRC. A complaint initiated by the DRC need not be sworn nor notarized but shall be signed by the Chief of Alternative Dispute Resolution or DRC staff attorney, if any. The complaint shall state with particularity the specific facts and details that form the basis of the complaint.

(b) Filing of Complaint. The complaint shall be filed with the DRC. Once received by the DRC, the complaint shall be stamped with the date of receipt.

(c) Assignment to a Rules Violation Complaint Committee (RVCC). Upon receipt of a complaint, the DRC shall assign the complaint to a RVCC within a reasonable period of time. The RVCC shall be informed of the parenting coordinator's prior sanctions history. Within 10 days after the receipt of a complaint from an individual, the DRC shall send a notification of the receipt of the complaint to the complainant.

(d) Facial Sufficiency Determination. The RVCC shall convene by conference call to determine whether the allegation(s), if true, would constitute a violation of the rules.

(1) If the RVCC finds a complaint against a parenting coordinator to be facially insufficient, the complaint shall be dismissed without prejudice and the complainant shall be so notified and given an opportunity to re-file within a 20 day-time period from date of notification. No complainant whose complaint is dismissed without prejudice pursuant to this section shall be permitted more than 1 additional filing to establish facial sufficiency.

(2) If the complaint is found to be facially sufficient, the RVCC shall prepare a list of any rule or rules which may have been violated and shall submit same to the DRC.

(e) Service. Upon the finding of facial sufficiency of a complaint, the DRC shall serve on the parenting coordinator a copy of the list of alleged rule violation(s), a copy of the complaint, and a link to an electronic copy of the rules which were in effect at the time of the alleged violation. Service on the parenting coordinator shall be made either electronically or by certified mail addressed to the parenting coordinator's physical or e-mail address on file with the circuit in which the parenting coordinator is qualified.

(f) Response. Within 20 days of the receipt of the list of alleged rule violation(s) and the complaint, the parenting coordinator shall file a written response sworn under oath with the DRC. Unless extended in writing by the DRC, if the parenting coordinator does not file a response within the 20-day time frame, the allegations shall be deemed admitted and the matter may be referred to a panel.

(g) Withdrawal of Appointment or Disqualification. The disqualification of or withdrawal from a court-appointment by a parenting coordinator after the filing of a complaint does not result in the loss of jurisdiction by the PCRB.

(h) Investigation. The RVCC, after review of the complaint and either before or after the response, may direct the DRC to appoint an investigator to assist the RVCC in any of its functions. The RVCC, or any member or members thereof, may also conduct an investigation if authorized by the RVCC chair. Any investigation may include meeting with the parenting coordinator, the complainant or any other person.

(i) RVCC Meeting with the Complainant and Parenting Coordinator. Notwithstanding any other provision in these procedures, at any time while the RVCC has jurisdiction, it may meet or communicate with the complainant and the parenting coordinator, jointly or separately, in an effort to resolve the matter. This resolution may include sanctions as set forth in rule 15.320, if agreed to by the parenting coordinator. If sanctions are accepted,

all relevant documentation shall be forwarded to the DRC. Such meetings may be in person, by teleconference, or other communication method, at the discretion of the RVCC and authorization by the DRC.

(j) Notice and Publication. Any consensual resolution agreement which includes sanctions shall be distributed by the DRC to all circuits through the chief judges, all trial and appellate court administrators, and the ADR directors; it shall also be published on the DRC page of the Florida Courts website with the rule or rules listed as violated, and a copy of the agreement. Any information in the agreement which is otherwise confidential under Florida Rule of Judicial Administration 2.420 shall be redacted.

(k) Review. If no other disposition has occurred, the RVCC shall review the complaint, the response, and any investigative report, including any underlying documentation, to determine whether there is probable cause to believe that the alleged misconduct occurred and would constitute a violation of the rules.

(l) No Probable Cause. If the RVCC finds no probable cause, it shall dismiss the complaint with prejudice and so advise the complainant and the parenting coordinator in writing. Such decision shall be final.

(m) Probable Cause Found. If the RVCC finds that probable cause exists, it may:

(1) order the drafting of formal charges and forward such charges to the DRC for assignment to a panel; or

(2) decide not to proceed with the case by filing an order of non-referral containing a short and plain statement of the rules for which probable cause was found and the reason or reasons for non-referral, and so advise the complainant and the parenting coordinator in writing.

(n) Formal Charges and Counsel. If the RVCC finds probable cause that the parenting coordinator has violated 1 or more of the rules, the RVCC may order the drafting of formal charges and forward such charges to the DRC for assignment to a panel. The charges shall include a statement of the matters asserted in the complaint relevant to the finding of rules violations, any additional information relevant to the finding of rules violations, and references to the particular sections of the rules violated. The formal charges shall be signed by the chair of the RVCC or in the alternative, by the other 2 members of the RVCC. At the request of the RVCC, the DRC may retain a member in good standing of The Florida Bar to conduct such additional investigations as necessary and draft the formal charges.

(o) Dismissal. Upon the filing of a stipulation of dismissal signed by the complainant with the concurrence of the RVCC, which may withhold concurrence, the complaint shall be dismissed with prejudice.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.300 Hearing Panel Procedures

(a) Notification of Formal Charges. Upon the referral of formal charges to the DRC from a RVCC, the DRC shall promptly send a copy of the formal charges to the parenting coordinator and complainant by certified mail, return receipt requested.

(b) Prosecutor. Upon the referral of formal charges, the DRC shall retain the services of a prosecutor.

(c) Panel Adviser. After the referral of formal charges, the DRC may retain the services of a panel adviser.

(d) Assignment to Panel. After the referral of formal charges to the DRC, the DRC shall send to the complainant and the parenting coordinator a notice of assignment of the case to a panel. No member of the RVCC that referred the formal charges shall serve as a member of the panel.

(e) Assignment of Related Cases. If the DRC assigns related cases to a panel for a single hearing, any party to those cases may make a motion for severance which shall be heard by the chair of the panel.

(f) Time of the Hearing. Absent stipulation of the parenting coordinator and the PCRB or good cause, the DRC shall set the hearing for a date not more than 120 days nor less than 30 days from the date of the notice of assignment of the case to the panel. Within 10 days of the scheduling of the hearing, a notice of hearing shall be sent by certified mail to the parenting coordinator and his or her attorney, if any.

(g) Admission to Charges. At any time prior to the hearing, the panel may accept an admission to any or all charges and impose sanctions upon the parenting coordinator. The panel shall not be required to meet in person to accept any such admission and imposition of sanctions.

(h) Dismissal by Stipulation. Upon the filing of a stipulation of dismissal signed by the complainant, the prosecutor and with the concurrence of the panel, the case shall be dismissed with prejudice. Upon dismissal, the panel shall promptly forward a copy of the dismissal order to the DRC.

(i) Procedures for Hearing. The procedures for a hearing shall be as follows:

(1) Panel Presence. No hearing shall be conducted without the chair being physically present.

(2) Decorum. The hearing may be conducted informally but with decorum.

(3) Oath. Anyone testifying in the hearing shall do so under oath or affirmation as to the truth of the testimony.

(4) Florida Evidence Code. The rules of evidence applicable to trials of civil actions shall apply but are to be liberally construed.

(5) Testimony.

(A) Parenting Coordinator Testimony. Unless the parenting coordinator claims a privilege or right properly available under applicable federal or state law, the parenting coordinator may be called as a witness to make specific and complete disclosure of all matters material to the issues.

(B) Telephonic and Electronic Testimony. Testimony at the hearing may be given through the use of telephonic or other communication equipment upon a showing of good cause to the chair of the panel within a reasonable time prior to the hearing.

(i) Procedure. Any party desiring to present testimony through communication equipment shall, prior to the hearing at which the testimony is to be presented, contact the other party to determine whether the other party consents to this form of testimony. The party seeking to present testimony shall then move for permission from the chair of the panel to present testimony through communication equipment, which motion shall set forth good cause as to why the testimony should be allowed in this form, and include the identity of the witness, time estimated and substance of the testimony. In considering sufficient good cause, the panel chair shall weigh and address in its order the reasons stated for testimony by communication equipment against the potential for prejudice to any party who objects.

(ii) Other Provisions. Telephonic and electronic testimony shall otherwise be governed by the Rules of Judicial Administration.

(6) Right to Defend. A parenting coordinator shall have the right: to defend against all charges; to be represented by an attorney; to examine and cross-examine witnesses; to compel the attendance of witnesses to testify; and to compel the production of documents and other evidentiary matter through the subpoena power of the panel.

(7) Parenting Coordinator Discovery. The prosecutor shall, upon written demand of a parenting coordinator or counsel of record, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing; copies of all written statements and transcripts of the testimony of

such witnesses in the possession of the prosecutor or the DRC which are relevant to the subject matter of the hearing and which have not previously been furnished; and copies of any exhibits which are expected to be offered at the hearing.

(8) Prosecutor Discovery. The parenting coordinator or parenting coordinator's counsel of record shall, upon written demand of the prosecutor, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing; copies of all written statements and transcripts of the testimony of such witnesses in the possession of the parenting coordinator or the counsel of record which are relevant to the subject matter of the hearing and which have not previously been furnished; and copies of any exhibits which are expected to be offered at the hearing.

(9) Complainant's Failure to Appear. Absent a showing of good cause, if the complainant fails to appear at the hearing, the panel may dismiss the case with or without prejudice.

(10) Parenting Coordinator's Failure to Appear. If the parenting coordinator has failed to answer the underlying complaint or fails to appear, the panel may proceed with the hearing.

(A) If the hearing is conducted in the absence of a parenting coordinator who failed to respond to the underlying complaint and the allegations were therefore deemed admitted, no further notice to the parenting coordinator is necessary and the decision of the panel shall be final.

(B) If the hearing is conducted in the absence of a parenting coordinator who submitted a response to the underlying complaint, the DRC shall notify the parenting coordinator that the hearing occurred and whether the matter was dismissed or if sanctions were imposed. The parenting coordinator may petition for rehearing by showing good cause for such absence. A petition for rehearing must be received by the DRC and the prosecutor no later than 10 days from the parenting coordinator's receipt of the DRC notification. The prosecutor shall file a response, if any, within 5 days from receipt of the petition for rehearing. The disposition of the petition shall be decided solely by the chair of the panel and any hearing on the motion required by the chair of the panel may be conducted telephonically or by other communication equipment. If a rehearing is ordered, it shall follow the procedures and rules governing the original hearing.

(11) Reporting of Proceedings. Any party shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings reported and transcribed by a court reporter at the party's expense.

(12) Bifurcation. The panel chair may order bifurcated hearings for issues of rule violations and sanctions to avoid prejudice, if warranted by the evidence or case management, or upon the filing of a motion by either party.

(j) Decision of Panel. Upon making a determination that the case shall be dismissed or that the imposition of sanctions is appropriate, the panel shall promptly notify the DRC of the decision including factual findings and conclusions signed by the chair of the panel. The DRC shall thereafter promptly send a copy of the decision to all parties. The decision shall include:

(1) a finding of fact as to each item of rule violation of which the parenting coordinator is charged, which findings of fact shall enjoy the same presumption of correctness as the judgment of the trier of fact in a civil proceeding; and

(2) a statement of any past disciplinary measures as to the parenting coordinator that are on record through evidence properly admitted by the panel chair during the course of the proceedings (after a finding of rule violation(s), all evidence of prior disciplinary measures may be offered by the prosecutor subject to appropriate objection or explanation by the parenting coordinator).

(k) Notice to Circuits and Districts. In every case in which a parenting coordinator has had sanctions imposed by agreement or decision, such agreement or decision shall be sent by the DRC to all circuits and districts through the chief judges, all trial and appellate court administrators, and the ADR Directors. Any information in the agreement or decision which is otherwise confidential under Florida Rule of Judicial Administration 2.420 shall be redacted.

(l) Publication. Upon the imposition of sanctions, whether by consent of the parenting coordinator and approval by the panel or by decision of the panel after a hearing, the DRC shall publish the name of the parenting coordinator, a list of the rule or rules which were violated, and a copy of the decision of the panel. Any information in the agreement or decision which is otherwise confidential under Florida Rule of Judicial Administration 2.420 shall be redacted. Such publication shall be on the DRC page of the Florida Courts' website and in any outside publication at the discretion of the Chief of Alternative Dispute Resolution.

Rules for Qualified & Court-Appointed Parenting Coordinators

Rule 15.310 Burden of Proof

The prosecutor bears the burden of proof. The burden of proof for rule violations is clear and convincing evidence.

Rule 15.320 Sanctions

(a) Generally.

(1) The parenting coordinator may be sanctioned pursuant to the following:

(A) Agreement with a RVCC.

(B) Agreement with a panel to the imposition of sanctions.

(C) Imposition of sanctions by a panel as a result of its deliberations.

(2) The sanction applies to the parenting coordinator in all circuits in which the parenting coordinator may practice.

(b) Types of Sanctions. Sanctions may include 1 or more of the following:

(1) Oral admonishment.

(2) Written reprimand.

(3) Additional training, which may include the observation of parenting coordinators for a specific number of sessions.

(4) Restriction on types of cases in which the parenting coordinator may serve.

(5) Suspension, which is defined as removal of the parenting coordinator from the list of qualified parenting coordinators in all circuits for a period of up to 2 years and the parenting coordinator shall not be appointed to any new cases as a parenting coordinator in any circuit during the suspension. In the case in which the complaint against the parenting coordinator was filed, the parenting coordinator shall notify the parties and the court of the suspension in writing, delivering the written letter to the parties and sending a courtesy copy to the judge. The parenting coordinator shall also file a letter with the clerks of court in all circuits in which the parenting coordinator serves and send a letter to all current clients of the parenting coordinator, and include a certificate of service stating:

I certify that the foregoing document has been furnished to (here insert name or names, addresses used for service, and mailing addresses) by (e-mail) (delivery) (mail) (fax) on …(date)…

Signature line:_____;

Name of Parenting Coordinator.

(6) Costs incurred prior to, during, and subsequent to the hearing. The specific categories and amounts of such costs are to be decided by the chair of the panel upon submission of costs by the DRC or the prosecutor and shall include only:

(A) travel expenses for members of the panel;

(B) travel expenses for prosecution witnesses, prosecutor, panel adviser, and Chief of Alternative Dispute Resolution or designee;

(C) court reporter fees and transcription;

(D) fees and costs for all investigation services;

(E) telephone/conference call charges;

(F) postage and delivery;

(G) notary charges;

(H) interpretation and translation services; and

(I) copy costs.

(7) Any other sanctions as deemed appropriate by the panel.

(c) Failure to Comply with Sanctions.

(1) If there is a reasonable belief that a parenting coordinator failed to comply with any sanction, unless otherwise provided for in the agreement with a RVCC or the decision of the panel, the DRC may file a motion for contempt pursuant to rule 15.280 and serve the parenting coordinator or applicant with a copy of the motion.

(2) The parenting coordinator shall file a response within 20 days of service of the motion for contempt.

(3) If no response is filed, the allegations of the motion are deemed admitted.

(4) The DRC shall thereafter set a hearing and provide notice to the parenting coordinator. The motion shall also include any additional alleged failures to comply of which the DRC becomes aware prior to the date of the hearing. The holding of a hearing shall not preclude subsequent hearings on any other alleged failure.

(5) Any sanction in effect at the time that the DRC has a reasonable belief that a violation of the sanctions has occurred shall continue in effect until a decision is reached.

(6) A finding that there was a willful failure to substantially comply with any imposed or agreed upon sanction may result in additional sanctions.

Rule 15.330 Suspension, Disqualification, and Removal

(a) Reinstatement after Suspension. A parenting coordinator who has been suspended shall be reinstated as a parenting coordinator, unless otherwise ineligible, upon the expiration of the suspension and satisfaction of any additional obligations contained in the sanction document.

(b) Automatic Disqualification. A parenting coordinator shall inform the DRC about any disqualifying event delineated in Chapter 61, Florida Statutes.

(c) Notification to Chief Judge. If the DRC learns of any disqualifying event of a parenting coordinator, then the DRC will notify the chief judge of each circuit.

(d) Disqualified Parenting Coordinators. If a parenting coordinator has been disqualified or suspended from service pursuant to these procedures, the parenting coordinator shall not be assigned, appointed, or designated as a parenting coordinator in any court proceeding while disqualified or suspended.

(e) Reinstatement after Disqualification.

(1) A parenting coordinator who has been disqualified may reapply to be a parenting coordinator. In the application, the parenting coordinator shall divulge the disqualification, the reasons for the disqualification, compliance with all sanctions and meeting the qualifications in Chapter 61, Florida Statutes, as well as the reason the parenting coordinator should now be deemed qualified.

(2) Unless a greater time period has been imposed by a panel or procedure, no application for reinstatement may be submitted prior to 1 year after the date of disqualification.

(3) Other than (1) and (2) above, the reinstatement procedures shall be determined by each circuit.

(f) Removal from Supreme Court Committees. If a member of the PCRB is disciplined, suspended, or disqualified as a parenting coordinator, or is disciplined, suspended, or disbarred by any professional licensing organization in which the parenting coordinator is a

member, the DRC shall immediately remove that member from the committee or board on which the member serves.

Rule 15.340 Subpoenas

(a) RVCC. Subpoenas for the production of documents or other evidence and for the appearance of any person before a RVCC, or any member thereof, may be issued by the chair of the RVCC. If the chair is unavailable, the subpoena may be issued by the remaining members of the RVCC.

(b) Panel. Subpoenas for the attendance of witnesses and the production of documents or other evidence before a panel may be issued by the chair of the panel. If the chair of a panel is unavailable, the subpoena may be issued by the vice-chair.

(c) Service. Subpoenas may be served in any manner provided by law for the service of witness subpoenas in a civil action.

(d) Failure to Obey. Any person who, without good cause shown, fails to obey a duly served subpoena may be cited for contempt.

Rule 15.350 Confidentiality of Disciplinary Proceedings

(a) Generally. All complaints alleging misconduct against parenting coordinators subject to disciplinary action under these rules, including the parenting coordinator's response, if any, and all other records made or received as part of the complaint procedure, are exempt from public disclosure under rule 2.420(c)(3)(B), Florida Rules of Judicial Administration, and shall remain confidential until a finding of probable cause or no probable cause is established, regardless of the outcome of any appeal.

(b) Breach of Confidentiality. Violation of confidentiality by a member of the PCRB shall subject the member to discipline under these procedures and removal from the PCRB by the chief justice of the Supreme Court of Florida.

Rule 15.360 Disqualification and Removal of Members of a RVCC, Panel, or PCRB

(a) Disqualification of Member. A member of the PCRB is disqualified from serving on a RVCC or panel involving that member's own discipline.

(b) Party Request for Disqualification of a PCRB Member. Any party may move to disqualify a member of the RVCC or panel before which the case is pending. Factors to be considered include, but are not limited to:

(1) the member or some person related to that member has an interest in the result of the case;

(2) the member is related to an attorney or counselor of record in the case; or

(3) the member is a material witness for or against any of the parties to the case.

(c) Board Member Initiative. A member of any RVCC or panel may disqualify him/herself on the member's own initiative at any time.

(d) Facts to be Alleged. Any motion to disqualify shall be in writing, allege the facts relied on to show the grounds for disqualification, and shall be made under oath by the moving party.

(e) Time for Motion. A party shall file a motion to disqualify with the DRC not later than 10 days after the movant discovered or reasonably should have discovered the facts which would constitute grounds for disqualification.

(f) Decisions on Motions. The chair of the RVCC or panel shall hear and decide any motions for disqualification. A motion for disqualification of the chair shall be heard by the vice-chair.

(g) Replacement. Depending on the circumstances, the DRC shall replace any disqualified member.

(h) Qualifications for New Member. Each new member serving as a replacement shall have the same qualifications as the disqualified member.

Rule 15.370 Chief Judge Review

(a) Right of Review. Any parenting coordinator found to have committed a violation of the rules or otherwise sanctioned by a hearing panel shall have a right of review of that action. Review of this type shall be by the chief judge or designee of the circuit which qualified the parenting coordinator in the case which gave rise to the underlying action.

(b) Rules of Procedure. The Florida Rules of Appellate Procedure shall control to the extent applicable or as modified by procedures for qualification and appeals of discipline of parenting coordinators as adopted in each circuit.

(c) Notice of Review. The jurisdiction to seek review of disciplinary action shall be invoked by submitting an original and one copy of a Notice of Review of Parenting Coordinator Disciplinary Action to the chief judge of the circuit or designee within 30 days of the panel's written decision. A copy shall be provided to the DRC. A copy of the panel decision shall be attached to the notice.

(1) Standard of Review. The chief judge or designee shall review the findings and conclusions of the panel using a competent substantial evidence standard, neither reweighing the evidence in the record nor substituting the reviewer's judgment for that of the panel.

(2) Decisions. Decisions of the chief judge or designee shall be final.

Procedures Governing Certification of Mediators
excerpts from AOSC19-26

I. Initial Certification

A. Application

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

The Center shall provide, to all individuals who have successfully completed a certified mediation training program, an application and information on the certification requirements.

An application shall be complete upon filing with the DRC. However, if an application is not received which is not complete upon filing, such 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 Mediator Qualifications and Discipline Review Board (MQDRB).

Any material misrepresentation by the applicant in the application process shall be automatically referred to the Mediator Qualifications Board.

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

Procedures Governing Certification of Mediators
excerpts from AOSC19-26

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

A trainee shall not fulfill any of the mentorship requirements completed before beginning the certified mediation training program; however, a trainee may be awarded points for observations completed after the commencement but prior to the conclusion of the certified mediation training program. 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) if 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 conducts a mediation under the supervision and observation of a certified mediator or the trainee co-mediates 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 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 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 mediation 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] (nonrefundable)

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

[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 above.

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
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 thirty 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.

Procedures Governing Certification of Mediators
excerpts from AOSC19-26

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 violence education[3], and a minimum of one hour of diversity/cultural awareness education in each two-year renewal cycle, including the two years following initial certification.

      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

[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).

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.

ADR in Florida's Trial Courts
excerpts from AOSC09-19

Section One: Funding

Standards of Operation

A. The ADR/Mediation element shall be funded based on a formula approved by the Trial Court Budget Commission.

B. The funding formula for the ADR/Mediation element shall be based on the following principles:

1. The formula shall result in the total number of dollars required to provide ADR/Mediation services.
2. The formula shall be based on the actual median cost of a mediation session, by case type, applied to projected event data from the Uniform Data Reporting System.
3. The formula shall incorporate a modifier for non-direct service functions;
4. The formula shall incorporate a modifier for multi-county circuits; and
5. The formula shall incorporate a modifier for the use of volunteers and pro bono service providers regardless of whether a circuit uses these resources.

C. Funds collected for ADR/Mediation services shall be pooled into one statewide trust account for allocation by the Trial Court Budget Commission.

D. Funding allocations shall take the total need for funding into consideration in order to bring uniformity and equity to the level of services provided across the trial courts and should not be based solely on the individual collections of each circuit.

E. Additional resources requested by the circuits during the Legislative Budget Request process shall be requested to optimize coverage for all counties in a circuit and coverage of all appropriate case types under the Mediation Model.

F. Additional resources requested by the circuits during the Legislative Budget Request process shall be prioritized for those ADR/Mediation functions permitted under the Mediation Model.

G. Positions allotted to the ADR/Mediation element shall primarily perform Mediation Model functions; however, these positions shall not be prohibited from performing other ADR functions (except service delivery) to their primary responsibilities.

H. Expenditures from the ADR/Mediation element shall be limited to expenses associated with the ADR/Mediation element.

Section Two: Mediation Session Fees and Session Length

Standards of Operation

A. Mediation session fees for county cases above small claims and family cases shall be set by Florida Statute.

1. Mediation fees in county cases above small claims shall be $60 per party per session.

2. Mediation fees in family cases shall be:

   $120 per person per scheduled session in family mediation when the parties' combined income is greater than $50,000, but less than $100,000 per year;

   $60 per person per scheduled session in family mediation when the parties combined income is less than $50,000

   There shall be no mediation session fees charged to parties for dependency mediation services.

   Indigent parties shall be provided services at no cost.

B. County mediations shall be scheduled for any amount of time between 60 and 90 minutes at the discretion of the ADR director, but under no circumstances shall the parties be assessed additional fees until after the expiration of 90 minutes.

C. Family mediations shall be scheduled for any amount of time between two and three hours at the discretion of the ADR director, but under no circumstances shall the parties be assessed additional fees until after the expiration of three hours.

D. For purposes of assessing fees pursuant to section 44.108(2), Florida Statutes, data collection and funding calculations mediation sessions shall be defined as follows:

1. a county mediation (above small claims) session is no more than 90 minutes and

2. a family mediation session is no more than 3 hours.

E. For purposes of data collection and funding calculations mediation sessions shall be defined as follows:

1. a small claims mediation session is 60 minutes and

2. a dependency mediation session is no more than three hours.

Best Practices

In county cases above small claims and family mediations, only one session should be initially scheduled per case unless both parties agree otherwise.

Section Three: Fee Collection Process

Standards of Operation

A. When court mediation services are ordered, mediation parties shall pay the statutorily authorized fees to the clerk of the court.

B. In accordance with section 44.108, Florida Statutes, the clerk of the court shall submit to the chief judge of the circuit and to the Office of the State Courts Administrator, no later than 30 days after the end of each quarter of the fiscal year, a report specifying the amount of funds collected and remitted to the state courts' Mediation and Arbitration Trust Fund during the previous quarter of the fiscal year. In addition to identifying the total aggregate collections and remissions from all statutory sources, the report must identify collections and remissions by each statutory source.

Best Practices

a. The ADR director should exercise due diligence and determine the per party fee assessment prior to the Mediation Notice and/or Order being sent to the party.

b. The trial court administrator should work with the clerk of court to develop a procedure for tracking mediation service fees from assessment to collection.

c. The fee amount owed should be provided to the parties with the mediation notice and referral to mediation.

d. Pursuant to statute, once mediation is scheduled and noticed, assessed fees should be due and owed whether or not parties appear for scheduled mediation.

e. If one party fails to appear at a scheduled mediation session, the party who appears should pay the assessed fee, and the party who fails to appear should be assessed for the missed session and should also be assessed both parties' mediation fees if another session is ordered by the court or agreed to by the parties.

f. If a party fails to pay an assessed mediation fee, the initial mediation should still be conducted.

g. At the discretion of the ADR director, no subsequent mediation session should be scheduled or conducted until all prior assessed mediation fees are paid in full.

h. If a party fails to pay the assessed mediation fee, non-payment should be reported to the court by the trial court administrator or designee, and the court shall issue an Order to Show Cause within ten days.

i. The court should review mediation service fees paid by the parties at the final hearing and should reapportion the fees as equitable.

j. If the court orders a refund; authorization should be transmitted by the ADR director for processing and issuance to the OSCA Finance and Accounting Office.

k. The trial court administrators should coordinate with the clerks of court so that collections by statutory source can be reviewed on a monthly basis in the same manner as the quarterly report required under section 44.108, Florida Statutes.

l. The ADR director should reconcile the monthly or quarterly report with cases mediated during the month or quarter to determine if the clerk is collecting and remitting fees correctly.

ADR in Florida's Trial Courts
excerpts from AOSC09-19

Section Four: Court Application of ADR/Mediation & Case Referrals

Standards of Operation

A. Referrals to mediation and non-binding arbitration shall be consistent with chapter 44, Florida Statutes, state court procedural rules and other policies or reports that may be adopted.

B. The issuance of a Domestic Violence (DV) Injunction shall not be mediated.

C. Mediation of the ancillary issues of DV Injunction cases after judicial determinations may be mediated but shall only be conducted by an experienced certified family mediator with an understanding of domestic violence dynamics.

D. Written mediation agreements reached in DV injunction cases shall be reviewed by the court, and if approved, incorporated into the final judgment.

E. Orders of Referrals to family mediation shall contain, in a prominent place, the statutory language that "upon motion or request of a party, a court shall not refer any case to mediation if it finds there has been a history of domestic violence that would compromise the mediation process" along with information as to who a party should contact in such circumstances.

F. All Orders of Referrals to mediation shall contain, in a prominent place, a Notice to Persons with Disabilities in accordance with rule 2.540, Florida Rules of Judicial Administration. Rule 2.540 requires that all notices of court proceedings held in a public facility and all process compelling appearance at such proceedings include the following statement:

> If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable court personnel by name, address, and telephone number] within 2 working days of your receipt of this [describe notice]; if you are hearing or voice impaired, call 711.

Best Practices

a. If warranted by caseload, all contested small claims and county civil cases should be referred to mediation automatically by administrative order.

1. The Notice of Pre-Trial Conference should contain standard pre-printed information on mediation case referral.
2. Referrals to mediation in eviction cases should be conducted within ten days of referral to mediation.

3. Referrals to mediation for county court cases above small claims should be made at the status hearing, if possible, and no later than at pretrial conference. A standard scheduling order should be used which sets forth the time frame for discovery (30 days), mediation (45 days), and the trial date (60-90 days). The court should have available mediation dates to choose from in order to minimize delay and scheduling difficulties.

b. Referrals to family mediation should be made as soon as possible after an answer has been filed and/or financial affidavits have been filed and/or exchanged, and prior to the filing of the 30-day notice of trial.

1. Prior to family mediation, the case should be screened for appropriateness for mediation.
2. If either party seeks emergency or temporary relief, the court should determine if the case should be expedited. If so, mediation should be available within one week of referral or the case should be heard by the court.
3. If Case Management Conferences are held, the judge should review the file to determine whether the case is ready for mediation and whether domestic violence issues exclude the case from mediation. Available mediation dates should be provided by the ADR program to the court in order to minimize delay and scheduling difficulties for cases appropriate for mediation.
4. Cases that are re-opened via a Supplemental Petition or Motion for Modification should be referred as soon as possible after service is obtained.

c. All dependency cases, including Termination of Parental Rights, should be screened by the court and ordered to mediation as appropriate.

1. Mediation referrals made at the shelter or arraignment hearing should be held within seven to ten days. Available mediation dates should be provided by the ADR program to the court in order to minimize delay and scheduling difficulties.
2. In Termination of Parental Rights cases, mediation referrals should be made at the Advisory Hearing and the mediation conference should be held within 30 days. Available mediation dates should be provided by the ADR program to the court in order to minimize delay and scheduling difficulties.

d. The chief judge, or designee, of each circuit shall maintain a list of qualified arbitrators for use in court-ordered non-binding arbitrations.

ADR in Florida's Trial Courts
excerpts from AOSC09-19

Section Five: Court ADR Staffing and Functions

Standards of Operation

A. At a minimum, each judicial circuit shall be staffed with an Alternative Dispute Resolution (ADR) Director, at least one mediation services coordinator and an administrative support position.

B. ADR staff shall perform ADR functions across all counties.

C. The ADR director shall be responsible for all circuit-wide court-connected ADR activities and shall supervise all court mediation staff within the circuit.

D. The ADR director shall be responsible for monitoring existing circuit-wide ADR/Mediation programs and recommending to the trial court administrator and chief judge of the circuit innovations for new and existing programs.

E. The ADR director shall be a Florida Supreme Court certified county and family mediator who is available to mediate these types of cases for the court as needed.

F. All mediation services coordinators shall be Florida Supreme Court certified mediators in a minimum of one area of mediation certification.

G. The ADR director shall be present or designate someone to be present throughout all pre-trial conferences while small claims mediations are being referred and mediated in order to handle issues which may arise.

H. The ADR director shall ensure that the appropriate number of mediation rooms is available at the court facility for all program mediations on each day that cases are mediated.

I. The ADR director shall provide coordination, scheduling and administrative support functions for all county (including small claims), family and dependency mediations referred to the court ADR program regardless of whether these cases are mediated by staff, contract or volunteer mediators.

J. The ADR director shall provide mentorship assistance to mediator trainees seeking certification who reside or are employed within the circuit.

K. The ADR director and mediation service coordinator(s) shall respond to requests from the OSCA/Dispute Resolution Center.

L. The ADR director shall submit fiscal year mediation program statistics to the OSCA/Dispute Resolution Center, as requested.

Best Practices

a. The ADR director should rotate cases among their program mediators on an equitable basis that allows similar opportunities for all mediators to serve.

b. The ADR director should provide opportunities for program mediators to earn a minimum of eight hours of continuing mediator education (CME) per fiscal year.

c. The ADR director should be a Florida Supreme Court certified dependency mediator.

Section Six: Mediation Service Delivery

Standard of Operation

A. Each circuit shall implement a mediation service delivery model that maximizes the number of cases mediated within the constraints of the funding formula established by the Trial Court Budget Commission (TCBC).

Best Practices

a. The use of employee mediators should be based on the following factors:
1. Sufficient caseload requiring an employee mediator to mediate a minimum of 6 hours a day
2. Availability of qualified individuals willing to accept employee positions
3. More cost-efficient than contractual model
4. Complexity of cases

b. The use of contractual mediators should be based on the following factors:
1. Compensation rates are within TCBC guidelines
2. Availability of sufficient pool of qualified mediators willing to accept referrals at the contract rate
3. Sufficient caseload referred to the court program where parties are required to pay the subsidized mediation fees (not only indigent cases referred to court program)
4. Availability of coordination, scheduling and fiscal staff
5. Complexity of cases

c. The use of volunteer mediators should be based on the following factors:

1. Availability of qualified individuals willing to volunteer as mediators
2. Historical success in using volunteers
3. Lack of adequate funding to hire or contract with mediators
4. Complexity of cases

d. Agreements (or contracts) should be entered into annually for all mediators providing service through the court program, whether they are paid via contract or serve as volunteers.

e. Each court program should conduct an orientation session with contract and volunteer mediators prior to their assignment of cases to review:

1. the mediators' rights and obligations
2. procedures for accepting assignments
3. ethical standards of conduct expected
4. criteria for performance review
5. compensation rates (if applicable)
6. scheduling procedures
7. methods and procedures for payment and reimbursement for expenses (if applicable)

f. Each court program should schedule volunteer mediators in a manner so that the scheduled mediators will have sufficient cases to mediate.

g. Each court program should establish a process for evaluating the performance of contract and volunteer mediators on an annual basis. The process should include criteria for determining whether the agreement or contract with the mediator should be renewed. Factors to consider include:

1. reliability (did the mediator fulfill all obligations)
2. party satisfaction (were there any formal or informal complaints)
3. willingness to assist with mentorships
4. clarity of written agreements
5. skill level
6. maintenance of all requirements for continued certification

h. Program mediations should be held at court facilities whenever possible. In the event that mediation is scheduled off-site, the facility must be ADA compliant.

ADR in Florida's Trial Courts
excerpts from AOSC09-19

Section Seven: Contract Compensation

Standards of Operation

A. Contract mediators shall be paid at a rate not to exceed the following:

Case Type	Hourly
Small Claims	$30 per hour
County Civil	$50 per hour
Family	$100 per hour
Dependency	$100 per hour

B. All mediation service contracts shall contain standardized template language developed by OSCA for the procurement of mediation services.

Section Eight: County Court Mediation

Standards of Operation

A. Each county mediation program shall maintain a roster of Florida Supreme Court certified county mediators who will be available to mediate small claims cases for the court program. This roster shall represent the diversity of the community.

B. County mediators shall be selected for placement on the roster through a process similar to the hiring process for employees. Specifically, the policies and procedures for employment shall be utilized to the extent applicable including advertising vacancies as needed. Background checks and references shall be completed on applicants prior to sponsorship into training or, if already certified, inclusion on the program roster.

C. The ADR director shall notify small claims mediators of their assigned schedule no later than 14 days prior to the date of the mediation/pre-trial conference.

D. Every mediation shall be conducted in an individual private room.

Best Practices

a. Each county mediation program should maintain a roster of Florida Supreme Court certified county mediators who are interested in providing county mediation (above small claims) services in that county.

b. If the mediator roster(s) or applicant pool does not reflect the diversity of the community, more proactive outreach methods should be used to encourage diversity.

c. A panel, consisting of the ADR director or designee, a judge and a court administration designee should be used to fill county mediation roster vacancies.

d. With the exception of rural counties and areas with historical needs, any mediator who has not mediated for the court program in the previous 60 days should be removed from the roster.

e. Although programs have discretion on mediator assignments, the programs should schedule and assign cases to their roster mediators on an equitable basis.

f. County civil cases (above small claims) should be referred to mediators based upon the competencies of the mediator and issues brought forth in the case. Volunteers with sufficient skill level may be used.

g. Under no circumstances should any program schedule more mediators than mediation rooms available.

h. The OSCA Dispute Resolution Center should sponsor a maximum of three statewide county training programs per fiscal year, to be held at a neutral, non-courthouse, facility. Each "large" circuit would be invited to send three trainees; each "medium" circuit to send two trainees; and each "small" circuit to send one trainee per training. Circuits would be allowed to utilize up to two unused training slots per year from other circuits or training slots unused for that year, if space permits.

i. At the discretion of the OSCA Dispute Resolution Center, additional trainings should be scheduled for counties establishing new county mediation trainings.

Parenting Coordinator Application Form & Training Standards
excerpts from AOSC14-64 & AOSC16-94

A. Administrative Responsibility

Administrative responsibility for the implementation of section 61.125, Florida Statutes, and its attendant rules, qualifications and procedures, and this administrative order shall be placed with the chief judge or his/her designee in each circuit or with the Florida Dispute Resolution Center of the Office of the State Courts Administrator (DRC) as further outlined in this administrative order or in any Supreme Court opinions that may be issued. It is the intention of this Court that such implementation shall be uniform throughout the state. This uniformity shall be accomplished through the use of standardized processes, procedures, and forms.

B. Qualifications and Disqualifications

Parenting coordinators shall be qualified and disqualified pursuant to subsections 61.125(4) and (5), Florida Statutes, as follows:

1. The chief judge or designee(s) in each judicial circuit shall review each application and determine which individuals applying to serve as parenting coordinators meet the qualifications under section 61.125, Florida Statutes, to be included on the roster of qualified parenting coordinators of that circuit.

2. Each judicial circuit may conduct a criminal background investigation and make inquiries necessary to verify an applicant's eligibility to be included on the roster.

3. The chief judge or designee(s) in each judicial circuit shall establish a process to periodically review whether a parenting coordinator continues to be qualified and shall remove a parenting coordinator immediately from the roster if the coordinator is no longer qualified.

4. Any appeal pertaining to a parenting coordinator's inclusion on or removal from the roster shall be heard and decided by the chief judge or designee(s) in that judicial circuit, whose decision shall be final.

5. A uniform statewide parenting coordination application form is adopted and attached hereto. This application form shall be used in every circuit.

C. Training

To ensure that all parenting coordinator training courses meet the requirements of section 61.125, Florida Statutes, and qualify pursuant to the Parenting Coordination Training Standards attached hereto, the DRC shall be responsible for the review and approval of all parenting coordination training programs. Trainers desiring to offer parenting coordination training must submit their program to the DRC for approval. The DRC shall be responsible for monitoring compliance with the standards and maintaining appropriate records on approved parenting coordination training programs, including approved materials, agenda, application, trainer resumes, and any changes submitted. The Committee is directed to periodically review the training program standards and recommend amendments to this Court, as appropriate.

An exception to the requirement that a parenting coordinator take an approved training will be granted to those individuals who have completed a parenting coordination training course and are currently qualified by a court since the 2009 adoption of section 61.125, Florida Statutes, and who re-apply to be qualified on or before December 31, 2014.

D. Roster of Parenting Coordinators

Each judicial circuit shall establish and maintain a roster of parenting coordinators from which the court may appoint a qualified parenting coordinator. Chief judges or their designee(s) shall not institute additional requirements to be on a circuit's roster other than those listed in section 61.125, Florida Statutes, and this administrative order.

E. Application Form

The standardized application form that shall be used by each judicial circuit for parenting coordinators who wish to apply to be qualified as a parenting coordinator by the chief judge of the judicial circuit is attached[1] to this administrative order.

[1] The standardized application form is available from Florida's local court programs and/or the original online posting of this administrative order at http://www.floridasupremecourt.org/clerk/adminorders/2016/AOSC16.94.pdf.

Parenting Coordinator Application Form & Training Standards
excerpts from AOSC14-64 & AOSC16-94

Parenting Coordination Training Standards

In order to attain the goal of ensuring a high level of proficiency in the performance of parenting coordinators, the following training standards have been developed. These standards contain two components, the first is how the training should be conducted and the second are the learning objectives.

Part I Training Procedures

1. Training parameters (length of complete training program required is at least 28 hours which cover the modules as described below, span of training program, breaks for participants, student-faculty ratio)

(a) Length of Training.

(1) The total amount of instruction required for a complete parent coordination training shall be 28 hours of parenting coordination training, including four hours of domestic violence training.

A minimum of 24 instructional hours shall be dedicated to parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques and Florida family law and procedure. A minimum of four hours of instruction on domestic violence relating to the parenting coordination process shall be offered in addition to and as a compliment to the 24-hour parent coordination training.

(2) An instructional hour is defined as 50 minutes.

(b) Trainers should provide appropriate breaks during their training sessions which should be in addition to the number of required hours for training.

(c) Class size should be limited to 50 participants.

2. Training methodology(lecture, group discussion, written exercises including development of a parenting plan, parenting coordination simulations and role plays)

(a) Pedagogy. A complete parenting coordination training program should include, but is not limited to, the following: lecture, group discussion, written exercises, simulations and role plays. In addition, readings should be provided by the trainer to supplement the training.

(b) Role Play Requirements.

(1) At a minimum, every participant should participate in a role play of a parenting coordination session for no less than 50 minutes. The role play should be practical in time and scope.

(2) At the conclusion of each role play, time should be allocated for oral or written feedback to the participants.

(c) Written Exercises. A participant should be required to write a parenting plan based upon a fact pattern and material presented in the course. Prior to the conclusion of the training, course participants should receive feedback either individually or via group discussion of the written exercises.

(d) Simulation. A complete parenting coordination training should present a role play simulation of a parenting coordination session (either live or by video) prior to the participant's role play experience.

(e) Ethics.

(1) A complete parenting coordination training program should review parenting coordination ethics for at least two hours which should include application of Rules for Qualified and Court Appointed Parenting Coordinators.

(2) In addition, parenting coordinator ethics should be woven throughout the program.

3. Primary trainer qualifications

(a) Primary Trainer. A primary trainer should demonstrate the following qualifications:

(1) Parent Coordination Training Received: Successful completion of a complete parenting coordination training that is the equivalent of a parenting coordination training taught in accordance with Florida standards for a complete parenting coordination training.

(2) Parent Coordinator Qualifications: Be a qualified parenting coordinator in accordance with section 61.125, Florida Statutes, be licensed as a mental health professional under chapter 490 or chapter 491 or be licensed as a physician under chapter 458, with certification by the American Board of Psychiatry and Neurology or be a member in good standing of The Florida Bar.

(3) Parent Coordination Experience: Participation in a minimum of five parent coordination cases, of at least six months duration, with a minimum of two active cases within the last two years.

(4) Continuing Education: A parenting coordination trainer should complete a sufficient amount of continuing education in order to be current with rules, statutes and research applicable to parenting coordination.

(b) A primary trainer should be present throughout the entire course.

4. Use of guest lecturers (such as attorneys, judges, mediators, mental health professionals, and guardians ad litem, including qualifications of presenters)

(a) A guest lecturer should have a substantial part of his or her professional practice in the area about which the specialist is lecturing and should have the ability to connect his or her area of expertise with the parenting coordination process.

(b) Lectures on Florida family law should be presented by a member of The Florida Bar with family law experience.

(c) Lectures on family dynamics in separation and divorce and child and adolescent development should be presented by a mental health professionals licensed pursuant to chapters 490, 491, 458, Florida Statutes.

5. Completion of training and evaluation of students

(a) Participants should complete the 28-hour parenting coordination training requirement by physically attending one entire live training program.

(b) The primary trainer is responsible for ensuring that the integrity of each portion of the program is not compromised.

(c) A training program should provide, at the conclusion of the training, written documentation of completion to participants who successfully complete the program.

6. Records retention policy

The primary trainer should be responsible for maintaining records of those who completed the program for no less than five years.

Parenting Coordinator Application Form & Training Standards
excerpts from AOSC14-64 & AOSC16-94

7. Program evaluation

At the completion of the course, each participant should complete a course evaluation which should be reviewed by the trainer as part of quality assurance.

8. Course content requirements

(a) Learning Objectives. A complete parenting coordination training should incorporate the learning objectives contained in Part II.

(b) Required Training Materials. At a minimum, trainers should provide each of the participants with the following written materials:

(1) An agenda annotated with the learning objectives to be covered in each section;

(2) Trainers should provide a training manual that includes the following required readings in their current forms:

A. Section 61.125, Florida Statutes;

B. Section 61.13001, Florida Statutes;

C. Sections 741.28-30, Florida Statutes;

D. Section 39.201-206, Florida Statutes;

E. Section 415.1034, Florida Statutes;

F. Any Florida Family Law Rule of Procedure currently identified as 12.742;

G. All approved Florida Family Law Forms relevant to parenting coordination;

H. An exercise for creating or modifying a parenting plan or intervention strategy;

I. Role play simulation materials;

J. Rules for Qualified and Court Appointed Parenting Coordinators; and

K. Most recent Parenting Coordinator Qualifications Administrative Order adopted by the chief justice.

(3) Required Readings. Time spent on reading required materials should not count toward the required number of hours of training. Trainers should incorporate some method of ensuring that the required readings are completed.

Part II Learning Objectives

1. Parenting Coordination Concepts and Ethics

(a) Define parenting coordination as an alternative dispute resolution (ADR) process and potential benefits for families and courts.

(b) Identify the statutory definition for parent coordination in chapter 61, Florida Statutes and the applicable Family Law Rules of Procedure.

(c) Discuss the source of authority and appropriate activities for a parenting coordinator.

(d) Identify statutory qualifications for parenting coordinators.

(e) Identify the three core knowledge bases from which parenting coordination draws: legal, mental health, and conflict resolution.

(f) Explain how to integrate the three core knowledge bases with the five applicable skill sets: mediator, therapist/counselor, evaluator, educator, and case manager.

(g) Describe the roles and functions of a parenting coordinator.

(h) Identify how the role of a parenting coordinator differs from other types of professional services that may be utilized by parents in conflict, such as legal services, mediation, custody evaluation, divorce coaching, marriage and family counseling, couples' therapy, or parenting education.

(i) Describe potential ethical dilemmas that may confront a parenting coordinator and how to avoid or resolve them.

(j) Describe a parenting coordinator's responsibilities to the participants.

(k) Identify the professional guidelines and standards that direct the practice of parenting coordination.

(l) Discuss the interplay between parenting coordination guidelines and other professional practice guidelines relevant to the practice of parenting coordination.

Parenting Coordinator Application Form & Training Standards
excerpts from AOSC14-64 & AOSC16-94

2. The Parenting Coordination Process

(a) Identify elements that need to be included in a written agreement between the parties and the parenting coordinator that describe the parenting coordinator's services.

(b) Explain how to structure the parenting coordination process including, but not limited to:

(1) Conducting an orientation for the purpose of reviewing the order of referral, explaining the process and in person explaining the concepts which must be disclosed in writing to the parties;

(2) A written acknowledgment by the parties that the parenting coordinator, in person, reviewed the terms of the Order of Referral, described the process and the role of the parenting coordinator, and informed the participants in writing of the concepts which must be disclosed in writing to the parties;

(3) Scheduling, duration, format, and frequency of subsequent sessions;

(4) Setting and maintaining rules of engagement during the process;

(5) Reviewing how communication will take place;

(6) Discussing record and document maintenance;

(7) Reviewing the typical interactions of a parent coordinator with others involved in the parent coordination process;

(8) Discussing if a child will be interviewed as a part of the parent coordination process;

(9) Reviewing how the parenting coordinator will interface with the court;

(10) Discussing the process by which the services of a parent coordinator are terminated or concluded; and

(11) Discuss the involvement of other professionals.

(c) Describe characteristics that may enhance or undermine the effectiveness of the parenting coordination process including, but not limited to: building rapport, establishing trust, setting a cooperative tone, objective listening and questioning, empowering the parties, remaining neutral in all interactions, modeling a non-judgmental attitude, and increasing parenting competence.

(d) Explain socio-economic, cultural, racial, ethnic, language, age, gender, religious, sexual orientation, and disability issues in which may arise and affect the parties' negotiation styles, ability and/or willingness to engage in the parenting coordination process.

(e) Identify the requirements of the Americans with Disabilities Act (ADA) and describe strategies for handling situations when faced with disability issues or special needs.

(f) Explain the prohibition against unfair influence, sexual harassment and the unique influence the parenting coordinator has over the parties given their role and the length of time he or she may be involved in the case.

3. Family Dynamics in Separation and Divorce

(a) Describe the stages of post-separation and divorce adjustment on families and how these stages apply to parents who were never married.

(b) Explain the psychological issues in separation and divorce and the impact on parenting abilities.

(c) List impasse styles of co-parent interaction patterns that hinder conflict resolution.

(d) Compare conflict management styles of co-parents and appropriate interventions to reduce conflict.

(e) Identify parenting styles and the impact those styles have on outcomes for a child and adolescent.

(f) Identify characteristics of high conflict parents and interventions to reduce conflict.

(g) List the effects of extended family members and significant others on the family systems and the parenting coordination process.

4. Family Systems Theory and Application

(a) Explain relevant psychological theories and social science research applicable to professional interventions for a family.

(b) Define family systems theory and illustrate application to the parenting coordination process.

(c) Identify patterns of interaction and communication among high conflict parents and appropriate interventions.

(d) Identify the type of parenting disputes that arise and require resolution.

(e) Demonstrate competence in facilitating discussion between parents about a child's needs and parenting priorities.

(f) Develop methods to improve communication between parents.

(g) Explain process for obtaining information to facilitate resolution of disputes as they arise.

(h) Describe methods to encourage compliance with court orders.

5. Child and Adolescent Development

(a) Identify and explain a child's developmental needs and the impact on time-sharing arrangements and parental responsibilities.

(b) Identify and explain an adolescent's developmental needs and the impact on time-sharing arrangements and parental responsibilities.

(c) Create and/or modify a parenting plan taking into consideration parenting abilities, a child's and adolescent's needs, and the ideal integration of these elements to meet the best interests of children.

(d) Select parenting plan elements that address different family circumstances including, but not limited to: geographic distance, safety focused parameters, high conflict elements, and special needs of family members.

6. Parenting Coordination Techniques

(a) Identify characteristics of individuals who may not be appropriate to participate in the parenting coordination process.

(b) Review procedures to identify high risk factors in parents including, but not limited to:

(1) Screening for substance abuse, dependence, addiction and impact on parenting;

(2) Screening for domestic violence and child abuse/neglect;

(3) Screening for mental illness or impairment that may impact parenting ability; and

(4) Screening for any other factors which may place parents or children at risk for harm.

(c) Discuss the risk factors and implications of different types of abuse (i.e. domestic violence, substance abuse, child abuse, sexual abuse).

(d) Discuss appropriate safety interventions when confronted with domestic, substance, child and/or sexual abuse.

(e) Describe concepts of co-parenting and shared parental responsibilities.

(f) Develop strategies for intervention with parents including goals and time frames.

(g) List different types of co-parenting arrangements (i.e. parallel, disengaged, mixed model, etc.) and their applicability based on co-parenting factors.

(h) Explain the concept of a support team for parents (professional and/or non-professional) including when and how to use outside experts and support resources effectively.

(i) Identify the concept of intractable conflict and discuss how to transform it into a framework more suitable for resolution of conflicts.

(j) Explain parenting plan agreements and how to memorialize agreements between the parties.

(k) Explain procedure for having agreements ratified and incorporated as an order of the court.

7. Florida Family Law and Procedure

(a) Describe a parent coordinator's responsibilities to the court.

(b) Demonstrate knowledge of Florida Statutes and Florida Family Law Rules of Procedure as it pertains to the parenting coordination process.

(c) Explain confidentiality as it applies to the parenting coordination process as well as be able to identify the exceptions to confidentiality.

(d) Explain how the concepts of confidentiality and privilege differ between adults and children.

(e) Explain under what circumstances a parenting coordinator can make recommendations to either the parties or the court and what kind of recommendations may be made.

(f) Describe the legal concepts that relate to the parenting coordination process including, but not limited to: due process, ex parte communications, equitable distribution, child support, modification, parental responsibilities, relocation, and privilege.

(g) Explain the statutory constraints of parenting coordination where domestic violence exists and/or protective orders have been issued by the court.

(h) Describe when and how the parenting coordinator should interface with the court system.

(i) Identify and describe available sample forms and local court procedures pertaining to referral and use of parenting coordination by Florida's trial courts.

(j) Describe process and procedure for working with legal, mental health and other professional disciplines to promote cooperation and professionalism.

(k) List the procedures to follow when requested to provide testimony or evidence.

(l) Understand the grievance procedures contained in the local/state statutes or rules and responsibilities of the parenting coordinator.

8. Domestic Violence and Child Abuse related to Parenting Coordination (minimum of 4 hours)

(a) Identify procedures for on-going screening for domestic violence and appropriate courses of action when safety parameters are needed.

(b) Discuss the legal and non-legal definition of domestic violence.

(c) Discuss the effects of domestic violence on the co-parenting relationship and family dynamics.

(d) Describe the psychological impact of domestic violence on child and adolescent development.

(e) List and describe the empirically based types of domestic violence, including conflict-instigated violence, coercive-controlling violence, separation instigated violence, and undifferentiated type including marital predictors of high risks for violence post-separation.

(f) Explain the importance of understanding the history of the relationship and family dynamics in recognizing coercive, controlling behavior.

(g) Explain the dynamics of perpetrators of abuse and the impact on parenting abilities.

(h) Describe the unique problems and inherent dangers presented by domestic violence of all types in terms of parental contacts, and the need for safety in the parent coordination process.

(i) Explain the importance of monitoring compliance with the parenting plan.

(j) Explain the importance of reporting to a judicial officer any non-confidential infractions of existing court orders, including the need to modify a parenting plan to include safety parameters and the available forms for communicating to the court.

(k) Explain the process for terminating the parenting coordination process when continuing with the process would endanger the safety of those involved.

(l) Explain when the parenting coordinator is required to report emergencies to the court and the procedure to follow.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

Part I General Provisions

1.01 Definitions

The following definitions shall apply.

(a) Appellate Mediation. Appellate mediation as defined in section 44.1011(2)(a), Florida Statutes.

(b) Assistant Trainer. Any person who meets the qualifications specified in section 2.04 and who may critique role plays, facilitate group discussions and deliver any portion of the training for which expertise through education or experience is demonstrated.

(c) Board. The Mediation Training Review Board.

(d) Center. The Florida Dispute Resolution Center of the Office of the State Courts Administrator, Supreme Court Building, Tallahassee, Florida 32399-1905.

(e) Circuit Court Mediation. Circuit court mediation as defined in section 44.1011(b), Florida Statutes.

(f) Committee. The Florida Supreme Court Committee on Alternative Dispute Resolution (ADR) Rules and Policy.

(g) Complaint Committee. Three members of the Board appointed to determine probable cause.

(h) Counsel. Attorney appointed by the Center, at the direction of the complaint committee, responsible for presenting the complaint to the panel.

(i) County Court Mediation. County court mediation as defined in section 44.1011(c), Florida Statutes.

(j) Dependency Mediation. Dependency mediation as defined in section 44.1011(e), Florida Statutes.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(k) Family Mediation. Family mediation as defined in section 44.1011(d), Florida Statutes.

(l) Investigator. A Florida Supreme Court certified mediator, attorney or other qualified individual, appointed by the Center at the direction of a complaint committee.

(m) Panel. Five members of the Board appointed to conduct a hearing to determine whether a violation of the standards has occurred.

(n) Party. A complainant, a training program or any training program principal upon whom the complaint is served.

(o) Primary Trainer. Any person who meets the qualifications specified in section 2.04 and who may critique role plays, facilitate group discussions and deliver any portion of the training for which expertise through education or experience is demonstrated.

(p) Role Play Critiquer. Any person who meets the qualifications of an assistant or primary trainer.

(q) Standards. The Florida Supreme Court Mediation Training Program Standards and Procedures.

(r) Subject Matter Specialist. Any person who meets the qualifications specified in section 2.04 and who may only present specific subject matter material during the training for which expertise through education or experience is demonstrated.

(s) Training Program. A mediation training program certified by the Florida Supreme Court.

(t) Training Program Principals. The corporation or other entity, its officers, its principals and the trainer designated to attend the entire training program.

(u) Venue. Tallahassee or such other location in the State of Florida as determined by the Complaint Committee or Panel Chair.

For purposes of calculating dates of items filed with the Center, the filing date will be documented by the date of mailing or by the date of electronic transmittal.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

1.02 Center Responsibilities

(a) Monitoring and Oversight. The Center shall be responsible for monitoring compliance with the standards, maintaining files on Florida Supreme Court certified programs (including approved materials, agenda, application, evaluation summaries, trainer resumes and any changes submitted), responding to complaints and any other responsibility deemed appropriate by the Florida Supreme Court or the Committee.

(b) Fees. The fee for initial certification of a family, dependency and/or circuit court mediation training program shall be $250 each and the renewal fee shall be $250 each. The fee for initial certification of a county court and appellate mediation training program shall be $150 and the renewal fee shall be $150.

(c) Mediator Certification Orientation. The Center shall advise all participants in Florida Supreme Court certified county court, family, circuit court, dependency and appellate mediation training programs of the training and certification requirements. At the beginning of Florida Supreme Court certified county court, family, circuit court, and dependency mediation training programs, the training providers shall show a video (of approximately 15 minutes) provided and produced by the Center.

1.03 Training Program Responsibilities

(a) Certification Requirements. A training program shall meet the requirements specified in these standards to be certified by the Florida Supreme Court.

(b) Training Program Coordination. For each Florida Supreme Court certified training program offered an individual shall be designated to be responsible for and held accountable on behalf of the program for:

(1) providing the Center with copies of all advertisements for Florida Supreme Court certified mediation training programs;

(2) providing the Center with profile forms and resumes from all primary, assistant trainers, and subject matter specialists who will be used during the training;

(3) ensuring proper facilities are secured with appropriate equipment needs;

(4) ensuring that the training agenda is followed and that all content is covered;

(5) ensuring that evaluations are completed and maintained;

(6) ensuring that a primary trainer is in attendance at all times;

(7) ensuring that one single trainer (primary or assistant) is present for the complete program;

(8) ensuring that all participants complete the requirements of attendance and participation;

(9) ensuring that all trainers designated to critique role plays have viewed the Center's critique video prior to their participation as a role play critiquer; and

(10) all other requirements as may be adopted by the Florida Supreme Court or the Committee.

Part II Training Standards

2.01 Training Parameters

(a) Length of Training. An instructional hour is defined as 60 minutes.

(1) County court mediation training shall be a minimum of 20 instructional hours.

(2) Family mediation training shall be a minimum of 40 instructional hours.

(3) Circuit court mediation training shall be a minimum of 40 instructional hours.

(4) Dependency mediation training shall be a minimum of 40 instructional hours.

(5) Appellate mediation training shall be a minimum of seven instructional hours.

(b) Span of Training. County court mediation training shall be presented over a minimum of three days and a maximum of 30 days in blocks of time of at least three hours. Family, circuit court, and dependency mediation trainings shall be presented over a minimum of five days and a maximum of 30 days in blocks of time of at least three hours. Appellate mediation training shall be presented over a minimum of one day and a maximum of three days in blocks of time of at least two hours. An exemption from the two or three hour block requirement will be made for academic programs for which course credit is given; however, if the training is presented over a period longer than 30 days (in shorter time blocks), an additional hour shall be added for each additional week. Under no circumstances shall the training period exceed 120 days.

(c) Breaks. Trainers shall provide appropriate breaks during their training sessions which shall be in addition to the number of required hours for training. For every hour of training, five minutes of break time shall be added. Any training day which lasts two hours or less is exempt from the break requirement. In addition, during each day which lasts over six hours, there shall be a minimum of 30 minutes provided for a meal or extended break.

2.02 Course Content Requirements

(a) Learning Objectives. Training programs shall incorporate the appropriate learning objectives for the type of Florida Supreme Court certified program offered, as specified:

(1) County court mediation programs shall cover all objectives set forth in section 3.01;

(2) Family mediation programs shall cover all objectives set forth in section 3.02;

(3) Circuit court mediation programs shall cover all objectives set forth in section 3.03;

(4) Dependency mediation programs shall cover all objectives set forth in section 3.04; and

(5) Appellate mediation programs shall cover all objectives set forth in section 3.05.

(b) Submission of Training Materials. When applying for Florida Supreme Court certification and renewal, training programs shall provide the Center with all training materials which will be used in the training program. These materials shall include, but are not limited to, the following: a training manual that is given to the participants including the required readings and an agenda annotated with the learning objectives to be covered in each section and the intended method of instruction; all exercises and handouts including exercises for reducing an agreement to writing and for completing a financial affidavit including child support calculations (if applicable); written exams; and a copy of all role plays. All training materials, handouts and exercises shall be accurate and reflect current mediation rules and procedures. Revisions, deletions and/or additions to the training materials shall be reported to the Center prior to any course offering.

(c) Agenda Approval. Training programs shall seek approval from the Center 21 days in advance of each offering of a Florida Supreme Court certified mediation training program by filing a detailed program agenda and affirming that all materials are current and up-to date. The agenda shall be reviewed by the Center for compliance with the training standards. The agenda shall be submitted in a format as to easily identify the presentation topic, the trainer(s) for each topic, the time allotted to each topic, the learning objectives covered under each topic,

any required activities (e.g., writing agreement exercise, showing of video simulation, etc.) covered under the presentation topic, the trainers utilized for role play critiques and the inclusion of the required break minutes. Any deficiencies in the program agenda shall be corrected prior to the commencement of the training program. Failure to correct deficiencies is a violation of the training standards.

(d) Emergency Revisions. If special circumstances require revisions to the program agenda or the inclusion of additional trainers after the program agenda has been filed with the Center, those changes shall be submitted to the Center no later than three business days after the change becomes known to the training program. It is the responsibility of the training program to ensure that revisions made to the program are in accordance with the requirements of the training standards and that all trainers are approved and/or up to date on all qualifications prior to their participation in the program.

(e) Required Training Materials. At a minimum, training providers shall provide each of their attendees with the following written materials:

(1) an agenda annotated with the learning objectives to be covered in each section;

(2) a training manual that includes the following required readings:

(i) Chapter 44, Florida Statutes.

(i) Section 415.1034, Florida Statutes.

(ii) Florida Rules for Certified and Court-Appointed Mediators.

(iii) Current Florida Supreme Court Administrative Order, In Re: Rules Governing Certification of Mediators.

(iv) Chapter 39, Florida Statutes (for dependency mediation programs only).

(v) Sections 39.201-206, Florida Statutes (for county court, family, circuit court and appellate mediation programs).

(vi) Chapter 61, Florida Statutes (for family mediation programs only).

(vii) Sections 61.13; 61.30; 61.401 – 405, Florida Statutes (for dependency mediation programs only).

(viii) Section 69. 081, Florida Statutes (for circuit court mediation programs only).

(ix) Section 286.011(8), Florida Statutes (for circuit court mediation programs only).

(x) Rules 1.700 - 1.750, Florida Rules of Civil Procedure (for county court and circuit court mediation programs only).

(xi) Rules 12.010, 12.610 and 12.740 – 12.741, Family Law Rules of Procedure (for family mediation programs only).

(xii) Rule 8.290, Florida Rules of Juvenile Procedure (for dependency mediation programs only).

(xiii) Rules 9.700 – 9.740, Appellate Rules of Procedure (for appellate mediation programs only).

(xiv) Model Screening Protocol (for family and dependency mediation programs only).

(3) the Center's bibliography;

(4) an exercise for reducing an agreement to writing (except for appellate mediation programs);

(5) for family mediation programs, written exercises shall include completion of a financial affidavit including child support calculations and reducing an agreement to writing;

(6) role play simulation materials for the required role plays (except for appellate mediation programs); and

(7) role play critique form (except for appellate mediation programs).

(f) Required Readings. All training programs shall provide the participants with the required readings listed in subsection 2.02 (e)(2) above. Time spent on reading required materials shall not count toward the required number of hours of training and shall be completed by participants at times when the training program is not being conducted. Trainers shall incorporate some method of ensuring that the required readings are completed. To the extent that rules or statutes are amended or re-numbered, trainers shall ensure that the current rules are provided to the training participants.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

2.03 Training Methodology

(a) Pedagogy. County court, family, circuit court and dependency mediation programs shall include, but are not limited to, the following: lecture, group discussion, written exercises, mediation simulations and role plays. Appellate programs shall include, but are not limited to, the following: lecture and mediation simulation. In addition, outside readings shall be provided by the trainer to supplement the training.

(b) Written Exercises. At a minimum, written exercises shall include the reducing of an agreement to writing. For family mediation programs, written exercises shall include completion of a financial affidavit including child support calculations and reducing an agreement to writing. For dependency mediation programs, written exercises shall include reducing to writing, agreements in at least one of the following areas: juvenile dependency, foster care or termination of parental rights. There is no written agreement exercise required for appellate mediation training.

Completion of a fill in the blank form is not considered compliance with the written agreement exercise requirement. Prior to the conclusion of the training, a trainer shall review each written agreement and provide feedback individually or via group discussion.

(c) Role Play Requirements. The objective of a role play is for a participant to develop confidence and experience. Trainers should be mindful in designing role plays that the scenarios not be too complex and multi-faceted. These role plays are to be conducted under the observation of a qualified primary trainer or assistant trainer. At the conclusion of each role play, a minimum of 20 minutes shall be allocated for both oral and written feedback to the mediator trainee. The written feedback shall be provided on a form designed or approved by the Center, which shall be provided to the participant at the conclusion of his/her role play as mediator. Specific requirements for role plays shall be as follows:

> (1) County Court Mediation Training Programs. At a minimum, every participant shall take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as the disputant. A continuous role play is defined as one beginning with the mediator's opening statement and continuing for a minimum of 45 minutes.
>
> (2) Family Mediation Training Programs. At a minimum, every participant shall take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as a spouse. A continuous role play is defined as one beginning with the mediator's opening statement and continuing for a minimum of 60 minutes.

(3) Circuit Court Mediation Training Programs. At a minimum, every participant shall take part in at least one continuous role play acting as the sole mediator and one continuous role play acting as a disputant, attorney or insurance representative. A continuous role play is defined as one beginning with the mediator's opening statement and continuing for a minimum of 60 minutes.

(4) Dependency Mediation Training Programs. At a minimum, every participant shall take part in at least one continuous multi-party role play acting as the sole mediator and one continuous multi-party role play acting as a parent or legal guardian. A continuous role play is defined as one beginning with the mediator's opening statement and continuing for a minimum of 60 minutes.

(5) Appellate Mediation Training Programs. There is no role play requirement for appellate mediation training.

(d) Mediation Demonstration. All training programs shall present a role play mediation simulation (either live or by video). For county court, family, dependency and circuit court programs, this shall be done prior to the participant's role play experience as the mediator.

(e) Ethics. County court, family, circuit court and dependency training programs shall review with participants Rules 10.110 - 10.880, Florida Rules for Certified and Court-Appointed Mediators for at least 90 minutes, in blocks of time of at least 30 minutes which shall include application of ethical standards to specific scenarios and discussing common ethical grievances faced by mediators. Appellate mediation training programs shall review with participants Rules 10.100 - 10.880, Florida Rules for Certified and Court-Appointed Mediators, in a continuous 60-minute block of time. In addition, ethics shall be woven throughout the program.

Trainers shall include information on the most common types of ethics charges faced by mediators in Florida as well as ways to avoid unethical or questionable ethical mediator practices.

2.04 Trainer Qualifications

(a) County Court Mediation Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

(1) Primary Trainer. In order to be approved as a primary trainer, a trainer shall demonstrate the following qualifications.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(A) Mediation Training Received. Successful completion of a minimum of 20 hours of mediation training.

(B) Mediation Experience. Participation in a minimum of 50 court-connected mediation conferences (or their equivalent) which includes a minimum of 20 county court court-connected mediations as the mediator and a minimum of four county court court-connected mediation conferences as the mediator or as an observer within the last two years.

(C) Continuing Education. Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Training Delivery Experience. One item from (i) and all of (ii)

(i) Participation as a lecturer for no less than one hour in a Florida Supreme Court certified county court mediation training program; critiquing a mock role play in a Florida Supreme Court certified county court mediation training program; completion of six hours of attendance in a program for trainers on adult teaching techniques; completion of six hours at a train the mediator trainer program; teaching a single continuing mediator education class for no less than three hours; teaching a mediation related program for no less than three hours or 30% of the total program whichever is greater; or teaching via live attendance a graduate or undergraduate course on ADR in a university setting; and in addition

(ii) Participation as a primary trainer or assistant trainer in four distinct county court mediation training programs deemed to be the equivalent of a Florida Supreme Court certified county court mediation training program including:

(a) Participation as a role play critiquer in a minimum of two programs; and

(b) Participation as a lecturer for no less than one hour in a minimum of two programs.

(E) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(2) Assistant Trainer. In order to be approved as an assistant trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 20 hours of mediation training.

(B) Mediation Experience. Participation in a minimum of 20 court-connected mediation conferences (or their equivalent) as the mediator with a minimum of four county court-connected mediation conferences as the mediator or as an observer within the last two years.

(C) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(3) Subject Matter Specialist. Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process.

(4) Renewing or Reinstating Approval as a Primary Trainer. Once approved, a primary trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five county court-connected mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators,

mediator certification requirements, and mediator certification renewal requirements.

(5) Renewing or Reinstating Approval as an Assistant Trainer. Once approved, an assistant trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five county court-connected mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(b) Family Mediation Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

(1) Primary Trainer. In order to be approved as a primary trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 40 hours of family mediation training.

(B) Mediation Experience. Participation in a minimum of 50 complete Florida family mediation conferences (or their equivalent) as the mediator with a minimum of four Florida family mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Continuing Education. Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer

conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Training Delivery Experience. One item from (i) and all of (ii)

(i) Participation as a lecturer for no less than one hour in a Florida Supreme Court certified family mediation training program; critiquing a mock role play in a Florida Supreme Court certified family mediation training program; completion of six hours of attendance in a program for trainers on adult teaching techniques; completion of six hours at a train the mediator trainer program; teaching a single continuing mediator education class for no less than three hours; teaching a mediation related program for no less than three hours or 30% of the total program whichever is greater; or teaching via live attendance a graduate or undergraduate course on ADR in a university setting; and in addition

(ii) Participation as a primary trainer or assistant trainer in four distinct family mediation training programs deemed to be the equivalent of a Florida Supreme Court certified family mediation training program including:

(a) Participation as a role play critiquer in a minimum of two programs; and

(b) Participation as a lecturer for no less than one hour in a minimum of two programs.

(E) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(2) Assistant Trainer. In order to be approved as an assistant trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 40 hours of family mediation training.

(B) Mediation Experience. Participation in a minimum of 20 Florida family mediation conferences (or their equivalent) as the mediator with a minimum of four Florida family mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(3) Subject Matter Specialist. Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process. Lectures on family law shall be presented by a Florida attorney with at least five years of family law practice. Lectures on psychological issues in separation and divorce, family dynamics, and needs of children shall be presented by a master or doctoral level mental health professional[1] or a licensed mental health professional (see Chapters 490 - 491, Florida Statutes).

(4) Renewing or Reinstating Approval as a Primary Trainer. Once approved, a primary trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida family mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

[1] Mental health defined as social work, psychology or psychiatry. Does not include masters in sociology or divinity.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(5) Renewing or Reinstating Approval as an Assistant Trainer. Once approved, an assistant trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida family mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(c) Circuit Court Mediation Training Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

(1) Primary Trainer. In order to be approved as a primary trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 40 hours of mediation training.

(B) Mediation Experience. Participation in a minimum of 50 complete Florida circuit court (non-family) mediation conferences (or their equivalent) as the mediator with a minimum of four Florida circuit court (non-family) mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Continuing Education. Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Training Delivery Experience. One item from (i) and all of (ii)

(i) Participation as a lecturer for no less than one hour in a Florida Supreme Court certified circuit court mediation training program; critiquing a mock role play in a Florida Supreme Court certified circuit court mediation training program; completion of six hours of attendance in a program for trainers on adult teaching techniques; completion of six hours at a train the mediator trainer program; teaching a single continuing mediator education class for no less than three hours; teaching a mediation related program for no less than three hours or 30% of the total program whichever is greater; or teaching via live attendance a graduate or undergraduate course on ADR in a university setting; and in addition

(ii) Participation as a primary trainer or assistant trainer in four distinct circuit court mediation training programs deemed to be the equivalent of a Florida Supreme Court certified circuit court mediation training program including:

(a) Participation as a role play critiquer in a minimum of two programs; and

(b) Participation as a lecturer for no less than one hour in a minimum of two programs.

(E) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(2) Assistant Trainer. In order to be approved as an assistant trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 40 hours of mediation training.

(B) Mediation Experience. Participation in a minimum of 20 Florida circuit court (non-family) mediation conferences (or their equivalent) as the mediator with a minimum of four Florida circuit court (non-family) mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(3) Subject Matter Specialist. Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process.

(4) Renewing or Reinstating Approval as a Primary Trainer. Once approved, a primary trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida circuit court (non-family) mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(5) Renewing or Reinstating Approval as an Assistant Trainer. Once approved, an assistant trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida circuit court (non-family) mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(d) Dependency Mediation Training Programs. Training programs shall employ primary trainers, assistant trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as an assistant or primary trainer shall be for two years.

(1) Primary Trainer. In order to be approved as a primary trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a Florida Supreme Court certified dependency mediation training.

(B) Mediation Experience. Participation in a minimum of 20 complete Florida dependency mediation conferences (or their equivalent) as the mediator with a minimum of four Florida dependency mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Continuing Education. Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Training Delivery Experience. One item from (i) and all of (ii)

(i) Participation as a lecturer for no less than one hour in a Florida Supreme Court certified dependency mediation training program; critiquing a mock role play in a Florida Supreme Court certified dependency mediation training program; completion of six hours of attendance in a program for trainers on adult teaching techniques; completion of six hours at a train the mediator trainer program; teaching

a single continuing mediator education class for no less than three hours; teaching a mediation related program for no less than three hours or 30% of the total program whichever is greater; or teaching via live attendance a graduate or undergraduate course on ADR in a university setting; and in addition

(ii) Participation as a primary trainer or assistant trainer in four distinct dependency mediation training programs deemed to be the equivalent of a Florida Supreme Court certified dependency mediation training program including:

(a) Participation as a role play critiquer in a minimum of two programs; and

(b) Participation as a lecturer for no less than one hour in a minimum of two programs.

(E) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(2) Assistant Trainer. In order to be approved as an assistant trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a Florida Supreme Court dependency mediation training

(B) Mediation Experience. Participation in a minimum of 10 Florida dependency mediation conferences (or their equivalent) as the mediator with a minimum of four Florida dependency mediation conferences (or their equivalent) as the mediator or as an observer within the last two years.

(C) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators,

mediator certification requirements, and mediator certification renewal requirements.

(3) Subject Matter Specialist. Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process. Lectures on Florida Dependency Law shall be presented by a Florida attorney with dependency experience. Lectures on Family Dynamics and Psychological Issues and Issues Concerning the Needs of Children in the Context of Dependency Proceedings shall be presented by a master or doctoral level mental health professional[2] or a licensed mental health professional (see Chapters 490 - 491, Florida Statutes).

(4) Renewing or Reinstating Approval as a Primary Trainer. Once approved, a primary trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida dependency mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(5) Renewing or Reinstating Approval as an Assistant Trainer. Once approved, an assistant trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of five Florida dependency mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education within the last two years. Lecturing in and/or attending a Florida Supreme Court certified

[2] Mental health defined as social work, psychology or psychiatry. Does not include masters in sociology or divinity.

mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(e) Appellate Mediation Training Programs. Training programs shall employ primary trainers and subject matter specialists who meet the applicable qualifications outlined below and who have been approved by the Center. Approval as a primary trainer shall be for two years.

(1) Primary Trainer. In order to be approved as a primary trainer, a trainer shall demonstrate the following qualifications.

(A) Mediation Training Received. Successful completion of a minimum of 40 hours of mediation training and a minimum of seven hours of appellate mediation training in a program certified by the Florida Supreme Court (or the equivalent).

(B) Mediation Experience. Participation in a minimum of 10 complete appellate mediation conferences (or their equivalent) as the mediator with a minimum of two appellate mediations (or their equivalent) as the mediator or as an observer within the last two years.

(C) Continuing Education. Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(D) Training Delivery Experience: One item from (i) and all of (ii)

(i) Participation as a lecturer for no less than one hour in a Florida Supreme Court certified county court, family, circuit court, dependency or appellate mediation training program; completion of six hours of attendance in a program for trainers on adult teaching techniques; teaching a single continuing mediator education class for no less than three hours; teaching a mediation related program for no less than three

hours or 30% of the total program whichever is greater; or teaching a graduate course on ADR in a university setting; and in addition

(ii) Participation in four distinct mediation training programs that include participation as primary trainer or assistant trainer in county court, family, circuit court, or dependency mediation training programs deemed to be the equivalent of a Florida Supreme Court certified county court, family, circuit court or dependency mediation training and/or participation as a primary trainer or subject matter specialist in appellate mediation training programs deemed to be the equivalent of a Florida Supreme Court certified appellate mediation training.

(E) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(2) Subject Matter Specialist. Subject matter specialists shall have a substantial part of his or her professional practice in the area about which the specialist is lecturing and shall have the ability to connect his or her area of expertise with the mediation process.

(3) Renewing or Reinstating Approval as a Primary Trainer. Once approved, a primary trainer shall demonstrate the following qualifications irrespective of whether such approval has lapsed.

(A) Participation in a minimum of two appellate mediation conferences as the mediator or as an observer within the last two years.

(B) Completion of 16 hours of continuing mediator education including three hours of train the mediation trainer or adult teaching techniques within the last two years. Lecturing in and/or attending a Florida Supreme Court certified mediation training program in which the trainer conducted the program does not qualify toward the required continuing mediator education for trainers.

(C) Examination. Successful completion of an open-book examination on Chapter 44, mediation training standards, standards of conduct for mediators, mediator certification requirements, and mediator certification renewal requirements.

(4) Notwithstanding section 2.05 (b), during the two years immediately following the adoption of the appellate mediation training standards, a primary trainer or subject

matter specialist may fulfill the attendance requirements at a training wherein the trainer participated in the delivery of the training program.

2.05 Trainers - Miscellaneous

(a) Attendance. The attendance requirement for a Florida Supreme Court certified mediation training program is two-fold:

(1) A primary trainer shall be in attendance during the entire training program. It is preferable that a single primary trainer fulfill this obligation, but it is permissible that this be accomplished by more than one primary trainer; and

(2) To ensure continuity and answer questions, at least one trainer (primary or assistant) shall attend the entire program.

(b) Attendance as Trainer. Trainers cannot fulfill the attendance requirement at training programs in which they present.

(c) Role Play Critiquing. It is the responsibility of the training program to see that any trainer who will be critiquing role plays reviews the critique video provided by the Center prior to their initial participation as a role play critiquer and returns the Center's verification form no later than 14 days from the conclusion of the program.

2.06 Student: Faculty Ratio

(a) Class Size. Class size shall be limited to 40 participants.

(b) Role Play Observations. A trainer shall observe no more than one role play group at a time. Role play refers to the "continuous" role play requirement as outlined in section 2.03(c) and does not apply to the use of role plays to practice a single component of a mediation such as the opening statement or caucus.

2.07 Participant Attendance

Participants shall complete their training requirement by physically attending one entire live training program. The training program, in conjunction with a primary trainer, is responsible for ensuring that the integrity of each portion of the program is not compromised. Under no circumstances may a participant be excused from attending portions of the training due to scheduled appointments or obligations (e.g. doctor appointments, hearings, court appearances, or conference calls). Scheduled appointments or obligations shall not include legitimate religious observation, thereby allowing trainers to accommodate the religious obligations of

attendees, if the trainer is still able to ensure the integrity of the training program. Trainers may adjust the training schedule for persons with disabilities covered by the Americans with Disabilities Act (ADA) to reasonably accommodate their disability provided that the trainer is still able to ensure the integrity of the training program.

Any portion of training missed shall be made up as directed by the trainer. If a participant misses any portion or portions of the training program which compromise(s) the integrity of the program, the training program shall require the participant to repeat an entire program.

2.08 Notice of Training

The training program shall notify the Center of the dates for any Florida Supreme Court certified mediation training program prior to advertising the program to the public or accepting registration.

2.09 Completion of Training

(a) Reporting Requirements. A training program shall provide, at the conclusion of the training, written documentation of completion to participants who successfully complete the program and shall file a list of successful participants with their addresses, telephone numbers and email addresses with the Center within 14 days of course completion. Successful completion of the program is defined as:

(1) the attendance by the participant of the complete training program;

(2) completion of all requirements; and

(3) effective demonstration of the skills necessary to become a mediator.

For appellate training, successful completion is defined as (1) and (2).

(b) Remedial Training. It is the responsibility of the training program to delineate a specific remedial course of action for participants who do not successfully complete the program.

(c) Each participant shall evaluate the training program on a form designed by the Center. Training programs shall file with the Center a summary of the training on a form designed by the Center within 14 days of the completion of the program. Each trainer shall affirm in writing that she/he has covered all of the required learning objectives when she/he turns in the final course evaluation.

(d) Audit Forms. Each participant shall evaluate the training program on an audit form at the conclusion of the program. Training programs shall file with the Center a collection verification form and all original audit forms within 14 days of the completion of the training program.

2.10 Modifications

Any mediation training program certified by the Florida Supreme Court as meeting the standards outlined herein shall be certified for a period of five years. During such time, training programs shall provide the Center with any and all changes made to training materials, including any modifications and updates of information. The Center will review these amendments and determine if such substantial changes have been made to render the program a new program requiring separate certification.

2.11 Records

(a) The individual program evaluations referenced in section 2.09(c) shall be retained by the training program for no less than one year.

(b) Except for the individual program evaluations referenced in section 2.09(c), all other training records and materials shall be retained for no less than three years.

2.12 Renewals

To ensure continued uninterrupted certification, application for renewal by the Florida Supreme Court may be submitted up to six months before certification expires.

2.13 Advertising

All advertisements shall be truthful and shall be provided to the Center in accordance with section 2.08. A training program may state that it is certified by the Florida Supreme Court. It shall be clear from the statement that the program itself and not the trainer, mode of its presentation or location have been certified by the Florida Supreme Court.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

Part III Learning Objectives

3.01 County Court Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) Conflict Resolution Concepts in County Court Mediation

(1) Explain the difference between the following methods of dispute resolution: negotiation, mediation, arbitration (binding and non-binding), early neutral evaluation, and litigation.

(2) Identify the strengths and weaknesses of various dispute settlement methods.

(3) Identify and demonstrate the basic principles of negotiation.

(4) Distinguish between the professional roles and responsibilities of judges, lawyers, experts, mediators and arbitrators.

(5) Recognize the importance of party empowerment and self-determination in county court mediation.

(b) Court Process in County Court Mediation

(1) Identify the route and manner by which a case is referred to mediation by the court.

(2) Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement.

(3) Identify the state rules, state statutes, local procedures and forms governing court mediation, including small claims court.

(4) Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs.

(5) Identify the various types of disputes which may be presented in county court.

(6) Identify the protections, constraints, and exceptions of the Florida Mediation Confidentiality and Privilege Act.

(7) Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult.

(8) Identify the certification and renewal requirements for Florida Supreme Court certified county court mediators.

(9) Distinguish between court-ordered and non-court-ordered mediation such as pre-suit, voluntary, contractual, and statutory mediation.

(10) Describe the structure of the Florida state courts.

(c) Mediation Process and Techniques in County Court Mediation

(1) Identify components of a mediation.

(2) Explain and demonstrate the role of the mediator in conducting a mediation such as conducting an opening statement, preparing a disputant to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

(3) Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental.

(4) Identify procedural elements which should be addressed prior to the entry of the parties into the mediation room, including seating of parties and set-up of the room.

(5) Demonstrate an appropriate opening statement.

(6) Explain the mediator's role in assisting parties in identifying and clarifying their issues.

(7) Frame issues in neutral language.

(8) Develop a framework for discussing the issues in a dispute.

(9) Identify issues which are appropriate for mediation and those which are not appropriate.

(10) Identify individuals who are essential participants as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation.

(11) Identify appropriate techniques for mediating when one or more parties are not physically present but participate in the mediation.

(12) Identify appropriate techniques for mediating when persons not required to attend are present in mediation.

(13) Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are represented by counsel.

(14) Identify and demonstrate techniques a mediator may use to assist a party to reconsider his/her position.

(15) Identify and demonstrate techniques to conclude a mediation.

(16) Identify techniques to address unresolved issues.

(17) Explain when and how to use caucuses.

(18) Identify appropriate techniques for mediating with multiple parties.

(19) Identify appropriate techniques for handling a situation where a representative appearing for a party does not have full authority to settle.

(20) Discuss the dynamics of mediating when one or more parties or representatives repeatedly participate in mediation.

(21) Identify appropriate techniques for handling difficult or dangerous situations.

(22) Describe techniques for addressing situations where there is a language barrier and for appropriately utilizing the services of an interpreter in mediation.

(23) Identify appropriate courses of action when confronted with substance abuse during the mediation session.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(d) Communication Skills in County Court Mediation

(1) Identify and demonstrate essential elements for effective listening and responding.

(2) Identify and demonstrate essential elements for effective note-taking.

(3) Identify and demonstrate essential elements for effective questioning.

(4) Identify and demonstrate appropriate non-verbal communication.

(5) Demonstrate how to record the parties' agreement.

(6) Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process.

(e) Standards of Conduct/Ethics for Mediators in County Court Mediation

(1) Identify potential ethical dilemmas.

(2) Discuss appropriate courses of action when confronted with an ethical dilemma.

(3) Identify acts specifically required and acts specifically prohibited by the Florida Rules for Certified and Court-Appointed Mediators.

(4) Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case.

(5) Discuss the mediator's obligations regarding impartiality.

(6) Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation.

(7) Explain when a mediator shall adjourn or terminate a mediation session.

(8) Discuss the mediator's ethical responsibilities with respect to confidentiality.

(9) Discuss ethical considerations of mediating when domestic violence may compromise safety, self-determination or the mediation process.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(10) Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.

(11) Recognize that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of mediator impartiality and the preservation of party self-determination.

(12) Recognize that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.

(13) Recognize that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if such can be done in a manner consistent with standards of mediator impartiality and preservation of party self-determination.

(14) Explain how a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

(15) Discuss the mediator's ethical obligations regarding advertising and billing practices.

(16) Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

(17) Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.

(18) Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately.

(19) Identify when a mediator shall advise the parties of the right to seek independent legal counsel.

(20) Identify when a mediator shall adjourn or terminate mediation.

(21) Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required or permitted by law.

(22) Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator.

(23) Recognize when and how to use outside experts effectively and how to assist the parties in deciding on appropriate community resources.

(24) Recognize the ethical issues that arise when some parties or representatives are repeat participants in mediation.

(f) Diversity Issues in County Court Mediation

(1) Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation.

(2) Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation.

(3) Develop an awareness that people differ in how they make decisions, how they process information and how they communicate.

3.02 Family Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) Conflict Resolution Concepts in Family Mediation

(1) Explain the difference between the following methods of dispute resolution: negotiation, mediation, arbitration (binding and non-binding), early neutral evaluation, parent coordination, collaborative law, and litigation.

(2) Identify the strengths and weaknesses of various dispute settlement methods.

(3) Identify and demonstrate the basic principles of negotiation.

(4) Distinguish between the professional roles and responsibilities of judges, lawyers, experts, mediators, arbitrators, general magistrates, case managers, parent coordinators, and guardians ad litem.

(5) Recognize the importance of party empowerment and self-determination in family mediation.

(b) Court Process in Family Mediation

(1) Identify the route and manner by which a case is referred to mediation by the court.

(2) Recognize the characteristics of pre-judgment and post-judgment mediation.

(3) Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement.

(4) Identify the state rules, state statutes and local procedures and forms governing family mediation.

(5) Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs.

(6) Identify the various types of disputes which may be presented in a family mediation.

(7) Identify the protections, constraints, and exceptions of the Florida Mediation Confidentiality and Privilege Act.

(8) Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect, or exploitation of a vulnerable adult.

(9) Identify the certification and renewal requirements for Florida Supreme Court certified family mediators.

(10) Distinguish between court-ordered and non-court ordered mediation such as pre-suit, voluntary, contractual, or statutory.

(11) Describe the structure of the Florida state courts, including the concepts of the unified family court.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(c) Mediation Process and Techniques in Family Mediation

(1) Identify components of a mediation.

(2) Explain and demonstrate the role of the mediator in conducting a mediation such as conducting an opening statement, preparing a disputant to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

(3) Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental.

(4) Identify procedural elements which should be addressed prior to the entry of the parties into the mediation room, including seating of parties and set-up of the room.

(5) Demonstrate an appropriate opening statement.

(6) Explain the mediator's role in assisting parties in identifying and clarifying their issues.

(7) Frame issues in neutral language.

(8) Develop a framework for discussing the issues in a dispute.

(9) Identify issues which are appropriate for mediation and those which are not appropriate.

(10) Identify individuals who are essential participants in mediation as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful.

(11) Recognize techniques for mediating with a self-represented party.

(12) Identify appropriate techniques for mediating when persons not required to attend are present in mediation.

(13) Identify appropriate techniques for mediating when one or more parties are not physically present but participate in the mediation.

(14) Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are presented by counsel.

(15) Identify and demonstrate techniques a mediator may use to assist a party to reconsider his or her position.

(16) Identify and demonstrate techniques to conclude a mediation.

(17) Identify techniques to address unresolved issues.

(18) Explain when and how to use caucuses.

(19) Discuss the dynamics of mediating when one or more parties, participants, or representatives repeatedly participates in mediation.

(20) Identify appropriate techniques for handling difficult or dangerous situations.

(21) Describe techniques for addressing situations where there is a language barrier and for appropriately utilizing the services of an interpreter in mediation.

(22) Recognize when and how to use experts.

(23) Identify appropriate courses of action when confronted with substance abuse during the mediation session.

(d) Communication Skills in Family Mediation

(1) Identify and demonstrate essential elements for effective listening and responding.

(2) Identify and demonstrate essential elements for effective note-taking.

(3) Identify and demonstrate essential elements for effective questioning.

(4) Identify and demonstrate appropriate non-verbal communication.

(5) Demonstrate how to record the parties' agreement.

(6) Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(e) Standards of Conduct/Ethics for Mediators in Family Mediation

(1) Identify potential ethical dilemmas.

(2) Discuss appropriate courses of action when confronted with an ethical dilemma.

(3) Identify acts specifically required and acts specifically prohibited by the Florida Rules for Certified and Court-Appointed Mediators.

(4) Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for Mediators than it is for the parties to settle their case.

(5) Discuss the mediator's obligations regarding impartiality.

(6) Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation.

(7) Explain when a mediator shall adjourn or terminate.

(8) Recognize the statutory constraints of mediating cases where domestic violence exists.

(9) Discuss the mediator's ethical responsibilities with respect to confidentiality.

(10) Discuss ethical considerations of mediating when domestic violence may compromise safety, self-determination, or the mediation process.

(11) Recognize the issue of confidentiality as it relates to child abuse, neglect and abandonment, domestic violence advocate-victim privilege, domestic violence centers, vulnerable adult, abuse, neglect or exploitation, and the safety of the victim.

(12) Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.

(13) Recognize that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of mediator impartiality and the preservation of party self-determination.

(14) Recognize that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(15) Recognize that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if consistent with standards of mediator impartiality and preservation of party self-determination.

(16) Discuss the mediator's ethical obligations regarding advertising and billing practices.

(17) Explain how a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

(18) Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

(19) Recognize how a mediator shall promote awareness by the parties of the interest of persons affected by actual or potential agreements who are not represented at mediation.

(20) Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.

(21) Discuss the ethical and practical ramifications involved when the mediator writes the agreement.

(22) Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately.

(23) Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required or permitted by law.

(24) Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator.

(25) Recognize when and how to use outside experts effectively or how to assist the parties in deciding on appropriate community resources.

(26) Identify when a mediator shall advise the parties of the right to seek independent legal counsel.

(27) Identify when a mediator shall adjourn or terminate mediation.

(28) Recognize the ethical issues that arise when some parties, participants or representatives repeatedly participate in mediation.

(f) Community Resources and Referral Process in Family Mediation

(1) Develop a list of the types of resources which may be available for domestic violence situations.

(2) Recognize the potential value of utilizing outside resources.

(g) Diversity Issues in Family Mediation

(1) Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences and which may impact the mediation.

(2) Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation.

(3) Develop an awareness that people differ in how they make decisions, how they process information and how they communicate.

(h) Psychological Issues in Separation and Divorce and Family Dynamics in Family Mediation

(1) Explain the impact divorce has on individuals and on family dynamics and the implications for the mediation process.

(2) Discuss how emotions affect divorce issues and a party's ability to effectively mediate.

(3) Identify factors which may indicate the presence of domestic violence.

(4) Identify domestic violence lethality indicators.

(5) Identify safety issues before, during and after mediation for victims of domestic violence and their families.

(6) Recognize the impact domestic violence and abuse has on the parties and their capacity to participate meaningfully in the mediation session.

(7) Discuss how to assess whether domestic violence is present.

(8) Explain how to screen cases for domestic violence issues which may compromise the self-determination of one of the parties.

(9) Identify the stages of divorce and grief and the implications for the mediation process.

(10) Discuss the impact of grandparents, stepparents and significant others on family systems and the mediation process.

(i) Issues Concerning the Needs of Children in the Context of Divorce in Family Mediation

(1) Discuss the needs of children and the effect of divorce on their relationships with their mother, father, step families, siblings and others in the family relationship.

(2) Discuss the impact the mediation process can have on the children's well-being and behavior and recognize when and how to involve children in mediation.

(3) Identify child(ren)'s developmental stages and how they relate to divorce and parenting arrangements.

(4) Identify the impact of parental conflict on children's well-being and the parental alienation syndrome.

(5) Assist parties in developing options for different parenting arrangements which consider the needs of the child(ren) and each parent's capacity to parent.

(6) Identify the indicators of child abuse and/or neglect.

(j) Florida Family Law in Family Mediation

(1) Identify issues of geographic relocation.

(2) Identify issues of equitable distribution.

(3) Identify issues of shared and sole parental responsibility laws.

(4) Identify issues of parenting plan including time sharing schedule.

(5) Identify issues of child support and child support guidelines.

(6) Identify issues of spousal support.

(7) Identify issues of grandparent rights.

(8) Identify issues of domestic violence.

(9) Identify issues of abuse and neglect.

(10) Identify issues of paternity.

(k) Financial Issues in Family Mediation

(1) Identify sources of information necessary for parties to complete a financial affidavit.

(2) Complete a financial affidavit.

(3) Explain the significance of asset valuation issues (e.g., valuation date; cost basis; future tax liabilities; and valuation basis.)

(4) Discuss the importance of full financial disclosure.

(5) Explain the significance of business valuation issues (e.g., businesses; sole proprietorships; partnerships; and corporations.)

(6) Explain the significance of tax issues relating to dependency exemptions; sale of marital residence; earned income tax credit; transfers of stock or property; legal expenses; innocent spouse rule; filing status issues; life insurance products; property transfer rules; alimony; and pensions and retirement plans.

(7) Explain the significance of valuation and division issues relating to pension and retirement plans, including, but not limited to, the use of Qualified Domestic Relation Order (QDRO) and its implications.

(8) Explain the issues of valuation of life insurance for equitable distribution purposes.

(9) Discuss the role of life insurance to secure support.

(10) Calculate child support based on child support guidelines and consideration of additional economic needs of children.

(11) Identify different types of financial experts and resources.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

3.03 Circuit Court Mediation Training

(a) Conflict Resolution Concepts in Circuit Court Mediation

(1) Explain the difference between the following methods of dispute resolution: negotiation, mediation, arbitration (binding and non-binding), early neutral evaluation, voluntary trial resolution, and litigation.

(2) Identify the strengths and weaknesses of various dispute settlement methods.

(3) Distinguish between the professional roles and responsibilities of judges, lawyers, experts, mediators, arbitrators, general magistrates, special masters, and case managers.

(4) Recognize the importance of party empowerment and self-determination in circuit court mediation.

(b) Negotiation Dynamics in Circuit Court Mediation

(1) Identify and demonstrate the basic principles of negotiation.

(2) Recognize the issues of settlement authority as they relate to institutional (private and governmental) litigants in mediation.

(3) Recognize the role of insurance representatives in the mediation process.

(4) Recognize techniques for assessing risks including how an insurance carrier assesses its liability in a case.

(5) Recognize how parties and their attorneys assess interests in a case.

(6) Recognize the relationship of a defense attorney and his/her client to the client's insurance carrier.

(7) Recognize common negotiation techniques and tactics employed by the parties and participants in mediation.

(8) Recognize concept of "good faith" and distinguish it from state court appearance requirements.

(9) Recognize basic insurance nomenclature.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(c) Court Process in Circuit Court Mediation

(1) Recognize the characteristics of appellate, voluntary, pre-suit, and court-ordered mediation.

(2) Describe the structure of the Florida state courts.

(3) Identify the route and manner by which a case is referred to mediation by the court.

(4) Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement.

(5) Identify the state rules, state statutes and local procedures and forms governing circuit court mediation.

(6) Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs.

(7) Recognize how mediation confidentiality and Chapter 286 (Sunshine Law) impact each other in mediation involving public entities.

(8) Identify the protections, constraints, and exceptions of the Florida Mediation Confidentiality and Privilege Act.

(9) Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult.

(10) Identify the certification and renewal requirements for Florida Supreme Court circuit court mediators.

(11) Identify the various types of disputes which may be presented in circuit court.

(d) Mediation Process and Techniques in Circuit Court Mediation

(1) Identify the components of a mediation.

(2) Explain and demonstrate the role of the mediator in conducting a mediation, such as conducting an opening statement, preparing a party to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on

partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

(3) Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental.

(4) Identify procedural elements which should be addressed prior to the parties entry into the mediation room, including seating of parties and set-up of the room.

(5) Demonstrate an appropriate opening statement.

(6) Explain the mediator's role in assisting parties in identifying and clarifying their issues.

(7) Frame issues in neutral language.

(8) Develop a framework for discussing the issues in a dispute.

(9) Identify issues which are appropriate for mediation and those that are not appropriate.

(10) Identify individuals who are essential participants in mediation as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation.

(11) Identify appropriate techniques for mediating when one or more parties are not physically present but participate in the mediation.

(12) Identify appropriate techniques for mediating when persons not required to attend are present in mediation.

(13) Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are presented by counsel.

(14) Identify and demonstrate techniques a mediator may use to assist a party to reconsider his/her position.

(15) Identify techniques to address unresolved issues.

(16) Identify and demonstrate techniques to conclude a mediation.

(17) Explain when and how to use caucuses.

(18) Identify appropriate techniques for mediating with multiple parties.

(19) Identify appropriate techniques for handling a situation where a representative appearing for a party does not have full authority to settle.

(20) Discuss the dynamics of mediating when one or more parties, participants or representatives frequently participate in mediation.

(21) Identify appropriate techniques for handling difficult or dangerous situations.

(22) Describe techniques for addressing situations where there is a language barrier and for appropriately utilizing the services of an interpreter in mediation.

(23) Identify appropriate courses of action when confronted with substance abuse during the mediation session.

(24) Recognize when and how to use experts.

(e) Communication Skills in Circuit Court Mediation

(1) Identify and demonstrate essential elements for effective listening and responding.

(2) Identify and demonstrate essential elements for effective note-taking.

(3) Identify and demonstrate essential elements for effective questioning.

(4) Identify and demonstrate appropriate non-verbal communication.

(5) Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process.

(6) Demonstrate how to record the parties' agreement.

(f) Standards of Conduct/Ethics for Mediators in Circuit Court Mediation

(1) Identify potential common ethical dilemmas.

(2) Discuss appropriate courses of action when confronted with an ethical dilemma.

(3) Identify acts specifically required and acts specifically prohibited by the Florida Rules for Certified and Court-Appointed Mediators.

(4) Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case.

(5) Discuss the mediator's obligations regarding impartiality.

(6) Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation.

(7) Explain when a mediator shall adjourn or terminate.

(8) Discuss the mediator's ethical responsibilities with respect to confidentiality.

(9) Discuss the ethical considerations of mediating when domestic violence may compromise safety, self-determination or the mediation process.

(10) Recognize the issue of confidentiality as it relates to child abuse, neglect and abandonment, domestic violence advocate-victim privilege, domestic violence centers, and vulnerable adult, abuse, neglect or exploitation.

(11) Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.

(12) Recognize that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of mediator impartiality and the preservation of party self-determination.

(13) Recognize that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.

(14) Recognize that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if such can be done in a manner consistent with standards of impartiality and preservation of party self-determination.

(15) Explain how a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

(16) Discuss the mediator's ethical obligations regarding advertising and billing practices.

(17) Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

(18) Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.

(19) Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement reached be memorialized appropriately.

(20) Recognize that a mediator shall promote awareness by the parties of the interest of persons affected by actual or potential agreements who are not represented at mediation.

(21) Identify when a mediator shall advise the parties of the right to seek independent legal counsel.

(22) Identify when a mediator shall adjourn or terminate mediation.

(23) Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required or permitted by law.

(24) Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator.

(25) Recognize when and how to use outside experts effectively or how to assist the parties in deciding on appropriate community resources.

(26) Recognize the ethical issues that arise when some parties, participants or representatives are frequent participants in mediation.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(g) Diversity Issues in Circuit Court Mediation

(1) Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences which may impact the mediation.

(2) Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation.

(3) Develop an awareness that people differ in how they make decisions, how they process information and how they communicate.

(h) Attorneys in Circuit Court Mediation

(1) Recognize the role of litigants' attorneys in the mediation process and the potential for conflicts.

(2) Recognize the attorney-client relationship within the context of mediation.

(3) Recognize issues of attorneys' fees, fee shifting statutes and contingency fee arrangements.

(4) Recognize the use of private sessions with attorneys.

(i) Basic Legal Concepts in Circuit Court Mediation

(1) Recognize basic legal concepts, procedures, and nomenclature of civil issues.

(2) Recognize basic casualty insurance coverage and exclusions (e.g., CGL Policies; E&O Policies; Homeowner's Policies; and Auto Liability Policies).

(3) Recognize the impact on the mediation process of identification of outstanding discovery issues and options for proceeding.

(4) Recognize the significance of the Uniform Contribution Among Joint Tortfeasor's Act.

(5) Recognize the significance of Section 768.81, Florida Statutes, Comparative Fault Act.

(6) Identify the Fabre Verdict Form.

(7) Identify the Florida Economic Loss Rule.

(8) Identify basic concepts of actionable negligence (e.g., duty, breach, causation, damages).

(9) Identify basic concepts of contract claims (e.g., privity, breach, foreseeable consequences, and limitations)

(10) Recognize basic rules and standards of recoverable damages.

(j) Financial Issues in Circuit Court Mediation

(1) Recognize that a mediated agreement may have financial and tax implications in addition to legal implications.

(2) Recognize various structured settlement options.

3.04 Dependency Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) Conflict Resolution Concepts in Dependency Mediation

(1) Explain the difference between the following methods of dispute resolution: negotiation, mediation, arbitration (binding and non-binding), family group conferencing, parent coordination, child protection agency case status conference, and litigation.

(2) Identify the strengths and weaknesses of various dispute settlement methods.

(3) Identify and demonstrate the basic principles of negotiation.

(4) Distinguish between the professional roles and responsibilities of judges, lawyers, experts, general magistrates, mediators, arbitrators, guardian ad litem (GAL), attorney ad litem, child protection investigators, child protection case workers and other service providers.

(5) Recognize the importance of party empowerment and self-determination in dependency mediation.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(b) Court Process in Dependency Mediation

(1) Identify the route and manner by which a case is referred to mediation by the court.

(2) Distinguish between court-ordered and non-court ordered mediation such as pre-suit, voluntary, contractual and statutory mediation.

(3) Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement.

(4) Identify the state rules, state statutes, local procedures, and forms governing dependency mediation.

(5) Recognize the mediator's obligations to comply with the American with Disabilities Act (ADA) and strategies for handling situations when faced with disability issues or special needs.

(6) Identify the protections, constraints, and exceptions of the Florida Confidentiality and Privilege Act.

(7) Recognize the mandatory reporting requirements pursuant to Florida law which may apply when an individual becomes aware of possible abuse, neglect or abandonment of a child or abuse, neglect or exploitation of a vulnerable adult.

(8) Identify the certification and renewal requirements for Florida Supreme Court dependency mediators.

(9) Describe the structure of the Florida state courts, including the concepts of the unified family court.

(10) Identify the various types of disputes which may be presented in dependency court.

(c) Mediation Process and Techniques in Dependency Mediation

(1) Identify the components of a mediation.

(2) Explain and demonstrate the role of the mediator in conducting a mediation, such as conducting an opening statement, preparing a party and participant to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(3) Explain the importance of and demonstrate building rapport, establishing trust, setting a cooperative tone, maintaining neutrality and impartiality, listening and questioning, promoting party empowerment and remaining non-judgmental.

(4) Identify procedural elements which should be addressed prior to the entry of the parties into the mediation room, including seating of parties and set up of the room.

(5) Demonstrate an appropriate opening statement.

(6) Explain the mediator's role in assisting parties in identifying and clarifying their issues.

(7) Frame issues in neutral language.

(8) Develop a framework for discussing the issues in a dispute.

(9) Identify issues which are appropriate for mediation and those that are not appropriate.

(10) Identify individuals who are essential participants in mediation as well as those who are entitled to be present and those who are not required to participate but whose participation may be helpful in mediation.

(11) Identify appropriate techniques for mediating when one or more parties are not physically present but participate in the mediation.

(12) Identify appropriate techniques for mediating when persons not required to attend are present in mediation.

(13) Describe techniques for mediating when all parties are self-represented, some parties are self-represented, or all parties are represented by an attorney.

(14) Identify and demonstrate techniques for a mediator to use to assist a party or participant to reconsider his/her position.

(15) Identify and demonstrate techniques to conclude a mediation.

(16) Identify techniques to address unresolved issues.

(17) Explain when and how to use caucuses.

(18) Identify appropriate techniques for handling difficult or dangerous situations.

(19) Discuss the dynamics of mediating when one or more parties or participants frequently participate in mediation.

(20) Identify appropriate techniques for mediating with multiple parties.

(21) Identify appropriate techniques for handling a situation where a representative appearing for a party does not have full authority to settle.

(22) Describe techniques for addressing situations where there is a language barrier and for appropriately utilizing the services of an interpreter in mediation.

(23) Identify appropriate courses of action when confronted with substance abuse during the mediation.

(d) Communication Skills in Dependency Mediation

(1) Identify and demonstrate essential elements for effective listening and responding.

(2) Identify and demonstrate essential elements for effective note-taking.

(3) Identify and demonstrate essential elements for effective questioning.

(4) Identify and demonstrate appropriate non-verbal communication.

(5) Demonstrate how to record the parties' agreement.

(6) Demonstrate the ability to communicate in an understandable manner with the parties and participants and avoid the use of legalese and jargon which inhibit the communication process.

(e) Standards of Conduct/Ethics for Mediators in Dependency Mediation

(1) Identify potential ethical dilemmas.

(2) Discuss appropriate courses of action when confronted with ethical dilemmas.

(3) Identify acts specifically prohibited required and acts specifically prohibited by the Florida Rules for Certified and Court-Appointed Mediators.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(4) Recognize that it is more important for the mediator to conduct the mediation process consistent with the Standards of Professional Conduct for mediators than it is for the parties to settle their case.

(5) Discuss the mediator's obligations regarding impartiality.

(6) Discuss the mediator's obligation to be neutral with regard to the outcome of the mediation.

(7) Explain when a mediator shall adjourn or terminate.

(8) Discuss the mediator's ethical responsibilities with respect to confidentiality.

(9) Discuss ethical considerations of mediating where domestic violence may compromise safety, self-determination or the mediation process.

(10) Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.

(11) Recognize that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of mediator impartiality and the preservation of party self-determination.

(12) Recognize that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.

(13) Recognize that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if such can be done in a manner consistent with standards of impartiality and preservation of party self-determination.

(14) Recognize the mediator's ethical obligations regarding advertising and billing practices.

(15) Explain how a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

(16) Explain how a mediator shall respect the roles of other professional disciplines in the mediation process and shall promote cooperation between mediators and other professionals.

(17) Recognize the ethical issues that arise when a mediator suggests specific service providers.

(18) Recognize how a mediator shall promote awareness by the parties of the interest of persons affected by actual or potential agreements who are not represented at mediation.

(19) Explain the grievance procedure contained in the Florida Rules for Certified and Court-Appointed Mediators.

(20) Identify when a mediator shall advise the parties of the right to seek independent legal counsel.

(21) Identify when a mediator shall adjourn or terminate mediation.

(22) Recognize that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately.

(23) Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required or permitted by law.

(24) Recognize that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator.

(25) Recognize when and how to use outside experts effectively or how to assist the parties in deciding on appropriate community resources.

(26) Recognize the ethical issues related to mediating with parties, participants or representatives who frequently participate in mediation.

(f) Treatment Options and Community Resources in Dependency Mediation

(1) Recognize when and how to use outside experts to evaluate and treat or provide assistance to child(ren), parents, families and others.

(2) Recognize the types of social services and community resources available through federal, state, local and private sources.

(3) Recognize the potential conflict if one expert serves as both evaluator and treatment provider.

(4) Recognize the need for outside resources.

(g) Diversity Issues in Dependency Mediation

(1) Recognize personal biases, prejudices and styles which are the product of one's background and personal experiences and which may impact the mediation.

(2) Develop an awareness of and techniques for addressing cultural, racial, ethnic, age, gender, religious, sexual orientation, socio-economic and disability issues which may arise in mediation or affect the parties' negotiation style, ability or willingness to engage in mediation.

(3) Recognize that people differ in how they make decisions, how they process information and how they communicate.

(h) Family Dynamics and Psychological Issues in Dependency Mediation

(1) Recognize the effect separation (removal of the child(ren) or the alleged perpetrator from the home) has on individuals and family dynamics and the implications for the mediation process.

(2) Recognize how emotions affect dependency issues and a party's ability to participate effectively in mediation.

(3) Identify factors which may indicate the presence of domestic violence.

(4) Recognize domestic violence lethality warnings.

(5) Identify safety issues before, during and after mediation for victims of domestic violence and their families.

(6) Recognize the impact of parental conflict on the mediation process.

(7) Recognize the impact domestic violence and abuse has on the parties and their capacity to participate meaningfully in the mediation session.

(8) Explain how to screen cases for domestic violence issues which may compromise the self-determination of one of the parties.

(9) Recognize appropriate actions to undertake if a dangerous situation should arise.

(10) Recognize the dynamics of child abuse, neglect or abandonment.

(11) Recognize the impact child neglect and abuse (physical, emotional and sexual) has on the parties and their capacity to participate meaningfully in the mediation session.

(12) Recognize the dynamics of child(ren)'s disclosure and recantation and family members' denial and the impact these have on the mediation.

(13) Recognize the impact grandparents, step-parents, foster parents and significant others have on family systems and the mediation process.

(14) Recognize the impact mental illness or disability of a party or participant has on the family system, the child(ren)'s well-being and the mediation.

(i) Issues Concerning the Needs of Children in the Context of Dependency Proceedings in Dependency Mediation

(1) Recognize the needs of child(ren) and the effect of removal or non-removal from the home on the child(ren) and on his/her relationships with their mother, father, step families, siblings and others in the family relationship.

(2) Recognize the impact the mediation process can have on the child(ren)'s well-being and behavior and recognize when and how to involve children in mediation.

(3) Recognize the significance of child(ren)'s developmental stages in understanding the impact of child abuse and neglect.

(4) Recognize the impact of parental conflict on child(ren)'s well-being.

(5) Assist parties in developing options for different parenting arrangements which consider the needs of the child(ren) and each parent's capacity to parent.

(6) Recognize the dynamics of disclosure/recantation relating to child sexual abuse.

(7) Recognize short- and long-term psychological effects of placement of a child(ren) in protective services, in foster care, in long term relative/nonrelative placement, when parental rights have been terminated and/or in adoption.

(8) Recognize the importance of permanency and stability in a child(ren)'s life.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(j) Florida Dependency Law in Dependency Mediation

(1) Recognize Florida dependency mediation rules and statutes.

(2) Recognize the stages of a dependency case and the options available at each stage.

(3) Recognize the legal definition of abandoned.

(4) Recognize the legal definition of abuse.

(5) Recognize the legal definition of neglect.

(6) Recognize the legal concepts of and interplay between the statutes and relevant rules dealing with mediation, dependency, and protection from abuse, abandonment and neglect.

(7) Recognize the implications of parents' right to counsel at every stage in the dependency proceedings.

(8) Recognize the interplay between other past, present, or possible future civil or criminal proceedings and the dependency mediation.

(9) Recognize grandparent rights which may arise in a dependency mediation.

(10) Recognize child support issues and implications in a dependency mediation.

(11) Recognize paternity issues as they relate to dependency proceedings.

(12) Recognize the implications of mediation at each stage of the dependency proceedings.

(13) Recognize the differences between "parties" and "participants" in Chapter 39.

(k) Role of Parties and Participants in Dependency Mediation

(1) Recognize the role of the GAL program, the GAL program attorney and the attorney ad litem in dependency cases and dependency mediation.

(2) Recognize the roles of Department of Children & Families (DCF) staff, DCF attorneys, and/or agency representatives that have been contracted to provide services in dependency cases and dependency mediation.

(3) Recognize the role of the parent's attorney in assessing the case, advising the parent (explaining legal rights and process), negotiating on behalf of the parent, minimizing the parent's liability and ensuring the parent's right to due process.

(4) Recognize the role of others who may participate in the mediation.

(5) Recognize the role of community-based providers in dependency cases and in mediation.

(6) Recognize the role of law enforcement in dependency cases and mediation, particularly in those areas in which law enforcement has assumed duties formerly handled by DCF.

(7) Recognize the role of the Attorney General's Office in dependency cases and mediation in those areas in which the Attorney General's office has assumed duties formerly handled by DCF.

(8) Recognize the respective roles of attorneys for children, domestic violence advocates/counselors, Children's Advocacy Centers, and visitation programs in dependency cases.

3.05 Appellate Mediation Training

At the conclusion of the training, the participants shall be able to:

(a) Court Process in Appellate Mediation

(1) Identify the rules and procedures applicable to the processing of an appeal, including applicable time frames and estimated costs.

(2) Recognize common concepts addressed by appellate courts, including scope of review, standard of review, and preservation of error.

(3) Identify possible results of an appeal, including affirmance, reversal, affirmance in part and reversal in part, and remand for further proceedings.

(4) Identify the procedures by which an appellate case is referred to mediation by the court.

(5) Identify the state court rules, state statutes and local procedures and forms governing appellate mediation.

(6) Identify the certification and renewal requirements for Florida Supreme Court certified appellate mediators.

(7) Explain the consequences of a full or partial mediated agreement as well as the lack of an agreement.

(8) Recognize the characteristics of appellate mediation and the differences with voluntary, pre-suit, and trial court-ordered mediation.

(9) Identify the protections, constraints, and exceptions of the Florida Confidentiality and Privilege Act.

(10) Identify the various types of disputes which may be presented in an appellate mediation.

(b) Mediation Process and Techniques in Appellate Mediation

(1) Recognize how an appellant and appellee assesses his/her interest in a case.

(2) Recognize the role of attorneys in the appellate mediation process and the potential for conflicts.

(3) Recognize issues of attorneys' fees, fee shifting statutes and contingency fee arrangements.

(4) Explain the role of the mediator in conducting an appellate mediation such as conducting an opening statement, preparing a disputant to mediate, maintaining decorum, professionalism, control of the session, structuring and managing the discussion, building on partial agreements, scheduling the time, location and number of conferences, establishing the format of each conference and focusing discussion.

(5) Identify individuals who are essential participants in appellate mediation as well as those who are not required to participate but whose participation may be helpful in mediation.

(6) Identify the unique dynamics of mediating a case which is on appeal.

(7) Identify techniques to conclude an appellate mediation.

(8) Identify techniques to address unresolved issues in appellate mediation.

(9) Identify techniques for recording the parties' agreement in appellate mediation.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(c) Standards of Conduct/Ethics for Mediators in Appellate Mediation

(1) Identify potential ethical dilemmas in an appellate mediation context.

(2) Discuss appropriate courses of action when confronted with an ethical dilemma in appellate mediation.

(3) Identify acts specifically prescribed and those acts specifically prohibited by the Florida Rules for Certified and Court-Appointed Mediators.

(4) Understand that it is more important for the mediator to conduct the mediation process consistent with the standards of professional conduct for mediators than it is for the parties to settle their case.

(5) Explain the interplay between other professional standards and the Florida Rules for Certified and Court-Appointed Mediators.

(6) Recognize that a mediator may provide information that the mediator is qualified by training or experience to provide only if such can be done in a manner consistent with the standards of mediator impartiality and the preservation of party self-determination.

(7) Understand that a mediator shall not offer a personal or professional opinion intended to coerce the parties, unduly influence the parties, decide the dispute, direct a resolution of any issue or indicate how the court in which the case has been filed will resolve the dispute.

(8) Understand that a mediator may point out possible outcomes of the case and discuss the merits of a claim or defense only if such can be done in a manner consistent with standards of impartiality and preservation of party self-determination.

(9) Explain how a mediator shall decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the mediator's skill or experience.

(10) Discuss the mediator's ethical obligations regarding advertising and billing practices.

(11) Understand that a mediator shall discuss with the parties and counsel the process for formalization and implementation of the agreement and ensure that the terms of any agreement be memorialized appropriately.

(12) Explain a mediator's ethical duty to inform mediation parties and participants that mediation is a consensual process; that the mediator is an impartial facilitator without the authority to impose a resolution or adjudicate any aspect of the dispute; and communications made during the process are confidential except where disclosure is required or permitted by law.

(13) Understand that upon commencement of the mediation session, a mediator shall describe the mediation process and the role of the mediator.

(14) Recognize how a mediator shall promote awareness by the parties of the interest of person affected by actual or potential agreements and who are not present at mediation.

(15) Recognize the importance of party empowerment and self-determination in appellate mediation.

Part IV Mediation Training Review Board Procedures

4.01 Scope and Purpose

These procedures apply to all proceedings before all panels and committees of the Mediation Training Review Board involving the discipline of mediation training programs certified by the Florida Supreme Court and the discipline of training program principals. The purpose of these procedures is to provide a means for enforcing the Mediation Training Standards and Procedures adopted by the Florida Supreme Court.

4.02 Privilege to Train Mediators

Certification to train mediators confers no vested right to the holder thereof, but is a conditional privilege that is revocable for cause.

4.03 Mediation Training Review Board

(a) Composition of Board. The Board shall consist of nine members of the Mediator Qualifications Discipline and Review Board who serve at the pleasure of the chief justice of the Florida Supreme Court. The Board shall be composed of:

(1) two circuit court or county court judges;

(2) one Florida Supreme Court certified county court mediator;

(3) one Florida Supreme Court certified circuit court mediator;

(4) one Florida Supreme Court certified family mediator whom shall be a non-lawyer; and

(5) one Florida Supreme Court certified dependency mediator whom shall be a non-lawyer.

(6) one Florida Supreme Court certified appellate mediator; and

(7) two Florida Supreme Court certified mediators of any type, at least one of whom shall be a non-lawyer.

(b) Term Limits: A person who has served two consecutive terms as a member of the Board shall not be eligible for reappointment until four years after two consecutive terms of service. In no event shall a person be eligible for reappointment after serving twelve years.

(c) Board Chair. The members of the Board shall select a chair to serve for a period of two years.

(d) Complaint Committee. Each complaint committee of the Board shall be composed of three 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 mediator who is a member of The Florida Bar, who shall act as the chair of the committee;

(2) one mediator who is Florida Supreme Court certified in the area to which the complaint refers; and

(3) one other Florida Supreme Court certified mediator.

(e) Panel. Each panel of the Board shall be composed of five members. A panel shall cease to exist after disposing of all assigned cases. Each panel shall be composed of:

(1) one circuit court or county court judge, who shall serve as the chair; and

(2) four Florida Supreme Court certified mediators, at least one of whom shall be certified in the area in which the complaint arose.

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

Mediation Training Standards & Procedures
excerpts from AOSC17-25

4.04 Jurisdiction

(a) Complaint Committee. Each complaint committee shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any complaint. The judge or attorney presiding over the complaint committee shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, to order the production of records or other documentary evidence and the power of contempt. The complaint committee shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(b) Panel. Each panel shall have such jurisdiction and powers as are necessary to conduct the proper and speedy adjudication and disposition of any proceeding. The judge presiding over each panel shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, to order the production of records or other documentary evidence and the power of contempt. The panel shall perform the adjudicatory function, but shall not have any investigatory functions.

(c) Contempt. Should any witness fail, without justification, to respond to the lawful subpoena of the complaint committee or panel or, having responded, fail or refuse to answer all inquiries or to turn over evidence that has been lawfully subpoenaed, or should any person be guilty of disorderly or contemptuous conduct before any proceeding of the complaint committee or panel, a motion may be filed by the complaint committee or panel before the circuit court of the county court in which the contemptuous act was committed. The motion shall allege the specific failure on the part of the witness or the specific disorderly or contemptuous act of the person which forms the basis of the alleged contempt of the complaint committee or panel. Such motion shall pray for the issuance of an order to show cause before the circuit court why the circuit court should not find the person in contempt of the complaint committee or panel and the person should not be punished by the court therefor. The circuit court shall issue such orders and judgments therein as the court deems appropriate.

4.05 Staff

The Center, excluding the person responsible for preparing complaints, shall provide all staff support to the Board necessary to fulfill its duties and responsibilities.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

4.06 Complaint Process

(a) Initiation of Complaint. A complaint may be initiated by an individual, hereinafter the complainant, or by the Center. Any individual wishing to make a complaint alleging that a training program has violated one or more provisions of the standards shall do so in writing under oath. In either case, the complaint shall state with particularity the specific facts that form the basis of the complaint. No complaint shall be processed in relation to a training program which concluded more than three years prior to the complaint.

(b) Filing. The complaint, if submitted by an individual, shall be filed with the Center.

(c) Assignment to Committee. Upon verification of a complaint in proper form, the Center shall assign the complaint to a complaint committee within 10 days.

(d) Facial Sufficiency Determination. The complaint committee shall convene, either in person or by conference call, to determine whether the allegation(s), if true, would constitute a violation of the standards. If the committee finds the complaint to be facially insufficient, the complaint shall be dismissed without prejudice and the complainant and the training program shall be so notified. If the complaint is found to be facially sufficient, the committee shall prepare a list of standards which may have been violated and shall submit such to the Center.

(e) Service. The Center shall send a copy of the list of violations of the standards prepared by the complaint committee, a copy of the complaint and a copy of these procedures to the training program and the training program principals in question. Service on the training program and the training program principals shall be made by registered or certified mail addressed to them at the location listed in the application for certification.

(f) Response. Within 20 days of the receipt of the list of violations prepared by the complaint committee and the complaint, the training program and the training program principals shall send a written, sworn response to the Center by registered or certified mail. If the training program and any training program principal who has received the complaint do not respond, the allegations shall be deemed admitted as to that party and forwarded to the panel for imposition of sanctions.

(g) Preliminary Review. Upon review of the complaint and any responses received, the complaint committee may find that no violation has occurred and dismiss the case. The complaint committee may also resolve the issue pursuant to subsection (i).

Mediation Training Standards & Procedures
excerpts from AOSC17-25

(h) Appointment of Investigator. The complaint committee, after review of the complaint and response, may direct the Center to appoint an investigator to assist the complaint committee in any of its functions. Such person shall investigate the complaint and advise the complaint committee when it meets to determine the existence of probable cause. In the alternative to appointing an investigator, the complaint committee or any member or members thereof may investigate the allegations, if so directed by the committee chair. Such investigation may include, but is not limited to, meeting with the training program, the training program principals, the complainant or any combination thereof.

(i) Complaint Committee Meeting with the Parties. Notwithstanding any other provision in this rule, at any time while the complaint committee has jurisdiction, it may meet with the training program and/or the training program principals in an effort to resolve the complaint. At the discretion of the complaint committee, the complainant may be asked to attend such meeting. The resolution may include sanctions if agreed to by the party accepting the sanctions. If sanctions are accepted, all relevant documentation shall be forwarded to the Center.

(j) Review. If no other disposition has occurred, the complaint committee shall review the complaint, the response and any investigative report, including any underlying documentation, to determine whether there is probable cause to believe that the alleged misconduct occurred and would constitute a violation of the standards.

(k) No Probable Cause. If the complaint committee finds no probable cause, it shall dismiss the complaint and so advise the Center, the complainant, the training program and the training program principals in writing.

(l) Probable Cause Found. If probable cause exists, the complaint committee may draft formal charges and forward such charges to the Center for assignment to a panel. In the alternative, the complaint committee may decide not to pursue the case by filing a short and plain statement of the reason(s) for non-referral and so advise in writing the Center, the complainant, the training program and/or the training program principals.

(m) Formal Charges and Counsel. If the complaint committee, upon finding probable cause, refers a complaint to the Center, the complaint committee shall submit to the Center formal charges which shall include a short and plain statement of the matters asserted in the complaint and references to the particular sections of the standards involved. After considering the circumstances of the complaint and the complexity of the issues to be heard, the complaint committee may direct the Center to appoint a member of The Florida Bar to investigate and prosecute the complaint. Such counsel may be the investigator appointed pursuant to this section if such person is otherwise qualified.

(n) Dismissal. Upon the filing of a request for dismissal signed by the complainant with the concurrence of the complaint committee, the complaint shall be dismissed.

4.07 Hearing Procedures

(a) Assignment to Panel. Upon referral of a complaint and formal charges from a complaint committee, the Center shall assign the complaint and formal charges to a panel for hearing, with notice of assignment to the complainant, the training program and the training program principals. No member of the complaint committee shall serve as a member of the panel.

(b) Hearing. The Center shall schedule a hearing not more than 90 days nor less than 30 days from the date of notice of assignment of the matter to the panel. There shall be a minimum of 30 days written notice of the scheduled panel hearing.

(c) Dismissal. Upon the filing of a request for dismissal signed by the complainant with the concurrence of the panel, the action shall be dismissed.

(d) Procedures for Hearing. The procedures for hearing shall be as follows:

(1) No hearing shall be conducted without five panel members being present;

(2) The hearing may be conducted informally but with decorum;

(3) The rules of evidence applicable to trial of civil actions apply but are to be liberally construed; and

(4) Upon a showing of good cause to the panel, testimony of any party, witness or the Center may be presented over the telephone.

(e) Right of the Training Program and the Training Program Principals to Defend. A training program and its training program principals shall have the right to defend against all charges and shall have the right to be represented by an attorney, to examine and cross-examine witnesses, to compel the attendance of witnesses to testify, and to compel the production of documents and other evidentiary matter through the subpoena power of the panel.

(f) Discovery. The Center shall, upon written demand of any party or any party's counsel of record made no later than 20 days prior to the scheduled hearing, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the counsel or the Center which are relevant to the subject matter of the hearing and which have not previously been furnished. Any party or any

party's counsel shall, upon written demand of the counsel or the Center, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the training program, its training program principals, or their counsel which are relevant to the subject matter of the hearing and which have not previously been furnished. All discovery shall be completed 10 days prior to the scheduled hearing date.

(g) Continuing Duty to Disclose. If, subsequent to compliance with subsections (e) or (f), the training program or the Center discovers additional witnesses or material that it would have been under a duty to disclose or produce at the time of the previous compliance, it shall promptly disclose or produce the witnesses or material in the same manner as required under the procedures for initial discovery.

(h) Failure to Appear. Absent a showing of good cause, if the complainant or Center fails to appear at the hearing, the panel may dismiss the action for want of prosecution.

(i) Training Program's Absence. If either or both the training program and its training program principals fail to appear, absent a showing of good cause, the hearing shall proceed.

(j) Rehearing. If the matter is heard in the training program's and/or the training program principal's absence or if sanctions are imposed by the panel after a failure to respond pursuant to section 4.06(f), the training program and/or its training program principals may petition for rehearing, for good cause, within 10 days of the date of the hearing.

(k) Recording. Any party shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings reported and transcribed by a court reporter at the party's expense.

(l) Dismissal. Upon dismissal of formal charges by the panel, the panel shall promptly file a copy of the decision with the Center.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

4.08 Sanctions

(a) Generally. If, after the hearing, a majority of the panel finds that there is clear and convincing evidence to support a finding of a violation of the standards, the panel may impose one or more of the following sanctions:

(1) Imposition of costs of the proceeding;

(2) Oral admonishment;

(3) Written reprimand;

(4) Additional training to participants at the expense of the training program and/or the training program principals;

(5) Restriction on type of training which can be offered in the future;

(6) Suspension for a period of up to 1 year;

(7) Decertification which shall include the loss of the privilege to make representations that the training program is certified by the Florida Supreme Court; and

(8) Such other sanctions as are agreed to by the training program, the training program principals and the panel.

(b) Failure to Comply. If there is reason to believe that the training program or the training program principals failed to timely comply with any imposed sanction, a hearing shall be held before a panel convened for that purpose within 60 days of the date when the Center learned of the alleged failure to comply. A finding of the panel that there was a failure to substantially comply with any imposed sanction shall result in the decertification of the training program.

(c) Decision to be Filed. Upon making a determination that discipline is appropriate, the panel shall promptly file with the Center a copy of the decision including findings and conclusions certified by the chair of the panel. The Center shall promptly mail to all parties notice of such filing, together with a copy of the decision.

(d) Notice. The Center shall notify all trial court administrators and mediation program directors of any training program which has been decertified or suspended unless otherwise ordered by the Florida Supreme Court.

(e) Publication. Upon the imposition of sanctions, the Center shall publish the name of the training program and the training program principals, a short summary of the standard or standards which were violated, the circumstances surrounding the violation and any sanctions imposed.

(f) Future Certification. A training program which has been decertified may apply to be eligible for certification. Except as otherwise provided in the decision of the panel, no petition may be filed within two years after the date of decertification. The procedure shall be as follows:

(1) A petition, together with five copies, shall be written, verified by the training program and filed with the Center;

(2) The petition shall contain:

(A) the name and address of the training program;
(B) the offense or misconduct upon which the decertification was based, together with the date of such decertification; and
(C) a concise statement of facts claimed to justify eligibility for certification.

(3) The Center shall refer the petition to a panel for review; and

(4) The panel shall review the petition and, if the training program is found to be unfit to provide mediation training, the petition shall be dismissed. Successive petitions based upon the same grounds may be reviewed without a hearing. If the training program is found fit to provide mediation training, the panel shall notify the Center that the training program may apply for certification.

4.09 Subpoenas

(a) Issuance. Subpoenas for the attendance of witnesses and the production of documentary evidence for discovery and for the appearance of any person before a complaint committee, a panel, or any member thereof, may be issued by the chair of the complaint committee or panel or, if the chair of the panel is absent, by the vice chair. Such subpoenas may be served in any manner provided by law for the service of witness subpoenas in a civil action.

(b) Failure to Obey. Any person who, without good cause, fails to obey a duly served subpoena may be cited for contempt of the committee or panel in accordance with section 4.04(c).

Mediation Training Standards & Procedures
excerpts from AOSC17-25

4.10 Confidentiality

(a) Generally. Until formal charges are filed, all proceedings shall be confidential. Upon filing of formal charges, such charges and all further proceedings shall be public. Sanctions as provided for in 4.08(a)(4-7), when agreed to under 4.06(i) shall not be confidential.

(b) Witnesses. Each witness in every proceeding under these disciplinary standards shall be sworn to tell the truth and not disclose the existence of the proceeding, the subject matter thereof, or the identity of the training program, the training program principals, or person providing training for such program until the proceeding is no longer confidential under these disciplinary procedures. Violation of this oath shall be considered an act of contempt of the complaint committee or the panel.

(c) Papers to be Marked. All notices, papers and pleadings mailed prior to formal charges being filed shall be enclosed in a cover marked "Confidential."

(d) Breach of Confidentiality. Violation of confidentiality by a member of the Board shall subject the member to removal by the Chief Justice of the Florida Supreme Court.

4.11 Disqualification of Members of a Panel or Complaint Committee

(a) Procedure. In any case, any party may at any time before final disciplinary action file a motion in the case that a member of the Board before which the case is pending, or some person related to that member, is a party to the case or is interested in the result of the case or that the member is a material witness for or against one of the parties to the case.

(b) Facts to be Alleged. A motion to disqualify shall allege the facts relied on to show the grounds for disqualification and shall be verified by the party.

(c) Time for Motion. A motion to disqualify shall be made within a reasonable time after discovery of the facts constituting grounds for disqualification.

(d) Action by Chair. The chair of the complaint committee or panel shall determine only the facial sufficiency of the motion. The chair shall not pass on the truth of the facts alleged. The test for facial sufficiency shall be whether any well-founded allegations raise a serious question as to whether a panel or complaint committee member would consider the matters fairly. If the motion is facially sufficient, the chair shall enter an order of disqualification and the disqualified complaint committee or panel member shall proceed no further in the action. In the event that the chair is the challenged member, the vice chair shall perform the acts required under this subdivision.

(e) Automatic Disqualifications. A member of the Board shall be disqualified from serving on a complaint committee or panel proceeding:

(1) which involves a training program in which the member has served as training faculty within two years of the filing of the complaint;

(2) if the Board member has been promised work with the training program which is under investigation;

(3) if the Board member has any current or past business, representation or consulting relationship with the training program which is under investigation; or

(4) if the Board member has personal relationships which might impinge on his or her objectivity relating to the training program which is under investigation.

(f) Recusals. Nothing in this rule limits a Board member's right of self-recusal.

(g) Replacement. The Center shall assign a Board member to take the place of any disqualified or recused member.

4.12 Right of Review

Any training program or training program principal found to have committed a violation of these standards shall have a right of review of the action taken by the panel. Review of this type shall be under the jurisdiction of the Chief Justice of the Florida Supreme Court. Notice of review shall be filed with the Center. There shall be no right of review of any resolution reached pursuant to section 4.06(i).

5.01 Late Filing Penalties

The Center shall impose a monetary penalty for the late filing of required pre or post training documents. Training program providers in circuit court, family, and dependency will be charged $50 per day that they are late in filing either pre or post training documents with the Center. A maximum fee of $400 per program applies. Training program providers in county court and appellate will be charged $25 per day that they are late in filing either pre or post training documents with the Center. A maximum fee of $200 per program applies.

Mediation Training Standards & Procedures
excerpts from AOSC17-25

Training program providers who disagree with the imposition of a monetary penalty or the amount of the penalty may request a review of the issue(s) by the Mediation Training Review Board (MTRB). The request shall be filed with the Center no later than 30 days from the Center's serving notice imposing the penalty. Training program providers who fail to file pre or post training documents within two weeks of the required date for filing shall be referred to the MTRB. If an imposed penalty is not paid within 30 days of imposition or within 30 days after the MTRB issues a decision upholding the imposition, the failure to pay will be submitted to the MTRB.