

## **Procedures for the Discipline of Mediators**

### **Disciplinary Action**

The Commission may take disciplinary, adverse, or other action against any applicant or mediator included on the Commission's Roster of Certified Mediators for any of the following:

1. Fraud, deceit, material misrepresentation or omission, in application to the Commission's Roster of Mediators or any other information provided to the Commission whenever discovered.
2. Any gross negligence, incompetence, or misconduct in the practice of mediation.
3. Any felony; or any misdemeanor involving violence, threatened violence or moral turpitude or adversely affecting the practice of mediation.
4. Any violation of the Commission's *Requirements for the Certification of Mediators for Circuit Courts*.
5. Any violation of the *Requirements for the Conduct of Mediations and Mediators*.
6. A violation of the policies or procedures of any program administered by the Commission.

### **Method for Hearings**

*Complaints/Allegations*-- Complaints or allegations made against any person shall be in writing, and signed by the person or persons making them, and shall be filed with the Coordinator for the Commission. Reports, complaints, or allegations may also be made to the Commission by the Coordinator or Commission members.

Unless dismissed by the Commission as unfounded or trivial, all charges shall be heard by the Commission within a reasonable time.

*Investigation* - The Commission may appoint an investigation committee. The Committee may include one member of the Commission, the Coordinator, Assistant Coordinator for the Commission, and may be advised by the Assistant Attorney General assigned to advise the Commission. The Committee may serve in the following capacities: 1) to gather information to determine if a complaint or allegation is founded or legitimate; and 2) to provide evidence to be used in presenting the case; and 3) such other capacities as permitted or not prohibited by law or regulation.

*Notice*- All parties shall be given an opportunity for hearing after reasonable notice consistent with the Administrative Procedures Act codified at Ark. Code Ann. § 25-15-201 et seq.

*Continuances*-- A continuance shall be granted only for good cause. Requests for continuances must be made to the Commission in writing and received no less than 10 working days prior to the scheduled hearing.

*Hearing*--Opportunity shall be given to all parties to respond and present evidence and argument on all issues involved.

1. at any hearing, the party shall have the right to appear in person. The party may also be represented by counsel.
2. to cross examine witnesses and evidence in his or her defense

*Failure to Appear*-- If, after being served notice, the party fails to appear and has not been granted a continuance, the Commission may conduct the proceedings without the party's presence.

*Panel to Hear Case* - Four of the seven Commission members must be present to conduct a hearing. Any member of the Commission who has served on the investigation committee for the case, or who initiated the complaint, is prohibited from sitting on the panel.

*Presiding Officer* – The Chair of the Commission may be the presiding officer at hearings, or the Commission may elect to have a hearing officer preside over any hearing. If the Chair is unavailable, a majority of the Commission members present may select a presiding officer from among the Commission members present or elect to have a hearing officer preside over the hearing.

The presiding officer shall have the power to maintain order and generally regulate and guide the course of the pending proceeding.

*Legal Assistance* - The Attorney General of the State of Arkansas or one of his or her assistants may act as legal advisor to the Commission and render legal assistance needed in fulfilling the provisions of the Commission's Rules

## **Decisions**

If, after hearing the evidence, a majority of the Commission members present and participating sustain the disciplinary, adverse, or other action the Commission may reprimand, suspend, revoke, limit or otherwise condition the mediator's certificate, remove or refuse to include his or her name on the Commission's Roster of Certified Mediators.

A final decision will be made in writing within 15 days of the hearing. A final decision shall include findings of fact and conclusions made in the hearing. Findings of fact shall include a concise and explicit statement of the underlying facts supporting the findings. A copy of the findings shall be served to the party by registered mail.

## **Appeal**

The decision of the Commission may be appealed within 30 days of service of the same upon

respondent as specified in the Administrative Procedures Act codified at Ark. Code Ann. § 25-15-201 et seq.

### **Informal Disposition of Complaints**

Nothing contained herein shall prohibit informal disposition of complaints or allegations by settlement, consent or agreement of parties.

### **Amendments to the Procedures**

These rules, regulations, and definitions may be modified, added to, or deleted as deemed appropriate by the Arkansas Alternative Dispute Resolution Commission in the method prescribed for such changes by the laws of the State of Arkansas.