



NEWSLETTER

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SUPREME COURT MEDIATOR CERTIFICATION BEGINS

CHIEF JUSTICE SHAW ENTERS ADMINISTRATIVE ORDER ESTABLISHING CERTIFICATION AND MENTORSHIP PROCEDURES

by Sharon Press

Changes to both the rules and statute during 1990 have resulted in major changes to the procedures governing the certification of mediators. The 1990 amendments to Chapter 44 Florida Statutes (effective October 1, 1990), mandate that the Supreme Court assume the responsibility for certifying mediators who receive court-ordered referrals to mediation. The amendments to Rule 1.760 Florida Rules of Civil Procedure (effective July 1, 1990) revised the qualifications necessary for certification as a court mediator. [see DRC Newsletter #7].

All individuals who wish to receive mediation referrals from the courts must file an application with the Florida Supreme Court. Those individuals who were duly certified prior to October 1, 1990 by a chief judge of any judicial circuit have been granted temporary continuing state-wide certification until July 1, 1991. They must, however, complete and file an application with the Court prior to April 1, 1991. State-wide certification is for a two year period.

Application requirements include: providing educational and experiential background, home and business address, training completed, and conformance with mentorship requirement (if applicable). All individuals seeking certification must enclose the appropriate application and certification fees and two letters of reference from individuals who can attest to their moral character. Mediators who have been working in the county court mediation programs may obtain a certification fee waiver if they get a letter from the mediation program director indicating their current service to the mediation program. Retired judges from out of state who are seeking certification as circuit mediators must include a letter from a chief judge of any judicial circuit in Florida asserting that the retired judge would be used as a mediator in that circuit. They also must include a letter from the bar of the state in which they are a member certifying that they are in good standing and a letter from an appropriate judicial officer certifying that they served on the bench. In addition, all mediators must indicate in which circuits they wish to be placed on the rotation list for referrals. Mediators may select any one judicial circuit, several circuits, all circuits, or none. Regardless of whether any circuits are chosen for rotation purposes, individuals certified by the Supreme Court are eligible to receive referrals state-wide.

The 1990 Rule revisions dealing with certification require the completion of a "mentorship requirement." All county mediators must observe four county mediations conducted by a certified mediator and conduct four under the observation and supervision of a certified mediator. Family and circuit mediators who were not duly certified before July 1, 1990, must complete the mentorship requirement. For family mediators it consists of the observation of two family mediations conducted by a certified mediator and conducting two family mediations under the observation and supervision of a certified mediator. Circuit mediators must observe two circuit mediations conducted by a certified mediator and conduct two under the observation and supervision of a certified mediator. The mediations which the trainee is to conduct have been defined as the co-mediation of a case along with a certified mediator.

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In an Administrative Order dated December 1, 1990, Chief Justice Shaw set down the procedures for implementing these requirements. A brief overview of the mentorship follows:

- Each trainee is responsible for setting up their mentorship program. Currently certified mediators are required to allow a minimum of two observations of their cases per year and are not to charge the trainee any fees to either observe or co-mediate a case. In addition, the trainee is not to receive any fees for cases observed or co-mediated.
- The certified mediator remains in control of the case which is either observed or co-mediated by a trainee and thus is entitled to any fees ordinarily paid by the parties or through a court-annexed program.

- Trainees seeking to complete their mentorship can contact the trial court administrator in their circuit in order to obtain the list of certified mediators in their circuit as well as to advise the court of their availability to be appointed as a co-mediator along with a certified mediator.

- Observations of mediations must be of the type of mediation for which certification is sought. Co-mediations must be complete cases which may or may not be comprised of multiple sessions and should be of the type for which certification is sought. However, if after a good faith effort a trainee is unable to obtain a case to co-mediate, the trainee may conduct four county mediations under the observation and supervision of a certified mediator.

- The confidentiality privileges and judicial immunity provided by statute are unaffected by the participation of a trainee serving as co-mediator or observer.

The Supreme Court Committee on Mediation and Arbitration Training will be studying the mentorship process and has been directed to recommend procedures and policies for implementing a more comprehensive mentoring program. Individuals who have suggestions or comments regarding the mentorship process are encouraged to write to the Training Committee c/o The Dispute Resolution Center.

**Florida
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Center
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