

# **The Arkansas Alternative Dispute Resolution Commission Guidelines for Mediator Skills and Qualifications**

The Arkansas Alternative Dispute Resolution Commission has adopted three guidelines dealing with mediator skills and qualifications.

The first is a general guideline to help the public know what to look for and expect in the way of minimum skills necessary for competent performance as a neutral mediator. There are no specific qualifications that an individual must meet in order to mediate for the public or the free market. This guideline simply advises the public as to the Commission's opinions as to the qualities of a competent neutral and provide information on how to select a mediator.

The second guideline sets out the Requirements that must be met before a mediator can be placed on the Roster of mediators maintained by the ADR Commission. It also sets forth the procedure for being placed on the Roster.

The third guideline is a set of standards that may be used by courts in establishing court-annexed mediation systems or selecting court-referred mediators. These standards cover (1) Small Claims Mediations, (2) Family Mediations, and (3) Circuit or Chancery Mediations in other than family matters. The ADR Commission will provide from its Roster the names of those mediators meeting these guidelines to any Arkansas court creating a court-annexed mediation system or seeking the names of mediators for possible referrals. Courts, mediators, and the public should be aware that, in creating a court-annexed mediation system or making mediation referrals, an Arkansas court is free to use these standards, or to create its own requirements, which may be greater, lesser, or different from the standard suggested here.

*Adopted 04/13/01*

## **MEDIATOR SKILLS**

The following are skills and attributes which the Arkansas Alternative Dispute Resolution Commission recommends for competent performance as a neutral mediator.

- (1) Good moral character;
- (2) Ability to listen actively;
- (3) Ability to understand and analyze complex factual materials;
- (4) Ability to use clear, concise language;
- (5) Ability to recognize and respect gender, ethnic, and cultural differences of disputants;
- (6) Ability to analyze problems, identify and separate the issues involved, and frame these issues for resolution or decision making;
- (7) Ability to screen out non-mediable issues;
- (8) Ability to suggest creative options for resolution of mediable issues;
- (9) Ability to discuss with the parties the process that will be used to resolve the dispute if no agreement is reached;
- (10) Ability to reduce the agreement of the parties to writing;
- (11) Persistence;
- (12) Patience;
- (13) Ability to maintain control of a diverse group of disputants;
- (14) Adherence to the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*.

**REQUIREMENTS AND PROCEDURES FOR THE INCLUSION OF  
MEDIATORS ON THE ROSTER OF THE  
ARKANSAS ALTERNATIVE DISPUTE RESOLUTION COMMISSION**

A. *Scope of Requirement*

All mediators on the Roster of the Arkansas Alternative Dispute Resolution Commission shall be qualified pursuant to these Requirements, promulgated specifically for this Roster. The public should be aware that inclusion in this Roster is not certification by the Arkansas Alternative Dispute Resolution Commission.

B. *Procedures for Inclusion on the Roster of Mediators*

1. An applicant for qualification and inclusion on the Commission's Roster shall make application to the Office of the Commission, to the attention of the Coordinator, on a form to be provided by the Commission.
2. An application for qualification and inclusion on the Commission's Roster shall be accompanied by an administrative handling fee of \$25.
3. The application shall contain or be accompanied by the following:
  - a. statement of educational background;
  - b. evidence of successful completion of the appropriate mediation training for the Roster;
  - c. statement of experience/areas of expertise;
  - d. statement of adherence to the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*; and
  - e. statement certifying accuracy of information contained in the application.
4. Application for inclusion on the Roster shall be acted upon by the Office of the Coordinator of the Commission. Any applicant denied inclusion shall have the right to request a hearing before the Commission for reconsideration of such a denial.

5. Notification of inclusion shall be made by letter. A letter denying inclusion shall state the grounds for the denial and make reference to the right of the applicant to request a hearing for reconsideration of the denial. Such request by the applicant must be in writing and addressed to the Coordinator of the Commission and must be made within 30 days of receipt of notification of denial. Within 15 days of the reconsideration, and, if requested, a hearing, the Commission shall render a final decision.
6. An applicant denied inclusion may reapply for inclusion six months after the date of denial.
7. In order to continue on the Roster, each mediator must renew annually with the Coordinator on a form supplied by the Commission which must be accompanied by a renewal fee in the amount of \$10. The date for renewal will be September 1 of each year.

C. *Standards for Inclusion on Roster*

To be included on the Roster, all applicants must meet the following qualifications:

1. Must have a bachelor's degree from an accredited college or university;
2. Must submit evidence of successful completion of at least 40 hours of training in basic mediation skills offered by a training program approved by the Commission;
3. Must submit evidence of observation, co-mediation or mediation of at least two complete mediations;
4. Be of good moral character;
5. Accept and follow the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*.

**RECOMMENDED GUIDELINES FOR THE TRAINING AND  
QUALIFICATION OF COURT-REFERRED MEDIATORS OR  
MEDIATORS PARTICIPATING IN COURT-ANNEXED MEDIATION  
SYSTEMS**

The Commission recommends the following guidelines as minimum standards for the qualifications of court-referred mediators or for mediators participating in court-annexed systems either in individual jurisdictions or in a statewide program. The Commission recommends guidelines for three types of mediation referrals or court-annexed mediation systems: (1) Small Claims; (2) Family Mediation; (3) Circuit or Chancery Mediation for other than family matters. These guidelines are intended to assist the courts in ensuring that court-referred mediators meet a high standard of competence and ethical responsibility.

Upon request, the ADR Commission will provide from its Roster the names of those mediators meeting these guidelines (along with their statements of training and experience) to any Arkansas court creating a court-annexed mediation system or seeking the names of mediators for possible referrals. Courts, mediators, and the public should be aware that, in creating a court-annexed mediation system or making mediation referrals, an Arkansas court is free to use these standards, or to create its own requirements, which may be greater, lesser, or different from the standards suggested here.

These guidelines may also be useful to administrative agencies and other governmental units establishing mediation programs.

A. *Scope of Guidelines Promulgated by a Court for a Court-annexed system or Court-referred Mediations (if that Court accepts the Arkansas ADR Commission Guidelines)*

The Arkansas Alternative Dispute Resolution Commission recommends that a Court begin its guidelines with the following statement of scope

“All mediators receiving referrals through this Court-annexed program or from this Court should be court approved pursuant to requirements promulgated by

\_\_\_\_\_.  
(Fill in name of court or program making referral or establishing Court-annexed system)

The following sets forth these requirements:”

B. *Qualifications for different types of program*

The Court establishing the system or making the referral should choose the appropriate one of the following categories of guidelines:

1. Small Claims Courts
  - a. Have completed a minimum of 16 hours training in a training program specifically designated for small claims courts and approved by the Commission, or complete a 40 hour training course as described in Requirements and Procedures for the Inclusion of Mediators on the Roster of the Arkansas Alternative Dispute Resolution Commission [hereinafter Requirements];
  - b. Be of good moral character; and
  - c. Accept and follow the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*.

**Please note:**

Courts and mediators should note that for court-annexed or referred small claims mediations only, there may be some mediators who meet this small claims guideline by having small claims mediation training, without also meeting the education and training standard of Requirements, Section C(2). These mediators will be qualified for small claims mediations under these standards, even though they will not appear on the Roster of Mediators maintained by the Arkansas Alternative Dispute Resolution Commission.

2. Family Mediators
  - a. Have completed a minimum of 40 hours in a family mediation training program approved by the Commission; or have completed 40 hours of basic mediation training with an additional 20 hours of family mediation training in a program devoted entirely to family or parenting mediation and which is approved by the Commission;
  - b. Have a bachelor's level degree with at least two years work experience in family and marriage issues; or have a master's degree or higher in social work, mental health, behavioral social science, or communications, or be an attorney;
  - c. Have observed, mediated, or co-mediated two family mediations;
  - d. Be of good moral character; and
  - e. Accept and follow the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*.
3. Circuit or Chancery Court Mediators for other than family matters
  - a. Have completed a minimum of 40 hours in a mediation training

- approved by the Commission;
- b. Be a member in good standing of the Arkansas Bar; or have a master's level degree or higher;
  - c. Have observed, mediated, or co-mediated two mediations of Circuit or Chancery Court cases other than family matters;
  - d. Be of good moral character;
  - e. Accept and follow the *Arkansas Alternative Dispute Resolution Commission's Requirements for the Conduct of Mediation and Mediators*.

NOTE

Upon implementation of Amendment 80 to the Arkansas Constitution, references to Chancery, Circuit, or Circuit/Chancery Courts or cases shall apply to Circuit Courts or cases.

Experience gained before the effective date of Amendment 80 in either Circuit or Chancery Court cases shall apply to meeting the Guidelines for Mediators in Circuit Court cases thereafter.

ADOPTED without dissent by the Arkansas Alternative Dispute Resolution Commission at a public meeting April 13, 2001.