

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC17-

**IN RE: AMENDMENTS TO FLORIDA
RULES FOR CERTIFIED AND
COURT-APPOINTED MEDIATORS**

**PETITION OF THE COMMITTEE ON ALTERNATIVE DISPUTE
RESOLUTION RULES AND POLICY TO AMEND THE
FLORIDA RULES FOR CERTIFIED AND
COURT-APPOINTED MEDIATORS**

The Supreme Court Committee on Alternative Dispute Resolution Rules and Policy (Committee), by its undersigned Chair, the Honorable Rodney Smith, respectfully files this time sensitive petition to amend rule 10.910 of the Florida Rules for Certified and Court-Appointed Mediators.

I. Authority to File Petition

This petition is filed pursuant to In re: Committee on Alternative Dispute Resolution Rules and Policy, Fla. Admin. Order No. AOSC16-40 (June 28, 2016). (See Appendix C.) This order and its predecessor orders has, as one of its charges, a directive to the Committee to “Monitor court rules governing alternative dispute resolution procedures and recommend to the Court necessary amendments.”

II. Jurisdiction

The Florida Supreme Court has authority to adopt rules for practice and procedure in all courts under article V, section 2(a) of the Florida Constitution, which includes authority to amend the Florida Rules for Certified and Court-Appointed Mediators over which it has specific jurisdiction pursuant to section 44.106, Florida Statutes.

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III. Purpose of Petition

This petition is filed to recommend revisions to rule 10.910, Florida Rules for Certified and Court-Appointed Mediators (Mediator Rules). In 2016, the Court adopted revisions to Part III (Discipline) of the Mediator Rules which took effect January 1, 2017, in In re: Amendments to the Fla. Rules for Certified & Court-Appointed Mediators, 202 So. 3d 795 (Fla. 2016). One of the revisions to the rules was the addition of a fourth division to the Mediator Qualifications Discipline and Review Board (MQDRB); however, the Committee's proposals inadvertently did not include revisions to subdivisions (b) and (c) of rule 10.910 to incorporate the additional fourth division and its effect on the membership of the Mediator Ethics Advisory Committee (MEAC).

Additionally, the Committee now proposes a revision to subdivision (e) regarding the Dispute Resolution Center's (DRC) publishing of MEAC opinions to remove the specification that the opinions be published only in the DRC newsletter.

IV. Time Sensitive Nature of Petition

The terms of three of the current nine MEAC members will expire on June 30, 2017, making the revisions of the rule time sensitive due to the need to appoint new members and the need to have members from each of the four divisions of the MQDRB.

V. Background

Prior to the May 1, 2017, meeting of the Committee, a copy of the revised rule 10.910 was provided by staff of the DRC to all Committee members for review. At the May 1 meeting of the Committee, a history and explanation of the need for the revisions was presented and the revised rule was offered to the members for discussion. The Committee made changes and voted unanimously to approve the proposed revisions of the rule.

The Committee will publish the rule for comment on May 23, 2017, by sending the proposed revisions to all Florida Supreme Court certified mediators, court-connected ADR programs, the Florida Academy of Professional Mediators, and The Florida Bar ADR Section and Bar staff liaison to the Section via e-mail, and posting the revisions on the DRC

website. (See Appendix D.) Due to the time constraint for appointing new members, the Committee did not have time to allow for comment before filing the petition.

VI. Amendments Summary

The proposals are set forth in summary below and in full as appendices to this petition. The text of the proposed rule amendments appears first in full-page legislative format in Appendix A and in a two-column chart with explanations of changed text in Appendix B.

The MEAC will continue to be composed of nine members. All but one of the MEAC's yearly meetings are held via telephone conference call. The Committee considered having three members from each of the four divisions and discarded that possibility as too unwieldy for effective communication during telephone meetings. Subdivision (b) is revised so that two members come from each of the four divisions of the MQDRB and the ninth member is from any of the four divisions. Previously, as the MQDRB had only three divisions, three members were from each of the three divisions. Pursuant to the 2016 amendments to rule 10.730(a), Florida Rules for Certified and Court-Appointed Mediators, the new divisions of the MQDRB are:

(1) Northern: First, Second, Third, Fourth, Eighth and Fourteenth judicial circuits.

(2) Central: Fifth, Seventh, Ninth, Tenth, Eighteenth, and Nineteenth judicial circuits.

(3) Southeast: Eleventh, Fifteenth, Sixteenth and Seventeenth judicial circuits.

(4) Southwest: Sixth, Twelfth, Thirteenth and Twentieth judicial circuits.

Subdivision (c) is revised so that there is one member representing each type of Florida Supreme Court mediator certification: county, family, circuit, dependency, and appellate. Under the current rule, at least one of the nine members holding county, family, and circuit certification must also hold dependency certification and one of the nine members must also hold appellate certification. Although it is also true under the current rule, the

revision plainly states that the remaining four members may hold any type of Florida Supreme Court mediator certification.

The proposed revision to subdivision (e) regarding the DRC's publishing of MEAC opinions removes the specification that the opinions be published only in the DRC newsletter. In the event the DRC were to no longer publish a newsletter, the current rule does not require the DRC to publish the opinions whereas the revision requires the opinions be published and allows the DRC greater latitude in the manner of publication.

VII. Effective Date Request

The Committee requests that all amendments sought in this filing become effective immediately from the date of this Court's order, not later than June 30, 2017.

VIII. Conclusion

WHEREFORE, the Committee on Alternative Dispute Resolution Rules and Policy respectfully requests this court consider and adopt the proposed amendments to rule 10.910, Florida Rules for Certified and Court-Appointed Mediators.

Respectfully submitted this ____ day of May, 2017.

/s/ Rodney Smith, Circuit Judge
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CERTIFICATE OF TYPEFACE COMPLIANCE

I certify this petition has been prepared in MS Word using Times New Roman 14-point font, which complies with the font requirements set forth in Florida Rule of Appellate Procedure 9.100(1).

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