

Proposed Revisions to Rule 10.910, Florida Rules for Certified and Court-Appointed Mediators

The Committee on Alternative Dispute Resolution Rules and Policy (Committee) invites all interested persons to comment on the attached proposed amendments to rule 10.910(b), (c), and (e), Mediator Ethics Advisory Committee (MEAC), Florida Rules for Certified and Court-Appointed Mediators. The Committee will be filing a time sensitive petition to amend the rule as the terms of three of the existing MEAC members will expire on June 30, 2017, and there will be a need to appoint new members.

One of the revisions to Part III (Discipline) of the mediator rules which took effect on January 1, 2017, was the addition of a fourth division to the Mediator Qualifications and Discipline Review Board (MQDRB). See In re: Amendments to the Fla. Rules for Certified and Court-Appointed Mediators, So. 3d 795 (Fla. 2016). 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 MEAC. These proposed amendments address this issue. Additionally, 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.

Although the Court will invite interested persons to submit comments once the petition is filed, any interested person may send comments prior to the Court's invitation to the Florida Dispute Resolution Center (DRC) by June 15, 2017, at DRCmail@flcourts.org ; Florida Dispute Resolution Center, Supreme Court Building, 500 S. Duval Street, Tallahassee, Florida 32399; or fax: (850) 922-9290.

FLORIDA RULES FOR CERTIFIED AND COURT-APPOINTED MEDIATORS

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, 32 from each of the 4 geographic divisions served by of the Mediator Qualifications Discipline and Review Board and the ninth member from any of the 4 divisions. No member of the Mediator Qualifications Discipline and 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, ~~and 1 circuit mediator, 1 dependency mediator, 1 appellate mediator, and 4 additional mediators who hold any type of Florida Supreme Court mediator certification from each division and shall be appointed by the chief justice.~~ At least one of the 9 members shall also be a certified dependency mediator, and at least one of the 9 members shall also be a certified appellate mediator. 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 ~~in the Dispute Resolution Center newsletter~~ by the DRC, 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.