### FLORIDA RULES FOR CERTIFIED AND COURT-APPOINTED MEDIATORS

SELECTED PORTION OF PART I: QUALIFICATIONS

### Rule 10.110 Good Moral Character

(a) General Requirement. No person shall be certified by this Court as a mediator unless such person first produces satisfactory evidence of good moral character as required by rule 10.100.

(b) Purpose. The primary purpose of the requirement of good moral character is to ensure protection of the participants in mediation and the public, as well as to safeguard the justice system. A mediator shall have, as a prerequisite to certification and as a requirement for continuing certification, the good moral character sufficient to meet all of the Mediator Standards of Professional Conduct set out in rules 10.200-10.690.

(c) Certification. The following shall apply in relation to determining the good moral character required for initial and continuing mediator certification:

(1) The applicant’s or mediator’s good moral character may be subject to inquiry when the applicant’s or mediator’s conduct is relevant to the qualifications of a mediator.

(2) An applicant for initial certification who has been convicted of a felony shall not be eligible for certification until such person has received a restoration of civil rights.

(3) An applicant for initial certification who is serving a sentence of felony probation shall not be eligible for certification until termination of the period of probation.

(4) In assessing whether the applicant’s or mediator’s conduct demonstrates a present lack of good moral character the following factors shall be relevant:

1. the extent to which the conduct would interfere with a mediator’s duties and responsibilities;

(B) the area of mediation in which certification is sought or held;

(C) the factors underlying the conduct;

(D) the applicant’s or mediator’s age at the time of the conduct;

(E) the recency of the conduct;

(F) the reliability of the information concerning the conduct;

(G) the seriousness of the conduct as it relates to mediator qualifications;

(H) the cumulative effect of the conduct or information;

(I) any evidence of rehabilitation;

(J) the applicant’s or mediator’s candor; and

(K) denial of application, disbarment, or suspension from any profession.

(d) Decertification. A certified mediator shall be subject to decertification for any knowing and willful incorrect material information contained in any mediator application. There is a presumption of knowing and willful violation if the application is completed, signed, and notarized.

## Part III Discipline

### Rule 10.700 Scope and Purpose

These rules apply to all proceedings before all panels and committees of the mediator qualifications board involving the discipline or suspension of certified mediators or non-certified mediators appointed to mediate a case pursuant to court rules. The purpose of these rules of discipline is to provide a means for enforcing the Florida Rules for Certified and Court-Appointed Mediators.

### Rule 10.710 Privilege to Mediate

Certification to mediate confers no vested right to the holder thereof, but is a conditional privilege that is revocable for cause.

### Rule 10.720 Definitions

(a) Board. The mediator qualifications board.

(b) Center. The Florida Dispute Resolution Center of the Office of the State Courts Administrator.

(c) Complaint. Formal submission of an alleged violation of the Rules for Certified and Court-Appointed Mediators, including allegations of a lack of good moral character. A complaint may originate from any person or from the center.

(d) Complaint Committee. Three members of the board from the division in which a complaint against a mediator originates.

(e) Counsel. Counsel appointed by the center, at the direction of the complaint committee, responsible for presenting the complaint to the panel.

(f) Division. One of 3 standing divisions of the mediator qualifications board, established on a regional basis.

(g) Investigator. A certified mediator, or attorney, or other qualified individual appointed by the center at the direction of a complaint committee.

(h) Mediator. A person certified by the Florida Supreme Court or an individual mediating pursuant to court order.

(i) Panel. Five members of the board from the division in which a complaint against a mediator originates.

(j) Qualifications Complaint Committee. Three members of the board selected for the purpose of considering referrals pursuant to rule 10.800.

### Rule 10.730 Mediator Qualifications Board

(a) Generally. The mediator qualifications board shall be composed of 3 standing divisions that shall be located in the following regions:

(1) One division in north Florida, encompassing the First, Second, Third, Fourth, Eighth, and Fourteenth judicial circuits;

(2) One division in central Florida, encompassing the Fifth, Sixth, Seventh, Ninth, Tenth, Twelfth, Thirteenth, and Eighteenth judicial circuits;

(3) One division in south Florida, encompassing the Eleventh, Fifteenth, Sixteenth, Seventeenth, Nineteenth, and Twentieth judicial circuits.

Other divisions may be formed by the supreme court based on need.

(b) Composition of Divisions. Each division of the board shall be composed of:

(1) three circuit or county judges;

(2) three certified county mediators;

(3) three certified circuit mediators;

(4) three certified family mediators, at least 2 of whom shall be non-lawyers;

(5) not less than 1 nor more than 3 certified dependency mediators;

(6) not less than 1 nor more than 3 certified appellate mediators; and

(7) three attorneys licensed to practice law in Florida who have a substantial trial practice and are neither certified as mediators nor judicial officers during their terms of service on the board, at least 1 of whom shall have a substantial dissolution of marriage law practice.

(c) Appointment; Terms. Eligible persons shall be appointed to the board by the chief justice of the Supreme Court of Florida for a period of 4 years. The terms of the board members shall be staggered.

(d) Complaint Committee. Each complaint committee of the board shall be composed of 3 members. A complaint committee shall cease to exist after disposing of all assigned cases. Each complaint committee shall be composed of:

(1) one judge or attorney, who shall act as the chair of the committee;

(2) one mediator, who is certified in the area to which the complaint refers; and

(3) one other certified mediator.

(e) Qualifications Complaint Committee. One member of each division shall serve as a member of the qualifications complaint committee for a period of 1 year. The qualifications complaint committee shall be composed of:

(1) one judge or attorney, who shall act as the chair of the committee; and

(2) two certified mediators.

(f) Panels. Each panel of the board shall be composed of 5 members. A panel shall cease to exist after disposing of all assigned cases. Each panel shall be composed of:

(1) one circuit or county judge, who shall serve as the chair;

(2) three certified mediators, at least 1 of whom shall be certified in the area to which the complaint refers; and

(3) one attorney.

(g) Panel Vice-Chair. Each panel once appointed shall elect a vice-chair. The vice-chair shall act as the chair of the panel in the absence of the chair.

Committee Notes

2000 Revision. In relation to (b)(5), the Committee believes that the Chief Justice should have discretion in the number of dependency mediators appointed to the Board depending on the number of certified dependency mediators available for appointment. It is the intention of the Committee that when dependency mediation reaches a comparable level of activity to the other three areas of certification, the full complement of three representatives per division should be realized.

### 

### Rule 10.740 Jurisdiction

(a) Complaint Committee. Each complaint committee shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any complaint. The judge or attorney presiding over the complaint committee shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, and to order the production of records or other documentary evidence, and the power of contempt. The complaint committee shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(b) Qualifications Complaint Committee. The qualifications complaint committee shall have jurisdiction over all matters referred pursuant to rule 10.800. The qualifications complaint committee shall have such jurisdiction and powers as are necessary to conduct the proper and speedy investigation and disposition of any good moral character complaint or other matter referred by the center. The judge or attorney presiding over the qualifications complaint committee shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, and to order the production of records or other documentary evidence, and the power of contempt. The qualifications complaint committee shall perform its investigatory function and have concomitant power to resolve cases prior to panel referral.

(c) Panel. Each panel shall have such jurisdiction and powers as are necessary to conduct the proper and speedy adjudication and disposition of any proceeding. The judge presiding over each panel shall have the power to compel the attendance of witnesses, to take or to cause to be taken the depositions of witnesses, to order the production of records or other documentary evidence, and the power of contempt. The panel shall perform the adjudicatory function, but shall not have any investigatory functions.

(d) Contempt. Should any witness fail, without justification, to respond to the lawful subpoena of the complaint committee, the qualifications complaint committee, or the panel or, having responded, fail or refuse to answer all inquiries or to turn over evidence that has been lawfully subpoenaed, or should any person be guilty of disorderly or contemptuous conduct before any proceeding of the complaint committee, the qualifications complaint committee, or the panel, a motion may be filed by the complaint committee, the qualifications complaint committee, or the panel before the circuit court of the county in which the contemptuous act was committed. The motion shall allege the specific failure on the part of the witness or the specific disorderly or contemptuous act of the person which forms the basis of the alleged contempt of the complaint committee, the qualifications complaint committee, or the panel. Such motion shall pray for the issuance of an order to show cause before the circuit court why the circuit court should not find the person in contempt of the complaint committee, the qualifications complaint committee, or the panel and the person should not be punished by the court therefor. The circuit court shall issue such orders and judgments therein as the court deems appropriate.

### Rule 10.750 Staff

The center shall provide all staff support to the board necessary to fulfill its duties and responsibilities under these rules.

### Rule 10.800 Good Moral Character; Professional Discipline

(a) Good Moral Character.

(1) Prior to approving an applicant for certification or renewal as a mediator the center shall review the application to determine whether the applicant appears to meet the standards for good moral character. If the center’s review of an application for certification or renewal raises any questions regarding the applicant's good moral character, the center shall request the applicant to supply additional information as necessary. Upon completing this extended review, the center shall forward the application and supporting material as a complaint to the qualifications complaint committee.

(2) If the center becomes aware of any information concerning a certified mediator which could constitute credible evidence of a lack of good moral character, the center shall refer such information as a complaint to the qualifications complaint committee.

(3) The qualifications complaint committee shall review all documentation relating to the good moral character of any applicant or certified mediator in a manner consistent, insofar as applicable, with rule 10.810. In relation to an applicant, the qualifications complaint committee shall either recommend approval or, if it finds there is probable cause to believe that the applicant lacks good moral character, it shall refer the matter to a hearing panel for further action. In relation to a certified mediator, the qualifications complaint committee shall dismiss or, if there is probable cause to believe that the mediator lacks good moral character, refer the matter to a hearing panel for further action.

(4) The panel shall take appropriate action on the issue of good moral character by dismissing the charges, denying the application in relation to an applicant, or imposing sanctions against a certified mediator pursuant to rule 10.830.

(5) All such hearings shall be held in a manner consistent, insofar as applicable, with rule 10.820.

(b) Professional Licenses and Certifications.

(1) A certified mediator shall inform the center, in writing, of the change in status of any professional license held by the mediator within 30 days of such change.

(2) Upon becoming aware that a certified mediator has been disciplined by a professional organization of which that mediator is a member, the center shall refer the matter to the qualifications complaint committee.

### Rule 10.810 Committee Process

(a) Initiation of Complaint. Any individual wishing to make a complaint alleging that a mediator has violated one or more provisions of these rules shall do so in writing under oath. The complaint shall state with particularity the specific facts that form the basis of the complaint.

(b) Filing. The complaint shall be filed with the center, or, in the alternative, the complaint may be filed in the office of the court administrator in the circuit in which the case originated or, if not case specific, in the circuit where the alleged misconduct occurred.

(c) Referral. The complaint, if filed in the office of the court administrator, shall be referred to the center within 5 days of filing.

(d) Assignment to Committee. Upon receipt of a complaint in proper form, the center shall assign the complaint to a complaint committee or the qualifications complaint committee within 10 days.

(e) Facial Sufficiency Determination. The complaint committee or the qualifications complaint committee shall convene, either in person or by conference call, to determine whether the allegation(s), if true, would constitute a violation of these rules. If the committee finds a complaint against a certified mediator to be facially insufficient, the complaint shall be dismissed without prejudice and the complainant and the mediator shall be so notified. If the qualifications complaint committee finds a complaint against an applicant to be facially insufficient, the complaint shall be dismissed and the application approved if all other requirements are met. If the complaint is found to be facially sufficient, the committee shall prepare a list of any rule or rules which may have been violated and shall submit such to the center.

(f) Service. The center shall serve a copy of the list of alleged rule violations prepared by the committee, a copy of the complaint, and a copy of these rules to the mediator or applicant in question. Service on the mediator or applicant shall be made by certified mail addressed to the mediator or applicant at the mediator's or applicant’s place of business or residence on file with the center. Mailing to such an address shall constitute service.

(g) Response. Within 20 days of the receipt of the list of violations prepared by the committee and the complaint, the mediator or applicant shall send a written, sworn response to the center by registered or certified mail. If the mediator or applicant does not respond, the allegations shall be deemed admitted.

(h) Preliminary Review. Upon review of the complaint and the mediator’s or applicant’s response, the committee may find that no violation has occurred and dismiss the complaint. The committee may also resolve the issue pursuant to subdivision (j) of this rule.

(i) Appointment of Investigator. The committee, after review of the complaint and response, may direct the center to appoint an investigator to assist the committee in any of its functions. Such person shall investigate the complaint and advise the committee when it meets to determine the existence of probable cause. In the alternative to appointing an investigator, the committee or any member or members thereof may investigate the allegations, if so directed by the committee chair. Such investigation may include meeting with the mediator, the applicant and the complainant.

(j) Committee Meeting with the Mediator or Applicant. Notwithstanding any other provision in this rule, at any time while the committee has jurisdiction, it may meet with the complainant and the mediator or applicant, jointly or separately, in an effort to resolve the matter. This resolution may include sanctions if agreed to by the mediator or applicant. If sanctions are accepted, all relevant documentation shall be forwarded to the center. Such conferences shall be in person, by video-conference or teleconference at the discretion of the committee.

(k) Review. If no other disposition has occurred, the committee shall review the complaint, the response, and any investigative report, including any underlying documentation, to determine whether there is probable cause to believe that the alleged misconduct occurred and would constitute a violation of the rules.

(l) No Probable Cause. If the committee finds no probable cause, it shall dismiss the complaint and so advise the complainant and the mediator or applicant in writing.

(m) Probable Cause Found. If probable cause exists, the committee may draft formal charges and forward such charges to the center for assignment to a panel. In the alternative, the committee may decide not to pursue the case by filing a short and plain statement of the reason or reasons for non-referral and so advise the complainant and the mediator or applicant in writing.

(n) Formal Charges and Counsel. If the committee refers a complaint to the center, the committee shall submit to the center formal charges which shall include a short and plain statement of the matters asserted in the complaint and references to the particular sections of the rules involved. After considering the circumstances of the complaint and the complexity of the issues to be heard, the committee may direct the center to appoint a member of The Florida Bar to investigate and prosecute the complaint. Such counsel may be the investigator appointed pursuant to this rule if such person is otherwise qualified.

(o) Dismissal. Upon the filing of a stipulation of dismissal signed by the complainant and the mediator with the concurrence of the complaint committee, the action shall be dismissed. If an application is withdrawn by the applicant, the complaint shall be dismissed with or without prejudice depending on the circumstances.

### Rule 10.820 Hearing Procedures

(a) Assignment to Panel. Upon referral of a complaint and formal charges from a committee, the center shall assign the complaint and formal charges or other matter to a panel for hearing, with notice of assignment to the complainant and the mediator or applicant. No member of the committee shall serve as a member of the panel.

(b) Hearing. The center shall schedule a hearing not more than 90 days nor less than 30 days from the date of notice of assignment of the matter to the panel. At any time prior to the hearing, the panel may accept an admission to any or all charges and impose sanctions upon the mediator. The panel shall not be required to physically meet in person to accept such admission.

(c) Dismissal. Upon the filing of a stipulation of dismissal signed by the complainant and the mediator, and with the concurrence of the panel, a complaint shall be dismissed.

(d) Procedures for Hearing. The procedures for hearing shall be as follows:

(1) No hearing shall be conducted without 5 panel members being physically present.

(2) The hearing may be conducted informally but with decorum.

(3) The rules of evidence applicable to trial of civil actions apply but are to be liberally construed.

(4) Upon a showing of good cause to the panel, testimony of any party or witness may be presented over the telephone.

(e) Right to Defend. A mediator or applicant shall have the right to defend against all charges and shall have the right to be represented by an attorney, to examine and cross-examine witnesses, to compel the attendance of witnesses to testify, and to compel the production of documents and other evidentiary matter through the subpoena power of the panel.

(f) Mediator or Applicant Discovery. The center shall, upon written demand of a mediator, applicant, or counsel of record, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the counsel or the center which are relevant to the subject matter of the hearing and which have not previously been furnished.

(g) Panel Discovery. The mediator, applicant, or counsel of record shall, upon written demand of the counsel or the center, promptly furnish the following: the names and addresses of all witnesses whose testimony is expected to be offered at the hearing, together with copies of all written statements and transcripts of the testimony of such witnesses in the possession of the mediator, applicant, or counsel of record which are relevant to the subject matter of the hearing and which have not previously been furnished.

(h) Failure to Appear. Absent a showing of good cause, if the complainant fails to appear at the hearing, the panel may dismiss a complaint for want of prosecution.

(i) Mediator’s or Applicant’s Absence. If the mediator or applicant fails to appear, absent a showing of good cause, the hearing shall proceed.

(j) Rehearing. If the matter is heard in the mediator’s or applicant’s absence, the mediator or applicant may petition for rehearing, for good cause, within 10 days of the date of the hearing.

(k) Recording. Any party shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings reported and transcribed by a court reporter at the party’s expense.

(l) Dismissal. Upon dismissal, the panel shall promptly file a copy of the dismissal order with the center.

(m) Sanctions. If, after the hearing, a majority of the panel finds that there is clear and convincing evidence to support a violation of the rules, the panel shall impose such sanctions included in rule 10.830 as it deems appropriate and report such action to the center.

(n) Denial of Application for Certification. If, after a hearing, a majority of the panel finds by the preponderance of the evidence that an applicant should not be certified as a mediator, the panel shall deny the application and report such action to the center.

### 

### Rule 10.830 Sanctions

(a) Generally. The panel may impose one or more of the following sanctions:

(1) Imposition of costs of the proceeding.

(2) Oral admonishment.

(3) Written reprimand.

(4) Additional training, which may include the observation of mediations.

(5) Restriction on types of cases which can be mediated in the future.

(6) Suspension for a period of up to 1 year.

(7) Decertification or, if the mediator is not certified, bar from service as a mediator under Florida Rules of Civil Procedure.

(8) Such other sanctions as are agreed to by the mediator and the panel.

(b) Conviction of Felony. If the panel finds that a certified mediator has a felony conviction, it shall decertify the mediator for a period of not less than two years or until restoration of civil rights, whichever comes later. In order to become a reinstated, such decertified mediator must comply with the requirements of subdivision (h).

(c) Failure to Comply. If there is reason to believe that the mediator failed to timely comply with any imposed sanction, a hearing shall be held before a panel convened for that purpose within 60 days of the date when the center learned of the alleged failure to comply. The hearing shall also include any additional alleged failures to comply of which the center becomes aware prior to the date of the hearing. The holding of a hearing shall not preclude a subsequent hearing on an alleged failure occurring after the first alleged failure. Any suspension in effect at the time of discovery of the violation by the center shall continue in effect until a decision is reached at the hearing. A finding of the panel that there was a willful failure to substantially comply with any imposed sanction shall result in the decertification of the mediator.

(d) Decertified Mediators. If a mediator has been decertified or barred from service pursuant to these rules, the mediator shall not thereafter be certified or assigned to mediate a case pursuant to court rule or be designated as mediator pursuant to court rule unless reinstated.

(e) Decision to be Filed. Upon making a determination that discipline is appropriate, the panel shall promptly file with the center a copy of the decision including findings and conclusions certified by the chair of the panel. The center shall promptly mail to all parties notice of such filing, together with a copy of the decision.

(f) Notice to Circuits. The center shall notify all circuits of any mediator who has been decertified or suspended unless otherwise ordered by the Supreme Court of Florida.

(g) Publication. Upon the imposition of sanctions, the center shall publish the name of the mediator, a short summary of the rule or rules which were violated, the circumstances surrounding the violation, and any sanctions imposed.

(h)     Reinstatement after Suspension.  Except if inconsistent with rule 10.110, a mediator who has been suspended shall be reinstated as a certified mediator upon the expiration of the imposed or accepted suspension period and satisfaction of any addition renewal obligations.

(i)     Reinstatement after Decertification.  Except if inconsistent with rule 10.110, a mediator who has been decertified may be reinstated as a certified mediator. Except as otherwise provided in the decision of the panel, no application for reinstatement may be tendered within 2 years after the date of decertification. The reinstatement procedures shall be as follows:

(1)        A petition for reinstatement, together with 6 copies, shall be made in writing, verified by the petitioner, and filed with the center.

(2)        The petition for reinstatement shall contain:

(A)       the name, age, residence, and address of the petitioner;

(B)       the offense or misconduct upon which the  decertification was based, together with the date of such decertification; and

(C)       a concise statement of facts claimed to justify reinstatement as a certified mediator.

(3)        The center shall refer the petition for reinstatement to a hearing panel in the appropriate division for review.

(4)        The panel shall review the petition and, if the petitioner is found to be unfit to mediate, the petition shall be dismissed. If the petitioner is found fit to mediate, the panel shall notify the center and the center shall reinstate the petitioner as a certified mediator contingent on the petitioner’s completion of a certified mediation training program of the type for which the petitioner seeks to be reinstated. Successive petitions for reinstatement based upon the same grounds may be reviewed without a hearing.

### Rule 10.840 Subpoenas

(a) Issuance. Subpoenas for the attendance of witnesses and the production of documentary evidence for discovery and for the appearance of any person before a complaint committee, a panel, or any member thereof, may be issued by the chair of the complaint committee or panel or, if the chair of the panel is absent, by the vice-chair. Such subpoenas may be served in any manner provided by law for the service of witness subpoenas in a civil action.

(b) Failure to Obey. Any person who, without adequate excuse, fails to obey a duly served subpoena may be cited for contempt of the committee or panel in accordance with rule 10.740.

### Rule 10.850 Confidentiality

(a) Generally. Until sanctions are imposed, whether by the panel or upon agreement of the mediator, all proceedings shall be confidential. After sanctions are imposed by a panel or an application is denied, all documentation including and subsequent to the filing of formal charges shall be public with the exception of those matters which are otherwise confidential under law or rule of the supreme court, regardless of the outcome of any appeal. If a consensual agreement is reached between a mediator and a complaint committee, only the basis of the complaint and the agreement shall be released to the public.

(b) Witnesses. Each witness in every proceeding under these disciplinary rules shall be sworn to tell the truth and not disclose the existence of the proceeding, the subject matter thereof, or the identity of the mediator until the proceeding is no longer confidential under these disciplinary rules. Violation of this oath shall be considered an act of contempt of the complaint committee or the panel.

(c) Papers to be Marked. All notices, papers, and pleadings mailed prior to formal charges being filed shall be enclosed in a cover marked “confidential.”

(d) Breach of Confidentiality. Violation of confidentiality by a member of the board shall subject the member to removal by the chief justice of the Supreme Court of Florida.

Committee Notes

1995 Revision. The Committee believed the rule regarding confidentiality should be amended in deference to the 1993 amendment to section 44.102, Florida Statutes that engrafted an exception to the general confidentiality requirement for all mediation sessions for the purpose of investigating complaints filed against mediators. Section 44.102(4) specifically provides that “the disclosure of an otherwise privileged communication shall be used only for the internal use of the body conducting the investigation” and that “[Prior] to the release of any disciplinary files to the public, all references to otherwise privileged communications shall be deleted from the record.”

These provisions created a substantial potential problem when read in conjunction with the previous rule on confidentiality, which made public all proceedings after formal charges were filed. In addition to the possibly substantial burden of redacting the files for public release, there was the potentially greater problem of conducting panel hearings in such a manner as to preclude the possibility that confidential communications would be revealed during testimony, specifically the possibility that any public observers would have to be removed prior to the elicitation of any such communication only to be allowed to return until the next potentially confidential revelation. The Committee believes that under the amended rule the integrity of the disciplinary system can be maintained by releasing the results of any disciplinary action together with a redacted transcript of panel proceedings, while still maintaining the integrity of the mediation process.

2008 Revision. The recent adoption of the Florida Mediation Confidentiality and Privilege Act, sections 44.401 - 44.406, Florida Statutes, renders the first paragraph of the 1995 Revision Committee Notes inoperative. The second paragraph explains the initial rationale for the rule, which is useful now from a historical standpoint.

### Rule 10.860 Interested Party

A mediator is disqualified from serving on a committee or panel proceeding involving the mediator’s own discipline or decertification.

### Rule 10.870 Disqualification of Members of a Panel or Committee

(a) Procedure. In any case, any party may at any time before final disciplinary action show by a suggestion filed in the case that a member of the board before which the case is pending, or some person related to that member, is a party to the case or is interested in the result of the case or that the member is related to an attorney or counselor of record in the case or that the member is a material witness for or against one of the parties to the case.

(b) Facts to be Alleged. A motion to disqualify shall allege the facts relied on to show the grounds for disqualification and shall be verified by the party.

(c) Time for Motion. A motion to disqualify shall be made within a reasonable time after discovery of the facts constituting grounds for disqualification.

(d) Action by Chair. The chair of the appropriate committee or panel shall determine only the legal sufficiency of the motion. The chair shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the chair shall enter an order of disqualification and the disqualified committee or panel member shall proceed no further in the action. In the event that the chair is the challenged member, the vice-chair shall perform the acts required under this subdivision.

(e) Recusals. Nothing in this rule limits a board member’s authority to enter an order of recusal on the board member’s own initiative.

(f) Replacement. The center shall assign a board member to take the place of any disqualified or recused member.

(g) Qualifications. Each assignee shall have the same qualifications as the disqualified or recused member.

### 

### Rule 10.880 Supreme Court Chief Justice Review

(a) Right of Review. Any mediator or applicant found to have committed a violation of these rules or otherwise sanctioned by a hearing panel shall have a right of review of that action. Review of this type shall be by the chief justice of the Supreme Court of Florida or by the chief justice’s designee. A mediator shall have no right of review of any resolution reached under rule 10.810(j).

(b) Rules of Procedure. The Florida Rules of Appellate Procedure, to the extent applicable and except as otherwise provided in this rule, shall control all appeals of mediator disciplinary matters.

(1) The jurisdiction to seek review of disciplinary action shall be invoked by submitting an original and one copy of a Notice of Review of Mediator Disciplinary Action to the chief justice within 30 days of the panel’s decision. A copy shall also be provided to the Center.

(2) The notice of review shall be substantially in the form prescribed by rule 9.900(a), Florida Rules of Appellate Procedure. A copy of the panel decision shall be attached to the notice.

(3) Appellant’s initial brief, accompanied by an appendix as prescribed by rule 9.220, Florida Rules of Appellate Procedure, shall be served within 30 days of submitting the notice of review. Additional briefs shall be served as prescribed by rule 9.210, Florida Rules of Appellate Procedure.

(c) Standard of Review. The review shall be conducted in accordance with the following standard of review:

(1) The chief justice or designee shall review the findings and conclusions of the panel using a competent substantial evidence standard, neither reweighing the evidence in the record nor substituting the reviewer’s judgment for that of the panel.

(2) Decisions of the chief justice or designee shall be final upon issuance of a mandate under rule 9.340, Florida Rules of Appellate Procedure.

### Rule 10.900 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, 3 from each geographic division served by the Mediator Qualifications Board. No member of the Mediator Qualifications Board shall serve on the committee.

(c) Membership and Terms. The membership of the committee shall be composed of 1 county mediator, 1 family mediator, and 1 circuit mediator 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, 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.