

In the
Indiana Supreme Court



CAUSE NUMBER: 94S00-1301-MS-30

ORDER AMENDING INDIANA RULES FOR ALTERNATIVE DISPUTE RESOLUTION

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court’s inherent authority to supervise the administration of all courts of this state, Indiana Rules for Alternative Dispute Resolution, Rules 2.3 and 2.5 are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

Rules for Alternative Dispute Resolution

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Rule 2.3. Listing of Mediators: Commission Registry of Mediators

Any person who wishes to serve as a registered mediator pursuant to these rules must register with the Indiana Supreme Court Commission for Continuing Legal Education (hereinafter “Commission”) on forms supplied by the Commission. The registrants must meet qualifications as required in counties or court districts (as set out in Ind. Administrative Rule 3(A)) in which they desire to mediate and identify the types of litigation which they desire to mediate. ~~Two or more persons individually who are qualified under A.D.R. Rule 2.5 may register as a mediation team.~~ All professional licenses must be disclosed and identified in the form which the Commission requires.

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Rule 2.5. Qualifications of Mediators

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(D) Basic and Continuing Mediation Education Reporting Requirements. ~~Within thirty (30) days of~~ Subsequent to presenting a Commission approved basic or continuing mediation education training course, the sponsor of that course must forward a list of attendees to the

Commission. An attendance report received more than thirty (30) days after a program is concluded must include a late processing fee as approved by the Indiana Supreme Court. Received, in the context of an application, document(s), and/or other item(s) which is or are requested by or submitted to the Commission, means delivery to the Commission; mailed to the Commission by registered, certified or express mail return receipt requested or deposited with any third-party commercial carrier for delivery to the Commission within three (3) calendar days, cost prepaid, properly addressed. Sending by registered or certified mail and by third-party commercial carrier shall be complete upon mailing or deposit. This list shall include for each attendee: full name; attorney number (if applicable); residence and business addresses and phone numbers; and the number of mediation hours attended. A course approved for CME may also qualify for CLE credit, so long as the course meets the requirements of Admission and Discipline Rule 29. For courses approved for both continuing legal education and continuing mediation education, the sponsor must additionally report continuing legal education, speaking and professional responsibility hours attended.

(E) Accreditation Policies and Procedures for CME.

- (1) *Approval of courses.* Applications must be accompanied by an application fee as approved by the Indiana Supreme Court. An “application” means a completed application form, with all required attachments and fees, signed and dated by the Applicant. Applications received more than thirty (30) days after the conclusion of a course must include a late processing fee. The Commission shall approve the course, including law school classes, if it determines that the course will make a significant contribution to the professional competency of mediators who attend. In determining if a course, including law school classes, meets this standard the Commission shall consider whether:
 - (a) the course has substantial content dealing with alternative dispute resolution process;
 - (b) the course deals with matters related directly to the practice of alternative dispute resolution and the professional responsibilities of neutrals;
 - (c) the course deals with reinforcing and enhancing alternative dispute resolution and negotiation concepts and skills of neutrals;

- (d) the course teaches ethical issues associated with the practice of alternative dispute resolution;
 - (e) the course deals with other professional matters related to alternative dispute resolution and the relationship and application of alternative dispute resolution principles;
 - (f) the course deals with the application of alternative dispute resolution skills to conflicts or issues that arise in settings other than litigation, such as workplace, business, commercial transactions, securities, intergovernmental, administrative, public policy, family, guardianship and environmental;⁵ and,
 - (g) in the case of law school classes, in addition to the standard set forth above the class must be a regularly conducted class at a law school accredited by the American Bar Association.
- (2) Credit will be denied for the following activities:
- (a) Legislative, lobbying or other law-making activities.
 - (b) In-house program. The Commission shall not approve programs which it determines are primarily designed for the exclusive benefit of mediators employed by a private organization or mediation firm. Mediators within related companies will be considered to be employed by the same organization or law firm for purposes of this rule. However, governmental entities may sponsor programs for the exclusive benefit of their mediator employees.
 - (c) Programs delivered by these methods: satellite, microwave, video, computer, internet, telephone or other electronic methods. To be approved courses must provide a discussion leader or two-way communication, classroom setting away from the mediator's offices, opportunity to ask questions, and must monitor attendance.
 - (d) Courses or activities completed by self-study.
 - (e) Programs directed to elementary, high school or college student level neutrals.
- (3) *Procedures for Sponsors*. Any sponsor may apply to the Commission for approval of a course. The application must:

- (a) be ~~submitted to~~received by the Commission at least thirty (30) days before the first date on which the course is to be offered;
- ~~(b) contain the information required by and be in the form approved by the Commission and available upon request or at the Commission's web site: www.in.gov/judiciary/ele; and~~
- ~~(e) be accompanied by the written course outline and brochure used to furnish information about the course to mediators.~~

(b) Include the nonrefundable application fee in order for the application to be reviewed by the Commission. Courses presented by non-profit sponsors which do not require a registration fee are eligible for an application fee waiver.

Courses presented by bar associations, Indiana Continuing Legal Education Forum (ICLEF) and government or academic entities will not be assessed an application fee, but are subject to late processing fees.

Applications received less than thirty (30) days before a course is presented must also include a late processing fee in order to be processed by the Commission.

Either the provider or the attendee must pay all application and late fees before a mediator may receive credit.

Fees may be waived in the discretion of the Commission upon a showing of good cause.

(c) contain the information required by and be in the form set forth in the application approved by the Commission and available upon request;

(d) be accompanied by the written course outline and brochure used by the Sponsor to furnish information about the course to mediators; and

(e) be accompanied by an affidavit of the mediator attesting that the mediator attended the course together with a certification of the course Sponsor as to the mediator's attendance. If the application for course approval is made before attendance, this affidavit and certification requirement shall be fulfilled within

thirty (30) days after course attendance. Attendance reports received more than thirty (30) days after the conclusion of a course must include a late processing fee. Course applications received more than (1) one year after a course is presented may be denied as untimely.

(4) *Procedure for Mediators.* A mediator may apply for credit of a live course either before or after the date on which it is offered. The application must:

(a) be received by the Commission at least thirty (30) days before the date on which the course is to be offered if they are seeking approval before the course is to be presented. If the applicant is seeking accreditation, the Sponsor must apply within thirty (30) days of the conclusion of the course.

(b) include the nonrefundable application fee in order for the application to be reviewed by the Commission. Courses presented by non-profit sponsors which do not require a registration fee are eligible for an application fee waiver.

Either the provider or the attendee must pay all application and late fees before a mediator may receive credit.

Fees may be waived in the discretion of the Commission upon a showing of good cause.

(c) contain the information required by and be in the form set forth in the application approved by the Commission and available upon request;

(d) be accompanied by the written course outline and brochure used by the Sponsor to furnish information about the course to mediators; and

(e) be accompanied by an affidavit of mediator attesting that the mediator attended the course together with a certification of the course Sponsor as to the mediator's attendance. If the application for course approval is made before attendance, this affidavit and certification must be received by the Commission within thirty (30) days after course attendance. An attendance report received more than thirty (30) days after the conclusion of a course must include a late processing fee.

Course applications received more than one (1) year after a course is presented may be denied as untimely.

- ~~(a) contain the information required by and be in the form approved by the Commission and available upon request or at the Commission's web site: www.in.gov/judiciary/ele;~~
- ~~(b) be accompanied by the written course outline and brochure used to furnish information about the course to mediators; and,~~
- ~~(c) be accompanied by an affidavit of the mediator attesting that the mediator attended the course together with a certification of the course Sponsor as to the mediator's attendance. If the application for course approval is made before attendance, this affidavit and certification requirement shall be fulfilled within thirty (30) days after course attendance.~~

(F) Procedure for Resolving Disputes. Any person who disagrees with a decision of the Commission and is unable to resolve the disagreement informally, may petition the Commission for a resolution of the dispute. Petitions ~~pursuant to this Section~~ must be received by the Commission within thirty (30) days of notification by the Commission of the Commission's decision and shall be considered by the Commission at its next regular meeting, provided that the petition is received by the Commission at least ten (10) business days before such meeting. The person filing the petition shall have the right to attend the Commission meeting at which the petition is considered and to present relevant evidence and arguments to the Commission. The rules of pleading and practice in civil cases shall not apply, and the proceedings shall be informal as directed by the Chair. The determination of the Commission shall be final subject to appeal directly to the Supreme Court.

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These amendments shall take effect on January 1, 2014.

The Clerk of this Court is directed to send a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office

of Code Revision; Indiana Supreme Court Administration Office; Court of Appeals of Indiana Administration Office; Indiana Tax Court Administration Office; Public Defender of Indiana; Indiana Prosecuting Attorney Council; Indiana Public Defender Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana State Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit and Superior Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, on September 13, 2013.

/s/Brent E. Dickson
Brent E. Dickson
Chief Justice of Indiana

All Justices concur.