

NOTICE TO THE BAR

Proposed Review Process for Complaints Against Mediators – Comments

In January 2000, the Supreme Court approved a set of Standards of Conduct for Mediators in Court-Connected Programs ("Standards"). The Standards, developed by the Supreme Court Committee on Complementary Dispute Resolution, were intended to instill and promote public confidence in the mediation process and to guide mediators in discharging their professional responsibilities.

In adopting the Standards, the Court also approved the creation of an Advisory Committee on Mediator Standards ("Advisory Committee"), appointed by the Chief Justice, to assist mediators by providing advice on interpretation of the Standards. The Advisory Committee also was charged with monitoring complaints about mediators from attorneys or parties in mediation in order to provide data as to whether a formal complaint process was needed.

With the statewide implementation of mediation for both the Family and Civil Parts, the Advisory Committee has recommended establishment of a more formal review process for complaints against mediators. The Advisory Committee's proposal is appended to this Notice.

The purpose of this Notice is to seek comments on the Advisory Committee's proposed complaint review process prior to its submission to the Supreme Court for action. Accordingly, please send any comments on the proposal in writing by Friday, February 23, 2007 to:

Philip S. Carchman, J.A.D.
Acting Administrative Director of the Courts
Comments on Mediator Complaint Review Process
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via Internet e-mail to the following address:
Comments.Mailbox@judiciary.state.nj.us.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). However, comments submitted in response to this notice will be maintained in confidence if the author specifically requests confidentiality. In the absence of such a request, the author's identity and his or her comments may be

subject to public disclosure after the Court has acted on the Committee reports and supplemental reports.

/s/ Philip S. Carchman

Philip S. Carchman, J.A.D.
Acting Administrative Director of the Courts

Dated: January 8, 2007

PROPOSED REVIEW PROCESS FOR COMPLAINTS AGAINST MEDIATORS ON COURT APPROVED MEDIATION

I. SUBMISSION OF COMPLAINTS

All complaints regarding mediators must be submitted in writing to the Advisory Committee on Mediator Standards (Committee) specifying the conduct about which the person is complaining. Complaints concerning fee disputes will not be reviewed by the Committee. Complaints should be sent to:

Manager, CDR Programs
Administrative Office of the Courts
Programs and Procedures Division
Hughes Justice Complex
P.O. Box 988
Trenton, NJ 08625

II. REGISTRY OF COMPLAINTS

The Manager of Complementary Dispute Resolution (CDR) Programs for the Administrative Office of the Courts (Manager), as staff to the Committee, shall maintain a registry of all complaints filed against a mediator.

III. INFORMAL RESOLUTION

The Manager shall acknowledge receipt of the complaint in writing to the complaining party, provide notice of the complaint to the mediator and provide a copy of the complaint to the Chair and members of the Committee. After review by the Committee, the Manager or a member of the Committee will seek to resolve the complaint informally unless the Committee determines otherwise.

IV. COMMITTEE REVIEW

If the Manager or Committee member is unable to resolve the complaint informally, the Committee shall determine the appropriate course of action to be taken, which may include the following:

- A. That the complaint does not warrant further action.
- B. That the mediator be provided with a copy of the complaint with a request for a written response and advised that a copy of the response will be provided to the complaining party.

- C. That upon review of the mediator's response, the Committee may request additional information from the complainant, the mediator or other party(ies).
- D. That upon review of the papers, no further action shall be taken or that action should be taken against the mediator.

V. REMEDIAL ACTIONS

Upon completion of its investigation, the Committee may require, as a condition of remaining on the roster, that the mediator take such action as it deems appropriate, including but not limited to the following: attending additional training; observing other mediators; or being mentored by other mediators currently on the roster.

The Committee may determine that the mediator should not conduct any mediation until the completion of the required remedial actions.

The Committee may determine that the mediator should be removed from the roster or terminated from providing mediation services for the courts.

VI. APPEAL

The mediator may appeal a Committee decision to be removed from the roster, or be prohibited from providing mediation services for the courts to the Assignment Judge in the Vicinage where the grievance originated within thirty (30) days of receiving notice of such a decision. A copy of the appeal shall be provided to the Manager. The Assignment Judge, or designee, shall appoint an *ad hoc* panel of two mediators currently on the roster, at least one of which shall be an attorney who shall serve as the Committee's Chair to hear the appeal. The determination of the panel shall be final, with notice of its decision being provided to the Assignment Judge and a copy being provided to the Manager.