Supreme Court of Florida

No. AOSC20-24
Amendment 1[1]

IN RE: ALTERNATIVE DISPUTE RESOLUTION EDUCATIONAL AND CERTIFICATION REQUIREMENTS

ADMINISTRATIVE ORDER

WHEREAS the Florida State Courts System continues to monitor and take measures to address the effects on court operations of the Coronavirus Disease 2019 (COVID-19) pandemic; and

WHEREAS section 44.106, Florida Statutes, requires the Supreme Court of Florida to establish standards and procedures for qualifications, certification, professional conduct, discipline, and training for mediators and arbitrators who are appointed pursuant to chapter 44, Florida Statutes, and section 61.125, Florida Statutes, requires the Supreme Court of Florida to establish standards and

1. This administrative order is issued to extend the timeframes for some of the provisions in the previous version of the administrative order; provide clarification regarding remote mediation observations and supervised mediations, as well as the signing and execution of mentorship forms; and temporarily suspend certain provisions of the Rules for Certified and Court-Appointed Mediators, the Rules for Qualified and Court-Appointed Parenting Coordinators, and the Mediation Training Standards and Procedures.

procedures for the training, ethical conduct, and discipline of parenting coordinators who serve under section 61.125, Florida Statutes;

NOW THEREFORE, pursuant to the authority conferred upon me by article V, section 2(b), of the Florida Constitution, and Florida Rules of Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v),

IT IS ORDERED that:

This amended order extends some of the previously enacted temporary remedial measures while leaving the expiration of other measures at December 31, 2020, as provided in the original order.

I. Mediator Certification Training

A. Physical Attendance

The requirement of training standard 2.07, Participant Attendance, established by *In re: Mediation Training Standards and Procedures Including Appointments to the Mediation Training Review Board*, Fla. Admin. Order No. AOSC17-25 (May 3, 2017), that participants in mediator certification training programs shall complete their training by physically attending a live training program is suspended during the period from April 7, 2020, through December 31, 2021. During that period, trainers shall be allowed to conduct and participants allowed to participate in training delivered via remote electronic means in which the trainer communicates

through both audio and visual means with the participants; for example, via video of prerecorded lecture with visual component, video conference, electronic messaging, or teleconferencing. Trainers who avail themselves of this process shall submit a statement to the Dispute Resolution Center (hereinafter Center) identifying the electronic means they will use to meet the requirements for training, particularly for the role plays required by training standard 2.03, Training Methodology. The statement shall be provided with the agenda submitted prior to each training. All other training requirements shall remain in effect.

B. Renewal of Primary and Assistant Trainer Status

Primary and assistant trainers shall be granted an extension from April 7, 2020, through December 31, 2021, to complete the requirements for renewal of their mediator trainer status as listed in mediation training standard 2.04, Trainer Qualifications, *Id.* at 10-19.

C. Certified Mediation Training Programs

Mediation training programs are certified by the Court for five years and may submit an application for renewal up to six months before certification expires to ensure uninterrupted certification. During the period that a training program is certified, the program provides the Center with any and all changes made to training materials, including any modifications

and updates of information. The Center reviews the amendments and determines if substantial changes have been made to render the program a new program requiring separate certification. Certified mediation training programs shall be granted an extension from April 7, 2020, through December 31, 2020, to complete the requirements for renewal of their program certification as required by mediation training standards 2.10, Modifications, and 2.12, Renewals, *Id.* at 21-22.

II. Mediator Certification Requirements by Administrative Order

Regarding the requirements for the initial certification of mediators established in *In re: Procedures Governing Certification of Mediators,* Fla. Admin. Order No. AOSC19-26 (May 28, 2019):

A. Time for Filing Application

Currently, applicants are required to file their certification application with the Center no later than two years from the date of conclusion of the requisite certified mediation training program they attended. Applicants whose two-year period for filing their applications would normally expire between April 7, 2020, and December 31, 2020, are hereby granted an extension for filing through December 31, 2020.

B. Time for Filing Items to Complete Application

Applicants who have filed an incomplete application and whose one-year deadline for filing the items to complete the application would normally expire between April 7, 2020, and December 31, 2020, are hereby granted an extension for filing those items through December 31, 2020**.**

C. Criminal Background Screening

Currently, applicants must file their application with the Center within 90 days of completing Florida Department of Law Enforcement (hereinafter FDLE) background screening based upon fingerprints; applicants who fail to do so are required to be rescreened at their own expense. Under the provisions of this order, applicants who have been fingerprinted from January 8, 2020 (90 days prior to April 7, 2020), through October 2, 2021 (90 days prior to December 31, 2021), and submit their applications from April 7, 2020, through December 31, 2021, shall be eligible to use FDLE fingerprint screening completed from January 8, 2020, through October 2, 2021.

D. Mentorship

1. Via Remote Technology

Mentorship includes observing mediations conducted by certified mediators and conducting mediations under the supervision

and observation of certified mediators. There is no requirement that either type of mentorship be conducted in person; both types of mentorship are permitted to be conducted by remote electronic means, either by audio or audio-visual communication equipment. *Id*. at 7-8.

2. Verification of Mentorship Points

Notwithstanding the requirement in Fla. Admin. Order No. AOSC19-26 that applicants shall provide original signatures of all mentors in relation to all mentorship activity claimed, *Id.* at 5-7, for applications submitted from April 7, 2020, through December 31, 2021, applicants may provide original or electronic signatures of mentors in relation to all mentorship activity claimed on the mentorship form. In lieu of original or electronic signatures, the Center will accept an email from the mentor verifying mentorship activities. Such email verification can be addressed to the applicant or the Center.

III. Mediator Certification Requirements by Rule

Mediator certification is based on a point system that is provided in rules 10.100 and 10.105, Rules for Certified and Court-Appointed Mediators. The required mentorship points for certification under rule 10.100 are suspended for certification applicants who complete training and postmark

or email applications to the Center for certification from April 7, 2020, through December 31, 2021. Thus, during that time period, applicants for county certification are not required to obtain 60 mentorship points; applicants for family or circuit certification are not required to obtain 30 mentorship points; and applicants for dependency certification are not required to obtain 40 mentorship points.

Specifically, for certification applicants who complete training and postmark or email applications to the Center for certification from April 7, 2020, through December 31, 2021, the point requirements for certification contained in rule 10.100 are:

A. County Court Mediators

For initial certification as a mediator of county court matters, applicants must have at least a high school diploma or a General Equivalency Diploma (GED) and a total of 40 points, which shall include:

1. 30 points for successful completion of a Florida Supreme Court certified county court mediation training program; and

2. 10 points for education.

B. Family Mediators

For initial certification as a mediator of family and dissolution of marriage issues, applicants must have at least a bachelor's degree and a total of 70 points, which shall include, at a minimum:

1. 30 points for successful completion of a Florida Supreme Court certified family mediation training program;

2. 25 points for education/mediation experience; and

3. 15 points from higher education, mediation experience, miscellaneous activities, or mentorship.

C. Circuit Court Mediators

For initial certification as a mediator of circuit court matters, other than family matters, applicants must have at least a bachelor's degree and a total of 70 points, which shall include, at a minimum:

1. 30 points for successful completion of a Florida Supreme Court certified circuit mediation training program;

2. 25 points for education/mediation experience; and

3. 15 points from higher education, mediation experience, miscellaneous activities, or mentorship.

D. Dependency Mediators

For initial certification as a mediator of dependency matters, as defined in Florida Rule of Juvenile Procedure 8.290, applicants must have at least a bachelor's degree and a total of 60 points, which shall include, at a minimum:

1. 30 points for successful completion of a Florida Supreme Court certified dependency mediation training program;

2. 25 points for education/mediation experience; and

3. 5 points from higher education, mediation experience, miscellaneous activities, or mentorship.

IV. Renewal of Mediator Certification, Live Continuing Mediator Education (CME)

Under the requirements for certification renewal of mediators in *In re: Procedures Governing Certification of Mediators,* Fla. Admin. Order No. AOSC19-26 (May 28, 2019), a certified mediator must pay a fee to renew each type of certification they hold: county, family, circuit, dependency, and or appellate. A mediator must renew certification every two years by completing an application form and 16 hours of CME prior to the expiration of their certification.

A. Late Fees and Timeframes

1. Currently, if all other qualifications for renewal are satisfied and all renewal fees are paid or waived but a mediator is deficient in CME credits, the mediator is notified in writing and certification is continued for 90 days from the notice of noncompliance. During those 90 days, the mediator shall complete all remaining CME requirements in order to be eligible for renewal. Additionally, mediators who do not complete the remaining CME requirements within the 90 days and mediators whose renewal has lapsed up to 365 days are required to pay late fees. From April 7, 2020, through December 31, 2020, the 90-day time period is extended to 180 days as long as the 180 days does not conclude later than December 31, 2020, and any mediator whose renewal has lapsed for not more than 365 days may renew certification without assessment of a late fee. All mediators shall submit all renewal fees and CME requirements by December 31, 2020, in order to be eligible for renewal.

2. Currently, a mediator who applies for certification after lapsing 365 days is required to meet the requirements for certification as a new mediator, including satisfactory completion of a certified mediation training program and fulfillment of the mentorship

requirements. Any mediator whose renewal has lapsed within 365 days of April 7, 2020, is still eligible for renewal through December 31, 2020, and may apply for renewal without a late fee assessment by completing all renewal fee payment and CME requirements by December 31, 2020.

B. Live Continuing Mediator Education (CME)

The requirement that eight of the 16 required continuing mediator education hours be completed via live methods of education is suspended so that all CME hours can be completed in any method of education defined in *In re: Procedures Governing Certification of Mediators,* Fla. Admin. Order No. AOSC19-26 (May 28, 2019), through December 31, 2021.

All other provisions governing the certification and renewal of certification of mediators shall remain in effect.

V. Parenting Coordination, Physical Attendance at Training

The requirement of training standard 5(a), Completion of Training and Evaluation of Students, established in *In re: Parenting Coordinator Application Form and Training Standards*, Fla. Admin. Order No. AOSC14-64 (Nov. 14, 2014), that participants in parenting coordinator training programs shall complete their training by physically attending a live training program is suspended during the period from April 7, 2020, through

December 31, 2021. During that period, trainers shall be allowed to conduct and participants allowed to participate in training delivered via remote electronic means in which the trainer communicates through both audio and visual means with the participants; for example, via video of prerecorded lecture with visual component, video conference, electronic messaging, or teleconferencing. Trainers who avail themselves of this process shall submit a statement to the Center prior to the training identifying the electronic means they will use to meet the requirements for the role plays required by training standard 2(b). All other training requirements shall remain in effect.

VI. Arbitration, Physical Attendance at Training

The requirement of the *Essential Attributes for Arbitration Training Approval by the Supreme Court of Florida* (July 2006) that arbitrators be trained via live format shall be suspended through December 31, 2021. During this period, trainers shall be allowed to conduct and participants allowed to participate in training delivered via remote electronic means in which the trainer communicates through both audio and visual means with the participants; for example, via video of prerecorded lecture with visual component, video conference, electronic messaging, or teleconferencing. All other training requirements shall remain in effect.

VII. Rules for Certified and Court-Appointed Mediators, Rules for Qualified and Court-Appointed Parenting Coordinators, and Mediation Training Standards and Procedures

All Rules for Certified and Court-Appointed Mediators, Rules for Qualified and Court-Appointed Parenting Coordinators, and Mediation Training Standards and Procedures that require the delivery of documents by registered or certified mail of any kind, complaints and responses to be notarized, physical appearance for disciplinary hearings, and a showing of good cause for the use of telephonic or other communication equipment for testimony at a disciplinary hearing are suspended through December 31, 2021.

Rule 15.150(b), Rules for Qualified and Court-Appointed Parenting Coordinators, provides that at an initial session a parenting coordinator shall in person, describe the order of referral and provide specified information to the participants. The requirement for the parenting coordinator to perform these activities in person is suspended through December 31, 2021. During that suspension, the initial session and these activities may be conducted via audio or audio-visual communication technology.

The provisions of this order stated in section VII are effective beginning on April 7, 2020, *nunc pro tunc*. All other provisions of this order are effective the date the order is signed.

DONE AND ORDERED at Tallahassee, Florida, on December 16, 2020.

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Chief Justice Charles T. Canady

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ATTEST:

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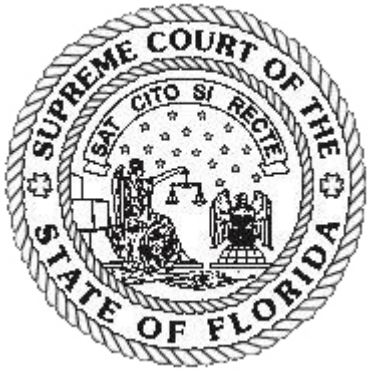
12/16/2020

John A. Tomasino, Clerk of Court

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