

## APPENDIX B

### REQUIREMENTS FOR QUALIFICATION AND TRAINING OF NEUTRALS

#### ESTABLISHED BY THE GEORGIA COMMISSION ON DISPUTE RESOLUTION

##### I. REQUIREMENTS FOR QUALIFICATION AND TRAINING OF NEUTRALS.

The Georgia Commission on Dispute Resolution is dedicated to the principle that neutrals serving in court programs must be of the highest possible caliber in training and experience. All neutrals serving in Georgia programs must be of good moral character.

A. **Mediation:** Although mediators do not necessarily need subject matter expertise, they must have process expertise. Mediators are frequently called upon to operate outside of their area of expertise. For this reason, training of mediators must be more extensive than for other neutrals. Training for mediators who seek registration in the category of general mediation shall be no less than twenty-eight hours of classroom training (including role play and other participatory exercises), plus observation of or co-mediation with a registered mediator in at least five general civil mediations. In lieu of five observations and/or co-mediations, prospective mediators may substitute an approved general mediation practicum. Individuals must complete approved twenty-eight hour general mediation training prior to taking an approved practicum or performing their observations. New mediators should be observed several times before mediating alone.

Mediators should be drawn from a variety of disciplines and should reflect the racial, ethnic and cultural diversity of our society. Prospective mediators should be screened carefully for qualities such as the ability to listen actively, to isolate issues, and to focus discussion on issues.

Competencies for mediators include: (1) Skill in interacting with others and in helping others with their problems; (2) As guardian of the integrity of the mediation process, capacity to maintain the fairness of the process; (3) Capacity to assist parties in identifying their needs and interests, developing options for resolution, and realistically assessing their options for settlement; (4) Protecting the balance of the process by having the capacity to (a) remain neutral in the presence of significant interpersonal conflict between others, (b) understand the points of view of all parties to the dispute, and (c) demonstrate respect for all participants in the mediation conference; (5) Honoring the self-determination of the parties by (a) having the capacity to thoroughly explain the process to the parties, (b) having the capacity to assess the parties' capacity to participate in the mediation conference, (c) having the capacity to assure that the parties have sufficient capacity and information to bargain effectively and to participate in the development of any resolution reached; (d) having the ability to honor the right of parties to develop their own resolution free from any coercion of the mediator, and (e) having the ability to honor the boundaries between the role of mediator and any other professional capacity in which the mediator operates, scrupulously guarding against giving professional advice; and (6) having the capacity to guard the confidentiality of the process.

**Domestic Relations Mediation:** Mediators in divorce and custody cases shall have at least a baccalaureate degree from an accredited four-year college. An individual whose graduate degree was obtained after waiver of the requirement that the baccalaureate be completed shall be deemed to have completed the baccalaureate degree. Mediators in divorce and custody cases must satisfy the requirements for general mediators prior to taking domestic relations mediation training. The required domestic relations training is at least forty-two hours

of training which substantially meets the standards of the Family Section of the Association for Conflict Resolution. Mediators in divorce and custody cases shall receive special training in the subject of domestic violence. Mediators who seek registration in the category of domestic relations must observe at least one mediation of a divorce or custody case and participate in at least two co-mediations of divorce or custody cases. In lieu of one observation and two co-mediations of divorce or custody cases, prospective domestic relations mediators may substitute an approved domestic relations mediation practicum. Individuals must complete approved forty-two-hour domestic relations mediation training prior to taking an approved domestic relations practicum or doing the observation and co-mediations of divorce or custody cases.

**Domestic Violence Mediation:** Mediators who handle cases involving allegations of domestic violence must be currently registered as domestic relations mediators prior to taking specialized domestic violence training. Specialized domestic violence training shall be no less than fourteen hours of classroom training (including role plays and other participatory exercises) approved by the Georgia Office of Dispute Resolution.

**Delinquency Mediation:** Mediators who handle delinquency cases according to O.C.G.A. § 15-11- 2(6) in juvenile court must be registered as general civil mediators prior to taking delinquency mediation training. Delinquency mediation training shall be no less than twenty-one hours of classroom training (including role play and other participatory exercises). New delinquency mediators should be observed and should co-mediate delinquency cases prior to mediating alone.

Topics for training for delinquency mediators include, but are not limited to: child development & balancing power between adults and children; delinquency law, basic charges and case processing (sealing records); confidentiality issues; parties involved, interpreter's role; sex, drugs, alcohol and kids; diversity and cultural differences; options to address offenses; moral development; communication skills, reflecting, reframing; agreement writing, balancing adult and child's responsibilities, exercises; modeling conflict resolution; mandated reporter requirements; GODR rules; family violence.

**Dependency Mediation:** Mediators who handle dependency cases according to O.C.G.A. § 15-11-2(8) in juvenile court must satisfy the requirements for delinquency mediation registration prior to taking dependency mediation training. Further mediators who handle dependency cases must have a bachelor's degree from an accredited institution or the equivalent in child welfare experience. Dependency mediation training shall be no less than 28 hours of classroom training (including role plays and other participatory exercises) for mediators who are not already registered as domestic relations mediators. For mediators who are already registered in domestic relations mediation, dependency mediation training shall be no less than 21 hours (including role plays and other participatory exercises). New dependency mediators should be observed and should co-mediate dependency cases prior to mediating alone.

Topics for training for dependency mediators include, but are not limited to: mediation process for dependency cases (i.e., role of DFCS, who participates, managing other participants); dealing with attorneys in these mediations; if the mediator is an attorney this must be revealed; dependency law & juvenile court process (including information on panel reviews, DFCS policy); information about CASA/GAL/child advocates/ child attorneys role; family violence; child support worksheets; abuse/neglect issues and effects on the child; child development as relates to visitation issues and expectations of the child; philosophy of dependency cases different from other types of mediation; agreement writing; child support, types of custody, guardianship; Federal requirements, "contrary to the welfare language" and "reasonable efforts"; diversity and cultural issues; confidentiality issues; flexibility with the process and moving the process along; handling multiparty disputes; visitation/parenting issues.

**B. Arbitration:** Arbitration in court-annexed or court-referred non-binding arbitration programs may be conducted by panels of lawyers, panels made up of lawyers and experts, or by individual lawyers. If the arbitration is conducted by a panel, the chief of the panel shall be a lawyer with five years experience. Where the arbitration is conducted by a single arbitrator, that arbitrator shall be a lawyer with five years experience. All arbitrators shall receive at least six hours of training in a program which qualifies for CLE credits or, for judges and persons with acceptable experience as an arbitrator, such other training, experience, or education as approved by the Chair of the Committee on Training and Credentials and the Director of the Georgia Office of Dispute Resolution.

**C. Case Evaluation or Early Neutral Evaluation:** Case evaluators or early neutral evaluators shall be lawyers with extensive subject matter expertise in the area of the litigation in question. Case evaluators or early neutral evaluators shall receive at least six hours training for their role. The Commission recommends, but does not require, twenty-eight hours general mediation training for case evaluators or early neutral evaluators.

## **II. REGISTRATION OF NEUTRALS.**

All neutrals working in court programs must be registered with the Georgia Office of Dispute Resolution. The application and training guidelines attached to this appendix set forth the specific requirements for registration. Neutrals must have registration in the appropriate categories for the cases in which they serve.

An individual who completed an approved general mediation training prior to July 1, 2003 shall apply for registration by December 31, 2004. Effective July 1, 2003, an applicant for registration as a general mediator shall apply for registration within eighteen (18) months after completing an approved general mediation training. Likewise, applicants for registration in any category shall apply for registration within eighteen (18) months after completing the appropriate approved training. When a training and practicum (or observations/co-mediations) are taken separately, the 18 months begin at the end of the training. When a training and practicum are combined (i.e., a 40-hour combination General Civil Mediation Training and Practicum), the 18 months begin at the end of the entire combined training.

**Specialized Domestic Violence Mediation:** Effective January 1, 2005, mediators who handle cases involving allegations of domestic violence must be registered in the category of specialized domestic violence. To be eligible to register in the category of specialized domestic violence, one must: 1) be registered as a domestic relations mediator; and 2) have taken an approved 14-hour specialized domestic violence mediation training after June 1, 2004.

A mediator who has had specialized domestic violence training prior to June 1, 2004, may apply for registration in the specialized domestic category if the mediator: (1) has had at least six hours of advanced domestic violence training provided by an approved domestic relations trainer in Georgia; and has been mediating domestic violence cases for court-connected programs for at least two years prior to June 1, 2004; and has mediated at least five domestic violence cases; and is recommended by a director of a court-connected program for which he or she has been mediating domestic violence cases; OR (2) has taken an advanced domestic violence training of at least twelve hours provided by an approved Georgia domestic relations mediation training provider and is recommended by the director of a court-connected program for which she or he has mediated domestic relations cases; OR (3) has taken one of

the specialized domestic violence trainings sponsored by the Georgia Office of Dispute Resolution in 2003.

Until January 1, 2005, the Director of the Georgia Office of Dispute Resolution, in consultation with the Commission's Training and Credentials Committee, shall have the discretion to permit registration of registered domestic relations mediators who have had domestic violence training provided by a court-connected ADR program and provide certification from a program director that the applicant has the necessary skills level.

**Grandfathering of Juvenile Court Mediators:** Registered mediators who are actively serving in juvenile courts at the time that juvenile mediation registration was instituted will have an opportunity to be "grandfathered" into registration as delinquency mediators, dependency mediators, or both. All applications for grandfathering will be reviewed independently by the Director of the Georgia Office of Dispute Resolution.

Grandfathering will begin May 1, 2012, and applicants will have 18 months from that date to apply for grandfathering. After the 18-month period, applications to be grandfathered as delinquency mediators or dependency mediators will be granted only rarely and only in the most unusual circumstances.

Applicants for grandfathering must provide the following information in their petition to the Georgia Office of Dispute Resolution. Compliance with the following procedures does not guarantee registration.

**Delinquency:** To qualify for grandfathering as a delinquency mediator, a registered general civil mediator must provide verification of having completed a delinquency mediation training; and verification of having mediated a minimum of 3 (three) delinquency cases within 1 year prior to application. Verification may consist of a letter or other documentation from a current court program that handles juvenile matters.

**Dependency:** To qualify for grandfathering as a dependency mediator, a registered general civil mediator must provide, verification of having completed a dependency mediation training; and verification of having mediated a minimum of 1 (one) dependency mediation within 1 year prior to application. Verification may consist of a letter or other documentation from a current court program that handles juvenile matters.

Verification from a current court ADR program that handles juvenile court matters may provide sufficient evidence that a general civil mediator has been actively mediating dependency and/or delinquency cases and possesses the requisite knowledge, skills and ability to be grandfathered in.

**Veteran Mediators:** Mediators who were actively working in court programs at the time that registration was instituted, January 1, 1994, have had an opportunity to be "grandfathered" into registration as general or domestic mediators even if they did not meet all requirements of Appendix B if, in the judgment of the Director of the Georgia Office of Dispute Resolution, their training substantially met the qualifications set forth above. Registration has been underway since the winter of 1994, and these candidates have had ample opportunity to come forward to seek registration. In the future, applications to be grandfathered into registration as a general mediator will be granted only rarely. Grandfathering of domestic mediators will be granted only in the most unusual circumstances.

Candidates for grandfathering may petition the Office of Dispute Resolution to be accepted for registration. Candidates may demonstrate their competence in the field by (1) describing the training they have received; (2) providing three letters of recommendation from a mediation program, clients, court personnel, registered mediators, or other professionals with whom the applicant has worked; and (3) providing evidence of having completed a minimum of

five mediations or ten hours of mediation in the twelve months preceding the registration request. Compliance with this procedure does not guarantee registration.

**Mediators from Other States:** A mediator from another state who (1) has received training which meets that state's qualifications and, at the discretion of the Director, has had substantially similar training to that approved in Georgia, (2) has mediated for one year, (3) has completed a minimum of five mediations or ten hours of mediation during that time, and (4) meets the educational requirements of Appendix B may ask to be waived in for Georgia registration on the basis of that training. A mediator from another state who is waived in must be observed by a staff member of the court in which he or she intends to serve or submit a letter from the office of dispute resolution or director of the court program for which he or she served in the other state before applying for registration by the Georgia Office of Dispute Resolution. A mediator from another state who applies for registration will be required to take and pass a test on Georgia ethics provided by the Georgia Office of Dispute Resolution as a prerequisite to registration. Mediators from other states may not be waived in for Georgia registration in specialized domestic violence mediation, delinquency mediation, or dependency mediation.

**Ethics Pre-Certification of Fitness to Register:** Those interested in registering as a neutral who are concerned that their past criminal or professional issues may prevent them from registering may request an ethics review of their background prior to their taking an approved Georgia training.

The Georgia Office of Dispute Resolution will make available upon request an ethics pre-certification application. A non-refundable fee of \$50 will be charged, which will be credited toward any registration fees due if the applicant applies for registration later.

Upon receipt of a completed ethics pre-certification application and fee, the director of the Office or the Commission's designee will conduct an investigation into the pre-certification applicant's criminal and professional background according to established procedures for applicants for registration, including consultation with the Committee on Ethics if necessary.

If the Office or the Committee determine that the ethics pre-certification applicant's criminal or professional history renders the applicant unfit to register, the Office will notify the applicant in writing of the decision and the applicant's right to appeal the decision in accordance with Appendix B, Section III or Section IV.

If the Office or the Committee determine that the ethics pre-certification applicant is fit to register, the Office will notify the applicant and issue a letter of fitness for registration. The ethics pre-certification of fitness for registration will remain valid for a period of 12 months from the date the certification is issued or until the applicant completes and submits to the Office all registration requirements, whichever comes sooner. The applicant will be required to complete and submit to the Office all registration requirements before the certification expires. If the applicant does not do so before the certification expires, then the applicant will be required to apply for and pay for another pre-certification. The rule that permits trainees to apply for registration within 18 months of the completion of their training shall not apply to applicants who have received an ethics pre-certification of fitness.

Applicants are required to maintain the currency of their ethics pre-certification by notifying the Office in writing within thirty (30) days of any occurrence that would change their answer to any question on the pre-certification application.

Assuming nothing occurs within the certification period that would call into question the pre-certification applicant's fitness to register, and assuming the applicant meets all other application requirements and deadlines, the applicant will be registered in the appropriate category or categories.

If necessary, applicants may apply to renew their pre-certification by application to the Office not earlier than 30 days prior to the expiration of their certification. The applicant is responsible for making timely application for renewal of pre-certification. If the Office receives a completed ethics pre-certification application and fee, and if nothing has occurred that would call into question the pre-certification applicant's fitness to register, the applicant's pre-certification will be renewed for up to another 12 months. A pre-certification can be renewed only once.

**Continuing Education of Neutrals:** All registered neutrals are required to take three (3) hours of continuing education in a registration renewal cycle in order to maintain their registration. This three (3) hour requirement applies regardless of the number of categories for which a neutral is registered. There must be a nexus between the continuing education attended and enhancement of the neutral's skill, substantive knowledge and/or professionalism as a neutral. Live seminars, as well as video and online seminars, are acceptable as continuing education, as long as their agendas, curricula, and speaker qualifications meet the approval of the Georgia Office of Dispute Resolution. However, the Commission will not accept for CE or for registration any video or online instruction that purports to substitute for the core registration courses or practicums, which must always be taken live. Any neutral who fails to meet the continuing education requirement is subject to being removed from the registry of the Georgia Office of Dispute Resolution.

**Registration Period and Renewal of Registration:** A neutral is registered for a period not to exceed one year except as noted below or unless the neutral relinquishes or loses registration as part of an adverse action taken by the Commission on Dispute Resolution's Committee on Ethics. Neutrals who wish to continue their registration with the Georgia Office of Dispute Resolution shall file an application for registration renewal by December 31<sup>st</sup> every year. The first annual renewal cycle for a neutral shall begin on the date the neutral is approved for registration and shall end at midnight, December 31<sup>st</sup> of the same year, *provided that* neutrals whose initial registration is approved in October, November or December of any year shall have their initial registration period extend until midnight, December 31<sup>st</sup> the following year. Each subsequent renewal cycle shall begin January 1<sup>st</sup> and continue through midnight on December 31<sup>st</sup> twelve (12) months later. Neutrals seeking continued registration shall file a renewal application in the form provided by the Georgia Office of Dispute Resolution and pay the nonrefundable fee of \$125, except for neutrals registered in domestic relations mediation, who will pay a nonrefundable fee of \$150.

Renewal applications shall be postmarked or submitted online no later than midnight, December 31<sup>st</sup> each year, unless extenuating circumstances require the Commission to change the renewal deadline in a given year.

**Volunteer Status:** Neutrals who volunteer their services may submit a sworn affidavit each registration season requesting that their registration fees be waived. The affidavit also must be sworn and signed by the director of a court program for which the neutral volunteers. An affidavit form will be made available by the Georgia Office of Dispute Resolution. For purposes of determining neutral registration fees, a "volunteer" is defined as a neutral who receives no compensation – no matter how little – for providing ADR services, whether within or outside a court ADR program. Volunteer neutrals do not include neutrals who perform work within their local court ADR program and are paid for their services by the court or their local ADR board. A volunteer neutral who is granted a fee waiver and who afterward receives any compensation for providing ADR services must notify the Georgia Office of Dispute Resolution immediately and pay the required non-volunteer registration fee.

**Lapsed Status:** Neutrals who file a renewal application after midnight, December 31<sup>st</sup> of the year they must renew, or who fail to file a renewal application shall be placed in a lapsed status. A lapsed neutral may file a renewal application between 12:01 a.m. January 1<sup>st</sup> the year after the renewal application is due through midnight, April 30<sup>th</sup> of that year upon payment of an additional nonrefundable late fee equal to the applicable neutral renewal fee. So neutrals must pay a renewal fee of \$250 to renew registration between January 1<sup>st</sup> and April 30<sup>th</sup>, except neutrals registered in domestic relations mediation, who must pay a renewal fee of \$300. Neutrals may continue to serve in court-connected programs while in a lapsed status.

**Inactive Status:** After April 30<sup>th</sup>, all lapsed neutrals shall be placed in inactive status and may not provide services in court-connected cases. Neutrals in inactive status shall be required to take eight hours of appropriate CE in order to renew their registration status, and shall also be required to pay a late fee equal to their renewal fee in addition to their regular renewal fee. A neutral who is in an inactive status may remain in that status for up to two years from the date registration should have been renewed. Inactive neutrals who apply for renewal of registration after day 730 shall be required to meet the initial requirements for registration, including completion of an approved training course in each category for which they desire to renew their registration, observations or practicums that may be required for each category of registration for which they are seeking renewal, and requisite recommendation letter(s).

**Failure to Meet CE Requirements:** In the event a neutral has not met the continuing education requirement for a renewal cycle and postmarks or submits the renewal application online on or before midnight, December 31<sup>st</sup> of the year of renewal, the neutral shall be in a “lapsed” status until the deficiency in CE hours is cured or until April 30<sup>th</sup>, whichever comes first. If the renewal application is timely filed, the neutral shall have until midnight, April 30<sup>th</sup> to provide information that substantiates that this deficiency has been cured, at no additional cost. The neutral shall be placed in an inactive status if the deficiency is not cured by April 30<sup>th</sup>.

**Hardship Exception:** In cases of extraordinary hardship (e.g. military deployment or extreme illness or injury), a neutral may request an extension of time for renewal, and/or a waiver of the continuing education requirement, and/or any penalties by submitting such a request in writing to the Director of the Georgia Office of Dispute Resolution. The Director shall issue a written response. If such request is denied, an appeal may be taken to the Training and Credentials Committee of the Commission on Dispute Resolution within thirty (30) days of receipt of the Director’s denial of the request for waiver. A decision of the Training and Credentials Committee shall be final.

**Delayed Payment:** A neutral who submits a renewal application online by midnight, December 31<sup>st</sup> of the year that renewal is due, but who chooses to submit the renewal fee through regular mail rather than online, shall mail the appropriate renewal fee so that it is received by GODR within ten (10) days of the submission of the application. If GODR does not receive payment within ten (10) days of submission, the neutral shall be placed in a lapsed status.

### **III. APPEAL FROM ADVERSE DECISIONS OF THE OFFICE OF DISPUTE RESOLUTION.**

A. Registration decisions are made by the Georgia Office of Dispute Resolution. Applicants who are denied registration for any reason other than that described in § IV may appeal within thirty days of that denial to the Georgia Commission on Dispute Resolution’s

Committee on Training and Credentials, which may grant a hearing to the applicant. The Committee on Training and Credentials will make a determination as to whether the applicant should be registered.

B. An adverse decision of the Committee on Training and Credentials may be appealed to the full Commission within thirty days of the date of such decision. The Commission may grant a hearing to the applicant.

**IV. PROCEDURE FOR APPLICANTS FOR REGISTRATION OR RENEWAL OF REGISTRATION WHO HAVE BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A VIOLATION OF THE LAW. WHO HAVE BEEN DISCIPLINED BY A PROFESSIONAL ORGANIZATION. WHO HAVE HAD PROFESSIONAL PRIVILEGES CURTAILED. AND/OR WHO HAVE RELINQUISHED ANY PROFESSIONAL PRIVILEGE OR LICENSE WHILE UNDER INVESTIGATION AND/OR WHO DO NOT MEET COMPETENCY STANDARDS.**

A. Applicants for registration with the Georgia Office of Dispute Resolution must acknowledge the following information: (1) convictions of, guilty pleas to, or nolo contendere pleas to violations of the law, including traffic violations resulting in suspension or revocation of a driver's license and DUI offenses; (2) discipline by a professional organization; (3) curtailment of professional privileges, (4) relinquishment of any professional privilege or license while under investigation. An applicant against whom any of the above actions are pending shall likewise acknowledge this fact.

B. Upon request of the Georgia Office of Dispute Resolution, the applicant must amend his/her application to provide (1) information concerning the background of the offense which led to conviction, plea, discipline, curtailment of professional privileges and/or relinquishment of professional privilege or license; (2) information concerning the length of time which has elapsed since the conviction, plea, discipline, curtailment and/or relinquishment; (3) the age of the applicant at the time of the conviction, plea, discipline, curtailment and/or relinquishment; and (4) evidence of rehabilitation since the conviction, plea, discipline, curtailment and/or relinquishment.

C. The applicant may be asked to appear before the Committee on Ethics of the Georgia Commission on Dispute Resolution to discuss the information contained within the application. The Committee on Ethics will make a determination as to whether the applicant should be registered or have registration renewed.

D. If an applicant for registration or renewal of registration fails to acknowledge (1) that he/she has been convicted of or pled guilty or nolo contendere to a violation of the law, including traffic violations resulting in suspension or revocation of a driver's license and DUI offenses; (2) that he/she has been disciplined by a professional organization; (3) that he/she has had his/her professional privileges curtailed; (4) that he/she has relinquished any professional privilege or license while under investigation; or (5) that any such actions are pending, the Georgia Office of Dispute Resolution will immediately notify the applicant for registration or renewal of registration that he/she will be denied registration or renewal of registration or, if currently registered, removed from registration by the Georgia Office of Dispute Resolution.

E. An adverse decision of the Committee on Ethics may be appealed to the full Commission within thirty days of the date of such decision. The Commission may grant a hearing to the applicant.

**V. REMOVAL FROM REGISTRATION.**

A. A neutral who (1) has been convicted of or pled guilty or nolo contendere to a violation of the law, including traffic violations resulting in suspension or revocation of a driver's



license and DUI offenses; (2) has been disciplined by a professional organization; (3) has had his/her professional privileges curtailed; and/or (4) has relinquished any professional privilege or license while under investigation, may be removed from the registry of approved neutrals maintained by the Georgia Office of Dispute Resolution. A grievance concerning the ethical behavior of a neutral may result in that neutral being removed from the registry of approved neutrals maintained by the Georgia Office of Dispute Resolution.

B. Upon receiving information that a neutral has been convicted of or pled guilty or nolo contendere to a violation of the law as described above, been disciplined by a professional organization, had his/her professional privileges curtailed, or has relinquished any professional privilege or license while under investigation, or upon receiving a grievance concerning the behavior of a neutral, the Georgia Office of Dispute Resolution or the Georgia Commission on Dispute Resolution will refer the matter to the Committee on Ethics of the Georgia Commission on Dispute Resolution.

C. Both the neutral and the complainant may be asked to appear before the Committee on Ethics of the Georgia Commission on Dispute Resolution to discuss the complaint. The Committee on Ethics will make a determination as to whether the neutral should be removed from the registry. The Committee on Ethics will make written findings which will inform the neutral and the Commission of the basis of its decision.

D. An adverse decision of the Committee on Ethics may be appealed to the full Commission within thirty days of the date of such decision. The Commission may grant a hearing to the applicant.