

THE ALABAMA SUPREME COURT COMMISSION ON DISPUTE RESOLUTION

**PROCEDURES FOR ETHICAL COMPLAINTS
AGAINST MEDIATORS AND ARBITRATORS REGISTERED WITH
THE ALABAMA CENTER FOR DISPUTE RESOLUTION
(Effective December 1, 2023)**

The following procedures cover any complaints by individuals, parties to a legal action, or counsel for those parties *for ethical complaints* alleged against mediators or arbitrators who mediate or arbitrate disputes or cases in *Alabama state courts and are registered with the Alabama Center for Dispute Resolution.*

1. Any individual, party, or counsel to a party, hereinafter collectively referred to as the “Complaining Party,” who believes a mediator or arbitrator, collectively referred to as the “Neutral,” has violated one or more Standards of the Alabama Code of Ethics for Mediators or one or more Canons of the Alabama Code of Ethics for Arbitrators, hereinafter collectively referred to as the “Ethical Codes,” may file a complaint with the Alabama Center for Dispute Resolution (the “Center”). The complaint against the Neutral shall be made in writing, on the form provided by the Center at www.alabamaadr.org, and sworn to under oath. The complaint must state with particularity the facts which form the basis of the complaint.
2. The Chair of the Alabama Supreme Court Commission (the “Commission”), hereinafter the “Chair,” and the Commission Secretary, hereinafter the “Secretary,” shall review the complaint to determine whether the complaint should proceed to a full hearing or be dismissed. The dismissal of a complaint is final.
3. If the Chair and Secretary determine the complaint shall proceed, the Secretary shall send the complaint, with a cover letter, to the Neutral. The Neutral shall file a response to the complaint within thirty (30) days of the date of the cover letter.
4. Upon receipt of the response from the Neutral, the Chair and Secretary shall review the response to determine if the complaint shall proceed to a hearing or be dismissed. If the Chair and Secretary decide to dismiss the complaint, they shall notify the complaining party and the Neutral the complaint is dismissed and the matter is closed. If the Chair and Secretary determine a hearing should be held, they shall follow the steps set forth below:

- A. The Chair shall promptly send the written complaint, response, and any supporting documents to the Committee on Standards for Neutrals (the “CSN”).
 - B. The CSN shall promptly set a hearing and notify the Complaining Party and Neutral of the hearing date, time, and location.
 - C. The CSN shall complete the hearing within ninety (90) days from the date the CSN receives the complaint, response, and supporting documents from the Chair.
 - D. The hearing shall be private and not open to the public. The Alabama Rules of Civil Procedure and the Alabama Rules of Evidence shall not apply in the hearing; however, they may serve as guides for the CSN.
 - E. The Complaining Party has the burden to reasonably satisfy the CSN the Neutral violated a provision of the Ethical Codes.
 - F. The Complaining Party and the Neutral may bring a lawyer or one support person to the hearing. Additionally, the Complaining Party and the Neutral may bring witnesses to testify on his or her behalf.
 - G. Both parties shall participate in the hearing in good faith. If the Complaining Party fails to appear at the hearing, the CSN shall dismiss the complaint. If the Neutral fails to appear, the CSN may proceed on the evidence before it.
 - H. The hearing shall be transcribed or otherwise recorded. The record of the hearing shall include: the complaint, the response to the complaint, all non-privileged or non-confidential correspondence to or from the Center, the Commission, or CSN relating to the complaint, and the transcript or the recording of the hearing. The CSN or Center will provide the Complaining Party or Neutral a copy of the transcript or recording at his or her expense.
 - I. Within thirty (30) days of the conclusion of the hearing, the CSN shall make written findings and inform the Complaining Party, the Neutral, the Chair, and the Secretary of those written findings.
 - J. If the CSN determines the Neutral violated any provision of the applicable ethical code(s), the CSN may impose public or confidential discipline on the Neutral as outlined below.
5. In making the determination of discipline, the CSN shall consider the following factors:
- A. Whether the Neutral’s conduct was intentional or inadvertent;
 - B. Whether the Neutral’s conduct was intentional, but done in ignorance of the applicable ethical code provision(s); and,
 - C. The protection of the public and the rehabilitation of the Neutral.

6. The CSN can impose the following forms of discipline against the Neutral:
 - A. Require additional ethical or substantive training to remain on the Center's roster of neutrals;
 - B. Suspend or remove the Neutral from the Center's roster of neutrals;
 - C. If the Neutral is registered on the Center's roster as a domestic relations mediator, in addition to other areas of mediation, and the complaint arose from a domestic relations mediation, suspend or remove the Neutral as a domestic relations mediator;
 - D. Restrict the type of cases the Neutral can mediate or arbitrate in the future; and/or
 - E. Such other or additional discipline as the CSN determines to be appropriate, including, but not limited to, a private reprimand.

7. The decision of the CSN is final unless either party appeals the decision. An appeal shall be made as follows:
 - A. Either party may appeal a decision by the CSN within thirty (30) days from the date of the CSN decision.
 - B. The appeal shall be heard by a quorum of the Commission and shall be decided on the record of the hearing before the CSN. No member of the CSN can hear the appeal.
 - C. The Commission will not substitute its judgment for the judgment of the CSN on the weight of the evidence or finding(s) of facts.
 - D. The Commission may reverse or modify the CSN's decision on substance or discipline if a quorum of the Commission determines the CSN decision is: (i) beyond the authority of the CSN; (ii) clearly erroneous; (iii) arbitrary or capricious; or (iv) an abuse of discretion.
 - E. The decision of the Commission is final and shall be delivered to the parties within thirty (30) days of the meeting on the appeal.

8. If the Commission disciplines the Neutral under subparts 6(B) or 6(C) above, the Neutral shall be suspended or removed immediately on the online roster found on the Center's website. If the Commission disciplines the Neutral under subpart 6(D) above, the types of cases will be reflected on the Center's website immediately.