

R156. Commerce, Occupational and Professional Licensing.

R156-39a. Alternative Dispute Resolution Providers Certification Act Rules.

R156-39a-101. Title.

These rules are known as the "Alternative Dispute Resolution Providers Certification Act Rules".

R156-39a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 39a, as used in Title 58, Chapters 1 and 39a or these rules:

(1) "Alternative dispute resolution provider" or "ADRP" means one who holds himself out as an arbitrator, negotiator, mediator, neutral fact finding expert, qualified neutral person, special master, conciliator, or any other title intended to cause a reasonable person to believe he is engaged in the alternative dispute resolution process.

(2) "Arbitration" means a forum in which one or more qualified neutral individuals, knowledgeable in the subject matter of the dispute, and educated, trained or experienced in the dispute resolution process, hears the positions, facts, and evidence presented by conflicting parties to a dispute, defines the issues, and makes a binding or non-binding decision regarding the matter in dispute.

(3) "Certified alternative dispute resolution provider" means an individual who is certified under Title 58, Chapter 39a as an alternative dispute resolution provider and designated as an arbitrator, mediator, or negotiator.

(4) "License as used in Title 58, Chapter 39a means certification.

(5) "Negotiation" means a process in which there is an attempt to resolve a dispute or reach agreement in a matter employing the services of one or more negotiators who represent the interests of a party to a dispute or matter not agreed upon.

(6) "Mediation" means that defined in Subsection 78-31b-1(5).

(7) "Mini-trial" means that defined in Subsection 78-31b-1(6).

(8) "Moderated settlement conference" means that defined in Subsection 78-31b-1(7).

(9) "Neutral expert fact-finding" means a process in which the issue or issues in dispute are of such a technical or complex nature, and the assessment of the issues by the disputing parties and their respective experts is so divergent, that the services of a neutral expert are retained by the parties to the dispute to hear the issues and advise the parties to the dispute of their neutral and expert opinion for the purpose of improving the opportunity for settlement between the parties.

(10) "Qualified neutral person" means a person who is determined by the parties to a dispute as competent to act as an alternative dispute resolution provider.

(11) "Summary jury trial" means that defined in Subsection 78-31b-1(8).

(12) "Unprofessional conduct" is defined in Subsection 58-1-501(2).

(13) "Use of special masters and related processes in civil disputes" means the use of individuals to perform duties assigned by a court or administrative agency in the resolution of disputes in accordance with the direction and authority of the court of administrative agency.

R156-39a-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 39a.

R156-39a-104. Organization - Relationship to Rule 156-1.

The organization of this rule and its relationship to Rule 156-1 is as described in Section R156-1-107.

R156-39a-301. Certificate Classifications.

(1) In accordance with Subsection 58-39a-4(1), the division shall issue certificates in the following classifications:

(a) Certified Alternative Dispute Resolution Provider - Arbitrator;

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(b) Certified Alternative Dispute Resolution Provider - Mediator; and

(c) Certified Alternative Dispute Resolution Provider - Negotiator.

(2) Each classification shall be considered a separate certificate and shall be obtained by filing a separate application for each and paying the related fee.

R156-39a-302a. Qualifications for Certification - Education and Training Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the education and training requirements for certification in Section 58-39a-5 are defined, clarified, or established as follows:

(1) An applicant to obtain certification as an arbitrator shall document completion of education and training as follows:

(a) satisfactory completion of 30 clock hours of education in arbitration which program of education may include the following subject material:

- (i) arbitration language including the phrases and clauses necessary to initiate the procedure;
 - (ii) implementing the procedures required in adjudicating a proper award including conduct of proceedings, preparation, evidence, timeliness, records and documentation;
 - (iii) analyzing conflicts to narrow issues in dispute;
 - (iv) principles of dispute resolution;
 - (v) effective listening;
 - (vi) sensitivity and awareness of cross-cultural issues;
 - (vii) maintaining neutrality;
 - (viii) appropriate decision making processes;
 - (ix) control of the process and effective adjudication of the issues in dispute;
 - (x) historical perspective of arbitration;
 - (xi) critical thinking and reasoning skills;
 - (xii) various types of arbitration;
 - (xiii) effective writing; and
- (b) verification that the applicant has satisfactorily served as an arbitrator in three separate cases or ten clock hours, whichever is greater.

(2) An applicant to obtain certification as a mediator shall document completion of education and training as follows:

(a) satisfactory completion of 30 clock hours of education in mediation which may include the following subject material:

- (i) stages and value of conflict in empowering change;
 - (ii) principles of dispute resolution;
 - (iii) effective listening;
 - (iv) empathy and validation;
 - (v) sensitivity and awareness of cross-cultural issues;
 - (vi) maintaining neutrality;
 - (vii) identifying and reframing issues;
 - (viii) establishing trust and respect;
 - (ix) techniques for achieving agreement and settlement;
 - (x) creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;
 - (xi) shaping and writing agreements;
 - (xii) ethical standards for conduct of mediations; and
- (b) verification that the applicant has satisfactorily served as a mediator in three separate cases or ten clock hours, whichever is greater.

(3) An applicant to obtain certification as a negotiator shall document completion of education and training as follows:

(a) satisfactory completion of 30 clock hours of education in negotiation which may include the following subject material:

- (i) stages and value of conflict in empowering change;
- (ii) principles of negotiation;
- (iii) effective listening;
- (iv) empathy and validation;
- (v) sensitivity and awareness of cross-cultural issues;

- (vi) maintaining neutrality;
 - (vii) identifying and reframing issues;
 - (viii) establishing trust and respect;
 - (ix) shaping and writing agreements;
 - (x) ethical standards for conduct of negotiations; and
- (b) verification that the applicant has satisfactorily served as a negotiator in three separate cases or ten clock hours, whichever is greater.

R156-39a-302b. Qualifications for Certification - Experience Requirements.

In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirements for certification in Section 58-39a-5 are defined, clarified, or established as follows:

- (1) An applicant may be certified as an ADRP - Arbitrator without the necessity of completing the education and training requirements provided in R156-39a-302a(1) by providing evidence that the applicant has served as an arbitrator in cases involving not less than 32 clock hours.
- (2) An applicant may be certified as an ADRP - Mediator without the necessity of completing the education and training requirements provided in R156-39a-302a(2) by providing evidence that the applicant has served as a mediator in cases involving not less than 32 clock hours.
- (3) An applicant may be certified as an ADRP - Negotiator without the necessity of completing the education and training requirements provided in R156-39a-302a(3) by providing evidence that the applicant has served as a negotiator in cases involving not less than 32 clock hours.

R156-39a-303. Renewal Cycle - Procedures.

- (1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to certificates under Title 58, Chapter 39a, is established by rule in Section R156-1-308.
- (2) Renewal procedures shall be in accordance with Section R156-1-308.

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**ALTERNATIVE DISPUTE RESOLUTION
PROVIDERS CERTIFICATION ACT RULES**

**R156-39a
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