

**CONSUMER COMPLAINTS
AGAINST MEDIATORS AND ARBITRATORS FOR ETHICAL VIOLATIONS**

**PROCEDURE BEFORE
THE ALABAMA SUPREME COURT COMMISSION ON DISPUTE RESOLUTION
(effective December 4, 2014)**

1. Any individual who believes a mediator or arbitrator (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 may file a complaint with the Alabama Center for Dispute Resolution.

The complaint must be in writing under oath on the form provided by the Alabama Center for Dispute Resolution. The complaint must state with particularity the facts that form the basis of the complaint.

2. The Commission Chair (Chair) and the Commission Secretary (Secretary) will review the complaint to determine whether there is a probable violation of the codes of ethics. If there is no probable violation the complaint is dismissed and the complaining party is notified that the complaint is dismissed.

3. If the Chair and Secretary determine a probable violation, the Secretary will send the complaint to the neutral. The neutral will file a response within 30 days.

4. The Chair and Secretary will review the response, and, if they are satisfied there is no violation, the complaint is dismissed. The complaining party and the neutral will be notified that the complaint has been dismissed.

5. A. Hearing: If, after review, the Chair and the Secretary believe the complaint requires further response, the Chair will send the complaint, response, and any supporting documents to the Committee on Standards for Neutrals (CSN) for review and a hearing.

The CSN will complete the hearing within 60 days from the date the complaint, etc. are sent to the CSN.

The hearing is private and is not open to the public. It is informal, and the rules of civil procedure and the rules of evidence do not apply; but the rules of evidence may serve as a guide for the CSN. The complaining party has the burden to reasonably satisfy the CSN that the neutral violated a Standard or Canon of the applicable code of ethics.

The neutral and the complaining party may bring a lawyer or a support person to the hearing. Additionally, the complaining party and the neutral may bring witnesses to testify on his or her behalf.

If either party fails to appear or to participate in good faith, the CSN may proceed on the evidence before it. If the complaining party fails to appear, the CSN may dismiss the complaint.

The hearing will be transcribed or recorded. The record in any case will include the complaint, the response, all correspondence, and the transcript or recorded hearing. A copy of the recording or transcript will be made available to the neutral and the complaining party at his or her expense.

Within 30 days of the hearing the CSN will make written findings which will inform the complaining party, the neutral, the Secretary, and the Commission of its decision.

If the CSN determines that the neutral violated any provision of the applicable code, the CSN may impose discipline.

5. B. Discipline: The CSN can impose public or confidential discipline, and it will consider:

1. Whether the neutral's conduct was intentional or inadvertent, or
2. Whether the neutral's conduct was intentional, but in ignorance of the applicable ethical code provisions; and,
3. The protection of the public and the rehabilitation of the neutral.

The CSN can impose the following forms of discipline against the neutral:

1. Additional ethical or substantive training as a requirement to remain on the roster of neutrals published by the Alabama Center for Dispute Resolution, or
2. Suspension or removal from the roster of neutrals, or
3. If the neutral is registered on the neutral's roster as a domestic relations mediator in addition to other areas of mediation, and the complaint arose from a domestic relations mediation, the neutral's registration as a domestic relations mediator can be suspended or removed, or
4. Restrict the type cases the neutral can mediate or arbitrate in the future.

In the event the CSN disciplines the neutral under sections 2 or 3, the suspension or removal, once final, must be immediately posted on the Alabama Center for Dispute Resolution's web site.

5. C. The decision of the CSN is final unless the neutral appeals to the Commission.

6. Appeal to the Commission: The neutral may appeal an adverse decision to the Commission within 30 days from the CSN decision. The Commission will hear the appeal if a quorum of the Commission is present, and the appeal will be heard on the record made before the CSN. The Commission will not substitute its judgment for that of the CSN about the weight of the evidence or finding of facts. However, the Commission may reverse or modify the CSN's decision on substance or discipline if it determines that the decision is: (1) beyond the authority of the Committee; (2) clearly erroneous; or (3) arbitrary or capricious or characterized by an abuse of discretion.

The neutral and his or her lawyer may, and the complaining party and his or her lawyer may, appear before the Commission and argue why the decision of the CSN on the merits or on discipline should or should not be affirmed or modified.

No member of the CSN can hear the appeal. The decision of the Commission is final and will be delivered within 30 days from the hearing on the appeal.