

(Rescinds Administrative Order 1995-02)

STATE OF MICHIGAN 6TH JUDICIAL CIRCUIT OAKLAND COUNTY	SELECTION OF MEDIATORS AND MEDIATION PANELS	ADMINISTRATIVE ORDER 1997-4
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IT IS ORDERED:

This administrative order is issued in accordance with MCR 2.404, effective October 1, 1997. This order sets forth a plan to maintain a list of persons available to serve as mediators and to assign mediators from the list to mediation panels. Previous administrative order, 1995-02, Selection of Mediators, is rescinded effective September 30, 1997.

1. Lists of Mediators

- a. Mediator Application. Applicants who wish to be placed on the Oakland Circuit Court's mediators' list must complete the Court's Mediator Application. Applications are available in the office of the Mediation Clerk and at the Oakland County Bar Association (OCBA).
- b. Mediator Eligibility. Potential mediators must meet the following requirements:
 - 1) The applicant must have been a practicing lawyer for at least 5 years and be a member in good standing of the State Bar of Michigan;
 - 2) The applicant must reside, maintain an office, or have an active practice in Oakland County;
 - 3) An applicant must demonstrate that a substantial portion of his or her practice for the last 5 years has been devoted to civil litigation matters, including investigation, discovery, motion practice, mediation, settlement, trial preparation, and/or trial.
 - 4) An applicant who seeks inclusion in a separate sublist must have an active practice in the practice area for at least the last 3 years.

2. Review of Applications

- a. Applications shall be reviewed at least semiannually by the

Oakland County Circuit Court in cooperation with the OCBA Circuit Court Mediation Committee. The committee shall be comprised of members of the OCBA appointed by the president of the Bar Association and representatives of the court appointed by the chief judge.

- b. An individual appointed by the president of the OCBA shall serve a one year term. An individual thus appointed may serve up to 3 consecutive one year terms.
- c. An individual appointed by the president of the OCBA may not serve on the committee more than 3 years in any 9 year period.
- d. At least three members of the committee, including one representative of the court, must be present to review and approve mediator applications.
- e. Applicants not placed on the mediator list shall be notified in writing of the decision. The written notice shall advise the applicant that he or she may reapply for inclusion on the list in 120 days or sooner if the reason for the denial has been corrected.
- f. Any applicant not approved by the committee may within 21 days of denial, write a letter of appeal to the chairperson of the committee requesting a review of his or her application.
- g. Upon receipt of an appeal the chair of the committee shall appoint two individuals who have previously served on the committee (but who are not current members), and the chief judge shall appoint two judges to review the appeal. The appeal committee shall complete its review and issue its decision in writing within 60 days of receipt of the appeal.
- h. An applicant who is denied placement by the appeal committee described in section (g) may reapply to the OCBA Circuit Court Mediation Committee for inclusion on the mediator list in 1 year. Any reapplication shall be treated as a new application for purposes of evaluation.

3. Specialized Lists

- a. The Oakland Circuit Court shall maintain separate lists of mediators divided into the following categories:
 - 1) One comprised of attorneys who primarily represent civil plaintiffs in personal injury/negligence law.
 - 2) One comprised of attorneys who primarily represent civil

defendants in personal injury/negligence law.

- 3) One comprised of attorneys engaged in civil litigation who do not perform a majority of their work for either plaintiffs or defendants in personal injury/negligence law.
- 4) One comprised of attorneys who primarily engage in commercial law.
- 5) One comprised of attorneys who primarily engage in medical malpractice law.
- 6) One comprised of attorneys who primarily engage in labor and employment law.
- 7) One comprised of attorneys who primarily engage in product liability law.
- 8) One comprised of attorneys who primarily engage in complex commercial law.

4. Term of Placement on Mediators= List

- a. A person may remain on the list for 5 years. At the end of that time, he or she must reapply in the same manner as persons seeking to be added to the list.

5. The list shall be available to the public in the Mediation Clerk's Office and at the Oakland County Bar Association.

6. Removal from List

- a. An individual may be removed from the list for demonstrated incompetency, bias, consistent unavailability to serve as a mediator or for other just cause.
- b. The removal procedure may be initiated by the Mediation Clerk, the Court, or the OCBA Circuit Court Mediation Committee.
 - 1) This procedure is confidential.
 - 2) The party initiating the removal process must submit a written complaint setting forth the specific details of the complaint to the Oakland Circuit Court Mediation Clerk. If the complainant is the Mediation Clerk, he or she will submit a written complaint according to the procedures outlined below.

- 3) The Mediation Clerk will furnish copies of the complaint to:
 - (a) The mediator(s) against whom the complaint is made,
 - (b) The Chief Judge and the Court Administrator,
 - (c) The chair of the OCBA Circuit Court Mediation Committee, and
 - (d) The chair of the mediation panel.
- 4) The chair of the OCBA Circuit Court Mediation Committee will assign a member or members of the committee to investigate the complaint, and to prepare and present a written report to the general committee within 30 days.
- 5) The chair of the OCBA Circuit Court Mediation Committee will forward the written report of the findings and recommendations, if any, to:
 - (a) The complainant,
 - (b) The mediator(s) against whom the complaint was filed,
 - (c) The Chief Judge, Court Administrator, and Mediation Clerk, and
 - (d) The chair of the mediation panel.
- 6) Unless a regular OCBA Circuit Court Mediation Committee meeting is already scheduled, the chair will convene a special meeting within 30 days of receipt of the written report. A majority of committee members must be present.
- 7) The mediator who is the subject of the complaint may attend and shall be given the opportunity to explain his or her position.
- 8) Following discussion of the report and the mediator's opportunity to explain his or her position, the mediator will be removed from the list if a 3/4 majority of the committee members present vote to remove the person from the mediator list.
- 9) A person removed from the mediator list may reapply after one year from the date of removal from the list. The individual must certify that he or she has corrected the

reason for removal from the list and present supporting documentation.

- 10) A removed mediator may write a letter of appeal to the Chief Judge, requesting review of the OCBA Circuit Court Mediation Committee's decision to remove him or her from the list. The Chief Judge's decision on the matter is final.
- 11) Neither the Mediation Clerk nor the OCBA Circuit Court Mediation Committee has authority to order remediation or to modify or set aside a mediation award.

7. Orientation and Training

- a. All individuals who qualify to be mediators must complete the mediator training developed and run by the OCBA.

8. Assignment to Panels

- a. The Mediation Clerk will assign mediators. The assignment must be in a random or rotating manner to assure that as nearly as possible, each mediator is assigned approximately the same number of cases over a period of time.

Date: October 1, 1997

/s Hon. Edward Sosnick
EDWARD SOSNICK, Chief Judge