

# Report of NJ Supreme Court Committee on CDR

## by Anju D. Jessani, MBA, APM



The New Jersey Supreme Court Committee on Complementary Dispute Resolution issued its report on the 2011-2013 rules cycle on January 15, 2013. The following committees provided reports for comment: Committee on Complementary Dispute Resolution, Criminal Practice Committee, Family Practice Committee, and Municipal Court Practice Committee. Comments are due by April 1, 2013.

There were no recommendations to eliminate or reduce the free two-hour rule for Rule 1:40 court-ordered mediations.

The full text of the report is on the web at [www.judiciary.state.nj.us/reports2013/cdr.pdf](http://www.judiciary.state.nj.us/reports2013/cdr.pdf).

Here is a summary of sections of the report relevant to our member mediators:

### Proposed Amendments and Recommendations to Rule 1:40:

- Amending the definition of the "Arbitration-Mediation" hybrid process: "A process by which, after an initial arbitration, but before the award is delivered, the parties are jointly given the opportunity to mediate a resolution; if successful the arbitration award is disregarded and the mediated settlement is executed by the parties. If the mediation is unsuccessful, the arbitration award is delivered to the parties."
- Amending the definition of "neutral" as follows: "A "neutral" is an individual who provides a CDR process. A "qualified neutral" is an individual included on any roster of neutrals maintained by the Administrative Office of the Courts or an Assignment Judge."
- If the parties select a mediator who is not on the court rosters,

the mediator may negotiate his/her fee with the parties.

- Failure to pay the mediator may result in an order by the court to pay the fees and the costs of the mediator including additional costs and fees incurred due to the non-payment and imposing appropriate sanctions.
- Increase the minimum mediation training requirements for mediators on the civil, general equity and probate mediator roster from 18 hours to 40 hours.
- Remove the provision that permits family mediators to have completed 25 hours of mediation training with a commitment to complete an additional 15 hours within one year.
- Waive the mentoring requirement for the civil, general equity and probate mediator roster if the mediator has served on at least five 1:40 cases or has satisfactorily completed 10 hours of any approved advanced mediation course.

### Other Recommendations

- For civil, general equity and probate mediators already on the roster, there is a recommendation for a one-time, four-hour continuing education requirement to be completed or before 8/31/15, that should include two hours of case management, one hour of ethics, and one hour of case management.
- Retired judges on the roster who had served on the bench, would be exempt from this one-time, four-hour requirement.

### Recommendations for the Municipal Court Mediation Pilot Program:

- The program should be utilized

statewide in municipal mediation cases.

- Enhancements should be made to the systems for tracking cases.
- There should be expanded training for municipal court judges and staff.
- Courts should be authorized to send to mediation complaints issued by a police officer when the complaint involves a "neighborhood" or other minor dispute, or a case involving truancy.
- Shoplifting cases should be excluded from this mediation program.

### Legislation

- The committee made no recommendations regarding legislation.

### Matters Held for Consideration

- Allowing for economic mediation (Family Division) in certain domestic violence matters where a Final Restraining Order (not a TRO) exists.
- Participants would have their FROs amended to allow for the mediation.
- Only those mediators who have gone through a specialized training component would be permitted to mediate such cases.

Members who choose to comment on the report and state in their credentials that they are members of NJAPM, should also indicate that their comments represent their personal opinions and not the opinions of NJAPM.

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