

MD Rules, Rule 17-101
RULE 17-101. APPLICABILITY

(a) General Applicability of Title. Except as provided in sections (b) and (f) of this Rule, the Rules in this Title apply when a court refers all or part of a civil action or proceeding to ADR.

Committee note: The Rules in this Title other than the Rules in Chapter 500 do not apply to an ADR process in which the parties participate without a court order of referral to that process.

(b) Exceptions. Except as otherwise provided by Rule, the Rules in this Title do not apply to:

- (1) an action or order to enforce a contractual agreement to submit a dispute to ADR;
- (2) an action to foreclose a lien against owner-occupied residential property subject to foreclosure mediation conducted by the Office of Administrative Hearings under Rule 14-209.1;
- (3) an action pending in the Health Care Alternative Dispute Resolution Office under Code, Courts Article, Title 3, Subtitle 2A, unless otherwise provided by law; or
- (4) a matter referred to a magistrate, examiner, auditor, or parenting coordinator pursuant to Rule 2-541, 2-542, 2-543, or 9-205.2.

(c) Applicability of Chapter 200. The Rules in Chapter 200 apply to actions and proceedings pending in a circuit court.

(d) Applicability of Chapter 300. The Rules in Chapter 300 apply to actions and proceedings pending in the District Court.

(e) Applicability of Chapter 400. The Rules in Chapter 400 apply to civil appeals pending in the Court of Special Appeals.

(f) Applicability of Chapter 500. The Rules in Chapter 500 apply to collaborative law processes under the Maryland Uniform Collaborative Law Act, regardless of whether an action or proceeding is pending in a court.

Source: This Rule is derived from former Rule 17-101 (2011).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013. Amended Oct. 17, 2013, eff. Jan. 1, 2014; March 2, 2015, eff. July 1, 2015; Sept. 17, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-101, MD R ADR Rule 17-101

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-102
RULE 17-102. DEFINITIONS

In this Title, the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(a) ADR. “ADR” means “alternative dispute resolution.”

(b) ADR Organization. “ADR organization” means an entity, including an ADR unit of a court, that is designated by the court to select individuals with the applicable qualifications required by Rule 9-205 or the Rules in this Title to conduct a non-fee-for-service ADR ordered by the court.

(c) ADR Practitioner. “ADR practitioner” means an individual who conducts ADR under the Rules in this Title.

(d) Alternative Dispute Resolution. “Alternative dispute resolution” means the process of resolving matters in pending litigation through arbitration, mediation, neutral case evaluation, neutral factfinding, settlement conference, or a combination of those processes.

(e) Arbitration. “Arbitration” means a process in which (1) the parties appear before one or more impartial arbitrators and present evidence and argument to support their respective positions, and (2) the arbitrators render an award that is not binding unless the parties agree otherwise in writing.

Committee note: Under the Federal Arbitration Act, the Maryland Uniform Arbitration Act, the International Commercial Arbitration Act, and at common law, arbitration awards are binding unless the parties agree otherwise.

(f) Fee-for-service. “Fee-for-service” means that a party will be charged a fee by an ADR practitioner designated by a court to conduct ADR.

(g) Mediation. “Mediation” means a process in which the parties work with one or more impartial mediators who, without providing legal advice, assist the parties in reaching their own voluntary agreement for the resolution of all or part of a dispute.

Cross reference: For the role of the mediator, see Rule 17-103.

(h) Mediation Communication. “Mediation communication” means a communication, whether spoken, written, or nonverbal, made as part of a mediation, including a communication made for the purpose of considering, initiating, continuing, reconvening, or evaluating a mediation or a mediator.

(i) Neutral Case Evaluation. “Neutral case evaluation” means a process in which (1) the parties, their attorneys, or both appear before an impartial evaluator and present in summary fashion the evidence and arguments to support their respective positions, and (2) the evaluator renders an evaluation of their positions and an opinion as to the likely outcome of the litigation.

(j) Neutral Expert. “Neutral expert” means an individual with special expertise to provide impartial technical background information, an impartial opinion, or both in a specific area.

(k) Neutral Fact-finding. “Neutral fact-finding” means a process in which (1) the parties, their attorneys, or both appear before an impartial individual and present the evidence and arguments to support their respective positions as to disputed factual issues, and (2) the individual makes findings of fact as to those issues that are not binding unless the parties agree otherwise in writing.

(l) Settlement Conference. “Settlement conference” means a conference at which the parties, their attorneys, or both appear before an impartial individual to discuss the issues and positions of the parties in an attempt to agree on a resolution of all or part of the dispute by means other than trial. A settlement conference may include neutral case

evaluation and neutral fact-finding, and the impartial individual may recommend the terms of an agreement.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is new.

Section (c) is new.

Section (d) is derived from former Rule 17-102 (a) (2012).

Section (e) is derived from former Rule 17-102 (b) (2012).

Section (f) is derived from former Rule 17-102 (c) (2012).

Section (g) is derived from former Rule 17-102 (d) (2012).

Section (h) is derived from former Rule 17-102 (e) (2012).

Section (i) is derived from former Rule 17-102 (f) (2012).

Section (j) is new.

Section (k) is derived from former Rule 17-102 (g) (2012).

Section (l) is derived from former Rule 17-102 (h) (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-102, MD R ADR Rule 17-102

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-103

RULE 17-103. ROLE OF MEDIATOR

A mediator may help identify issues and options, assist the parties and their attorneys in exploring the needs underlying their respective positions, and, upon request, record points of agreement expressed and adopted by the parties. While acting as a mediator, the mediator does not engage in any other ADR process and does not recommend the terms of an agreement.

Committee note: Mediators often record points of agreement expressed and adopted by the parties to provide documentation of the results of the mediation. Because a mediator who is not a Maryland lawyer is not authorized to practice law in Maryland and a mediator who is a Maryland lawyer ordinarily would not be authorized to provide legal advice or services to parties in conflict, a mediator should not be authoring agreements regarding matters in litigation for the parties to sign. If the parties are represented by counsel, the mediator should advise them not to sign the document embodying the points of agreement until they have consulted their attorneys. If the parties, whether represented or not, choose to sign the document, a statement should be added that the points of agreement as recorded by the mediator constitute the points of agreement expressed and adopted by the parties.

Source: This Rule is derived from the last two sentences of former Rule 17-102 (d) (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-103, MD R ADR Rule 17-103
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-104

RULE 17-104. BASIC MEDIATION TRAINING PROGRAMS

To qualify under Rule 17-205 or 17-304, a basic mediation training program shall include the following:

- (a)** conflict resolution and mediation theory, including causes of conflict, interest-based versus positional bargaining, and models of conflict resolution;
- (b)** mediation skills and techniques, including information-gathering skills; communication skills; problem-solving skills; interaction skills; conflict management skills; negotiation techniques; caucusing; cultural, ethnic, and gender issues; and strategies to (1) identify and respond to power imbalances, intimidation, and the presence and effects of domestic violence, and (2) safely terminate a mediation when such action is warranted;
- (c)** mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics, and standards of practice; and
- (d)** simulations and role-playing, monitored and critiqued by experienced mediator trainers.

Source: This Rule is derived from former Rule 17-106 (a) (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-104, MD R ADR Rule 17-104
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-105

RULE 17-105. MEDIATION CONFIDENTIALITY

(a) Mediator. Except as provided in sections (c) and (d) of this Rule, a mediator and any person present or otherwise participating in the mediation at the request of the mediator shall maintain the confidentiality of all mediation communications and may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding.

(b) Parties. Except as provided in sections (c) and (d) of this Rule:

- (1) a party to a mediation and any person present or who otherwise participates in a mediation at the request of a party may not disclose or be compelled to disclose a mediation communication in any judicial, administrative, or other proceeding; and
- (2) the parties may enter into a written agreement to maintain the confidentiality of mediation communications and to require all persons who are present or who otherwise participate in a mediation to join in that agreement.

Cross reference: See Rule 5-408 (a)(3).

(c) Signed Document. A document signed by the parties that records points of agreement expressed and adopted by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential, unless the parties agree otherwise in writing.

Cross reference: See Rule 9-205 (h) concerning the submission of a document embodying the points of agreement to the court in a child access case.

(d) Permitted Disclosures. In addition to any disclosures required by law, a mediator, a party, and a person who was present or who otherwise participated in a mediation may disclose or report mediation communications:

(1) to a potential victim or to the appropriate authorities to the extent they reasonably believe necessary to help prevent serious bodily harm or death to the potential victim;

(2) when relevant to the assertion of or defense against allegations of mediator misconduct or negligence; or

(3) when relevant to a claim or defense that an agreement arising out of a mediation should be rescinded because of fraud, duress, or misrepresentation.

Cross reference: For the legal requirement to report suspected acts of child abuse, see Code, Family Law Article, § 5-705.

(e) Discovery; Admissibility of Information. Mediation communications that are confidential under this Rule are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Cross reference: See Rule 5-408 (b). See also Code, Courts Article, Title 3, Subtitle 18, which does not apply to mediations to which the Rules in Title 17 apply.

Source: This Rule is derived from former Rule 17-109 (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-105, MD R ADR Rule 17-105

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-201

RULE 17-201. AUTHORITY TO ORDER ADR

(a) Generally. A circuit court may order a party and the party's attorney to participate in ADR but only in accordance with the Rules in this Chapter and in Chapter 100 of this Title.

(b) Referral Prohibited. The court may not enter an order of referral to ADR in a protective order action under Code, Family Law Article, Title 4, Subtitle 5, Domestic Violence.

(c) Mediation of Child Custody or Visitation Disputes. Rule 9-205 governs the authority of a circuit court to order mediation of a dispute as to child custody or visitation, and the Rules in Title 17 do not apply to proceedings under that Rule except as otherwise provided in that Rule.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 17-103 (a) (2012).
Section (b) is new.
Section (c) is derived from former Rule 17-103 (c)(1) (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-201, MD R ADR Rule 17-201

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-202

RULE 17-202. GENERAL PROCEDURE

(a) Scope. This Rule does not apply to health care malpractice actions under Code, Courts Article, Title 3, Subtitle 2A, which are governed by Rule 17-203.

(b) Participation Requirements.

(1) *Non-fee-for-service Settlement Conference.* The court may require the parties and their attorneys to participate in a non-fee-for-service settlement conference.

Committee note: If a settlement conference is required, it should be conducted subsequent to any other court-referred ADR.

(2) *Other ADR.* The court may refer all or part of an action to one ADR process in accordance with sections (c), (d), and (e) of this Rule, but the court may not require participation in that ADR if a timely objection is filed in accordance with section (f) of this Rule.

(c) Designation of ADR Practitioner.

(1) *Direct Designation.* In an order referring all or part of an action to ADR, the court may designate, from a list of approved ADR practitioners maintained by the court pursuant to Rule 17-207, an ADR practitioner to conduct the ADR.

(2) *Indirect Designation if ADR is Non-fee-for-service.* If the ADR is non-fee-for-service, the court may delegate authority to an ADR organization selected from a list maintained by the court pursuant to Rule 17-207 or to an ADR unit of the court to designate an ADR practitioner qualified under Rules 17-205 or 17-206, as applicable, to conduct the ADR. An individual designated by the ADR organization pursuant to the court order has the status of a court-designated ADR practitioner.

Committee note: Examples of the use of indirect designation are referrals of indigent litigants to publicly funded community mediation centers and referrals of one or more types of cases to a mediation unit of the court.

(d) Discretion in Designation. In designating an ADR practitioner, the court is not required to choose at random or in any particular order from among the qualified ADR practitioners or organizations on its lists. The court should endeavor to use the services of as many qualified persons as practicable, but the court may consider, in light of the issues and circumstances presented by the action or the parties, any special training, background, experience, expertise, or temperament of the available prospective designees.

(e) Contents of Order of Referral; Termination or Extension of ADR; Restriction on Fee Increase.

An order of referral to ADR shall specify a maximum number of hours of required participation by the parties. An order to a fee-for-service ADR shall also specify the hourly rate that may be charged for ADR services in the action, which may not exceed the maximum stated in the applicable fee schedule. The parties may participate for less than the number of hours stated in the order if they and the ADR practitioner agree that no further progress is likely. The parties, by agreement, may extend the ADR beyond the number of hours stated in the order. During any extension of the ADR, the ADR practitioner may not increase the practitioner's hourly rate for providing services relating to the action.

Committee note: Having a maximum number of hours in the court's order of referral encourages participation in ADR by assuring the parties that the ADR does not require an open-ended commitment of their time and money. Although the parties, without further order of court, may extend the ADR beyond the maximum, an amendment to the time requirements contained in a scheduling order may be made only by order of the court.

Cross reference: See Rule 2-504, concerning scheduling orders, and Rule 17-208, concerning fee schedules and sanctions for noncompliance with an applicable schedule.

(f) Objection; Alternatives.

(1) *Applicability.* This section applies to a referral to ADR other than a non-fee-for-service settlement conference.

(2) *Time for Filing.* If the court issues an order referring all or part of an action to ADR, a party, within 30 days after entry of the order, may file (A) an objection to the referral, (B) an alternative proposal, or (C) a "Request to Substitute ADR Practitioner" substantially in the form set forth in section (g) of this Rule. If the order delegates authority to an ADR organization to designate an ADR practitioner, the objection, alternative proposal, or "Request to Substitute ADR Practitioner" shall be filed no later than 30 days after the party is notified by the ADR organization of the designation.

(3) *Notification of Rights.* An order referring all or part of an action to ADR, an order delegating authority to an ADR organization to designate an ADR practitioner, and an announcement of a determination to enter an order referring all or part of an action to ADR shall include the information set forth in subsection (f)(2) of this Rule.

(4) *If No Objection or Alternative Filed.* If an objection, alternative proposal, or "Request to Substitute ADR Practitioner" is not filed within the time allowed by this section, the order shall stand, subject to modification by the court.

(5) *Ruling.* If a party timely objects to a referral, the court shall revoke its order. If the parties offer an alternative proposal or agree on a different ADR practitioner, whether or not the ADR practitioner's name is on the court's list, the court shall revoke or modify its order, as appropriate.

(g) Form of Request to Substitute ADR Practitioner. A Request to Substitute ADR Practitioner shall be substantially in the following form:

	[Caption of Case]
	REQUEST TO SUBSTITUTE ADR PRACTITIONER AND SELECTION OF ADR PRACTITIONER BY STIPULATION

We agree to attend ADR conducted by	
.	
(Name, address, and telephone number of ADR Practitioner).	
We have made payment arrangements with the ADR Practitioner and we understand that the court's fee schedules do not apply to this ADR. We request that the court substitute this ADR Practitioner for the ADR Practitioner designated by the court.	
(Signature of Plaintiff)	(Signature of Defendant)
(Signature of Plaintiff's Attorney, if any)	(Signature of Defendant's Attorney, if any)
[Add additional signature lines for any additional parties and attorneys.]	
I,	
(Name of ADR Practitioner)	
agree to conduct the following ADR in the above-captioned case [check one]:	
<input type="checkbox"/>	mediation in accordance with Rules 17-103 and 17-105.
<input type="checkbox"/>	ADR other than mediation: _____ [specify type of ADR].
At the conclusion of the ADR, I agree to comply with the provisions of Rule 17-202 (h).	
I solemnly affirm under the penalties of perjury that I have the qualifications prescribed by the following Rules [check all that are true]:	
<input type="checkbox"/>	Rule 17-205 (a) [Basic mediation]
<input type="checkbox"/>	Rule 17-205 (b) [Business and Technology]
<input type="checkbox"/>	Rule 17-205 (c) [Economic Issues--Divorce and Annulment]
<input type="checkbox"/>	Rule 17-205 (d) [Health Care Malpractice]
<input type="checkbox"/>	Rule 17-205 (e) [Foreclosure]
<input type="checkbox"/>	Rule 17-206 [ADR other than mediation]
<input type="checkbox"/>	None of the above.
	Signature of ADR Practitioner

(h) Evaluation Forms; Notification to Court. At the conclusion of an ADR, the ADR practitioner shall give to the parties any ADR evaluation forms and instructions provided by the court and promptly advise the court whether all, some, or none of the issues in the action has been resolved.

Source: This Rule is derived in part from former Rule 17-103 (b) and (c)(2)-(4) (2012) and is in part new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-202, MD R ADR Rule 17-202
 Current with amendments received through October 1, 2016.

MD Rules, Rule 17-203
RULE 17-203. HEALTH CARE MALPRACTICE ACTIONS

(a) Applicability. This Rule applies to health care malpractice actions under Code, Courts Article, Title 3, Subtitle 2A.

(b) Mandatory Referral to ADR; Timing. Within 30 days after a defendant has filed an answer to the complaint or within 30 days after a defendant has filed a certificate of a qualified expert pursuant to Code, Courts Article, Title 3, Subtitle 2A-04, whichever is later, the court shall issue a scheduling order requiring the parties to engage in ADR at the earliest practicable date, unless all parties file with the court an agreement not to engage in ADR and the court finds that ADR would not be productive.

Cross reference: See Rule 2-504 (b)(2)(C) and Code, Courts Article, § 3-2A-06C (b).

(c) Designation

(1) *By the Parties.* Within 30 days after the defendant has answered the complaint or filed a certificate of a qualified expert pursuant to Code, Courts Article, Title 3, Subtitle 2A-04, whichever is later, the parties may agree on an ADR practitioner and shall promptly notify the court of their agreement and the name of the ADR practitioner. A Notice of Selection of ADR Practitioner shall be substantially in the following form:

[Caption of Case]	
NOTICE OF SELECTION OF ADR PRACTITIONER BY STIPULATION	
We agree to attend ADR conducted by	
.	
(Name, address, and telephone number of ADR Practitioner).	
We have made payment arrangements with the ADR Practitioner and we understand that the court's fee schedules do not apply to this ADR. We request that the court designate this ADR Practitioner in lieu of any court- appointed ADR Practitioner.	
(Signature of Plaintiff)	(Signature of Defendant)
(Signature of Plaintiff's Attorney, if any)	(Signature of Defendant's Attorney, if any)
[Add additional signature lines for any additional parties and attorneys.]	
I,	
(Name of ADR Practitioner)	
agree to conduct the following ADR in the above-captioned case [check one]:	
<input type="checkbox"/>	mediation in accordance with Rules 17-103 and 17-105.

<input type="checkbox"/>	ADR other than mediation: _____ [specify type of ADR].
At the conclusion of the ADR, I agree to comply with the provisions of Rule 17-203 (f).	
I solemnly affirm under the penalties of perjury that I have the qualifications prescribed by the following Rules [check all that are true]:	
<input type="checkbox"/>	Rule 17-205 (a) [Basic mediation]
<input type="checkbox"/>	Rule 17-205 (b) [Business and Technology]
<input type="checkbox"/>	Rule 17-205 (c) [Economic Issues--Divorce and Annulment]
<input type="checkbox"/>	Rule 17-205 (d) [Health Care Malpractice]
<input type="checkbox"/>	Rule 17-205 (e) [Foreclosure]
<input type="checkbox"/>	Rule 17-206 [ADR other than mediation]
<input type="checkbox"/>	None of the above.
Signature of ADR Practitioner	

(2) *By the Court.* If the parties do not timely notify the court that they have agreed upon an ADR practitioner, the court promptly shall appoint a mediator who meets the qualifications prescribed by Rule 17-205 (d) and notify the parties. Within 15 days after the court notifies the parties of the name of the mediator, a party may object in writing, stating the reason for the objection. If the court sustains the objection, the court shall appoint a different mediator.

(d) Initial Conference; Outline of Case. The ADR practitioner shall schedule an initial conference with the parties as soon as practicable. At least 15 days prior to the initial conference, each party shall provide to the ADR practitioner a brief written outline of the strengths and weaknesses of the party's case. A party is not required to provide the outline to any other party, and the ADR practitioner shall not provide the outline or disclose its contents to anyone unless authorized by the party who submitted the outline.

Cross reference: See Code, Courts Article, § 3-2A-06C (h)(2) and (k).

(e) Discovery. If the ADR practitioner determines that discovery is necessary to facilitate the ADR, the ADR practitioner, consistent with the scheduling order, may mediate the scope and schedule of that discovery, adjourn the initial conference, and reschedule an additional conference for a later date.

(f) Evaluation Forms. At the conclusion of the ADR, the ADR practitioner shall give to the parties any ADR evaluation forms and instructions provided by the court.

(g) Notification to the Court. The parties shall notify the court if the case is settled. If the parties agree to settle some but not all of the issues in dispute, the ADR practitioner shall file a notice of partial settlement with the court. If the parties have not agreed to a settlement, the ADR practitioner shall file a notice with the court that the case was not settled.

(h) Costs. Unless otherwise agreed by the parties, the costs of the ADR shall be divided equally between the parties.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-203, MD R ADR Rule 17-203
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-204
RULE 17-204. NEUTRAL EXPERTS

(a) Appointment. With the consent of all parties participating in the ADR, a court-designated ADR practitioner may select a neutral expert to participate in the ADR. The expense of the neutral expert shall be allocated among the parties in accordance with their agreement.

(b) Confidentiality.

(1) *Mediation Proceedings.* In a mediation, the provisions of Rule 17-105 apply to the neutral expert.

(2) *Other ADR.* In all ADR other than mediation, the parties and the ADR practitioner may require the neutral expert to enter into a written agreement binding the neutral expert to confidentiality. The written agreement may include provisions stating that the expert may not disclose or be compelled to disclose any communications related to the ADR in any judicial, administrative, or other proceedings. Communications related to the ADR that are confidential under an agreement allowed by this subsection are not subject to discovery, but information otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use related to the ADR.

Source: This Rule is derived from former Rule 17-105.1 (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-204, MD R ADR Rule 17-204
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-205
**RULE 17-205. QUALIFICATIONS OF COURT-DESIGNATED
MEDIATORS**

(a) Basic Qualifications. A mediator designated by the court shall:

- (1) unless waived by the parties, be at least 21 years old;
- (2) have completed at least 40 hours of basic mediation training in a program meeting the requirements of Rule 17-104 or, for individuals trained prior to January 1, 2013, former Rule 17-106;
- (3) be familiar with the rules, statutes, and practices governing mediation in the circuit courts;
- (4) have mediated or co-mediated at least two civil cases;
- (5) complete in each calendar year four hours of continuing mediation-related education in one or more of the topics set forth in Rule 17-104;

- (6) abide by any mediation standards adopted by the Court of Appeals;
- (7) submit to periodic monitoring of court-ordered mediations by a qualified mediator designated by the county administrative judge; and
- (8) comply with procedures and requirements prescribed in the court's case management plan filed under Rule 16-302 (b) relating to diligence, quality assurance, and a willingness to accept, upon request by the court, a reasonable number of referrals at a reduced-fee or pro bono.

(b) Business and Technology Cases. A mediator designated by the court for a Business and Technology Program case shall, unless the parties agree otherwise:

- (1) have the qualifications prescribed in section (a) of this Rule; and
- (2) within the two-year period preceding an application for approval pursuant to Rule 17-207, have served as a mediator in at least five non-domestic civil mediations, at least two of which involved types of conflicts assigned to the Business and Technology Case Management Program.

(c) Economic Issues in Divorce and Annulment Cases. A mediator designated by the court for issues in divorce or annulment cases other than those subject to Rule 9-205 shall:

- (1) have the qualifications prescribed in section (a) of this Rule;
- (2) have completed at least 20 hours of skill-based training in mediation of economic issues in divorce and annulment cases; and
- (3) have served as a mediator or co-mediator in at least two mediations involving marital economic issues.

(d) Health Care Malpractice Claims. A mediator designated by the court for a health care malpractice claim shall, unless the parties agree otherwise:

- (1) have the qualifications prescribed in section (a) of this Rule;
- (2) within the two-year period preceding an application for approval pursuant to Rule 17-207, have served as a mediator in at least five non-domestic civil mediations, at least two of which involved types of conflicts assigned to the Health Care Malpractice Claims ADR Program;
- (3) be knowledgeable about health care malpractice claims through experience, training, or education; and
- (4) agree to complete any continuing education training required by the court.

Cross reference: See Code, Courts Article, § 3-2A-06C.

(e) Foreclosure Cases.

(1) This section does not apply to an ADR practitioner selected by the Office of Administrative Hearings to conduct a “foreclosure mediation” pursuant to Code, Real Property Article, § 7-105.1 and Rule 14-209.1.

(2) A mediator designated by the court in a proceeding to foreclose a lien instrument shall, unless the parties agree otherwise:

- (A) have the qualifications prescribed in section (a) of this Rule; and
- (B) through experience, training, or education, be knowledgeable about lien instruments and federal and Maryland laws, rules, and regulations governing foreclosure proceedings.

(f) Experience Requirement. The experience requirements in this Rule may be met by mediating in the District Court or the Court of Special Appeals.

Source: This Rule is derived in part from former Rule 17-104 (a),(c),(d),(e), and (f) (2012) and is in part new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013. Amended June 6, 2016, eff. July 1, 2016.]
MD Rules, Rule 17-205, MD R ADR Rule 17-205
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-206

RULE 17-206. QUALIFICATIONS OF COURT-DESIGNATED ADR PRACTITIONERS OTHER THAN MEDIATORS

(a) Generally. Except as provided in section (b) of this Rule, an ADR practitioner designated by the court to conduct ADR other than mediation shall, unless the parties agree otherwise:

- (1) abide by any applicable standards adopted by the Court of Appeals;
- (2) submit to periodic monitoring of court-ordered ADR proceedings by a qualified person designated by the county administrative judge;
- (3) comply with procedures and requirements prescribed in the court's case management plan filed under Rule 16-302 (b) relating to diligence, quality assurance, and a willingness, upon request by the court, to accept a reasonable number of referrals at a reduced-fee or pro bono;
- (4) either (A) be a member in good standing of the Maryland bar and have at least five years experience as (i) a judge, (ii) a practitioner in the active practice of law, (iii) a full-time teacher of law at a law school accredited by the American Bar Association, or (iv) a Federal or Maryland administrative law judge, or (B) have equivalent or specialized knowledge and experience in dealing with the issues in dispute; and
- (5) have completed any training program required by the court.

(b) Judges and Magistrates. An active or retired judge or a magistrate of the court may chair a non-fee-for-service settlement conference.

Cross reference: Rule 18-103.9 and Rule 18-203.9.

Source: This Rule is derived from former Rule 17-105 (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013. Amended Sept. 17, 2015, eff. Jan. 1, 2016; June 6, 2016, eff. July 1, 2016.]
MD Rules, Rule 17-206, MD R ADR Rule 17-206
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-207
RULE 17-207. PROCEDURE FOR APPROVAL

(a) Generally.

(1) *Scope.* This section applies to individuals who seek eligibility for designation by a court to conduct ADR pursuant to Rule 9-205, Rule 14-212, or Rule 17-201 other than in actions assigned to the Business and Technology Case Management Program or the Health Care Malpractice Claims ADR Program.

(2) *Application.* An individual seeking designation to conduct ADR shall file an application with the clerk of the circuit court from which the individual is willing to accept referrals. The application shall be substantially in the form approved by the State Court Administrator and shall be available from the clerk of each circuit court. The clerk shall transmit each completed application, together with all accompanying documentation, to the county administrative judge or the judge's designee.

(3) *Documentation.*

(A) An application for designation as a mediator shall be accompanied by documentation demonstrating that the applicant meets the requirements of Rule 17-205 (a) and, if applicable, Rule 9-205 (c)(2) and Rule 17-205 (c) and (e).

(B) An application for designation to conduct ADR other than mediation shall be accompanied by documentation demonstrating that the applicant is qualified as required by Rule 17-206 (a).

(C) The State Court Administrator may require the application and documentation to be provided in a word processing file or other electronic format.

(4) *Action on Application.* After such investigation as the county administrative judge deems appropriate, the county administrative judge or designee shall notify the applicant of the approval or disapproval of the application and the reasons for a disapproval.

(5) *Court-Approved ADR Practitioner and Organization Lists.* The county administrative judge or designee of each circuit court shall maintain a list:

(A) of mediators who meet the qualifications set forth in Rule 17-205 (a), (c), and (e);

(B) of mediators who meet the qualifications of Rule 9-205 (c);

(C) of other ADR practitioners who meet the applicable qualifications set forth in Rule 17-206 (a); and

(D) of ADR organizations approved by the county administrative judge.

(6) *Public Access to Lists.* The county administrative judge or designee shall provide to the clerk of the court a copy of each list, together with a copy of the application filed by each individual on the lists. The clerk shall make these items available to the public.

(7) *Removal From List.* After notice and a reasonable opportunity to respond, the county administrative judge may remove a person from a court-approved list for failure to maintain the qualifications required by Rule 17-205, Rule 9-205 (c), or Rule 17-206 (a) or for other good cause.

(b) Business and Technology and Health Care Malpractice Programs.

(1) *Scope.* This section applies to individuals who seek eligibility for designation by a court to conduct ADR pursuant to Rule 17-201 in an action assigned to the Business

and Technology Case Management Program or pursuant to Rule 17-203 in an action assigned to the Health Care Malpractice Claims ADR Program.

(2) *Application.* An individual seeking designation to conduct ADR shall file an application with the Administrative Office of the Courts, which shall transmit the application to the committee of program judges appointed pursuant to Rule 16-702. The application shall be substantially in the form approved by the State Court Administrator and shall be available from the clerk of each circuit court.

(3) *Documentation.*

(A) An application for designation as a mediator, shall be accompanied by documentation demonstrating that the applicant meets the applicable requirements of Rule 17-205.

(B) An application for designation to conduct ADR other than mediation shall be accompanied by documentation demonstrating that the applicant is qualified as required by Rule 17-206 (a).

(C) The State Court Administrator may require the application and documentation to be provided in a word processing file or other electronic format.

(4) *Action on Application.* After such investigation as the Committee of Program Judges deems appropriate, the Committee shall notify the Administrative Office of the Courts that the application has been approved or disapproved and the reasons for a disapproval. The Administrative Office of the Courts shall notify the applicant of the action of the Committee and the reasons for a disapproval.

(5) *Court-Approved ADR Practitioner Lists.* The Administrative Office of the Courts shall maintain a list:

(A) of mediators who meet the qualifications of Rule 17-205 (b);

(B) of mediators who meet the qualifications of Rule 17-205 (d); and

(C) of other ADR practitioners who meet the qualifications of Rule 17-206 (a).

(6) *Public Access to Lists.* The Administrative Office of the Courts shall attach to the lists such additional information as the State Court Administrator specifies, keep the lists current, and transmit a copy of each current list and attachments to the clerk of each circuit court, who shall make these items available to the public.

Committee note: Examples of information that the State Court Administrator may specify as attachments to the lists include information about the individual's qualifications, experience, and background and any other information that would be helpful to litigants selecting an individual best qualified to conduct ADR in a specific case.

(7) *Removal From List.* After notice and a reasonable opportunity to respond, the Committee of Program Judges may remove an individual from a court-approved practitioner list for failure to maintain the qualifications required by Rule 17-205 or Rule 17-206 (a) or for other good cause.

Source: This Rule is derived in part from former Rule 17-107 (2012) and is in part new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013. Amended June 6, 2016, eff. July 1, 2016.]

MD Rules, Rule 17-207, MD R ADR Rule 17-207

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-208
RULE 17-208. FEE SCHEDULES

(a) Authority to Adopt. Subject to the approval of the Chief Judge of the Court of Appeals, the county administrative judge of each circuit court shall develop and adopt maximum hourly rate fee schedules for court-designated individuals conducting each type of fee-for-service ADR. In developing the fee schedules, the county administrative judge shall take into account the availability of qualified individuals willing to provide those services and the ability of litigants to pay for them.

Committee note: The maximum hourly rates in a fee schedule may vary based on the type the alternative dispute resolution proceeding, the complexity of the action, and the qualifications of the ADR practitioner.

(b) Applicability of Fee Schedules. The court's fee schedules apply only to ADR practitioners who are initially designated by the court, and not to an individual selected by the parties as a substitute mediator or to an ADR practitioner selected by the parties at the outset, even if the selection is subsequently memorialized by the court in an order of referral or consent order.

(c) Compliance. A court-designated ADR practitioner subject to a fee schedule may not charge or accept a fee for the ADR in excess of that allowed by court order, and the amount stated in the court order may not exceed the fee stated in the applicable schedule. Violation of this Rule shall be cause for removal from court-approved ADR practitioner lists.

Source: This Rule is derived from former Rule 17-108 (2012).

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-208, MD R ADR Rule 17-208

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-301
RULE 17-301. ADR OFFICE

(a) Definition. "ADR Office" means the District Court Alternative Dispute Resolution Office, a unit within the Office of the Chief Judge of the District Court.

(b) Duties. The ADR Office is responsible for administering the ADR programs of the District Court. Its duties include processing applications for approval as ADR practitioners, conducting orientation for approved ADR practitioners and applicants for approval as such practitioners, arranging the scheduling of ADR practitioners at each District Court location, collecting and maintaining statistical information about the District Court ADR programs, and performing such other duties involving ADR programs as are required by the Rules in this Chapter or are assigned by the Chief Judge of the District Court.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-301, MD R ADR Rule 17-301
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-302

RULE 17-302. GENERAL PROCEDURES AND REQUIREMENTS

(a) Authority to Order ADR. Except as provided in sections (b) and (c) of this Rule and Rule 17-303, the court, on or before the day of a scheduled trial, may order a party and the party's attorney to participate in one non-fee-for-service mediation or one non-fee-for-service settlement conference.

Committee note: Under this Rule, an order of referral to ADR may be entered regardless of whether a party is represented by an attorney. This Rule does not preclude the court from offering an additional ADR upon request of the parties.

(b) When Referral Prohibited. The court may not enter an order of referral to ADR in an action for a protective order under Code, Family Law Article, Title 4, Subtitle 5, Domestic Violence.

(c) Objection by Party

(1) *Notice of Right to Object.* If, on the day of a scheduled trial, an order of referral is contemplated or entered by the court, the court shall inform the parties that they have a right to object to the referral at that time. If a written order of referral is entered and served on the parties prior to the date of the scheduled trial, the order shall inform the parties that they have a right to object to a referral and state a reasonable time and method by which the objection may be made.

(2) *Consideration of Objection.*

(A) If a party objects to a referral, the court shall give the party a reasonable opportunity to explain the basis of the objection and give fair and prompt consideration to it.

(B) If the basis of the objection is that the parties previously engaged in good faith in an ADR process that did not succeed and the court finds that to be true, the court may offer the opportunity for, but may not require, participation in a new court-referred mediation or settlement conference.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]
MD Rules, Rule 17-302, MD R ADR Rule 17-302
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-303

RULE 17-303. DESIGNATION OF MEDIATORS AND SETTLEMENT CONFERENCE CHAIRS

(a) Limited to Qualified Individuals.

(1) *Court-Designated Mediator*. A mediator designated by the court or pursuant to court order shall possess the qualifications prescribed in Rule 17-304 (a).

(2) *Court-Designated Settlement Conference Chair*. A settlement conference chair designated by the court or pursuant to court order shall possess the qualifications prescribed in Rule 17-304 (b).

(b) Designation Procedure.

(1) *Court Order*. The court by order may designate an individual to conduct the ADR or may direct the ADR Office, on behalf of the court, to select a qualified individual for that purpose.

(2) *Duty of ADR Office*. If the court directs the ADR Office to select the individual, the ADR Office may select the individual or may arrange for an ADR organization to do so. An individual selected by the ADR Office or by the ADR organization has the status of a court-designated mediator or settlement conference chair.

(3) *Discretion in Designation or Selection*. Neither the court nor the ADR Office is required to choose at random or in any particular order from among the qualified individuals. They should endeavor to use the services of as many qualified individuals as practicable, but the court or ADR Office may consider, in light of the issues and circumstances presented by the action or the parties, any special training, background, experience, expertise, or temperament of the available prospective designees.

(4) *ADR Practitioner Selected by Agreement of Parties*. If the parties agree on the record to participate in ADR but inform the court of their desire to select an individual of their own choosing to conduct the ADR, the court may (A) grant the request and postpone further proceedings for a reasonable time, or (B) deny any request for postponement and proceed with a scheduled trial.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-303, MD R ADR Rule 17-303

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-304

**RULE 17-304. QUALIFICATIONS AND SELECTION OF MEDIATORS
AND SETTLEMENT CONFERENCE CHAIRS**

(a) Qualifications of Court-Designated Mediator. To be designated by the court as a mediator, an individual shall:

(1) unless waived by the parties, be at least 21 years old;

(2) have completed at least 40 hours of basic mediation training in a program meeting the requirements of (A) Rule 17-104 or (B) for individuals trained prior to January 1, 2013, former Rule 17-106;

(3) be familiar with the Rules in Title 17 of the Maryland Rules;

(4) submit a completed application in the form required by the ADR Office;

(5) attend an orientation session provided by the ADR Office;

(6) unless waived by the ADR Office, observe, on separate dates, at least two District Court mediation sessions and participate in a debriefing with the mediator after each mediation;

(7) unless waived by the ADR Office, mediate on separate dates, at least two District Court cases while being reviewed by an experienced mediator or other individual designated by the ADR Office and participate in a debriefing with the observer after each mediation;

(8) agree to volunteer at least six days in each calendar year as a court-designated mediator in the District Court day-of-trial mediation program;

(9) abide by any mediation standards adopted by the Court of Appeals;

(10) submit to periodic monitoring by the ADR Office;

(11) in each calendar year complete four hours of continuing mediation-related education in one or more of the topics set forth in Rule 17-104; and

(12) comply with the procedures and requirements posted on the ADR Office's website relating to diligence and quality assurance.

(b) Qualifications of Court-Designated Settlement Conference Chair. To be designated by the court as a settlement conference chair, an individual shall be:

(1) a judge of the District Court;

(2) a retired judge approved for recall for service under Maryland Constitution, Article IV, § 3A; or

(3) an individual who, unless the parties agree otherwise, shall:

(A) abide by any applicable standards adopted by the Court of Appeals;

(B) submit to periodic monitoring of court-ordered ADR by a qualified person designated by the ADR Office;

(C) be a member in good standing of the Maryland Bar and have at least three years experience in the active practice of law;

(D) unless waived by the court, have completed a training program of at least six hours that has been approved by the ADR Office; and

(E) comply with the procedures and requirements posted on the ADR Office's website relating to diligence and quality assurance.

(c) Procedure for Approval.

(1) *Filing Application.* An individual seeking designation to mediate or conduct settlement conferences in the District Court shall submit to the ADR Office a completed application substantially in the form required by that Office. The application shall be accompanied by documentation demonstrating that the applicant has met the applicable qualifications required by this Rule.

Committee note: Application forms are available from the ADR Office and on the Maryland Judiciary's website, www.mdcourts.gov/district/forms/general/adr001.pdf.

(2) *Action on Application.* After such investigation as the ADR Office deems appropriate, the ADR Office shall notify the applicant of the approval or disapproval of the application and the reasons for a disapproval.

(3) *Court-Approved ADR Practitioner and Organization Lists* The ADR Office shall maintain a list:

(A) of mediators who meet the qualifications of section (a) of this Rule;

(B) of settlement conference chairs who meet the qualifications set forth in subsection (b)(3) of this Rule; and
(C) of ADR organizations approved by the ADR Office.
(4) *Public Access to Lists.* The ADR Office shall provide to the Administrative Clerk of each District a copy of each list for that District maintained pursuant to subsection (c)(3) of this Rule. The clerk shall make a copy of the list available to the public at each District Court location. A copy of the completed application of an individual on a list shall be made available by the ADR Office upon request.
(5) *Removal From List.* After notice and a reasonable opportunity to respond, the ADR Office may remove a person as a mediator or settlement conference chair for failure to maintain the applicable qualifications of this Rule or for other good cause.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-304, MD R ADR Rule 17-304

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-305

RULE 17-305. NO FEE FOR COURT-ORDERED ADR

District Court litigants and their attorneys shall not be required to pay a fee or additional court costs for participating in a mediation or settlement conference before a court-designated ADR practitioner in the District Court.

Source: This Rule is new.

Credits

[Adopted Nov. 1, 2012, eff. Jan. 1, 2013.]

MD Rules, Rule 17-305, MD R ADR Rule 17-305

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-401

RULE 17-401. GENERAL PROVISIONS

(a) Applicability of Chapter.

(1) *Generally.* This Chapter applies to appeals to the Court of Special Appeals in civil actions for which an information report is required by Rule 8-205.

(2) *Scheduling Conference.* Nothing in this Chapter precludes the Court from conducting scheduling conferences pursuant to Rule 8-206 in any appeal to the Court.

(b) ADR Programs. The Court of Special Appeals may create and implement a prehearing conference program and a mediation program in accordance with the Rules in this Chapter.

(c) ADR Division.

(1) *Creation.* The Chief Judge of the Court of Special Appeals may create, as a unit of the Court, an ADR Division to be headed by a Director appointed by and serving at the pleasure of the Chief Judge.

(2) *Duties.* Subject to supervision by the Chief Judge, the ADR Division is responsible for administering the ADR programs of the Court of Special Appeals, as set forth in the Rules in this Chapter.

(d) Delegation by Chief Judge. The Chief Judge may delegate to one or more judges of the Court any of the duties and authority assigned to the Chief Judge by the Rules in this Chapter.

(e) Judicial Function. Court-designated mediators, individuals conducting prehearing conferences, and all court employees involved in the ADR program when acting in their official capacity and within the scope of their authority shall be regarded as performing a judicial function.

Cross reference: See 93 Opinions of the Attorney General 68 (2008).

Source: This Rule is derived in part from former Rule 17-401 (b)(1), (2), and (3) (2015) and is in part new.

Credits

[Adopted Oct. 17, 2013, eff. Jan. 1, 2014. Amended Dec. 7, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-401, MD R ADR Rule 17-401

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-402

RULE 17-402. ASSIGNMENT OF CASE TO ADR

(a) Screening of Information Reports. The ADR Division shall screen all civil information reports filed pursuant to Rule 8-205 and promptly make a recommendation to the Chief Judge as to whether the parties and their attorneys should be ordered to participate in a prehearing conference or a mediation pursuant to the Rules in this Chapter.

(b) Communication With Parties. Personnel in the ADR Division may communicate orally and in writing with any party's attorney and any self-represented party regarding whether a prehearing conference or mediation should be recommended to the Chief Judge. Such communications do not constitute prohibited *ex parte* communications.

(c) Determination by Chief Judge.

(1) *On Recommendation of ADR Division.* The Chief Judge is not bound by a recommendation of the ADR Division. Promptly upon receipt of such a recommendation, the Chief Judge shall enter an order:

(A) that the appeal proceed in accordance with the Rules in Title 8 without referral to a prehearing conference or mediation;

(B) that a prehearing conference be conducted in accordance with Rule 17-403; or

(C) that a mediation be conducted in accordance with Rule 17-404.

(2) *Authority of Chief Judge.* At any time during the appellate process before oral argument, the Chief Judge may enter an order directing a prehearing conference or

mediation, even if the Chief Judge initially had determined that the appeal should proceed without such a conference or mediation. If the parties concur, the Chief Judge may order a prehearing conference or mediation after oral argument but before a dispositive opinion or order in the appeal is issued.

Source: This Rule is derived in part from former Rules 8-206(a) and 17-401(b)(4) and (5) (2015) and is in part new.

Credits

[Adopted Oct. 17, 2013, eff. Jan. 1, 2014. Amended Dec. 7, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-402, MD R ADR Rule 17-402

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-403

RULE 17-403. PREHEARING CONFERENCE

(a) Purpose. The purpose of a prehearing conference is for the parties, their attorneys, or both to meet with an incumbent or retired judge of the Court designated by the Chief Judge to discuss:

- (1) settlement of the case, in whole or in part;
- (2) methods of implementing any settlement;
- (3) clarifying or limiting the issues on appeal; and
- (4) if settlement cannot then be agreed upon, whether (A) proceedings should be stayed for a specified period of time to allow further discussions among the parties or attorneys, or (B) it would be useful for the case to be referred to mediation pursuant to Rule 17-404 or for the parties to engage in an ADR process that is not under the auspices of the ADR division.

(b) Order of Chief Judge. An order of the Chief Judge referring the appeal to a prehearing conference shall direct the parties, their attorneys, or both to appear before a designated incumbent or retired judge of the Court at a time and place specified in the order or to be determined by the designated judge.

(c) Scheduling Conference. If the parties are unable to achieve any of the objectives set forth in section (a) of this Rule but agree that a scheduling conference pursuant to Rule 8-206 would be useful, the Chief Judge may authorize the judge who conducted the prehearing conference to conduct a scheduling conference or direct the parties, their attorneys, or both to appear before another judge of the Court designated by the Chief Judge for that purpose.

(d) Order on Completion of Prehearing Conference.

- (1) *In General.* Within 30 days after conclusion of a prehearing conference, the parties or the judge may present to the Chief Judge a proposed order to implement any agreements or determinations made at the conference. The Chief Judge shall review the proposed order and proceed in the manner set forth in Rule 17-404(f)(2) and (3).
- (2) *Scheduling Conference.* Any order implementing actions to be taken pursuant to a scheduling conference conducted pursuant to Rule 8-206 shall be entered in accordance with the procedures set forth in subsection (b)(3) of that Rule.

(3) *Copies*. The clerk shall send a copy of an order entered under this section to each party.

(e) Sanctions. Upon the failure of a party or attorney to comply with an order entered under section (b) of this Rule, the Court, after an opportunity for a hearing, may impose any appropriate sanction, including (1) dismissal of the appeal, (2) assessing against the party or attorney the reasonable expenses caused by the failure including reasonable attorney's fees, and (3) assessing against the party or attorney all or part of the appellate costs.

(f) Recusal. A judge who conducts a prehearing conference under this Rule may not sit as a member of a panel, including an in banc panel, assigned to hear the appeal if it proceeds, and shall not participate in any court conference regarding a judicial resolution of the appeal or whether an opinion in the appeal should be designated as reported.

Source: This Rule is new.

Credits

[Adopted Oct. 17, 2013, eff. Jan. 1, 2014. Amended Dec. 7, 2015, eff. Jan. 1, 2016.]
MD Rules, Rule 17-403, MD R ADR Rule 17-403
Current with amendments received through October 1, 2016.

MD Rules, Rule 17-404 RULE 17-404. MEDIATION

(a) Selection of Mediators. When mediation is ordered pursuant to Rule 17-402(c), the ADR Division, subject to the approval of the Chief Judge, shall select one or more mediators determined by the Chief Judge to have the qualifications required by Rule 17-405 to conduct the mediation. In selecting a mediator, the ADR Division is not required to choose at random or in any particular order from among the qualified individuals and may consider, in light of the issues and circumstances presented by the action or the parties, any special training, background, experience, expertise, or temperament of the available mediators.

(b) Order of Chief Judge. Upon the Chief Judge's approval of a selected mediator, the Chief Judge shall enter an order directing the parties, their attorneys, or both to appear before the mediator at a time and place specified in the order or to be determined by the ADR Division.

(c) Length of Mediation. A mediation conducted under this Rule may not last more than four hours without the consent of the parties.

(d) Full Settlement Not Achieved. If a full settlement of the issues in the appeal is not achieved, the mediator and the parties may discuss (1) extending the mediation session, (2) further mediation sessions, (3) engaging in other forms of ADR, or (4) holding a scheduling conference pursuant to Rule 8-206.

(e) Full or Partial Settlement Achieved. If a full or partial settlement of the issues in the appeal is achieved and an order is necessary, the parties shall proceed in accordance with section (f) of this Rule.

(f) Order Implementing Settlement.

(1) *Proposed Order.* Within 30 days after the conclusion of a Court-ordered mediation at which a full or partial settlement is achieved, if an order is necessary to implement the settlement, the parties shall submit a proposed order for review by the Chief Judge. The proposed order may include dismissal of the appeal, proceeding with the appellate process, limiting issues, a remand pursuant to Rule 8-602(e), or any other appropriate directives necessary to implement the settlement.

(2) *Review by Chief Judge.* After review, the Chief Judge shall (A) sign the order as presented, (B) reject the proposed order, or (C) return the order to the parties with recommended changes, but the Chief Judge may not preclude an appellant from dismissing the appellant's appeal as permitted by Rule 8-601 or preclude the parties from otherwise proceeding in a manner authorized by the Rules in Title 8.

(3) *Recommended Changes.* If the Chief Judge returns an order with recommended changes and, within 15 days after return of the order, the parties do not accept the recommended changes, the appeal shall proceed as if no agreement had been reached, unless the Chief Judge agrees to withdraw an unaccepted recommended change. If the parties accept the recommended changes, the Chief Judge shall sign the order with those changes included.

(4) *Duty of Clerk.* The clerk shall send a copy of a signed order to each party and to the ADR Division.

(g) Sanctions. Upon the failure of a party or attorney to comply with an order entered under section (b) of this Rule, the Court, after an opportunity for a hearing, may impose any appropriate sanction, including (1) dismissal of the appeal, (2) assessing against the party or attorney the reasonable expenses caused by the failure, including reasonable attorney's fees, and (3) assessing against the party or attorney all or part of the appellate costs.

(h) Recusal. A judge who participates in conducting a mediation under this Rule may not sit as a member of a panel, including an in banc panel, assigned to hear the appeal if it proceeds, and shall not participate in any court conference regarding a judicial resolution of the appeal or whether an opinion in the appeal should be designated as reported.

Source: This Rule is derived in part from former Rules 8-206(a)(2) and 17-402(b), (d), (e), and (f) (2015) and is in part new.

Credits

[Adopted Oct. 17, 2013, eff. Jan. 1, 2014. Amended Dec. 7, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-404, MD R ADR Rule 17-404

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-405

RULE 17-405. QUALIFICATIONS OF COURT-DESIGNATED MEDIATORS

(a) Initial Approval. To be approved as a mediator by the Chief Judge, an individual shall:

(1) be (A) an incumbent judge of the Court of Special Appeals; (B) a retired judge of the Court of Appeals, the Court of Special Appeals, or a circuit court approved for recall for service under Code, Courts Article, 1-302; or (C) a staff attorney from the Court of Special Appeals designated by the Chief Judge;

(2) have (A) completed at least 40 hours of basic mediation training in a program meeting the requirements of Rule 17-104, or (B) conducted at least two Maryland appellate mediations prior to January 1, 2014 and completed advanced appellate mediation training approved by the ADR Division;

(3) unless waived by the ADR Division, have observed at least two Court of Special Appeals mediation sessions and have participated in a debriefing with a staff mediator from the ADR Division after the mediations; and

(4) be familiar with the Rules in Titles 8 and 17 of the Maryland Rules;

(b) Continued Approval. To retain approval as a mediator by the Chief Judge, an individual shall:

(1) abide by mediation standards adopted by the Court of Appeals, if any;

(2) comply with mediation procedures and requirements established by the Court of Special Appeals;

(3) submit to periodic monitoring by the ADR Division of mediations conducted by the individual; and

(4) unless waived by the Chief Judge, complete in each calendar year four hours of continuing mediation-related education in one or more topics set forth in Rule 17-104 or any other advanced mediation training approved by the ADR Division.

Source: This Rule is derived from former Rule 17-403(a) (2015).

Credits

[Adopted Dec. 7, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-405, MD R ADR Rule 17-405

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-406

RULE 17-406. NO FEE FOR COURT-ORDERED ADR

Subject to Rules 17-403(e) and 17-404(g), Court of Special Appeals litigants and their attorneys shall not be required to pay a fee or additional court costs for participating in a prehearing conference or mediation ordered by the Court.

Source: This Rule is derived from former Rule 17-404 (2015).

Credits

[Adopted Dec. 7, 2015, eff. Jan. 1, 2016.]

MD Rules, Rule 17-406, MD R ADR Rule 17-406

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-501
RULE 17-501. APPLICABILITY

This Chapter applies to a collaborative law process under Code, Courts Article, Title 3, Subtitle 20 (Maryland Uniform Collaborative Law Act).

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-501, MD R ADR Rule 17-501

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-502
RULE 17-502. DEFINITIONS

In this Chapter, the definitions in Code, Courts Article § 3-2001 apply except as expressly otherwise provided or as necessary implication requires, and the term “collaborative attorney” has the meaning stated in Code, Courts Article, § 3-2001(e) for “collaborative lawyer.”

Committee note: Code, Courts Article, § 3-2001 contains definitions of “person” and “proceeding” that differ from the definition in Rule 1-202. In this Chapter, the statutory definitions supersede the definitions of “person” and “proceeding” in Rule 1-202.

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-502, MD R ADR Rule 17-502

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-503
RULE 17-503. INFORMED CONSENT; CONTENTS OF AGREEMENT

(a) Requirements Before a Collaborative Law Process Begins. Before beginning a collaborative law process, an attorney shall:

- (1) discuss with the client factors the attorney reasonably believes relate to whether a collaborative law process is appropriate, including reasonably available alternatives to a collaborative law process;
- (2) provide the client with information that the attorney reasonably believes is sufficient for the client to make an informed decision about the material benefits and risks of a collaborative law process;
- (3) advise the client that participation in a collaborative law process is voluntary and any party has the right unilaterally to terminate a collaborative law process with or without cause;

(4) explain to the client that if the collaborative law proceeding terminates prior to full resolution of all collaborative matters, the client will need to obtain another attorney or proceed without an attorney; and

(5) make a reasonable effort to determine whether the client has a history of a coercive or violent relationship with another prospective party, and if such circumstances exist, to determine whether a collaborative law process is appropriate.

(b) Certification and Acknowledgment. In addition to complying with the requirements of Code, Courts Article, § 3-2002, a collaborative law participation agreement shall contain a certification by each collaborative attorney that the collaborative attorney has complied with section (a) of this Rule and an acknowledgment by all parties of the requirements under Rule 17-506 applicable to the party's attorney and to each other attorney who will participate in the collaborative law process.

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-503, MD R ADR Rule 17-503

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-504

RULE 17-504. STAY

(a) Motion. The parties to a pending court action may file a joint motion to stay court proceedings during a collaborative law process. The motion shall include a certification that a collaborative law participation agreement that complies with the requirements of Code, Courts Article, § 3-2002 and Rule 17-503 has been signed by all parties and their attorneys.

(b) Order; Extension of Stay. Subject to sections (c) and (d) of this Rule, upon the filing of a joint motion by all parties, the court shall stay court proceedings for a reasonable period of time during the collaborative law process, unless the court finds the existence of extraordinary circumstances requiring denial of the motion. On motion of the parties, for good cause shown, the court may enter an order to extend a stay. An order to stay court proceedings and an order to extend a stay shall specify the date on which the stay terminates, subject to an earlier lifting of the stay in accordance with section (d) of this Rule.

(c) Proceedings During Stay. During a stay, a party and the party's attorney may appear before a court to:

(1) request or defend against a request for an emergency order to protect the health, safety, welfare, or interest of a party or party eligible for relief; or

(2) request approval of a full or partial settlement of a collaborative law matter.

Cross reference: See Code, Courts Article, §§ 3-2004 and 3-2005.

(d) Lift of Stay. A court shall lift a stay:

(1) upon request of any party;

(2) on the date stated in an order for stay or for extension of the stay entered pursuant to section (b) of this Rule;

- (3) for lack of prosecution under Rule 2-507 or 3-507; or
- (4) as necessary to comply with statutory time requirements for proceedings in an orphans' court or before a register of wills relating to the settlement of decedents' estates under Title 6 of the Maryland Rules.

Committee note: Time elapsed during a stay under this Rule is not included in the computation of time under any applicable case management time standards or guidelines.

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-504, MD R ADR Rule 17-504

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-505

RULE 17-505. TERMINATION OF COLLABORATIVE LAW PROCESS; WITHDRAWAL OF APPEARANCE

(a) If All Collaborative Matters Resolved. At the conclusion of a collaborative law process that resolves all collaborative matters and all other issues in an action pending in a court, the parties shall file:

- (1) a stipulation of dismissal;
- (2) a consent judgment; or
- (3) a request for other appropriate relief necessary or desirable to implement the parties' agreement resulting from the collaborative law process.

(b) Unresolved Collaborative Matters. If a collaborative matter or other issue remains unresolved at the conclusion of a collaborative law process pertaining to an action pending in a court, a collaborative law attorney shall:

- (1) notify the court that the collaborative law process has terminated and, if a stay is in effect, request that it be lifted;
- (2) if the parties agreed to a resolution of any collaborative matter that requires court action for implementation of the parties' agreement, request such action from the court; and
- (3) file a notice or a motion, as appropriate, to withdraw.

Cross reference: See Rules 2-132 and 3-132.

(c) Motion to Require Compliance. If a collaborative attorney who is required to file a notice or motion to withdraw has not done so within a reasonable time after termination of the collaborative law process, a party may file a motion to require the collaborative law attorney to comply with subsection (b)(3) of this Rule.

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-505, MD R ADR Rule 17-505

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-506
RULE 17-506. SCOPE OF REPRESENTATION

(a) Definitions. In this Rule, “firm” and “screened” have the meanings stated in Rule 19-301.0 of the Maryland Attorneys' Rules of Professional Conduct.

(b) Generally. Except as otherwise provided in section (c) of this Rule:

(1) a collaborative attorney who represents a client in a collaborative law process pursuant to a collaborative law participation agreement may not represent a party in a proceeding related to the collaborative matter, notwithstanding any subsequent agreement between the client and the attorney; and

(2) an attorney associated with a firm with which the collaborative attorney is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative attorney is prohibited from doing so under this section.

(c) Exceptions.

(1) If the collaborative attorney is associated with a firm that is (A) a legal services organization providing legal services to indigent individuals or (B) the legal department of a government, another attorney in the firm may represent the collaborative attorney's client in a proceeding, provided that the collaborative attorney is timely screened from participation in the subsequent representative and full disclosure of this exception is made and acknowledged in the collaborative law participation agreement.

Cross reference: See Rule 17-503(b).

(2) A collaborative attorney may represent a party in connection with the filing of a stipulation, consent judgment, or request for court action to implement an agreement resolving a collaborative matter.

Cross reference: See Rule 17-505(a) and (b)(2).

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015. Amended June 6, 2016, eff. July 1, 2016.]

MD Rules, Rule 17-506, MD R ADR Rule 17-506

Current with amendments received through October 1, 2016.

MD Rules, Rule 17-507
RULE 17-507. CONFIDENTIALITY; PRIVILEGE

Code, Courts Article, §§ 3-2008 through 3-2011 govern confidentiality of collaborative law communications and the privilege against disclosure of information.

Source: This Rule is new.

Credits

[Adopted March 2, 2015, eff. July 1, 2015.]

MD Rules, Rule 17-507, MD R ADR Rule 17-507
Current with amendments received through October 1, 2016.