



January 2020 News

News from the Tennessee Association of Professional Mediators



SAVE THE DATE!

TAPM ANNUAL SEMINAR

APRIL 3, 2020

Lipscomb University Shinn Center

Nashville TN

MYRA C. SELBY

“Mediation of Health Care Disputes”

and

"Race and Gender Fairness in ADR"

Annual Meeting Registration Coming Soon!

Check your e-mail for updates

PAID ON OR BEFORE

March 28, 2020

1. TAPM Member Renewing 2020 Dues

\$150.00 CLE/CME Fee

\$100.00 2019 Dues

\$250.00 TOTAL

2. Previously Renewed TAPM Member

\$150.00 CLE/CME Fee

3. Associate Member 2020 Dues & CLE/CME

\$150.00 CLE/CME Fee

\$ 50.00 2019 Dues

\$200.00 TOTAL

4. NON TAPM MEMBER

\$300.00 CLE/CME Fee

5. Lunch ONLY \$30.00

Early student rate: \$50.00

PAID AFTER

March 28, 2020

6. TAPM Member Renewing 2020 Dues

\$200.00 CLE/CME Fee

\$100.00 2019 Dues

\$300.00 TOTAL

7. Previously Renewed TAPM member

\$200.00 CLE/CME Fee

8. Associate Member 2020 Dues & CLE/CME

\$200.00 CLE/CME Fee

\$ 50.00 2019 Dues

\$250.00 TOTAL

9. NON TAPM Member

\$350.00 CLE/CME Fee

10. Lunch ONLY \$35.00

Late student rate: \$60.00

Challenges for Mediators in the New Year

By John Duval and Regina Newson

It is the beginning of the new year. It is time for each of us to do personal assessments as well as business assessments. These are not easy exercises. I am asking each of you to look back over last year and see where you can make improvements that will help you physically as well as mentally.

Self-Assessments – begin with common place questions for yourself. These are questions and answers that you do not have share with anyone. This is an exercise that is meant to help you grow personally.

The questions should be simple questions such as ...

How do I feel about me?

Who am I?

What do I want for me?

What do I feel was my greatest accomplishment last year?

What do feel was my biggest mistake that I made last year?

What behaviors do I feel that I need to change about me...attitude, dress, etc.?

What practices do I need to put in place that will help me view myself differently?

As you begin to look back on the year, you can and should add more questions to your list.

Business-Assessment – Ask yourself questions about your business practices.

How many mediations did you perform last year? For pay and pro bono?

For those mediations that settled...why did they settle?

For those that did not settle...why did they reach an impasse?

What if anything could you have one to change the outcome?

Where did you conduct these mediations?

What did you think about your location for the mediation? [Is it your space or someone else's office? Do you feel safe in that space?]

Are you doing enough networking?

Who are you networking with?



Do you feel that the training that you received has been adequate to equip you to conduct complex mediations?

Who is mentoring you?

Do you know enough about a business to open a business?

What about technology...how does it fit into your world?

The questions listed above are used only as means to get you to start thinking about yourself and what you want your future to look like in mediation.

What is holding you back?

A lot of mediators say they are not getting enough work. I listen to what they are saying, I begin to ask questions...such as where are you looking for your work? Most have a very unrealistic idea that the work will automatically come to them. I do not know of any work that automatically comes to you. You (the mediator) must find the work, make yourself available to do the work, and get your name out there. Not only must you do mediations you must be able to do other things...such as write HR policies, have an active therapy practice or another business. Mediation is a tool in your arsenal of tools that you use daily in dealing with life situations and the stressors that it brings.

Conclusion

You begin the process by doing the self-assessment. Be honest with your-self. Accept no excuses for where you are in your life's journey. You work on you. Each of you should remember that you are constantly changing and evolving as a person, this too should be going on with your practice.

John Duval is President of TAPM. He is also a family therapist.

Regina Newson, Editor for TAPM Newsletter



Effectively Mediating Special Education Disputes

by Joe Jarret

It's been said that you just can't fight city hall. It is a result of this misnomer that many parents of special needs children are reluctant to confront their child's school when disputes arise over their child's education needs. A review of the legislative history leading up to the enactment of §300.506, of the United States Code ("the Code") entitled "Mediation" revealed that the motivation behind its passage was, in part, to encourage parents to avail themselves of the mediation process. The Code requires boards of education/school districts to ensure that procedures are established and implemented to allow disputing parties to resolve their disputes through a mediation process, at no cost to the parents/guardians of the special needs child. The Code likewise requires that the mediation process be voluntary on the part of all

parties, and conducted by a qualified and impartial mediator who is trained in effective mediation techniques. Further, states must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

Special Education Mediation in Tennessee:

In Tennessee, the parent(s)/legal guardian(s) of a child with a disability has the right to fully participate in the educational decisions concerning their child, up to and including mediation. If a language barrier is present, then the parent(s)/legal guardian(s) are not fully participating. If the parent/legal guardian requires an interpreter at the meeting to ensure full involvement and understanding, the district has a duty to coordinate the necessary support ahead of time, so that arrangements can be made to have an interpreter present. This includes sign language interpreters. Whenever possible, the interpreter should be an individual familiar with the school district and/or familiar with special education policies and procedures. Parent(s)/legal guardian(s) of homeless, migrant, and/or immigrant students are entitled to the same meaningful participation in their child's education as every parent/legal guardian. Further, as is the case with any other mediation in Tennessee, discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court. Finally, each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution.



The Process:

The Individuals with Disabilities Education Act (IDEA), the Federal law concerning the education of students with disabilities, requires schools to provide parents of a child with a disability with a notice containing a full explanation of the procedural safeguards available under the IDEA, U.S. Department of Education regulations and Tennessee law and regulations. The Tennessee Department of Education encourages alternative dispute resolution when conflicts between parents and schools arise, and as such, recommends that parents/guardians consider taking the following steps before filing an Administrative Complaint:

- Contact the teacher or service provider and discuss the concerns.
- Notify the principal and request his/her assistance.
- Request an IEP team meeting.
- Contact the Special Education Director/Supervisor of the school system. Make him/her aware of the concerns and provide the results of any contact with the teacher, principal, etc.
- Call the Tennessee Department of Education Office of General Counsel and ask to speak with the IDEA Complaint Investigator assigned to the school system.

In terms of mediation, the Tennessee Department of Education, Division of Special Education provides parents with a Special Education Mediation Request Form to facilitate the mediation process.

Special Education Mediation Challenges:

Special education mediation is unique in that, unlike personal injury or other disputes, parents and their children, in most special education disputes, must look at continuing their relationship with a school or school district. This may often be for a significant part of the child's educational career. As noted by mediator James R. Mortenson, for many parents, the prospect of resorting to litigation with their child's school, i.e. a due process hearing (during which the parties present written evidence about the disputed issue and have witnesses testify before a hearing officer), is often viewed as potentially harmful of that relationship. For parents, there may be no relationship more important than that between their family and the school that they entrust to educate their child.

Through mediation, communication can be reestablished. Both sides have the opportunity to talk about their positions and interests and hear the other's side. This goes a long way to healing and rebuilding that important relationship. Even when a party is successful in litigation, they have been emotionally drained. The parties can walk away from a successful mediation with a feeling of accomplishment instead of feeling worn out. Though they may compromise certain positions, the parties can explore ways to satisfactorily fulfill their interests. Mediation can even include positive brainstorming in which the parties change roles to come up with creative solutions. If a parent is able and willing they can, without fear of showing weakness or acknowledging the district's position which could somehow be used against them in litigation, put themselves in the shoes of a district decision maker. They may be able to add a perspective to the situation, as the district sees it, that the district did not realize or acknowledge before. The same is true for district staff. They may put themselves in the role of a parent and offer an additional perspective which may lead to a mutually satisfying solution. This is just one example of how the mediation process can work in both rectifying the dispute and rebuilding the trust and communication that are so critical in a family/school relationship [1].

Summary:

The education of a child with a disability should never suffer due to a parent's reluctance or unwillingness to confront a school on accommodations or modifications. By availing themselves of the mediation process, parents can go a long way in insuring that their child's need are met while maintaining a positive relationship with the teachers responsible for insuring their education.

[1] See, Mortenson, James R., The International Dyslexia Association's quarterly newsletter

**Joe Jarret is a Rule 31 Listed General Civil Mediator, a Federal Mediator and an Attorney who lectures full-time for the University of Tennessee, Graduate School of Public Policy and Administration. A former active duty United States Army Armored Cavalry Officer and Air Force Special Agent with service overseas, Joe is an award-winning writer who has published over 85 articles in various professional journals. He is the immediate past-president of the Tennessee Valley Mediation Association, has served as a board member for the Tennessee Association of Professional Mediators, and is a member of the Tennessee Bar Association, and the ADR Section of the Knoxville Bar Association. He holds the juris doctorate degree, the masters in public administration degree, a bachelors degree and is a candidate for the Ph.D. in educational leadership.*

From the Editor's Desk

by Regina B. Newson

This has been reprinted with permission of the Administrative Office of the Courts (ADR) from their ADR Letter dated December 23, 2019 to all Rule 31 Listed Mediators.



Rule 31 Annual Renewal Late Registration Fee Postponed to March 1, 2020

Increased Late Registration Fee delayed until March 1st, 2020.

As you may know the Annual Renewal process for all Tennessee Rule 31 Mediators is now submitted through the ADR Portal: <https://adrrenewal.tncourts.gov/>

The Alternative Dispute Resolution Commission and ADR Staff appreciate your willingness to use and adopt the new Mediator Portal.

More than two-thirds of all Rule 31 Mediators have logged in to renew and submit reports since the ADR Portal was launched in October.

To build on this success...

Today the ADR Commission announces a one-time policy wavier to delay the increased Late Registration Fee until March 1st, 2020.

This delay of the Late Registration Fee will allow our team to:

- 1) provide adequate notice to all Rule 31 Mediators and
- 2) ensure appropriate customer service and response during this time of change

Therefore, effective immediately the increase in the renewal fee for Late Registration from \$100 to \$150 has been delayed for 60 days from January 1, 2020 to March 1st, 2020.

**** NOTE:** *This message intended only for Mediators that have not submitted a 2020 Annual Renewal. If you submitted a Renewal, we THANK YOU and you are not impacted by this change. We are currently matching up payment, reviewing renewals, and approving. You have no further action at this time. ***

We encourage you to continue to your Annual Renewal here: <https://adrrenewal.tncourts.gov/>

THANK YOU for your willingness to embrace this new process.

If you hit a roadblock, email us at any time and we will help you through the steps.

The ADR Portal login and help team can be reached at ADRRegistration@tncourts.gov and [615-741-2687](tel:615-741-2687):

User Accounts & Login: Amy Park

CMEs and Renewals: John Jefferson & Stephanie Brake

HELPFUL LINKS:

ADR Portal for Reports and Renewal:

<https://adrrenewal.tncourts.gov>

Resources for Mediators:

<http://tncourts.gov/programs/mediation/resources-mediators>

Login How to:

Guide: http://tncourts.gov/sites/default/files/docs/access_management_portal_user_guide.pdf

ADR Portal How to:

Guide: http://tncourts.gov/sites/default/files/docs/adr_mediator_guide.pdf

If you need CMEs before Dec 31st: <http://tncourts.gov/programs/mediation/resources-mediators/continuing-meditation-education>

As a reminder, please find relevant excerpts of Rule 31 regarding CME's and the Annual Renewal and Policy #16 below:

16. A Rule 31 listed mediator must renew his/her listing on or before December 31 of each year. The renewal fee for renewal applications received on or before December 31 of each year shall be \$100.00. The renewal fee for renewal applications received between January 1 –March 31 shall be \$150.00. The Rule 31 listed mediator who renews his/her listing during this time will still be in "active" status and can conduct Rule 31 mediations. If a renewal application and fee are not received by March 31 for the current renewal year, the listing lapses. (Adopted 07/29/14) (Revised 4/23/19) <http://www.tncourts.gov/programs/mediation/resources-mediators/policies>

- - Policy Waiver approved December 23, 2019 - -

"Due to the transition of the Rule 31 Listing annual renewal process from a paper renewal to only ONLINE and in order to provide proper notice and appropriate service and response to Rule 31 Mediators, the implementation date for the increased fee of \$150.00 shall be changed from January 1, 2020 to March 1, 2020. This fee waiver is only applicable to the 2020 Renewal season. "

Section 15. Additional Obligations of Rule 31 Mediators: <https://www.tncourts.gov/rules/supreme-court/31>

Rule 31 Mediators must maintain a current mailing address, e-mail address, and phone number with the Programs Manager of the Administrative Office of the Courts. Any change of mailing address, e-mail address, or phone number must be provided within thirty days of such change.

(a) Continuing Mediation Education

To remain listed by the ADRC, Rule 31 Mediators shall comply with the following continuing mediation education ("CME") requirements:

(1) Courses for continuing education under this Rule may include but are not limited to, courses approved by the Commission on Continuing Legal Education & Specialization, programs approved by professional licensing agencies, programs provided by not-for-profit community mediation centers and not-for-profit mediation associations.

(2) Rule 31 Mediators must complete six hours of continuing mediation education every two years.

(i) General Civil Mediators - The six hours shall consist of:

(A) Three hours in mediation continuing education, of which at least one hour shall be related to mediation ethics, and

(B) Three hours general continuing education.

(ii) Family Mediators - The six hours shall consist of:

(A) Three hours in mediation continuing education, of which at least one hour shall be related to mediation ethics, and

(B) Three hours continuing education in family law.

(iii) Meeting the Rule 31 Family Mediator listing continuing education requirements will also meet the Rule 31 General Civil Mediator listing continuing education requirements. For dually listed Rule 31 Mediators who were not initially listed in the same year, the Mediator shall complete the hours required in Section 15(a)(2)(i-ii) of this Rule every two years based on the initial listing year of the Family listing.

(3) Rule 31 Mediators who are attorneys are not exempt from the continuing mediation education requirements of Rule 31 Section 15(a) of this Rule as a result of the age exemption for continuing legal education pursuant to Supreme Court Rule 21, Section 2.04(c).

(4) Failure to comply with continuing education requirements by March 31 following the year the hours were due will result in the lapse of the Rule 31 Mediator's listing. Mediators cannot choose to have their listing(s) lapse and then have the listing(s) re-activated upon completion of CME hours that were past due.

(5) A mediator whose credentials have lapsed for failure to comply with CME requirements must re-apply to the ADRC for listing and must have taken all required training per section 14. If previous training was completed prior to six years from the re-application for listing, it is no longer valid and the applicant must re-take the training pursuant section 14. CME hours for dually listed mediators are due every two years based on the initial listing year of the Family listing. Failure to renew or comply with CME requirements based on the initial listing year of the Family listing will result in the lapse of credentials for both listings. Per (a)(2)(iii) of this section, meeting the Rule 31 Family Mediator listing continuing education requirements will also meet the Rule 31 General Civil Mediator listing continuing education requirements.

(b) Annual Renewal of Rule 31 Mediator Status. As a condition of continued listing, each Rule 31 Mediator must file an annual renewal form with the AOC Programs Manager stating that he/she is in good standing with any professional licensing agency or organization, if applicable, provide proof of attendance/completion of required continuing mediation education, and must pay the annual registration fee set by the ADRC. If all

requirements of a Rule 31 Mediator's annual renewal have not been completed by March 31 of the renewal year, then the Rule 31 Mediator's listing lapses.

Please note: This is a general reminder notice that is being sent to all Rule 31 Listed Mediators. Please disregard if you have already submitted your 2020 Renewal requirements to the AOC. Programs staff will contact you directly if additional information is needed to process your renewal.

Important News: TAPM has a new number.

615-775-9686

If you have an article that you want published in the TAPM Newsletter, please contact the Editor, Regina B. Newson at reginanewson@bellsouth.net.

TAPM Dues Are Now Due

Dues are \$100.00

Have you renewed your TAPM DUES? Your dues expire on the one year anniversary date of your last payment. We hope you will continue to support TAPM and renew today.

Visit our website