

78B-6-205 Judicial Council rules for ADR procedures.

- (1) To promote the use of ADR procedures, the Judicial Council may by rule establish experimental and permanent ADR programs administered by the Administrative Office of the Courts under the supervision of the director of Dispute Resolution Programs.
- (2) The rules of the Judicial Council shall be based upon the purposes and provisions of this part. Any procedural and evidentiary rules adopted by the Supreme Court may not impinge on the constitutional rights of any parties.
- (3) The rules of the Judicial Council shall include provisions:
 - (a) to orient parties and their counsel to the ADR program, ADR procedures, and the rules of the Judicial Council;
 - (b) to identify types of civil actions that qualify for ADR procedures;
 - (c) to refer to ADR procedures all or particular issues within a civil action;
 - (d) to protect persons not parties to the civil action whose rights may be affected in the resolution of the dispute;
 - (e) to ensure that no party or its attorney is prejudiced for electing, in good faith, not to participate in an optional ADR procedure;
 - (f) to exempt any case from the ADR program in which the objectives of ADR would not be realized;
 - (g) to create timetables to ensure that the ADR procedure is instituted and completed without undue delay or expense;
 - (h) to establish the qualifications of ADR providers for each form of ADR procedure including that formal education in any particular field may not, by itself, be either a prerequisite or sufficient qualification to serve as an ADR provider under the program authorized by this part;
 - (i) to govern the conduct of each type of ADR procedure, including the site at which the procedure is conducted;
 - (j) to establish the means for the selection of an ADR provider for each form of ADR procedure;
 - (k) to determine the powers, duties, and responsibilities of the ADR provider for each form of ADR procedure;
 - (l) to establish a code of ethics applicable to ADR providers with means for its enforcement;
 - (m) to protect and preserve the privacy and confidentiality of ADR procedures;
 - (n) to protect and preserve the privacy rights of the persons attending the ADR procedures;
 - (o) to permit waiver of all or part of fees assessed for referral of a case to the ADR program on a showing of impecuniosity or other compelling reason;
 - (p) to authorize imposition of sanctions for failure of counsel or parties to participate in good faith in the ADR procedure assigned;
 - (q) to assess the fees to cover the cost of compensation for the services of the ADR provider and reimbursement for the provider's allowable, out-of-pocket expenses and disbursements; and
 - (r) to allow vacation of an award by a court as provided in Section 78B-11-124.
- (4) The Judicial Council may, from time to time, limit the application of its ADR rules to particular judicial districts.

Amended by Chapter 367, 2011 General Session