

# Florida Rules for Court-Appointed Arbitrators

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## Part I Arbitrator Qualifications

### Rule 11.010 Qualification

Arbitrators shall be members of The Florida Bar, except where otherwise agreed by the parties. The chief arbitrator shall have been a member of The Florida Bar for at least five years. Individuals who are not members of The Florida Bar may serve as arbitrators only on an arbitration panel and then only upon the written agreement of all parties.

### Rule 11.020 Training

All arbitrators, except as noted below, shall attend 4 hours of training in a program approved by the Supreme Court of Florida. This rule shall not preclude the parties from agreeing to use the services of an arbitrator who has not completed the required training. Any former Florida trial judge who has not completed the training shall be exempt from the training requirements upon submission of documentation of such experience to the chief judge. The Supreme Court or chief justice may grant a waiver of the training requirement to any group possessing special qualifications which obviate the necessity of such training.

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## Part II Standards of Professional Conduct

### Rule 11.030 Preamble

(a) Scope; Purpose. These rules are intended to instill and promote public confidence in arbitration conducted pursuant to Chapter 44, Florida Statutes, and to be a guide to arbitrator conduct. As with other forms of dispute resolution, arbitration must be built on public understanding and confidence. Persons serving as arbitrators are responsible to the parties, the public, and the courts to conduct themselves in a manner which will merit that confidence. These rules apply to all arbitrators who participate in arbitration conducted pursuant to Chapter 44 and are a guide to arbitrator conduct in discharging their professional responsibilities in the arbitration of cases in the State of Florida.

(b) Arbitration Defined. Pursuant to chapter 44, Florida Statutes, arbitration is a process whereby a neutral third person or panel considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

### Rule 11.040 General Standards and Qualifications

(a) Integrity, Impartiality, and Competence. Integrity, impartiality, and professional competence are essential qualifications of any arbitrator. An arbitrator is in a relation of trust to the parties and shall adhere to the highest standards of integrity, impartiality, and professional competence in rendering professional service.

- (1) An arbitrator shall not accept any engagement, perform any service, or undertake any act which would compromise the arbitrator's integrity.
- (2) An arbitrator shall maintain professional competence in arbitration skills including, but not limited to:
  - (A) staying informed of and abiding by all statutes, rules, and administrative orders relevant to the practice of arbitration conducted pursuant to Chapter 44, Florida Statutes; and
  - (B) regularly engaging in educational activities promoting professional growth.
- (3) An arbitrator shall decline appointment, withdraw, or request technical assistance when the arbitrator decides that a case is beyond the arbitrator's competence.

(b) Concurrent Standards. Nothing herein shall replace, eliminate, or render inapplicable relevant ethical standards, not in conflict with these rules, which may be imposed upon any arbitrator by virtue of the arbitrator's professional calling.

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(c) Continuing Obligations. The ethical obligations begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, whenever specifically set forth in these rules, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator, and certain ethical obligations continue even after the decision in the case has been given to the parties.

### **Rule 11.050 Responsibilities to the Courts**

An arbitrator shall be candid, accurate, and fully responsive to a court concerning the arbitrator's qualifications, availability, and all other pertinent matters. An arbitrator shall observe all administrative policies, local rules of court, applicable procedural rules, and statutes. An arbitrator is responsible to the judiciary for the propriety of the arbitrator's activities and must observe judicial standards of fidelity and diligence. An arbitrator shall refrain from any activity which has the appearance of improperly influencing a court to secure placement on a roster or appointment to a case, including gifts or other inducements to court personnel.

### **Rule 11.060 The Arbitration Process**

(a) Avoidance of Delays. An arbitrator shall plan a work schedule so that present and future commitments will be fulfilled in a timely manner. An arbitrator shall refrain from accepting appointments when it becomes apparent that completion of the arbitration assignments accepted cannot be completed in a timely fashion. An arbitrator shall perform the arbitrator's services in a timely and expeditious fashion, avoiding delays whenever possible.

(b) Conduct of Proceedings.

(1) An arbitrator shall conduct the proceedings evenhandedly and treat all parties with equality and fairness at all stages of the proceedings.

(2) An arbitrator must afford a hearing which provides both parties the opportunity to present their respective positions pursuant to the arbitration rules.

(3) An arbitrator should be patient and courteous to the parties, to their lawyers, and to the witnesses and should encourage similar conduct by all participants in the proceedings.

(c) Decision-Making.

(1) An arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.

(2) An arbitrator should not delegate the duty to decide to any other person.

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(3) If all parties agree upon a settlement of the issues in dispute and request an arbitrator to embody that agreement in an award, an arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of the settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.

(d) The Award. The award should be definite, certain, and as concise as possible.

### Rule 11.070 Ex Parte Communication

(a) General. Arbitrators communicating with the parties should avoid impropriety or the appearance of impropriety.

(b) When Permissible. Arbitrators should not discuss a case with any party in the absence of each other party, except in the following circumstances:

(1) Discussions may be held with a party concerning such matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express its views.

(2) If a party fails to be present at a hearing after having been given due notice, the arbitrator may discuss the case with any party who is present.

(3) If all parties request or consent that such discussion take place.

(c) Written Communications. Whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to each other party. Whenever an arbitrator receives any written communication concerning the case from one party which has not already been sent to each other party, the arbitrator should do so.

### Rule 11.080 Impartiality

(a) Impartiality. An arbitrator shall be impartial and advise all parties of any circumstances bearing on possible bias, prejudice, or impartiality. Impartiality means freedom from favoritism or bias in word, action, and appearance.

(1) Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, fear of criticism, or self-interest.

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- (2) An arbitrator shall withdraw from an arbitration if the arbitrator believes the arbitrator can no longer be impartial.
- (3) An arbitrator shall not give or accept a gift, request, favor, loan, or other item of value to or from a party, attorney, or any other person involved in and arising from any arbitration process.
- (4) After accepting appointment, and for a reasonable period of time after the decision of the case, an arbitrator should avoid entering into family, business, or personal relationships which could affect impartiality or give the appearance of partiality, bias, or influence.

### (b) Conflicts of Interest and Relationships; Required Disclosures; Prohibitions

- (1) An arbitrator must disclose any current, past, or possible future representation or consulting relationship with any party or attorney involved in the arbitration. Disclosure must also be made of any pertinent pecuniary interest. All such disclosures shall be made as soon as practical after the arbitrator becomes aware of the interest or relationship.
- (2) An arbitrator must disclose to the parties or to the court involved any close personal relationship or other circumstance, in addition to those specifically mentioned earlier in this rule, which might reasonably raise a question as to the arbitrator's impartiality. All such disclosures shall be made as soon as practical after the arbitrator becomes aware of the interest or relationship.
- (3) The burden of disclosure rests on the arbitrator. After disclosure, the arbitrator may serve if both parties so desire. If the arbitrator believes or perceives that there is a clear conflict of interest, the arbitrator should withdraw, irrespective of the expressed desire of the parties.
- (4) An arbitrator shall not use the arbitration process to solicit, encourage, or otherwise incur future professional services with either party.

### *Committee Notes*

The duty to disclose potential conflicts includes the fact of membership on a board of directors, full-time or part-time service as a representative or advocate, consultation work for a fee, current stock or bond ownership (other than mutual fund shares or appropriate trust arrangements), or any other pertinent form of managerial, financial or immediate family interest of the party involved. An arbitrator who is a member of a law firm is obliged to disclose any representational relationship the member firm may have had with the parties. Arbitrators establish personal relationships with many representatives, attorneys, arbitrators, other members of various professional associations. There should be no attempt to be secretive

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about such friendships or acquaintances, but disclosure is not necessary unless some feature of a particular relationship might reasonably appear to impair impartiality.

### **Rule 11.090 Relationship With Other Professionals**

When there is more than one arbitrator, the arbitrators should afford each other the full opportunity to participate in all aspects of the proceedings.

### **Rule 11.100 Fees and Expenses**

An arbitrator occupies a position of trust with respect to the parties and the courts. In charging for services and expenses, the arbitrator must be governed by the same high standard of honor and integrity which applies to all other phases of the arbitrator's work. An arbitrator must keep total charges for services and expenses reasonable and consistent with the nature of the case or within statutory payment limitations.

### **Rule 11.110 Training and Education**

(a) Training. An arbitrator is obligated to acquire knowledge and training in the arbitration process, including an understanding of appropriate professional ethics, standards, and responsibilities. Upon request, an arbitrator is required to disclose the extent and nature of the arbitrator's training and experience.

(b) Continuing Education. It is important that arbitrators continue their professional education throughout the period of their active service. An arbitrator shall be personally responsible for ongoing professional growth, including participation in such continuing education as may be required by law.

(c) New Arbitrator Training. An experienced arbitrator should cooperate in the training of new arbitrators.

### **Rule 11.120 Advertising**

All advertising by an arbitrator must represent honestly the services to be rendered. No claims of specific results or promises which imply favoritism to one side should be made for the purpose of obtaining business. An arbitrator shall make only accurate statements about the arbitration process, its costs and benefits, and the arbitrator's qualifications.

## **Part III Discipline**

### **Rule 11.130 Chief Judge Responsibility**

Arbitrators shall serve at the pleasure of the chief judge, who shall be responsible for enforcing the rules of conduct for arbitrators appointed pursuant to chapter 44, Florida Statutes.

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## *Committee Notes*

The Florida Supreme Court Standing Committee on Mediator and Arbitrator Rules believes that arbitrator discipline, unlike mediator discipline, should be administered by the chief judge rather than by a board appointed for that purpose. The primary reason for this distinction is that there is presently no statewide arbitrator certification process. Rather, arbitrators are made eligible by placement on a list by the chief judge. See Florida Rule of Civil Procedure 1.810(a). It was the feeling of the committee that a method of removal consistent with that of appointment, that is, discretion of the chief judge, would also be appropriate. The rules make the chief judge responsible for enforcing the rules of conduct for arbitrators appointed pursuant to chapter 44, Florida Statutes. The committee reserves the right to reconsider the effectiveness of this method of discipline after observing operation for a period of time. If this method of removal proves to be ineffective, a board to conduct discipline may need to be appointed. It should, however, be noted that a similar system for the removal of quasi-judicial officers exists in relation to masters, Florida Rule of Civil Procedure 1.490(a), child support enforcement officers, Florida Rule of Civil Procedure 1.491(c), and traffic magistrates, Florida Rule of Traffic Court 6.630(c).

Appeals from decisions of the chief judge shall be taken in the same manner as any other matter appealed from the chief judge.