

FMCS Proposes Access To Neutrals Initiative

The Federal Mediation and Conciliation Service (FMCS), created in 1947, is proposing a new regulation to establish an Access to Neutrals Initiative (ANI). The Access to Neutrals Initiative is a registry of professional private-sector neutrals such as mediators, lawyers, and others who meet and agree to abide by the informational, ethical, and continuing education requirements established by FMCS. The Access to Neutrals Initiative, in addition to including a registry, will also provide a consumer complaint process.

The Initiative, which began in 2000, was prompted by clients and stakeholders that require ready access to professional, private sector neutrals that concentrate on workplace and organizational disputes. In order to serve as a neutral on the registry, applicants must submit an application along with a \$250 application fee to FMCS and receive a minimum of 10 points in the categories of: ADR experience, ADR education/training, substantive education in the content area and experience in the content area. An online self-assessment will be available prior to filing the application in order for applicants to determine whether they are likely to meet the minimum qualifications.

The Agency director, the Access to Neutrals director, and the Neutrals Committee will manage the Registry. The registry will contain 200 or more neutrals gathered from an applicant pool and may exceed 1000. The Registry, which will be available on the FMCS website or by request from FMCS, is anticipated to be fully operational as early as the fall of 2004 following the current 60-day comment period which will end on July 7th.

*Persons interested in receiving periodic updates on the status of the Access to Neutrals Initiative should email Acting Director of the Access to Neutrals Initiative, Peggy A. McNeive at pmcneive@fmcs.gov.

Proposed ADR Access to Neutrals Point System

ADR experience (0-9 points, at least 1 point is required in this area)*

9 points = Substantial ADR experience with large and complex cases of significance (large money cases, large number of complex issues or complex relationships between the parties, cases of national significance)

7 points = Conduct or co-conduct 120 ADR procedures in employment dispute cases

5 points = 80 employment cases or 120 other cases, of which 40 must be employment cases

3 points = 40 employment cases or 80 other cases, of which 20 must be employment cases

1 point = 20 employment cases or 50 other cases, of which 10 must be employment cases

*ADR experience may include acting as a third party neutral in any dispute procedure that is used in lieu of adjudication to resolve issues in controversy including, but not limited to, settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini-trials or any combination thereof. For the purpose of this application arbitration is specifically excluded from the definition of alternative dispute resolution. To count as a case, the neutral must have been present for at least one face-to-face, or electronic meeting, between/among participants.

ADR education/training (0-5 points, at least 1 point is required in this area**)

5 points = Documentation of successful completion of an established academic course of study in conflict resolution conducted by FCMS, its academic partners or other academic institutions, with a letter of recommendation from a faculty member who has observed the applicant in an ADR session, or documentation that the alternative dispute resolution program met equivalent standards as those accredited by FMCS. A course must include at least 200 classroom hours of instruction and role-play to be considered as an established course of study in conflict resolution.

3 points = 160 hours of documented training in conflict resolution with proof of individualized feedback in ADR procedures practice or role-play

1 point = 120 hours of documented training in conflict resolution with proof of individualized feedback in ADR procedures practice or role-play

Substantive experience in roster content area (0-2 points, at least 1 point must be received in either this area or in the area of substantive education in the roster area)

2 points = 10 years experience in workplace conflict resolution. Examples: employment law attorney, human resource director, labor organization representative, equal employment opportunity specialist

1 point = 5 years of experience in workplace conflict resolution

Substantive education in roster content area (0-2 points, at least one point must be received in either this area or the substantive experience in the roster area)**

2 points = Possesses a significant educational background in the employment or dispute resolution area (degree or in roster area, such as labor-management relations, human resource management, employment law, etc.

1 point = Attendance in a documented introductory training program of at least 40 hours of classroom hours in the roster area.

**Educators can be awarded points in these areas of teaching; however, they cannot be awarded points for teaching the same class more than once; they can be awarded points for teaching more than one class in the area, as long as it does not cover substantially the same material.

