

OPEN FOR COMMENT UNTIL JANUARY 2, 2019

SPCM VII. Conflicts of Interest:

(C) 1. A mediator may not mediate a dispute in which the mediator has served as a professional for one or more of the parties, if the dispute to be mediated arises out of the same facts or circumstances. Whether or not the mediator has served as a professional shall be decided under the mediator's professional Rules and Standards of Conduct.

2. A mediator may not mediate a dispute in which the mediator has served as a professional for one or more of the parties under any circumstances, unless **the mediator** provides to the parties full disclosure of any potential conflict of interest and unless **the parties** make a knowing and intelligent, written waiver permitting the mediator to mediate the dispute.

A knowing and intelligent waiver means that the parties understand the potential conflicts and make an informed decision about the mediator's ability to serve as a Neutral.

3. If the mediator is disqualified under this rule, all members of the mediator's professional organization are disqualified from serving as the mediator in the dispute.

4. Determination of whether a mediator may serve as a professional in a matter in which the mediator previously served as a mediator shall be governed by the rules of professional conduct governing that professional/mediator. In analyzing the mediator's obligations under those rules, the professional/mediator shall take into consideration the confidentiality rules that apply when acting as a mediator under these Rules. If these Rules will be violated by such representation, the mediator may not serve as counsel even if the conflict would otherwise be waivable under the mediator's professional Rules and Standards of Conduct.