

In December of 2018, the DRC proposed a modification to Standard VII. Conflicts of Interest. The modified version was posted for comment until January 2, 2019. Due to the numerous comments received that requested clarification, the DRC proposes a new version of the Standard addressing conflicts of interest. Please review the proposed language below and comment by April 8, 2019.

## **OPEN FOR COMMENT UNTIL APRIL 8, 2019**

### **SPCM VII. Conflicts of Interest:**

- (C) 1. Questions about conflicts of interest may arise for a mediator where the mediator previously has served as a non-mediator professional for one or more of the parties.
- a. Whether the mediator developed a professional relationship with one or more of the parties shall be decided under that profession's rules, and the mediator has a duty to consult that profession's rules and if necessary, the appropriate ethics officials to make that determination.
  - b. If the rules for that profession dictate that there is a conflict of interest and that the conflict is not waivable, then the conflict shall not be waivable under this Section. If the rules for that profession dictate that the conflict is waivable, then it is waivable under this Section, but only if the mediator complies with that profession's requirements for waiver and the requirements for waiver set out below in this Section.
  - c. In all roles, the mediator remains obligated to abide by these Standards, including Standard III Confidentiality.
2. A waiver is valid under this Section, when the mediator provides to the parties a full, written disclosure of any potential conflict of interest and the parties sign 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 conflict(s) and have made an informed decision about the mediator's ability to serve as a Neutral.

3. If the mediator is disqualified under this Section, all members of the mediator's professional business entity through which the mediator conducts their professional practice are disqualified from serving as the mediator in the dispute.

4. Notwithstanding the foregoing, the mediator has a non-waivable conflict of interest when the mediator previously served as a non-mediator professional for one or more of the parties in a matter arising out of the same facts or circumstances as the matter to be mediated.