

## HUMBOLDT COUNTY SUPERIOR COURT

### Formal Complaint Policy for Mediation Program

As provided in 3.865, et seq. CRC, the court designates the Court Executive Officer as the individual authorized to receive inquiries and complaints about the conduct of mediators. All such complaints are required to be in writing and will be investigated and resolved by the Court Executive Officer or his or her designee as provided by rules. These rules are as follows:

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#### **CALIFORNIA RULES OF COURT**

##### **Rule 3.865. Complaint procedure required**

###### **(a) Court procedures required**

Each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in the court must establish procedures for receiving, investigating, and resolving complaints that mediators who are on the court's list or who are recommended, selected, appointed, or compensated by the court failed to comply with the rules for conduct of mediators set forth in this article, when applicable.

###### **(b) Actions court may take**

The court may impose additional mediation training requirements on a mediator, reprimand a mediator, remove a mediator from the court's panel or list, or otherwise prohibit a mediator from receiving future mediation referrals from the court if the mediator fails to comply with the rules of conduct for mediators in this article, when applicable.

##### **Rule 3.866. Designation of person to receive inquiries and complaints**

In each superior court that is required to establish a complaint procedure under rule 3.865, the presiding judge must designate a person who is knowledgeable about mediation to receive and coordinate the investigation of any inquiries or complaints about the conduct of mediators who are subject to rule 3.865.

##### **Rule 3.867. Confidentiality of complaint procedures, information, and records**

**(a)** This rule's requirement that rule 3.865 complaint procedures be confidential is intended to:

(1) Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115–1128;

(2) Promote cooperation in the reporting, investigation, and resolution of complaints about mediators on court panels; and

(3) Protect mediators against damage to their reputations that might result from unfounded complaints against them.

**(b)** All procedures for receiving, investigating, and resolving inquiries or complaints about the conduct of mediators must be designed to preserve the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

**(c)** All communications, inquiries, complaints, investigations, procedures, deliberations, and decisions about the conduct of a mediator under rule 3.865 must occur in private and must be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint under rule 3.865 may be open to the public or disclosed outside the course of the rule 3.865 complaint procedure except as provided in (d) or as otherwise required by law.

**(d)** The presiding judge or a person designated by the presiding judge for this purpose may, in his or her discretion, authorize the disclosure of information or records concerning rule 3.865 complaint procedures that do not reveal any mediation communications, including the name of a mediator against whom action has been taken under rule 3.865, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or designee should consider the purposes of the confidentiality of rule 3.865 complaint procedures stated in (a)(2) and (a)(3).

**(e)** In determining whether the disclosure of information or records concerning rule 3.865 complaint procedures is required by law, courts should consider the purposes of the confidentiality of rule 3.865 complaint procedures stated in (a). Before the disclosure of records concerning procedures under rule 3.865 is ordered, notice should be given to any person whose mediation communications may be revealed.

### **Rule 3.868. Disqualification from subsequently serving as an adjudicator**

A person who has participated in or received information about the receipt, investigation or resolution of an inquiry or a complaint under rule 3.865 must not subsequently hear or determine any contested issue of law, fact, or procedure concerning the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation, as a judge, an arbitrator, a referee, or a juror, or in any other adjudicative capacity, in any court action or proceeding.