

	<p style="text-align: center;"><b>American Bar Association CPR Policy Implementation Committee</b></p> <p style="text-align: center;"><b>Variations of the ABA Model Rules of Professional Conduct</b></p> <p style="text-align: center;"><b>Rule 2.4: Lawyer Serving as Third-Party Neutral</b></p> <p>(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.</p> <p>(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client.</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see <a href="http://www.abanet.org/cpr/jclr/home.html">http://www.abanet.org/cpr/jclr/home.html</a>.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: <a href="http://www.abanet.org/cpr/links.html">http://www.abanet.org/cpr/links.html</a>*</p>
AL Effective 2/19/09	Does not adopt
AK Effective 4/15/09	Same as MR
AZ Effective 12/1/03	Same as MR
AR Effective 5/1/05	Same as MR
CA Current Rule	[California's Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : <a href="http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf">http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf</a> ]
CO Effective 1/1/08	Same as MR
CT Effective	Same as MR

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1/1/07	
DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	Same as MR
FL Effective 5/22/06	Same as MR
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Does not have
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i>  Does not have
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	(b) Deletes “When the lawyer knows...in the matter, the lawyer;” Changes “the lawyers shall explain the difference” to “and shall explain to them the difference.”
IN Effective 1/1/05	Same as MR
IA Effective 7/1/05	Same as MR
KS Effective 7/1/07	Same as MR
KY Effective 7/15/09	Same as MR
LA Effective 3/1/04	Same as MR
ME Effective 8/1/09	Same as MR
MD Effective 7/1/05	Same as MR
MA Rules effective 9/1/08	Adds:  <i>(c) The role of third party neutral does not create a lawyer-client relationship with any of the parties and does not constitute representation of any of them. The lawyer shall not attempt to advance the interest of any of the parties at the expense of any other party.</i>  <i>(d) The lawyer shall not use any conduct, discussions or</i>

	<p><i>statements made by any party in the course of any alternative dispute resolution process to the disadvantage of any party to the process, or, without the informed consent of the parties, to the advantage of the lawyer or a third person.</i></p> <p><i>(e) When acting as a mediator, the lawyer shall undertake such role</i></p> <p><i>subject to the following additional conditions:</i></p> <p><i>(1) The lawyer must clearly inform the parties of the nature and limits of the lawyer’s role as mediator and should disclose any interest or relationship likely to affect the lawyer’s impartiality or that might create an appearance of partiality or bias. The parties must consent to the arrangement unless they are in mediation pursuant to a legal mandate.</i></p> <p><i>(2) The lawyer may draft a settlement agreement or instrument reflecting the parties’ resolution of the matter but must advise and encourage any party represented by independent counsel to consult with that counsel, and any unrepresented party to seek independent legal advice, before executing it.</i></p> <p><i>(3) The lawyer shall withdraw as mediator if any of the parties so requests, or if any of the conditions stated in this subdivision (e) is no longer satisfied. Upon withdrawal, or upon conclusion of the mediation, the lawyer shall not represent any of the parties in the matter that was the subject of the mediation, or in any related matter.</i></p>
<p>MI Rules effective 10/1/88</p> <p>Amendments effective 1/1/2011</p>	<p>Same as MR</p>
<p>MN Effective 10/1/05</p>	<p>Same as MR</p>
<p>MS Effective 11/3/05</p>	<p>Same as MR</p>
<p>MO Effective 7/1/07</p>	<p>Same as MR</p>
<p>MT Effective 4/1/04</p>	<p>Rule 2.3 is equivalent to MR Rule 2.4. added reference in (a) to “settlement masters.” (b): requires that all parties, not just unrepresented parties or those the</p>

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	lawyer knows do not understand the lawyer's role, be informed of the lawyer's focused role.
NE Effective 9/1/05	Rule 2.3 is equivalent to MR 2.4
NV Effective 5/1/06	Same as MR
NH Effective 1/1/08	Same as MR
NJ Effective 1/1/04	(b): Does not include "unrepresented" in first sentence.
NM Effective 11/2/09	Changed to Rule 16-204; (a) Renamed " <b>A. Definition of "third party neutral;"</b> " (b) Renamed " <b>B. Explanation of lawyer's role."</b>
NY Effective 4/1/09	(a) Adds quotation marks around "third-party arbitrator."
NC Effective 3/1/03	Same as MR
ND Effective 8/1/06	Rule 2.3 is the same as MR Rule 2.4.
OH Effective 2/1/07	Title: adds "Arbitrator, Mediator, or" before "Third-Party"
OK Effective 1/1/08	Same as MR
OR Effective 12/1/06	<p><i>Lawyer Serving as Mediator</i></p> <p>(a) <i>A lawyer serving as a mediator:</i></p> <p>(1) <i>shall not act as a lawyer for any party against another party in the matter in mediation or in any related proceeding; and</i></p> <p>(2) <i>must clearly inform the parties of and obtain the parties' consent to the lawyer's role as mediator.</i></p> <p>(b) <i>A lawyer serving as a mediator:</i></p> <p>(1) <i>may prepare documents that memorialize and implement the agreement reached in mediation;</i></p> <p>(2) <i>shall recommend that each party seek independent legal advice before executing the documents; and</i></p> <p>(3) <i>with the consent of all parties, may record or may file the documents in court.</i></p> <p>(c) <i>Notwithstanding Rule 1.10, when a lawyer is serving or has served as a mediator in a matter, a member of the lawyer's firm may accept or continue the representation of a party in the matter in mediation or in a related matter if all parties to the mediation give informed consent,</i></p>

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	<p><i>confirmed in writing.</i></p> <p><i>(d) The requirements of Rule 2.4(a)(2) and (b)(2) shall not apply to mediation programs established by operation of law or court order.</i></p>
PA Effective 7/1/06	Same as MR
RI Effective 4/15/07	Same as MR
SC Effective 10/1/05	<p><i>adds as (c): When one or more of the parties in a mediation is a current or former client of the neutral lawyer or the neutral's law firm, a lawyer may serve as a neutral only if the matter in which the lawyer serves as a neutral is not the same matter in which the lawyer or law firm represents or represented the party and all parties give informed consent confirmed in writing.</i></p>
SD Effective 1/1/04	Same as MR
TN Effective 1/1/2011	<p><i>Changes title to: "Lawyer as a Dispute Resolution Neutral;"</i></p> <p><i>(a) A lawyer serves as a dispute resolution neutral when the lawyer impartially assists two or more persons who are not clients of the lawyer to reach a resolution of disputes that have arisen between them. Service as a dispute resolution neutral may include service as a mediator; an arbitrator whose decision does not bind the parties; a case evaluator; a judge or juror in a mini-trial or summary jury trial as described in Supreme Court Rule 31; or in such other capacity as will enable the lawyer to impartially assist the parties resolve their dispute.</i></p> <p><i>(b) A lawyer may serve as a dispute resolution neutral in a matter if:</i></p> <ol style="list-style-type: none"><li><i>(1) the lawyer is competent to handle the matter;</i></li><li><i>(2) the lawyer can handle the matter without undue delay;</i></li><li><i>(3) the lawyer reasonably believes he or she can be impartial as between the parties;</i></li><li><i>(4) none of the parties to the dispute is being represented by the lawyer in other matters;</i></li><li><i>(5) the lawyer's responsibilities to a client, a former client, or a third person, or the lawyer's personal interests will not prevent the lawyer from providing competent and diligent service to each of the persons the lawyer will serve as a dispute resolution neutral;</i></li><li><i>(6) the lawyer communicates with each of the parties to the dispute, or their attorneys, about the lawyer's qualifications and experience as a dispute resolution neutral, the rules and procedures that will be followed in the proceeding, and the lawyer's responsibilities as a dispute resolution neutral, provided, however, that any party to the dispute who is represented by a lawyer may waive his or her right to all or part of the communication required by this paragraph;</i></li><li><i>(7) the lawyer communicates with each of the parties, or their</i></li></ol>

	<p><i>lawyers, about any responsibility of the lawyer, or a lawyer associated with the lawyer in a firm, to a client, a former client, or third person, or a personal interest of the lawyer of a lawyer associated with the lawyer in a firm, that presents a significant risk of materially affecting the lawyer's impartiality or materially limiting the dispute resolution services the lawyer will provide to the parties;</i></p> <p><i>(8) unless the service is pursuant to Supreme Court Rule 31, each of the parties, or their attorneys, provides informed consent, confirmed in writing, to the lawyer's service as a dispute resolution neutral in the matter; and</i></p> <p><i>(9) when the service is pursuant to Supreme Court Rule 31, the lawyer is qualified to serve in accordance with the requirements of that Rule.</i></p> <p><i>(c) While serving as a dispute resolution neutral, a lawyer shall:</i></p> <p><i>(1) act reasonably to assure that the parties understand the rules and procedures that will be followed in the proceeding and the lawyer's responsibilities as a dispute resolution neutral;</i></p> <p><i>(2) act impartially, competently, and expeditiously to assist the parties in resolving the matters in dispute;</i></p> <p><i>(3) promote mutual respect among the parties for the dispute resolution process;</i></p> <p><i>(4) as between the parties to the dispute and third persons, treat all information related to the dispute as if it were information protected by RPCs 1.6 and 1.8(b);</i></p> <p><i>(5) as between the parties to the dispute, treat all information obtained in an individual caucus with a party or a party's lawyer as if it were information related to the representation of a client protected by RPCs 1.6 and 1.8(b);</i></p> <p><i>(6) render no legal advice to any party to the dispute, but, if the lawyer believes that an unrepresented party does not understand how a proposed agreement might affect his or her legal rights or obligations, the lawyer shall advise that party to seek the advice of independent counsel;</i></p> <p><i>(7) accept nothing of value, other than fully disclosed reasonable compensation for services rendered as the dispute resolution neutral, from a party, a party's lawyer, or any other person involved or interested in the dispute resolution process;</i></p> <p><i>(8) not seek to coerce or unfairly influence a party to accept a proposal for resolution of a matter in dispute and shall not make any substantive decisions on behalf of a party; and</i></p> <p><i>(9) when the service is pursuant to Supreme Court Rule 31, comply with all other duties of a dispute resolution neutral as set forth in that Rule.</i></p> <p><i>(d) A lawyer shall withdraw from service as a dispute resolution neutral or, if appointed by a court, shall seek the court's permission</i></p>
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	<p><i>to withdraw from service as a dispute resolution neutral, if:</i></p> <p><i>(1) any of the parties so request;</i></p> <p><i>(2) the lawyer reasonably believes that further dispute resolution services will not lead to an agreement resolving the matter in dispute or that any of the parties are unwilling or unable to cooperate with the lawyer's dispute resolution initiatives; or</i></p> <p><i>(3) any of the conditions stated in paragraph (b) are no longer satisfied.</i></p> <p><i>(e) Upon termination of a lawyer's service as a dispute resolution neutral, the lawyer:</i></p> <p><i>(1) may, with the consent of all the parties to the dispute and in compliance with the requirements of RPCs 1.2(c) and 2.2, draft a settlement agreement that results from the dispute resolution process, but shall not otherwise represent any or all of the parties in connection with the matter, and</i></p> <p><i>(2) shall afford each party to the dispute the protections afforded a client by RPCs 1.6, 1.8(b), and 1.9.</i></p>
TX* Effective 3/1/05	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Does not have</p>
UT Effective 11/1/05	<p>Adds:</p> <p><i>(c) A lawyer serving as a mediator in a mediation in which the parties have fully resolved all issues:</i></p> <p><i>(1) may prepare formal documents that memorialize and implement the agreement reached in mediation;</i></p> <p><i>(2) shall recommend that each party seek independent legal advice before executing the documents; and</i></p> <p><i>(3) with the informed consent of all parties confirmed in writing, may record or may file the documents in court, informing the court of the mediator's limited representation of the parties for the sole purpose of obtaining such legal approval as may be necessary.</i></p>
VT Effective 9/1/09	Same as MR
VA Effective 1/1/04	Did not adopt
WA Effective 9/1/06	Same as MR
WV* Effective 1/1/89	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Does not have</p>
WI Effective	Same as MR

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7/1/07	
WY Effective 7/1/06	Title and first sentence of (b): adds “arbitrator, mediator or” before “third-party neutral”

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