



Ethical Standards of a Mediator

Background

- This code deals with standards of ethical conduct deemed vital to the effective and efficient delivery of competent and impartial mediation services.
- This code is applicable to and shall be observed by all certified mediator members in good standing who act as mediators in mediation proceedings under the auspices of the NCM.
- A certified mediator member is a mediator certified and accredited by the Conflict Resolution Group Foundation, Inc. as having successfully completed its regular professional training program and evaluation.
- A certified mediator member is in good standing when he is:
 - a. Up to date in the payment of the required membership fee; and
 - b. Attends at least 50% of the chapter assemblies

Objectives of the Code

- Promote and maintain public trust and confidence in the integrity and professionalism of NCM members by building personal and professional credibility thru:
 - a. Maintaining proper standards of conduct;
 - b. Developing and maintaining skills and competencies necessary for the effective performance of the member's duties and responsibilities;
 - c. Maintaining objectivity, fairness, and consistency in action and in words
 - d. Maintaining and enhancing the reputation of the NCM.
- Instill and affirm desirable behaviors among NCM members
- Instill discipline in the organization thru (strict) adherence to the Rules of Conduct
- Promote candor of parties and mediators through the fostering of trust in the mediation process.

Rules of Conduct

- Good Conduct
 - a. Avoidance of activities in violation of law or which result to public scandal
 - b. Avoidance of membership (or representation) in organizations contradicting NCM practices and ethics.
1. Competence
 - 1.1. A mediator need not possess special qualifications in terms of background or profession unless such special qualifications are required in the mediation agreement or by the parties to the mediation, but
 - 1.1.1. Should have completed the 40 hours of required classroom training
 - 1.1.2. Should have passed the written examination administered by the CORE group.
 - 1.1.3. Should have successfully mediated at least 3 cases
 - 1.2. Upon the request of a party, a mediator who is requested to act as such shall disclose his qualifications to mediate a dispute.

- 1.3. To enhance his competencies, the mediator shall maintain and continually upgrade his mediation skills.
2. Impartiality and Conflict of Interest
 - 2.1. The mediator shall maintain complete impartiality at all times and act fairly towards the parties.
 - 2.2. Before accepting an appointment to act as mediator, he shall make an objective inquiry to determine whether there are known facts or matters that would likely affect his impartiality and which could be regarded as a possible conflict of interest situation such as but not limited to:
 - 2.2.1. Financial or personal interest in any of the parties
 - 2.2.2. Existing or past relationship with a party
 - 2.3. If a mediator learns of any fact described in Section 2(b) of this code after accepting a mediation, the mediator shall disclose it as soon as practicable.
 - 2.4. The Mediator (and any member of the Mediators firm or company) will not act for any of the Parties individually in connection with the dispute which is the subject of the Mediation while acting as the Mediator or at any time thereafter, without the written consent of all the other Parties.
3. Confidentiality
 - 3.1 The Mediator shall keep in utmost confidence and not use for any collateral or ulterior purpose all confidential information whether given orally, in writing or otherwise) made, acquired, produced for or disclosed in the course of or arising in relation to the mediation proceedings.
 - 3.2 The mediator shall comply with the applicable provisions of the ADR Law and its implementing rules and guidelines on Confidentiality.
- 4 Separation of Mediation from Counseling and Legal Advice
 - 4.1 Except in evaluative mediation, or when the parties so request, the mediator shall:
 - 4.1.1 Refrain from giving legal or technical advice and engaging in counseling or advocacy; and
 - 4.1.2 Abstain from expressing his personal opinion on the rights and duties of the parties and the merits of any proposal made.
 - 4.2 Where appropriate and where either or both parties are not represented by counsel; a mediator shall:
 - 4.2.1 Recommend that the parties seek outside professional advice to help them make informed decision and to understand the implications of any proposal;
 - 4.2.2 And to suggest that the parties seek independent legal and / or technical advice before a settlement agreement is signed.
- 5 Fees and costs of mediation
 - 5.1 The Mediator shall strictly adhere to and observe the fee structure that shall be set and advised to the Parties by the NCM Secretariat before the commencement of the mediation proceedings and he/she shall not request, solicit, receive, or accept any gift or any type of compensation other than the agreed fee and expenses set by the NCM Secretariat for the mediation he/she is handling.
- 6 Commitment and Availability
 - 6.1 Before accepting an appointment, the Mediator must be satisfied that he/she has time available to ensure that the Mediation can proceed in an expeditious manner.
- 7 Parties' Agreement
 - 7.1 The Mediator shall act in accordance with the agreement (whether written or oral) made between the Parties in relation to the Mediation (' the Mediation Agreement') (except where to do so would cause a breach of this Code) and will use his/her best effort to ensure that the Mediation proceeds in accordance with the terms of the Mediation Agreement.
- 8 Decline or Withdrawal of Mediator

- 8.1 A mediator may decline from acting as such, or withdraw from a mediation proceeding only under the following circumstances:
 - 8.1.1 If any of the parties so requests the Mediator to withdraw;
 - 8.1.2 Where the Mediator's impartiality is in question or where any of the parties alleges that the mediator is in material breach of this code;
 - 8.1.3 Any of the parties requires the mediator to act in violation of any ethical standard provided in this code;
 - 8.1.4 If the safety of the parties would be jeopardized;
 - 8.1.5 In case of conflict of interest;
- 9 Suspension or Termination of the Process
 - 9.1 Mediation may be suspended or terminated in any of the following instances:
 - 9.1.1 If any of the parties is in breach of the Mediation Agreement;
 - 9.1.2 The parties' agreement would be illegal or involve the commission of a crime;
 - 9.1.3 Continuing the dispute resolution would give rise to an appearance of impropriety or is unlikely to result in a settlement;
 - 9.1.4 Continuing with the process would cause significant harm to a non-participating person, or the public or;
 - 9.1.5 Continuing discussions would not be in the best interest of the parties, their minor children, or the dispute resolution process.
- 10 Guidelines for Enforcement
 - 10.1 It is important to understand and uphold the spirit behind the implementation of the Rules of Conduct. Although disciplinary action may be imposed for acts of misconduct, the overall intent is more of the prevention of the infraction rather than the administration of the penalty.
 - 10.2 The intent of the Code is to view each case as situational. No two cases are similar. Although the nature may be similar, the circumstances may be different. In this regard, flexibility, prudence, and understanding shall be prevailing guideposts by which disciplinary action will be implemented.
 - 10.3 Disciplinary investigations and proceedings conducted in accordance with the expectations of and obligations placed on the NCM members as provided by the Code of Ethics and Professional Conduct.
- 11 Disciplinary Committee
 - 11.1 Composed of 5 NCM members of known probity
 - 11.2 Responsible for discussing, investigating, and recommending / implementing appropriate action for violations of the Code of Ethics and Professional Conduct.
- 12 Tribunal
 - 12.1 Composed of 3 members from CORE
 - 12.2 Responsible for the appeal process done at the initiative of the respondent.
- 13 Procedures for Reporting Alleged Violations
 - 13.1 Complaint must be written, specific, and signed.
 - 13.2 Concerned parties (charging and respondent member) must be identified.
- 14 Procedures of Investigation of a Charge of Misconduct
 - 14.1 A preliminary review by the Disciplinary Committee will be conducted to determine merit of the complaint whether to dismiss or proceed with a formal investigation and a hearing
- 15 Procedures for a Misconduct Hearing
 - 15.1 Personal appearance for both the complainant and the respondent will be required
 - 15.2 A written decision shall be made and concerned parties notified.

16 Sanctions

- 16.1 The seriousness and gravity of an offense is determined by a combination of factors that include the subject matter of the act, the degree of malice intended and the actual harm resulting from such act.

17 Categories of Offenses

- 17.1 Minor Offenses involve Oversight & Simple Negligence of the Rules of Conduct

17.1.1 Sanction: Verbal to Written Reprimand; Appropriate Counseling

- 17.2 Second Degree Offenses involve Habitual Disregard & Repeated Violations of the Rules of Conduct

17.2.1 Sanction: Probation from 6 months to 1 year; Attendance to a Values Formation Course

- 17.3 Grave Offenses involve Gross Negligence & Malicious Intent to violate the Rules of Conduct

17.3.1 Sanction: Suspension to Permanent cancellation of membership; Disbarment from NCM premises and other official NCM activities

18 Appeals to the Tribunal

- 18.1 Shall be entertained regarding the sanctions imposed by the Committee and not its decision

19 Reinstatement

Proof of compliance on sanctions imposed.