

## CODE OF CONDUCT FOR MIM MEDIATORS

1. In order to ensure alliance with the Code of Conduct that has been prescribed by the Department of Justice and Constitutional Development for Court Annexed Mediators, MiM requires that its mediators bind themselves to the following ethical standards.

### GENERAL DUTIES AND RESPONSIBILITIES

2. Every mediator must:

1. Act with honesty, impartiality, due diligence and independence;
2. Conduct himself or herself in a manner that is fair to all parties and must not be swayed by fear, favour or by self-interest;
3. Not tout for a mediation assignment and thereby undermine the mediation process;
4. Not accept a mediation appointment unless he or she is available to conduct the mediation promptly and competently;
5. Avoid entering into any financial, business or social relationship, which is likely to compromise their impartiality, or which might reasonably create a perception of partiality or bias; and
6. Not assert influence on any person involved in the mediation processes by any improper means whatsoever, including the receipt of gifts or other inducements.

## DUTY TO DISCLOSE CONFLICT OF INTEREST

3. Every mediator must:

1. disclose any interest or relationship that is likely to affect his or her impartiality or which might create a perception of partiality including:

1. Any direct financial or personal interest in the matter; and

2. Any existing or past financial, business, professional, family or social relationship which is likely to compromise impartiality.

2. After disclosure continue to mediate a matter only if both parties agree: Provided that the mediator must withdraw if the conflict of interest may unduly influence the mediation process.

## MEDIATORS CONDUCT AND OBLIGATIONS DURING MEDIATION PROCEEDINGS

4. Every mediator must:

1. respect freedom of conscience, belief and expression and must avoid and dissociate himself or herself from comments or conduct that is racist, sexist or otherwise inconsistent with the Bill of Rights in the Constitution

2. respect the right to equality before the law and the right of equal protection and benefit of the law

3. observe religious, gender and cultural rights

4. conduct proceedings fairly, diligently and in a fair manner
5. ensure that the parties and their representatives act in accordance with commonly accepted decorum
6. be patient and courteous to legal practitioners, parties and the public and must respect the dignity of others
7. be punctual for a mediation session and keep to time limits, if any, set by the parties
8. be impartial and must not make any decisions or findings of law or fact or determine the credibility of any person participating in the mediation
9. inform the parties that all discussions and disclosures, whether oral or written, made during the mediation session are confidential and inadmissible as evidence in any court, save for those that are included in a settlement agreement or are otherwise discoverable in terms of the rules of court or ordered by a court
10. ensure that he or she understands the positions, needs, and expectations of the parties involved in a dispute
11. understand the issues pertaining to the dispute before assisting the parties with the settlement of a dispute
12. prepare fully for the mediation

13. decline an appointment to mediate or withdraw or request technical assistance if he or she considers that a matter is beyond his or her competence or expertise
14. not hold undisclosed discussions with any party or his or her representative without the consent of the other party: Provided that the mediator may in the interest of resolving the dispute hold discussions with the parties separately
15. not permit parties or their representatives to record proceedings mechanically or electronically
16. not delegate his or her duty to any other person without obtaining the consent of the parties
17. conduct mediation expeditiously and in such a manner so as to avoid an escalation of costs for the parties
18. discourage unnecessary postponements, point-taking and undue formality
19. not exert undue influence in order to promote a settlement or to obtain a concession from any party
20. upon resignation or the expiry of an appointment complete all part heard mediations as soon as possible, unless directed otherwise by the parties.

#### BREACH BY MEDIATORS

5. All complaints that mediators have acted in breach of the above standards will be investigated by MiM and may lead to disciplinary action - including removal from MiM's panel, where appropriate.

