



Model Standards for Family & Divorce Mediation

**Prepared by the AFCC Task Force for the
Revisions of Model Standards for Family & Divorce Mediation (2001)**

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1 **MODEL STANDARDS FOR FAMILY AND DIVORCE MEDIATION**

2 **INTRODUCTION**

3 Family and divorce mediation (“mediation”) is a process in which a mediator, an impartial third party,
4 facilitates the participants’ voluntary resolution of family disputes. The mediator assists communication,
5 encourages understanding, and focuses the participants on their individual and common interests. The
6 mediator helps the participants explore options, make decisions, and reach their own agreements.

7
8 Mediation is not a substitute for independent legal advice or therapy, and it is not appropriate for all
9 families. However, mediation is a valuable option for many families because it has the potential to: (1)
10 increase the self-determination of participants and their ability to communicate, (2) amplify the voice of
11 the child, and (3) reduce the economic and emotional costs associated with the resolution of family
12 disputes.

13 Mediation is most likely to lead to durable outcomes and party satisfaction when the parties make
14 voluntary decisions based on sufficient information while maintaining focus on the best interests of the
15 child. The mediator must be impartial and qualified by training, experience, and temperament. The
16 mediator must understand the role that culture and diversity play in the lives of the participants and be
17 able to identify and appropriately respond to families whose histories include domestic abuse and/or child
18 maltreatment.

19 Mediation is a participant-centered process grounded in the values of integrity and fairness and designed
20 to ensure that all participants are supported, respected, and valued. It aims to promote safety and
21 wellbeing; achieve realistic outcomes; and support equity and full participant engagement regardless of
22 gender, age, culture, religion, immigration status, or socio-economic status.

23 **SCOPE OF THE MODEL STANDARDS**

24 The Model Standards for Family and Divorce Mediation (“Model Standards”) seek to: (1) provide
25 guidance for mediators regarding responsible practice; (2) inform participants, professionals, and others
26 what they can expect in the mediation process; (3) provide guidance for contracting agencies and courts
27 that provide or contract for mediation services; and (4) promote public confidence in mediation as a
28 process for resolving family disputes.

29 In 2022, an interdisciplinary Task Force was appointed by the Association of Family and Conciliation
30 Courts (“AFCC”) and the American Bar Association (“ABA”) Section of Family Law, with representation
31 from the ABA Section of Dispute Resolution, the Academy of Professional Family Mediators (“APFM”),
32 and the Association for Conflict Resolution (“ACR”) to update and expand the 2000 Model Standards.
33 These Standards, unless and until adopted by a court or other regulatory authority do not have the force
34 of law. Adherence to the Standards is not a condition of AFCC or ABA membership.

35 The Model Standards include different levels of guidance:

36 The term *may* indicates a practice that the mediator can consider adopting but which can be
37 deviated from in the exercise of good professional judgment.

The term *should* indicates that the practice is highly desirable, to be departed from only with very strong reason.

The term *shall* signals a stronger level of guidance, indicating that the mediator does not have discretion to depart from the practice described.

DEFINITIONS AND DESCRIPTIONS

Conflict of interest: Conflict of interest means any relationship between the mediator and the participants or the subject matter of the dispute that compromises or appears to compromise the mediator's impartiality.

Culture: Culture is defined as the norms, values, beliefs, customs, historical narratives, and behavioral patterns common to a particular group of people.

Domestic abuse: Domestic abuse involves physically, sexually, economically, psychologically, and coercively controlling behaviors directed by or against current or former family or household members. These behaviors may occur alone or in combination. They vary from family to family in terms of frequency, recency, severity, manner, directionality, pattern, intention, circumstance, and consequence. (People may also refer to domestic abuse as domestic violence or intimate partner violence).

- **Physically aggressive behaviors** involve the intentional use of physical force with the potential to cause injury, harm, disability, or death.
- **Sexually aggressive behaviors** involve unwanted sexual activity that occurs without consent through the use of force, threats, deception, or exploitation.
- **Economically aggressive behaviors** involve the use of financial resources to intentionally diminish or deprive another of economic security, stability, standing, or self-sufficiency.
- **Psychologically aggressive behaviors** involve intentional infliction of harm to emotional safety, security, or wellbeing.
- **Coercively controlling behaviors** involve harmful conduct that subordinates the will of another through violence, intimidation, intrusiveness, isolation, or control.

Impartiality: Impartiality means freedom from favoritism or bias in word, action, or appearance, and it includes a commitment to assist all participants as opposed to any one individual.

Online Dispute Resolution ("ODR"): ODR refers to the use of technology to facilitate dispute resolution processes that are not conducted face to face, including but not limited to videoconferencing, phone, email, chat and text-based applications, and other online platforms.

Participant: In addition to the parties, participants may include the parties' family members, including children, and their representatives, lawyers, advocates, advisors, and support persons. Participants may also include subject-matter experts, brought in to provide technical information or insights. This term highlights the inclusive and participatory nature of mediation.

Party: Parties are the plaintiff(s), defendant(s), the individuals/entities directly bearing rights or obligations related to the case, or anyone defined as a party in the applicable jurisdiction. A party's

75 agreement is necessary for any mediated settlement to be reached. While all parties are participants in
76 the mediation process, not all participants are parties.

77 **Technology:** In mediation practice, technology refers to the broad and evolving array of digital tools,
78 platforms, and systems that facilitate, enhance, and support all aspects of the mediation process. This
79 includes, but is not limited to, secure communication methods; case and document management
80 systems; videoconferencing and ODR platforms; data security measures; agreement drafting and
81 execution tools; analytical and decision-support technologies; educational and training resources; and
82 emerging technologies, such as artificial intelligence (“AI”), large language models (“LLM”),
83 algorithmic decision-making tools, and similar technology integrated into mediation practice.

84 THE MODEL STANDARDS

85 STANDARD I: SELF-DETERMINATION

86 *The mediator shall support party self-determination and voluntary and autonomous decision-making*
87 *throughout the process.*

88 A. Party self-determination is fundamental to mediation. At every stage of the process, the
89 mediator shall enable the parties to generate options for consideration and make voluntary
90 and autonomous decisions, including but not limited to deciding whether to mediate,
91 structuring the mediation process, and making agreements, if any.

92 B. The parties’ ability to advocate on their own behalf is central to mediation. The mediator
93 shall screen for and address forces that might undermine the parties’ ability to meaningfully
94 participate in mediation, including but not limited to past or present domestic abuse, child
95 maltreatment, mental illness, substance abuse, self-representation, language barriers, literacy,
96 cultural norms, financial pressure, and access to and competence in the use of technology.

97 C. The mediator shall inform the participants that they may withdraw from the mediation at
98 any time.

99 D. The mediator shall inform the parties that they have the choice to agree or not agree to any
100 proposal in mediation. This includes, but is not limited to, proposals made by the other party,
101 by counsel for either party, and/or by the mediator.

102 E. The mediator should never pressure parties into settlement. While the mediator may remind
103 the parties of pertinent external factors, including but not limited to the risks and costs
104 associated with litigation, mediator availability, finite court program resources, or time
105 remaining in a mediation session, the mediator shall not use the mention of such factors for
106 the purpose of coercing the parties into a settlement.

107 **STANDARD II: INFORMED DECISION-MAKING**

108 *The mediator shall structure the mediation process to ensure that the parties have access to sufficient*
109 *information and knowledge to make decisions.*

110 A. The mediator shall facilitate safe and accurate disclosure of information so that parties can
111 make informed decisions. Before and during mediation, the mediator should allow time for
112 participants to consult with appropriate experts and support persons, including but not limited
113 to attorneys, advocates, financial experts, therapists, religious figures, educators, elders or
114 friends.

115 B. Consistent with standards of impartiality and preserving party self-determination, the
116 mediator may provide participants with information that the mediator is qualified by
117 professional training or experience to provide. The mediator shall not provide therapy or legal
118 advice but may offer information about child development and the law as it relates to issues in
119 the case and the court process.

120 C. The mediator should allow attorneys and advocates to be present at the mediation sessions
121 unless an applicable statute, regulation, or court rule precludes their presence. When only one
122 party has an attorney present at the mediation, the mediator should consider the power disparity
123 and take steps to address the potential imbalance, including but not limited to pausing the
124 session, bringing in support participants, or terminating the mediation.

125 D. The mediator should document the parties' voluntary resolution of their dispute and inform
126 them that an independent attorney should review any agreement before it is signed or finalized.
127 The mediator should offer the parties a cooling off period to reflect upon the agreement before
128 signing it.

129 **STANDARD III: EDUCATION OF PARTIES**

130 *The mediator shall educate potential parties about the mediation process.*

131 A. Before the mediation begins, the mediator shall provide parties with an overview of the
132 process and its purposes, which should include:

133 1. informing them that reaching an agreement in mediation is consensual, the mediator is
134 an impartial facilitator, and the mediator will not coerce parties into settlement;

135 2. distinguishing mediation from other resolution processes in which the neutral
136 recommends to the court a plan for a resolution of the family dispute (e.g., a parenting
137 plan evaluation);

138 3. describing the obligations of the mediator to maintain the confidentiality of the
139 mediation process and its results and any exceptions to confidentiality;

140 4. advising the parties that the mediator and each party may terminate the mediation
141 process at any time and for any reason;

142 5. informing the parties that the presence or absence of other persons at a mediation,
143 including but not limited to attorneys or advocates, may be required by statute or
144 regulation or warranted by the circumstances;

145 6. discussing, if applicable, the option of separate and/or online sessions with the parties
146 and the conditions of confidentiality concerning those separate sessions;

147 7. informing the parties that any agreements reached must be reviewed and approved by
148 the court when court approval is required;

149 8. informing the parties of the requirements and manner by which parties may enforce or
150 modify any agreements they reach in mediation; and

151 9. informing the parties, especially self-represented parties, that they should obtain
152 independent advice from an attorney and may consult advocates, financial experts,
153 therapists, religious figures, educators, elders, or others at any point during the mediation
154 process, including but not limited to prior to signing the agreement;

155 B. Prior to the first mediation session, the mediator shall prepare and ask the parties to sign a
156 written agreement to mediate containing the terms and conditions of the mediation.

157 C. The mediator should also ask additional participants, except children, to sign the agreement
158 to mediate and should educate them about the mediation process.

159 **STANDARD IV: BARRIERS TO PARTICIPATION AND PROCESS MODIFICATION**

160 *The mediator shall help the parties assess the appropriateness of mediation and explore how the process*
161 *may be tailored to address particular concerns.*

162 A. The mediator shall meet separately and confidentially with each party to examine each
163 party's capacity for self-determination and informed decision-making and whether the
164 process is likely to be safe and result in safe and workable outcomes.

165 B. The mediator shall explore separately and confidentially with each party the nature of any
166 barriers to participation, including but not limited to past or present domestic abuse, child
167 maltreatment, mental illness, substance abuse, self-representation, language barriers, literacy,
168 cultural norms, financial pressure, and access to and competence in the use of technology.

- 169 C. In consultation with each party, the mediator shall explore and assess the effectiveness of
170 safeguards and process modifications that are tailored to address barriers to meaningful
171 participation in mediation. When facing one or more of these impediments, mediators should
172 discuss with participants whether process modifications adequately address them or if an
173 alternative resolution process should be considered.
- 174 D. The mediator should not conduct a mediation if the mediator believes that any party is unable
175 or unwilling to meaningfully participate.

176 **STANDARD V: DOMESTIC ABUSE**

177 *The mediator shall screen for domestic abuse, assess the nature and context of the abuse, and, in*
178 *consultation with each party, determine whether a mediation process can be designed to address barriers*
179 *to self-determination and informed decision-making.*

180 A. The mediator shall screen each prospective party, separately and confidentially, for the
181 possible existence of past or present domestic abuse, including but not limited to coercive
182 control, prior to seeking their informed consent to mediate. The mediator shall screen and
183 monitor for indications of domestic abuse throughout the mediation process, whether or not it
184 was identified at the outset.

185 B. When domestic abuse is identified as a possible issue, the mediator shall examine the nature
186 and context of the abuse and help each party assess its impact on their meaningful participation
187 in the mediation. The mediator shall inquire separately and confidentially if parties believe
188 they will be safe and able to make autonomous decisions; will be able to participate in good
189 faith; and will have access to information, the applicable law, and their procedural options.
190 The mediator shall help the parties determine what, if any, safeguards and process
191 modifications will effectively address specific concerns. If barriers to effective participation
192 can't be remediated, the mediator shall help the parties explore other available options for
193 dispute resolution.

194 C. The mediator shall not undertake mediation without specific training on identifying the
195 nature, context, and dynamics of domestic abuse, including but not limited to coercive control,
196 and its impact on parenting, co-parenting, children, and the mediation process. Mediators shall
197 obtain ongoing and updated training on these topics.

198 D. The mediator shall facilitate the participants' formulation of parenting plans that protect the
199 physical safety and psychological wellbeing of the parties and their children.

200 **COMMENTARY**

201 *Domestic abuse is a significant barrier to voluntary decision-making in mediation. Abusers may use*
202 *mediation to continue their pattern of abuse through intimidation, coercion, or emotional*
203 *manipulation, making it difficult for survivors to advocate for themselves or make informed,*
204 *independent decisions. Mediators must remain vigilant in recognizing these dynamics and ensuring*

205 *that mediation does not become another avenue for control by an abusive party. An emphasis on*
206 *ongoing screening, process design, and ethical decision-making will help ensure that mediation does*
207 *not enable further harm.*

208 *Mediators must help each party to determine whether process modifications, including but not limited*
209 *to shuttle mediation and remote sessions, can provide a safe environment, conducive to effective*
210 *mediation. If either party feels that safeguards cannot adequately address power imbalances or safety*
211 *risks, referrals should be made to alternative processes.*

212 *In cases involving coercive control or a pattern of abuse, parenting plans must be crafted to limit*
213 *opportunities for future manipulation or abuse as traditional co-parenting models may not be*
214 *suitable.*

215 **STANDARD VI: CHILD MALTREATMENT**

216 *The mediator shall take appropriate steps to safeguard the wellbeing of the child if the mediator*
217 *recognizes a family situation involving child maltreatment.*

218 A. The mediator shall not undertake a mediation in which there are allegations of child
219 maltreatment without sufficient training and expertise.

220 B. The mediator shall explain and comply with the scope and limits of confidentiality as
221 determined by relevant law and the mediator's professional standards and guidelines, including
222 but not limited to any mandatory reporting requirements related to child maltreatment.

223 C. The mediator should provide the parties with referrals to appropriate services for the family,
224 including but not limited to child protective services, counseling and legal advocacy.

225 D. The mediator should consider the appropriateness of suspending or terminating the
226 mediation process in situations where child maltreatment has been alleged or the mediator
227 identifies concerns.

228 **COMMENTARY**

229 *Mediators should focus on recognizing and responding appropriately to signs of child maltreatment,*
230 *including physical harm as well as less obvious harms including emotional abuse and neglect.*
231 *Specialized and ongoing training is essential to equip mediators with the ability to differentiate*
232 *between legitimate concerns and misused allegations which may be made in custody disputes.*
233 *Resources such as child protective services, counseling, and legal advocacy can provide critical*
234 *support outside of the mediation process and can ensure that children's needs are properly addressed.*

235 **STANDARD VII: IMPARTIALITY AND CONFLICT OF INTEREST**

236 *The mediator shall conduct the mediation process in an impartial manner.*

237 A. The mediator shall not accept a dispute for mediation if the mediator cannot be impartial.

B. The mediator shall identify and disclose potential grounds of bias or conflicts of interest upon which the mediator's impartiality might reasonably be questioned. Such disclosure should be made prior to the start of a mediation or as soon as the mediator becomes aware of the potential grounds of bias or conflicts of interest. The duty to disclose is a continuing duty, and the mediator should resolve all doubts in favor of disclosure.

C. Upon disclosure, and if the mediator believes that they can remain impartial, parties may nonetheless use the mediator upon signing of an informed, written waiver of the conflict of interest. However, if a bias or conflict of interest clearly impairs the mediator's impartiality, the mediator shall withdraw regardless of the express agreement of the parties.

D. Further, if a mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, the mediator shall withdraw or decline to proceed with the mediation regardless of the expressed desire or agreement of the parties to the contrary.

E. The mediator should guard against bias or partiality regarding the participants' personal characteristics, background, or performance at the mediation.

F. The mediator should avoid conflicts of interest when recommending the services of other professionals.

STANDARD VIII: CONFIDENTIALITY

The mediator shall maintain confidentiality of all information acquired in the mediation process unless the mediator is permitted or required to reveal the information by law, rule, or agreement of the parties.

A. The mediator shall explain the meaning and purposes of confidentiality and privilege in the mediation process.

B. The mediator shall inform the participants of the limitations of confidentiality and privilege, including but not limited to legal provisions waiving privilege and statutorily, judicially, or ethically mandated reporting. The mediator should provide examples of exceptions to confidentiality that may require disclosure. These exceptions may include, but are not limited to child maltreatment; threats of harm, including suicide or violence; and those provided by law.

C. Before commencing a mediation, the mediator should distribute an agreement to mediate for parties to sign that includes provisions concerning confidentiality and privilege and any agreements of the parties' concerning confidentiality, including but not limited to those about the use of technology and online communication tools.

D. If the mediator holds private sessions with a participant, the mediator shall discuss the obligations of confidentiality concerning those sessions prior to the sessions.

E. If subpoenaed or otherwise noticed to testify or produce documents, the mediator should inform the parties immediately. The mediator shall not testify or provide documents in response to a subpoena without an order of the court if the mediator reasonably believes doing so would violate an obligation of confidentiality to the participants or violate jurisdictional law. This includes, but is not limited to, any digital or electronically stored information obtained or generated during the mediation process.

F. The mediator shall implement robust data security measures to protect all digital information related to the mediation process from unauthorized access.

STANDARD IX: TECHNOLOGY

The mediator shall utilize technology to support participants while keeping abreast of updates, innovations, ethical considerations, and potential drawbacks of the technology.

- A. Prior to the use of technology in mediation, the mediator should assess the participants' abilities to use technology and obtain informed consent to use technology from all parties involved in the mediation process while providing clear and accessible information on its benefits and risks on available alternatives.
- B. The mediator should obtain and maintain training and experience necessary to utilize technology competently. Mediators should have a strong working knowledge and an understanding of the capabilities, limitations and risks associated with the use of technology. Mediators should also be aware of how technological tools may impact participant engagement, communication dynamics, and decision-making process.
- C. The mediator should treat all data processed, stored or transmitted using technology with the same level of confidentiality as information shared in traditional mediation settings. The mediator should implement robust data security measures, including but not limited to end-to-end encryption, to protect digital mediation communications, records and participant information from unauthorized access, loss, or misuse.
- D. The mediator should conduct regular evaluations of the technological tools they utilize. These evaluations assess the ethical, legal and practical implications of their use in mediation.
- E. The mediator should ensure that technology serves as a tool to enhance the mediation process rather than define it. The mediator should remain attentive to participant's needs and adapt technology use accordingly to preserve the core values of mediation, including impartiality, self-determination, and informed decision-making.

COMMENTARY

The integration of technology in mediation has increased accessibility, efficiency, and participant engagement. While technological advancements offer notable advantages, mediators must also consider associated ethical, security, and practical implications. Mediators should use technology responsibly, recognizing its potential influence on participant interactions and decision-making, and

must remain vigilant to ensure technology supports—but does not undermine—core mediation principles. Regular evaluation of technological tools is essential to maintain competency and adapt to evolving standards, ensuring mediation values such as confidentiality, neutrality, and self-determination are consistently upheld.

STANDARD X: CHILD-CENTERED PROCESS

The mediator shall assist participants in discussing the best interests of the child and determining how to include a child's voice in the mediation process when one or more children are involved.

A. The mediator should encourage the participants to explore options available for parenting arrangements as well as their costs and benefits. The topics for discussion should include, among others, the following:

1. an age-appropriate parenting plan addressing the child's time-sharing schedule and the parental decision-making responsibilities, with appropriate levels of detail as agreed to by the parties. Inclusion of or referral to a child development specialist may be appropriate;

2. a plan for revising parenting plans, including but not limited to dispute resolution mechanisms, as the developmental needs of the child and the circumstances of the parents evolve over time;

3. the effects on the child's development of continuing parental conduct, including but not limited to domestic abuse, child maltreatment, and persistent parental conflict, and how to ameliorate the effects on the child; and

4. information about community resources and programs that could help families cope with the consequences of family reorganization, parental conflict, domestic abuse, and child maltreatment.

B. The mediator should be trained about the impact of culture and religion on parenting philosophy and other parenting decisions, as well as their impact on the mediation process.

C. The mediator shall inform any court-appointed child representative that the mediation is taking place. If the representative participates, the mediator should, at the outset, discuss with that representative the effects of their participation on the mediation process and the confidentiality of the mediation. Whether the representative participates in the mediation session or not, the mediator shall provide the representative with the resulting agreements insofar as they relate to the child.

D. The mediator should inform the parents and court-appointed child representative about the options for the child's input, including but not limited to the child's direct participation.

E. Prior to any child participation or input in the mediation process, the mediator should consult with the parents and the child's court-appointed representative about whether the child will participate and the form of their participation. This should include a discussion of the benefits, financial costs, and emotional risks of the child's participation based on the child's age.

F. The mediator should inform the participants that the child does not decide the parenting plan but that their input can be useful as a factor to consider in a child-centered parenting plan. The mediator should explain the positive and negative consequences of the child's input.

COMMENTARY

The inclusion of child's voices in mediation requires careful evaluation of emotional risks, parental influence, and developmental appropriateness. Mediators should inform parents and the child's court-appointed representatives about options for incorporating the child's perspectives while clarifying that the child does not make final decisions. The goal is to ensure that the child's needs are heard without placing undue pressure on them. Except in extraordinary circumstances, the child should not participate in the mediation process without the consent of both parents and the child's court-appointed representatives. Cultural and religious factors can shape parenting philosophies, and mediators must be trained to navigate these influences while maintaining neutrality.

STANDARD XI: TERMINATION

The mediator shall suspend or terminate the mediation process when the mediator reasonably believes a party is unable or unwilling to safely and effectively participate, when a party requests termination, or for other compelling reasons.

A. Circumstances under which the mediator should suspend or terminate the mediation may include, among others, the following:

1. a party requests to suspend or terminate the mediation;
2. the safety of a participant or the wellbeing of a child is threatened;
3. a participant has or is threatening to abduct a child;
4. a party is unable to participate due to the influence of drugs, alcohol, or physical or mental condition;
5. a party is unable or unwilling to participate due to any form of domestic abuse;
6. a participant is using the mediation to further illegal or otherwise inappropriate conduct, including but not limited to harassment, delay, or unnecessary intrusion;
7. a participant is using the mediation process to gain an unfair advantage;

373 8. a mediator's conflict of interest might reasonably be viewed as undermining the
374 integrity of the mediation;

375 9. a party withholds information needed for informed decision-making; and

376 10. the parties are about to enter into an agreement that the mediator reasonably believes
377 to be unconscionable or unsafe.

378 B. If the mediator suspends or terminates the mediation, the mediator should take all reasonable
379 steps to minimize any resulting prejudice or inconvenience to the participants and utilize a
380 termination process that reduces the risk of harm to the participants during or following
381 termination.

382 **STANDARD XII: TRAINING AND PROFESSIONAL COMPETENCE**

383 *The mediator shall be qualified by education, training, and experience to competently undertake the*
384 *mediation.*

385 A. To perform the mediator's role, the mediator shall have:

386 1. education, training, and experience specific to the process of mediation;

387 2. knowledge of the family law of their jurisdiction;

388 3. training in child development; psychopathology; parent-child problems; and the
389 potential impact of divorce and family conflict on parents, children, and other
390 participants;

391 4. training in conducting age-appropriate child interviews;

392 5. training on identifying and assessing the impact of domestic abuse and child
393 maltreatment on the participants, including children, and on the mediation process;

394 6. training on financial issues impacting divorce, including but not limited to the financial
395 and tax implications of parenting plans, pensions, child support, and spousal support;

396 7. training on understanding and addressing power disparities between the parties;

397 8. training to recognize the impact of culture and diversity;

398 9. skills to conduct online mediation, including but not limited to skills to address online
399 privacy and security issues, mediation confidentiality and privilege, participant
400 communication preferences, and platform equity and access; and

10. knowledge on the responsible and ethical use of technology in mediation, ensuring competence in managing the confidentiality of digital information and an understanding of best practices for data security, privacy laws, and ethical considerations. Mediators should also be aware of the potential impact of technology on communication, decision-making, and participant engagement, adapting their approach as necessary to preserve the integrity of the mediation process.

B. Prior to undertaking the mediation, mediators should inform the participants about their relevant training, education, and experience.

C. The mediator should continuously improve their professional skills and abilities by, among other activities, participating in relevant continuing education and peer consultation programs and regularly engaging in self-assessment.

COMMENTARY

Mediators must be trained and participate in ongoing professional development to effectively facilitate safe, ethical, and informed mediation processes. Mediator competence requires comprehensive skills in process design, ethical decision-making, cultural responsiveness, and participant safety, including proactive screening for abuse, identification of power imbalances, and mitigation of accessibility challenges.

Mediators must understand how technology affects communication dynamics, participant engagement, and decision-making processes, particularly in contexts involving heightened risk, such as domestic abuse. Technological proficiency is also essential to responsibly navigate confidentiality, security, and ethical issues arising from the use of digital communication platforms, artificial intelligence tools, case management systems, and other emerging technologies. Commitment to continuous education, peer consultation, self-assessment, and transparency about qualifications further reinforces ethical standards and ensures mediation remains equitable, responsive, and protective of all participants.

STANDARD XIII: MEDIATION FEES, COMPENSATION, AND TIMING

A mediator shall fully disclose and explain the basis of any compensation, fees, and charges to the participants.

A. The mediator shall provide participants with sufficient information about fees so that they can determine whether they wish to retain the services of the mediator.

B. The written agreement to mediate the dispute shall include a description of the fee arrangement with the mediator.

C. The mediator shall not enter into a fee agreement contingent on the mediation's results or settlement amount.

435 D. The mediator shall not accept a fee for referring a matter to another mediator or to any other
436 person.

437 E. Upon termination of mediation, the mediator shall return any unearned fees to the parties.

438 F. The mediator shall not accept a mediation referral if they cannot satisfy the participants'
439 expectations concerning the timing of the process.

440 **STANDARD XIV: ADVERTISEMENT, SOLICITATION, AND MARKETING**

441 *A mediator shall be truthful in all advertisements, solicitations, and communications for mediation*
442 *services.*

443 A. The mediator shall refrain from promises and guarantees of results. The mediator should
444 not advertise statistical settlement data or settlement rates.

445 B. The mediator shall accurately represent their qualifications. In an advertisement or other
446 communication, the mediator may refer to meeting state, national, or private organizational
447 qualifications only if the entity referred to has a procedure for qualifying mediators and if the
448 mediator has been duly granted the requisite status.