Association of Family and Conciliation Courts

Model Standards for Family and Divorce Mediation

© 2025 Association of Family and Conciliation Courts

ASSOCIATION OF FAMILY AND CONCILIATION COURTS

AFCC

Model Standards for Family and Divorce Mediation

Developed by:

AFCC and American Bar Association (ABA) Family Law Section Task Force to Revise the Model Standards of Practice for Family and Divorce Mediation

Task Force

Stacy Heard, JD, Chair; Nancy Ver Steegh, JD, MSW, Chair;
Donna Erez-Navot, JD, BSW, Reporter

Kelly Browe Olson, JD, LLM; Gabrielle Davis, JD; Susan Guthrie, JD;
Brendan Hammer, JD; Joi Hollis, PhD, LPC; Karen Irvin, PhD;
Alexander Jones, JD; Marya Kolman, JD; Meredith McBride, JD;
Lisa J. Oeltgen, JD; Mark Ogle, JD; Donald T. Saposnek, PhD;
Rebecca Simpson, JD

AFCC Staff: Bryan Altman, Executive Director; Peter Salem, MA (ret.)

In Collaboration with and Adopted by:

ABA Section of Dispute Resolution,
Association for Conflict Resolution (ACR),
and Academy of Professional Family Mediators (APFM)

AFCC
608-664-3750 • afcc@afccnet.org • afccnet.org

MODEL STANDARDS FOR FAMILY AND DIVORCE MEDIATION

REPORTER'S FOREWORD

The *Model Standards for Family and Divorce Mediation* ("Model Standards") serve as the ethical cornerstone for mediation in family and divorce matters. Over the past twenty-five years, the practice of family and divorce mediation has become increasingly widespread, structured, and embedded within legal and institutional systems. These updated Model Standards aim to promote public confidence in a continually evolving profession while offering clear and consistent guidance to participants, professionals, contracting agencies, and courts.

The guidelines in this area were originally varied and splintered. The Association of Family and Conciliation Courts ("AFCC") released the 1984 Model Standards of Practice for Family and Divorce as a resource for state and national mediation organizations. AFCC adopted them after convening three national symposia, attended by representatives of more than thirty organizations, between 1982 and 1984, and seeking comment and review from more than 130 individuals and organizations. At the same time, the Family Law Section of the American Bar Association ("ABA") created its own Standards of Practice for Lawyer Mediators in Family Law Disputes to guide lawyers who wanted to be mediators, defining how they could serve as both while staying within their ethical guidelines and standards of professional responsibility. The two standards were compatible, seemingly because they shared some of the same drafters, and interest in mediation grew after they were released.

In response to the growing interest in mediation in the 1980s and 1990s, numerous organizations, states, and courts developed and published their own standards of practice, both for general mediation practice and for family mediation specifically. These included, the Model Standards of Conduct for Mediators from a joint task force of the American Arbitration Association, ABA, and the Society of Professionals in Dispute Resolution ("SPIDR"); the Florida Rules for Certified and Court-Appointed Mediators; and the Iowa Supreme Court, Rules Governing Standards of Practice for Lawyer-Mediators in Family Disputes among others.

In 1996, the ABA Family Law Section decided that a fresh look at the 1984 Standards was necessary and subsequently created what came to be called the Committee on Mediation—with members from the ABA, AFCC, AFM, and SPIDR. The Committee determined that the 1984 ABA Standards (1) did not address many critical issues relevant to mediation practice, such as domestic violence, child abuse, training, and cultural sensitivity; (2) applied only to mediators who were originally lawyers; (3) did not distinguish between private-practice and court-connected mediators; and (4) were inconsistent with subsequent guidelines by other bodies. Recognizing the importance of currentness and uniformity, the Committee concluded that the 1984 ABA Standards needed significant revision. The Committee then conducted research, examined other standards, and consulted with various experts before presenting a draft of revisions to the ABA Family Law Section.

In 1997, the ABA's Family Law Section reviewed the Committee's first draft and concluded that other interested mediation organizations should be included in the drafting process. To that end, in 1998, AFCC reconvened the Model Standards Symposium, joined by the ABA Family Law Section and the National Council of Dispute Resolution Organizations as co-conveners, where representatives of more than twenty family mediation organizations and legal organizations reviewed the Committee on Mediation's draft standards. The Symposium then released its own draft for comment and received more than eighty change proposals. The Symposium met again in February and August 2000 to consider the proposals and make necessary updates, and the resulting draft standards were subsequently approved by AFCC and the ABA House of Delegates.

Once approved, the 2000 Model Standards of Practice for Family and Divorce Mediation ("2000 Model Standards") were released, addressing the holes and inconsistencies of past standards and intended not "as a final product but more like a panoramic snapshot of what [was] important to the family mediation community at the beginning of the new millennium."[1] The drafters saw it as a framework for discussion and debate, a starting point for future additions and revisions.

Most of the 2000 Model Standards have stood the test of time remaining both relevant and essential. In 2022, the ABA Family Law Section and AFCC recognized that additions and revisions were needed because interest in and understanding of family mediation had again grown. As a result, an interdisciplinary task force was created to review and update the 2000 Model Standards, called the *ABA & AFCC Task Force for the Revision of the Model Standards for Family and Divorce Mediation* ("Task Force"). The Task Force was comprised of representatives from AFCC, ABA Family Law Section, ABA Dispute Resolution Section, Association for Conflict Resolution ("ACR"), and Academy of Professional Family Mediators ("APFM").

The Task Force was intentionally composed as a collaborative body, bringing together mediators, attorneys, court-connected mediation program directors, academics, and mental health professionals. Experts in the fields of family law, domestic abuse, mental health, and court administration were appointed to join it. Over the course of a three-year drafting process, the full Task Force convened quarterly to ensure broad participation and consistent progress. In addition to these full-group meetings, specialized subcommittees met regularly to address key subject areas in need of revision, including technology, domestic abuse, self-represented litigants, the voice of the child, privacy and confidentiality, mediator training, self-determination, and overarching guiding principles.

Public feedback played a critical role throughout the drafting of the revised Model Standards and was actively solicited and incorporated at multiple stages of the process. Members of AFCC provided input during open forum meetings held at AFCC's Boston (Spring 2024), Columbus (Fall 2024), and New Orleans (Spring 2025) conferences. Additional feedback was gathered from members of the ABA Dispute Resolution Section during a presentation at the Spring 2024 conference in San Diego. A formal draft of the revised Model Standards was released jointly by AFCC, ABA, APFM, and ACR for public comment from March 22 to April 13, 2025. This public comment period yielded significant input, with nearly sixty-five individuals and mediation organizations submitting written comments to the Task Force. These submissions were shared with the whole Task Force, and several extended meetings were held to carefully consider and incorporate the feedback. The Task Force unanimously approved the final version of the Model Standards in May 2025.

[1] THE SYMP. ON STANDARDS OF PRAC., MODEL STANDARDS OF PRAC. FOR FAM. AND DIVORCE MEDIATION, REPORTER'S FORWARD (2000).

Since then, the Standards have received formal endorsement from several leading organizations, including AFCC, ACR, APFM, the Council of the ABA Section of Family Law, and the Council of the ABA Section of Dispute Resolution. The Model Standards are currently under consideration for approval by the ABA House of Delegates at its mid-year meeting in February 2026.

The 2000 Model Standards had many strengths, namely its core areas, its short and concise format, and its focus on providing guidance without giving how-to direction. The current Model Standards are meant to add to those strengths without departing from them.

The revised Model Standards address and acknowledge the evolving understanding among practitioners regarding informed decision-making, distinguished from self-determination. It reorganized the individual standards into a linear format, commencing with self-determination, followed by informed decision-making, and then initial education of parties. Perspectives on the capacity to mediate have evolved over time. In response, these Model Standards address barriers that may challenge or prevent full participation in the mediation process, as well as modifications that can be made to the process to ensure accessibility.

One notable omission in the 2000 Model Standards was the absence of guidance related to the use of technology and online dispute resolution in mediation. Over the past twenty-five years, technological advancement has emerged as one of the most transformative forces in the field, an evolution significantly accelerated by the COVID-19 pandemic. In response to this shift, the revised Model Standards incorporate flexible, adaptive language designed to address current digital practices and remain relevant as new technologies continue to emerge.

While the 2000 Model Standards addressed domestic violence and child abuse in two distinct standards, the understanding of these issues has evolved significantly. In recognition of this progress, the revised Model Standards adopt the more inclusive and nuanced terms “domestic abuse” and “child maltreatment.” Additionally, the updated Model Standards emphasize the importance of identifying barriers that may impede meaningful participation in mediation. Rather than relying on categorical labels, they encourage mediators to attend to specific participant behaviors that may affect the safety and suitability of the mediation process for each family.

Additional enhancements to the updated Model Standards include a termination standard that outlines expanded grounds for ending the mediation process, a significantly more robust articulation of mediator training and professional competence requirements, and a deeper engagement with the inclusion of the child’s voice in the mediation process.

These Model Standards are the result of extensive discussions and input from across the family mediation community. Like its predecessors, these Model Standards aim to increase public confidence in the mediation profession and provide clear guidance for practitioners. And, like the drafters of the 2000 Model Standards, this Task Force recognizes that these Model Standards are not a final product, and it invites future additions and revisions as mediation evolves. Mediation organizations, judges, legal professionals, mental health practitioners, and the public are encouraged to treat these Standards as a foundation for continued discussion within their jurisdictions, identifying emerging challenges and refining practices in support of fair, effective, and accessible mediation.

I have never worked with a more dedicated group than those involved in this Task Force. I extend my deepest thanks to everyone who contributed, turning this process into an ongoing discussion on the core values of family mediation and consensus-building. Their cooperation and engagement made my role as Reporter truly rewarding. Finally, I am deeply grateful to a core group of outstanding University of Florida Levin College of Law students, Sydney Moran, Hayley McAleese, Elizabeth Rom, Michael Gonzalez, Jacob Orlick, and Philip Kelly, for their invaluable contributions and dedicated support throughout this project.

Professor Donna Erez-Navot
University of Florida Levin College of Law
Gainesville, Florida
July 2025

MODEL STANDARDS FOR FAMILY AND DIVORCE MEDIATION

INTRODUCTION

Family and divorce mediation ("mediation") is a process in which a mediator, an impartial third party, facilitates the parties' voluntary resolution of family disputes. The mediator assists communication, encourages understanding, and focuses the parties on their individual and common needs and interests. The mediator helps the parties explore options, make decisions, and reach their own agreements.

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

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

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

SCOPE OF THE MODEL STANDARDS

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

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

The Model Standards include different levels of guidance:

> The term *may* indicates a practice that the mediator can consider adopting but which can be 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, family 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, such as videoconferencing, phone, email, chat and text-based applications, and other online platforms.

Participants: 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.

Parties: Parties are individuals or entities with rights or obligations in a case, such as plaintiff(s) and defendant(s), petitioner(s) and respondent(s), or anyone defined as a party in the applicable jurisdiction. The parties' agreement is necessary for any mediated settlement to be reached. While all parties are participants in the mediation process, not all participants are parties.

Technology: In mediation practice, technology refers to the broad and evolving array of digital tools, platforms, and systems that facilitate, enhance, and support all aspects of the mediation process. This includes secure communication methods; case and document management systems; videoconferencing and ODR platforms; data security measures; agreement drafting and execution tools; analytical and decision-support technologies; educational and training resources; and emerging technologies, such as artificial intelligence ("AI"), large language models ("LLM"), algorithmic decision-making tools, and similar technology integrated into mediation practice.

THE MODEL STANDARDS

STANDARD I: SELF-DETERMINATION

The mediator shall support party self-determination and the parties' voluntary and autonomous decision-making throughout the process.

A. Party self-determination is fundamental to mediation. The mediator shall encourage the parties to generate options for consideration and make voluntary and autonomous decisions at every stage of the process. This includes deciding whether to mediate, structuring the mediation process, and making agreements.

B. The parties' ability to advocate on their own behalf is central to mediation. The mediator shall address dynamics that might undermine the parties' ability to meaningfully participate in mediation, including past or present domestic abuse, child maltreatment, behavioral concerns, substance use, self-representation, language barriers, literacy, cultural norms, financial pressure, and access to and competence in the use of technology, among others.

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

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

E. The mediator shall never pressure parties into settlement.

STANDARD II: INFORMED DECISION-MAKING

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

A. The mediator shall facilitate safe and accurate disclosure of information so that parties can make informed decisions. Before and during mediation, the mediator should allow time for parties to consult with appropriate experts and support persons, including attorneys, advocates, financial experts, therapists, religious figures, educators, elders or friends, among others.

B. Consistent with standards of impartiality and preserving party self-determination, the mediator may provide participants with information that the mediator is qualified by professional training or experience to provide, including but not limited to information relevant to the issues in the mediation and the court process. The mediator shall not provide therapy or legal advice.

C. If either party wants their attorney or advocate to be present, the mediator should include them in the mediation process unless an applicable statute, regulation, or court rule precludes the presence of attorneys or advocates. When only one party has an attorney present at the mediation, the mediator should consider the power disparity and may take steps to address the potential imbalance, including but not limited to pausing the session, bringing in support participants, or terminating the mediation.

D. The mediator should document the parties' voluntary resolution of their dispute and inform them that an independent attorney should review any agreement before it is signed or finalized. The mediator should offer the parties time to reflect upon the agreement before signing it.

STANDARD III: EDUCATION OF PARTIES

The mediator shall educate potential parties about the mediation process.

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

1. informing them that reaching an agreement in mediation is consensual, and that the mediator is an impartial facilitator who will not make decisions for the parties or pressure them to reach agreements;

2. explaining the mediator's style and approach to mediation;

3. explaining that mediation is different from processes in which the neutral recommends to the court a plan for a resolution of the family dispute (e.g., a parenting plan evaluation);

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

5. informing the parties that the mediator and each party may terminate the mediation process at any time and for any reason;

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

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

8. informing the parties that any agreement reached must be reviewed and approved by the court when court approval is required;

9. informing the parties of the requirements and manner by which parties may enforce or modify any agreement they reach in mediation; and

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

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

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

STANDARD IV: BARRIERS TO PARTICIPATION AND PROCESS MODIFICATION

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

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

B. The mediator shall explore separately and confidentially with each party the nature of any barriers to participation, including past or present domestic abuse, child maltreatment, behavioral concerns, substance use, self-representation, language barriers, literacy, cultural norms, financial pressure, and access to and competence in the use of technology, among others.

C. In consultation with each party, the mediator shall explore and assess the effectiveness of safeguards and process modifications that are tailored to address barriers to meaningful participation in mediation. When facing one or more of these impediments, mediators shall discuss with participants whether process modifications adequately address them or if an alternative resolution process should be considered.

D. The mediator should not conduct a mediation if the mediator believes that any party is unable or unwilling to meaningfully participate.

STANDARD V: DOMESTIC ABUSE

The mediator shall screen for domestic abuse and help each party assess its impact on meaningful participation and determine whether a mediation process can be designed to address barriers to self-determination and informed decision-making.

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

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

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

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

COMMENTARY
Domestic abuse is a significant barrier to voluntary decision-making in mediation. Abusers may use mediation to continue their pattern of abuse through intimidation, coercion, or emotional manipulation, making it difficult for survivors to advocate for themselves or make informed, independent decisions. Mediators must remain vigilant in recognizing these dynamics and ensuring that mediation does not become another avenue for control by an abusive party. An emphasis on ongoing screening, process design, and ethical decision-making will help ensure that mediation does not enable further harm.

Mediators must help each party to determine whether process modifications, such as shuttle mediation and remote sessions, can provide a safe environment, conducive to effective mediation. If either party feels that safeguards cannot adequately address power imbalances or safety risks, referrals should be made to alternative processes.

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

STANDARD VI: CHILD MALTREATMENT

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

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

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

C. The mediator should provide the parties with referrals to appropriate services for the family, including child protective services, counseling, and legal advocacy, among others.

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

COMMENTARY
Mediators should focus on recognizing and responding appropriately to signs of child maltreatment, including physical harm as well as less obvious harms, including emotional abuse and neglect. Specialized and ongoing training is essential to equip mediators with the skills to recognize signs of child maltreatment. Resources such as child protective services, counseling, and legal advocacy can provide critical support outside of the mediation process and can ensure that children's needs are properly addressed.

STANDARD VII: IMPARTIALITY AND CONFLICT OF INTEREST

The mediator shall conduct the mediation process in an impartial manner, free from favoritism, bias, prejudice, and conflicts of interest.

A. The mediator shall decline to accept or shall withdraw from mediation if the mediator cannot conduct the mediation in an impartial manner or if an actual or potential conflict of interest might undermine the integrity of the mediation.

B. The mediator shall identify all actual or potential conflicts of interest or grounds of bias reasonably known to the mediator, resolving doubts in favor of recognizing the presence of a conflict or bias.

C. If the mediator identifies an actual or potential conflict of interest or ground of bias, the mediator shall withdraw or promptly disclose them to the parties prior to the start of a mediation or, if the mediation has commenced, immediately upon becoming aware.

D. Upon disclosure of a conflict of interest, and if the mediator believes impartiality can be maintained, the mediator may proceed with the mediation only if all parties explicitly agree and sign an informed, written waiver of the conflict of interest. However, if the mediator's impartiality is compromised, the mediator shall withdraw regardless of the express agreement of the parties.

E. If the mediator's conflict of interest or bias might reasonably be viewed as undermining the integrity of the mediation, the mediator should withdraw or decline to proceed with the mediation regardless of the expressed desire or agreement of the parties to the contrary.

F. The mediator should guard against demonstrating bias or partiality towards participants based on personal characteristics, background, beliefs, or performance at the mediation.

G. 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 to the participants 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. Prior to holding any separate sessions with the participants, the mediator shall discuss the obligations of confidentiality concerning those 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 use technology competently and keep abreast of updates, innovations, ethical considerations, and potential challenges.

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 it from all parties involved in the mediation process. The mediator should provide clear and accessible information about the technology's benefits and challenges and of 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 challenges associated with the use of technology. Mediators should also be aware of how technological tools may impact participant engagement, communication dynamics, and the 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 should 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 participants' needs and adapt technology use accordingly to preserve the core values of mediation, including safety, 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, impartiality, 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.

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 a dispute resolution mechanism, as the developmental needs of the child and the family circumstances evolve over time;

3. the effects on the child's development of continuing parental conduct, including but not limited to domestic abuse, child maltreatment, parent–child contact problems, and persistent inter-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 realities 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 in mediation, 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 a mediation session or not, the mediator shall provide the representative with the resulting agreements insofar as they relate to the child in accordance with jurisdictional requirements or the consent of both parties.

D. The mediator shall inform the parties and court-appointed child representative about the options for the child's input.

E. Prior to any child participation or input in the mediation process, the mediator should consult with the parties; the child's therapist, if any and if permissible; 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 and maturity.

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

COMMENTARY
The inclusion of children's voices in mediation requires careful evaluation of emotional risks, parental influence, and developmental appropriateness. Mediators should inform the parties and the child's court-appointed representatives about options for incorporating the child's perspective while clarifying that the child does not make final decisions. The goal is to ensure that the child's needs and desires 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 parties and the child's court-appointed representative. Cultural and religious factors can shape parenting philosophies, and mediators must be trained to navigate these influences while maintaining impartiality.

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 party has or is threatening to abduct a child;

4. a party is unable or unwilling to participate and maintain the integrity of the process for any reason, including but not limited to any form of domestic abuse or substance use;

5. a party is using the mediation to further illegal or otherwise inappropriate conduct, including harassment, delay, or unnecessary intrusion, among others;

6. a party is using the mediation process to gain an advantage;

7. the mediator cannot conduct the mediation in an impartial manner, or an actual or potential conflict of interest might undermine the integrity of the mediation;

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

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

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

STANDARD XII: TRAINING AND PROFESSIONAL COMPETENCE

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

A. The mediator shall have knowledge, skills, and/or experience in:

1. the mediation process and mediation ethics;

2. the family law of their jurisdiction;

3. child development and the potential impact of divorce and family conflict on parents, children, and other participants;

4. conducting age-appropriate child interviews;

5. identifying and assessing the impact of domestic abuse and child maltreatment on the participants and on the mediation process;

6. financial issues impacting divorce, including the financial and tax implications of parenting plans, pensions, child support, and spousal support, among others;

7. understanding and addressing power disparities between the parties;

8. parent-child contact problems and resist-refuse dynamics, including possible underlying causes such as parental alienating behaviors, compromised parenting, child maltreatment, and exposure to domestic abuse, among other causes;

9. recognizing the impact of culture and diversity;

10. conducting online mediation, including skills to address online privacy and security issues, party safety and self-determination, mediation confidentiality and privilege, participant communication preferences, and platform access, among others; and

11. 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 must 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 domestic 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

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

A. The mediator shall provide participants with information about compensation, fees and charges 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 compensation, fees and charges.

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

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

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

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

STANDARD XIV: ADVERTISEMENT, SOLICITATION, AND MARKETING

The mediator shall be truthful in all advertisements, solicitations, and communications for mediation services.

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

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