



Promoting and developing the use and practice of
collaborative conflict resolution through mediation.

Ethical Guidelines for the Practice of Mediation

These guidelines are intended to assist members of the Wisconsin Association of Mediators (WAM) to assess and improve the practice of mediation. These guidelines may be amended from time to time, as WAM and its members increase their understanding of the mediation process. They complement the ethical standards of the various professions and organizations of our members. These guidelines are based on the Model Standards of Conduct for Mediators developed collaboratively by the American Arbitration Association, American Bar Association and Society of Professionals in Dispute Resolution.

Noncompliance with a guideline by a member in a particular matter does not give rise to a cause of action against WAM, its officers, directors or members. These guidelines do not in themselves create legal duties whose breach gives rise to liability, although such duties may exist under statutory or common law.

PREAMBLE

Mediation is a dispute resolution process in which an impartial person or persons (the mediator) assists the parties to negotiate a consensual and informed settlement. In mediation, decision-making authority rests with the parties. The role of the mediator includes reducing the obstacles to communication, assisting the parties to identify and explore alternatives, and addressing the needs, interests and concerns of the parties and others affected.

Mediation is based on principles of fairness, privacy and self-determination of the parties.

Members of WAM strive to ensure that mediation services are provided responsibly and with professionalism through our own practice and community service.

1. Responsibility to Parties

1.1 As WAM members, we treat all persons with respect and seek to prevent discriminatory incidents in the practice of mediation.

1.2 As WAM members, we inform parties of possible limits of mediation in a manner that preserves their capacity to determine an appropriate response to their dispute.

1.3 As WAM members, we respect the right of parties to make informed decisions. We help parties understand the consequences of those decisions in a context of procedural fairness.

1.4 As WAM members, we refer parties to other professional resources as needed.
(Reference: Standards I, II, III, and IV, Model Standards of Conduct for Mediators.)

2. Responsibility to Profession

2.1 As WAM members, we maintain high standards of professional competence.

2.2 As WAM members, we pursue continuing education, experience and professional consultation in order to strengthen our skills and effectiveness in serving parties and to advance the understanding and practice of mediation.

2.3 As WAM members, we are amenable to critical review of our approach to practice.

2.4 As WAM members, we practice mediation only within the areas of our competence, based on training and experience.

(Reference: Standards IV and IX.)

3. Responsibility to WAM

3.1 As WAM members, we promote the ideals of our association by providing some mediation-related services to the community as volunteers.

3.2 As WAM members, we seek and offer mentoring and peer consultation to fellow members.

3.3 As WAM members, we work together with other interested professional groups to develop and improve mediation and other dispute resolution techniques.

4. Impartiality

4.1 As WAM members, we approach the mediation process in an impartial manner. If at any time we are unable to do so, we withdraw from the mediation process.

4.2 As WAM members, we disclose to the parties any dealing or relationship that might reasonably raise a question about our impartiality. If the parties agree to participate in the mediation process after being informed of the circumstances, we proceed unless the conflict of interest casts serious doubt on the integrity of the process, in which case we withdraw.

4.3 As WAM members, we avoid the appearance of conflict of interest both during and after the mediation process. Without the consent of all parties, we do not subsequently establish a professional relationship with one of the parties in a related manner, or in an unrelated manner under circumstances that raise legitimate questions about the integrity of the mediation.

4.4 As WAM members, we hold self-determination of the parties to be a central principle of mediation. We endeavor to facilitate a process of voluntary, uncoerced agreement. Any party may withdraw from mediation at any time.

(Reference: Standards II and III.)

5. Confidentiality

5.1 As WAM members, we hold the process and content of mediation to be confidential, and we inform the parties of any limitations on this confidentiality before assisting their negotiations. We will not disclose confidential information except:

a) As required by law;

b) As we reasonably believe necessary to prevent a danger of serious physical harm to any person;

c) Information that we have informed the parties will not be protected; or

d) Under appropriate circumstances, for research or as necessary for effective monitoring or evaluation of mediators and mediation programs by responsible persons. In these cases, access may be permitted to statistical data and, with the permission of the parties, to individual case files, observations of live mediations, and interviews with participants.

(Reference: Standard V.)

6. Financial Arrangements

6.1 As WAM members, we disclose and explain our fees in a timely and understandable manner, so that the parties are clearly informed about the potential cost of mediation.

6.2 As WAM members, we do not charge a fee that is contingent upon the result of the mediation or the amount of the settlement.

6.3 As WAM members, we do not bill mediation services as the provision of medical or mental health care.

(Reference: Standard VIII.)

7. Advertising

7.1 As WAM members, we present information about our services in an accurate, truthful, and honest manner.

7.2 As WAM members, we refrain from promises and guarantees of results.

(Reference: Standard VII.)

Adopted by the Board of Directors of the Wisconsin Association of Mediators April 4, 1997.

Available from the American Arbitration Association, 140 West 51st Street, New York, New York 10020-1203, telephone (212) 484-4000 fax (212) 307-4387; American Bar Association Section on Dispute Resolution, 740 Fifteenth Street, N.W. Washington, D.C. 20005-1681, telephone (202) 662-1681, fax (202) 662-1032; Society of Professionals in Dispute Resolution, 815 Fifteenth Street, N.W. Suite 530, Washington, D.C. 20005, telephone (202) 783-7277 fax (202) 783-7281.