

THE STATE COURTS OF SINGAPORE: CODE OF ETHICS AND BASIC PRINCIPLES ON COURT MEDIATION

1. Applicability and Definition

This Code of Ethics and Basic Principles on Court Mediation ('the Code') applies to any mediation conducted in the State Courts. Specifically, it applies to all judicial officers mediating at the State Courts' Court Dispute Resolution Cluster ("CDRC"), the Small Claims Tribunals ("SCT"), and to all court *volunteer* mediators serving in the State Courts¹.

2. The Objectives of Court Mediation and Shared Values of Mediators

2.1 The objective of mediation, i.e. the mission of court mediators is "We *help* court users to resolve their differences through *joint problem solving* in a *non-confrontational setting*, without resorting to trial."

2.2 Our vision is "We envision a future in which court users will make CDR their first choice in resolving disputes in court. We aim to provide a conducive environment which helps them to constructively engage with all types of conflict and achieve closure. We aspire to strengthen family, workplace and community relationships and understanding."

2.3 The core principles of how mediation should be conducted are embodied in the shared values of court mediators. These are:

(a) **Respect** - We give every individual with due regard and consideration through listening to their views in a non-judgmental fashion, understanding their concerns and honouring their right to decide.

(b) **Empowerment** - We seek to expand each individual's capacity to exercise freedom of choice and action.

(c) **Problem Solving** – We facilitate holistic and effective solutions to conflicts through helping court users to understand and develop their options.

(d) **Impartiality** – We will remain neutral in all mediation proceedings.

(e) **Fairness** – We provide a fair and non-adversarial process in the administration of justice.

(f) **Integrity** – We pursue high standards of ethics in our practice and subscribe to values of transparency and honesty.

¹ These include Court Volunteer Mediators and Justices of the Peace serving at the CDRC and SCT.

3. Statement of Ethics

The following ethical code shall be adhered to by all court mediators.

3.1 General Statement

3.1.1 A mediator shall act in good faith and shall not seek to advance his or her own interests at the expense of the parties.

3.1.2 A mediator shall act in a manner that promotes mutual respect among all the parties.

3.1.3 A mediator shall promote honesty and trust between all the participants of a mediation. A mediator shall not knowingly misrepresent any material fact.

3.2 Impartiality and Neutrality

3.2.1 A mediator shall be committed to conduct the mediation impartially by **assisting all the parties in a mediation and shall not encourage an adversarial atmosphere during mediation.**

3.2.2 If a mediator is in doubt as to whether he or she can conduct a mediation without the appearance of partiality, the mediator shall inform his or her supervisor and/or withdraw from the mediation.

3.2.3 A mediator shall avoid using any language or conduct that gives the appearance of partiality.

3.2.4 A mediator shall avoid a conflict of interest or the appearance of such a conflict during and after a mediation. Conflicts of interest may arise from an involvement by a mediator with the subject matter of the dispute or from his or her relations with any of the parties that may raise a question about his or her ability to remain impartial.

3.2.5 A mediator shall disclose all actual or potential conflicts of interest and should resolve any doubt on whether a conflict arises in favour of disclosure. The disclosure should be made prior to the mediation or once the mediator becomes aware of any actual or potential conflict.

3.2.6 After the mediator's disclosure of any actual or potential conflict, the mediator may proceed with the mediation only if all parties agree to his or her continuing to be the mediator. However, if a mediator's continued role in the mediation might be viewed by an objective third party to undermine the integrity of the mediation process, the mediator shall withdraw regardless of the expressed desire of the parties to the contrary.

3.2.7 After a mediation, a mediator shall not establish any relationship with any party in a mediation that would raise questions about the integrity of the mediation process.

3.3 Confidentiality

3.3.1 A mediator shall respect the privacy of the parties. In particular, a mediator shall not communicate to any non-party information about how the parties acted during the mediation.

3.3.2 A mediator shall not reveal to any other party, information which the mediator received during a caucus and which the disclosing party has indicated is confidential.

3.4 Respecting and Empowering the Parties

3.4.1 **A mediator shall always respect the parties' right to decide.** The mediator shall help the parties clarify the issues, develop and discuss their options but leave the decision on *whether* and *how* to settle solely with the parties.

3.4.2 A mediator shall inform the parties expressly at the start of the mediation that they have a right to decide whether and how to settle their case.

3.4.3 **A mediator shall not use any language or conduct himself or herself in any manner that may give rise to an impression that the parties must settle the matter according to the mediator's suggestion or direction.**

3.4.4 A mediator shall not use any undue influence on the parties, or in any way manipulate, threaten or coerce the parties, for the purpose of getting them to settle their case.

3.5 Abuse of CDR process

3.5.1 A mediator shall terminate the mediation if there are reasonable grounds to believe that any party to the mediation is abusing the process, i.e. to deliberately delay proceedings, achieve an unfair advantage or pursue an illegal or objectionable purpose.

4. General Statement of Principles

4.1 The key elements of our mission statement, shared vision and core values provide direction as to how court mediations should be conducted:

(a) Mediators help court users to resolve their differences

- Our role is to *facilitate* dispute resolution but the parties retain the right to decide how to resolve their *own disputes*.
- Mediators may *persuade* parties that a certain course of action may be beneficial but they are **not to direct, coerce, push parties to change their minds even if they personally believe that the parties' choice is not right or beneficial.**
- In exercising our core value *empowerment*, mediators should use appropriate opportunities during the mediation to highlight that the parties' have the *choice* to decide how to settle the matter, particularly in crucial junctures where parties feel the *tension* in making decisions.
- In applying the core value of *respect*, a mediator shall practice listening to contrary views in a non-judgmental fashion and seek to understand the parties' concerns and motivations.

(b) Mediators help court users to resolve their differences through joint problem solving

- Mediation cast the conflict as a problem to be solved by all the parties, lawyers and mediator jointly, instead of a contest between parties represented by their lawyers.

- **As far as possible, the mediator shall facilitate the formulation of solutions involving the lawyers and parties in joint sessions and help parties engage one another.** Where caucuses are called, the mediator shall involve both lawyers when seeking solutions. The mediator shall seek to expand the involvement of the parties and lawyers in arriving at a resolution in a collaborative fashion.

(c) Mediators provide a non-confrontational setting for dispute resolution

- In line with our vision to provide a conducive environment to help parties engage with conflict, mediators must remain *impartial* and *neutral*. Their actions and words must not give rise to an appearance of bias.
- The authority vested on a mediator by virtue of the mediator's office shall not be asserted except in rare instances when a recalcitrant party treats the mediator's kindness with contempt or as a sign of weakness.
- The mediator must frame the mediation as a non-confrontational process of resolving disputes. The mediator shall control the process to maintain a non-confrontational setting between the parties as far as practicable.