

# NATIONAL ACCREDITATION BOARD FOR FAMILY MEDIATORS (NABFAM)

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## *NATIONAL STANDARDS FOR FAMILY MEDIATION (July 2020)*

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The Board has adopted the following standards:

- A. Accreditation Requirements for mediators
- B. Training program and assessment requirements for mediators
- C. Continued Accreditation Requirements for mediators
- D. National Standards for CPD Point Allocation
- E. Code of professional conduct for mediators
- F. Criteria for accreditation of NABFAM member Organisations
- G. Minimum standards for Supervisors
- H. Minimum standards for Parenting Coordinators

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## *DEFINITIONS*

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The following definitions shall apply in this document:-

An Accredited Mediator	A Mediator whose competency in the practice of mediation has been accredited according to NABFAM standards through a NABFAM member organization
ADR	Alternative Dispute Resolution
The Board	The National Accreditation Board of Family Mediators
CPD	Continued Professional Development
DISAC	The South African Dispute Settlement Accreditation Council
FAIS	The Financial Advisory and Intermediary Services Act, 2002 (FAIS Act), came into operation on 30 September 2004. The purpose of the FAIS Act is to protect consumers of financial services and to professionalise the financial services industry.
FAMAC	Family Mediators Association of the Cape
FLC	Family Life Centre (FAMSA Johannesburg)
IMI	International Mediation Institute
KAFAM	KwaZulu-Natal Association of Family Mediators
Mediation	A process where two or more parties appoint a neutral third party ("Mediator") to assist them in resolving a dispute
Mediator	A neutral person who has been trained in mediation to assist two or more parties to resolve a dispute
NABFAM	The National Accreditation Board of Family Mediators
NABFAM member Organisation	A member organisation of NABFAM that has been accredited by the Board as such
PC	Parenting Coordinator
SAAM	South African Association of Mediators

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## *BACKGROUND INFORMATION*

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The objectives of the Board are to:

1. Promote, regulate and record the standards of Alternative Dispute Resolutions (ADR) mechanisms in family matters;
2. Define and publish national accreditation standards for family mediators, family mediation courses and family mediation trainers;
3. Promote, regulate and record standards for training of mediators;
4. Maintain and publish a national register of accredited family mediators, family mediation courses and family mediation trainers;
5. Actively promote transformation and representation in the family mediation industry;
6. Facilitate adherence by all family mediators to a standard code of conduct;
7. Maintain adherence to the accreditation standards by all member organisations;
8. Define and publish national accreditation standards for PCs, parenting coordination courses and parenting coordination trainers; and
9. Revise the standards from time to time.

The following organisations are founding members of the Board:

1. DISAC
2. FAMAC
3. Family Life Centre
4. KAFAM
5. SAAM

The Executive Committee currently consists of two representatives each from FAMAC, KAFAM, SAAM, as well as one representative each from DISAC and Family Life Centre.

In defining and adopting standards, the Board took notice of and sought to align South African ADR standards with international best practice. Accreditation will be aligned with the standards of the IMI.

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## A. NATIONAL ACCREDITATION REQUIREMENTS FOR MEDIATORS

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### 1. Minimum National Standards for Mediators

In order to qualify for accreditation as mediator with NABFAM, an applicant must:

- a) Provide proof of having met the following training requirements:
  - i. Training in an accredited mediation training course, with assessment and certification of his /her attendance and competence;
  - ii. Completion of NABFAM prescribed additional training;
- b) Provide proof of having met the following practice requirements:

Participation in a minimum of at least 3 supervised mediation sessions; each session must be a minimum of 1 hour. One of these sessions can be a role play with accredited mediators.
- c) Be an accredited and paid up member with one or more member organisations of NABFAM.
- d) In writing confirm that/whether he/she:
  - i. Has never been convicted of any offence against children and/or any offence involving violence.
  - ii. Has been convicted of any other offence; if yes, state the offence
  - iii. Subjects him/herself to the Code of Conduct and Ethics, the complaints and disciplinary procedures of the accredited NABFAM member organisation(s) with which he/she is affiliated.

### 2. Application for Accreditation

- a) An Applicant who seeks accreditation as a Mediator must apply for affiliation to an accredited NABFAM member organisation. Each such application must be accompanied with full details and proof of having met NABFAM's minimum national standards, as set out in paragraph 1 above.
- b) The NABFAM member organisation will consider the application to confirm that the Applicant has met NABFAM's minimum national accreditation requirements. NABFAM member organisations are entitled to introduce additional requirements for affiliation. Any Applicant will have to satisfy all those requirements prior to obtaining affiliation.
- c) In all cases where an Applicant has met the minimum national standards and has been granted affiliation by a NABFAM member organisation, the NABFAM member organisation must:
  - i. Provide a written statement to that effect to NABFAM, and request that the Applicant be registered as an accredited Mediator; and
  - ii. Pay the candidate's annual NABFAM registration fee over to NABFAM.
- d) Upon receipt of such a request the Board must register the Applicant as an accredited Mediator, and issue an accreditation certificate to the Mediator, provided that the Board may request the NABFAM member organisation to provide further

details or proof that the Applicant has met all of the requirements, before it so registers the Applicant.

- e) The same process shall apply for continued accreditation of mediators.
- f) No Applicant will be considered for membership or accreditation by NABFAM unless they are a member of a NABFAM member organisation.

### **3. Recognition of Prior Learning and Experience**

Where a Mediator has been trained through a training program that is not accredited by NABFAM, the mediator may apply for accreditation in one of the following ways:

- a) Undergo training through a NABFAM accredited training program; or
- b) If the Applicant is applying as an experienced Mediator specialising in family matters provide proof of:
  - i. 2 years' experience as a mediator specialising in family matters;
  - ii. Having completed a minimum of 10 cases with clients in the context of family matters;
  - iii. Two Memoranda of Understanding or Agreements that the Applicant has written for his/her clients at the conclusion of the mediation process. The Applicant must maintain confidentiality. All identifying features (names of clients, addresses, birthdates, file number) are to be removed prior to sending the copies of the documents to NABFAM; and
  - iv. Two letters of reference from two NABFAM accredited mediators.
- c) Each such application will be considered on its merits.
- d) Any decision made by the Board that an Applicant is required to undergo additional training in order to qualify for accreditation shall be final.

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**B. MINIMUM NATIONAL STANDARDS:  
TRAINING PROGRAM AND ASSESSMENT REQUIREMENTS FOR MEDIATORS**

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In order to qualify for accreditation a training program shall include the following:

1. Presentation and content:

- a) The training program must be conducted by a training team of at least two accredited trainers, per every 18 trainees.
- b) The training program must be a minimum of 40 hours in duration, excluding any assessment (which may be completed in more than one mediation workshop provided that no more than twelve months have passed between workshops).

2. Components:

- a) Family mediation theory (the minimum prescribed content is contained in Annexure A, entitled "Subject matter to be covered in the basic mediator training program").
- b) Role plays that allow Trainees to practise and develop skills.
  - i. Each Trainee must be involved in at least nine simulated mediation sessions and act as a Mediator in at least three thereof.
  - ii. The Trainer must provide coaching feedback in respect of the simulated mediation sessions.

3. Assessment:

- a) Trainees should be assessed for knowledge and prior learning and experience, and additional training needs may be identified.

Unless special circumstances are identified:

- i. Social workers and psychologists should be required to undergo additional training sessions on the following subject:

Family law (including *inter alia* division of assets, maintenance, divorce, children's legal issues, cultural issues, pension interests, trusts and wills) (12 hours)

- ii. Lawyers should be required to undergo additional training sessions on the following subject:

Mental health (including *inter alia* psychological issues relating to adults and children in divorce, children's special needs, development psychology, step-parenting, extended family issues, relevant psychopathology) (12 hours)

- iii. All other Trainees should be required to undergo additional training sessions on each of the following subjects:
  - 1. Family law (including *inter alia* division of assets, maintenance, divorce, children's legal issues, cultural issues, pension interests, trusts and wills) (12 hours)
  - 2. Mental health (including *inter alia* psychological issues relating to adults and children in divorce, children's special needs, development psychology, step-parenting, extended family issues, relevant psychopathology) (12 hours)
- iv. Any other training needs that may have been identified by the Trainer.

4. Assessment of Trainees post training:

- a) Assessment must include:
  - i. A written assignment that tests understanding of mediation theory.
  - ii. An assessment of the Trainee's competence as a Mediator (in an actual mediation, or in an applicable role play).
  - iii. Each Trainee must be assessed by at least one independent Assessor, that is an Assessor who did not provide any of the training to that group.
- b) During the assessment phase of the training, the *ratio* of qualified Assessors to Trainees is to be no less than 1:5
- c) Each Trainee must be assessed at least twice, and by different Assessors.
- d) When assessing a Trainee, the Assessor must certify a Trainee as being of competent standard, or if this is not the case, recommend additional training and practice, and re-assessment at a later date. The Assessor may, where this is warranted, also certify that a person is not competent to become a family mediator.

5. Accreditation of training Courses:

- a) The course shall be submitted to the relevant NABFAM member organisation, who will assess the course.
- b) When the NABFAM member organisation is satisfied that the course meets the accreditation standards, it shall submit the course to NABFAM for final approval and accreditation.
- c) Only courses submitted by members of a NABFAM member organisation, can be submitted for accreditation.
- d) An accreditation fee is payable upon the course having been deemed suitable for accreditation by the member organisation.
- e) A prescribed fee is to be paid by the member to the member organisation upon invoice and, upon accreditation, 50% is payable to NABFAM by the member organisation.
- f) Upon payment, NABFAM will issue a certificate of accreditation, valid for three years.

- g) A prescribed fee is payable by the member for the purposes of re-accreditation;50% of which is payable to NABFAM by the member organisation.
- h) A course offered by a member organisation will be submitted for accreditation to NABFAM.
- f) NABFAM reserves the right to review any accredited course at any time and may revoke accreditation.



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*ANNEXURE A: SUBJECT MATTER TO BE COVERED IN THE BASIC  
MEDIATOR TRAINING PROGRAM*

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**1. INTRODUCTION**

Introducing Trainees, Trainers and the course.

**2. UNDERSTANDING DIVORCE**

- a) The needs of couples during marital breakdown, separation, divorce and post-divorce family disputes - combining the perspectives and skills of counsellors and lawyers.
- b) The emotional process of divorce.

**3. CONCEPTS**

- a) Mediation
- b) Arbitration
- c) Negotiation
- d) Litigation
- e) Parenting Coordination

**4. THE MEDIATOR'S ROLE**

How does the role of the Mediator differ from other professional roles, such as attorneys, therapists, psychologists, social workers and religious leader?

**5. UNDERSTANDING THE MEDIATION PROCESS**

- a) Mediation models
- b) Principles of mediation
- c) Stages of the mediation process
- d) Skills in engaging with couples: identifying issues, conflict management, agreeing an agenda for mediation
- e) Options - extending the range of options - exploring proposals
- f) Narrowing gaps - negotiating towards settlement
- g) Communication and related skills
- h) Power imbalances affecting couples coming to mediation
- i) Impasse strategies
- j) Screening for family violence
- k) Understanding the dynamics of high conflict relationships

**6. LEGISLATION (relevant sections only)**

- a) Children's Act No. 38 of 2005;
- b) Divorce Act No. 70 of 1979;
- c) Domestic Violence Act No.116 of 1998;
- d) Financial Advisory and Intermediary Services Act, Act No.37 of 2002 (FAIS Act)
- e) Mediation in Certain Divorce Matters Act No. 24 of 1987 [The Office of the Family Advocate];
- f) Maintenance Act No. 99 of 1998;
- g) Maintenance of Surviving Spouses Act No. 27 of 1990;
- h) Marriage Act No. 25 of 1961;
- i) Matrimonial Affairs Act No. 37 of 1953;
- j) Matrimonial Property Act No. 88 of 1984;
- k) Protection from Harassment, Act No. 17 of 2011;
- l) Protection of Personal Information, Act No. 4 of 2013;
- m) Reciprocal enforcement of maintenance orders Act, Act No. 18 of 1963;
- n) The South African Constitution, Act No. 108 of 1996.

**7. CHILDREN**

- a) The Best Interests of the Child Standard: The duty of the Mediator to uphold the Best Interests of the Child Standard. Understanding the practical implementation of the standard in reaching agreements regarding children.
- b) The needs of children in separation and divorce - helping them adjust.
- c) Obligations of the Mediator to inform the minor children of the outcome of the mediation.
- d) Obligations of the Mediator regarding child participation in mediation: child inclusive versus child focused mediation.

**8. PARENTS' DECISIONS**

- a) Parental Responsibilities and Rights.
- b) Content of Parenting Plans.
- c) Contact and Residency Plans
- d) Parents and children - identifying mutual and conflicting needs.
- e) Role of the State in relation to parents' decisions.

9. **MEDIATION ON FINANCE AND PROPERTY ISSUES**

- a) Introducing legal, financial, tax and other information.
- b) Gathering financial information.
- c) Analysing financial information (subject to Code of Conduct).
- d) Issues concerning financial disclosure.
- e) Financial mediation guidelines.

10. **MEDIATION OUTCOMES**

- a) Format of summary.
- b) Mediation agreements, including the binding nature thereof.

11. **ETHICAL ISSUES**

Code of Ethics

12. **PRACTICE ISSUES**

- a) Getting started: facilities and equipment needed; receiving referrals; gaining both parties' acceptance of mediation.
- b) Agreement to mediate.
- c) Accreditation; fees; maintaining records; networking; marketing.

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*C. MINIMUM NATIONAL STANDARD FOR CONTINUED  
ACCREDITATION OF MEDIATORS*

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The affiliation of Mediators with NABFAM member organisations - and their accreditation with NABFAM - shall be valid for 12 months from the date of accreditation, and they will be required thereafter to apply for continued membership and accreditation.

In order to qualify for continued membership and accreditation as Mediator an applicant must provide proof that he/she acquired a minimum of 15 CPD points for the year of application, of which 5 CPD points may be from 5-hour *pro bono* sessions each year.

NABFAM may require proof that all the above requirements were met prior to renewing accreditation.

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*D. NATIONAL STANDARDS FOR CONTINUED PROFESSIONAL DEVELOPMENT (CPD) POINT ALLOCATION*

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In order to qualify for CPD points:

1. All conferences, seminars and group discussions must be registered with the NABFAM member organisation. A request for registration must note the following details:
  - a) Date, time, place and duration of the event
  - b) Name of the presenter(s)/chair(s)
  - c) Full details of the subject matter of the event

Upon receipt of a request for registration by an applicant for CPD points, the NABFAM member organisation will consider the application to register the event, and confirm the applicable CPD points (subject to the content being applicable).

2. All mediator training courses that are attended towards initial qualification as a Mediator must be accredited by NABFAM or recognised by the Member Organization.

<b>Nature of activity</b>	<b>Point allocation</b>
Training seminars; Half day seminars; One day seminars; Public appearances; Case presentations.	1 CPD point per hour (max 5 points per event)
Community Service mediation ( <i>pro bono</i> )	1 CPD point per hour (max 5 points per year)
Supervision provided or received	1 CPD point per hour (max 5 points per year)
Publications	2 CPD points per publication
Conference presentation (regional or national); Presenter at training session or group discussion.	2 CPD points per hour
Conference presentation (international)	10 CPD points per event
Attendance at group discussions (e.g. Committee meetings)	1 CPD point per hour (max 5 points per year)
Attendance at National Conferences	5 CPD points per full day, (max 10 points per year)
Post graduate study in mediation related subject (e.g. Masters, PhD)	10 CPD points (per year)

## **1. MEDIATOR APPOINTMENT**

### **a) Entitlement to use the title “Accredited Mediator” and the Board logo**

In the event that an Accredited Mediator fails to maintain the Board’s requirements for certification, or no longer qualifies as an Accredited Mediator, use of the title Accredited Mediator and use of the Board’s name and logo will end, and the Mediator’s Profile will no longer be included on the Board register.

### **b) Promotion of Mediators’ services**

Subject to applicable laws and to regulations governing professional practice, Mediators will present and promote their practice in a truthful way. They may quote freely from, and link to, the NABFAM webpage.

### **c) Appointment**

Before the mediation begins, a Mediator will advise the parties (in the mediation agreement or otherwise in writing):

- i. about their relevant background and experience;
- ii. under the auspices of which NABFAM member organisation the service is being conducted, and whose code of conduct the Mediator will observe;
- iii. which process will apply in the unlikely event of a party believing the Mediator has not met the standards of the stated code of conduct; and
- iv. that at the end of the process they will be invited to offer written feedback on the process and on the Mediator’s role.

## **2. DILIGENCE, INDEPENDENCE, NEUTRALITY, IMPARTIALITY**

### **a) Diligence**

A Mediator may accept an assignment to act as a Mediator in any situation where he/she feels competent to serve in that capacity.

### **b) Independence, Neutrality and Impartiality**

- i. A Mediator will always act in an independent, neutral and impartial way. A Mediator shall act in an unbiased manner, treating all parties with fairness, equality and respect. If at any time a Mediator is of the view that (s)he is unable to conduct the process in an independent, neutral and impartial manner, (s)he will express that concern and will offer to withdraw from the mediation. Such circumstances may include:
  1. financial or personal interests in the outcome of the mediation;
  2. existing past or future financial, business or professional relationship with any of the parties or their representatives about which the Mediator is aware;
  3. other potential sources of bias or prejudice concerning a person or institution which may affect that Mediator’s independence, neutrality or impartiality or reasonably create an appearance of partiality or bias;
  4. Ensuring that the mediator does not endorse or promote any particular product, or give financial advice (as contemplated in FAIS legislation).

- ii. A Mediator will not accept an appointment without first disclosing anything within their knowledge that may, or may be seen to, materially affect their independence, neutrality or impartiality. This duty to disclose is a continuing obligation throughout the mediation process.
- iii. The existence of circumstances potentially affecting, or appearing to affect, a Mediator's independence, neutrality or impartiality will not automatically imply unfit to act as a mediator provided these circumstances have been fully disclosed and addressed to the satisfaction of the parties and the Mediator.

### **c) Conflicts of Interest**

- i. A Mediator will conduct reasonable inquiries to determine if any interests, conflicts of interest or potential biases may exist. A Mediator will have a continuing duty to disclose any interests, conflicts of interest or potential biases that may become apparent during the mediation process.
- ii. Following any such disclosures, a Mediator will decline to act as a Mediator in a particular case if any of the parties raises an objection, unless a contract or applicable law or Court Order nevertheless requires the Mediator's participation. Even then, if a Mediator personally believes that the matters disclosed would inhibit his/her actual impartiality, the Mediator should withdraw.
- iii. After accepting the appointment, and until the mediation process ends, a Mediator will not enter into financial, business, professional, family or social relationships or acquire financial or personal interests that are likely to affect or might reasonably create the appearance of conflict of interest, partiality or bias, without making a prior disclosure to all the parties and gaining their consent.
- iv. A Mediator will not represent in an advisory capacity any party to a mediation in the same or a substantially related matter.
- v. At no time following the end of a mediation will a Mediator adduce evidence or testify on behalf of one of the parties in making or defending a claim against another party to the same mediation where they have acquired confidential information from the other party, unless all that information is no longer confidential or unless the party protected by the confidentiality gives consent.

## **3. MEDIATION PROCESS**

### **a) Procedure**

A Mediator will satisfy him/herself that the parties to the mediation and their advisers understand the characteristics of the mediation process, their roles as parties and advisers, and the role of a Mediator. The Mediator will ensure that, before the mediation begins, the parties have understood and agreed to the terms and conditions which will govern the mediation including those relating to obligations of confidentiality on the Mediator and on the parties. It is best practice for those terms to be contained in a written Mediation Agreement unless the parties or the circumstances dictate otherwise.

## **b) Fairness and Integrity of the process**

- i. The Mediator will explain the mediation process to the parties and their advisers, and be satisfied that that they consent to the process and to the Mediator (unless applicable law, court rules or contracts require use of a particular process and/or mediator). A Mediator will ensure that, if there are to be any pre-mediation private communications with the Mediator, all parties are aware that they will have equal opportunities to raise issues.
- ii. The Mediator will conduct the process with fairness to all parties and will take particular care to ensure that all parties have adequate opportunities to be heard, to be involved in the process and to have the opportunity to seek and obtain legal or other counsel before finalising any resolution.
- iii. The Mediator will take reasonable steps to prevent any misconduct that might invalidate an agreement reached at a mediation or create or aggravate a hostile environment. The Mediator will also be satisfied that the parties have reached agreement of their own volition and knowingly consent to any resolution.

## **c) Termination of the process**

- i. The Mediator will ensure the parties understand that they may withdraw from the mediation at any time by informing the Mediator and all other parties without being required to give any justification for doing so.
- ii. The Mediator may withdraw from a mediation if a negotiation among the parties assumes a character that to the Mediator appears unconscionable or illegal, or there appears to the Mediator to be no prospect of progress and/or resolution.

## **d) Fees**

- i. The Mediator will, before accepting his/her appointment, agree with the parties on how his/her fees and expenses will be calculated, and how he/she will be paid by the parties and, if shared between the parties, in what proportions. The Mediator who withdraws from a matter will return to the parties any fees already paid relating to the period following withdrawal.
- ii. The Mediator will not suggest to the parties that his/her remuneration should be based on or related to the outcome of the mediation.

## **4. CONFIDENTIALITY**

- a) The Mediator will keep all information acquired in the course of serving as a mediator in a mediation confidential unless:
  - i. compelled to make a disclosure by law, by a court or by some governmental agency having appropriate authority and jurisdiction; or
  - ii. required under paragraph 5.1, in which event the recipients of the confidential information shall themselves be bound to maintain the confidentiality; or
  - iii. the specific information comes into the public domain (otherwise than as a result of a disclosure by the Mediator); or
  - iv. the parties release the Mediator from the confidentiality restriction; or
  - v. it is necessary to defend the Mediator from any proceedings or charges for which (s)he risks incurring any liability.



- b) The Mediator may, however, disclose having previously served as a Mediator in a mediation involving one or more of the parties, provided none of the details of that case are disclosed.
- c) The Mediator will discuss confidentiality with the parties before or at the beginning of the mediation process and obtain their consent to any communication or practice by the Mediator that involves the disclosure of confidential information.
- d) The Mediator may use or disclose confidential information obtained during a mediation when, and to the extent that, he/she believes it to be necessary to prevent death or serious physical harm or damage from arising, or believes that an illegal act may realistically arise.

## **5. PROFESSIONAL CONDUCT ISSUES AND COMPLAINTS**

- a) An Accredited Mediator may consult his/her NABFAM member organisation regarding any professional or ethical dilemmas.
- b) Where an Accredited Mediator is subject to the Code of Professional Conduct, a party to a mediation who believes there has been a lack of compliance with this Code may activate the complaints and disciplinary procedures of the NABFAM member organisation under whose auspices the mediation took place.
- c) In the event that a NABFAM member organisation has suspended an accredited mediator's membership from the member organisation according to the member organisation's own code of conduct, NABFAM needs to be informed immediately.
- d) Appeal process to be followed, if need be.
- e) Upon receipt of the information that an accredited mediator's membership has been suspended, NABFAM will withdraw the accreditation of any and all courses of the suspended mediator.
- f) A member organisation may rehabilitate a suspended member in the following ways:
  - i) requesting the suspended member to undergo retraining in the area of malpractice or incompetence; and
  - ii) requesting the suspended member to comply with additional and appropriate measures related to the transgression or reason for suspension as required by the member organisation.
- g) Once a suspended member has been rehabilitated and the suspension has been lifted the member organisation will inform NABFAM.
- h) A suspended accredited mediator may apply for the restoration of his/her accreditation including the accreditation of any and all courses upon application to NABFAM and by providing proof of his/her restoration from his/her member organisation as provided in f) above.

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*F. CRITERIA FOR AFFILIATION OF NABFAM MEMBER ORGANISATIONS*

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**A. Policy**

The policy of NABFAM is to nurture the development of a strong member organisation in each province – rather than to see a proliferation of smaller member organisations around the country. The presence of a strong regional organisation will better serve the objectives of NABFAM, as set out in the NABFAM Operational Framework.

Accordingly, NABFAM will:

1. Affiliate one member organisation per province. See also 4) below.
2. Encourage all other role players in a particular province to participate through the offices of the affiliated member organisation in that particular province.
3. Prompt member organisations to be fully inclusive, and to invite and involve all role players in that province to participate.
4. Consider membership applications for additional member organisations in any province. Such applications will only be approved if exceptional circumstances are present that indicate that such a registration will be in the best interests of NABFAM's organisational goals.

Any applicant will have to indicate at least the following:

- a) Exceptional circumstances;
- b) More than ten mediator members accredited under the NABFAM Accreditation System;
- c) Provision of a range of member services such as an ability to provide access to or refer mediators to ongoing professional development workshops, seminars and other programs and debriefing, or mentoring programs;
- d) A complaints system that meets NABFAM requirements;
- e) Sound governance structures, financial viability and appropriate administrative resources;
- f) Sound record-keeping in respect of their membership and the approval of any in-house, outsourced or relevant educational courses; and
- g) Any additional information requested by NABFAM.

## **B. Process and Requirements**

### **1. Introduction**

- a) Registration as a NABFAM Member Organisation will be open to any organisation whose principal purpose or objective is the provision of dispute resolution services (mediation, arbitration, conciliation, parenting coordination) and which meets the requirements of the Board.
- b) NABFAM Member Organisations will have the ability to accredit mediators in accordance with the mediation accreditation standards set by the Board. To qualify for accreditation as a service provider, an organisation must therefore be able to demonstrate its ability to properly fulfil this function.
- c) Organisations providing only training or ancillary services will not be able to be accredited as service providers. They will however be able to obtain accreditation for their training programmes, trainers and assessors.

### **2. Bi-Annual registration**

- a) Registration will be for a 24-month period: it must be renewed in order for NABFAM member organization to remain accredited.
- b) Registration and renewal will require the organisation to meet the registration criteria and to lodge the standard registration application with the Board, containing all the required registration information, and the registration fee.
- c) Registration will not be automatic following payment of the registration fee. The Board will have the right to decline an application to accredit an organisation if the NABFAM Member Organisation has not met the registration criteria, fails to lodge its registration and/or continues to display the Registration Information on its website.
- d) The Board may at any time request:
  - i. confirmation of any of the registration criteria, or
  - ii. to inspect the activities of the NABFAM Member Organisation to confirm that it complies with the registration criteria.

Failure by the NABFAM Member Organisation to adhere to such request may result in the rejection of its registration application.

### **3. Details of region of operations and number of mediators**

The NABFAM member organisation must list:

- a) The geographic area covered by its panel of mediators;
- b) The types of disputes the panel of mediators are qualified to mediate.

#### **4. Mediator Management**

NABFAM Member Organisations are responsible for mediation management. This includes the following:

- a) The publishing of standards that meet the Board's minimum accreditation standards;
- b) The provision of transparent accreditation processes in line with the Board's standards;
- c) The expertise to perform assessment of membership applications;
- d) The provision of a CPD programme, or access to such a programme;
- e) The monitoring of the performance of its panel of mediators; and
- f) The submission of its panel of mediators' details for registration with the Board.

#### **5. Standards of Conduct**

NABFAM Member Organisations must:

- a) Subscribe to a code of professional conduct that meets the Board's standards;
- b) Subscribe to a complaints system that meets the Board's standards;
- c) Subscribe to a disciplinary process that meets the Board's standards;
- d) Require its panel of mediators to subject themselves to these standards of conduct.

#### **6. Sound Governance Structures, and Appropriate Administrative Resources**

NABFAM Member Organisations must demonstrate or produce:

- a) Compliance with all regulatory and statutory requirements for registration and on-going conduct of business;
- b) A current tax clearance certificate;
- c) Details of ownership and management including particulars of:
  - i. Shareholders and shareholding
  - ii. Directors
  - iii. Executive management
  - iv. Staff
  - v. Name of auditors
  - vi. The person responsible for dealing with the Board's requirements
- d) Sufficient details of case management, administrative systems and recordkeeping demonstrating competency.
- e) Contact telephone numbers during normal business hours.

## **7. Financial Viability and Management of 3rd Party Funds**

The Board is obliged to consider the on-going viability of NABFAM Member Organisations, as well as the measures in place for managing members' funds. NABFAM Member Organisations are therefore required to disclose the following within 6 months of their financial year-end:

- a) Disclosure of the process in terms of which members' funds are managed. It is required that such funds shall be kept separate from any other funds managed by the NABFAM Member Organisations.
- b) A statement by the NABFAM Member Organisation's auditors/bookkeepers that all third-party funds were administered in accordance with the NABFAM Member Organisation's internal processes. If not, full details of any deviation must be supplied.

## **8. Transparent and published details of services**

NABFAM Member Organisations must publish a description of services (including process rules, where appropriate)

## **9. Publication of Registration Information**

NABFAM Member Organisations must display their registration information on their websites.

## **10. Additional requirements**

NABFAM Member Organisations may from time to time be required to meet all additional requirements that are published by the users of mediation services (for example the Department of Justice and Constitutional Development).

## **11. The process of registration**

- a) The Secretary of the Board will be the point of contact.
- b) The process will operate as follows:
  - i. The Secretary will receive the application together with the prescribed fee.
  - ii. The payment of the due fee will be checked and the fee banked.
  - iii. The Secretary will assess compliance with the accreditation requirements.
  - iv. The Secretary will then present the application to the Board for approval.
  - v. If the Board is satisfied then the Secretary will:
    - (1) notify the applicant;
    - (2) send the applicant a high definition version of the Board's logo for use on their website;

- (3) allocate a registration number to the NABFAM Member Organisation and notify the NABFAM Member Organisation of that registration number;
- (4) update the Board's website with the organisation's name and link; and
- (5) ensure that the NABFAM Member Organisation receives a renewal notice in 22 months' time.

## **12. Registration Difficulties**

- a) If the secretary believes that an applicant has failed to meet the accreditation requirements or does not display all of the registration information on its website, the secretary shall in the first instance ask the applicant for the required information and instruct the applicant to rectify its website.
- b) If, in the opinion of the secretary, the applicant still does not comply, then the secretary will notify the chairperson of the Board. The chairperson will approach the applicant for the required information and/or request the applicant to rectify its website.
- c) If the required information is not forthcoming within 14 days, the chairperson will notify the Board that an application has been declined (with written reasons) and cause the registration fee to be returned in 28 days if there is no appeal.
- d) If the applicant wishes to challenge the decision of the chairperson it may appeal to the Board. If the appeal is dismissed the registration fee will be retained by the Board.

## **13. De-registration**

Once an organisation is accredited it will only lose registration if:

- a) It fails to renew its membership after 24 months by reason of:
  - i. Its failure to provide the required renewal form; and
  - ii. It fails to pay the required fees.
  - iii. In every case the NABFAM Member Organisation will be sent one electronic notice to renew by the secretary of the Board 22 months after the date of its first registration (or its last renewal of registration); and, if necessary, a single reminder by the secretary six weeks later. If the organisation takes no action, the Board will serve a notice of de-registration and cause its entry on the Board's website to be removed. The notice of deregistration will require the organisation to cease using the NABFAM logo. Such notice of deregistration will be copied to the Board executive.
- b) It comes to the notice of the Board that the organisation has ceased to trade or to operate, is wound up, or dissolved.
- c) It comes to the notice of the Board that the organisation has been placed into liquidation or under administration, or has otherwise become insolvent.
- d) The organisation or its officials, officers, directors or employees in the course of their duties is or are found by a court or tribunal in any country to have or to be engaged in unlawful activities.
- e) As a result of a finding by the Board under paragraph **15** below that the organisation is no longer fit to be a NABFAM Member Organisation.

## **15. Complaint as to fitness to remain accredited**

- a) A complaint under this heading can only be made on the grounds that the organisation fails to comply with any one of the requirements for accredited NABFAM Member Organisations as set out above. This is not a general complaints procedure. Any other complaint, for example about an organisation's service, must be dealt with through that member organisation's own complaints procedures
- b) Where a NABFAM Member Organisation or its officials, officers, directors or employees in the course of their duties is or are found by a court or tribunal in any country to have or to be engaged in unlawful activities, the Board secretary shall lodge a complaint setting out the details of the offence.
- c) Any person, body or organisation (including a member of the Board) may make a complaint to the Board about a NABFAM Member Organisation's fitness to remain accredited. A complaint about fitness must be made in writing, addressed to the secretary and signed by (or on behalf of) the complainant.
- d) Upon receipt of such a complaint the Board shall deal with the matter in any way it deems appropriate, subject to the rules of natural justice. A complaint shall be considered by the Board if the nature of the complaint is likely to raise a real question as to the fitness of the NABFAM Member Organisation to remain accredited.

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### G. MINIMUM ACCREDITATION STANDARDS FOR SUPERVISORS

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In order to obtain accreditation as a Supervisor, a person will be required to provide proof of the following:

1. That he/she is an accredited Mediator, and registered with a Member Organisation for a minimum period of five years. In order to allow potential supervisors an opportunity to reach the required standard, a phasing-in period will be implemented:
  - a) 2020: 4 years
  - b) 2021: 5 years

2. That he/she has the necessary qualifications to provide the proposed supervision. An applicant will be required to:

Provide proof of relevant academic qualifications and professional experience. As a general principle, Accredited Supervisors, will be required to be either Mental Health professionals (psychologist/psychiatrist/social worker), or legal professionals (advocate/attorney).

3. That he/she has the necessary mediation and professional experience to qualify as a Supervisor. An applicant will be required to provide proof of:

a) Professional Experience	5 years
b) Accreditation	per 1 above
c) Mediation Experience	5 years

4. Accredited Supervisors will receive CPD points for each supervision performed.



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*H. NATIONAL MINIMUM ACCREDITATION STANDARDS FOR  
PARENTING COORDINATORS (PCs)*

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1. A PC must comply with the requirements provided for in the Guidelines for Parenting Coordination as amended from time to time.
2. A PC must be qualified by education, training and experience to undertake parenting coordination with the skill and capacity required to deal appropriately and efficiently with high conflict parenting issues in the best interests of the children.
3. Any person seeking accreditation as a PC must at a minimum:
  - a) have a mental health or legal professional qualification (NQF 8 level 7 or higher); and
  - b) be a NABFAM accredited family mediator;
  - c) have specific training in the parenting coordination process and attended a NABFAM accredited Parent Coordination Course, which includes knowledge of family dynamics in separation and divorce, facilitating child participation and domestic violence screening; and
  - d) have a minimum of seven years' professional experience in family dispute resolution; and
  - e) be a member of a designated professional organisation, such as the Health Professions Council of South Africa ("HPCSA"), the South African Council for Social Service Professions ("SACSSP"), the Law Society of South Africa ("LSSA") or the General Bar Council of South Africa; or
  - f) have served for a period of seven years on the bench as a judge or magistrate with specific experience in family matters; and
  - g) have a certificate of good standing with a NABFAM Member Organisation.
4. A PC should participate in peer consultation and/or mentoring to receive feedback and support in respect of ongoing matters. PC agreements should specify that such professional consultation is permitted.
5. A PC must maintain professional competence in parenting coordination and should regularly participate in continuing educational activities promoting professional growth as a PC. The PC should keep a portfolio of evidence of such activities (e.g. peer consultations, reading, discussion sessions, training sessions, seminars, conferences and workshops.)
6. A PC must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.
7. The professional conduct issues and complaints as applicable to mediators in E.5 above are equally applicable to accredited PCs.