



# NATIONAL ACCREDITATION BOARD FOR FAMILY MEDIATORS

**(NABFAM)**

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**NATIONAL STANDARDS FOR FAMILY MEDIATION as at 25 July 2024**

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**The Board has adopted the following standards:**

- A. National minimum accreditation requirements for mediators
- B. National minimum accreditation standards for supervisors and trainers
- C. National minimum standards: Training programs and assessment requirements for mediators
- D. National minimum standards for continued accreditation of mediators
- E. National minimum standards for CPD point allocation
- F. NABFAM Code of Professional Conduct for mediators
- G. Criteria for affiliation of NABFAM member organisations
- H. National minimum accreditation standards for parenting coordinators (PCs)

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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 organisation
ADR	Alternative Dispute Resolution
The Board	The National Accreditation Board for 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) which 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
IMI	International Mediation Institute
KZN SoM	KwaZulu-Natal Society of Mediators
Mediation	A process where two or more parties appoint a neutral third party (“mediator”) to assist them in communicating effectively and resolving a dispute or arrive at an outcome that is mutually acceptable
Mediator	A neutral person who has been trained in mediation to assist two or more parties to communicate effectively and resolve a dispute or arrive at an outcome that is mutually acceptable
NABFAM	The National Accreditation Board for Family Mediators
NABFAM member organisation	A member organisation of NABFAM that has been affiliated by the Board as such

PC	Parenting coordinator
Parenting coordination	<p>Parenting coordination is a child-focused ADR process in which a mental health professional or legal professional with mediation training and experience assists high-conflict parties in implementing parenting plans and resolving pre- and post-divorce parenting disputes in an immediate non-adversarial, court-sanctioned, private forum, by</p> <ul style="list-style-type: none"> <li>• assessing the parties' compliance with parenting plans, settlement agreements and/or court orders and assisting them to correctly implement such plans, agreements and/or orders;</li> <li>• educating both parties regarding the risk factors of family separation for their children;</li> <li>• facilitating communication between the parties and with other persons involved with their children;</li> <li>• monitoring and overseeing the case inter alia by referring the parties to other professionals;</li> <li>• mediating disputes; and</li> <li>• as a last resort, issuing directives where the parties cannot reach an agreement on parenting issues.</li> </ul>
SAAM	South African Association of Mediators
SJA	Social Justice Association of ADR Practitioners

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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 Resolution (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, family mediation trainers, parenting coordinators and parenting coordination courses;
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 (KwaZulu-Natal Association of Family Mediators; KZN SoM's predecessor)
5. SAAM

The Executive Committee currently consists of three representatives each from FAMAC, KZN SoM, SAAM & SJA.

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

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## A. NATIONAL MINIMUM ACCREDITATION REQUIREMENTS FOR MEDIATORS

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### 1. NATIONAL MINIMUM STANDARDS FOR MEDIATORS

In order to qualify for accreditation as a mediator with NABFAM, an applicant must comply with the following minimum requirements:

- a) Provide proof of having met the following training requirements:
  - i. Training in a NABFAM-accredited family mediation training course, with assessment and certification of his/her attendance and competence; and
  - ii. Completion of NABFAM-prescribed additional training.
  
- b) Provide proof of having met the minimum practice requirement of participation in at least 3 supervised mediations, subject to the following conditions:
  - i. If the supervised mediation sessions comprise only of **role plays** (online or onsite), the trainee must participate in at least 5 role plays as the mediator, for a minimum of 1 hour each (a total of 5 hours acting as the mediator).
  - ii. Role-play supervisors must conform to the minimum requirements as set out in this document.
  - iii. Role-play sessions should only be used for the purpose of meeting accreditation requirements.
  
- c) Be an accredited and paid-up member with one or more NABFAM member organisation(s).
  
- d) Submit an affidavit confirming:
  - i. That the member has never been convicted of any offence against children and/or any offence involving violence; and
  - ii. Whether the member has been convicted of any other offence, and if so, the nature of such offence; and
  - iii. That the member will be bound by the Code of Professional Conduct for mediators;

- iv. That the member will be bound by any complaints and/or disciplinary procedures of the affiliated NABFAM member organisation(s) with which he/she is accredited.

## **2. APPLICATION FOR ACCREDITATION**

- a) An applicant who seeks accreditation as a mediator must apply for accreditation to an affiliated NABFAM member organisation. Each such application must be accompanied with full details and proof of having met NABFAM's national minimum 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 national minimum standards. NABFAM member organisations are entitled to introduce additional requirements for accreditation. An applicant will have to satisfy all such requirements prior to obtaining accreditation.
- c) In all cases where an applicant has met the national minimum standards and has been granted accreditation by a NABFAM member organisation, the member organisation should:
  - i. Notify NABFAM and request that the applicant be added to the database of accredited mediators; and
  - ii. Pay the candidate's annual NABFAM registration fee over to NABFAM.
- d) The NABFAM member organisation should register the applicant as an accredited mediator and issue an accreditation certificate to the mediator.
- e) The same process shall apply for continued accreditation of mediators as set out in part D below.
- f) No applicant will be added to the NABFAM database of accredited mediators unless he/she is a member of a NABFAM member organisation.

### 3. RECOGNITION OF PRIOR LEARNING AND EXPERIENCE

- a) Where a mediator has previously been trained through a training program that is not accredited by NABFAM, the mediator may apply for accreditation in one of the following ways:
- i. Undergo training through a NABFAM-accredited family mediation training course; or
  - ii. Provide proof of:
    1. At least 2 years' experience as a mediator specialising in family matters;
    2. Having completed a minimum of 10 cases with clients in the context of family matters;
    3. Two Mediation Summaries or Agreements that the applicant has written for his/her clients at the conclusion of the mediation process. The applicant must maintain confidentiality of the clients. All identifying features (names of clients, addresses, birthdates, file number) are to be removed prior to sending the copies of the documents to the member organisation; and
    4. Provide two letters of reference from either mediators, who have been accredited as mediators by a NABFAM member organisation. or other suitably qualified persons.
- b) Each such application shall be considered on its merits.
- c) Any decision made by the NABFAM member organisation that an applicant is required to undergo additional training in order to qualify for accreditation shall be final.

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## B. NATIONAL MINIMUM ACCREDITATION STANDARDS FOR SUPERVISORS AND TRAINERS

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In order to obtain accreditation as a trainer or supervisor (including for role-play supervisions), an applicant will be required to provide proof to the member organisation of the following:

1. That he/she is an accredited mediator and has been registered with a NABFAM member organisation for a minimum period of five years.
2. That he/she has the necessary qualifications to provide the proposed training and supervision. An applicant will be required to:
  - Provide proof of relevant academic qualifications and professional experience. As a general principle, accredited trainers and supervisors will be required to be either mental health professionals, legal professionals, or suitably qualified persons.
3. That he/she has the necessary mediation and professional experience to qualify as a trainer or 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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**C. NATIONAL MINIMUM STANDARDS:  
TRAINING PROGRAMS AND ASSESSMENT REQUIREMENTS FOR MEDIATORS**

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In order to qualify for accreditation, a family mediation 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 family mediation 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, developmental psychology, step-parenting, extended family issues, relevant psychopathology) (12 hours)
- iii. All other trainees should be required to undergo additional training sessions on both of the following subjects:
  - Family law (including *inter alia* division of assets, maintenance, divorce, children’s legal issues, cultural issues, pension interests, trusts and wills) (12 hours); and
  - Mental health (including *inter alia* psychological issues relating to adults and children in divorce, children’s special needs, developmental psychology, step-parenting, extended family issues, relevant psychopathology) (12 hours).
- iv. Trainees may be required to do further additional training as 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 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 it is warranted, also certify that a trainee is deemed not yet competent to act as a family mediator.

## 5. ACCREDITATION OF TRAINING COURSES

- a) The fundamental training courses, that is, the basic Family and Divorce Mediation Training course, the Applied Psychology course, the Applied Family Law course, and the Parenting Coordination Training course, are to be submitted to NABFAM for accreditation. Any other course must be submitted to one of the NABFAM member organisations for accreditation.
- b) An accreditation fee as determined by the Board from time to time is payable to NABFAM or the member organisation by the applicant upon application.
- c) On successful accreditation, NABFAM or the member organisation shall issue a certificate of accreditation for the course to the applicant, which shall be valid for three years for fundamental courses and two years for all other courses.
- d) A re-accreditation fee of 50% of the current accreditation fee shall be payable by an applicant for the purposes of re-accreditation of the same or updated course.
- e) NABFAM reserves the right to review any accredited course at any time and may revoke accreditation if it is found that the training course no longer meets the required accreditation standards.

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**D. NATIONAL MINIMUM STANDARDS  
FOR CONTINUED ACCREDITATION OF MEDIATORS**

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The accreditation of mediators with NABFAM member organisations – and their inclusion in NABFAM’s database of accredited mediators – 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, a member 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* mediation sessions each year.

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

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## E. NATIONAL MINIMUM STANDARDS FOR CPD POINT ALLOCATION

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1. In order to qualify for CPD points, an event must be registered with a 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 relevant).

2. The following table illustrates the CPD point allocations for various activities/events:

<b>Nature of activity</b>	<b>Point allocation</b>
Training seminars; Half day seminars; One day seminars; Public appearances; Case presentations; Webinar presentation; Presenter at a group discussion	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	1 CPD point per hour (max 5 points per year)
Publications in professional journals	5 CPD points per publication
Conference presentation (regional or national)	2 CPD points per presentation
Conference presentation (international)	5 CPD points per presentation
Attendance at group discussions (e.g. AGM, Board 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)	15 CPD points (upon successful completion of degree)

3. Member organisations shall recognise the CPD points obtained by their members from events registered by other member organisations.

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## F. NABFAM CODE OF PROFESSIONAL CONDUCT FOR MEDIATORS

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### 1. MEDIATOR APPOINTMENT

- a) Entitlement to use the title “Accredited Mediator” and the NABFAM logo**  
In the event that an accredited mediator fails to maintain the Board’s requirements for accreditation, or no longer qualifies as an accredited mediator, use of the title “Accredited Mediator” and permission to use the Board’s name and logo will be withdrawn, and the mediator’s profile will no longer be included on NABFAM’s database.
- b) Promotion of mediators’ services**  
Subject to applicable laws and to regulations governing professional practice, accredited 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, an accredited mediator will advise the parties (in the agreement to mediate or otherwise in writing):
- i. under the auspices of which NABFAM member organisation the service is being conducted, and whose code of conduct the mediator will observe; and
  - ii. 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
  - iii. that the mediator will adhere to the provisions of the Protection of Personal Information Act 4 of 2013.

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

- a) Diligence**  
A mediator may accept an assignment to act as a mediator in any situation where he/she is 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 he/she is unable to conduct the process in an independent, neutral, and impartial manner, he/she will express that concern and will offer to withdraw from the mediation. Such circumstances may include:
  - when the mediator has any conflict of interest in the matter and/or the outcome of the mediation;
  - when the mediator is aware of an existing past or future financial, business, professional, family, or social relationship with any of the parties or their representatives;
  - other potential sources of bias or prejudice concerning a person, institution, or product (financial or otherwise) which may affect that mediator's independence, neutrality or impartiality or reasonably create an appearance of partiality or bias; and/or
  - providing financial advice (as contemplated in the FAIS legislation).
- ii. A mediator will not accept an appointment without first disclosing any interest or relationship to their knowledge that may, or may be seen to, 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 that the mediator is unfit to act in the matter. The mediator may continue to act if the circumstances have been fully disclosed and the parties agree to continue with the mediation after disclosure, provided that the mediator withdraws if the mediation process may be unduly influenced by such conflict of interest.

**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 the 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.
- vi. A mediator shall not act in dual sequential roles while mediating a matter, for example giving legal advice, therapy, or parenting coordination to the parties in the matter and/or their children, during and/or after the mediation process.

### **3. MEDIATION PROCESS**

#### **a) Procedure**

A mediator will satisfy him/herself that the parties to the mediation and their advisors understand the characteristics of the mediation process, their roles as parties in the process and advisors, and the role of the 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 agreement to mediate unless the parties or the circumstances dictate otherwise.

**b) Fairness and integrity of the process**

- i. The mediator shall explain the mediation process to the parties.
- ii. The mediator must be satisfied that the parties understand and consent to the process and the role of the mediator acting in the matter (unless applicable law, court rules or contracts require use of a particular process and/or mediator).
- iii. A mediator will ensure that, if there are to be any pre-mediation private communications with him/her, all parties are aware that they will have equal opportunities to raise issues privately in the mediation process.
- iv. The mediator shall 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.
- v. The mediator shall 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 should be satisfied that the parties have reached agreement of their own volition and knowingly consent to any resolution.
- vi. The mediator shall at all times maintain the best interests of the child as a guiding principle.
- vii. The mediator shall take all reasonable steps to ensure that an outcome is not inherently unfair towards any party.

**c) Termination of the process**

- i. The mediator shall 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 between 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 shall, 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. A mediator who withdraws from a matter shall return to the parties any fees already paid relating to the period following withdrawal.
- ii. The mediator shall 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 shall keep all information acquired in the course of serving as a mediator in a mediation confidential unless:
  - i. he/she is compelled to make a disclosure by law, by a court or by some governmental agency having appropriate authority and jurisdiction; or
  - ii. he/she is required to disclose under paragraph 4.a)i. in which event the recipients of the confidential information shall themselves be bound to maintain confidentiality; or
  - iii. the specific information comes into the public domain (other 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 he/she 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 shall 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 must disclose confidential information to the extent that he/she believes it to be necessary to prevent death or serious physical harm or damage, or believes that an illegal act may realistically arise, or when a reportable incident or event has occurred.

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

- a) An accredited mediator may consult his/her NABFAM member organisation regarding any professional or ethical dilemmas.
- b) A party to a mediation who believes there has been a lack of compliance with this Code of Professional Conduct 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 after a disciplinary process from the member organisation according to the member organisation's own code of conduct, NABFAM shall be informed immediately.
- d) The mediator against whom a complaint has been made will have the opportunity to appeal the outcome of a disciplinary process or suspension.
- e) Upon receipt of the information that an accredited mediator's membership has been suspended, NABFAM will withdraw the accreditation.
- 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 their 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 shall 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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## G. CRITERIA FOR AFFILIATION OF NABFAM MEMBER ORGANISATIONS

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### 1. 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 shall:

- a) Affiliate one member organisation per province. See also d) below.
- b) Encourage all other role players in a particular province to participate through the offices of the affiliated member organisation in that particular province.
- c) Prompt member organisations to be fully inclusive, and to invite and involve all role players in that province to participate.
- d) 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:
  - i. Exceptional circumstances;
  - ii. More than ten mediator members accredited under NABFAM minimum accreditation standards;
  - iii. 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;
  - iv. Sound governance structures, financial viability, and appropriate administrative resources;
  - v. Sound record-keeping in respect of their membership and the approval of any in-house, outsourced, or relevant educational courses;

- vi. Payment of the affiliation fees; and
- vii. Any additional information requested by NABFAM.

## **2. PROCESS AND REQUIREMENTS**

### **a) Introduction**

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

### **b) Details of region of operations and number of mediators**

The NABFAM member organisation must list:

- i. The geographic area covered by its panel of mediators; and
- ii. The types of disputes that the panel of mediators are qualified to mediate.

### **c) Mediator management**

NABFAM member organisations are responsible for mediation management.

This includes the following:

- i. The publishing of standards that meet the Board's minimum accreditation standards;
- ii. The provision of transparent accreditation processes in line with the Board's standards;
- iii. The expertise to perform assessment of membership applications;
- iv. The provision of a CPD programme, or access to such a programme;

- v. The monitoring of the performance of its panel of mediators; and
- vi. The submission of its panel of mediators' details for listing with the Board.

**d) Standards of conduct**

NABFAM member organisations shall:

- i. Subscribe to a code of professional conduct that meets the Board's standards;
- ii. Subscribe to a complaints system;
- iii. Subscribe to a disciplinary process; and
- iv. Require its panel of mediators to be subject to these policies, processes, and standards.

**e) Sound governance structures and appropriate administrative resources**

If applicable, a NABFAM member organisation shall demonstrate or produce:

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

**f) Transparent and published details of services**

NABFAM member organisations shall publish a description of services (including process rules, where appropriate).

**g) Publication of registration information**

NABFAM member organisations shall display their registration information on their website.

**h) 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).

**i) The process of registration**

- i. The secretary of the Board will be the point of contact.
- ii. The process will operate as follows:
  - The secretary will receive the application together with the fee as determined by the Board.
  - The payment of the due registration fee will be checked by the Board's administrator and the fee will be banked.
  - The secretary will assess compliance with the affiliation requirements.
  - The secretary will then present the application to the Board for approval.
  - If the Board is satisfied then the Board's administrator will:
    - notify the applicant;
    - send the applicant a high-definition version of the Board's logo for use on their website;
    - update the Board's website with the organisation's name and link.

**j) Affiliation difficulties**

- i. If the secretary believes that an applicant has failed to meet the affiliation 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.
- ii. 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.
- iii. 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.

- iv. 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.

**k) Loss of affiliation**

Once an organisation is affiliated with NABFAM as a member organisation, it will lose affiliation if:

- i. It fails to pay the required annual fees.
- ii. It comes to the notice of the Board that the organisation has ceased to trade or to operate, is wound up, or dissolved.
- iii. It comes to the notice of the Board that the organisation has been placed into liquidation or under administration or has otherwise become insolvent.
- iv. 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 be engaged in, or to have engaged in, unlawful activities.
- v. As a result of a finding by the Board under paragraph l) below that the organisation is no longer fit to be a NABFAM member organisation.

**l) Complaint as to fitness to remain affiliated**

- i. A complaint under this heading can only be made on the grounds that the organisation fails to comply with any one of the requirements to be a NABFAM member organisation as set out above. Any other complaint, for example about an organisation's service, must be dealt with through that member organisation's own complaints procedure.
- ii. 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 be engaged in, or have been engaged in, unlawful activities, the secretary shall lodge a complaint setting out the details of the offence.
- iii. 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 affiliated. A complaint about fitness must be made in

writing under oath, addressed to the secretary and signed by (or on behalf of) the complainant.

- iv. 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 affiliated with NABFAM.

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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 in the Guidelines for the Practice of Parenting Coordination in South Africa 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; and
  - c) have specific training in the parenting coordination process and attended a NABFAM-accredited parenting coordination training 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 Legal Practice Council (LPC); 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 service 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 Section F, para 5 of this document are equally applicable to accredited PCs.

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**ANNEXURE A**  
**SUBJECT MATTER TO BE COVERED IN THE BASIC FAMILY 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 and the financial consequences of divorce.

**3. CONCEPTS**

a) Negotiation

b) Mediation

c) Arbitration

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 leaders?

**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 on 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 38 of 2005;
- b) Civil Union Act 17 of 2006;
- c) Constitution of the Republic of South Africa, 1996;
- d) Divorce Act 70 of 1979;
- e) Domestic Violence Act 116 of 1998;
- f) Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS Act)
- g) Mediation in Certain Divorce Matters Act 24 of 1987 [The Office of the Family Advocate];
- h) Maintenance Act 99 of 1998;
- i) Maintenance of Surviving Spouses Act 27 of 1990;
- j) Marriage Act 25 of 1961;
- k) Matrimonial Affairs Act 37 of 1953;
- l) Matrimonial Property Act 88 of 1984;
- m) Protection from Harassment Act 17 of 2011;
- n) Protection of Personal Information Act 4 of 2013;
- o) Reciprocal Enforcement of Maintenance Orders Act 18 of 1963;
- p) Recognition of Customary Marriages Act 120 of 1998.
- q) Other law and/or Rules of Court that may become applicable

## **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 regarding child participation in mediation: child inclusive versus child focused mediation.
- d) Obligations of the mediator to inform the minor children of the outcome of the mediation.

## **8. PARENTS' DECISIONS**

- a) Parental responsibilities and rights.
- b) Content of parenting plans.
- e) Contact and residency schedules
- d) Parents and children - identifying mutual and conflicting needs and interests.
- e) Role of the State in relation to parents' decisions.
- f) Option of the appointment of a PC in appropriate circumstances.

## **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.