These guidelines are intended to perform three major functions: 1) to serve as a guide for mediator conduct; 2) to inform the parties of the mediation process; and 3) to promote confidence in mediation as a process for resolving workplace conflict. These guidelines draw on existing codes of conduct for mediators and take into account issues and problems that have surfaced in mediation practice. They outline a set of standards to serve as a general framework for the practice of mediation. They outline a set of standards to serve as a general framework for the practice of mediation. They are offered in the hope that they will serve an educational function and provide assistance to mediators and parties involved in mediation.

Mediation is a process in which an impartial third party—a mediator—facilitates the resolution of a conflict by promoting voluntary agreement by the parties to the conflict. A mediator facilitates communications, promotes understanding, focuses the parties on their mutual interests and seeks creative problem solving to enable the parties to reach their own agreement. These standards give meaning to the definition of mediation.

PREFACE

1. Voluntariness or Self-Determination: A mediator recognizes that mediation is based on the principle that parties participate in mediation voluntarily.

Voluntariness is the fundamental principle of mediation. It requires that the mediation process rely upon the ability of the parties to reach a voluntary, uncoerced agreement. Any party may withdraw from mediation at any time.

COMMENTS:
• The mediator may provide information about the process, raise issues and help parties explore options. The primary role of the mediator is to facilitate a voluntary resolution of a conflict. Parties are given the opportunity to consider all proposed options.
• A mediator cannot personally ensure that each party has made a fully informed choice to reach a particular agreement, but the mediator should make the parties aware of the importance of consulting other professionals, where appropriate, to help them make informed decisions.

2. Impartiality: A mediator conducts the mediation in an impartial manner.

The concept of mediator impartiality is central to the mediation process. A mediator will mediate only those matters in which s/he can remain impartial and evenhanded. If at any time the mediator is unable to conduct the process in an impartial manner, the mediator is obligated to withdraw.

COMMENTS:
• A mediator avoids conduct that gives the appearance of partiality toward one of the parties. The quality of the mediation process is enhanced when the parties have confidence in the impartiality of the mediator.
• Through ongoing training the Ombudsman Director will make reasonable efforts to ensure that each mediator may serve impartially.
• A mediator should guard against partiality or prejudice based on the parties' personal characteristics, background or performance at the mediation.
3. **Conflicts of Interest:** A mediator discloses all actual and potential conflicts of interest reasonably known to the mediator. After disclosure, the mediator declines to mediate unless all parties choose to retain the mediator. The need to protect against conflicts of interest also governs the conduct that occurs during and after the mediation.

A conflict of interest is a dealing or relationship that might create an impression of possible bias. The basic approach to questions of conflict of interest is consistent with the concept of self-determination. The mediator has a responsibility to disclose all actual and potential conflicts that are reasonably known to the mediator and could reasonably be seen as raising a question about impartiality. If all parties agree to mediate after being informed of conflicts, the mediator may proceed with the mediation. If, however, the conflict of interest casts doubt on the integrity of the process, the mediator will decline to proceed.

A mediator must avoid the appearance of conflict of interest both during and after the mediation. Without the consent of all parties, a mediator shall not subsequently establish a professional relationship with one of the parties in a related matter, or in an unrelated matter under circumstances that would raise legitimate questions about the integrity of the mediation process.

**COMMENTS:**
- There may be pressures on the mediator to settle a particular case or cases. The mediator’s commitment is to the parties and to the process. Pressure from outside the mediation process should never influence the mediator to persuade parties to reach any particular outcome.

4. **Competence:** A mediator mediates only those conflicts for which s/he has the necessary qualifications to satisfy the reasonable expectations of the parties.

The parties must be able to rely on the qualifications of mediators. Training and experience in mediation are necessary for effective mediation. A person who offers herself or himself as available to serve as a mediator gives parties and prospective parties the expectation that s/he has the competency to mediate effectively.

**COMMENTS:**
- Mediators should be ready and willing to share information with the parties regarding their relevant training and experience.
- The requirements for serving as a mediator will be made public and available to interested persons.

5. **Confidentiality:** A mediator maintains the reasonable expectations of the parties with regard to confidentiality.

The mediator will maintain the confidentiality of information and communications in accordance with the reasonable expectations of the parties. The parties’ expectations of confidentiality depend on the circumstances of the mediation and any agreements they may make. The mediator will not disclose any matter that a party expects to be confidential unless the mediator:

a) receives permission from the party;

b) believes that, in the absence of such disclosure, violence or harm could result to any person; or

c) is required to disclose the information by law.

**COMMENTS:**
- At the beginning of each mediation session, the mediator will discuss with the parties all confidentiality provisions in the “Agreement to Mediate.” Additionally, since the parties’ expectations regarding confidentiality are important, the mediator should discuss these expectations with the parties before signing the Agreement to Mediate.
• If the mediator holds separate meetings with a party (caucus), the nature of these meetings with regarding to confidentiality should be discussed prior to undertaking such meetings.

• In order to protect the integrity of the mediation, a mediator should avoid communicating information about how the parties acted in the mediation process, the merits of the case, or any particulars leading to the point of agreement.

• If at any time during the mediation the mediator believes that the parties are threatening the physical safety of any person, the mediator should immediately disclose such information first to the Director of Security and second to the Ombudsman Director if s/he is not the mediator.

• Confidentiality should not be construed to limit or prohibit the effective monitoring, research or evaluation of mediation programs by responsible persons. The mediator may access statistical data and individual case files, observe mediations, review interviews and feedback surveys from parties and review written agreements resulting from a mediation.

6. Quality of the process: A mediator conducts the mediation fairly, diligently, and in a manner consistent with the principle of self-determination of the parties.

A mediator works to ensure a quality process and to encourage mutual respect among the parties. A quality process requires a commitment by the mediator to diligence and procedural fairness. There should be adequate opportunity for each party in the mediation to participate in the discussions. The parties decide when and under what conditions they will reach an agreement or terminate mediation.

COMMENTS:
• A mediator may agree to mediate only when s/he is prepared to commit the attention essential to an effective mediation.

• Mediators only accept cases when they can satisfy the reasonable expectations of the parties concerning the timing of the process and the level of expertise required. A mediator should not allow a mediation to be unduly delayed by the parties.

• The presence or absence of persons at mediation depends on the agreement of the parties and mediator. The parties and mediator may agree that others may be excluded from particular sessions or from the entire mediation.

• A mediator should refrain from providing professional advice. Where appropriate, a mediator may suggest that parties seek outside professional advice, or considering resolving their conflict through another internal resource.

• A mediator withdraws from mediation when incapable of serving or when unable to remain impartial.

• A mediator informs the parties after consultation with the Ombudsman Director, if, in the mediator’s judgment the integrity of the process has been compromised by, for example, the inability or unwillingness of a party to participate meaningfully, gross inequality of bargaining power or ability, or gross unfairness resulting from nondisclosure or fraud by a party. The mediator discontinues the mediation in such circumstances, but does not violate the obligation of confidentiality.

• A mediator withdraws from mediation or postpones a session if the mediation is being used to further illegal conduct, or if a person is unable to participate due to drug, alcohol, or other physical or mental incapacity.

• Mediators should not permit their behavior in the mediation process to be guided by a desire for a high resolution rate.
7. **Agreement:** The mediator has no vested interest in the outcome of the mediation; therefore, the mediator encourages the parties to develop their own resolutions to the conflict. The mediator does not recommend particular solutions to any of the issues in dispute nor persuade the parties to reach an agreement on any or all of the issues being mediated.

Prior to the parties entering into a written mediated agreement, the mediator will determine that:

a) the parties have considered all that the agreement involves and the possible ramifications of the agreement;

b) the parties have considered the interests of other persons who are affected by the agreement; and

c) the parties have entered into the agreement voluntarily.

**COMMENTS:**
- The mediator may encourage the parties to have any written agreement reviewed by any individual of their choice prior to the agreement’s being effective. In addition, the parties may choose to have any written agreement reviewed by a legal representative of their own choosing.
- The mediator may help the parties to consider, as part of the written agreement, a plan for reviewing the agreement regularly in the future to identify any further behaviors or actions that could strengthen the work relationship.

8. **Truthful Communication:** Mediators will communicate truthfully with parties throughout the mediation process.

Mediators will communicate truthfully with parties throughout the mediation process and refrain from making promises or guarantees of results.

**COMMENTS:**
- It is important mediators educate parties and others about mediation and instill confidence in the mediation process, generally.
- Mediators recognize that most people will not have a thorough understanding of mediation and therefore, communications should not only be truthful, but sufficient to educate parties or other individuals to make decisions.

9. **Obligation to the mediation process:** Mediators have a duty to improve the practice of mediation.

Mediators are regarded as knowledgeable in the process of mediation. They have an obligation to use their knowledge to help educate people about mediation; to make mediation accessible to those who would like to use it; to correct abuses; and to improve their professional skills and abilities.

**COMMENTS:**
- Mediators are encouraged to contact the Ombudsman Director for consultation at any point during the mediation process.