

**Code of Professional Conduct for  
LABOR MEDIATORS**

*Adopted jointly by the Federal Mediation and Conciliation Service of the United States and the Association of Labor Relations Agencies.*

***Federal Mediation and Conciliation Service (FMCS)***

*Created by the Labor Management Relations Act of 1947, the Federal Mediation and Conciliation Service (FMCS) is an independent agency of the U.S. Government. The Service is mandated to use mediation and other forms of dispute resolution to promote labor-management peace in the United States. Specifically, FMCS is responsible to prevent or minimize labor-management conflict in the private and public sectors of the American economy, exclusive of the railroad and airline industries. The agency's national headquarters is in Washington, DC with regional offices located in New York, Atlanta, Chicago, Los Angeles, and Minneapolis. In addition, there are field offices located throughout the nation.*

***Association of Labor Relations Agencies (ALRA)***

*The Association of Labor Relations Agencies (ALRA), founded in 1952, is comprised of nearly 100 impartial governmental and private nonprofit agencies in the United States and Canada. These agencies are responsible for the administration of labor-management relations laws or services including, but not limited to, mediation, conciliation, fact-finding, arbitration, and adjudication. The member agencies of ALRA include all of the major federal, state, provincial, and municipal/local agencies in the United States and Canada.*

***Preamble***

*The practice of mediation is a profession with ethical responsibilities and duties. Those who engage in the practice of mediation must be dedicated to the principles of free and responsible collective bargaining. They must be aware that their duties and obligations relate to the parties who engage in collective bargaining, to every other mediator, to the agencies which administer the practice of mediation, and to the general public.*

*Recognition is given to the varying statutory duties and responsibilities of the city, state, and federal agencies. This Code, however, is not intended in any way to define or adjust any of these duties and responsibilities nor is it intended to define when and in what situations mediators from more than one agency should participate. It is, rather, a personal code relating to the conduct of the individual mediator.*

*This Code is intended to establish principles applicable to all professional mediators employed by city, state or federal agencies and to mediators privately retained by parties.*

### ***Foreword***

*The mediation process helps to promote economic freedom in assisting labor and management resolve collective bargaining controversies. The practitioners of labor mediation, therefore, have a high professional responsibility to the parties, to the public, and to mediator colleagues.*

*Representatives of the Federal Mediation and Conciliation Service and the Association of Labor Relations Agencies, in consideration of these requirements, decided at a meeting held in November 1963 in Hollywood, Florida to attempt to write a set of canons embodying the moral and professional duties and responsibilities of mediators.*

*Liaison Committees representing the FMCS and the ALRA were established and, after a series of meetings, this Code was drafted and thereafter adopted by the two organizations in Minneapolis, Minnesota in September 1964.*

*The text of this Code remains basically unchanged from its adoption in 1964 except for the addition of graphics to reflect today's more diverse workforce and the use of gender neutral language. It is being printed by FMCS with the thanks and permission of ALRA.*

## **Code of Professional Conduct for LABOR MEDIATORS**

### **1. The Responsibility of Mediators Toward the Parties**

The primary responsibility for the resolution of a labor dispute rests upon the parties themselves. Mediators at all times should recognize that the agreements reached in collective bargaining are voluntarily made by the parties. It is the mediator's responsibility to assist the parties in reaching a settlement.

It is desirable that agreement be reached by collective bargaining without mediation assistance. However, public policy and applicable statutes recognize that mediation is the appropriate form of governmental participation in cases where it is required. Whether and when mediators should intercede will normally be influenced by the desires of the parties. Intercession by mediators on their own motion should be limited to exceptional cases.

The mediators must not consider themselves limited to keeping peace at the bargaining table. Their role should be one of being a resource upon which the parties may draw and, when appropriate, they should be prepared to provide both procedural and substantive suggestions and alternatives which will assist the parties in successful negotiations.

Since mediation is essentially a voluntary process, the acceptability of the mediator by the parties as a person of integrity, objectivity, and fairness is absolutely essential to the effective performance of the duties of the mediator. The manner in which mediators carry out their professional duties and responsibilities will measure their usefulness as a mediator. The quality of their character as well as their intellectual, emotional, social, and technical attributes will be revealed by the conduct of the mediators and their oral and written communications with the parties, other mediators, and the public.

### **2. The Responsibility of Mediators Toward Other Mediators**

Mediators should not enter any dispute which is being mediated by another mediator or mediators without first conferring with the person or persons conducting such mediation. The mediator should not intercede in a dispute merely because another mediator may also be participating. Conversely, it should not be assumed that the lack of mediation participation by one mediator indicates a need for participation by another mediator.

In those situations where more than one mediator is participating in a particular case, each mediator has a responsibility to keep the others informed of developments essential to a cooperative effort and should extend every possible courtesy to fellow mediators.

The mediators should carefully avoid any appearance of disagreement with or criticism of their mediator colleagues. Discussions as to what positions and actions mediators should take in particular cases should be carried on solely between or among the mediators.

### **3. The Responsibility of Mediators Toward Their Agency and Their Profession**

Agencies responsible for providing mediation assistance to parties engaged in collective bargaining are a part of government. Mediators must recognize that, as such, they are part of government. Mediators should constantly bear in mind that they and their work are not judged solely on an individual basis but they are also judged as representatives of their agency. Any improper conduct or professional shortcoming, therefore, reflects not only on the individual mediator but also upon the employer and, as such, jeopardizes the effectiveness of the agency, other government agencies, and the acceptability of the mediation process.

Mediators should not use their position for private gain or advantage, nor should they engage in any employment activity, or enterprise which will conflict with their work as mediators, nor should they accept any money or thing of value for the performance of their duties - other than their regular salary - or incur obligations to any party which might interfere with the impartial performance of their duties.

### **4. The Responsibility of Mediators Toward the Public**

Collective bargaining is in essence a private, voluntary process. The primary purpose of mediation is to assist the parties to achieve a settlement. Such assistance does not abrogate the rights of the parties to resort to economic and legal sanctions. However, the mediation process may include a responsibility to assert the interest of the public that a particular dispute be settled; that a work stoppage be ended; and that normal operations be resumed. It should be understood, however, that the mediators do not regulate or control any of the content of a collective bargaining agreement.

It is conceivable that mediators might find it necessary to withdraw from a negotiation, if it is patently clear that the parties intend to use their presence as implied governmental sanction for an agreement obviously contrary to public policy.

It is recognized that labor disputes are settled at the bargaining table; however, mediators may release appropriate information with due regard (1) to the desires of the parties, (2) to whether that information will assist or impede the settlement of the dispute, and (3) to the needs of an informed public.

Publicity shall not be used by mediators to enhance their own position or that of their agency. Where two or more mediators are mediating a dispute, public information should be handled through a mutually agreeable procedure.

### **5. The Responsibility of Mediators Toward the Mediation Process**

Collective bargaining is an established institution in our economic way of life. The practice of mediation requires the development of alternatives which the parties will voluntarily accept as a basis for settling their problems. Improper pressures which jeopardize voluntary action by the parties should not be a part of mediation.

Since the status, experience, and ability of mediators lend weight to their suggestions and recommendations, they should evaluate carefully the effect of their suggestions and recommendations and accept full responsibility for their honesty and merit.

Mediators have a continuing responsibility to study industrial relations and conflict resolution techniques to improve their skills and upgrade their abilities.

Suggestions by individual mediators or agencies to parties, which give the implication that transfer of a case from one mediation "forum" to another will produce better results, are unprofessional and are to be condemned.

Confidential information acquired by mediators should not be disclosed to others for any purpose or in a legal proceeding or be used directly or indirectly for the personal benefit or profit of the mediator.

Bargaining positions, proposals, or suggestions given to mediators in confidence during the course of bargaining for their sole information should not be disclosed to the other party without first securing permission from the party or person who gave it to them.