



Ontario Association for Family Mediation Complaints and Discipline Policy

1. Purpose of the Policy

The purpose of this Policy is:

- a) to establish a procedure to receive, consider, investigate, and adjudicate upon, complaints of breach of OAFM's by-laws or Standards of Practice and Code of Ethics;
- b) to provide a clear, fair, and effective mechanism for resolution of such complaints;
- c) to provide an opportunity for a Member and mediation client to understand the events and circumstances that led to the complaint being lodged; and,
- d) to maintain a standard of competence and adherence to the Standards of Practice and Code of Ethics of the Organization by its Accredited and Associate Members.

The provisions of this Policy and the procedure contained herein in no way limit or affect the right of any person to exercise their rights under the Human Rights Code RSO 1990, c. H.19.

2. Complaints and Discipline Committee

- a) The OAFM Board of Directors shall establish a Complaints and Discipline Committee ("the Committee") comprised of a minimum of three and a maximum of five persons who are Accredited Mediators and members of OAFM in good standing. At least one member of the Board of Directors will be appointed to the Committee and will serve as its chair.
- b) Committee members will be appointed for a one-year term which will be automatically renewed unless the Board of Directors or the Committee member elects to discontinue the member's participation.
- c) A member of the Committee will be automatically removed if they resign as a member of OAFM, or if such membership is suspended or revoked. In the event of the resignation or removal of a Committee member, or if such member becomes unable or unwilling to continue to serve, the Board of Directors may fill the vacancy without causing the Committee to lose jurisdiction over any complaint before it for consideration.

Approved by the Board, April 22, 2022

- d) The quorum for meetings of the Committee will be three members. Meetings may be conducted in person or by electronic means.

3. Complaints Under this Policy

- a) A mediation client, OAFM member, or their authorized representative (“Complainant”) may make a complaint under this Policy against an Accredited Family Mediator (AccFM), Accredited Intergenerational Mediator (formerly known as Accredited Elder Mediator) (AccIM), Child Protection Mediator (Acc CPMed), or Associate Member of OAFM (“Member”) concerning the capacity, conduct or performance of the Member while the member of OAFM engaged in the practice of family mediation.
- b) Excluded from this Policy are complaints arising from mediation-arbitration or Parenting Coordination, which fall outside the jurisdiction of the OAFM by reason of the non-consensual nature of those processes.
- c) A complaint under this Policy may also be initiated against a Member by the Board of Directors and shall be subject to investigation and adjudication in the same manner as a complaint by an individual.
- d) Complainants are encouraged to speak directly with the Member prior to filing a complaint in order to explain why the Complainant is dissatisfied and determine whether an informal resolution is possible. If addressing the Complainant’s concerns with the Member directly would cause discomfort, apprehensiveness or fear of retaliation, the Complainant may elect to proceed with a complaint without such consultation.
- e) A complaint shall be made in writing to the Chair of Complaints Committee or Executive Director of the OAFM. The complaint must set out the name and contact information of the Complainant and the Member and give reasonable particulars of the grounds for the complaint, that is said to amount to contravention of OAFM’s by-laws and/or Standards of Practice and Code of Ethics.
- f) A Complaint must be made to the OAFM no more than two-years following the last mediation session conducted by the Member during the engagement which gives rise to the complaint.
- g) The Chair of the Committee shall review the complaint and any accompanying material and determine:
 - i. Whether investigation and adjudication of the complaint is within OAFM’s jurisdiction;

- ii. Whether the complaint has been received within the applicable two-year time limit;
 - iii. Whether the complaint appears to be frivolous or vexatious or otherwise raises allegations that, if accepted, would not amount to a violation of OAFM's by-laws and/or Standards of Practice and Code of Ethics on the part of the member; and
 - iv. Whether the complaint and any accompanying information provided by the Complainant demonstrates sufficient grounds to initiate an investigation.
- h) At the option of the Chair of the Committee, a meeting of the Committee may be convened to review the complaint and make the determination required in paragraph 3(g).
- i) If the OAFM is without jurisdiction to deal with a complaint; the complaint is outside of the limitation as prescribed or is frivolous or vexatious or would otherwise not amount to a violation of OAFM's by-laws and/or Standards of Practice and Code of Ethics on the part of the member, the Chair of the Committee, or the Executive Director on behalf of the Chair, will advise the Complainant that no further action will be taken based upon the information provided. In such instance, no notification will be sent to the Member and no record of the complaint shall be considered in relation to further complaints or disciplinary proceedings affecting the Member.
- j) If the complaint is to be subject to an investigation, the Complainant will be notified in writing by the Chair of the Committee, or the Executive Director on behalf of the Chair, that the complaint is eligible to be the subject of review and adjudication, and, before taking further steps, the Committee will request from the Complainant a signed *Waiver of Mediation Confidentiality* in the form appended as *Schedule "A"* of this Policy.
- k) If, after thirty (30) days, the Complainant does not submit a signed *Waiver of Mediation Confidentiality (Schedule "A")* to the Chair of the Committee, or the Executive Director on behalf of the Chair, the Complainant will be notified in writing that the file has been closed, and no further formal steps will be taken. The Committee will have discretion regarding informal contact with the Member regarding the complaint and may speak generally with the Member about the Complainant's concerns.
- l) On receipt of a signed *Waiver of Mediation Confidentiality (Schedule "A")* from the Complainant, the Chair of the Committee, or the Executive Director on behalf of the Chair, will inform the Member of the complaint and advise that the complaint has been referred to the Committee for investigation and adjudication. A copy of the complaint and any supporting documentation will be provided to the Member with such notification.

- m) The Member will be advised by the Committee of their right to submit a written response to the complaint, within thirty (30) days of receipt of the complaint, to the Chair of the Committee, or the Executive Director on behalf of the Chair. Any response will be sent to the Complainant and Investigator at the commencement of any investigation.

4. Investigation

- a) In conjunction with the OAFM Chair of Complaints Committee, the Committee will appoint an investigator to review the complaint and investigate with respect to the Complainant's concerns regarding the Member.
- b) The investigator will be an Accredited Member of OAFM in good standing.
- c) The investigator will in their discretion determine the form and procedure of the investigation, and at a minimum will:
 - i. Conduct interviews with both the Complainant and Member;
 - ii. Collect and examine documentation relevant to the allegations and response;
 - iii. Identify and interview any authorized representative who may be able to provide relevant information; and
 - iv. Direct that the Complainant, Member, and all authorized representatives keep confidential all discussions and communications exchanged in the course of the investigation, and refrain from discussing the subject matter of the complaint or investigation with third parties, except for an authorized representative.
 - v. The investigator may, at their discretion, interview or otherwise consult with an accredited member for the purposes of obtaining an opinion with respect to the application of OAFM's Standards of Practice and Code of Ethics in the factual circumstances disclosed in the complaint.
- d) At the conclusion of the investigation, and no longer than 120 days from investigator assignment, the investigator will provide to the Chair of the Committee, or the Executive Director on behalf of the Chair, a written report containing:
 - i. An outline of the allegations by the Complainant and the Member's position in response to such allegations;
 - ii. A summary of the facts and a summary of the investigation and recommendations; and
 - iii. the investigator's findings and conclusions as to whether, in the opinion of the Investigator, the information obtained during the investigation

constitutes a breach of OAFM's by-laws or Standards of Practice and Code of Ethics making specific reference to such by-laws, standards or ethics.

- iv. The investigator's determination whether the facts constitute a breach of OAFM's by-laws or Standards of Practice and Code of Ethics.

5. Imposition of Discipline

- a) If the Committee, after considering the report of the investigator, believes that there are insufficient grounds for the imposition of discipline, the Chair will immediately inform both the Complainant and Member of such decision, setting out reasons for the Committee's decision.
- b) If the Committee, after considering the report of the investigator, determines that the circumstances warrant a caution to the member with no further disciplinary action, the Chair will:
 - c) Provide a written caution to the member reminding the member of their professional responsibilities and offering the member any assistance required to uphold those responsibilities; and
 - d) Notify the Complainant of such step and the reasons for the Committee's decision to administer a caution.
- e) If the Committee, after considering the report of the investigator, determines that the circumstances form the basis for additional discipline, within seven (7) days of their determination the Committee will:
 - f) Provide a copy of the investigator's report to the Member and afford the Member a period of not more than thirty (30) days to provide comments or submissions concerning the investigator's findings; and
 - g) Upon the Member requesting, in writing, the opportunity to appear before the Committee and providing an overview of their submission, the Member shall be afforded the opportunity.
- h) If the Committee determines that disciplinary sanctions other than a caution should be imposed, the Committee may:
 - i. Require the Member to successfully complete (at the Member's expense and within a specified timeframe) an appropriate training course dealing with the issues raised in the complaint; and/or
 - ii. Suspend the Member from OAFM for a fixed period of time; and/or
 - iii. Permit the Member to resign their membership or AccFM designation or AccIM, AccCPMed, or Associate designation;

- iv. Revoke the Member's membership or AccFM designation or AccIM, AccCPMed, or Associate designation; designation with conditions for reinstatement, which conditions will not include any monetary payments beyond the prescribed OAFM membership fees;
 - v. Permanently revoke the Member's membership and/or AccFM designation or AccIM, AccCPMed, or Associate designations; or
 - vi. Impose such other penalties or sanctions as the Committee deems appropriate and proportionate in the circumstances.
- i) The sanction of permanent revocation of membership in OAFM or AccFM designation or AccIM, AccCPMed, or Associate designation, or both, represents an onerous penalty which will not usually be imposed except where:
- i. The Member's conduct was so egregious or their ability and/or performance was of such a low standard that to permit the Member to continue to hold OAFM membership and/or the AccFM designation or AccIM, AccCPMed, or Associate designation would bring the practice of family mediation or the reputation of the OAFM into disrepute; or
 - ii. The Member has previously been the subject of a complaint which was upheld, and the present complaint demonstrates that the Member is unable or unwilling to follow OAFM's direction and discipline.
- j) The Complainant will be informed by the Committee of any discipline imposed upon the Member in accordance with the foregoing procedure.
- k) If a complaint against a Child Protection Mediator is investigated by OAFM and results in the imposition of a caution or other discipline, OAFM will advise the relevant Transfer Payment agency of the complaint and the resulting disciplinary consequence.
- l) No member of the Committee shall participate in any discussions or deliberations prescribed in this Policy if they are aware or becomes aware of any reason that would disqualify them because of:
- i. A prior relationship or close acquaintance with the Member or Complainant;
 - ii. Membership in or employment by a firm to which the Member or Complainant belongs at the time of the complaint, or during the period relevant to the complaint;
 - iii. Any other matter that would give rise to a reasonable belief that the member might have a conflict of interest, or be biased in any manner, for or against the Complainant or Member.

6. Application for Reinstatement

- a) An application for reinstatement by the member shall be sent to the Chair of the Complaints Committee and/or the Executive Director.
- b) The Application for reinstatement will be considered by the Complaints Committee.
- c) The Member shall receive notice of and be entitled to attend a meeting to make submissions to the Committee.
- d) The decision of the Committee will be in writing and a copy sent to the member, within thirty (30) days of receipt of the meeting with the Complaints Committee.
- e) A decision with respect to reinstatement may also include imposition of terms or conditions that, in the opinion of the Committee, are reasonable and necessary to ensure adherence to the Standards of Practice and Code of Ethics of the Organization.