

NAI Code of Conduct for the NAI Mediator

Where this Code of Conduct refers to the 'Rules' such reference is to the NAI Mediation Rules. The terms used in this Code of Conduct have the meaning given to them in the Rules.

Article 1 – General

- 1.1 At all times the mediator shall conduct himself in a manner that does not harm the trust in the NAI and in mediation.
- 1.2 The mediator is bound by, and shall conduct himself in accordance with, the Rules.

Article 2 – Independence

- 2.1 A mediator who has a personal interest in the outcome of the mediation shall not accept his appointment.
- 2.2 The mediator shall not accept any appointment and shall not lead mediation if he advised any of the parties before. The above shall not be applicable if he has made his position clear to all parties and those parties nevertheless ask him to act as mediator.
- 2.3 The mediator must inform all parties clearly as to any relationship he and/or any individual in his firm has or has had with one or more of the parties.
- 2.4 The mediator must withdraw from the mediation if, in his opinion, the Code of Conduct or the Rules are not or cannot be complied with.
- 2.5 In the performance of his duties, the mediator may not be guided by any interests extraneous to the mediation.
- 2.6 The mediator must act independently. The mediator may not give an opinion on the dispute or any element thereof unless the parties jointly and expressly ask him to do so.
- 2.7 If, in mediation that does not result in full resolution of the dispute, the parties wish to appoint the mediator as arbitrator or binding advisor to settle the dispute in that capacity, the mediator shall expressly point out to the parties the possible consequences of their choice and satisfy himself that the parties are aware of those consequences.

Article 3 – Information to be provided to the parties

Prior to concluding the mediation agreement, the mediator shall explain the mediation process, the contents of the mediation agreement and the Rules to the parties.

Article 4 – Working method of the mediator

- 4.1 The mediator shall always treat mediations expeditiously.
- 4.2 The mediator shall require the parties to provide the information necessary for sound decision-making.
- 4.3 The mediator shall see to a balanced treatment of the dispute and shall promote as much as possible that each party has equal opportunities to present its case.

Article 5 – Confidentiality

- 5.1 Unless the mediator has received permission from the parties, he shall not involve any third party in the mediation and shall not provide any information about the mediation to third parties.
- 5.2 The mediator must impose a confidentiality obligation on any third party involved in the mediation procedure.
- 5.3 The mediator's confidentiality obligation shall not prejudice his obligation to keep the Secretariat informed about the progress of the mediation in accordance with Article 6.7 of the Rules.

Article 6 – Collegial attitude

- 6.1 If a mediator's assignment is terminated other than by a settlement agreement covering the entire dispute between the parties, and a successive mediator is subsequently appointed, such successive mediator shall be held to inform his predecessor of the same.
- 6.2 The successive mediator shall not commence his activities until he has been informed by the Secretariat that:
- (A) his predecessor's fee and costs have been paid, or
 - (B) payment of such fee and such costs has been sufficiently secured by means of the deposit made under Article 9.5 of the Rules.
- 6.3 In cases as referred to in the first paragraph of this Article 6, the predecessor shall be required upon the request of the parties to inform the successive mediator about all matters that transpired during the mediation until the appointment of the successive mediator. Excluded from the provision in the previous sentence is the information that was provided by one party in separate meetings without the other party being present, unless the parties have agreed that such information must be made available to the successive mediator as well.

Article 7 – Disciplinary rules

The mediator is subject to disciplinary rules in accordance with the *Reglement Stichting Tuchtrechtspraak Mediators*.