



**SINGAPORE INTERNATIONAL
MEDIATION INSTITUTE (SIMI)**

**CODE OF PROFESSIONAL
CONDUCT FOR SIMI MEDIATORS**

Version 2.0 : 10 November 2023

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1. Purpose and Applicability of Code of Conduct

The SIMI Code of Professional Conduct ("Code") provides guidance for SIMI Accredited Mediators ("SIMI Mediators") on the professional conduct expected when they undertake a mediation. It also informs users of mediation services what they should expect from SIMI Mediators in terms of their professional conduct.

1.1 Applicability to SIMI Mediators: Subject to any agreement as provided in Clause 1.2(a) and any other provision below, this Code shall apply to, and govern the conduct of all SIMI Mediators in their mediation practice. .

1.2 Agreement to use one code of conduct: A SIMI Mediator appointed to conduct a mediation must ensure that :

- (a) The relevant mediation agreement provides for **one** code of conduct which will apply to that SIMI Mediator.
- (b) The parties are informed accordingly of the code of conduct (whether this Code or any other) applicable to him or her, prior to the mediation agreement being signed.

Subject to Clause 1.3, in the absence of any code of conduct being expressly stated in the mediation agreement, the Code shall apply to the SIMI Mediator.

1.3 Other legislation or rules: This Code does not replace or qualify any :

- (a) Legislation or rules regulating a SIMI Mediator in an individual profession; or
- (b) Rules of professional conduct which may apply to a SIMI Mediator in specific circumstances, including but not limited to any scheme or framework provided by any written law.

If there is any conflict between such legislation or rules, and this Code, the former will prevail.

2. Definitions

The following is a list of definitions for commonly used terms in the Code.

2.1 Mediation: A process¹ by which the parties to the dispute resolution process attempt to

¹ Such process would include identifying issues and interests in the dispute, exploring and generating options, communicating and negotiating with one another, and voluntarily reaching an agreement on a solution(s) to the

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

reach an amicable settlement of their dispute with the assistance of one or more mediators in which the mediator(s) shall not impose a solution upon the parties to the dispute.

- 2.2 Self-determination:** The ability of parties to have the autonomy and be empowered to decide the final outcome of a dispute instead of allowing a third party to do so².
- 2.3 SIMI Credentialing Scheme:** The scheme offered by SIMI which independently certifies that mediators are professionally trained, and/or have reached a certain level of professional experience. There are four levels in the scheme: SIMI Accredited Mediator Level 1, SIMI Accredited Mediator Level 2, SIMI Accredited Mediator Level 3 and SIMI Certified Mediator (SIMI Accredited Mediator Level 4).
- 2.4 SIMI Mediator:** A mediator who is currently accredited with SIMI under the SIMI Credentialing Scheme, regardless of nationality or professional background.
- 2.5** Words denoting one gender shall include a reference to both genders.

3. Mediation Process

Standard of conduct and related matters

- 3.1** A **SIMI Mediator** shall fulfill his duty as a mediator, before, during and after the mediation by providing his services in a professional manner, to the best of his ability, in accordance to this Code (or any other code applicable to the SIMI Mediator as agreed by the parties).

Representation as a SIMI Mediator

- 3.1.1** A SIMI Mediator shall accurately represent himself as a SIMI Mediator at the relevant level he has been accredited at under the SIMI Credentialing Scheme .
- 3.1.2** A SIMI Mediator is a representative of SIMI and as such, will refrain from participating in any activity or conduct that is, or may be perceived to be, unbecoming of a professional mediator or that is contradictory or inconsistent with SIMI's vision or mission.
- 3.1.3** A SIMI Mediator should only accept assignments to act as a mediator for cases where he feels reasonably competent to serve in that capacity.
- 3.2 No personal advantage:** At all times, a SIMI Mediator is to ensure that he does not act in a manner that can be reasonably perceived as being an exploitation of the SIMI Mediator's role in a mediation, for his personal, material or financial advantage.

dispute.

² A SIMI Mediator is not the final "decision-maker", but merely facilitates the process of reaching the final outcome.

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

3.3 Quality: SIMI Mediators should be cognisant to maintain the quality of the mediation session for everyone involved. SIMI Mediators may come up with their own “house rules” to protect the quality of the mediation (e.g., no cell phone usage, no recording of any form). If the SIMI Mediator is suffering from their own personal conflict that makes it difficult to perform quality work, then the mediation session should be postponed until another date when a productive mediation can be facilitated.

Pre-mediation preparations and conflicts searches, etc

3.4 Before accepting an appointment as a mediator, a SIMI Mediator will inform all parties to the mediation:

3.4.1 of the SIMI Mediator’s relevant background, qualifications and experience which will enable him to undertake the mediation competently³;

3.4.2 of the code of conduct observed by the SIMI Mediator;

3.4.3 of the applicable process in the event that any party believes that the SIMI Mediator has not met the standards of the relevant code of conduct; and

3.4.4 that the parties will be invited at the end of the mediation to offer written feedback on the mediation as well as on the SIMI Mediator’s role.

3.5 SIMI Mediators will not accept any appointment before first conducting reasonable enquiries (as necessary, either on their own or through their mediation services agency) to uncover, and disclose to the relevant parties, any information to the best of their knowledge that may, or may be perceived to:

3.5.1 materially affect the SIMI Mediator’s independence, or impartiality, or

3.5.2 place the SIMI Mediator in a position where his interest (real or perceived) conflicts with any of the parties related to the mediation.

3.6 Provided that a SIMI Mediator has reasonably disclosed any such information referred to in Clause 3.5 above to the satisfaction of all relevant parties, the existence of said information will not be taken to deem the SIMI Mediator as being unfit to accept the appointment as a mediator for the parties.

3.7 SIMI Mediators will take reasonable steps to ensure that the parties to the mediation and their advisers (if any) understand:

3.7.1 the characteristics of the mediation process to be used;

³ The determination of competency is a holistic one. It includes the possession of, or familiarity with technical and/or subject-specific knowledge that may be required for certain cases, as well as the mediator’s general suitability for a case, taking into account factors such as the mediator’s experience level, and any conflicting interests.

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

3.7.2 their respective roles in the mediation;

3.7.3 the role of the mediator; and

3.7.4 the terms and conditions governing the mediation, including any obligations relating to confidentiality applicable to the parties, the outcome of the mediation and/or the SIMI Mediator.

3.8 A SIMI Mediator will take reasonable steps to ensure that the parties consent to:

3.8.1 the mediation process , and

3.8.2 the mediator(s) selected,

except where these have already been determined by any applicable law, rule of court or contractual obligation.

3.9 **Ability to withdraw:** Mediation is a **voluntary** process. A SIMI Mediator will ensure that all parties understand that they may withdraw from the mediation at any time simply by informing the SIMI Mediator and the other party of their decision. Parties are not obliged to provide reasons to the SIMI Mediator prior to withdrawal.

Despite Clauses 5.3 and 5.4, a SIMI Mediator may also withdraw from the mediation with reasons provided to the parties.

During the mediation

4. Competence and Diligence

4.1 A SIMI Mediator must act as a mediator in a competent and diligent manner, with reference to the **SIMI Competency Framework for Mediators**. It includes the familiarity with, or willingness to acquire technical and/or subject-specific knowledge that may be required for certain cases, as well as the mediator's general suitability for a case taking into account factors such as the mediator's experience level, abilities and any conflicting interests.

5. Independence, and Impartiality

5.1 SIMI Mediators should act in an independent and impartial manner, in the course of aiding parties to arrive at, through self-determination, a mutually agreeable outcome to the dispute.

5.2 They shall act in an unbiased manner and treat all relevant parties to the mediation with fairness, equality and respect.

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

5.3 Conflicts of interest:

- (a) The SIMI Mediator must not, and must take reasonable steps to ensure that he does not have an ongoing relationship with a party, or have given legal advice to a party prior to the mediation.
- (b) Upon accepting an appointment as a mediator, a SIMI Mediator will take reasonable steps to ensure that he does not enter into any relationships that may create, or may be perceived to create, the appearance of a conflict of interest between the SIMI Mediator and any of the relevant parties to the mediation.

5.4 Permission to withdraw: If at any time during a mediation a SIMI Mediator feels that he is no longer able to continue conducting the mediation in an independent and impartial manner, or if in continuing to do so the SIMI Mediator's interests will conflict with the interests of any of the relevant parties, the SIMI Mediator shall as soon as reasonably possible, express that concern to all relevant parties and withdraw from the mediation.

5.5 Impartiality: SIMI Mediators will ensure that all parties have equal opportunity to:

- 5.5.1 raise their issues and to be heard during the mediation, and
- 5.5.2 where applicable, seek legal or other counsel prior to finalising any resolution or settlement. In particular, if one party wishes to seek advice from their legal counsel prior to finalising a settlement, the other party should also be given an opportunity to do likewise.

5.6 Private sessions: Where a SIMI Mediator engages in any private communication with one party (whether before, or during the mediation), the SIMI Mediator will ensure that an equal opportunity will be provided to the other party to engage in such similar communication. The SIMI Mediator should ensure that both parties are aware that he is engaging in private communications with one or more of the parties.

6. Illegality

6.1 SIMI Mediators should take steps to withdraw from a mediation if they determine in the course of the mediation that the mediation has assumed, or is likely to assume, an unconscionable or illegal character, or is likely to result in a settlement that is against public policy or be of an illegal nature.

7. Confidentiality

7.1 SIMI Mediators are to keep strictly confidential at all times, and are not to disclose any information (whether verbal or contained in any medium) acquired in the course

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

of serving as a mediator at a mediation unless:

- 7.1.1 compelled by any law to make such disclosure;
 - 7.1.2 the SIMI Mediator has good reason to believe that disclosure is necessary to prevent death, serious physical harm or damage, or an illegal act;
 - 7.1.3 such disclosure is required in order to address a complaint made against the SIMI Mediator, or any other disciplinary proceedings in which the SIMI Mediator is involved in;
 - 7.1.4 the information is already in the public domain that was not otherwise a result of disclosure by the SIMI Mediator; or
 - 7.1.5 all parties have given express consent to such disclosure.
- 7.2 Notwithstanding Clause 7.1, SIMI Mediators are allowed to disclose any other information about a mediation provided that the information:
- 7.2.1 is sufficiently anonymised such that the parties cannot be identified;
 - 7.2.2 the specific details of the case are not disclosed; and
 - 7.2.3 the disclosure is for educational, research, record-keeping, auditing, or verification purposes.
- 7.3 **Non-applicability:** For the avoidance of doubt, Clauses 7.1 and 7.2 shall not apply where parties have agreed in writing that the mediation is wholly or partly conducted in Singapore, OR the mediation agreement provides that the Singapore Mediation Act 2017 or the law of Singapore applies to the mediation.
- 7.4 **Multiple mediation sessions:** Except insofar as the information is no longer confidential or if the party protected by Clauses 7.1 and 7.2 gives consent or otherwise provided for by law, at no time following the end of a mediation will SIMI Mediators 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.

8 Safety

- 8.1 Mediation must be physically safe and conducive for all parties and a SIMI Mediator shall use his discretion to convene, continue, suspend or discontinue a mediation, taking into account the following non-exhaustive list of considerations :

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

- (a) Whether there is a personal protection order made by the Court involving the disputants, or allegations of domestic violence prior to the mediation, or if there is any physical altercation during the mediation.
- (b) Whether it is practical or appropriate to conduct the mediation via virtual or online modes, regardless of the parties' location.
- (c) Whether any imbalance of power between the parties may compromise a party's safety.

9. Control of environment: SIMI Mediators will take reasonable steps to prevent any conduct that may invalidate an agreement or create or aggravate a hostile environment at the mediation.

Settlement and post-mediation

10.1 Development of settlement agreement: With the consent of all parties, SIMI Mediators should draw on their expertise and experience to assist the parties in developing sustainable settlements during the mediation. However, SIMI Mediators shall rigorously guard against prescribing solutions or offering any statement, suggestion, or value judgment which may create an undue influence on any one party towards accepting a specific outcome.

10.2 Voluntariness of settlement: Mediation allows parties to have full **self-determination**. SIMI Mediators will ensure that if the parties arrive at an agreement or settlement, that this is done voluntarily and with the consent of all parties. Parties are allowed to stop the mediation if they wish to.

10.3 Acting as advisor Post-Mediation: For a period of up to twelve (12) months following the end of a mediation, SIMI Mediators will not represent in any party from that mediation in an advisory capacity, to a mediation in the same or a substantially related matter, unless all parties to the mediation expressly consent to that representation after full disclosure. Acting as a neutral in other dispute resolution proceedings (e.g. as a mediator or arbitrator) that may involve some or all of the parties will not be considered a representation in an advisory capacity for the purposes of this clause.

Other matters

11.1 Fees : Prior to accepting an appointment, a SIMI Mediator (whether personally or through his mediation service provider) will agree with the parties how his fees and expenses will be calculated, and how, and under what conditions he will be paid by the parties (and if shared between the parties, in what proportions). Subject to any agreement otherwise, a SIMI Mediator who withdraws from a case will return to the

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

parties any fees already paid proportionate to the period following withdrawal.

11.2 Despite Clause 11.1, SIMI Mediators must not suggest to parties that their fees should be based on or related to the outcome of the mediation.

12.1 Promotion of Mediation Practice

12.1.1 SIMI Mediators will present and promote their practice in a truthful and transparent manner that does not mislead or misrepresent any aspect of the SIMI Mediator's expertise and/or experience.

12.1.2 SIMI Mediators will take reasonable steps to ensure that all publicised information relating to their mediation experience and/or expertise is accurate to the best of their knowledge.

12.1.3 SIMI Mediators are fully responsible for ensuring that any information issued for the purpose of promoting their engagement as mediators complies with all applicable laws and regulations governing professional practice.

13. Assessment of Adherence to The Code

13.1 Where any party to the mediation believes that there has been a lack of compliance with this Code, and this Code applies to the SIMI Mediator), they may avail themselves of the SIMI Complaints Process, PROVIDED that the party and the SIMI Mediator have already attempted to resolve the issue in question amicably amongst themselves where appropriate.

**SINGAPORE INTERNATIONAL MEDIATION INSTITUTE (SIMI)
CODE OF PROFESSIONAL CONDUCT FOR SIMI MEDIATORS
Version 2.0 – 10 November 2023**

Version history

Version	Date	Attributions
1.0	20 Jan 2017	Feedback from: Eagles Mediation & Community Centre, Ministry of Law, Ministry of Health Holdings, Resolvers Pte Ltd, Singapore International Mediation Centre, Singapore Mediation Centre, Singapore State Courts: Court Dispute Resolution Cluster (The Primary Dispute Resolution Centre), Intellectual Property Office of Singapore, The International Mediation Institute.
2.0	10 Nov 2023	Consultation (mid Nov 2022 to end January 2023). Feedback from various mediators, Society of Mediation Professionals (Singapore) and International Institute of Mediators Singapore Ltd.