

THE FAMILY MEDIATOR ROSTER

Increased public awareness and use of family mediation services in British Columbia created the need for public access to qualified family mediators. In June 2002, a list of qualified family mediators was created under the name of the “Family Roster.” The Family Roster is a central and accessible list of trained and experienced mediators.

The Family Roster is operated by the Mediate BC Society (“Society”). A Board of Directors, drawn from leading practitioners in the field, is responsible for governing the operation of the Roster. Through a Roster Committee, the Board assesses applications for admission to the Roster. The Board establishes such rules and policies as are necessary to facilitate the objective of maintaining an accessible roster of qualified mediators.

The Family Roster is a way to organize and distribute information to the public about mediators who meet a minimum set of criteria. By defining a minimum level of training and experience the Roster provides a measure of protection to the public. At the same time, the Roster provides guidance for mediators about acceptable levels of training and, by defining standards of conduct, ensures a common understanding of standards for ethical practice.

FAMILY MEDIATOR QUALIFICATIONS

1. Training and Education Requirements

- a) (i) EITHER: Family Mediation Canada Certification;
- (ii) OR:
 - A minimum of 80 hours of core education¹ in conflict resolution and mediation theory and skills training – 40 hours of which are specifically focused on mediation including 10 hours of simulated or role play mediation under supervision [Please note: in the opinion of the Roster Committee, regular and ongoing training is essential for mediation practice; therefore courses taken more than 10 years ago may not qualify.]; and
 - 21 hours on issues related to family dynamics in separation and divorce, including inappropriate use of power, substance abuse and psychological issues (see the Society document, *Training in Family Dynamics* <http://www.mediatebc.com/PDFs/1-26-Family-Roster-Admission/Training-in-Family-Dynamics.aspx>); and
 - A university or college degree or diploma in law, social sciences or related field, unless the Roster Committee exercises its discretion, as provided for under section 7(b) of this document.
- b) In all cases, 14 hours of family violence training including training on identifying,

¹ See Appendix for definitions.

assessing and managing family violence and power dynamics in relation to dispute resolution process design.

- c) In all cases, 40 hours of training in family law and procedures. The training is to include recognition of when to defer to lawyers/family law mediators, and:
- British Columbia family legislation, family law concepts, drafting memoranda; and
 - May, depending on the applicant's area of practice, include child support guideline training, spousal support, pensions, personal and business property division, and tax issues.

This requirement shall be waived if the applicant is a lawyer or retired judge.

- d) For non-lawyers, a minimum of 2 days (14 hours) of instruction in civil procedure.
- e) In all cases, after admission, 12 hours (including at least 7 hours of formal structured learning) per year of ongoing professional development or continuing education related to the Roster member's mediation practice. Ongoing professional development or continuing education are defined to include courses, conferences, workshops, coaching, mentoring or supervising family mediation trainees. Roster members are encouraged to stay current and enhance their mediation practice.

2. Experience Pre-requisites

- a) (i) EITHER: Family Mediation Canada certification.

(ii) OR: Completion of a minimum of 80 hours of mediation work. The 80 hours must:

- have been completed over the course of a minimum of 10² family mediations³ ;
- have been conducted as sole mediator, co-mediator or as co-participant in a supervised and accepted practicum or mentoring program;
- have been conducted over the past 5 years; and
- include at least 5 mediations concerned with the reorganization of the family after separation or divorce, including:
 - certain parenting issues (guardianship, parenting time, contact, custody, access, maintenance & support); or
 - financial support and property matters connected to separation or divorce.

(Please note: This marks a change from the previous requirement of 200 hours over 20 mediations.)

The 10 family mediations must be:

- fee paid private mediations as sole mediator; or
- mediations in a structured setting with an accepted mediation organization; or
- mediations or co-meditations in a supervised and accepted practicum or mentoring program; or
- pro bono mediations in a structured setting; or
- fee paid private co-meditations⁴; or
- a combination of the above.

² For the purpose of counting the number of mediations that qualify for admission to the Family Roster, "one mediation" means a file in which all the parties, including the mediator, signed an agreement to mediate and attended at least one mediation session.

³ "Family mediation", as defined here, includes mediation of issues about:

- reorganization of the family after separation or divorce
- parenting
- financial support and property matters connected to separation or divorce
- child protection
- family business
- family property or finances
- family inheritance and estates
- responsibility for care of elderly parents
- adoption
- pre-nuptial issues
- intra-family conflicts.

⁴ "Fee paid private co-mediators" are defined as mediations in which:

- (i) the applicant actively participated in and shared responsibility for managing the mediation process;
- (ii) the applicant did not act primarily as an observer; and
- (iii) at least one of the mediators received some monetary consideration for the mediation services.

****Applicants must indicate the number of co-mediators, and the identity of all co-mediators.**

- (iii) Additionally, for applicants who are not certified by Family Mediation Canada, acceptability demonstrated by 2 positive references from individuals who have observed the applicant's work as a family mediator, and are familiar with their mediation skills and commitment to mediation. References must be current; that is, written to support the application (using the Society's Letter of Reference form or, if submitted in a letter, addressing each point on the form) and must refer to their work as a family mediator within the last five years. References cannot be from immediate relatives and business partners; references can be from all other participants involved in the applicant's mediations, except the actual complainant, respondent, plaintiff or defendant, unless they are repeat participants. The person providing a reference must be familiar with the mediation process, and must have observed you acting as mediator at a mediation and not as counsel at a mediation.

Applicants will be asked to provide details about their mediation experience, such as when they began mediating, what kinds of issues they have mediated, the mediation field they are experienced in, and in what settings they have mediated (e.g. as an employee, in private practice, etc.)

3. Character and Fitness

Mediators must satisfy the Society that they are of good character and repute, and are fit to conduct mediations in a competent and effective manner, and in compliance with the Standards of Conduct endorsed by the Board of Directors of the Society.

4. Code of Conduct

As a condition of admission to the Family Roster, mediators must subscribe to the said Standards of Conduct (http://www.mediatebc.com/PDFs/1-28-Standards-of-Conduct/Standards_Conduct.aspx).

5. Mediation Practice Standards

As a condition of admission to the Family Roster, mediators must indicate whether their mediation practice standards include the following:

- (i) use of an Agreement to Mediate, as contemplated in part 15 of the Society's Standards of Conduct; and
- (ii) use of a screening tool, as contemplated in part 10 of the Society's Standards of Conduct.

The Roster Committee may request further information from an applicant whose mediation practice does not include these standards.

6. Insurance

Mediators must have adequate liability insurance:

- (i) for mediators not licensed to practice law, professional liability insurance coverage of \$2,000,000.00 aggregate (and \$1,000,000 per occurrence);
- (ii) for lawyers whose mediation work is not insured through the Law Society, professional liability insurance coverage of \$2,000,000.00 aggregate (and \$1,000,000 per occurrence);
- (iii) members in good standing of the Law Society of B.C., and whose mediation work is insured through the Law Society, are assumed to be adequately covered.

7. Additional Discretionary Requirements

- a) The Roster Committee will, on occasion, ask for an interview as part of the admission process.
- b) Additionally, in the course of considering an application, the Roster Committee may:
 - (i) receive or request further information or submissions from an applicant;
 - (ii) decide when extensive experience and established credibility in a community of users of family mediation services, or other evidence of mediator competence, can substitute for any of the training and education requirements listed in section 1 of this document;
 - (iii) request additional evidence demonstrating that the requirements have been met;
 - (iv) make admission to the Family Roster provisional, conditional, or on terms.

- c) The Roster Committee reserves the right to refuse admission to an applicant despite the fact that the applicant meets the technical requirements for admission. In such situations the Committee will offer the applicant an interview prior to making a decision to refuse admission.

APPLYING ROSTER CRITERIA

In cases where applicants have qualifications that are not identical to those laid out above but are, in the opinion of the applicant, at least equivalent, the Roster Committee can be asked to consider the proposed qualifications and exercise discretion to admit the applicant.

The Society, through the Roster Committee and Board of Directors, will be responsible for monitoring qualifications for admission in order to determine adjustments or changes to be made from time to time. It is expected that over time, as family mediation matures as a discipline and as more is learned about family mediator qualification, the criteria for admission to the Family Roster will change.

APPLICATION PROCESS

- a) Mediators wishing to be admitted to the Family Roster will pay a one-time, nonrefundable application fee and thereafter renew their membership annually:
- (i) For applicants who are *not* members of the another Society roster, the application fee will be \$246.75 + 5% GST for a total of \$259.09 and the annual membership fee will also be \$246.75 + GST.
 - (ii) For applicants who are members of another Society roster, the application fee will be \$131.25 + 5% GST for a total of \$137.81 and the annual membership fee will also be \$131.25 + 5% GST, provided membership on the other Roster is maintained. ***Annual membership on two rosters will be \$351.75 + 5% GST for a total of \$369.34.***
- b) An applicant who is refused admission may reapply at any time, provided the Roster Committee has not specified otherwise.
- c) Following admission, FMC-certified mediators will not be required to maintain their FMC certification in order to maintain their membership on the Family Roster.
- d) Persons interested in submitting an application for admission to the Family Roster should contact:

Mediate BC Society
Attention: Mediator Roster Program
Suite 177 – 800 Hornby Street
Vancouver, BC V6Z 2C5
Phone: 604-684-1300 or Toll Free in BC: 1-877-656-1300
Fax: 604-684-1306
Email: mediators@mediatebc.com

APPENDIX – DEFINITIONS

1. "Core education" means teaching or training in mediation. Such training is "core" when it deals centrally (not only peripherally) with the consensual, non-adversarial, resolution of conflict or disputes. "Core" does not imply only basic or threshold training, however. Core education is comprehensive, that is, may cover all the theories, concepts and skills associated with the teaching or training of mediators.
2. Core education in "conflict resolution and mediation" means education which supports learning and skills in mediation defined broadly. Thus anger management education may qualify to the extent it is taught in the context of mediation (as distinct from some other practice or activity). Likewise, arbitration or social work or other education may qualify only to the extent that it directly supports mediation education and skills.
3. "Theory and skills training" modifies (describes) the words "conflict resolution and mediation". Course work of a purely theoretical nature (studies done solely for academic or research purposes, not particularly in support of mediation practice, for instance) may not qualify. Theoretical, philosophical and reflective courses or segments of courses that directly contribute to, and inform, the skills and frameworks of mediation practice will qualify.
4. "Specifically on mediation" means that the learning objective of the 40-hour portion referred to deals with mediation centrally. Incidental segments of the course concerned with, for example, negotiation, anger, conflict resolution or arbitration/conciliation are not to be deducted from the 40 hour computation.
5. "Simulated or role play" means any mock mediation practice session which is part of a mediation course in which participants are coached or otherwise directly supervised.
6. Practicums do not constitute course work or education which the Society accepts as core education and training. They do, of course, qualify for the requisite experience if the other criteria of that section are met. They also qualify for continuing education.